

injunction would prohibit the judge from holding the agent in contempt and the DA from demanding information inconsistent with DJ ORD. I have found no authority either giving the federal courts jurisdiction over such a case or providing such an injunctive remedy.

HPR:ac

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

IN RE: LYNDA L. SHANEYFELT

CRIMINAL ACTION NO.

PETITION FOR REMOVAL

Lyndal L. Shaneyfelt respectfully represents:

1.

Petitioner is an officer of the United States, that is, a Special Agent of the Federal Bureau of Investigation.

2.

Petitioner was subpoenaed as a witness in State v. Shaw, State of Louisiana, 198-059, State Criminal District Court for the Parish of Orleans. At the trial petitioner was ordered to disclose information relating to material contained in the files of the Department of Justice, and information acquired as a part of the performance of his official duties or because of his official status. Acting in accordance with Department of Justice Order No. 381-67 (28 CFR 16.11-16.14), petitioner respectfully declined to disclose the information demanded from him. Petitioner declined to disclose the demanded information under color of his office as a Special Agent for the F.B.I. Because petitioner obeyed the order of his superior officer and declined to disclose the demanded information, a criminal contempt prosecution was commenced against him. This criminal contempt prosecution is now pending in State Criminal District Court for the Parish of Orleans, State of Louisiana.

3.

No process or pleadings have been served on petitioner.

4.

The criminal contempt prosecution which is pending against petitioner in the State Criminal District Court for the Parish of Orleans, State of Louisiana, is removable to the United States District Court for the Eastern District of Louisiana, New Orleans Division, under

28 U.S.C., §1441(a)(1) because it is a criminal prosecution commenced in a State Court which is embraced by this United States Court and Division against an officer of the United States for an Act under color of his office.

5.

Petitioner is not required to furnish a removal bond.

WHEREFORE petitioner prays for an order that:

1. The criminal contempt prosecution against Lyndal L. Shaneyfelt which is pending in the State Criminal District Court for the Parish of Orleans, State of Louisiana, be REMOVED to the United States District Court for the Eastern District of Louisiana, New Orleans Division.

HORACE P. ROWLEY, III
Assistant United States Attorney
500 St. Louis Street (527-2921)
New Orleans, Louisiana 70130

V E R I F I C A T I O N

STATE OF LOUISIANA

PARISH OF ORLEANS

BEFORE ME, the undersigned authority duly commissioned and qualified within and for the State of Louisiana and the Parish of Orleans, personally came and appeared HORACE P. ROWLEY, III, who, being by me duly sworn, deposed and said: that he is the Assistant United States Attorney for the Eastern District of Louisiana and as such is attorney for petitioner who prays removal of the above-entitled cause to the United States District Court for the Eastern District of Louisiana; that the allegations of the

petition are true to the affiant's knowledge except such as are therein stated on information and belief, and as to such matters, he believes them to be true.

HORACE P. ROWLEY, III
Assistant United States Attorney

Subscribed and sworn to before me
this ____ day of _____, 1969.

NOTARY PUBLIC

O R D E R

After considering the foregoing petition,

IT IS ORDERED that:

1. The criminal contempt prosecution against Lyndal L. Shaneyfelt which is now pending in the Criminal District Court for the Parish of Orleans, State of Louisiana, is hereby REMOVED to the United States District Court for the Eastern District of Louisiana, New Orleans Division.

New Orleans, Louisiana, this ____ day of _____, 1969.

UNITED STATES DISTRICT JUDGE

C E R T I F I C A T E

I certify that copies of the foregoing Petition for Removal have been served on Jim Garrison, Esq., District Attorney, Orleans Parish, State of Louisiana; James L. Alcock, Esq., Assistant District Attorney, Criminal District Courts Building, New Orleans, Louisiana, and Hon. Edward A. Haggerty, Jr., Judge, Section C, Criminal District Court for the Parish of Orleans, New Orleans, Louisiana, this _____ day of _____, 1969.

HORACE P. ROWLEY, III
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

IN RE: LYNDA L. SHANEYFELT

CRIMINAL ACTION NO.

PETITION FOR WRIT OF HABEAS CORPUS

Lyndal L. Shaneyfelt respectfully represents that:

1.

Petitioner is an officer of the United States, that is, a Special Agent of the Federal Bureau of Investigation.

2.

The criminal contempt prosecution against petitioner which is pending in the Criminal District Court for the Parish of Orleans, State of Louisiana, has been removed to this Court.

3.

Petitioner is now in the custody of officials of the State of Louisiana.

4.

Petitioner is entitled to a writ of habeas corpus under 28 U.S.C., §1446(f).

WHEREFORE petitioner prays for an order that:

1. Clerk of this Court (a) immediately issue a writ of habeas corpus for Lyndal L. Shaneyfelt to the Criminal District Court for the Parish of Orleans, State of Louisiana, its Clerk and the Criminal Sheriff of Orleans Parish, and (b) deliver a copy of that writ to the United States Marshal.

2. The United States Marshal (a) immediately take the body of Lyndal L. Shaneyfelt into custody and (b) deliver a copy of the writ to the Clerk of Criminal District Court for the Parish of Orleans, State of Louisiana.

New Orleans, Louisiana, this _____ day of _____, 1969.

HORACE P. ROWLEY, III
Assistant United States Attorney

ORDER

After considering the foregoing petition,

IT IS ORDERED that:

1. Clerk of this Court (a) immediately issue a writ of habeas corpus for Lyndal L. Shaneyfelt to the Criminal District Court for the Parish of Orleans, State of Louisiana, its Clerk and the Criminal Sheriff of Orleans Parish, and (b) deliver a copy of that writ to the United States Marshal.

2. The United States Marshal (a) immediately take the body of Lyndal L. Shaneyfelt into custody and (b) deliver a copy of the writ to the Clerk of Criminal District Court for the Parish of Orleans, State of Louisiana.

New Orleans, Louisiana, this ____ day of _____, 1969.

DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

IN RE: ROBERT A. FRAZIER

CRIMINAL ACTION NO.

PETITION FOR WRIT OF HABEAS CORPUS

Robert A. Frazier respectfully represents that:

1.

Petitioner is an officer of the United States, that is, a Special Agent of the Federal Bureau of Investigation.

2.

The criminal contempt prosecution against petitioner which is pending in the Criminal District Court for the Parish of Orleans, State of Louisiana has been removed to this Court.

3.

Petitioner is now in the custody of officials of the State of Louisiana.

4.

Petitioner is entitled to a writ of habeas corpus under 28 U.S.C., §1446(r).

WHEREFORE petitioner prays for an order that:

1. Clerk of this Court (a) immediately issue a writ of habeas corpus for Robert A. Frazier to the Criminal District Court for the Parish of Orleans, State of Louisiana, its Clerk and the Criminal Sheriff of Orleans Parish, and (b) deliver a copy of that writ to the United States Marshal.

2. The United States Marshal (a) immediately take the body of Robert A. Frazier into custody and (b) deliver a copy of the writ to the Clerk of Criminal District Court for the Parish of Orleans, State of Louisiana.

New Orleans, Louisiana, this _____ day of _____, 1969.

HORACE P. ROWLEY, III
Assistant United States Attorney

O R D E R

After considering the foregoing petition,

IT IS ORDERED that:

1. Clerk of this Court (a) immediately issue a writ of habeas corpus for Robert A. Frazier to the Criminal District Court for the Parish of Orleans, State of Louisiana, its Clerk and the Criminal Sheriff of Orleans Parish, and (b) deliver a copy of that writ to the United States Marshal.

2. The United States Marshal (a) immediately take the body of Robert A. Frazier into custody and (b) deliver a copy of the writ to the Clerk of Criminal District Court for the Parish of Orleans, State of Louisiana.

New Orleans, Louisiana, this _____ day of _____, 1969.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

IN RE: ROBERT A. FRAZIER

CRIMINAL ACTION NO.

PETITION FOR REMOVAL

Robert A. Frazier respectfully represents:

1.

Petitioner is an officer of the United States, that is, a Special Agent of the Federal Bureau of Investigation.

2.

Petitioner was subpoenaed as a witness in State v. Shaw, State of Louisiana, 198-059, State Criminal District Court for the Parish of Orleans. At the trial petitioner was ordered to disclose information relating to material contained in the files of the Department of Justice, and information acquired as a part of the performance of his official duties or because of his official status. Acting in accordance with Department of Justice Order No. 381-67 (28 CFR 16.11-16.14), petitioner respectfully declined to disclose the information demanded from him. Petitioner declined to disclose the demanded information under color of his office as a Special Agent for the F.B.I. Because petitioner obeyed the order of his superior officer and declined to disclose the demanded information, a criminal contempt prosecution was commenced against him. This criminal contempt prosecution is now pending in State Criminal District Court for the Parish of Orleans, State of Louisiana.

3.

No process or pleadings have been served on petitioner.

4.

The criminal contempt prosecution which is pending against petitioner in the State Criminal District Court for the Parish of Orleans, State of Louisiana, is removable to the United States District Court for the Eastern District of Louisiana, New Orleans Division under 28 U.S.C., §1441(a)(1) because it is a criminal prosecution commenced in a State

Court which is embraced by this United States Court and Division against an officer of the United States for an Act under color of his office.

5.

Petitioner is not required to furnish a removal bond.

WHEREFORE petitioner prays for an order that:

1. The criminal contempt prosecution against Robert A. Frazier which is pending in the State Criminal District Court for the Parish of Orleans, State of Louisiana, be REMOVED to the United States District Court for the Eastern District of Louisiana, New Orleans Division.

HORACE F. ROWLEY, III
Assistant United States Attorney
500 St. Louis Street (527-2921)
New Orleans, Louisiana 70130

V E R I F I C A T I O N

STATE OF LOUISIANA

PARISH OF ORLEANS

BEFORE ME, the undersigned authority duly commissioned and qualified within and for the State of Louisiana and the Parish of Orleans, personally came and appeared HORACE P. ROWLEY, III, who, being by me duly sworn, deposed and said: that he is the Assistant United States Attorney for the Eastern District of Louisiana and as such is attorney for petitioner who prays removal of the above-entitled cause to the United States District Court for the Eastern District of Louisiana; that the allegations of the petition are true to the affiant's knowledge except such as are therein stated on information and belief, and as to such matters, he believes them to be true.

HORACE B. ROWLEY, III
Assistant United States Attorney

Subscribed and sworn to before me
this day of , 1969.

NOTARY PUBLIC

ORDER

After considering the foregoing petition,

IT IS ORDERED that:

1. The criminal contempt prosecution against Robert A. Frazier which is now pending in the Criminal District Court for the Parish of Orleans, State of Louisiana, is hereby REMOVED to the United States District Court for the Eastern District of Louisiana, New Orleans Division.

New Orleans, Louisiana, this _____ day of _____, 1969.

UNITED STATES DISTRICT JUDGE

C E R T I F I C A T E

I certify that copies of the foregoing Petition for Removal have been served on Jim Garrison, Esq., District Attorney, Orleans Parish, State of Louisiana; James L. Alcock, Esq., Assistant District Attorney, Criminal District Courts Building, New Orleans, Louisiana, and Hon. Edward A. Haggerty, Jr., Judge, Section C, Criminal District Court for the Parish of Orleans, New Orleans, Louisiana, this _____ day of _____, 1969.

HORACE P. ROWLEY, III
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

IN RE: ROY H. KELLERMAN

CRIMINAL ACTION NO.

PETITION FOR REMOVAL

Roy H. Kellerman respectfully represents:

1.

Petitioner is a former United States Secret Service Agent.

2.

Petitioner was subpoenaed as a witness in State v. Egan, State of Louisiana, 198-059, State Criminal District Court for the Parish of Orleans. At the trial petitioner was ordered to testify and furnish information obtained as a result of his official capacity or in connection with the transaction of public business when he was a Secret Service Agent. Acting in accordance with Department of the Treasury Regulations (31 CFR 1.1-1.11), petitioner respectfully stated his inability to comply in full with the demand to testify and to furnish the information. When petitioner stated his inability to comply in full with the demand to testify and furnish the information, he was acting under an officer of the United States, that is, the Secretary of the Treasury. Because petitioner obeyed the order of his superior officer and declined to disclose the demanded information, a criminal contempt prosecution was commenced against him. This criminal contempt prosecution is now pending in the State Criminal District Court for the Parish of Orleans, State of Louisiana.

3.

No process or pleadings have been served on petitioner.

4.

The criminal contempt prosecution which is pending against petitioner in the State Criminal District Court for the Parish of Orleans, State of

Louisiana, is removable to the United States District Court for the Eastern District of Louisiana, New Orleans Division, under 28 U.S.C., §1441(a)(1) because it is a criminal prosecution commenced in a State Court which is embraced by this United States Court and Division, against a person acting under an officer of the United States for an act committed under color of such office.

5.

Petitioner is not required to furnish a removal bond.

WHEREFORE petitioner prays for an order that:

1. The criminal contempt prosecution against Roy H. Kellerman which is pending in the State Criminal District Court for the Parish of Orleans, State of Louisiana, be REMOVED to the United States District Court for the Eastern District of Louisiana, New Orleans Division.

HORACE P. ROWLEY, III
Assistant United States Attorney
500 St. Louis Street (527-2921)
New Orleans, Louisiana 70130

VERIFICATION

STATE OF LOUISIANA

PARISH OF ORLEANS

BEFORE ME, the undersigned authority duly commissioned and qualified within and for the State of Louisiana and the Parish of Orleans, personally came and appeared HORACE P. ROWLEY, III, who, being by me duly sworn,

deposed and said: that he is Assistant United States Attorney for the Eastern District of Louisiana and as such is attorney for petitioner who prays removal of the above-entitled cause to the United States District Court for the Eastern District of Louisiana; that the allegations of the petition are true to the affiant's knowledge except such as are therein stated on information and belief, and as to such matters, he believes them to be true.

HORACE P. ROWLEY, III
Assistant United States Attorney

Subscribed and sworn to before me

this _____ day of _____, 1969.

NOTARY PUBLIC

O R D E R

After considering the foregoing petition,

IT IS ORDERED that:

1. The criminal contempt prosecution against Roy H. Kellerman which is now pending in the Criminal District Court for the Parish of Orleans, State of Louisiana, is hereby REMOVED to the United States District Court for the Eastern District of Louisiana, New Orleans Division.

New Orleans, Louisiana, this _____ day of _____, 1969.

UNITED STATES DISTRICT JUDGE

C E R T I F I C A T E

I certify that copies of the foregoing Petition for Removal have been served on Jim Garrison, Esq., District Attorney, Orleans Parish, State of Louisiana; James L. Alcock, Esq., Assistant District Attorney, Criminal District Courts Building, New Orleans, Louisiana, and Hon. Edward A. Haggerty, Jr., Judge, Section C, Criminal District Court for the Parish of Orleans, New Orleans, Louisiana, this ____ day of _____, 1969.

HORACE F. ROWLEY, III
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

IN RE: ROY H. KELLERMAN

CRIMINAL ACTION NO.

PETITION FOR WRIT OF HABEAS CORPUS

Roy H. Kellerman respectfully represents that:

1.

Petitioner is a former United States Secret Service Agent.

2.

The criminal contempt prosecution against petitioner which is pending in the Criminal District Court for the Parish of Orleans, State of Louisiana, has been removed to this Court.

3.

Petitioner is now in the custody of officials of the State of Louisiana.

4.

Petitioner is entitled to a writ of habeas corpus under 28 U.S.C., §1446(f).

WHEREFORE petitioner prays for an order that:

1. Clerk of this Court (a) immediately issue a writ of habeas corpus for Roy H. Kellerman to the Criminal District Court for the Parish of Orleans, State of Louisiana, its Clerk and the Criminal Sheriff of Orleans Parish, and (b) deliver a copy of that writ to the United States Marshal.

2. The United States Marshal (a) immediately take the body of Roy H. Kellerman into custody and (b) deliver a copy of the writ to the Clerk of Criminal District Court for the Parish of Orleans, State of Louisiana.

New Orleans, Louisiana, this _____ day of _____, 1969.

HORACE P. ROWLEY, III
Assistant United States Attorney

O R D E R

After considering the foregoing petition,

IT IS ORDERED that:

1. Clerk of this Court (a) immediately issue a writ of habeas corpus for Roy H. Kellerman to the Criminal District Court for the Parish of Orleans, State of Louisiana, its Clerk and the Criminal Sheriff of Orleans Parish, and (b) deliver a copy of that writ to the United States Marshal.

2. The United States Marshal (a) immediately take the body of Roy H. Kellerman into custody and (b) deliver a copy of the writ to the Clerk of Criminal District Court for the Parish of Orleans, State of Louisiana.

New Orleans, Louisiana, this _____ day of _____, 1969.

UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

IN RE: REGIS L. KENNEDY

CRIMINAL ACTION NO.

PETITION FOR REMOVAL

Regis L. Kennedy respectfully represents:

1.

Petitioner is a former Special Agent of the Federal Bureau of Investigation.

2.

Petitioner was subpoenaed as a witness in State v. Shaw, State of Louisiana, 198-059, State Criminal District Court for the Parish of Orleans. At the trial petitioner was ordered to disclose information relating to material contained in the files of the Department of Justice, and information acquired as a part of the performance of his official duties or because of his official status when he was an FBI Agent. Acting in accordance with Department of Justice Order No. 381-67 (28 CFR 16.11-16.14), petitioner respectfully declined to disclose the information demanded from him. When petitioner declined to disclose the demanded information, he was acting under an officer of the United States, that is, the Attorney General of the United States. Because petitioner obeyed the order of his superior officer and declined to disclose the demanded information, a criminal contempt prosecution was commenced against him. This criminal contempt prosecution is now pending in the State Criminal District Court for the Parish of Orleans, State of Louisiana.

3.

No process or pleadings have been served on petitioner.

4.

The criminal contempt prosecution which is pending against petitioner in the State Criminal District Court for the Parish of Orleans, State of

Louisiana, is removable to the United States District Court for the Eastern District of Louisiana, New Orleans Division, under 28 U.S.C., §1441(a)(1) because it is a criminal prosecution commenced in a State Court which is embraced by this United States Court and Division against a person acting under an officer of the United States for an act committed under color of such office.

5.

Petitioner is not required to furnish a removal bond.

WHEREFORE petitioner prays for an order that:

1. The criminal contempt prosecution against Regis L. Kennedy which is pending in the State Criminal District Court for the Parish of Orleans, State of Louisiana, be REMOVED to the United States District Court for the Eastern District of Louisiana, New Orleans Division.

HORACE P. ROWLEY, III
Assistant United States Attorney
500 St. Louis Street (527-2921)
New Orleans, Louisiana 70130

V E R I F I C A T I O N

STATE OF LOUISIANA

PARISH OF ORLEANS

BEFORE ME, the undersigned authority duly commissioned and qualified within and for the State of Louisiana and the Parish of Orleans, personally came and appeared HORACE P. ROWLEY, III, who, being by me duly sworn,

deposed and said: that he is Assistant United States Attorney for the Eastern District of Louisiana and as such is attorney for petitioner who prays removal of the above-entitled cause to the United States District Court for the Eastern District of Louisiana; that the allegations of the petition are true to the affiant's knowledge except such as are therein stated on information and belief, and as to such matters, he believes them to be true.

HORACE P. ROWLEY, III
Assistant United States Attorney

Subscribed and sworn to before me
this _____ day of _____, 1969.

NOTARY PUBLIC

ORDER

After considering the foregoing petition,

IT IS ORDERED that:

1. The criminal contempt prosecution against Regis L. Kennedy which is now pending in the Criminal District Court for the Parish of Orleans, State of Louisiana, is hereby REMOVED to the United States District Court for the Eastern District of Louisiana, New Orleans Division.

New Orleans, Louisiana, this _____ day of _____, 1969.

UNITED STATES DISTRICT JUDGE

C E R T I F I C A T E

I certify that copies of the foregoing Petition for Removal have been served on Jim Garrison, Esq., District Attorney, Orleans Parish, State of Louisiana; James L. Alcock, Esq., Assistant District Attorney, Criminal District Courts Building, New Orleans, Louisiana, and Hon. Edward A. Haggerty, Jr., Judge, Section C, Criminal District Court for the Parish of Orleans, New Orleans, Louisiana, this ____ day of _____, 1969.

HORACE P. ROWLEY, III
Assistant United States Attorney

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS DIVISION

IN RE: REGIS L. KENNEDY

CRIMINAL ACTION NO.

PETITION FOR WRIT OF HABEAS CORPUS

Regis L. Kennedy respectfully represents that:

1.

Petitioner is a former Special Agent of the Federal Bureau of Investigation.

2.

The criminal contempt prosecution against petitioner which is pending in the Criminal District Court for the Parish of Orleans, State of Louisiana, has been removed to this Court.

3.

Petitioner is now in the custody of officials of the State of Louisiana.

4.

Petitioner is entitled to a writ of habeas corpus under 28 U.S.C., §1446(f).

WHEREFORE petitioner prays for an order that:

1. Clerk of this Court (a) immediately issue a writ of habeas corpus for Regis L. Kennedy to the Criminal District Court for the Parish of Orleans, State of Louisiana, its Clerk and the Criminal Sheriff of Orleans Parish, and (b) deliver a copy of that writ to the United States Marshal.

2. The United States Marshal (a) immediately take the body of Regis L. Kennedy into custody and (b) deliver a copy of the writ to the Clerk of Criminal District Court for the Parish of Orleans, State of Louisiana.

New Orleans, Louisiana, this _____ day of _____, 1969.

HORACE F. ROWLEY, III
Assistant United States Attorney

O R D E R

After considering the foregoing petition,

IT IS ORDERED that:

1. Clerk of this Court (a) immediately issue a writ of habeas corpus for Regis L. Kennedy to the Criminal District Court for the Parish of Orleans, State of Louisiana, its Clerk and the Criminal Sheriff of Orleans Parish, and (b) deliver a copy of that writ to the United States Marshal.

2. The United States Marshal (a) immediately take the body of Regis L. Kennedy into custody and (b) deliver a copy of the writ to the Clerk of Criminal District Court for the Parish of Orleans, State of Louisiana.

New Orleans, Louisiana, this _____ day of _____, 1969.

UNITED STATES DISTRICT JUDGE

D.J. #129-11

GEN. LIT.
Goldbloom - JCE

IN THE

United States Court of Appeals

FOR THE FIFTH CIRCUIT

No. 26620

29-11	
DEPARTMENT OF JUSTICE	
3	FEB 10 1969
R.A.O.	

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

versus

ONE 6.5 mm. MANNLICHER-CARCANO MILITARY RIFLE, MODEL 91-38, SERIAL NO. C2766, with appurtenances, and ONE .38 SPECIAL S&W VICTORY MODEL REVOLVER, SERIAL NO. V510210, with appurtenances,

Defendant-Appellant.

Appeal from the United States District Court for the Northern District of Texas

(January 23, 1969)

Before BROWN, Chief Judge, and THORNBERRY and MORGAN, Circuit Judges.

THORNBERRY, Circuit Judge: This action was commenced by the United States on September 10, 1968, by the filing of a libel of information against two weapons which had previously been owned by Lee

Harvey Oswald. The Government alleged that the weapons had been forfeited to the United States by virtue of violations of the Federal Firearms Act. Appellant, on October 8, 1965, intervened by filing a "claim of owner" and sought "to defend accordingly." Thereafter, a stipulation of facts, expressly limited to the forfeiture proceeding and signed by counsel for the Government and appellant, was filed with the district court. That court held that there had been violations of the Federal Firearms Act and, accordingly, entered an order of forfeiture on February 24, 1966. *United States v. One 6.5 mm. Mannlicher-Carcano Military R.*, N.D. Texas 1966, 250 F. Supp. 410. On appeal, this Court reversed the district court's determination and held that the Government would have to acquire title to the weapons by condemnation. *King v. United States*, 5 Cir. 1966, 364 F.2d 235.

Thereafter, on November 1, 1966, the Attorney General, acting under the authority provided by Public Law 89-318, 79 Stat. 1185, published his determination that the various items considered by the Warren Commission, including the weapons which were the subject of the forfeiture proceeding, should be acquired by the United States. Upon the publication of the Attorney General's determination, "all rights, title, and interest in and to" the weapons "vested in the United States." Section 2(b), Public Law 89-318, 79 Stat. 1185.

On October 27, 1967, appellant King filed a suit predicated upon Public Law 89-318 against the Government in the United States District Court for the District of Colorado seeking just compensation for the two wea-

pons acquired by the United States. That action is presently pending.

Then, on February 19, 1968, appellant filed a motion in the court below praying that a judgment be entered "as of August 23, 1966"¹ which, in effect, would adjudge him to be the owner of the weapons, subject to the rights that the United States may subsequently have acquired by condemnation. The court below, however, entered an order vacating the judgment of forfeiture, dismissing the libel and dissolving the writ of attachment. King brings this appeal alleging that the court below erred in refusing to adjudicate his claim of ownership. Having studied the briefs and record, we are convinced that the judgment of the court below is correct and that summary disposition of the appeal without oral argument is appropriate. Accordingly, the Clerk of this Court has been directed, pursuant to new Rule 18 of the Rules of the United States Court of Appeals for the Fifth Circuit, to transfer this case to the summary calendar and notify the parties of the transfer.²

¹That is the date on which the mandate of this Court reversing the order of forfeiture was filed in the court below.

²In order to establish a docket control procedure, the Fifth Circuit adopted new Rules 17-20 on December 6, 1968. All four of these new rules are reproduced in the Appendix to this opinion. For a general discussion of the need for and propriety of summary review of certain appeals, see *Croendyke Transport, Inc. v. Davis*, 5th Cir. 1969, _____ F.2d _____ [No. 26812, January 2, 1969]. For cases heretofore placed on summary calendar, see *Wittner v. United States of America*, 5th Cir. 1969, _____ F.2d _____ [No. 25781, _____, 1969] and *United States of America v. One Olivetti Electric 10-Key Adding Machine, etc.*, 5th Cir. 1969, _____ F.2d _____ [No. 26676, _____, 1969].

Appellant relies primarily upon 28 U.S.C. § 2465,³ providing for the return of property to the claimant in forfeiture proceedings upon entry of a judgment in his favor, in support of the contention that the court below should have determined his ownership of the weapons. That section, however, is inapplicable in this instance. Although an adjudication of ownership would be in order where the property was to be returned to the claimant, the title to the weapons was vested in the United States by the publication of the Attorney General's determination on November 1, 1966. As a result, the court below was without authority to return the property to the claimant in the forfeiture proceeding, and therefore appellant's asserted ownership was immaterial in the subsequent proceedings below. True, ownership of the weapons prior to condemnation by the Government is quite relevant to appellant's claim for compensation now pending in Colorado. But that is a question to be decided by that court, which is "to hear, determine, and render judgment upon any claim for just compensation. . . ." Section 3, Public Law 89-318, 79 Stat. 1185.

We also reject appellant's contention that the court below had already determined all facts necessary to determine ownership of the weapons by virtue of the stipulations entered in the forfeiture proceeding and the corollary contention that an adjudication of ownership in the Colorado court would constitute duplicitous

³"Upon the entry of judgment for the claimant in any proceeding to condemn or forfeit property seized under any Act of Congress, such property shall be returned forthwith to the claimant or his agent . . ." 28 U.S.C. § 2465.

litigation. The sole issue involved in the court below was the validity of the in rem proceedings, i.e., whether Oswald's conduct violated the Federal Firearms Act. The court expressly stated that the stipulated facts were "for the purpose of the above-shown action and for no other purpose, even though the parties thereto may be identical . . ." 250 F. Supp. at 415. Appellant was not entitled to have the court below render a judgment on unconsidered, undecided issues in order that he might assert its application in the compensation proceedings.

Finally, appellant contends that his prayer for delivery of the weapons constitutes a counterclaim, and, therefore, the dismissal of the libel contravenes Rule 41.⁴ The simple answer to this contention is that the forfeiture proceedings had been carried to completion when appellant first presented his prayer for delivery, the alleged counterclaim, in February, 1966. The issue of ownership had already been raised in the Colorado proceedings instituted by appellant. Accordingly, the court below correctly dismissed the libel without adjudicating appellant's ownership claim.

AFFIRMED.

⁴Rule 41(a)(2) of the Federal Rules of Civil Procedure provides in pertinent part:

"If a counterclaim has been pleaded by a defendant prior to the service upon him of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court."

RULE 19
MOTION TO DISMISS OR AFFIRM

Within fifteen days after the appeal has been docketed in this court, the appellee may file a motion to dismiss or a motion to affirm. Where appropriate, a motion to affirm may be united in the alternative with a motion to dismiss. The fifteen day provision may be waived by the court on proper showing of reasonable excuse for delay in filing a motion to dismiss or affirm, upon such terms and conditions as the court may prescribe, or such waiver may be granted sua sponte on the part of the court.

(a) The court will receive a motion to dismiss any appeal on the ground that the appeal is not within the jurisdiction of this court.

(b) The court will receive a motion to affirm the judgment sought to be reviewed on the ground that it is manifest that the questions on which the decision of the cause depends are so unsubstantial as not to need further argument.

The motion to dismiss or affirm shall be filed with the clerk in conformity with Rule 27 of the Federal Rules of Appellate Procedure.

The appellant shall have ten days from the date of receipt of the motion to dismiss or affirm within which to file a response opposing the motion. Such response may be typewritten and four copies, with proof of service, shall be filed with the clerk. Upon the filing of such

response, or the expiration of the time allowed therefor, or express waiver of the right to file, the record on appeal, motion and response shall be distributed by the clerk to the court for its consideration.

After consideration of the papers distributed pursuant to the foregoing paragraph the court will enter an appropriate order.

The time for filing briefs pursuant to Rule 31 of the Federal Rules of Appellate Procedure shall not be tolled or extended by the filing of a motion to dismiss or affirm.

RULE 20
FRIVOLOUS AND UNMERITORIOUS APPEALS

If upon the hearing of any interlocutory motion or as a result of a review under Rule 17, it shall appear to the court that the appeal is frivolous and entirely without merit, the appeal will be dismissed without the notice contemplated in Rules 18 and 19.

1/29

January 30, 1969

CE:MH:IG:rnk
129-11

AIR MAIL

Mr. Edward W. Wadsworth
Clerk, United States Court of
Appeals for the Fifth Circuit
Room 408, 400 Royal Street
New Orleans, Louisiana 70130

Re: No. 26620 - U.S.A. v. One 6.5 mm.
Mannlicher-Carcano Military Rifle,
Model 91033, etc.

Dear Mr. Wadsworth:

Pursuant to Rule 39, F.R.A.P., enclosed you will
please find an Affidavit of Verified Bill of Costs and
our printer's itemized bill of costs in the above-
captioned case, together with a certificate of service
upon opposing counsel.

GR
97

Thank you for your cooperation in this matter.

Yours very truly,

CARL BARDLEY
Acting Assistant Attorney General
Civil Division

By: Morton Hollander
Chief, Appellate Section

Enclosures

cc: William C. Garrett, Esq.
Kilgore & Kilgore
1800 First National Bank
Building
Dallas, Texas 75202

1271

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

UNITED STATES OF AMERICA,)	
Appellee,)	
v.)	NO. 25,620
ONE 6.5 mm. MANNLICHER-CARCANO)	
MILITARY RIFLE, MODEL 91-38,)	
SERIAL NO. C2766, with appur-)	
tenances, and ONE .38 SPECIAL)	
SA&W VICTORY MODEL REVOLVER,)	
SERIAL NO. V510210, with)	
appurtenances,)	
and)	
JOHN J. KING,)	
Appellant.)	

AFFIDAVIT OF VERIFIED BILL OF COSTS

WASHINGTON)	
DISTRICT OF COLUMBIA)	ss.

I, Irwin Goldbloom, an attorney in the Civil Division, General Litigation Section, United States Department of Justice, hereby verify and affirm that the following costs were incurred by the Department of Justice in representing appellee, the United States of America, in connection with the appeal in the above case. In support thereof, I attach a copy of our printer's itemized bill.

100 sheets cover paper	\$0.38
350 sheets text paper	.85
14 plates at .30¢ each	4.20
Press impressions at .10¢	1.40
Collating & stitching at 7 1/2¢ per leaf	.68
Total	<u>\$7.51</u>

/s/ Irwin Goldbloom

Subscribed and sworn to before me this 30th day of January, 1969.

/s/ Angeline Johns

NOTARY PUBLIC

My Commission Expires April 14, 1972

IRWIN GOLDBLOOM,
Attorney for Appellee,
Department of Justice,
Washington, D.C. 20530

Memorandum

TO : Mr. Morton Hollander
Chief, Appellate Section
Civil Division

DATE: January 29, 1959

FROM : Richard L. Kidwell
Chief, General Services Office

SUBJECT: Cost of Duplicating Brief for Appellee

This is to certify that the cost of duplicating 50 copies by the photo offset method, of the Brief for the Appellee, No. 26620, entitled "United States v. One 6.5mm. Mannlicher - Carcano Military Rifle", filed in the United States Court of Appeals for the Fifth Circuit, was as follows:

100 sheets cover paper	\$0.38
350 sheets text paper	.85
14 plates at .30¢ each	4.20
Press impressions at .10¢	1.40
Collating & stitching at 7 1/2¢ per leaf	<u>.68</u>
Total	\$7.51

Director,
Federal Bureau of Investigation

January 23, 1969

SJ:GTAM
The Attorney General

JNM:SL:CE:NEK:lc
129-11

Assassination of President John Fitzgerald
Kennedy, November 22, 1963, Dallas, Texas

This is in response to your memoranda dated January 22 and 23, concerning the subpoenas recently served on Special Agents Robert A. Frazier and Lyndal L. Shaneyfelt for the purpose of eliciting their testimony at the trial of Clay Shaw now in progress in the Criminal District Court for the Parish of Orleans, New Orleans, Louisiana.

After careful consideration of this matter, I have concluded that these Agents should appear in New Orleans in response to the subpoenas. This decision is based on my understanding that the substance of the testimony that these Agents are in a position to give has already been made a matter of public record in connection with the Warren Commission proceedings.

United States Attorney Louis LaCour, of the Eastern District of Louisiana, will be instructed to have his staff present in court during the times Agents Frazier and Shaneyfelt are testifying in order to assure that the interests of the Government and the witnesses are protected.

cc: Carl Eardley
Nathaniel E. Kossack
DJ Records

SIXTEENTH JUDICIAL CIRCUIT OF THE COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX

IN THE MATTER OF PROCEEDINGS TO COMPEL)
)
THE ATTENDANCE OF LYNDAL L. SHANEYFELT)
) ORDER FOR A HEARING
AS A WITNESS IN A CRIMINAL PROSECUTION)
)
IN THE STATE OF LOUISIANA.)

TO LYNDAL L. SHANEYFELT, 6125 VERNON TERRACE, ALEXANDRIA,
VIRGINIA, COUNTY OF FAIRFAX, GREETINGS:

WHEREAS, there has been presented to me as Judge of the Sixteenth Judicial Circuit of the Commonwealth of Virginia, County of Fairfax, a court of record, a certificate of the Honorable Edward A. Haggerty, Jr., Judge of Section "C" of the Criminal District Court for the Parish of Orleans, State of Louisiana, a court of record, that there is a criminal proceeding now pending in the said District Court styled State of Louisiana vs. Clay L. Shaw, and that Lyndal L. Shaneyfelt, now being within the Sixteenth Judicial Circuit of the Commonwealth of Virginia, County of Fairfax, is a necessary and material witness for the State of Louisiana upon the trial in such prosecution, and that his presence will be required before said Court on the 27th day of January, 1969, upon the trial of said criminal prosecution to be held in the Courtroom of Section "C" of the Criminal District Court for the Parish of Orleans, State of Louisiana;

IT IS HEREBY ORDERED that the matter of the issuance of an order directing said Lyndal L. Shaneyfelt to attend and testify on the 27th day of January, 1969, in said Criminal District Court of the Parish of Orleans, State of Louisiana upon said trial of the

case of the State of Louisiana vs. Clay L. Shaw will be heard before this Court on the 24th day of January, 1969, in the Courtroom in the Fairfax County Courthouse located in Fairfax, Virginia, at 10:00 o'clock A.M.

IT IS FURTHER ORDERED that the said Lyndal L. Shaneyfelt be present at 10:00 o'clock A.M. on the 24th day of January, 1969, in the Fairfax County Courthouse, and that a copy of this order requiring his presence be served forthwith upon Lyndal L. Shaneyfelt, 6125 Vernon Terrace, Alexandria, Virginia, in the County of Fairfax, along with a copy of the certificate of Edward A. Haggerty, Jr., Judge of the Section "C" of the Criminal District Court for the Parish of Orleans, State of Louisiana, by the Sheriff of this County or any of his deputies.

IN WITNESS WHEREOF I have hereunto set my hand and this order is hereby entered this 22nd day of January, 1969, in the County of Fairfax aforesaid.

(Sgd) Arthur W. Sinclair, Judge

Judge of the Circuit Court of
the County of Fairfax, Sixteenth
Judicial Circuit, Commonwealth of
Virginia

A COPY TESTE:

W. FRANKLIN GOODING, CLERK

By:

Edward E. Young
Deputy Clerk

STATE OF LOUISIANA

CRIMINAL DISTRICT COURT

VS.

PARISH OF ORLEANS

CLAY L. SHAW

NO. 198-059, SECTION "C"

C E R T I F I C A T E

I, Edward A. Haggerty, Jr., Judge of Section "C" of the Criminal District Court for the Parish of Orleans, State of Louisiana, do hereby certify:

1. That there is now pending before Section "C" of the Criminal District Court for the Parish of Orleans, State of Louisiana, a criminal prosecution styled "State of Louisiana versus Clay L. Shaw", NO. 198-059. Said prosecution is for conspiracy to murder John F. Kennedy, a felony under the laws of the State of Louisiana.

2. That Mr. Lyndal L. Shaneyfelt, now residing at 6125 Vernon Terrace, Alexandria, Virginia, in the County of Fairfax, is a necessary and material witness for the State of Louisiana in the above-entitled cause.

3. That Mr. Lyndal L. Shaneyfelt is a photographic expert in the employ of the Federal Bureau of Investigation. That in the course of his duties he had occasion to examine and test the movie camera belonging to Mr. Abraham Zapruder and used by Mr. Zapruder in the filming of the murder of President John F. Kennedy. That as a result of Mr. Shaneyfelt's tests it was determined by him that the Zapruder camera ran at an average speed of 18.3 frames per second. This testimony is material as

it will establish the critical period of time involved in the murder of President John F. Kennedy, and will further tend to show that President Kennedy was struck by bullets fired by more than one individual.

4. That the presence of the said Lyndal L. Shaneyfelt, personally, to testify before Section "C" of the Criminal District Court for the Parish of Orleans on the 27th day of January, 1969, is necessary and material to the case.

5. That if the said Lyndal L. Shaneyfelt, as such witness, comes into the State of Louisiana in obedience to a summons directing him to attend and testify at such proceedings, the laws of the State of Louisiana and of any other state through which said witness may be required to pass by the ordinary course of travel to attend said proceedings, give him protection from arrest or the service of process, civil or criminal, in connection with matters which arose prior to his entrance into said state pursuant to said summons.

6. That this Certificate is made for the purpose of being presented to a judge of a court of record of the County of Fairfax, State of Virginia, where the said Lyndal L. Shaneyfelt now is, upon proceedings to compel said Lyndal L. Shaneyfelt to attend and testify before Section "C" of the Criminal District Court for the Parish of Orleans, State of Louisiana, upon the days and dates hereinbefore set forth.

WITNESS, the Honorable Edward A. Haggerty, Jr., Judge of said Court, at New Orleans, this 16 day of January, 1969.

E. A. Haggerty, Jr.
EDWARD A. HAGGERTY, JR., JUDGE
JUDGE OF SECTION "C"
CRIMINAL DISTRICT COURT
PARISH OF ORLEANS
STATE OF LOUISIANA

Clerk's Office

Jan 16 1969
A TRUE COPY.

Alvord

Deputy Clerk

Criminal District Court

STATE OF LOUISIANA

PARISH OF ORLEANS

I, Edward A. Haggerty, Jr., Judge of Section "C" of the Criminal District Court for the Parish of Orleans, State of Louisiana, do hereby certify that the said Criminal District Court for the Parish of Orleans, is a Court of Record, having a Clerk and Seal; that Daniel Haggerty, who has signed the annexed Attestation, is the duly appointed, qualified and acting Chief Deputy Clerk of the Criminal District Court for the Parish of Orleans, State of Louisiana, and was so qualified at the time of the signing of said Attestation; that he is the legal custodian of the said Seal; that said signature is his genuine handwriting, and that all of his official acts as said Chief Deputy Clerk are entitled to full faith and credit; and I further certify that said Attestation is in due form of law.

WITNESS MY HAND, This 16 day of January, 1969.

Edward A. Haggerty, Jr.

EDWARD A. HAGGERTY, JR.
Criminal District Court
Parish of Orleans
State of Louisiana

Judge

Jan 16 1969

A TRUE COPY

Abuel

Criminal District Court

STATE OF LOUISIANA

PARISH OF ORLEANS

A T T E S T A T I O N

I, Daniel Haggerty, Deputy Clerk of the Criminal District Court for the Parish of Orleans, State of Louisiana, do hereby certify that the Honorable Edward A. Haggerty, Jr., by whom the foregoing Certificate was made, and whose genuine signature is subscribed thereto, was, at the time of signing of the same, and still is, the Judge of the Criminal District Court for the Parish of Orleans, State of Louisiana, Section "C", duly elected, commissioned, qualified and sworn, to whose acts as such, full faith and credit are due.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the said Court this 16 day of January, 1969.

Daniel B. Haggerty

DANIEL B. HAGGERTY
Chief Deputy Clerk
Criminal District Court
Parish of Orleans
State of Louisiana

Clerk's Office Jan 16 1969
A TRUE COPY.

Daniel

Deputy Clerk
Criminal District Court
Parish of Orleans

STATE OF LOUISIANA

CRIMINAL DISTRICT COURT

VS.

PARISH OF ORLEANS

CLAY L. SHAW

NO. 198-059, SECTION "C"

ORDER TO DISBURSE FUNDS TO SECURE
ATTENDANCE OF OUT-OF-STATE WITNESS

TO: DISTRICT ATTORNEY OF ORLEANS PARISH:

Pursuant to issuance of Certificate for attendance of out-of-state witness, as provided under Louisiana Code of Criminal Procedure, Article 741, to testify in the above-entitled criminal prosecution, it is hereby

ORDERED that a check be drawn on the Fines and Fees Account payable to witness, Lyndal L. Shaneyfelt, for the statutory fee of ten cents per mile for travel by the ordinary route from Alexandria, Virginia, to New Orleans, Louisiana, and return, a total of 2,186 miles; and five dollars per day for the two days he will be required to attend as a witness and two days travel amounting to a total of \$238.60 (TWO HUNDRED THIRTY-EIGHT AND 60/100 DOLLARS), which sum is to be delivered to him upon issuance of a summons by a Judge of a court of record in the County of Fairfax, Virginia.

DATED this 16 day of January, 1969.

William A. Shaneyfelt
JUDGE OF THE CRIMINAL DISTRICT
COURT FOR THE PARISH OF ORLEANS

Clerk's Office Jan 16 69
A TRUE COPY.

Fay Carbo
Clerk of Court

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

129-11

STATE OF LOUISIANA

:

vs.

:

Criminal Trials No. 2627

CLAY L. SHAW

:

ORDER OF COURT

This matter having come before the Court pursuant to the provisions of Section 618, of Article 27 of the Annotated Code of Maryland, 1957 Edition, as amended, and upon consideration of the Petition of the State of Maryland by Arthur A. Marshall, Jr. and Certificate attached thereto, it is by the Court this 21st day of January, 1969,

ORDERED that Robert A. Frazier, 2705 Faither, Hillcrest Heights, Maryland appear before this Court at 9:30 A.M. on the 24th day of January, 1969, for futher proceedings required by Section 618 of Article 27 of the Annotated Code of Maryland, 1957 edition, as amended,

PROVIDED that a copy of this Petition and Order be served on said witness on or before the 23rd day of January, 1969.

Roscoe H. Parker

Judge

Roscoe H. Parker

W. W. [unclear]

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

STATE OF LOUISIANA :

vs. :

Criminal Trials No. 8527

CLAY L. SHAW :

PRAYER TO SET HEARING IN RE: OUI OF SEABE WITNESS

Comes now the State of Maryland, by and through Arthur A. Marshall, Jr., State's Attorney for Prince George's County, Maryland, and pursuant to Section 613 of Article 27 of the Annotated Code of Maryland, 1957 Edition, as amended, represents unto the Court the following:

1. That there is a criminal prosecution pending in the State of Louisiana in the Criminal District Court for the Parish of Orleans, Louisiana, entitled State of Louisiana vs. Clay L. Shaw charged with conspiracy to murder John F. Kennedy.

2. That the following person, residing in the State of Maryland is a material witness in said prosecution:

Robert A. Frazier
2705 Gaither
Hillcrest Heights, Maryland

3. That the presence of the above named person will be required on January 29, 1969 and to remain in attendance until excused in the Criminal District Court for the Parish of Orleans, Section "C", State of Louisiana.

4. That attached hereto is the necessary certificate required by Section 613, of Article 27 of the Annotated Code of Maryland, 1957 edition, as amended.

WHEREFORE, the State of Maryland by Arthur A. Marshall, Jr., respectfully moves this Court to order the above named

witness to appear before it on the 24th day of January, 1969 at
9:30 A.M. for a hearing pursuant to Section 618 of Article 27
of the Annotated Code of Maryland.

Arthur A. Marshall, Jr.

Arthur A. Marshall, Jr.
State's Attorney

W. W. W. Webb
il

Nathaniel E. Kossack
Deputy Assistant Attorney General

January 17, 1969

Fred M. Vinson, Jr.
Assistant Attorney General
Criminal Division

129-11

Louisiana v. Clay L. Shaw

Attached is a copy of a memorandum from the FBI dated January 16 in connection with the subpoena of Regis Kennedy, a former agent, for the Shaw trial. Also attached is the work that was done in connection with Regis Kennedy's prior subpoena in the Dean Andrews case.

I have instructed Louis LaCour to educate Kennedy as to the Departmental regulation and instruct him that he should cite and read that regulation if he is called upon to give testimony. At that time, if the statutory privilege is to be relied upon, of course, a letter or wire will have to go out to Kennedy from the Attorney General.

Because Kennedy, in spite of similar instructions, did give some testimony in Louisiana v. Andrews, and my recollection is he also gave some testimony before the grand jury, this may be particularly sticky.

FV
4/17/69

Records ✓
Vinson dictation
Vinson read

MFR:BS:dp

129-11

cc: Files

Mr. Hoffman
Mr. Richman
Mr. Schmidt
Mrs. Copeland

FEB 11 1969

Honorable George Murphy
United States Senate
Washington, D. C. 20510

wt 2/11

Dear Senator Murphy:

This is in response to your letter of January 17, 1969 concerning the call you received from [redacted] 7C

7C [redacted] asks why the Government has not released the x-rays and autopsy photographs taken in connection with the assassination of President Kennedy.

These pictures were transferred to the Archives by President Kennedy's family pursuant to 44 U.S.C. 397(e) (1) (since codified as 44 U.S.C. 2107(1) by P.L. 90-620). This provision authorizes the Archives to accept historical materials relating to a President subject to reasonable restrictions as to their use. The Kennedy family desired to prevent the undignified or sensational use of these materials (such as public display) or any other use which would tend to dishonor the late President or cause unnecessary suffering to his family.

bes

Accordingly, the Kennedy family, with the agreement of the Administrator of the General Services Administration (which has jurisdiction over the National Archives), set certain restrictions on the use of these photographs. Basically, the use of these materials was limited to official Federal investigating bodies and to serious pathologists and scientists investigating the assassination, except that non-official pathologists and experts should not have access to the materials for five years after the transfer, which took place October 29, 1966, unless the Kennedy family granted permission.

Because of the continuing controversy about the x-rays and autopsy photographs, Attorney General Clark

File
see

1280

in February, 1968 officially requested an impartial panel of medical experts to review these materials to determine the accuracy of the original autopsy report. That report had concluded that President Kennedy had been struck by two bullets, both fired from a position behind him. This was the basic conclusion of the Warren Commission. The 1968 panel, the members of which were selected by the Presidents of Stanford, Johns Hopkins, and Michigan State University, and the President of the College of American Pathologists, reviewed the materials and reported unanimously that they were in agreement with the conclusions of the original autopsy report.

The United States opposed the request of District Attorney Garrison that these materials be released for a state criminal proceeding. The opposition was primarily on the ground that such disclosure would not comply with the conditions of the agreement whereby the materials were transferred to the Archives and would hence violate the authorizing statute.

I hope that this information is of interest to

 7C

Sincerely,

William H. Rehnquist
Assistant Attorney General
Office of Legal Counsel

DATE: January 24, 1969

To: Alice Copeland
Office of Legal Counsel

From: ^{HEH} Herbert E. Hoffman
Chief, Legislative & Legal Section
Office of the Deputy Attorney General

Subject: Correspondence from:

Sen. Murphy re failure of government to release the x-rays
as requested by Mr. Garrison in connection with his con-
spiracy charges in the Kennedy assassination case.

Schumaker

Responsibility

Prepare reply for signature of Deputy Attorney General and forward to Herbert E. Hoffman, Room 4117, Main Justice.

Make an appropriate reply with a copy to Herbert E. Hoffman, Room 4117, Main Justice.

Department File No.:

Miscellaneous Information:

Interim reply is being/has been made.

No interim reply is being made.

Copy of incoming correspondence attached.

Original of incoming correspondence attached.

Please return attachment.

ac

129-11	
DEPARTMENT OF JUSTICE R	
10	FEB 18 1969
R.A.O.	
OFFICE OF LEGAL COUNSEL	