

FBI

Date: 4/7/64

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Via AIRTEL AIRMAIL  
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TO: DIRECTOR, FBI (44-24016)

FROM: SAC, DALLAS (44-1639) (P)

SUBJECT: JACK L. RUBY aka;  
LEE HARVEY OSWALD aka - VICTIM (Deceased)  
CR  
OO: DL

Dallas Office, through censorship of RUBY's mail by Dallas County Sheriff's Office, has come into possession of a copy of a letter directed by MELVIN M. BELLI to RUBY, from San Francisco, dated 3/21/64. BELLI acknowledged RUBY's letter asking BELLI to withdraw as counsel. BELLI commented concerning the record for reversal which had been built up, specifically mentioning the court's denial of a change of venue.

Dallas also has a copy of a letter, dated 3/18/64, from JOE H. TONAHILL, Defense Attorney, Jasper, Texas, to RUBY. TONAHILL commented on the "many reversible errors" in the case, and stated he earnestly believed the appellate court will reverse RUBY's conviction. He stated the "biggest stand-out error" was the failure of the court to transfer the case from Dallas County.

TONAHILL stated next in importance were the statements of Officers ARCHER, MC MILLON, KING, LEAVELLE and DEAN, Dallas Police Department, which were admitted by the court

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Approved: \_\_\_\_\_  
Special Agent in Charge

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over defense objection. These statements, he commented, served to indicate intent, malice, and premeditation on the part of RUBY. He commented the statement of Officer DEAN was the strongest against RUBY. He said, of course, "We deny, you deny," that the statements were made by RUBY. He said the testimony of MC MILLON was completely destroyed, MC MILLON having testified he saw certain things, whereas, photographs showed MC MILLON was not looking in the direction of OSWALD at the time he was shot.

TONAHILL continued that, without the testimony of the officers as to statements allegedly made by RUBY at the time of and immediately following the shooting, the District Attorney would at best have a case of Murder without Malice. He stated, "Of course, our testimony would completely contradict that." TONAHILL went on to state the penalty of Murder without Malice was from two to five years. He said, "We can reverse the case and get a change of venue from the appellate court," and the statements of the police officers would not be admissible as res gestae. TONAHILL then continued that, should RUBY enter plea of guilty, he would, undoubtedly, get credit for the time he spent in jail and should not have to serve over a year, time off for good behavior, under a maximum sentence of five years. He said a second trial would likely take less than a week and he believed a jury would find RUBY not guilty, because the approach would be somewhat different in the next trial. He also stated, "Also, JACK, even if you entered a plea and commenced to serve out that short sentence, you would get the treatment you need during that time."

It would appear from TONAHILL's letter that a plea of guilty to Murder without Malice is at least being considered in the event a new trial is granted. There has been considerable comment in the press and otherwise on the fact that the defense, in first trial, "put all their eggs in one basket" in trying to gain acquittal through a defense of temporary insanity, whereas, no plea for leniency was made.

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On 3/26/64, former SAC WILLIAM A. MURPHY, now with Dale Simpson Associates, Private Investigators advised SA'S JOSEPH J. LOEFFLER and MANNING C. CLEMENTS he had been approached by PHIL BURLESON, Defense Attorney, in effort to employ MURPHY's concern to assist in further investigation. He said it was inferred by BURLESON the investigation would be primarily concerned with interviewing police officers and conducting investigation concerning them, referring to those officers whose statements had been particularly damaging to RUBY. BURLESON indicated some of the testimony had come as a surprise to the defense. MURPHY felt, from BURLESON's statements, the strategy in a new trial, if granted, will revolve around keeping the police testimony out as not admissible under the res gestae rule. MURPHY continued that BURLESON had inferred his belief the FBI was likewise surprised at some of the testimony of police officers. BURLESON noted that certain of the officers had testified on cross-examination they had not told FBI, when interviewed, of statements they attributed to RUBY and to which they testified. BURLESON inferred to MURPHY that SA CLEMENTS, who audited the trial, had told him the FBI had interviewed the officers thoroughly.

SA CLEMENTS advises me he made no such comment to Mr. BURLESON with respect to the interviews of police officers. SA CLEMENTS recalls that D. R. ARCHER, Dallas Police Department, admitted under cross-examination he had not told the FBI of certain statements of RUBY to which he testified, since the FBI had explained the purpose of FBI investigation was to determine whether security had broken down in connection with OSWALD's transfer and, if so, how such happened. At the recess following ARCHER's testimony, BURLESON jokingly commented to SA CLEMENTS that ARCHER had "made the FBI look bad" or something to that effect. SA CLEMENTS did not state to BURLESON whether the FBI was aware of the information to which ARCHER testified or not.

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Former SAC MURPHY stated he was bringing the statements of BURLESON to our attention, in view of the possibility the defense might, if a new trial is granted, conceivably subpoena Agents who interviewed the various officers and elicit from such Agents the fact that the officers in question had not told of the alleged statements of RUBY to FBI Agents.