

11/23/69

TO : Mr. J. Edgar Hoover  
Director, Federal Bureau  
of Investigation

FROM : Carl Bardley, Acting  
Assistant Attorney General,  
Civil Division

DATE: Feb 19 1969

CR:JH:slr:gdw:fr  
70-29-38

SUBJECT: John Nichols v. United States of America,  
et al., U.S.D.C. D. Kan., Civil No. F-4525.

We attach a copy of the Complaint in this suit.

In order that we may defend this action, please send us not later than February 19, 1969, a report, in duplicate, setting forth the facts regarding the matters alleged in the Complaint concerning the spectrographic test on Warren Commission Exhibit No. C3 399. Please include the following items in your report:

- (1) A statement as to the manner, place and time of plaintiff's request to make the spectrographic test involved available to him, including four copies -- one certified -- of any documents or other memoranda incorporating plaintiff's request.
- (2) Four copies -- one certified -- of any correspondence or memoranda of any communication, written or oral, between you and the plaintiff concerning plaintiff's request for the spectrographic test involved.
- (3) If the spectrographic test has been identified and located, a detailed description or summary of what the test involved and a statement as to its current location. If it has not been possible to identify the spectrographic test, please include a statement to this effect.
- (4) Two copies of any correspondence or memoranda showing the administrative processing of the plaintiff's request.
- (5) A statement of the reason or reasons why in the opinion of your agency the spectrographic test involved should not be made available. Such reasons

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ENCLOSURE

should be related as directly as possible to the statute involved, 5 U.S.C. 552, or, for example, that the test is exempted from disclosure by some other statute, or that it is within one or more of the other exemptions of Subsection (b) of 5 U.S.C. 552, or that plaintiff did not comply with applicable regulations in requesting the test. Where the test falls within one or more of the exemptions of Subsection (b) of 5 U.S.C. 552, such exemption should be specifically identified and discussed.

- (6) If appropriate, a statement of facts demonstrating the manner in which production of the test requested would prejudice the operations of the FBI.

It will be helpful if you will state specifically which allegations of the Complaint should, in your opinion, be admitted and which should be denied, and make suggestions for any affirmative allegations to be made in the answer.

Please include a list of the names, official positions, and addresses of persons who have personal knowledge of the facts involved.

Because many courts are reluctant to grant extensions of time to answer, we request that this report be given your preferred attention. If you cannot send us the necessary materials before February 19, 1969, please let us know promptly so that we can inform the court of the reason for the delay.

Attachment

cc: United States Attorney  
Topeka, Kansas