

*rifle*

Department had decided not to appeal Judge Gesell's recent grant of a fee waiver to Weisberg for FBI records on the Kennedy assassination, Shea concluded his affidavit by stating that in light of these developments he thought he should reconsider his own prior actions on fee waivers sought by Weisberg. Id., ¶ 9. On March 31, 1978, Shea determined that Weisberg should receive a fee waiver for all the Department's Kennedy and King assassination records.

G. Disclosure of Nonexisting Information

In this litigation Weisberg also succeeded in establishing the nonexistence of information in the files searched. A particularly important example of this concerns his efforts to obtain the results of a cotton swab test which is used to determine whether or not a rifle has been fired recently. Such a test was performed on a brand new .243 caliber rifle which James Earl Ray purchased at the Aeromarine Supply Company in Birmingham, Alabama and then returned. [R. 168, Exh. 1 at 8] As a result of Weisberg's consultancy report, which was utilized by Mr. Shea in his 1978 review of the case, a special search was made to see if the FBI had withheld any report of such a test conducted on the rifle which was found at the scene of the crime. Because of evidence that the 30.06 rifle left at the scene of the crime may have been planted, Mr. Weisberg considered such a test quite important. In his January 12, 1979 testimony Shea reported on the unsuccessful efforts to find such a report, stating that "[t]he logical argument for thinking you might see it is quite good. We can't find one."

*my reply brief in No 82-1229*

6. Because of distortion due to mutilation and insufficient marks of value, I could draw no conclusion as to whether or not the submitted bullet was fired from the submitted rifle.

*Robert A. Frazier*

ROBERT A. FRAZIER

caption

~~heard the shot.~~

9. Right after the shot, I heard through a broken pane in my kitchen window a lot of voices yelling and hollering across the street from my building near the Lorraine Motel. I looked out my window toward the noise and I saw a lot of people milling around near the motel. Then I went to my door and opened it. I would say that about a minute, not more, passed between my hearing the shot and when I opened the door. First, I looked toward the bathroom and I saw that the door was open and it was empty. Then I went to the banister and looked the other way. When I did, I saw a man running near the end of the hallway. I have put an "O" mark on the floor plan, Exhibit I, to show about where he was when I saw him. He was carrying a bundle in his right hand. From what I could see, the bundle was at least three or four feet long and six or eight inches thick. The bundle appeared to be wrapped in what looked like newspaper. The man turned left toward the stairs when he reached the end of the hallway. Although I did not get a long look at him before he turned left, I think it was the same man I saw earlier with Mrs. Brewer looking at Room 5-B. The man running down the hall had on a dark suit, the same as the man I saw earlier.