

Waltz

75-1996 on meeting left  
10/12/79

hall and meeting?

MR. LESAR: Sure.

(whereupon, a short recess was taken.)

MR. LESAR: Back on the record.

BY MR. LESAR:

Q Are you familiar with the test that the FBI runs on rifles using a cotton swab to determine whether or not a rifle has been fired recently?

A It has nothing to do with whether the gun has been fired recently or not. It has to do with whether a gun has been fired since it was last cleaned, which may have been 30 years ago or 10 minutes ago.

Q That's correct.

A I am generally familiar with these kinds of things.

Q Is that a test that would be routinely performed in an examination of any alleged murder weapon?

A It might be. It might be routinely performed. You know, it would depend on what the interest was. You wouldn't just do it for the sake of doing it. There would be some specific request made to determine if this firearm, for instance, has been fired since it was last cleaned or something like that.

Q Would it have been done in the case of the alleged murder weapon in the King assassination?

1 Another point that he raised was in a couple of in-  
 2 stances he said that a document says it has -- simple example  
 3 two attachments and he only got one. Although the Bureau  
 4 people understand the difference between the notation that the  
 5 put on a document where it has two different attachments and  
 6 where it has one attachment in two copies, I must admit that u  
 7 until now I am still puzzled, I am not sure what that differ-  
 8 ence is.

*Deer*  
*Shaw*  
 ↓  
*Spencer*

9 But that is what we have found in those cases to  
 10 the extent that Mr. Mitchell was able to check them out. It  
 11 may say four attachments and it was in fact -- in those few  
 12 cases it was four copies of a single item.

13 Another point that Mr. Weisberg got into, he had  
 14 several suggestions of documents that are not there. And  
 15 based on his very considerable expertise, they are documents  
 16 that he feels should be there. We have made an effort.

17 In one particular he said that he had not received  
 18 a report that reflected whether or not the rifle found had  
 19 been examined to see if it had been fired. Now Mr. Mitchell  
 20 and Mr. Beckwith have gone into various nooks and crannies of  
 21 the FBI, looking, talking, and, as far as I can tell, Mr. Weis-  
 22 berg is quite correct.

23 He has not seen a report that reflects an examination  
 24 to see if that rifle had previously been fired, but we have not  
 25 found any report. So I cannot say that any such report has

1 been withheld. The logical argument for thinking you might  
2 see it is quite good. We can't find one.

3 So my conclusion really is that generally that a  
4 researcher who is working with these files will be able to  
5 trace most of these items through, but by no means will he be  
6 able to do so without difficulty. It's going to be hard.

7 But I do want to say another conclusion that I have  
8 reached in my own mind, and this is just my opinion, that alle-  
9 gations that are made that there's monkeying here, that there  
10 have been improper actions or motives in the processing or th  
11 filing within this MURKIN file, we have looked at enough of  
12 that and as far as I am concerned I will say categorically at  
13 a minimum that that certainly is not proven and as far as I  
14 am concerned as a general proposition that these are invalid  
15 accusations.

16 Now as I have indicated, I want to reiterate it,  
17 because we will do it in other cases, too, once we have some-  
18 thing to go on, that the Bureau's already reprocessing certain  
19 substantive information. I used the McCullough example, the  
20 confidential informant who has become a subcommittee witness.

21 And lastly, as the risk if I may of having about  
22 30 seconds more of the Court's time, I would like to thank, on  
23 the record, bring to the attention of the Court four people  
24 who have been extremely helpful. This has been a massive pro  
25 ject.

*File*

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 Aeromax 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 had in No 82-1229*