

1/17/69

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

JOHN NICHOLS, Plaintiff

VS.

THE UNITED STATES OF AMERICA
and JAMES B. RHOADES, ARCHIVIST
OF THE UNITED STATES, GENERAL
SERVICES ADMINISTRATION, Defendants

No. T-45-36

COMPLAINT

The plaintiff, for his cause of action against the United States of America, alleges and states as follows:

1. The jurisdiction is vested in this court under the provision of 5 U.S.C. Sections 1001-1011, and more particularly under the provisions of the Federal Public Records Law, Public Law 89-487, 80 Statutes 250 (1966); and venue is granted to this court under the provisions of 28 U.S.C. Section 1391 (e) (4).

2. The plaintiff is a physician duly licensed by the Kansas State Board of Healing Arts certified by the American Board of Pathology with previous experience in gunshot wounds and x-ray interpretation thereof.

3. Because of his interest in science, and more particularly pathology and to clear up confusion surrounding the death of our President John F. Kennedy and to try insofar as humanly possible, to write a book which would be accurate, the plaintiff has made numerous attempts to procure certain information held by the archivist of the United States. The plaintiff is entitled under the Federal Public Records Law to examine the items presently in the custody of the archivist.

4. After the death of John Fitzgerald Kennedy and after the taking of x-rays and photographs, both black-white

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CHARLES W. CAHILL, Clerk

By: *[Signature]* Deputy

and color transparencies, of John Fitzgerald Kennedy at Bethesda Naval Hospital, Bethesda, Maryland, the brother of John Fitzgerald Kennedy, Robert F. Kennedy, assumed control of the x-rays and photographs despite the fact that these x-rays and photographs belonged to the United States Government. Of course, at that time Robert F. Kennedy was attorney general of the United States and had at least some color of authority to keep and retain the x-rays. Later, however, the family of the late President John Fitzgerald Kennedy entered into an agreement with the United States Government, allegedly pursuant to the provisions of 44 U.S.C. Section 397 (e) (1), and transferred to the administrator of general services, acting for and on behalf of the United States of America, for deposit in the National Archives of the United States the x-rays and photographs connected with the autopsy of the late President. A copy of this agreement, dated October 29, 1966, is attached to this complaint and made a part hereof as though fully set out herein.

5. On August 21, 1966, the plaintiff herein, John Nichols, Ph.D., M.D., sent a certified letter to Joe M. Blumberg, Brigadier General, M.C., USA, Director, Armed Forces Institute of Pathology, Washington, D.C., 20305, requesting that he be allowed to study, among other things, the x-ray films, and the photographs from the autopsy of the late President John F. Kennedy. That letter, on August 25, 1966, was forwarded to Vice Admiral George G. Burkley, M.C., USN, The White House, Washington, D.C. Vice Admiral Burkley claims that the pertinent facts concerning the late President Kennedy were supplied to the Warren Commission for their information and evaluation, and that the medical records have been placed in a permanent receptacle that will remain for reference at some future date, and that the medical files are being held under

the same conditions as the President's private papers. Later, on July 19, 1967, the plaintiff herein sent a letter to the former archivist of the United States, Robert H. Bahmer, requesting the opportunity to view the x-ray films. Mr. Bahmer answered this letter July 21, 1967, claiming that he was unable to grant access to the x-rays because of the conditions set out in the agreement entered into between the Kennedy Family and the United States and referred to in paragraph 4 above. On September 5, 1967, the plaintiff herein sent a letter to Senator Robert Kennedy requesting permission to view the x-ray films and photographs taken of the late President at the time of the autopsy. This letter was referred to the archivist of the United States and was answered by him on October 5, 1967. This answer denied the plaintiff's request.

6. Because the x-ray films and photographs were taken on United States Government film and at a government hospital, the ownership of the x-rays and photographs is vested in the United States Government; and the only way that the Kennedy Family could have rightfully possessed these films was to have entered into a contract with the government for their purchase. Insofar as the plaintiff knows, the Kennedy Family came into possession of these films by virtue of Robert F. Kennedy's position as attorney general of the United States, and what in effect has happened is that the Kennedy Family has given the government its own film to preserve for self-keeping. Consequently the conditions and restrictions imposed for examination of these x-rays and photographs are not valid nor enforceable, and plaintiff is entitled to have disclosed to him these x-rays under the Federal Public Records Law of 1966.

7. For the same reasons set out in paragraph number 3, plaintiff has requested of the archivists of the United States

of America, James B. Rhoades, and of the attorney general of the United States of America as late as January 17, 1969, that he be furnished for study the x-ray films and other photographs made at the autopsy of the late President Kennedy and the Warren Commission exhibits numbered 399, 573, 842, 843 and 856 together with the President's coat, shirt and necktie for submission to neutron activation analysis. The plaintiff requested these things because of the reasons as set forth in paragraph numbered 3 and plaintiff is entitled to have disclosed to him these things under the Federal Public Records Law of 1966. The plaintiff's request has been denied.

8. For the same reasons set out in paragraph numbered 3, plaintiff has made numerous requests to ascertain the distance that the seats in the vehicle in which our President was riding were from the floor of the vehicle. This information is basic in order to more accurately align the path of the alleged bullet (CE 399) with respect to the President and Governor Connally. The United States of America, through its Secret Service Agents, has refused to provide this data.


9. For the same reasons set out in paragraph numbered 3, plaintiff has made a request to examine the results of certain spectrographic studies on the bullet (CE 399) that allegedly struck our President as well as certain articles of our President's clothing. The Warren Commission makes reference to these tests but the results of these tests have not been divulged and have been denied by the United States of America through their various employees and agents of the Federal Bureau of Investigation.

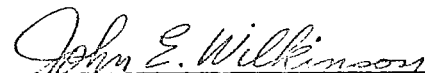
WHEREFORE, the plaintiff prays that this honorable court issue an order to the archivist of the United States of America as follows:

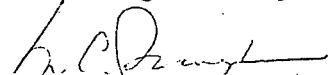
1. Permitting the plaintiff to study the photographs and x-ray plates as was afforded the recent panel of experts consisting of Dr. William H. Carns, Dr. Russell S. Fisher, Dr. Russell H. Morgan and Dr. Alan R. Moritz.
2. Allowing plaintiff temporary custody of and permission to submit Warren Commission exhibits numbered 399, 573, 842, 843 and 856 to neutron activation analysis together with the President's coat, shirt and necktie also in order to submit the margin of the bullet holes to neutron activation analysis.

Plaintiff further prays this honorable court to issue an order requiring the United States Government to divulge the height of the President's and the height of Governor Connally's seat from the floor in the assassination car.

Plaintiff further prays that this honorable court issue an order requiring the director of the Federal Bureau of Investigation to divulge to the plaintiff the results of the spectrographic test on Warren Commission exhibit number CE 399, and the results of all other spectrographic analyses conducted by the Federal Bureau of Investigation.


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