

#### OSWALD'S LEGAL RIGHTS

Source: Vol. XX, Johnston Exhibits beginning on p.319.

These documents are headed "AFFIDAVIT". They are on Form 141. They read, "IN THE NAME AND BY THE AUTHORITY OF THE STATE OF TEXAS, PERSONALLY APPEARED before me the undersigned authority ...". The first of these documents is filled in to charge Oswald on the 22nd of November killed Tippit. The signature I suppose of J. W. Fritz is at the bottom. The second makes a similar charge with respect to Kennedy and has the same signature. The third, with respect to Governor Connally, is signed "Robert E. McKinney". ~~Mr~~ McKinney has the neatest, most effeminate handwriting I have ever seen from a man.

My point in citing these is to refer to Joesten's book where Joesten has a photograph of Capt. Fritz holding an affidavit. Joesten alleges, and I have no way of knowing how accurately, the affidavit was unsigned. Of course, if Joesten is right, there is no affidavit and Oswald was not properly charged.

On the question of Oswald and ~~his~~ <sup>an</sup> attorney, the next is quoted from the statement of Secret Service Inspector Thomas J. Kelley, concerning his interview on the 23d November, Vol. XX, p.441. He has been discussing Oswald's answers to interrogation and quotes him as saying, with respect to the weapons, "he refused to answer any questions concerning the pistol or a gun until he talked to a lawyer."

In the next paragraph he quotes Oswald as saying, "that he knew he did not have to answer questions concerning any shooting; that he knew he did not have to answer them and that he would not answer any questions until he had been given counsel." Note the words the inspector uses here: "given counsel".

Not on this subject, but I want to note here that Inspector Kelley also quotes Oswald's complaint about the FBI treatment of his

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wife. The Inspector's language is, "He said that in the past three weeks when the FBI had talked to his wife, they were abusive and impolite; that they had frightened his wife and he considered their activities obnoxious."

The very end of Inspector Kelley's statement (same page) reads, "He did not intend to answer further questions without counsel and that if he could not get Abt, then he would hope that the Civil Liberties Union would give him an attorney to represent him. At that point Captain Fritz terminated the interview at about 11:30 A.M., 11-23-63."

Inspector Kelley's memorandum of his interview with Oswald, in Capt. Fritz's office and with, of course, other police officials present, on November 23, 1963, beginning at about 12:35 p.m. (p.442) has this paragraph offset by having greater margins: "The interview was concluded about 1:10 P.M. and immediately thereafter members of the Homicide Division secured a search warrant and recovered Oswald's effects from the home of Mrs. Paine. Found among the effects were two different ~~poses~~ poses in snapshot type photographs taken of Oswald holding a rifle in one hand and holding up a copy of a paper called the Militant and 'The Worker' in the other hand. ... This photograph was enlarged by the Dallas Police Laboratories and was used as a basis of additional questioning of Oswald at approximately 6:00 P.M. that same evening."

Note, first, that the search warrant for Oswald's possession ~~was~~ ~~obtained~~ at the Paine residence was, as I had earlier suspected, 24 hours late in being requested. The search of the previous day, presumably then, was an illegal search, and none of the fruit thereof was usable against Oswald. And second, notice that he said that "two different poses" were found. Then he confuses it by saying "this photograph was enlarged ..."

In the next paragraph Insp. Kelley refers to a 6:00 interrogation

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in Fritz's office, "...for the purpose of displaying to him the blowups of photographs showing him holding a rifle and a pistol which were seized as a result of the search warrant ..."

Oswald's attempt to get himself a lawyer: Beginning on p.684 is a letter to Mr. Leon Jaworski in Houston, dated February 10, 1964, from H. Lewis Nichols, Dallas Bar Association. Nichols had been contacted on the Saturdaynoon after the assassination "by a lawyer <sup>friend</sup> ~~friend~~ ... who wanted to know whether or not Oswald was being represented by an attorney at the time." Nichols didn't know but said he would "make an inquiry" because it had occurred to Nichols "that some question might be raised as to his lack of representation during a critical time after his arrest."

Nichols contacted the district attorney, "he advised me that so far as he knew, Oswald was not then represented by an attorney, nor had he made any demand or request that an attorney be appointed to represent him or made available to him."

On p.685, Nichols quotes a conversation with an unnamed captain "who is an administrative assistant to the Chief of Police," who "advised me that so far as he knew, Oswald was not then represented by an attorney, and that he had made no request of the Police that an attorney be made available to him or that he be permitted to call any attorney. He further stated that so far as he knew, when Oswald appeared before the Magistrate on Friday night, that no request had been made by Oswald that an attorney be appointed." On the same page, "At about 5:00 or 5:30 PM Saturday afternoon, I then went to the City Hall and went to the office of the Chief of Police. The Chief said that he was glad to see me and he personally took me to the jail where Oswald was located. ... The Chief then stepped back so as to permit me to converse with

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Oswald without any interference on his part." Unless this is just poor language, how far back can a policeman step in a jail cell?

On p.686 Nichols quotes from his very brief conversation with Oswald, quoting Oswald as stating, "that he desired to be represented by an attorney named John ~~Abt~~ Apt or Abt of New York City and asked me if I knew this lawyer. I told him that I did not. He then asked me if I knew any Dallas lawyer who was a member of the American Civil Liberties Union. I told him I did not. He then stated that he was a member of the American Civil Liberties Union. I again asked him whether he desired that either I or the Dallas Bar Association do <sup>yt</sup> anything at that time toward getting him an attorney to represent him. He stated that if he could not get the New York lawyer or if he could not get a lawyer who was a member of the American Civil Liberties Union to represent him, and if there was an attorney in Dallas who believed as he did, and believed in the things he believed in, and believed in his innocence as much as he could, that he might call on us in the following week about getting such a lawyer."

This is not as represented in the report. (See report, p. )