

DISTRICT OF COLUMBIA COURT OF GENERAL SESSIONS  
CIVIL DIVISION

UNITED STATES, ex rel.  
STATE OF LOUISIANA,

Petitioner,

v.

Misc. No. 825-69A

DR. JAMES B. RHOADS,  
Archivist of the United States,

Respondent.

Washington, D.C.,

Friday, February 14, 1969

The above entitled cause came on for hearing, in the matter of the application for attendance of out-of-state witness, before the Honorable Charles W. Halleck, in Courtroom 3, Civil Building, commencing at approximately 10:15 a.m.

APPEARANCES:

On behalf of the United States.

Carl Eardley, Esq.,  
Deputy Assistant Attorney General  
Department of Justice

Joseph M. Hannon, Esq.,  
Assistant United States Attorney,  
Chief, Civil Division

On behalf of the State of Louisiana:

Numa Bertel, Esq.,  
Office of the District Attorney,  
Orleans Parish  
New Orleans, Louisiana

Bernard Fensterwald, Esq.,  
927 - 15th Street, N.W.  
Washington, D.C.

C O N T E N T S

<u>WITNESSES:</u>	<u>DIRECT</u>	<u>CROSS</u>
<u>On behalf of the State of Louisiana:</u>		
Dr. Cyril Wecht	8	56

P R O C E E D I N G S

(p.4) THE COURT: Good morning, gentleman. Do you gentleman have any particular manner in which you wish to proceed. We have the remaining matter of the subpoena request; and as you gentlemen know, we have an additional request for a further subpoena directed to the production of a listed series of items, or directed to the Archivist with the idea of having him repair to the Court of Louisiana and take with him these various items which are sought. I assume, in effect, my ruling on one is a ruling on both. Of course, we could go through the items sought and have the government's view as to whether they oppose the production of any or all of these, or what their position is.

MR. HANNON: If Your Honor please, I would like to introduce to the Court Mr. Carl Eardley of the Department of Justice. I move for his admittance pro hac vice. He will be working with me this morning. We are of the view the original show cause order, which relates to the x-rays and phototgraphs which were made at the time of the autopsy, should be the matter first before the Court.

MR. BERTEL: We have no objection to proceed in that order.

(p.5) THE COURT: Do you have anything to present, Mr. Bertel, in addition to the documentary matter which has been forwarded to the Court, which includes among other things, the opening statement of the District Attorney in the case of Louisiana v. Clay Shaw?

MR. BERTEL: And I believe, if Your Honor please, they also forwarded copies of the bill of indictment.

THE COURT: I have a copy of the indictment, which is not very extensive, but which does indicate that the case on trial involves a conspiracy which occurred between September 1 and October 10 of 1963. I understand there was a bill of particulars filed, but, of course, I do not have a copy of that. The opening statement of the District Attorney comes about as close to a bill of particulars, I suppose, as anything that might have been filed in the case. I also have material which you filed, which is denominated a reply, which was filed January 31st, which contains a number of exhibits. One thing that troubles me, Mr. Bertel, is the difference between what the indictment alleges and what the District Attorney claims he is going to show. Apparently, Judge Haggerty has indicated that certainly in his view your office is perhaps going to overtry its case, is going to attempt to put in material which is not necessary (p.6) in order to prove its case, but which nevertheless, if I am correct, according to the trial judge, is perhaps relevant and material and at the moment permissible. Do I understand correctly from a reading of the local newspapers that Mr. Zapruder has already appeared and testified, and the film which he took of the actual assassination of President Kennedy has been shown and shown some three or four times to the jury in the case?

MR. BERTEL: That is my understanding.

MR. EARDLEY: If I may interrupt, I have here a copy of the transcript of the opening statement and the colloquy which was engaged in by counsel relating to the overtrying of the case. If Your Honor would care to read it --. I intended to read it in my argument, but I would be very happy to have you read it now or during some recess.

THE COURT: I will give you an opportunity to do so. I just wanted to be sure that I had at least some grasp of what was going on in connection with the trial of the matter down there.

MR. BERTEL: I might say, if Your Honor please, the Justice Department, as they stated, will give you this transcript; however, it is my understanding that although Judge Haggerty did use the word "overtry," I think what his meaning was that he could not control the State's case -- the presentation of it. I don't believe he has made a (p.7) definitive ruling as to the relevancy or irrelevancy meaning that it is not relevant. I think this was the context in which that statement was made, that simply, as I am sure Your Honor would do, "I cannot tell the State how to try its case."

THE COURT: That is correct. The only thing the Court can do is rule upon objections by defense counsel to the introduction of certain evidence on the ground that it is either irrelevant or immaterial to the charge that is before the jury.

MR. BERTEL: And it will be up to the jury to reach the decision as to whether we have presented sufficient evidence. If we present two more witnesses than is necessary, that does not indicate what we are presenting is not relevant.

MR. FENSTERWALD: If Your Honor please, we have two witnesses here who will give testimony as to the fact that shots in Dealey Plaza came from more than one direction, which was the issue as we left it at the last session. These are Dr. Cyril Wecht of Pittsburgh and Dr. Robert Foreman of Oshkosh. If Your Honor please, I would like to call Dr. Wecht to the stand.

Thereupon, (p.8) Dr. CYRIL H. WECHT, having been called as a witness by the State of Louisiana and having been first duly sworn, was examined and testified, as follows:

DIRECT EXAMINATION

BY MR. FENSTERWALD:

- Q. Dr. Wecht, for the record would you state your full name and home address, please.
- A. Cyril H. Wecht, 5427 Beacon Street, Pittsburgh, Pennsylvania.
- Q. Where is your office, Dr. Wecht?
- A. I have a pathology laboratory office which is in Pittsburgh; and my office at the Allegheny Coroner's office, which of course, is in Pittsburgh; and an additional office, which is my office as a medical-legal consultant, an attorney.
- Q. What is the place and date of your birth, Doctor?
- A. Pittsburgh, Pennsylvania, March 20, 1931.
- Q. Could you outline briefly for us your education.
- A. I went to public schools in Pittsburgh. Then I went to the University of Pittsburgh undergraduate school from 1948 to 1952. I got my B.S. degree cum laude from the University of Pittsburgh in June, 1952. My first two years of medical school were at the University of Buffalo School of Medicine in New York from (p.9) 1952 to 1954. My third and fourth years were back at the University of Pittsburgh School of Medicine, and I graduated from the Pitt. Medical School in 1956. I interned at the St. Francis General Hospital in Pittsburgh for a full year as required by Pennsylvania law from 1956 to 1957 -- a general rotating internship. Then from July 1, 1957 to about August, 1959, I was a resident in pathology at the Oakland Veteran's Administration Hospital, now called the University Veteran's Administration Hospital, in Pittsburgh. Then, I was a captain in the United States Air Force and an associate pathologist at the Maxwell Air Force Base Hospital in Montgomery, Alabama, for two years from August, 1959, to August, 1961. Then, I spent my fifth year in Forensic Pathology at the Office of the Chief Medical Examiner in Baltimore, Maryland from 1961 to 1962. Then, I returned to Pittsburgh upon completion of my training program. Also, as part of my overall training and part of my objectives in the field of Forensic Pathology, I also went to law school. I went for two years and a summer at the University of Pittsburgh School of Law from 1957 to 1959. That was interrupted, of course, by my service in the Air Force. I completed my law school training at the (p.10) University of Maryland School of Law. I was there from 1961 to 1962. As it turned out, I got a law degree from Maryland also from the University of Pittsburgh, but I hadn't done any extra work. It just had to do with where I was going to graduate. So, I wound up with getting both degrees; but anyway, I got my law degree in June, 1962.
- Q. When you were in Baltimore did you know one of the four pathologists who were on the 1968 panel?
- A. Yes, he was my chief, Dr. Fisher, under whom I trained in Forensic Pathology.
- Q. A personal friend of yours?
- A. I think he is a personal friend, yes.
- Q. Doctor, in other words, you have had extensive training in pathology since 1952, and you have two law degrees; is that correct?
- A. Yes. Well, I have five years of residency in pathology, and I am Board certified by the American Board of Pathology in Anatomic and Clinical Pathology and also in Forensic Pathology.
- Q. Have you ever taught or do you teach pathology anywhere?
- A. Yes, I have had an appointment, and do now, as a clinical instructor in pathology at the University of Pittsburgh School of Medicine; and I teach forensic pathology (p.11) and law, forensic sciences, at the Duquesne University of Law, where I am a Research Professor of Law and Director of the Institute of Forensic Science, and have been for about three to four years.
- Q. In what states do you have a medical license?
- A. Pennsylvania, Maryland, and California.
- Q. And you are, I note, a member of a number of legal and medical societies which are really too numerous to mention.
- Q. Have you done any writing in the field of pathology?
- A. I have about thirty published articles altogether in pathology, forensic medicine generally, and some in general pathology, and one small book which was published by the American Registry of Pathology through the Armed Forces dealing with the medical-legal autopsy laws of the fifty states and the District of Columbia. I am also editor of a legal-medicine annual series published by Appleton-Century Crofts, the first one which will be available in three or four weeks.
- Q. And you are associated with the American Board of Pathology?
- A. Yes, sir; in Anatomic and Clinical and Forensic Pathology.
- Q. Have you had any international experience in (p.12) pathology?
- A. Well, I have been in charge of four international medical-legal seminars; 1965 in Rome; 1966 in Mexico; 1967 in England, Scotland, and Ireland; and 1968 in the Orient, primarily in Japan, Manila, Hawaii, and Bangkok; and next month the fifth one is scheduled for Israel and Greece. I also participated and delivered papers at other international meetings in Stockholm, Copenhagen, and again in Belgium.

- Q. Doctor, as you know, this proceeding basically stems out of the autopsy of President John F. Kennedy. Do I understand correctly that you have had some part in the autopsy of his brother, Robert Kennedy?
- A. Not a direct role in the performance of the autopsy. I was consulted by Dr. Thomas Naguchy, who was Chief Medical Examiner of Los Angeles. He called me in the middle of the night in Pittsburgh. It was shortly after Senator Kennedy had been shot. We spent the best part of an hour discussing the case and some of the things that might be done to avoid some of the possible conflicts, embarrassment, pain to the family, and other things of a medical-legal nature. We subsequently had about three or four phone calls during the next week or so, and about a week-and-a-half or two weeks later I went to Los Angeles. I reviewed all (p.13) the materials in Dr. Naguchy's office. Also went over to the hotel with him and with the Chief Security Officer at the Hotel where Senator Kennedy had been shot.
- Q. Prior to this time you had shown an interest in the autopsy of President Robert Kennedy?
- A. Yes. It all started through the American Academy of Forensic Sciences. I had been asked to deliver a paper from the pathology section at the annual meeting of the American Academy of Forensic Sciences in 1965.
- Q. Was an effort made on your behalf to see the photographs and x-rays in question here?
- A. Yes; not at that time. At that time it was all new to me beyond what I knew and felt and had read as a citizen, as someone perhaps a little more interested, because of my medical and legal background; but I did do what I felt I had to do for the preparation of my talk and my paper. Then I had an opportunity, at the invitation of Life Magazine, to review these Zapruder film. As I understand it was the original of Zapruder -- I believe it was the first week in December of 1966 at Life Magazine in New York City. I spent the better part of an afternoon there. Around that time, or shortly thereafter, Congressman Theodore Kupferman from New York City made an official request to the United States Government, to the (p.14) Archives, and in a letter to the President, asking permission for Dr. Milton Helpern, Chief Medical Examiner of New York City, for me, and for a third party, Miss Sylvia Meagher, who prepared the exhibits to the Warren Commission, so she could be technical assistant; and this request was refused. So, I have never made a personal request directly from me to anybody, but it was from Congressman Kupferman.
- Q. Did anyone tell Congressman Kupferman why you were not qualified to see them?
- A. As I recall --  
MR. EARDLEY: Objected to.  
THE COURT: Sustained.  
BY MR. FENSTERWALD:
- Q. Doctor Wecht, are you familiar with the testimony of Commander James Humes before the Warren Commission?
- A. I have read it.
- Q. He testified on Monday, March 16, 1966. His testimony begins in Volume 2 at page 347 of the Official Records of the Commission. I would like to read to you a few statements out of his testimony and ask for your expert opinion on them.
- MR. EARDLEY: What volume are you reading from?
- MR. FENSTERWALD: Volume 2, starting on Page (15)  
BY MR. FENSTERWALD:
- Q. His statement is, by Commander Humes, "My type of practice, which fortunately has been in peacetime endeavor to a great extent, has been more extensive in the field of natural disease than in violence; however, on several occasions at various places where I have been employed, I have had to deal with violent death, accident, suicide, and so forth. Also, I have had training at the Armed Forces Institute of Pathology. I have completed a course in Forensic Pathology there as part of my training in the overall field of pathology." That is the end of the quote. Would you gather from this statement that Commander Humes was an expert in Forensic Pathology?
- MR. EARDLEY: Object as calling for a conclusion.
- MR. HANNON: If Your Honor please, any man with an M.D., as Your Honor knows, is qualified to give an expert opinion. If his opinion is predicated upon how expert he is, how much he has specialized in this area -- but, to ask one doctor to characterize the abilities of another doctor, in my judgment -- that is two reasons for the objection.
- THE COURT: Objection sustained. Mr. Fensterwald, I am interested in what this witness has to say, rather than what this witness may feel (p.16) about other doctors' qualifications. The other autopsy experts are not on trial here. I am interested in what this witness can tell us about what he may or may not conclude as a result of facts and matters that he has within his knowledge.

MR. FENSTERWALD: Let me read this other paragraph and see if this would fall within the same objection. This is another quote from Commander Humes. It says, "I must state these drawings --" and here he is referring to Commission Exhibits 385, 386, and 388, which are drawings of the head of President Kennedy. He said, "I must state these drawings are in part schematic. The artist had but a brief period of some two days to prepare them. He had no photographs from which to work and had to work under our descriptions -- very descriptions -- of what we had observed." The question I have for the witness is what accuracy he would expect of drawings that had this history?

MR. EARDLEY: I make the same objection

THE COURT: Overruled.

THE WITNESS: The accuracy would vary depending upon the fineness of detail that one is looking for. In other words, if you want to use a sketch to show that an arm has been broken or that a part of a body has been traumatically amputated, say for example, such a sketch (p.17) would be sufficient. If you wanted to show, with rather concise and accurate detail, the locations of bullet wounds, range, and so on, then it could be quite inaccurate.

BY MR. FENSTERWALD:

Q. The reason I ask this is the x-rays and photographs, for some reason unknown to me, were unavailable to the Commission; and what they did use in their place were these three drawings which had been made from a verbal description of the autopsy doctors. Would you say this is a rather unusual procedure?

MR. EARDLEY: I object to that, Your Honor, as calling for a conclusion as to what is unusual in connection with the Warren Commission.

THE COURT: Overruled.

THE WITNESS: Based upon my experience as a Forensic Pathologist and testifying in the Courts of Allegheny County and Federal Courts in other jurisdictions, based upon what I have learned, based upon what I teach to students, based upon what I lecture to pathologists, physicians, and attorneys at post graduate medical-legal courses, it is highly unusual. I personally am unaware of a case in which a judge or tribunal of judges are involved, in which there is a dispute or an inbuilt contradiction between one set of compiled facts and another set by the very same man, let (p.18) alone by opposing experts, in which the best evidence would not be reviewed. I don't know of such a case.

BY MR. FENSTERWALD:

Q. Do you of your own knowledge know whether the photographs and x-rays were shown to the staff of the Commission or any member?

A. I only know from what I read in the Warren Commission Report and the hearings, not from my own personal knowledge. I wasn't there. But what I have read in the Warren Commission Report as to what was presented or what was stated to have been reviewed by the witnesses giving testimony before the Commission.

Q. Do you know at what point the x-rays were taken or developed?

A. Commander Humes seemed to change his mind in his testimony --

MR. HANNON: I object. He is not answering the question.

THE COURT: Sustained.

BY MR. FENSTERWALD:

Q. Let me read you this further statement. "The photographs and the x-rays were exposed in the morgue of the Navy Medical Center on this night, and they were not developed, neither the x-rays nor the photographs."

A. I recall that quote. I also recall a later (p.19) statement by Commander Humes in his testimony to the fact that they did look at some x-rays that evening while the body was there.

Q. In the 1968 panel review -- several points -- it stated the point of entry of the head wound was 100 millimeters above the occipital protuberance. Yet, in Commander Humes' testimony it says it was slightly above the external occipital protuberance. Could they be speaking of the same spot?

A. Absolutely not. The 1968 panel review speaks in three different places. One place was a photo; one place was an x-ray, and one place was where they use the description "high in the hairline." To use that measurement of 100 millimeters, which is just a little shy of four inches above the external occipital protuberance, that takes it to the top of the head. It is significantly removed from just a little bit above the external occipital protuberance, a direct and glaring discrepancy of the difference between the two locations. There is no question about it. It is right there on the report. It is not a matter of interpretation. It is their measurements.

Q. And you see no way that these could be equated the same -- slightly above, and 100 millimeters above?

A. No.

(p.20) Q. No question in your mind?

A. No, sir, there isn't.

Q. Turning now to Page 361, Commander Humes states at that point they tried to find out the course of the wound in the back by probing with his little finger. Could you tell me whether this is the normal procedure in an autopsy of this type?

A. No, I would say it is not in Forensic Pathology a normal procedure. One does not jab fingers into bullet wounds.

MR. EARDLEY: Your Honor, I would like to make an objection to this entire line of testimony. As I understood it, Your Honor called this session for the purpose of permitting him to present testimony that there were shots coming from more than one direction as indicated by the panel review and the other papers we submitted. I don't see how this bears -- discrepancies which may appear between Commander Humes' testimony and other papers -- is going to assist you in finding out whether there were shots coming from several different directions as they allege.

THE COURT: Do you intend to connect this testimony up with the showing that there is evidence the shots came from more than one direction?

MR. FENSTERWALD: I am merely trying to lay the (p.21) proper groundwork for that evidence.

THE COURT: All right. I will reserve ruling on your objection pending his attempt to connect this testimony up. I realize he has to proceed one question at a time.

BY MR. FENSTERWALD:

- Q. Going to Page 364 of the testimony, it says, "This missile --" meaning the one that went through the neck -- "to the best of our ability to ascertain, struck no bony protuberances, no bony prominences, no bones, as it traversed the President's body." In your experience as a pathologist, and in autopsy work, if you have upper x-rays made under these circumstances, would you be able to ascertain completely or just partially whether a bone had been struck?
- A. If you have x-rays made of the neck, you should be able to see whether a bone has been struck. It is a relatively tight compartment; and therefore, a bone would make a significant impression, and this would be reflected on x-rays.
- Q. Would it not be true that generally if a bone was struck that there would be some fracture in the bone that would show on the x-ray?
- A. Oh, yes. If the bullet strikes bone, it would fracture it, unless it glanced off a rather heavy bone coming in at a lateral angle, but that would not be the case in the region of the neck. (p.22)
- Q. In this particular case the autopsy doctor said no bone was struck, yet the 1968 doctors found missile fragments in the neck. Could you account for where the missile fragments came from if no bone was struck?
- A. No, I cannot. I saw that the 1968 report referred to the presence of metallic fragments in the neck, and no such finding had been made at the time of the original autopsy or as reported subsequently in the January, 1967 review by Commander Humes and Boswell and Colonel Finck. This discrepancy caught my attention, and I tried to understand where these metallic fragments could have come from. I cannot understand where they could have come from in the absence of striking bone. This is a relatively small distance for a bullet to traverse, particularly a rifle bullet from a high velocity weapon, and there would be no disbursement of fragments by going through soft tissues in the absence of striking bone.
- Q. Are you familiar with the fact that the bullet that allegedly went through the neck, which is Exhibit 399, was a copper-jacketed bullet?
- A. Yes, I am.
- Q. Would a bullet of that type going merely through flesh and muscle leave metal fragments behind if it did (p.23) not strike any bone?
- A. No, I do not believe it would. I might say that if it is felt that these fragments are from the bullet, there is a very simple and available process of a neutron activation analysis. One could take these fragments, and one could take the bullet from which they are alleged to have been broken from, and one could determine with unerring scientific accuracy whether or not those fragments came from that particular bullet. That procedure, of course, was used in the autopsy of Senator Robert Kennedy, and, of course, many other cases of far less notoriety.

THE COURT: Doctor, could determination be made by any specialist, such as yourself, in order to satisfy you to be able to testify with some degree of accuracy, by examination of x-rays, colored photographs, and other physical exhibits at the Archives that are here in Washington?

THE WITNESS: As to the beginning of your question as to whether this would be helpful --

THE COURT: Could you reach a determination or make some positive conclusion by an examination of these particular exhibits here in Washington at the Archives, as opposed to in Louisiana?

THE WITNESS: Well, it wouldn't make any (p.24) difference to me where -- you know -- it would have no effect on the review. Your Honor, the answer to your question would be -- the first part of your question would be -- certainly, it would be helpful. I would hesitate to say that I could arrive at some new or different conclusive opinion. I don't know. For me to say that now, I think, would be very presumptuous and unwise; but it certainly would be a great aid and of great assistance to review those things in order to further arrive --

THE COURT: On the basis of available evidence since 1962, have you reached some conclusions regarding this matter?

THE WITNESS: Some conclusions of a medical nature, yes, Your Honor.

THE COURT: Do you believe it would be helpful to you in either reaffirming your conclusions or changing those conclusions for you to personally examine these x-rays and photographs here at the Archives?

THE WITNESS: Yes, Your Honor.

THE COURT: Is it possible, Doctor, that an examination of those photographs and x-rays might lead you to agree with the 1968 autopsy review?

THE WITNESS: Yes, it is possible.

THE COURT: Do you think it is probable?

THE WITNESS: I have some trouble with those (p.25) words. It is the doctor in me.

THE COURT: Well, try it with the lawyer in you.

THE WITNESS: Your Honor, it certainly would be possible. I am not trying to hedge. I think it is a probability. I think it would be a probability either way, if that is not contradictory.

THE COURT: I assume the reason you have been brought here to testify by the State of Louisiana is because you are a potential witness in the trial down there. You might well be called down there in support of the State's case; is that not a correct assumption?

MR. BERTEL: That is correct.

MR. FENSTERWALD: That is correct.

THE COURT: In that respect, and certainly I must say parenthetically, on the basis of your qualifications, you undoubtedly would come within the category of recognized expert in the field of pathology. I doubt if anyone questions the seriousness of your purpose. Undoubtedly, if this point is relevant to an investigation, matters relating to the late President, assuming for the moment that all those things are true, as they obviously appear to be, at least to me, my question to you is, Doctor, whether you consider it would be helpful, perhaps, even material and necessary, in arriving at firm conclusions and being able to present testimony in New Orleans, for (p.26) you to study in the Archives the x-rays and photographs which Louisiana at the moment seeks the Archivist to produce in the trial in New Orleans.

MR. HANNON: If it please the court --

MR. EARDLEY: If it please the Court, I would like to point out in respect to this line of inquiry -- let us assume that arrangements could be made for Dr. Wecht to see the x-rays --

THE COURT: Let me just ask you a question at this point. I have been studying, as you undoubtedly guessed, the October 29, 1966, letter agreement. If such an arrangement could be made, and if the doctor could reach his conclusions by an examination of these matters here, it seems to me it might well not be necessary -- it might certainly be less necessary -- to order the production of these items in Louisiana, and to that extent, and for me to make a determination as to the materiality and necessity of producing these items in Louisiana, it seems to me highly relevant to know whether some other possible solution within the framework of this letter is available which would obviate any necessity to take these items to Louisiana.

MR. EARDLEY: I understand there are two points. If we were to recess this hearing for the purpose of allowing the doctor -- if arrangements could be made -- (p.27) to see the x-rays and photographs, and he would resume the stand and testify, I would appreciate Your Honor's comment, as far as testifying in Louisiana, his inspection of the x-rays and photographs here would not be of any assistance to him there, because obviously they would object, because they would not be able to cross-examine him on his testimony concerning the x-rays.

THE COURT: I don't know whether they would or not. Presumably they can call all of the doctors who have already performed the autopsy and who have performed the 1968 review. Are you suggesting to me, Mr. Eardley, under circumstances like that, all these witnesses are likewise unavailable because they can't produce any of these things?

MR. EARDLEY: Certainly, the autopsy physicians, if they call them, are available and can testify, because they have personal knowledge.

THE COURT: Including the 1968 reviewing panel?

MR. EARDLEY: They couldn't be called to testify without the production of the x-rays and photographs, because there would be no way to cross-examine them on their conclusions. The same thing would hold true with respect to Dr. Wecht if he were called. How could a lawyer -- a defense or prosecution (p.28) lawyer -- interrogate him on his conclusions about the photographs and x-rays, unless they were there for him to see himself.

MR. FENSTERWALD: Isn't that a perfectly good reason for sending them to Louisiana?

THE COURT: Mr. Eardley, you are presuming to determine what the ruling of the Court in Louisiana might or might not be.

MR. EARDLEY: I don't know too much about Louisiana Court. If they operate as they do generally in the country, I would have no problem in deciding what the Court would do.

THE COURT: If x-rays and photographs were not available, and Commander Humes were called to testify, how could he support his conclusions? Wouldn't he be in the same position?

MR. EARDLEY: He would not be able to testify in Louisiana on the contents of the x-rays and photographs. He would only be able to testify as to what he did and what he saw and what his conclusions were during the autopsy.

THE COURT: What then is the purpose of placing in the file here and releasing to the public the 1968 review if none of those people are going to be able to testify or be available for cross-examination?

MR. EARDLEY: As Your Honor may remember, Mr. Hannon explained that we (p.29) hadn't intended that this would create a factual situation. We thought it was appropriate at the time. The Attorney General decided it was appropriate that this be released so that any party who wanted to take whatever steps, as they have taken steps here, could take whatever steps were appropriate to subpoena them and make the effort if they desired to do so to get the photographs and x-rays. We would hope we could decide this on a legal matter, but we are involved in a factual --

THE COURT: What you are telling me, in effect, if we release this, you suggest these four experts are now available, and at the same time you are telling me that although you suggest they are available, they really aren't available, because they can't testify because they can't have the photos and x-rays, if I rule the way you want me to.

MR. EARDLEY: I didn't mean to suggest availability in the sense they actually could testify because x-rays and photographs would be submitted. I merely meant that the parties would all be advised that there had been a study of the photographs and x-rays and certain conclusions reached. From that point on it was our opinion the parties could take whatever steps they wanted to take. They didn't want to hold back the information.

THE COURT: If I recess this matter now, can you make those x-rays and photographs available to this witness for his examination in the Archives?

MR. EARDLEY: I have no authority to say, "yes" or "no". I would be very glad if you did recess it and take the matter up and give you a prompt answer.

THE COURT: Who is the Kennedy family representative?

MR. EARDLEY: The Kennedy family representative is Burke Marshall, who is in New York. He has local counsel here, but the local counsel, of necessity, must contact Mr. Marshall.

THE COURT: If I read the October, 1966 letter, "Access to the material shall be permitted to among others --" in Paragraph B -- "any recognized expert in the field of pathology for serious purposes relevant to the investigation of matters relating to the death of the late President; but no access shall be authorized until five years after the date of the agreement, except with the consent of the Kennedy family representative. And for the purpose of the paragraph and determination of whether such an expert has suitable qualification and serious purpose, shall be made by that representative." Further it states, No access shall be authorized during the lives of individuals --" which, of course, (p.31) includes the present moment -- "for any purpose involving reproduction and publication of the materials without the consent of the representative."

MR. EARDLEY: If the Kennedy family representative had agreed to this, I would have informed the Court long before this.

THE COURT: We are in a very difficult situation, because, quite frankly, the Court would be most pleased to see some adequate solution to the problem which would please all parties concerned. I don't shrink from my responsibility to make a determination. What you gentlemen are doing is fixing it so it has got to be all one way or all the other. But I recognize that the government undoubtedly would persist to the utmost if I am to order the witness to go to Louisiana with these documents. And if the government were to fail, then, of course, the very thing that apparently is sought to be prevented here would occur, that is, possibly undignified or possibly sensational reproductions of these various pictures, x-rays, and documents.

MR. EARDLEY: I understand.

THE COURT: You understand better than I do, I am sure, what the problem is.

MR. HANNON: May I make an observation, Your (p.32) Honor. I think the problems that Your Honor has expressed concern over, I am sure all of us on both sides of the table have concerned ourselves with. On further consideration I don't think this is going to be helpful in the sense that the Louisiana authorities have brought Dr. Wecht here to satisfy the burden that they carry, if Your Honor please, to wit, to establish materiality and necessity and demonstrate that the President was shot from two different directions. I would urge we move on to that.



THE COURT: Very well. Let me ask you one other question. Paragraph (a) of the letter, relating to Appendix B Material, bears somewhat different language. The agreement provides that "Access to Appendix B material shall be permitted only to any person authorized to act for a committee, presidential commission, or any other official agency of the United States Government having authority to investigate matters relating to the death of the late President for purposes within the investigative jurisdiction of such agencies." I wonder whether this Court at the present moment might not be an official agency of the United States Government in the matters relating to the death of the late President, within the framework of this particular (p.33) proceeding. If it were, presumably, the Court then could order, possibly could order, examinations of these matters, these pictures and x-rays in the Archives by this witness because the sentence does say that access "shall be permitted," not may be permitted. "Shall be permitted."

MR. EARDLEY: Of course, we could get into an argument as to whether the judicial branch of the government is what is being referred to in that paragraph.

THE COURT: It says "official agency of the United States Government.

MR. EARDLEY: Ordinarily, investigative matters are handled by the Executive Branch.

THE COURT: Go ahead. I don't seem to get any assistance from the government in these matters.

MR. FENSTERWALD: Before I get on, I would like to make one comment. I gather from Mr. Eardley's statements that as late as 1968 there was an official investigation of the death of President Kennedy by an agency of the United States Government, to wit, the Department of Justice. I am not sure if that has a bearing on this, but it was as late as 1968. In view of the government's objections to some of my previous questions, laying what I thought was a (p.34) proper foundation, I will try to proceed a bit more quickly. If I don't lay the proper foundation, I can go back and do so.

THE COURT: Very well.

BY MR. FENSTERWALD:

Q. Page 365 of Commander Humes' testimony he is asked a question by Mr. Spector, one of the counsel for the Commission, which I think brings into focus the question of the direction of the shot. Mr. Spector said, "Would it be accurate to state that the hole which you have identified as being the point of entry is approximately six inches below the top of the collar and two inches to the right of the middle seam of the coat? Commander Humes: "That is approximately correct, sir. this defect, I might say, continues on through the material". Doctor, I wonder if you would point out on me the point six inches from the top of my collar and two inches in from the mid seam.

A. I come down six inches from the top of your collar and two inches over from the middle seam in the back and that places it at this point where my finger is placed on your back (indicating).

Q. Leaving your finger there, if a bullet enters from above and behind at that point, where will it exit in (p.35) my body?

A. From above and behind and from which side are you asking?

Q. It would be, according to the report, about fifteen degrees to the right side and approximately fifteen degrees downward.

THE COURT: Doctor, doesn't that depend on what it hits on the way in?

THE WITNESS: Yes. I was going to ask that question -- whether you want me to assume that no bones were struck.

BY MR. FENSTERWALD:

Q. I was going to get to the question of the bone structure in this region; but if it struck no bone at all, approximately could you point out where it would exit on me.

A. If it struck no bone at all and if it were coming in from back to front, from up downward --

Q. Correct.

A. -- from right to left --

Q. Correct.

A. -- then the point of exit would be somewhere approximately in the region -- just somewhere above or in the area of your left nipple. Possibly a little closer to the midline. (p.36)

THE COURT: Doctor, just a moment. Where you are holding your finger on his back, aren't you holding it on bone right there?

THE WITNESS: Yes, sir, on part of the scapula, the big wing bone, the shoulder blade.

THE COURT: Doctor, in your experience, have you found when a bullet strikes and then strikes bone, it can take all manner of curious paths as it goes through the human body?

THE WITNESS: Yes, sir. Bones can cause significant deviation to the course of a bullet.

THE COURT: As much as ninety degrees?

THE WITNESS: Sometimes, depending upon the thickness of the bone and the size of the bullet and the velocity.

THE COURT: Go ahead.

BY MR. FENSTERWALD:

Q. Doctor, in that area you were pointing out, there are areas through which a bullet could pass without hitting bone. It is true, however, is it not, that there are a great number of bones in this area, including the vertebrae and the ribs, which might be struck?

A. Yes, you have the scapula, which is that large shoulder blade, one on each side in the back; and you have the vertebrae, the segments of the bony spinal column, each of which, particularly in that region, has what we refer to as transverse processes. They are bony wings, one on each side and small ones on each side. Then, of course, you have the rib cage, which is located both posteriorly, attached to the vertebral column, and anteriorly, attached to the sternum or breast bone.

THE COURT: Doctor, let me see if I can't bring this to a head a little bit. You have read the various reports, the various reviews, of the autopsy reports, including the one in 1968. Now, let's just get to the question of the bullet which struck the President in the head. Based upon your reviews and based upon your consideration of all the matters, are you able to state with any degree of medical certainty whether there is anything to indicate at the present moment that the bullet which struck the President in the head came from the front rather than in the back?

THE WITNESS: No, sir; I can't say with reasonable medical certainty that the bullet that struck the President in the head came from the front rather than in the back. I should like to add one sentence to that, however. To be completely honest with the Court and with myself, that I am now more perplexed than I was before the (p.38) 1968 review was published, because of their location of a hole which they refer to three times in the report at a level of approximately four inches above the external occipital protuberance, which is clearly in a different location than the bullet hole, presumably of entrance, which the autopsy pathologists referred to in their autopsy report, which they again refer to in their supplemental review, I think, after their evaluation in January of 1967. I don't mean to say, Your Honor, this makes me think it came from the front, but --

THE COURT: Is there anything you can point to which would make you think that the bullet that struck the President in the head came from the front rather than in the back?

THE WITNESS: Nothing, Your Honor, but --

THE COURT: Yes, or No.

THE WITNESS: Your Honor, if I may --

THE COURT: Answer that, then you can explain.

THE WITNESS: All right. Yes, there is something.

THE COURT: What?

THE WITNESS: The Zapruder film.

THE COURT: Anything other than that?

THE WITNESS: No.

THE COURT: Have you seen the Zapruder film?

THE WITNESS: Yes; for the better part of an (p.39) afternoon at Life Magazine in December of 1966.

THE COURT: Is there anything in any of the medical reviews, including the 1968 medical review by your mentor, which has now been made public, is there anything in any of those which would lead you to believe that in any way -- let me put it this way -- that would demonstrate that the fatal head wound was the result of shots fired from the front of President Kennedy?

THE WITNESS: No, Your Honor, I could not say that I have any reason to believe from that medical review that the shot to the head came from the front.

THE COURT: Now, what is there about the Zapruder film that might lend support to your statement that the bullet seems to have come from the front?

THE WITNESS: Primarily the movement of President Kennedy's head and body at the moment of impact on the film. The body moved to the left and backward -- clearly backward. The impact from a high-speed rifle bullet on the human body is a great one. It is like somebody -- it could be analogized to somebody smashing you with a fist, or hitting you with a hammer, or hitting you with a pointed steel rod. It seems to me if someone felt this way and so expressed it in writing that it is highly improbable, very difficult for me to accept, to understand, and explain (p.40) how the President's body would have moved in that direction with a shot having been fired from behind. The other thing that I recall from the Zapruder film, which is a corollary to this, is the fact that there appears to be brain tissue, and possibly a portion of the bony skull, which also moved backward and to the left immediately after -- instantaneously after -- the moment of impact of the bullet to the head. Again, with the same explanation I just gave, the laws of physics, and so on, would indicate that this matter should be driven forward rather than backward. Another thing I

should like to point out, and I am sure, although it is not stated in these words, but if one looks at all the records and reviews them, and actually it is false, that the left side of the brain, the left cerebral hemisphere, has not been serially sectioned and examined. I would be willing to state at this time that the left cerebral hemisphere remains intact in the way it was removed from the President's cranium at the time of the autopsy in November, 1963. You just don't examine a half of a brain. You never examine half of a brain. And let me be more specific, if I may. When you are dealing with a gunshot wound to the head, which has involved the brain, you can't leave half of the brain untouched. (p.41) THE COURT: Let me ask you a question. I am no pathologist. If you examine it and it bears no overt evidence of traumatic injury; if you x-ray and you find no metal fragments in it, what then would you expect to find if you sectioned it?

THE WITNESS: Well, Your Honor, if the x-ray, as you have indicated, would reveal metal fragments --

THE COURT: If there were bullets or bullet fragments on the left side of the head, the x-ray would reveal them?

THE WITNESS: Yes, sir, however, it would be possible for the bullet to have traversed the left cerebral hemisphere without having deposited any metallic fragments.

THE COURT: It would have had to come out the left side of the head, would it not?

THE WITNESS: Depending, Your Honor, on from where it was fired.

THE COURT: Well, if it is fired someplace from the front and to the right to drive the person struck back to the left -- and I assume that is what you are saying --

THE WITNESS: Yes, sir, the Zapruder film shows it.

THE COURT: If the President is struck from the right front, driving it back to the left, wouldn't you expect to find metal fragments of bullet or an exit wound on the left (p.42) side of the head?

THE WITNESS: I would go back to the question that Your Honor asked me a while ago with regard to the defection of bullets. Perhaps nowhere more than within the cranial vault do we see this deflecting and ricocheting of bullets.

MR. FENSTERWALD: Could I just interpose one suggestion. At Page in the 1968 review this statement is made. "In the central portion of its base there can be seen a gray-brown rectangular structure measuring approximately 13 by 27 meters. It's identity cannot be established by the panel." I, of course, don't know what that mass is, but that is approximately three quarters by one half of an inch which is a sizable piece of something in the head which has never been identified. So, when you are talking about fragments left in the brain or in the cranial cavity, this very well could be one.

MR. HANNON: Was that a question?

MR. FENSTERWALD: It was just an observation, in view of the Judge's question as to whether a bullet was left in the brain or not.

THE COURT: Doctor, are you familiar with this (p.43) 1968 report, particularly Page 8. Mr. Fensterwald referred to it by the last sentence.

THE WITNESS: Yes, Your Honor, I have been wondering about what that thing is since I first read it, as I am sure everybody else who is interested in this must be.

THE COURT: Is there any way the x-rays and photographs would further disclose what it is over and above what is stated in this report?

THE WITNESS: Your Honor, I should very much like to see this thing blown up -- the photo blown up -- many times its present size, so that one might be able to possibly identify what the structure is. I cannot tell you anything more than those four words "gray-brown, rectangular structure." And, of course, the size, which is approximately a half or three quarters of an inch -- a significant size. And Your Honor, it has never been referred to in the two previous reports, the original autopsy report or the January, 1967, supplemental report, by the three autopsy pathologists. So, I don't know where it came from or what it is. I can't understand how it was never described before.

THE COURT: Go ahead.

MR. FENSTERWALD: Thank you, Your Honor.

BY MR. FENSTERWALD:

(p.44) Q. Doctor, in your experience as a pathologist, if you saw an object that size inside a skull, and it was a gunshot wound, wouldn't you remove it at the time and photograph it and identify it?

A. It would be removed; it would be photographed; it would be placed in an appropriately marked envelope and hand carried to our crime laboratory for further study by the criminologists in conjunction with the pathologists. This is the way something like this would be routinely handled in a medical-legal office -- certainly in Dr. Fisher's office.

Q. Dr. Wecht, at Page 370 of this testimony of the autopsy doctor, there is considerable discussion of the angle of the back shot and the head shot. The first shot, which was allegedly the back shot, according to the report was at an angle

of 17 degrees 43 minutes from the horizontal, yet Dr. Humes states that the head shot entered at approximately 35 degrees from the horizontal. Can that be explained?

A. No, I cannot explain it. As a matter of fact, the angle of declination for the second shot should be less acute, not more acute. The presidential car had traveled additional distance, I believe something like a hundred and fifty feet in additional distance. A shot then, if it did come from where it was (p.45) supposed to have come -- this sixth floor window of the School Book Depository. When you have something closer to you, your angle is more downward. If that something moves further away, that angle begins to level out more. Therefore, I cannot understand how the first shot would have an angle of 17 degrees declination, and the second shot would have an angle of 45 degrees declination. I cannot understand this at all.

THE COURT: Let us assume that the person being shot sat perfectly still waiting for the second shot to come, rather than turning, bending, twisting, moving in some direction.

THE WITNESS: Well, Your Honor, I did not assume that. In fact, I know from the Zapruder film that the President was hunched over a little bit after having been struck the first time. But even taking into consideration some downward movement of the body, you still have the angle of the bullet; and at the horizontal angle, the angle cannot come out to be 45 degrees. It just would not work that way.

BY MR. FENSTERWALD:

Q. Doctor, are you familiar with the single bullet theory?

A. Yes, I am.

Q. Would you state it as concisely as you can for (p.46) the court.

A. The single bullet theory is part and parcel and a very substantial part of the Warren Commission Report. This would be the autopsy --

MR. EARDLEY: I don't want to interrupt --

THE COURT: I am familiar with the single bullet theory. You don't have to describe it to me. As I understand, the bullet that struck the President in the back passed through without striking any bone, came out what we call his Adam's apple, and on to strike Governor Connelly, and to cause the injuries and the damages to several parts of Governor Connelly's body and winding up in his wrist, I believe.

THE WITNESS: His thigh. His chest, his right wrist, and into his thigh, causing a fracture of a rib and that wrist bone in the right wrist.

BY MR. FENSTERWALD:

Q. Eventually ending up more or less pristine?

A. Ending up in a practically unscathed pristine condition with a total weight loss of approximately 2.4 grains from its original weight of something like 161 grains and a couple of percentage points.

THE COURT: That is the copper jacketed kind used in the military pursuant to the Geneva Convention?

THE WITNESS: Yes, sir.

(p.47) THE COURT: Why was that -- to prevent an exploding effect with mutilating tearing injuries that just rip the body apart?

THE WITNESS: Yes, sir.

THE COURT: In other words, that copper jacket is hard as opposed to lead.

THE WITNESS: Yes, sir.

THE COURT: And that copper jacket has a sharp point which goes through, makes a hole, and causes damage; but the idea is it is not going to shatter, it is not going to explode; is that the basis of it?

THE WITNESS: Yes, sir; it doesn't produce secondary missiles which act like a shotgun almost.

BY MR. FENSTERWALD:

Q. In that case that would account for the fragments in the neck?

A. Lead fragments found in President Kennedy's neck as reported in the 1968 review panel -- excuse me -- metallic fragments seen on x-ray in Governor Connelly's left thigh, Governor Connelly's right wrist, and President Kennedy's neck, all of which under the single bullet theory must -- not because I say so, because they say so -- under the single bullet theory must have come from Warren Commission Exhibit 399, with a total weight loss of 2.4 grains and with practically no deformity whatsoever, after having (p.48) broken a rib in a relatively vigorous bone. I can't account for this, and I would like to humbly suggest that nobody else can either.

Q. I might note that Commander Humes agrees with you. His testimony at Page 376 says, "The reports again tell of an entrance wound in the lower mid-thigh of the Governor and x-rays taken there describe as showing metallic fragments in the bone, which apparently, by this report, were not removed and are still present in Governor Connelly's thigh. I cannot conceive of where they came from -- the missile." That is basically what you are saying?

A. Yes sir.

MR. EARDLEY: At the risk of incurring Your Honor's displeasure, I don't see how this testimony, which can go on for weeks, because books and books have been written on the same subject, is going to assist Your Honor in deciding whether an examination of those films and x-rays will show the progress of bullets from more than one direction.

MR. FENSTERWALD: If I could ask one more question I think it would answer that.

BY MR. FENSTERWALD:

Q. If the single bullet theory is not correct, Doctor, doesn't that mean that different bullets and a (p.49) different rifleman must have injured Governor Connolly than the President?

MR. EARDLEY: I object to that. There are so many factors you would have to know, for example, when the President was hit, precise frame. You would have to know based upon the testimony, and I am familiar with this, too, whether Oswald had fired the gun twice there would be a lapse of forty-one frames; so you would have to know -- if you are talking about the single bullet theory -- when Mr. Connolly was hit; you would have to know when the President was hit; you would have to show that there was not forty-one frames. I don't believe anybody can establish that because no one knows when the President was hit. It is a lot of speculation.

MR. FENSTERWALD: I don't know whether that is a concession on the Government's part or not.

THE COURT: As I perceive it, the entire matter before me is whether these items sought are material and necessary.

MR. HANNON: Material and necessary in the sense -- for the particular reason.

THE COURT: Number 1 is they have to be shown that there is some likelihood that they may provide information on which this witness or some other witness may be able to testify in connection with the State of Louisiana's (p.50) case, and if it is necessary for them to have this material in order to be able to testify. I don't perceive that we are here to try the accuracy of the Warren Commission Report or anything else.

MR. HANNON: But I think you have to limit yourself, Your Honor, to the reason they say it is material and necessary, not for other reasons.

THE COURT: As I understand it, that is what they are attempting to do. They are attempting to show that there is at least some question in this witness's mind -- whom they expect to call -- that he can't testify other than these other persons have testified up to this point. All doctors, as you know from your own experience in the United States Attorney's side in civil cases where you have a lot of cases involving doctors' testimony, don't always all agree.

MR. HANNON: I understand that, but what I am trying to say, Your Honor, is what we are interested in here this morning is testimony from the State of Louisiana that is going to establish that the x-rays and the films are necessary to establish that the President was shot from two directions, front and back. I had gathered from what Your Honor had just said that if you find that the films and the x-rays are necessary and material for other reasons, that you are going to order (p.51) them. I say Your Honor is limited to what they have said -- front and back shooting.

THE COURT: Mr. Hannon, there exists a very real possibility that if this witness were to examine the pictures and x-rays in the Archives, the witness might then be in a position to testify that indeed there is nothing there which will assist him, or at least 99 per cent --

MR. HANNON: I am sure he is refreshed by realizing his teacher, Dr. Fisher, has come to the conclusion that -- he indicates he would greatly hesitate to say that he would come to the conclusion of Dr. Fisher.

MR. FENSTERWALD: I don't think that is the witness's testimony.

THE COURT: I say the government's inability, or the Kennedy family's unwillingness to allow this witness to examine these matters leaves us, if you will, going all around the edge of the issue. For that reason Louisiana is required or finds necessary to come out with a variety of things that don't really go to the heart of it. In a way I am forced in some respect to make a judgment without having the benefit of actually knowing what this witness's view, or some other witness's view, might be of those x-rays and pictures.

THE WITNESS: May I say something.

THE COURT: Yes. (p.52)

THE WITNESS: I think there was perhaps some misinterpretation, or perhaps I wasn't clear in what I said before. The fact that Dr. Fisher was my teacher, and the fact I greatly admire and respect him as a person and in Forensic Pathology doesn't mean I would hesitate to disagree with him on a case if I felt in my own mind that there was a difference of opinion. I would also like to say that in the report the very significant words "with reasonable medical certainty"

have been used. Nobody is more familiar with what these words -- and the hedging that they imply -- than people like Russell Fisher and Allen Moritz who have been in this business for a long time. The Shepard and Coppolino trials -- we need look no further -- clearly indicate that prominent, respected Forensic Pathologists can differ significantly on issues. The fact that a man was my teacher and the fact that I like him and respect and admire him doesn't mean that he is infallible, nor that I would hesitate to disagree with him. Medicine is not a pure science. It is not mathematics. It is in a large part art. While we in pathology sometimes arrogantly feel we are more sacrosanct than other physicians, there is a lot of art in our business, too. You ought to see fifty guys looking at a bruise, and twenty saying it is malignant, to take off the leg, and (p.53) twenty saying it is benign, leave the leg on. It is an art.

BY MR. FENSTERWALD:

Q. Doctor, could you state concisely why you think the single bullet theory is impossible.

THE COURT: I don't think we have to go into that.

BY MR. FENSTERWALD:

Q. Doctor, I would like to get back for just one moment to Page 11 of the 1968 report, to the first paragraph, and I quote, "On one of the lateral films of the skull (2), a hole measuring approximately 8 mm. in diameter on the outer surface of the skull and as much as 20 mm. on the internal surface can be seen in profile approximately 100 mm. above the external occipital protuberance." Would you say that contradicts in any significant fashion the 1963 autopsy and the review in 1967 by the autopsy doctors?

A. Yes, we have already talked about this, Mr. Fensterwald. This relates back to Page 7 of the 1968 review which describes the same hole on the photograph and refers to lateral x-ray film #2 which you just described or read about on Page 11. Again, it does in my eyes constitute a discrepancy, a clear difference of location from the original autopsy report.

Q. Of approximately four inches?

A. Of approximately four inches.

Q. Would looking at the photos and x-rays possibly clear up this contradiction?

A. It certainly is possible.

THE COURT: Doctor, let me be sure I understand your testimony. Do I understand you to say an examination by you of the x-rays and photographs sought would assist you in making a firmer conclusion one way or another in regard to some of these discrepancies which you have mentioned in regard to a determination of whether there is anything to indicate, in those x-rays and pictures, that the President was struck in the head from some direction other than behind?

THE WITNESS: Yes, sir; I believe they would.

MR. FENSTERWALD: I just have one final question, Your Honor.

BY MR. FENSTERWALD:

Q. Doctor, are you familiar with the summary of the 1968 review? It is on Page 16.

A. Yes, I am.

Q. It is only a couple of sentences long. I think I will read it for the record. "Examination of the clothing and of the photographs and x-rays taken at autopsy reveal that President (p.55) Kennedy was struck by two bullets fired from above and behind him, one of which traversed the base of the neck on the right side without striking bone, and the other of which entered the skull from behind and exploded the right side. The photographs and x-rays discussed herein support the above quoted portions of the original autopsy report, and the above quoted medical conclusions of the Warren Commission Report." Would you say that is a very limited conclusion?

A. It is a very carefully worded conclusion, and again, knowing Dr. Fisher and Dr. Moritz as I do, I would say it was carefully worded and each word was meant to say exactly what it says and nothing more.

Q. It doesn't say that no other bullet struck the President, does it?

A. No, it doesn't say that.

Q. And it in no way refers to Governor Connelly's wounds?

A. No, Governor Connelly's wounds are not discussed here at all. And that is a very big point of the entire thing from my standpoint in trying to understand what happened on that day. Medically, you just can't ignore Governor Connelly's wounds. It is a very vital part.

Q. It is crucial of the single bullet theory?

A. Yes. (p.56)

Q. They did not attempt to pass on that aspect of the problem?

A. No, in fact I would like to point out, if I may, that on Page 4, just about the middle of the page where they refer to the medical conclusions of the Warren Commission Report, there are two places in that paragraph where three asterisks are found, and if one refers to the Warren Commission Report, you will see that each of those two places the three asterisks say, "and Governor Connelly." So, it isn't that they never thought about; they purposely excluded it. I don't think you can do this.

FENSTERWALD: I don't have a -13-

MR. FENSTERWALD: No other questions, Your Honor.

MR. EARDLEY: Could we have a short recess.

THE COURT: We will take a few minutes recess until 12:00 o'clock.  
(Thereupon, the proceedings were recessed at 11:45 to resume at 12:00 o'clock.)  
(The witness resumed the stand and testified additionally as follows:)

CROSS-EXAMINATION

BY MR. EARDLEY:

Q. Dr. Wecht, I presume you are familiar with the qualification of the panel members.

A. I don't know anything about Dr. Carnes or Dr. Morgan beyond what is contained by way of identification (p.57) on the covering sheet. I am personally familiar with Dr. Moritz and Dr. Fisher.

Q. As a matter of fact in an article which you wrote and which has been published in one of the books attacking the Warren Commission Report, called "Six Seconds in Dallas," you describe Dr. Moritz and Dr. Fisher as eminent pathologists.

A. That's right.

Q. And you suggested that people like that should have an opportunity to see the x-rays and the photographs to clear up some of the confusion that might exist as a result of challenges made by you and others to the autopsy report; isn't that correct?

A. Yes, sir; I did.

Q. And that has been done, hasn't it? Some eminent pathologists that you recommended have seen the x-rays --

A. Have seen them, but unfortunately more discrepancies and problems have arisen. I am sorry about that.

Q. Do you have any reason to doubt the accuracy of the statements which are made by this eminent panel?

A. Insofar as those statements go, and only to that extent, I would not sit here and tell you that I doubt the veracity of their statements; no.

Q. And I suppose you would concede that they are able to make measurements? (p.58) A. Yes.

Q. And therefore, you don't challenge their determination of what the measurements were and the location of the various things?

A. I don't challenge them, no. I again would only point out that there are these very significant differences between their measurements and others, and their findings and others that have been made previously.

Q. Let's take up one of the discrepancies, and I am referring now to the discrepancy involving the wound that was in the head, which has been described as above the occipital protuberance.

A. Yes, sir.

Q. I believe you pointed out that there was a difference between the panel review and the autopsy.

A. I believe that there was.

Q. As a matter of fact, the autopsy location was determined by measuring the skin wound as seen at the time they were examining the late President; isn't that correct?

A. They would have seen the skin wound first, yes.

Q. That is what they were measuring. There were 14 centimeters, I believe, up to various points.

A. That was the one further down the back.

Q. Then how did they describe the one --

A. That one they described -- I could be wrong, but (p.59) I think they didn't use the specific measurement, Mr. Eardley. I think they said only "slightly above and lateral to the external occipital protuberance on the right side."

Q. Would you concede at the time the President was hit by the second bullet his head was down?

A. I believe it probably was in a slightly downward position, yes.

Q. So, the bullet would have gone in on an angle?

A. Yes, some angle.

Q. So, that the position of the skin wound would be different, and could be quite markedly different, from the wound which would be located by x-rays of the bone?

A. No, sir; not significantly. You see the scalp is rather tight to the underlying bone in that area, the calvarium; and while an angle would give a higher position to the bullet as it moves through the cranial vault, the inside where the brain is located, the hole in the bone, the calvarium, which is the top of the skull -- people refer to the skull -- it is merely the top of the skull, the calvarium -- that hole would be pretty much directly subjacent to or immediately beneath the hole in the overlying scalp. There could be a slight angle for the width of the bullet, let us say, as it moves in at an angle, but not a difference of a couple, or three, or four inches; because (p. 60) there just isn't that kind of open space between the scalp and the bone in which the angle of the bullet could make this difference. Now, I have explained that.

C. I think one of the measurements made was 6 mm. by 15 mm. on an angle.  
A. That was the size of the hole; yes, sir.  
Q. That would indicate it was going in at an angle, wouldn't it?  
A. Yes, that would tend to indicate an angularity of the bullet entrance.  
Q. After you had read the panel's review, did you form a conclusion as to whether the President was struck on the right side of the head in the rear?  
A. I think he was struck on the right side in the rear, but I don't know where this hole was or whether there might have been two.  
Q. Don't you believe that this eminent group of pathologists and the one radiologist were able to make a measurement as to where that wound was in the bone?  
A. Yes, but I should also like to believe that the three pathologists who did the autopsy were capable of making the measurement, also.  
Q. But you weren't at the autopsy, were you? Have you ever attended the autopsy of a famous person like the President?  
A. We don't have that kind of famous persons in Pittsburgh.  
Q. You have never been surrounded by Treasury agents, FBI agents, admirals and doctors, all anxious to have this thing over with? It makes a difference, doesn't it?

A. I think it could make a difference, particularly to people who are not in Forensic Pathology, yes. If I have any personal thoughts, I keep them to myself.

THE COURT: Just a moment. Did I understand the purport of your question to be or suggesting your question to be that in the course of this autopsy by these two Navy doctors, and a military doctor, that there were FBI agents, Secret Service, admirals --

MR. EARDLEY: I said there may have been.

THE COURT: -- and other people hurrying them up, telling them to get on with it?

MR. EARDLEY: I said that could have happened. I wasn't there.

THE COURT: Are you assuming facts not in evidence, facts nobody knows, or is there something to substantiate that?

MR. EARDLEY: I don't think -- I can't say as a fact they were hurrying them. I can say as a fact there were a great many people in the room, and I only say it as a fact because I have been told by the autopsy surgeons (p.62) of the situation that existed that night.

MR. FENSTERWALD: Your Honor, just to clear up the record I think you will find if you read the 27 volumes that there were between thirty and forty people.

THE COURT: I haven't time to do that.

MR. FENSTERWALD: Very few people have.

THE COURT: I hate to say that, but in the course of this proceeding I don't have time to read those 27 volumes.

BY MR. EARDLEY:

Q. Regardless of the situation that night, the fact is that these eminent doctors had ample time to prepare and review these x-rays and photographs and to come to unhurrying conclusions and to make very, very accurate measurements; isn't that correct?

Q. I would assume that to be correct, yes.

Q. So, I believe you are telling us that if there is a discrepancy between the autopsy report and the panel report, then you would accept the panel review?

A. No, I have not said that, and I would not say that. First of all, I would try as much as I am consciously able not to form my ideas in advance. That's what happened in the autopsy at the beginning. That is why we are in the trouble we are -- or maybe I'm just in (p.63) trouble -- but I don't want to form any opinion. While I know that the men who performed the autopsy were not Forensic Pathologists, except for Colonel Finck, they were trained competent hospital pathologists who made measurements all the time. Whether it is a tumor, or a gall bladder, or an appendix, or whatever, they understand the metric system, and they can measure. I would not sit here and say before seeing these things that I would accept the conclusions of one group to the total exclusion of the measurements of another group. I don't think anyone should say that.

Q. What are the measurements which you challenge which are in the panel report?

A. 100 mm. above the external occipital protuberance, as reported by the 1968 review panel on both the photograph and an x-ray, and also referred to in a verbal description as "high in the hairline," clearly places at a significantly higher level than the sight described by the autopsy pathologists and repeated by them again when they reviewed the records and materials in 1967 in January at the National Archives, where they talked about "just slightly above and lateral to the external occipital protuberance." That is one measurement and a very significant one which differs and other things which we have talked about also.

Q. You aren't suggesting there two holes, are (p.64) you?

A. I don't want to make suggestions like that, Mr. Eardley. I don't want to make any statements that would embarrass me later or anybody else.

THE COURT: Let me interrupt. Would you be in a position to answer that question if you could see the photographs and x-rays?



THE WITNESS: To state my opinion, yes, sir. The only point I would like to make in conclusion to my answer is, it can't be both. It is just that simple. It can't be both.

BY MR. EARDLEY:

Q. What you are suggesting is that somebody has made a mistake here?

A. Yes, sir.

Q. But all the parties who have examined this material state that there were two wounds, one in the head and one in the upper back, the lower neck, whichever you want to call it; and those were wounds of entry. Isn't that correct?

A. Yes. I would say both groups have made those conclusions.

Q. And both groups have concluded that there were no other wounds?

A. I would not say that, sir; because I don't see (p. 65) that statement made really in the summary conclusion of the 1968 panel.

Q. You have read this summary to the court, or I think it was Mr. Fensterwald, which stated, "The examination, the clothing, the photographs and x-rays revealed he was struck by two bullets fired from above and behind."

A. Yes.

Q. If these men were reputable pathologists, and if there was another bullet somewhere, that would have been reported, wouldn't it?

A. I believe it would have.

Q. Now, with respect to the Zapruder film, I gather that the real reason you are here, and the only reason that I know of, for you to conclude that there was another bullet was your examination of the Zapruder film; and as I understand your testimony, the reason you believe, from watching the Zapruder film, that the President was struck from the front was because his head and body moved to the rear, and you concluded as a forensic pathologist that ordinarily at least this would not happen, that when the bullet in the head struck, he would have been moved forward not backward. Is that a fair summary of your position?

A. You ended with a question, but you started your question with a premise, which I could not accept. Your (p.66) opening to that rather lengthy question was that my sole reason for being here was -- then you went on to the Zapruder film. That is not my sole reason in being here. It is not my sole reason upon which I dispute the findings of the medical aspect of the Warren Commission Report; not at all. Perhaps it has just been my inability to properly articulate my views in the previous two hours, but I thought I had expressed some other reasons why I personally, as a Forensic Pathologist, have doubts. But to answer your question on the Zapruder film, yes, I so stated that this puzzles me greatly and has puzzled me since I saw the film in December of 1966.

Q. What is the meaning of the word "decerebrate"?

A. It is a medical word which means to imply that somebody is still living in terms of heartbeat, pulse, respiration, but the brain is not really functioning. It is a condition which can be brought about by trauma usually, sometimes by medications, disease processes, or a condition induced in some of the larger laboratories on animals. You take away the cerebral powers, functions, and so on.

Q. After having seen the film and read these various reports, wouldn't you conclude that the President was in that condition at the time he was hit the second time by the head shot?

A. You mean prior to it?

Q. That the head shot brought about the condition of decerebration?

A. Oh, absolutely.

Q. As a matter of fact, isn't it a fact that this, because of loosening of the muscles in the back will throw a person to the back, to the rear?

A. But you see, Mr. Eardley, that is a condition that occurs after the trauma within a short period of time, but it is a condition that occurs after the particular trauma has been inflicted upon the brain. What I am talking about is that at the very moment of impact -- and at that moment of impact, the person is not decerebrated. He becomes decerebrated perhaps in a matter of seconds.

Q. You mean it takes seconds for this decerebration to take place?

A. It could take even longer.

Q. From the evidence you have seen wouldn't you conclude that was simultaneous with that explosion of that bullet in the brain?

A. Not absolutely. People with severe, mutilating brain injuries have been known to linger for minutes. If I may point out that Senator Robert Kennedy, after having been shot in the head with a very, very destructive wound, (p.68) spoke after the wound as he lay on the floor.

Q. We don't want to compare the two wounds. They are not quite the same.

A. He had severe brain damage, and you just can't automatically assume. President Kennedy had for the most part an impacted left cerebral hemisphere.

Q. I don't want to go into Senator Kennedy.

A. I said President Kennedy.

Q. Excuse me. With respect to that, you talk about the difference between science and art and you suggested there was a lot of art involved in this. I am asking you first as a scientist, isn't it a scientific fact that when a bullet going at the rate, I believe, of 1700 feet a second penetrates the back of the head, whether you can't call it one inch or two inches in either direction,

then explodes on the inside, scientifically you are going to have a certain body reaction that is predictable?

A. I didn't say you are going to have a predictable, scientifically uniform reaction, no. That is why, if you remember, Mr. Eardley, I said it is highly improbable for this movement to have taken place. It is very difficult for me to accept and understand it. It would be more compatible with the wound having been inflicted from another direction. I did not say it was impossible. (p.69)

Q. As a matter of fact, isn't it almost impossible considering the state of your art to determine what will happen with respect to a person who has been wounded in this condition, and I am not referring to his body movements? You have no way of knowing, do you; he might go one way or the other depending upon the degree of the explosion, the way the fragments go in the brain, etc.

A. The answer to the question is: We use known scientific principles and a particular degree of experience, and hopefully some degree of competence obtained in the study of whatever branch of the medicine or science involved to make a determination or prediction, if you will. This does not mean it will be applicable in one hundred per cent of the times. If what you are trying to get from me: Is it not possible that he could not have moved in this direction with a bullet from the rear, yes; but I would say this is a slight, slim possibility, simply because I haven't taken 100 people and shot them that way.

Q. That was my next question. How many people have you examined in your career with massive head wounds for the purpose of determining the reaction of their body at the time of impact?

A. Well, obviously, most of these incidents we don't (p.70) determine --

Q. They come in on a stretcher, don't they, to your office?

A. That's right.

THE COURT: One thing about autopsies, Mr. Eardley, most people don't walk in for them.

MR. EARDLEY: I think that is entirely one hundred per cent correct.

BY MR. EARDLEY:

Q. So, the testimony you have given about the reaction of the body is not based upon any practical experience you have had; it is based upon your knowledge of what physics --

A. It is based upon some practical experience.

Q. How many cases?

A. There have been some in which this has been important to ascertain, but I tell you honestly that in most cases of head wounds caused by gun shot, we do not have to concern ourselves with this, but in some --

Q. What incidences have you ever concerned yourself with the immediate reaction of a body after the infliction of a severe head wound?

A. This has arisen on a couple of occasions as to the location and position of the body. It has arisen sometimes as to whether or not the person could have done (p.71) a specific voluntary act. This has arisen on a couple of occasions.

Q. Over a period of how many years?

A. There are so few cases, I repeat --

Q. Then basically, you are relying on general understanding of the law of physics?

A. Well, you know, some guy named Isaac Newton -- and people like that -- you know, they did some work on this theory. Yes, sir; I rely on it.

Q. Let me suggest something to you. I don't think Isaac Newton wrote a book on this, did he?

A. No, he didn't, sir.

Q. If a bullet penetrates in the back of the head, at the time it enters the brain it is beginning to disintegrate, isn't it, if it hits hard bone?

A. Yes.

Q. And it may fly off in a great many fragments or a very few fragments?

A. Yes.

Q. There is no way of knowing, is there?

A. That's right.

Q. Then, particularly in a case like that, it is going to fly -- it might fly right in front in various quantities?

A. Yes, sir. (p.72)

Q. And when those fragments hit the bone, for example, in the front, that is an obstacle in the way, isn't it?

A. Yes, sir.

Q. And if I threw a ball at that wall, the ball would bounce back, wouldn't it?

A. Yes, sir.

Q. And isn't that what is likely to have happened when fragments hit the front of the skull -- the body would go backward because of the resistance?

THE COURT: Following your analogy, the bullets would bounce back.

MR. EARDLEY: It won't bounce. I am suggesting this. I am not a pathologist, and I think I got a D in Physics.

THE COURT: I don't even think the doctor has to answer that question, because the Court has a lot of difficulty with that. Can you answer that?

THE WITNESS: No, sir; I cannot answer it.

BY MR. EARDLEY:

Q. If fragments struck an obstacle, wouldn't there be a natural tendency --

A. The fragments would bounce back, and bullets often do ricochet back, but not -- (p.73) Q. I am not suggesting they bounce back. I am suggesting that in the course of hitting a hard bone, they would hit an obstacle and the reaction might be to throw the head back.

THE COURT: Doctor, let me ask you something. If one gets hit, for example, on the side of the head, is there an action of the brain contra coup --

THE WITNESS: Yes, contra coup.

THE COURT: Isn't there a kind of a reaction against that action that sometimes can produce movement in a direction other than you would expect -- 180 degrees opposite from the direction?

THE WITNESS: Yes, sir; when you have lines of force from a blow or fall coming into the head. When those lines of force carry through and remove the brain substance which is not firmly anchored, and they knock the brain against the other side of the skull, that is called the contra coup injury, the other side away from the blow to the head.

THE COURT: The principle of a jet engine is something is forced out the back, the body of the engine attached to the plane or the rocket moves in the opposite direction, does it not?

THE WITNESS: Jet propulsion, yes, sir.

(p.74) THE COURT: In this particular circumstance, this small injury to the back, and this apparently exploding particle, including parts of the skull, forward, is it possible there was any similar type of an action that would result in a backward movement instead of a forward movement?

THE WITNESS: This could be a possibility, Your Honor.

THE COURT: Let me ask you another question. You studied the Zapruder film. At what point did the driver of the vehicle accelerate?

THE WITNESS: We looked for that, as I recall, Your Honor, and I believe there was no significant -- either none, or no significant -- degree of acceleration. This was something that many people, both pro and con, studied, and I stand to be corrected on this. I am not an authority on it, but my recollection of it and what I know about the overall case, is there was no significant or any degree of acceleration of the car for the first couple of seconds until after the second shot.

BY MR. EARDLEY:

Q. You testified you couldn't understand how there could be any metal fragments or traces in the neck, based upon the autopsy report, I guess, that there was no bone struck?

A. Yes, I did. (p.75)

Q. Isn't it a fact that if the bullet had grazed the cervical spine -- just grazed it -- that not only it might not have shown on the x-rays, but it might have left metal fragments?

A. This could be a possibility; but, of course, coupled with that possibility would be evidence on the bullet itself of such bony grazing.

THE COURT: Doctor, let me ask you another question at this juncture. If you were permitted to examine in Washington these photographs and x-rays and were to conclude that they supported your theory, is it possible that you, if you had to have some of them down there to testify, it might only require one, or two or three rather than all forty-five?

MR. HANNON: Excuse me. You said supporting his theory. I don't understand.

THE COURT: Supporting his testimony.

MR. HANNON: If the doctor understand the question, but I don't -- I would like to clarify it.

THE COURT: Maybe I can rephrase it. Let me explain to you what troubles me. The request is for the production of 45 photographs and 24 x-rays. Assuming for the moment there is materiality and necessity, what I am concerned about is, whether there is materiality and necessity for all 45 pictures and 24 x-rays, or whether (p.76) it might not be there would be materiality and necessity for perhaps one or two x-rays and three or four photographs as opposed to all of them. Of course, at this juncture, this witness, who presumably will be a witness in New Orleans, who will testify and before whom these documents would be sought in connection with his testimony, presumably he wouldn't need all 45 photographs or 24 x-rays. I am just wondering if indeed that is the situation.

THE WITNESS: From a medical view, sir, that certainly would be possible. Whether it would be acceptable legally is, of course, for someone else to be concerned.

THE COURT: The next question. If you would be able to examine them here and say there were 40 of the 45 photographs that had no bearing upon the testimony you might be expected to give, and that 20 or 22 of the x-rays might have no bearing, would you be in a position then to state to some degree of certainty which of the photographs or x-rays would be material and necessary to

testimony you might expect to give?

THE WITNESS: Yes, sir.

THE COURT: Thereby reducing the Court's problem --

MR. HANNON: It is just a number. I don't (p.77) believe it reduces our problem.

BY MR. EARDLEY:

Q. You had counsel stand up, and then you pointed to a position in the back where you said that a drawing indicated -- or was it a measurement?

A. A measurement there, yes.

Q. Did you take into account the fact that the President was waving at the time? The coat collar might have been pulled up.

A. There is no such bunching and sliding up of the coat on the Zapruder film, Mr. Eardley. This has always been said, "Could this not have been," but it is not there in the Zapruder film. And not to be argumentative, allowing for some sliding of the suit, I would like to suggest that a shirt which is anchored at the bottom by a belt at the waist and tied tightly around the neck does not slide. And the hole in the shirt is directly below the hole in the coat.

Q. If the bullet had gone through at this location, it would have hit bone, would it not?

A. I believe it probably would have unless it got just inside a little space between the scapula, the wing bone, and the vertebral column. That would be the only possibility without striking bone at that time.

Q. In the review by Dr. Fisher and the others that (p.78) the wound as shown by the x-rays and photographs is much above that location; isn't that correct?

A. Higher.

Q. Much higher.

A. Higher than where it comes out. Well, I don't know about much higher.

Q. Tell the Court where the wound was, according to the panel review.

A. Beginning at the very bottom of Page 3, the last sentence. "There is an elliptical, penetrating wound of the skin of the back located approximately 15 centimeter medial to the right acromial process, 5 centimeters lateral to the mid-dorsal line, and 14 centimeters below the right mastoid process. This wound lies approximately five and a half centimeters below a transverse fold in the skin of the neck." I would be happy to measure this off for you if you have a centimeter rule or else I will convert centimeters to inches.

Q. I will be very glad to furnish you with one.

A. You have a little padding --

Q. And I am also considerably shorter than President Kennedy.

A. Five centimeters over from the mid-dorsal line -- (p.79) so we could really forget about the measurement from the acromial process -- five centimeters in from the dorsal line is right here (indicating), and 15 centimeters below the mastoid process, somewhere about there, Your Honor (indicating).

Q. And a bullet entering at that point and going through the trachea could miss the bone, could it not?

A. At that point it could go over the top of the scapula from the standpoint of its downward angle, but from the standpoint of its lateral angle and to continue on in the way it is alleged to have continued, it could not have so entered.

Q. You are anticipating Dr. Foreman, are you not?

A. I don't want to plagiarize any one else's material. Dr. Foreman has done beautiful work on this, but I personally have taken a skeleton and looked at this and so on. He was the creator, the originator, and I would be happy not to talk about it if you would prefer me not to. But I just want to say that it is there for any pathologist to see with the human skeleton.

Q. The only question I had was, could it go through, at that point, the trachea without hitting bone? Period.

A. Yes, through the trachea, the answer is yes.

Q. And this was a measurement that was not difficult to make, was it? (p.80)

A. It should not have been.

Q. Now, you made some comment about a 45 degree angle as testified by Dr. Humes, but you didn't go on. Isn't it a fact that he explained he was making a very rough estimate, and he didn't have any familiarity with angles; isn't that what he said?

A. I believe he said he was estimating. His familiarity with angles would be --

Q. You read his testimony, didn't you?

A. Yes, I did.

Q. That is what he said, isn't it?

A. If you are asking me to describe that portion along with other portions of Dr. Humes' testimony, for the purpose of answering your question, I will do so.

Q. You have been talking about this, writing articles about this, attacking the Warren Commission Report, have you not?

A. I have two published articles. As a matter of fact, the first one concluded with a statement that I accepted the findings of the Warren Commission Report. That was published in the Journal of Forensic Sciences. The only other written article which I have published is an appendix to a book, "Six Seconds in Dallas," by Dr. Josiah Thompson in which I eat my words. My criticisms are essentially the same.

(p.81)Q. Let me read what you said to show your objectivity. "Truth was not the aim of the Commission, nor was truth the product of its labors". That very strong statement was based upon how the head bounced when the bullet hit?

A. I am sorry I didn't catch that.

Q. I just read your statement.

A. Yes, I heard it.

Q. That this was not an honest report and I am asking you if that was based on your conclusions after seeing the Zapruder film?

A. That is part of it. That is only one small part. Yes, I will stand by that statement.

MR. EARDLEY: That is all.

MR. FENSTERWALD: Could I ask just one, Your Honor?

BY MR. FENSTERWALD:

Q. When you measured Mr. Eardley, he was standing erect?

A. Right.

Q. If he had been lying in a prone position, as a body would, would the point of entry by the same measurements be lower on the back?

A. Yes, sir.

THE COURT: We are now going to ask Mr. Eardley (p.82) to lie down on counsel table to measure him.

BY MR. FENSTERWALD:

Q. I was just asking if he did so, would the point be an-inch or two further down his back?

A. Yes, it would, because his shoulder slumped forward and downward would give a different measurement.

BY MR. EARDLEY:

Q. Let me ask you, if the man is in rigor mortis?

A. If the man is in rigor mortis, yes. If it is in rigor mortis, it would be less true.

Q. To clear up that point, rigor mortis, it takes at the extreme point about twelve hours after?

A. That varies greatly.

Q. Could it reach the maximum about seven hours?

A. Rigor mortis could set in a short period of time; it could take a longer period of time.

Q. And in this particular instance you don't know what the condition was -- the time it took -- of the autopsy?

A. That is a very good point. I don't know if they ever commented on that, which is rather astounding.

Q. You don't know. If people do a medical-legal autopsy and don't talk about rigor mortis or livor mortis, that is absolutely unfathomable. I am sorry. I don't (p.83) know. I never heard of this being done.

THE COURT: You may step down.

(Thereupon, the witness left the witness stand.)

THE COURT: You expect to present one more witness?

MR. FENSTERWALD: Yes.

THE COURT: Mr. Hannon.

MR. HANNON: We are presenting no witness.

THE COURT: All right. 1:45.

(Thereupon, the above proceedings were recessed for lunch at 12:45)

(p.84) REPORTER'S CERTIFICATE

I, NORMA J. HOUGHTON, an Official Reporter of the District of Columbia Court of General Sessions, hereby certify that I reported by stenomask, in my official capacity, the proceedings had and testimony adduced upon the hearing in the matter of the application for attendance of out-of-state witness in said court on February 14, 1969. I further certify that the foregoing 83 pages constitute the official transcript of all proceedings in the morning session in said hearing. In witness whereof I have hereto subscribed my name this 15th day of February, 1969.

/s/ Norma J. Houghton  
Official Court Reporter.

DISTRICT OF COLUMBIA COURT OF GENERAL SESSIONS

UNITED STATES OF AMERICA  
ex rel. STATE OF LOUISIANA

Petitioner,

v.

Miscellaneous

DR. JAMES B. RHOADS,  
ARCHIVIST OF THE UNITED  
STATES,

No. 825-169A

Respondent.

Washington, D.C.,  
Friday, February 14, 1969

The hearing in the above-entitled matter was resumed before Judge Charles W. Halleck, in Courtroom No. 3, Civil Division Building, at approximately 1:55 p.m., at the conclusion of the noon recess.

APPEARANCES:

On behalf of the Petitioner:

Jim Garrison  
District Attorney of Orleans Parish,  
New Orleans, Louisiana  
By: Numa V. Bertel, Jr. Esq, and Bernard Fensterwald, Esq.

(P.2) On behalf of the Respondent:

Joseph M. Hannon, Esq.,  
Assistant U.S. Attorney, and  
Carl Eardley, Esq.,  
Deputy Assistant Attorney General

(p.3)

EXHIBITS  
TABLE OF CONTENTS

FOR THE PETITIONER	EXHIBITS				
	WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
Dr. Robert E. Forman		4	34	--	--
	Exhibits				
<u>PETITIONER'S:</u>				<u>IDENT.</u>	<u>RECEIVED</u>
Nine photos numbered in red					17
<u>RESPONDENT'S</u>					
1 hand drawing				40	
2 affidavit of Dr. Boswell				58	59
3 affidavit of Dr. Fisher				58	59
4 excerpt from proceedings of 2/6/69 in La. v. Shaw				58	59

(p.4)

P R O C E E D I N G S

THE COURT: I trust you found some adequate facility in obtaining a bite to eat.

MR. HANNON: It was a claimed facility, Your Honor, but not adequate.

THE COURT: Maybe you could exercise your influence over with the powers-that-be to get us a cafeteria built in the court complex somewhere.

MR. HANNON: If you will define who the powers-that-be are, I'll be happy to do it, Your Honor.

FURTHER EVIDENCE ON BEHALF OF THE PETITIONER

MR. FENSTERWALD: Your Honor, our second and last witness will be Dr. Robert E. Forman.

THE COURT: Very well.

MR. FENSTERWALD: Dr. Forman, will you come forward.

(Dr. Robert E. Forman was duly sworn by the Deputy Clerk).

THE DEPUTY CLERK: Please be seated.

Thereupon, DR. ROBERT E. FORMAN, having been called as a witness on behalf of the Petitioner and being first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FENSTERWALD:

Q. Dr. Forman, for the record, would you state both your name and address?

\* \* \* \* \*

(P.110) conclusion, because of the element of art as opposed to science, in the form of mathematics, that exists in that particular field.

MR. EARDLEY: We didn't draw their pleading, Your Honor. They said they had the evidence that there was a shot from the front, but we haven't seen it.

THE COURT: If Dr. Wecht is permitted to examine these photographs and x-rays in the Archives prior to 12 o'clock noon Monday, I will be satisfied that there is no longer also materiality and necessity to have them produced in New Orleans; but if he is not permitted to examine them by 12 o'clock noon on Monday, I shall enter an order directing the Archivist to take them -- a summons directing him to take them, in the form of a subpoena duces tecum, to New Orleans, of necessity, because that would be the only way the witness that the State of Louisiana indicates it would wish to call in the case -- the only way that he can obtain the benefit of it. And at that point, if called upon to produce them in New Orleans, the claim of privilege can be asserted there by the Archivist and ruled upon by the court there. I am not going to enter into that ticket at this point. If I find materiality and necessity by virtue of the fact, among other things, that this witness qualifies as an expert in the field of forensic pathology and who is a witness that the State of Louisiana indicates they want to call, if I (p.111) find that there is a materiality and necessity for the State of Louisiana to have such a witness able to examine these photographs and x-rays -- and that would be satisfied, in my view, if he were to examine them in the Archives by Monday noon if he were to be able to do that, then I would not feel that it would then be necessary to require their production in New Orleans.

MR. EARDLEY: Well, --

THE COURT: Now, as to the other items, I will also enter an order, or in the same order the same summons, calling for the witness to produce, in the nature of a subpoena duces tecum, Item No. (a), the rifle alleged to have been owned and used by Oswald; Item No. (b), the spent pellet designated as Commission's Exhibit 399, and Items (l) and (m), the bullet fragments, which are Commission's Exhibits 567 and 569. I find that there is not demonstrated any materiality and necessity for the production of Item (d), the movie camera; or Item (f), the photos; not Item (k), the 35-millimeter color slides reproduced from the Zapruder film. I will direct the Archivist to take with him the x-rays sought under Item (j); and of course if Governor Connally testifies and some question arises about them, I would assume that the Governor himself would be in a position, if requested, to permit the use of those x-rays. And in any event, if the question arises, the questions of medical privilege I think has.

\* \* \* \* \*

#### REPORTER CERTIFICATE

I, Stephen S. Maxson, an official reporter for the District of Columbia Court of General Sessions, hereby certify that I reported in shorthand and simultaneously by electrical recording, in my official capacity, the afternoon session of a hearing had in said court in Miscellaneous Action No. 825-'69A, U.S. ex rel. State of Louisiana v. Dr. James B. Rhoads. I further certify that the foregoing 118 pages constitute the official transcript of my shorthand notes so taken, further verified by reference to the sound recording. In witness whereof I have hereto subscribed my name and affixed my official seal this 17th day of February, 1969.

/s/ Stephen S. Maxson  
Official Reporter