

POLICE

Statements of Witnesses -
Depositions - Richard M. SIMS, April 6 and 8, 1964, 7 H 158-86

Sims has been a homicide detective since 1957. He was with Fritz at the Trade Mart at the time they learned of the President's assassination, about 12:40 p.m. He went to the hospital, where Chief Curry sent him back to the Book Depository.

Sims is another case of a man who remembers nothing, is not asked searching questions to find out whether in fact he does remember anything, or why he doesn't remember anything. He is exceedingly careful to say nothing involving any superior. He remembers Oswald was questioned, he remembers he questioned Oswald, he remembers none of the questions he asked and none of the answers Oswald gave. On such things as Oswald's life in Russia which he admits Oswald discussed, he remembers none of the details. He remembers Oswald talked about his wife but doesn't remember a thing Oswald said about her. At no point does any of the members of the Commission's staff who examine him, and there are three, think that his lack of memory is at all unusual, especially in a trained man, like a detective, and especially about such an incident. The President doesn't get assassinated in Dallas every day. But Sims is absolutely consistent. He remembers absolutely nothing. He had a few notes which it turns out were made subsequently, and the notes he made at the time were destroyed, and from these he can recall dates and descriptions of people and things like that.

Even a man with a bad memory would remember some thing. Those things he couldn't answer by saying he didn't remember, he answered by saying he didn't know. He said he kept no notes of any of the interrogations. Nor was he ever asked why.

Nonetheless, there are significant elements in Sims' testimony having to do with the manner in which Oswald was treated, with the manner in which he was identified, and the question of Oswald's rights, both legal and civil. There are also a few things I consider odd that I will point out as I go through his testimony page by page.

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Sims is so absolutely consistent in his failure to recall that even things that, without doubt, he absolutely did recall, he doesn't recall and he is not asked about them. For example, there is no doubt that a homicide detective in Dallas was well acquainted with both the Secret Service and FBI agents stationed in that city. Yet he does not recall their names as participants in interrogations of Oswald.

The police special service bureau is identified by Sims as "a combination of vice, narcotics, and undercover work."

He says that when they got to the Depository Bldg., they got on the front elevator, a passenger elevator, went up to about the third floor and then went to the back of the building and got on the freight elevator. He said they noted officers on all floors as they proceeded. He said they stopped off on the second floor. Then they kept on going up, "but anyway we got off at the seventh floor ..."

At no point is he asked why the chief of homicide and his assistant, certainly knowing that the shots reportedly came from the sixth floor, possibly from the fifth floor, went to the seventh instead. The only floors specifically not mentioned by Detective Sims are the fifth and the sixth. Would not the most likely place for them to have proceeded immediately have been the sixth floor?

They were on the seventh floor when they heard the shout announcing the discovery of the empty cartridges on the sixth. (p.160) They went to the sixth floor, using the elevator to go down the one flight. There they found the empty cartridge shells as described by other witnesses. They were assured the shells were as they had been on discovery. He doesn't remember whether Day or Studebaker took the pictures. He doesn't remember if they both had cameras. But he knows pictures were taken. When the rifle was found:

"Mr. Sims. Then, we went over to where the rifle was found.

Mr. Ball. Did you see the rifle?

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Mr. Sims. Yes; I saw the rifle.

Mr. Ball. Where was the rifle?

Mr. Sims. It was laying there near a stairway, partially covered by some paper." (p.161)

I want to point out two things about this: First, that when Sims ~~is~~ is specific, which he rarely is, he said that the rifle was "partially covered by some paper". Of course, he could be wrong, but if he is right, the pictures are wrong. Second, here we have another officer who clambered all over the boxes. We know that ~~they~~ ^{Day} did, we know that Boone did, we know that Studebaker did to the ~~that~~ degree ~~that~~ he photographed parts of his body in taking the pictures, we know that newsreel photographers did, and it would seem to be a pretty safe assumption that Weitzman did. Whether or not anyone else did, didn't this destroy any opportunity of taking fingerprints? I have still seen no testimony on whether or not fingerprints were taken in this area. Sims saw the photographs of the rifle being taken, but he is unable to say who took them. At this point, he returned to city hall. (p.161)

Note that in the following excerpt he is not asked another important question, a seemingly central one, "When?":

"Mr. Ball. Did you ever see a paper bag?

Mr. Sims. Well, we saw some wrappings - brown wrapping there.

Mr. Ball. Where did you see it?

Mr. Sims. It was there by the hulls.

Mr. Ball. Was it right there near the hulls?

Mr. Sims. As well as I remember - of course, I didn't pay too much attention at that time, but it was, I believe, by the east side of where the boxes were piled up - that would be a guess - I believe that's where it was." (p.162)

Why would a homicide detective, one who is supposed to be skilled and trained, say, "of course, I didn't pay much attention ..." with regard to the bag,

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which the Commission and presumably the police regard as ~~the~~^a central piece of piece of evidence? Especially is this true in the ~~the~~^{light} of a response a couple of sentences later, "when the wrapper was found Captain Fritz stationed Johnson and Montgomery ... " These are police officers who he said were told to stay there. Of himself, he said, "I was going back and forth, from the wrapper to the hulls." So he, too, immediately considered the wrapper of significance. But with all of this, especially the traffic from the empty cartridges to the wrapper, he didn't notice anything about the boxes piled up by the window, which were in between the two places, and the two places were, to begin with, very close together.

They got back to city hall about 2:15, having first stopped off to see the sheriff who had asked for an interview with Capt. Fritz. Meanwhile, two police officers had been stationed to protect both the cartridge shells and the wrapper. He helped Lt. Day in picking up the hulls, as he puts it. Note that when this was done is not at this point asked. It is confused in the testimony with the return to city hall. (p.162)

Sims doesn't remember if Lt. Day took charge of the hulls, and "I don't remember if he took them in his possession then or not." He says he picked them up and put them in an envelope Lt. Day held open. Asked, "You didn't take them in your possession, did you?", he replied, "No, sir; I don't believe I did."

Larry, note that all of them give different and contradictory testimony about what happened to the cartridges, at that time certainly the only tangible evidence they had, hence, the most important evidence they had. Subsequently, all changed their stories about who did what with the shells when, who had them or didn't have them. This includes Sims, too.

On their return to city hall, they were informed of the apprehension of Oswald. (p.163) He saw Oswald for the first time about 2:20 p.m. They then go into the first interrogation. He recalls Hosty and Bookhout, the two FBI men, by name and as being there. But that is all he remembers:

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Mr. Ball. Did you make notes of what was said at that time?

Mr. Sims. No, sir; I didn't.

Mr. Ball. Did your partner, Boyd, make notes, do you think?

Mr. Sims. I don't know if he did or not.

Mr. Ball. Do you have ^{yt} anything from which you can refresh your memory as to what was said in that interrogation:

Mr. Sims. No, sir.

Mr. Ball. You have some memory of what was said, don't you?

Mr. Sims. Well, not the exact wording or the exact questions.

Mr. Ball. Give us your memory of the substance of what was said there at that time.

Mr. Sims. Well, I couldn't say that. I know that it consisted of his name and where he lived and things of that nature, and where he worked.

Mr. Ball. Now, tell us all you can remember, even though it is not complete, just tell us as much as you can remember?

Mr. Sims. I don't remember - I know, like I say, he asked him his name and where he worked and things of that nature.

Mr. Ball. Did they ask him whether or not he had killed Tippit?

Mr. Sims. Yes, sir; I believe he did.

Mr. Ball. What did he say?

Mr. Sims. He said, 'No.'

Mr. Ball. Did they ask him if he had shot the President?

Mr. Sims. I don't remember now what - I wouldn't want to say for sure what questions he did ask him.

Mr. Ball. Who did the questioning?

Mr. Sims. Captain Fritz.

Mr. Ball. Did anyone else ask him questions?

Mr. Sims. Well, I don't know if they did or not.

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Mr. Bell. Did you ask him any questions?

Mr. Sims. No, sir." (p.164)

He also doesn't remember whether Oswald was handcuffed, doesn't remember whether Oswald complained about being handcuffed with his hands uncomfortably behind his back. (p.164)

He now says that they went into Capt. Fritz's office at 2 and stayed there with Oswald until the first showup at 4:05, but he doesn't recall whether Oswald was in Capt. Fritz's office all the time or had, for part of the time, been in the interrogation room. He says he talked with Oswald after the time of the show-up, but doesn't remember anything about it, but then he remembers the safe things and says he asked Oswald, later, about his life in Russia and about his military service. But he doesn't remember anything Oswald said on these subjects. He then makes this comment about the things Oswald talked about: "I - well, I don't know - I have talked to him both places, and I don't know - I know he wouldn't talk at all about the assassination of the President or of Officer Tippit, but he would talk about his life in Russia and some things over here and about his family and things." (p.165)

Asked about Oswald's comment on Russia, Sims replied, "Well, he said he worked in a factory and he liked everything over there except the weather." Oswald hardly said anything like that. He may not have liked the weather, but it is abundantly clear, and Oswald was always willing to talk about, the many aspects of life in the Soviet Union that he detested. I have not seen a reference any place to any favorable comment on this subject by Oswald. The fact is that he made public speeches against the Soviet Union. Sims's sudden recollection after the long series of failures to remember that precede and follow the statement make his motive in recalling this false statement suspect.

He conducted the first lineup at about 4:05. (p.166)

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First there is a general discussion of the lineups or showup (they use the terms interchangeably) with a description of the room and things of that sort. Then Ball asks, of the people in the lineup, "How were they dressed?" He gets no answer and at this point he seeks no other answer. They were all handcuffed together. It turns out that, in the first lineup, 3 were policemen or employees of the police department and the 4th was Oswald. Oswald here was in the No. 2 position. It turns out that, insofar as Sims testifies about Oswald's position in the lineup, he was always in the No. 2 position. It is interesting to note that when the witnesses testify about having identified Oswald, they always refer to him in the same manner: "I pick No. 2." This is not the only unusual aspect of the lineup, but it is an absolutely certain means by which witnesses could identify the proper man, had there been any such influences at work. (p.167)

After a brief description of the police personnel who were in the lineup with Oswald, there is some fruitless conversation about questions asked during the lineup. This exchange with respect to Oswald follows:

"Mr. Ball. Did he protest any?"

Mr. Sims. No, sir.

Mr. Ball. Did he say that he had a T-shirt on and no one else had a T-shirt on?"

Mr. Sims. No, sir; now, I think the showup that I didn't conduct the next day, I believe he refused to answer questions or said something about a T-shirt or something." (p.168.

This is in complete accord with Oswald's complaint to the police as reflected in the interrogation report printed in the appendix to the report. It is also consistent with what follows. The police always had Oswald distinctive. As a matter of fact, the question~~s~~ does not come up at any point in any of the interrogation, but Oswald was the only battered and bruised man in the lineup.

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The above was quoted from p.168 and what follows from pp.169-70 is without omission of any kind:

"Mr. Ball. Were these men handcuffed at this time?

Mr. Sims. Yes, sir; they were handcuffed.

Mr. Ball. Were they dressed the same?

Mr. Sims. I believe so; yes, sir.

Mr. Ball. Were they dressed differently than Oswald?

Mr. Sims. Yes; I know they didn't have the color of clothes on or things like that.

Mr. Ball. Did they have ties on?

Mr. Sims. I don't recall if they did or not.

Mr. Ball. Oswald had a T-shirt on, didn't he?

Mr. Sims. He had on a brown shirt, some kind of a brown shirt, and he had a white T-shirt on underneath that.

Mr. Ball. Underneath that?

Mr. Sims. Yes; underneath that.

Mr. Ball. His clothes were rougher looking than the other men?

Mr. Sims. Well, I don't imagine that he would be dressed as nice as the officers were, as far as their clothes." (pp.169-70)

There are 2 further significant excerpts from p.170 which follow:

"Mr. Sims. Well, the second showup, I'm not positive, but I believe I conducted the second showup."

* * * * *

"Mr. Ball. Now, give us the order of the second showup?

Mr. Sims. Numbered the same for the second showup.

Mr. Ball. The same numbers?

Mr. Sims. Yes, sir.

Mr. Ball. The same men?

Mr. Sims. Same men and same numbers." (p.170)

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Thereafter they eliminated the 2 policemen, but kept the jail clerk in the lineup. When asked on this occasion who was the second man in the lineup, Sims replied, "No. 2 was Lee Harvey Oswald." (p.171) On the question of Oswald's dress at the time:

"Mr. Ball. Was he dressed differently than the other three at that time?

Mr. Sims. Well, he was dressed differently but I don't know - how differently he was dressed.

Mr. Ball. What did he have on?

Mr. Sims. He still had on the same clothes he was arrested in, so far as I know.

Mr. Ball. In all three showups he had on the same clothes you described before?

Mr. Sims. I believe he did." (p.172)

It thus becomes clear from the testimony of the policeman who, at least in part, was in charge of the lineup, that the police did what they could to make the identification of Oswald as close as possible to automatic.

After the first exchange on the lineup, they return to the interrogation. (p.168) Predictably, Sims did not recall the names of the FBI or Secret Service agents who participated. He again is consistent in his lack of recollection:

"Mr. Ball. Did you make any notes of what was said at that time?

Mr. Sims. No, sir; I never did make any notes of any of the interrogation.

Mr. Ball. Do you remember anything that was said at 4:20?

Mr. Sims. No, sir; I couldn't.

Mr. Ball. Do you have any memory at all?

Mr. Sims. No.

Mr. Ball. Could you make any kind of an attempt to testify to what you heard there?

Mr. Sims. No, sir; I couldn't say for sure what was said or what he told

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Captain Fritz or the agents either." (p.169).

Thereafter, Sims, admitting, "Well, I know a good many of them here, " still insists he doesn't remember which FBI or Secret Service agents were there. (p.169)

Ball switches to Sims' report in which "you mentioned that a murder complaint was signed by Fritz that evening?" Sims says he and Oswald were both present (p.170), as was Justice of the Peace Dave Johnston and Asst. District Attorney Bill Anderson, as well as Detective Boyd, Sims' partner. There was conversation between the officials and Oswald and Sims remembered none of it. Thereafter, there was another interrogation interrupted briefly by another showup, and this time, with the questions by an FBI agent, Sims remembered and gives his name. But that is all he remembered:

"Mr. Ball. Now, at 7:30 an FBI agent came in, didn't he, according to your records?

Mr. Sims. Yes, sir; at 7:30 - we set in the office with Oswald and Mr. Clements of the FBI came in and interrogated Oswald.

Mr. Ball. You and Boyd were there?

Mr. Sims. Yes, sir.

Mr. Ball. What did Clements ask him?

Mr. Sims. I don't remember the questions he asked him.

Mr. Ball. Did you hear what Oswald said?

Mr. Sims. Yes, sir; but I don't remember what the answers were." (p.171)
Apparently Oswald wasn't completely searched/stfirst, either, ~~by~~/^{for the}testimony reads,

"Mr. Ball. Now, during this time, or sometime during this period - sometime between these three showups, you searched Oswald, didn't you?

Mr. Sims. The first one; yes, sir.

Mr. Ball. And that was what time?

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Mr. Sims. It was 4:05, I believe, but I will have to check my record here and see (checking his record referred to).

Mr. Ball. That was after the second showup?

Mr. Sims. No, sir; the first one.

Mr. Ball. After the first showup?

Mr. Sims. It was before the first ~~showup~~ ^{showup.}

Mr. Ball. It was before the first showup - the 4:05?

Mr. Sims. Yes, sir.

Mr. Ball. And that was ^{after} the first interrogation?

Mr. Sims. Yes, sir.

Mr. Ball. And where were you when you first searched him?

Mr. Sims. We was in the holdover, in other words, the showup room.

Mr. Ball. When you took Oswald down for the first showup and ~~waited~~ ^{waited} in the room outside, the showup room, you searched him?

Mr. Sims. Yes; Boyd and I.

Mr. Ball. What did you find?

Mr. Sims. I found a bus transfer slip in his shirt pocket.

Mr. Ball. And what else?

Mr. Sims. Well, Boyd found some .38 cartridges in his pocket.

Mr. Ball. How many?

Mr. Sims. I don't know - I have it here - I believe it's five rounds of .38 caliber pistol shells in his left front pocket." (p.173)

But Oswald had been, at least in part, searched before this. Detective Richard S. Stofall, in his deposition of April 3 (17 H 186-ff.), testified that when "the officers brought Lee Harvey Oswald into the homicide bureau ... I went in and asked him for his identification, ... he had his billfold and in it he had the identification of 'A. Hidell' ..."

What do they do in the Dallas police department when they have a murder

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suspect, let him go around armed to the teeth?

Asked to whom he turned over the fruits of the search of Oswald, Sims again repeated his refrain, "I don't remember." He said he placed the live cartridges in an envelope and again, "I don't know who that was turned over to." (p.173)

Sims also testified ^{that} at 8:55 Oswald was fingerprinted. Is it possible ^{he} wasn't fingerprinted earlier? At this time also the paraffin test was made. (p.174)

He testified, with regard to the 8:55 fingerprinting, "I believe they lasted a good while - I don't know how long."

He testified, "Well, at 11:30 p.m., Barratt and I made out the arrest sheets on Oswald."

Why was there such a long delay? Does this bear on the allegation in Joesten's book that Oswald was charged with an unsigned affidavit? (Note to Larry: Joesten's original source was the N.Y. Times and I am getting a photostatic copy of his reference.)

Sims doesn't know if Oswald was present when Sims made out the arrest sheets or not. He recalls the time of the occasion of the arrest sheets in connection with Oswald's "press conference", which immediately followed it:

"Mr. Ball. Why did you do that?

Mr. Sims. Because we were told to.

Mr. Ball. Was that usual to do that?

Mr. Sims. Is it usual?

Mr. Ball. Yes/

Mr. Sims. Yes; it's unusual.

Mr. Ball. Unusual to do it?

Mr. Sims. Yes.

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Mr. Ball. He didn't tell you why he did it?

Mr. Sims. No, sir.

Mr. Ball. What did you do it for?

Mr. Sims. Just for the press, I believe." (p.¹275)

In his long years in homicide, this was not, then, as represented by Chief Curry and the others, the normal treatment that Oswald got and the normal treatment that the press got.

Note that this was, in no sense, a press conference for Oswald. Sims testified that "we kept him in there about 5 minutes ...". In short, hardly time for Oswald to say anything ^{had} he wanted to because of the clamor described by everyone, including Sims, at this point of questioning by an unsated press. Asked to say "exactly what Chief Curry told you to do before you took him down there - what were his exact instructions?" Sims reply was, "I don't believe Chief Curry said anything to me." Then, in effect acknowledging that he had specific orders, he said, "Well, I couldn't say who gave me those specific orders." He persists in a failure to remember whether it was Curry or Fritz or either until confronted with his notes which say merely that "Chief Curry and Captain Fritz came to Captain Fritz' office and told us to take Oswald down ...". He still then persists in saying, "I don't know which one of them told us." He does, however, concede that one of them did. Then, with further reference to the notes, it turns out they got instructions from Chief Curry. But he doesn't remember any of the questions asked of Oswald. He is prompted into recalling that Oswald was asked if and denied that he had shot the President. He doesn't recall if this question was asked about Tippit and says, "it was just a bunch of them hollering at him - ^that's all I remember." (p.176.)

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When he got to work the next day, they "checked" Oswald out of jail, and took him to Capt. Fritz's office for questioning at 10:25 a.m. This time, apparently after reference to his notes, he identifies FBI Agent Bookhout, U.S. Marshal Robert Nash, and Mr. Kelley of the Secret Service, as present. His notes say that he was not present but that he stayed in the hall with ~~Boyd~~ ^{Boyd} during this interrogation. They returned Oswald to jail at 11:30. Then he, Boyd, Hall and Dhority again "went to Oswald's room at 1026 North Beckley" at instructions of Capt. Fritz:

"Mr. Ball. And what did you do out there?

Mr. Sims. We made another search of his room.

Mr. Ball. What do you mean by 'search' - did you have a search warrant?

Mr. Sims. I don't remember if we had a search warrant or not. (p.17) After talking to the owners, Mr. and Mrs. Johnson, they went to Oswald's room and:

"Mr. Ball. And what did you see?

Mr. Sims. I think all we found in there was a paper clip or something of that nature. I don't remember what it was.

Mr. Ball. A paper clip?

Mr. Sims. We didn't find anything.

Mr. Ball. Did you take anything away with you?

Mr. Sims. Yes, sir; we took the paper clip and a rubber band or something - I don't know what it was - it wasn't anything to speak of, I know, the room was clean." (p.177)

This is an interesting thing. There had been a search the day before, with a search warrant and plenty of manpower. Is there any conceivable reason the Chief of Homicide would have sent these men to make a further search unless he had reason to believe something remained to be found? But the room was absolutely clean.

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At 6 o'clock that night he and Detectives Hall and Graves delivered Oswald to Capt. Fritz's office for further interrogation, of which he knows nothing, saying he doesn't believe he was there. And he doesn't know^{OW} what he did after that. He is certain that he never did see Oswald again, and he was off the 24th.

At this point, Ball completes his questioning, and Stern has a few questions to ask. They relate initially to the memorandum Sims made, but he doesn't know^{des} when he made it, and he finally decides that it was "the same week - yes, sir," which, it is clear, it was not because he was already testified it was after the 24th. He will not say if it was in 3 or 4 days. The document is identified as a Commission document, not as an exhibit. Sims testified he prepared it from "notes and memory." It should have been obvious to them to ask him where he got the memory, because Memory is the one faculty he really doesn't have. (p.178)
But as to the notes:

"Mr. Stern. And those notes were destroyed when the memorandum was prepared?

Mr. Sims. Mr. Boyd may have his - I don't have mine." (p.179)
His memorandum on the third page says that just after Lt. Day dusted the rifle for fingerprints, an ~~india~~ unidentified man "called Captain Fritz, and he walked over to where the man was. This man gave Captain Fritz the name of Lee ^Harvey Oswald and his home address in Irving, Texas." (p.179)

From other testimony, that of one of the men who had Oswald in custody when Oswald was first taken to the police station, it is clear that Fritz did nothing about this intelligence until after his return to his office, and the area of the Depository was crawling with officers and radio police. Sims said he thought the man was some kind of a supervisor there. This is how he explained it:

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"Mr. Stern. Mr. Sims, what was your impression of Oswald during Friday and Saturday, what kind of man did he seem to you - what was his demeanor like, what impression did you get about him and the way he was conducting himself?

Mr. Sims. Well, he conducted himself, I believe, better than anyone I have ever seen during interrogation. He was calm and wasn't nervous

Mr. Stern. He knew what questions he wanted to answer and what questions he didn't?

Mr. Sims. He had the answers ready when you got through with the questions." (p.180

Then Stern asks if "Oswald ^{"at} any point" complained about his treatment "during the course of the day?" Sims answers negatively and replies he offered Oswald a cigarette, a drink, asked if he wanted to go to the restroom, and things like that, and "I don't believe he ever accepted any of them."

After this evasion:

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"Mr. Sims. In other words, most of the employees returned back to their jobs after the assassination.

Mr. Stern. Do you know whether any other employees were missing?

Mr. Sims. No; I don't.

Mr. Stern. But as far as you know, that was the only name mentioned? Mentioned by the supervisor at the Book Depository?

Mr. Sims. As far as I know; yes." (p.179)

It is also true Oswald was not the only man missing. I have already summarized the testimony relating to Givens, who was not only missing but was a police character with a narcotics record.

Stern returns to the search of Oswald more than two hours after he was apprehended that Sims himself testified he had made:

"Mr. Sims. No, sir; I don't remember anything else.

Mr. Stern. A wallet or identification card?

Mr. Sims. No, sir; that had been taken off of him." (p.180)

On the question of Oswald's composure and state of mind:

"Mr. Stern. But he was never complaining about his treatment)

Mr. Sims. Oh, he complained two or three times - I don't know what it was about - about not having a lawyer or something. He said he wanted a lawyer, and things of that nature.

Mr. Stern. But not about his physical treatment?

Mr. Sims. No; I believe he told us that - he was talking about his eye, and he told us that he deserved to get hit in the eye - I believe he said he deserved being hit in the eye.

Mr. Stern. Why was that?

Mr. Sims. Because the officer had a right to do that - I believe that's what he told us.

Mr. Stern. What about obtaining a lawyer, what did he say about that

Mr. Sims. He said he wanted to obtain a lawyer. He named some law-

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yer up in New York.

Mr. Stern. He said that to you or to Captain Fritz in your presence?

Mr. Sims. Well, I heard it - I don't know whether he said it to me - whether he told it to Captain Fritz or he may have told it to me.

Mr. Stern. What was the response from the police officer in charge at any time he mentioned getting a lawyer?

Mr. Sims. I don't know what it was. I believe he used the telephone." (p. 180).

~~When the witness was asked if he recalled any other statements made by Oswald concerning the fact that Oswald was a Communist, the witness answered that he did not recall any such statements. The witness also stated that he did not recall any other statements made by Oswald concerning the fact that Oswald was a Communist. The witness also stated that he did not recall any other statements made by Oswald concerning the fact that Oswald was a Communist.~~

In the light of Sims' failure to recall almost everything, and in the light of his failure to recall any of Oswald's protests, Oswald's complaint about his lack of a lawyer must really have impressed Sims. As of the last time he saw Oswald, Oswald was "still alert - quick," and then he adds the description, "calm". (p.181.)

Belin took another deposition from Sims on the morning of April 8, 1964. This was only 2 days after the first deposition. He immediately gets to the question of the cartridge cases on the sixth floor. Asked, "Just for ~~the~~ continuity of the record, would you tell us just how you came to see those hulls?" and Sims replied that he was on the seventh floor with Capt. Fritz and his partner, Boyd, when they heard the shout that the hulls had been found. He did not pick up the hulls at that time, but awaited the arrival of Lt. Day. Asked if he watched the area until the pictures were taken, he said, no, he didn't stay there all the time.

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Then:

"Mr. Sims. I was over there, I believe, when they finished up with the pictures, and I picked the three hulls up and laid them on what I believed to be a box of books there near the window, and Lieutenant Day dusted them for fingerprints.

Mr. Belin. Then when your testimony was taken, did you specifically remember what you did those those hulls?

Mr. Sims. I didn't remember who brought the hulls to city hall.

Mr. Belin. Since that time have you had an opportunity to refresh your recollection as to what happened to the hulls?

Mr. Sims. Yes, sir; I talked to Captain Fritz and E. L. Boyd, my partner, and refreshed my memory.

Mr. Belin. What was said, and what do you now say happened?

Mr. Sims. Captain Fritz told me to get the hulls after Lieutenant Day finished with them and to take possession of them.

Mr. Belin. What did you do?

Mr. Sims. I did that.

Mr. Belin. How did you take possession of them?

Mr. Sims. I placed them in an envelope and put them in my coat pocket." (p.183)

When they got to city hall, he gave them to Capt. Fritz, he says. This trip to city hall was on the occasion of their "going to get started on Oswald".

He doesn't remember whether city hall gave the envelope with the bullets to Capt. Fritz or put them on his desk:

"Mr. Belin. Now what caused you to remember now what you actually did with the hulls? I mean, what refreshed your recollection as to that?

Mr. Sims. Talked to Captain Fritz, and I remember we was going over to where the rifle, someone had found the rifle in the meantime, and we

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was walking over to where the rifle was found, and he told me to be sure ~~to~~ and get the hulls.

Mr. Belin. What did you do then?

M Mr. Sims. Well, I went over to where the rifle was found, and went back later to where the hulls were.

Mr. Belin. Were the hulls still in the location you left ~~at~~ them for being dusted for fingerprints?

Mr. Sims. Yes, sir; they were still taking pictures.

Mr. Belin. Were they still taking pictures, or dusting them?

Mr. Sims. I hadn't picked them up. They were still, as far as I can remember, taking pictures, because Captain Fritz left two officers to preserve the scene.

Mr. Belin. When you got back, what did you do after they got through with the pictures?

Mr. Sims. When he got through with that scenery I picked ^{the} hulls up.

Mr. Belin. Was it then that he dusted them, or what?

M r. Sims. Yes, sir." (p.184)

Asked
Whether it was Fritz or Day who told Sims that he had taken the shells to city hall or whether Sims remember^{ed}/independently, Sims' nonresponsive reply was that he remembered putting them in his coat pocket:

"Mr. Belin. Now, Detective Sims, just so that I ^{can} ~~have~~ have a complete understanding of the process by which you refreshed your recollection, you talked to Captain Fritz about this after you testified here on Monday?

Mr. Sims, Yes, sir.

Mr. Belin. What did he say and what did you say, if you remember?

Mr. Sims. I told him I couldn't remember for sure about who brought the hulls up there to his office or what happened to the hulls, and then I talked to him.

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Mr. Belin. What did he say?

Mr. Sims. He said, 'Well, remember I told you to get the hulls and bring them to the office.'

And I talked to Boyd, my partner, and he said that Captain Fritz had said that, too, so I remembered exactly about where I was when he told me this.

Mr. Belin. In other words, Captain Fritz told you on Mondsy, that back on November 22, he had told you to get the hulls? Is that what Captain Fritz told you on this past Monday?

Mr. Sims. No, not the past Monday. Now this was -

Mr. Belin. Well, today is Wednesday. Could it have been on Tuesday, or Monday?

Mr. Sims. I don't know if it was yesterday or Monday.

Mr. Belin. Was it either late Monday, April 6, or Tuesday, April 7?

Mr. Sims. Yes, sir.

Mr. Belin. That Captain Fritz told you that back on November 22, he had told you to get the hulls and bring them down?

Mr. Sims. Yes, sir.

Mr. Belin. And you also discussed this with Detective Boyd either 8n April 6 or ~~on~~ 7?

Mr. Sims. Yes.

Mr. Belin. You are nodding your head yes?

Mr. Sims. Yes." (p.185)

Sims says he does recall independently putting the shells in an envelope. All he will say of Fritz is that Fritz told him to be certain to get the shells. His recollection wasn't completely refreshed, however:

"Mr. Belin. Do you remember what color envelope it was?

Mr. Sims. I believe it was a brown, something brown envelope.

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Mr. Belin. You are pointing to a brown manilla envelope on top of the desk here?

Mr. Sims. Yes, sir.

Mr. Belin. Do you remember how big an envelope it was?

Mr. Sims. No, sir; I don't. We have two different sizes, and I don't remember what size.

Mr. Belin. Do you remember from whom you got the envelope?

Mr. Sims. Lieutenant Day had it. When he goes to a scene, he has envelopes.

Mr. Belin. Did Lieutenant Day or anyone else see you put that envelope in your pocket?

Mr. Sims. I don't know if he saw me put the envelope in my pocket, but he was there when I took possession of the hulls." (p.185)

Sims also doesn't recall whether or not he initialed the hulls. (p.186)

Sims's contradictions about the hulls and the high science to which he has elevated confusion leave me uncertain of my recollection, Larry. I feel that the whole question of the empty cartridges is now completely up in the air and that their status is putting ⁱⁿ considerable doubt by the contradictory testimony about them. I am certain Sims' testimony is in contradiction to that of Day and Studebaker. I also think it is in contradiction to his own testimony. Asked on p.163 about these hulls and Lt. Day, "Did he take charge of the hulls there?" Sims' reply was his usual one, "I don't know." The question is here rephrased and he repeats essentially the same answer, and on p.162, talking about his departure and Capt. Fritz's instructions to Johnson and Montgomery to stay near the place where the hulls were located, he is asked, "Was this after the pictures had been taken of the hulls?" His reply, "before Lieutenant Day got up there, I believe." This, he says, was before he went to where the rifle was found. When Sims returned to the place where the hulls were

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pictures were still being made.

On the same page is a statement from Sims that should certainly indicate the correctness of my suspicion that a photograph should show the bag in question. He said, "Well, Lieutenant Day took a picture of all the surrounding area there," with reference to the area to both the right and the left of the window. The area to the left of the window is so small, it is virtually impossible to have a picture of it without showing the bag. Hence, the bag must have been removed immediately, or the pictures were taken later than other testimony has indicated. But if Sims's testimony is correct, two policemen were responsible for the security of the area.

So the question of the bag is even more in the air; so is that of the empty cartridge shells. These are two of the central pieces of information. Sims' ~~xxxx~~ memorandum is in Vol. XXI, pp.510-8.

All of the police of all categories in Dallas are unnecessarily and consistently vague. Sheriff Decker had testified that the police ~~pxe~~ provided him with transportation from the hospital to the Book Depository. Sims says that it was his group, led by Capt. Fritz, which took the sheriff back to the depository, arriving about 12:58 p.m. This memorandum says that Sims and Boyd, before reaching the top floor, "made a hurried search along the front and west side windows (of the fifth floor) and then went up to the sixth floor. Some officers stayed on the sixth floor, and we went up to the seventh floor and started to search along the front windows. About that time someone yelled some empty hulls had been found on the sixth floor ..." (p.511)

The sequence of events he gives with respect to the finding and photographing of the empty cartridges is different in this statement than it was in his subsequent testimony:

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"... Capt. Fritz, Sims, and Boyd went over to near the stairway where one of the officers had called Capt. Fritz. Someone said the gun had been found. Capt. Fritz walked between a stack of books and over some books to where the gun was laying between some boxes and partically covered by some paper. The gun was about 5 feet from the west wall and about 8 feet from the west stairway. Sims went back to where Lt. Day was and told him the gun had been found. Lt. Day or Det. Studebaker took another picture of the hulls and said they had already taken pictures of the scene. Sims picked up the empty hulls, and Lt. Day held an envelope open while Sims dropped them in the envelope. Lt. Day then walked over to where the rifle had been found. Det. Studebaker and Lt. Day took pictures of ⁱthe rifle. Mr. Pankston of the F. B. I. and a Secret Service agent were there at the time pictures were being made. We don't know the Secret Service agent's name. Mr. Ellsworth and another officer from Alcohol Tax Department were also there." (p.512)

There is also a different version of the search of Oswald. This memcrandum says that Boyd found the 5 live rounds of .38 caliber ammunition. (p.514)