

Md. Judge Tells Revisionists

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BALTIMORE, May 26—John Wilkes Booth surely lies a-moldering in his grave here, a judge ruled today, but among a handful of ardent historical revisionists, the tantalizing idea that it could be somebody else persists.

Circuit Court Judge Joseph H.H. Kaplan barred exhumation of the body of President Abraham Lincoln's assassin, rejecting as spurious various claims that the historic grave is occupied by a stranger and that Booth escaped death at the hands of federal pursuers in 1865, living until 1903 in the Midwest.

"There is no compelling reason for exhumation," Kaplan wrote in a 13-page opinion after an intense four-day hearing on the Booth escape theory.

"We're now left with all these versions" of the escape, said a disappointed Mark S. Zaid, attorney for two Booth family members who had sought an exhumation order. "This won't resolve it. It just lets it lie."

Zaid said he is considering an appeal. He contended that there is a legitimate controversy and that the escape story is not just a pet project of a few zealots but is acknowledged as an alternative theory in some standard histories, including the current *Encyclopaedia Britannica*.

Kaplan said Booth, the dashing 26-year-old Shakespearean actor who fatally shot Lincoln at Ford's Theatre in Washington on April 14, 1865, was repeatedly identified by numerous friends, relatives and officials. Evidence in the historical record that the fleeing Booth was captured and killed 12 days later in a tobacco barn near Bowling Green, Va., and was "positively identified" in ensuing days "is indeed convincing," Kaplan said.

Also, Kaplan said, the body, reburied at Greenmount Cemetery here in 1869, is probably so deteriorated now from water seepage that identification probably would be "be inconclusive," even with the help of modern photo-imaging techniques and other procedures. There also are no dental charts available for comparison, Kaplan noted.

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to Let Booth, History Rest in Peace

In addition, he said, the body is in an unmarked grave, risking disturbance of other remains. Cemetery records indicate that it may lie somewhere among 11 or 12 other bodies in the 32-by-20-foot Booth family plot. But Kaplan noted that cemetery "oral history" also suggests it may have been placed elsewhere in the 80-acre cemetery to prevent desecration by vandals and Civil War partisans.

Booth, according to conventional historical reports, never married and had no direct descendants. Seeking the exhumation were Lois W. Rathbun, 44, of Hopkinton, R.I., a great-great-grand niece of the assassin, and Virginia Eleanor Humberrecht Kline, 73, of Warminster, Pa., a first cousin twice removed. Kaplan said they lacked sufficient "immediacy" to claim a right to exhume the body.

The judge said that Booth's mother and assorted brothers and sisters accepted the body as Booth's for final burial in 1869 and that their wishes should be respected now.

Nathaniel Orlowek, a Booth researcher

and history teacher at Beth Shalom School in Potomac, led the family's challenge of the official account. He contended through various newspaper reports and witness accounts that Booth fled the Virginia barn shortly before Union troops arrived on April 26, 1865. An unknown man, Orlowek said, was fatally shot as troops set the barn ablaze to flush out its occupants.

Though the man was described by some witnesses as having freckles and red hair, distinct from Booth's famous jet black hair and clear, pale skin, the body was officially identified as Booth's, Orlowek said.

This was done, he said, either by mistake or deliberately to allay public demand for Booth's capture and to allow the more than two dozen soldiers present at the capture to win their portion of the \$50,000 bounty on Booth's head.

The body, Orlowek testified, was hastily identified in the dark at the Virginia barn, then brought to Washington, where it was identified again, not by relatives or close

friends but, for example, by a hotel clerk who knew Booth only as a paying guest.

Meanwhile, Orlowek contended, the real Booth made his way west from Virginia, living under various aliases, fathering at least one child and committing suicide in Oklahoma Territory in 1903.

The body thereafter was mummified and for decades was carted around the countryside as a carnival attraction, Orlowek said. The mummy has not been accounted for since the 1970s, he said.

Several historians attacked Orlowek's version. William Hanchett, a Lincoln scholar and emeritus history professor at San Diego State University, called Orlowek's account "fiction" and said the body in the Virginia barn had been reliably identified "so many times by so many people that there couldn't be any doubt of its identity" as Booth's.

Booth researcher Michael W. Kauffman testified that as many as 100 friends, relatives, soldiers and government officials "saw the body . . . and said it was Booth's."