

**Complete Transcript of the Martin Luther King, Jr.
Assassination Conspiracy Trial**

Volume 5

22 November 1999

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IN THE CIRCUIT COURT OF SHELBY COUNTY,
TENNESSEE FOR THE THIRTIETH JUDICIAL
DISTRICT AT MEMPHIS

CORETTA SCOTT KING, et al,

Plaintiffs,

Vs. Case No. 97242

LOYD JOWERS, et al,

Defendants.

PROCEEDINGS

November 22nd, 1999

VOLUME V

Before the Honorable James E. Swearngen,

Division 4, judge presiding.

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PROCEEDINGS

(November 22nd, 1999, 10:15 a.m.)

THE COURT: Mr. James, would you bring the jury out, please.

(Jury in.)

THE COURT: Good morning, ladies and gentlemen. Glad to see that all of you survived the weekend. We're going to proceed with our trial at this point.

Mr. Pepper, what's your next order of proof?

MR. PEPPER: Yes, Your Honor. If it please the Court, we'd like to – plaintiffs would like to continue where we left off with Ambassador Young's testimony by going directly into the tape-recording of the meeting that he described with the defendant.

Though the Court may wish to break from time to time, we – the plaintiffs feel it is important for the jury to hear the entirety of that tape.

THE COURT: I believe you said Friday it is about two hours long?

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MR. PEPPER: We believe it is about two hours.

THE COURT: It might get too exciting for us.

MR. PEPPER: We might have to take a break after an hour or so.

THE COURT: Whatever pleases the Court. Thank you.

THE COURT: We'll begin with that. Go ahead.

If you would just explain to the jury the circumstances under which this tape was made, where it was and then it might be a little more meaningful.

MR. PEPPER: The tape was made approximately a year ago, as Ambassador Young testified. And it was made here in the State of Tennessee. The participants at the meeting were the defendant, Mr. Loyd Jowers, his attorney, Mr. Louis [Lewis] Garrison, Ambassador Andrew Young and plaintiff Dexter Scott King.

They came together for the purpose really of discussing the underlying cause of

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action in this case, Mr. Jowers' role in respect to the killing of Martin Luther King.

While there is introductory information and some banter occasionally, we would ask the Court and the jury to listen carefully to the various questions and the responses to those questions.

MR. GARRISON: Your Honor, we'd like to have it started at the very beginning.

MR. PEPPER: Yes, sir. I've asked the technician to start it from the beginning.

THE COURT: All right. Go ahead.

(Tape played for the jury in open court as follows:)

LOYD JOWERS: Dexter, what you been up to?

DEXTER KING: Well, I've been keeping busy, working hard, traveling a lot.

LOYD JOWERS: You work a lot at night, don't you?

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DEXTER KING: I do. You remember. I was working late one night in my office when I talked to you.

LOYD JOWERS: Yeah.

DEXTER KING: Keeping, you know, keeping all things moving forward, just still trying to deal with this issue. This is a very trying issue, because, as you know, my family, particularly my mother, I've been concerned about because the media has been very vicious –

LOYD JOWERS: Oh, yeah.

DEXTER KING: – in trying to discredit and attack, you know, the family.

We had hoped that we would get to the bottom of this so we can move on. I think in order to have true closure, you have to get it out. You have to get it out in the open.

So we appreciate your willingness to open up and come forward. As you know, we continue to support immunity for you, but, as you know, the District Attorney doesn't seem like they want the story to come out. So it appears they are shutting everything down.

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LOYD JOWERS: Yeah.

DEXTER KING: I think that would be a major tragedy.

LOYD JOWERS: Oh, it would be, definitely.

Don't you think so, Mr. Young?

ANDREW YOUNG: I do. In fact, I think that – I don't think I would be out of order in saying if something happened and you were indicted for anything, then I would sure be willing to come over here and testify on your behalf as having been – as having been very helpful to us in trying to understand that. We would want to make sure that nothing happened to you.

LOYD JOWERS: Well, you know, this is what I don't understand, and I never did understand it about President Kennedy:

That they know there has got to be a conspiracy. Why they won't admit that and go from there on the basis of prosecution, whatever they have to do, I don't understand why they won't do it.

LEWIS GARRISON: Mr. Jowers, Mr.

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King and and Mr. Young have read the account of this that I had written from what you had and I had talked about. So they want to question you.

LOYD JOWERS: Okay. Any time you get ready.

LEWIS GARRISON: Feel free to go forth.

DEXTER KING: When we last met, you had pretty much taken us I think up to a point where you had received the rifle from Lieutenant Clark.

DEXTER KING: And you thought it was a 30-30, you said, and you might have been mistaken, that it was a 30-06.

LOYD JOWERS: I very well could have been. Let me tell you that I knew he owned a 30-30. I couldn't swear that that was Clark that I took it from, but I believe it was.

Now, see, it happened just about that quick. (Snap of fingers.) I was at the back door at six-oh-clock like I was supposed to be. How many seconds did it take him to

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hand me that rifle and get going? That was just a split second.

LEWIS GARRISON: You said it was still smoking?

LOYD JOWERS: Oh, the smoke was still coming out the barrel of the rifle. I breached it. Of course, that's what you've got to do before you break one down.

LEWIS GARRISON: Clark had been back that night, that afternoon?

LOYD JOWERS: He had been in the place that day, yeah.

LEWIS GARRISON: Had you seen him go in the back?

LOYD JOWERS: He went back and looked out the back. You see, the way the grill was laid out, up here is where all your customers are. The kitchen is here. Back here we've got a storeroom. He walked all the way back.

Of course, I was there working, you know. I didn't really pay attention to him. Of course, he was a friend of mine.

ANDREW YOUNG: You met him by

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the back door by the storeroom?

LOYD JOWERS: You are talking about that night?

ANDREW YOUNG: Yes.

LOYD JOWERS: Yes, I met him – yes, I was at the back door.

ANDREW YOUNG: Out of the storeroom?

LOYD JOWERS: Yeah.

ANDREW YOUNG: And he came up from the woods back there or bushes?

LOYD JOWERS: From the bushes.

ANDREW YOUNG: And he handed you the rifle?

LOYD JOWERS: About that quick. All I got was a glance of him. I had the back door standing open. I didn't have to open the door or anything. It was standing open. The rifle was smoking.

I'll put it like this: I thought it was a 30-30. I didn't examine it. I didn't have time. All I

done was get that empty shell out of it, and there were no other shells in it but that one. That's all that

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was in there.

The rifle was smoking. I broke it down right quick, put it up under my apron, walked up to the front, set it underneath the counter. I wrapped it in a table cloth first.

I stuck it under the counter and went on up to the front of the building. By the time the police got there, it took them about two, two and a half minutes to get there, I didn't have time to see nobody or do nothing getting up there that quick. Of course, I was working by myself.

ANDREW YOUNG: You had heard the shot before you went to the back?

LOYD JOWERS: No, I was already in the back.

ANDREW YOUNG: You were already in the back at six-oh-clock?

LOYD JOWERS: Yeah.

ANDREW YOUNG: You heard the shot from from back there?

LOYD JOWERS: One shot is all I heard.

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LEWIS GARRISON: You'd been told to be back there at six, hadn't you?

LOYD JOWERS: I had been told to be back there at six, yeah, that a man was going to pass me a package. He didn't tell me what it was. I certainly didn't know he was going to shoot anybody, especially Dr. King, the fact it turned out to be.

What I would have bet was a 30-30, but it could have been a 30-06. There is not that much difference in them if you ever compared them. There is not that much difference in them. They both break down about the same way. I didn't have to break

it down, but I was told to –

ANDREW YOUNG: Did you used to go hunting with Mr. Clark?

LOYD JOWERS: Oh, yeah. I went hunting with him. Never went with him any more after that, though.

LEWIS GARRISON: You said you and Mr. Clark worked at the police department at same time, that you were a police officer at the same time he was?

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LOYD JOWERS: He come on the police department just a short time before I got off. But now we went hunting down in Mississippi pretty regularly, went hunting on Rex Chenault's place down in Mississippi, down below Hernando.

ANDREW YOUNG: Is Mr. Clark still alive?

LOYD JOWERS: I think he is, isn't he?

LEWIS GARRISON: No, he is dead.

LOYD JOWERS: Oh, is he?

LEWIS GARRISON: His wife is still living, though. Mr. Barger is dead.

The only one that is still living is Officer Zachery, who was in and out of the grill, wasn't he?

LOYD JOWERS: Well, unless I'm mistaken about this, Officer Zachery was in charge of the men that was in charge of Dr. King's security. Now, I could be wrong about that, but that's what I thought.

LEWIS GARRISON: He was in and out of the grill some, Officer Zachery.

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LOYD JOWERS: Oh, yeah.

LEWIS GARRISON: Merrell McCullough was there, that's one of the first ones you ever mentioned?

LOYD JOWERS: McCullough, yeah.

LEWIS GARRISON: How was he identified? How was he introduced to you, Merrell McCullough? Who introduced him to you?

LOYD JOWERS: I don't remember if it was Clark or Johnny Barger. It was one or the other of them.

Now, Johnny Barger was my partner. We were policemen together. He is the one who introduced me to Frank Liberto. We used to go there quite often. They was real good friends.

Of course, I got to be pretty good friends with Frank, because he could do you a lot of good in Memphis, especially on the police department.

DEXTER KING: Did you know Frank's family, like his wife?

LOYD JOWERS: I met her one

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time, but as far as really knowing her, I can't say I did. I never was out with her ever at a party or anything.

DEXTER KING: Do you know her name?

LOYD JOWERS: I always called her Ms. Liberto.

LEWIS GARRISON: Is she still living?

DEXTER KING: Is she still living?

LOYD JOWERS: I think she is.

Dexter, you do remember I'm hard of hearing, don't you? I only hear about thirty percent in this ear. That's the reason we're taping this, because sometimes I don't get a question right. If I don't get it right, I can't answer it right.

LEWIS GARRISON: They took – I don't know if you and Mr. Young are aware or not, but the FBI questioned Mrs. Liberto, who was the mother of Mr. Liberto, and his brother, who was on the police force, and I've got copies of those statements.

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DEXTER KING: Was his brother Charles?

LEWIS GARRISON: A Memphis police officer. They had a picture of Mr. Ray. They all asked if they knew him, and they said they did not but he looked familiar, like someone they had seen around.

DEXTER KING: When they saw the picture of Ray you are saying they thought it was somebody –

LEWIS GARRISON: Mr. Ray claimed in his deposition he had gone to New Orleans to meet with Raul. In her affidavit and also his brother and I believe someone else, they all said Mr. Ray's face looked familiar.

DEXTER KING: Was the brother a police officer in New Orleans?

LEWIS GARRISON: Yeah. He is retired now. He is still there, as far as I know.

DEXTER KING: Does he have a business?

LEWIS GARRISON: He may. I'm not sure, to be honest with you. I'm not

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sure. He is retired from the police department. He may have a business. I'm not sure.

DEXTER KING: Do you know anything about his brother, Charles?

LOYD JOWERS: The one that lives in New Orleans?

DEXTER KING: I think so. Charles.

LOYD JOWERS: No, sir. I never did know Charles. Now, I heard of him. Frank told me about him. But I never met him, as far as I can remember. I never met Charles.

DEXTER KING: What about in Dr. Pepper's book he talks about the market, I think L&M or I think L&L, Latch & Liberto?

LOYD JOWERS: Yeah, over on Scott Street.

DEXTER KING: Okay. I think there was a Frank Liberto, a produce dealer, and a Frank Liberto –

LEWIS GARRISON: There were three of them.

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DEXTER KING: There were three.

LEWIS GARRISON: A car salesman, liquor store owner and produce dealer.

DEXTER KING: I was going to ask you did you know all of the three or any of the three?

LOYD JOWERS: The only one I knew was Frank. He is the one that always called me. Like I say, I handled that one hundred thousand dollars for him. But it wasn't the first time I handled money for him. But it was the last time.

DEXTER KING: Let me understand. They would ask you to receive the money. They would send it over in a box?

LOYD JOWERS: With my produce, yeah, in the bottom.

DEXTER KING: Then somebody would pick it up from you?

LOYD JOWERS: Yeah.

DEXTER KING: Pick up the box. Okay. Now, in the case of the one hundred thousand that they sent over, did they tell

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you that it was for, you know –

LOYD JOWERS: They never told me what – none of the money I handled for them over the years, they would never tell me what it was for, just that it would be in there.

This time they told me how much it was. But I didn't count it. I did not. I never counted it.

LEWIS GARRISON: Describe for them what it looked like, Mr. Jowers.

LOYD JOWERS: Well, it was in one-hundred-dollar bills. Heck, I don't know how thick it was. About like that. Two rubber bands around them, one on each end. It was in a brown paper bag.

ANDREW YOUNG: It was in with your vegetables?

LOYD JOWERS: It was underneath my vegetables, it sure was.

DEXTER KING: Now, who picked up that box?

LOYD JOWERS: First Frank called me and told me there will be a Cuban by to pick it up. He said, you give him that

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package. That's when he told me that there was a hundred thousand dollars in it.

I told him, said, Frank, you know I ain't going to count that money. If it is a hundred thousand, that's fine. If there is not that much, that will have to be fine, too.

Then he called me back – let's see. That was on a Wednesday morning. Then he called me back and said, now, that wetback is going to be by there to get that package that is going to be handed in that back door. He called him a wetback. I never heard a Cuban called a wetback. So I don't know if it was a Cuban or a Mexican, but it was definitely a foreigner.

DEXTER KING: Was that Raul?

LOYD JOWERS: That's what they said his name was. I don't believe that was his

name anymore than I believe yours is Jack Thomas.

DEXTER KING: Why is that?

LOYD JOWERS: I just don't believe that. Why would a man use his own

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name when he is involved in something like that? Why would he do that?

No, he would use Jack Jones or – but Raul, I was going to look that up and see what that stands for in a foreign language. I'm not sure what it stands for. But it is very common among foreigners.

LEWIS GARRISON: You at first thought he said Royal, didn't you?

LOYD JOWERS: I thought he said Royal, I sure did. But he corrected me and told me Raul. I said, well, whatever.

LEWIS GARRISON: Did you know any of Frank Liberto's close friends, who his close friends were?

LOYD JOWERS: Well, the lady that owned a restaurant out on in Highland Heights.

DEXTER KING: Is that [Lavada Whitlock Addison](#)?

LOYD JOWERS: Ms. Whitlock, right. Now, I met her one time back along about that time. She wasn't all that old a woman, either. I don't remember what the

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occasion was, but I did meet her. Of course, I knew [Nathan](#) over the years after the assassination took place. I knew Nathan real well.

DEXTER KING: That was her son?

LOYD JOWERS: Pardon?

DEXTER KING: Nathan was her son, right?

LOYD JOWERS: Yes, sir.

DEXTER KING: Now, he knew Liberto as well?

LOYD JOWERS: He knew him real well. See, Ms. Whitlock owned a restaurant out on Highland Heights, on Macon Road, I believe. I believe that's where it was. Frank used to stop in there all the time. The fact is he tried to go to bed with her all the time, Mrs. Whitlock. He may have. I don't know. Anyway, he'd get oiled up, get drunked up, and he'd do a lot of talking.

DEXTER KING: Do you know any other friends of his or were those the only

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two?

LOYD JOWERS: You know, apart from the people on the police department, Johnny Barger, I'm not sure if Cross was a friend of his or not, but I know Johnny Barger was.

We used to be in a squad car in a territory and we'd leave our territory and go over on Scott Street to his place of business. Sometimes we'd stay but a few minutes, then other times we'd stay longer than that.

See, you have to understand that back then, back then everything was done politically. If you got anywhere, you had to know somebody that knew somebody. It is almost that way now, but it was really, really bad back then. There was no blacks on the police department, it was just an unheard of thing.

ANDREW YOUNG: Was that Crump time? Was Crump in office back then?

LOYD JOWERS: Oh, yeah. Crump is the one that got me the job. I went to

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see him on a Monday, and on a Thursday I went to see the police commissioner. That Monday morning I was riding in a squad car with a 38 hanging on my side, billy

stick hanging on this side. That's just the way things operated back then.

ANDREW YOUNG: Were you in the military?

LOYD JOWERS: I was in the Navy, yes. I had been discharged out at Millington, I don't know, less than a year after I went on the police department.

Jobs were kind of hard to find back then. They were doubly hard for black people. It was hard enough for white people, but it was tough on blacks back then to find a job.

DEXTER KING: Any other friends that come to mind of Mr. Liberto's?

LOYD JOWERS: No, I can't think of any more. I really can't.

DEXTER KING: What about in Texas, did you know of any of his relationships with friends in Texas?

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LOYD JOWERS: Who? Frank?

DEXTER KING: Yes.

LOYD JOWERS: No, sir, I didn't know any. I didn't know he had people there. I knew he had a brother that lived in New Orleans.

DEXTER KING: So you weren't aware of any business he may have been in Texas or New Orleans?

LOYD JOWERS: No.

DEXTER KING: You just knew he had a brother?

LOYD JOWERS: I knew he had a brother that lived in New Orleans. I don't remember who told me. I don't think Frank told me, but he said he was in the same business that Frank was in. And by that –

DEXTER KING: You mean produce?

LOYD JOWERS: Yeah. Yeah. And in the Mafia.

DEXTER KING: When did he first talk to you about the killing?

LOYD JOWERS: About the killing of Dr. Martin Luther King?

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DEXTER KING: Uh-huh.

LOYD JOWERS: After it took place. After it took place.

DEXTER KING: The thing I read is a little confusing from Mr. Garrison, the part about – I thought it said that Frank Liberto was discussing this potential riot or March beforehand.

LOYD JOWERS: Oh, we talked about that, sure. But there was no killing mentioned, no.

DEXTER KING: Okay. But when he said or alleged that he said that he would go home with his toes in the air, sticking in the air or something, sticking up, that if he comes here, in other words, he will leave dead, I mean, that's the way I interpreted it.

LOYD JOWERS: If Frank Liberto ever told me that, I don't remember. But I wouldn't doubt him saying that. I would not. Because that's just the way he was.

DEXTER KING: So you don't remember talking about the killing until

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actually after it took place?

LOYD JOWERS: If he – he didn't mention it until after the fact. I do not remember.

DEXTER KING: When he did, what did he tell you, when he finally mentioned it?

LOYD JOWERS: He asked me a question. He didn't come down to the place. He called me on the phone. He said, do you know what that bundle money was for? I said, well, I have no idea. He said, well, that's what it cost me to get King killed.

Word for word, that's what he told me. I almost dropped the damn telephone. Well, you know, it surprised me. I figured it was to buy guns with or dope or whatever it was he was dealing with.

DEXTER KING: So you were surprised? You were really shocked?

LOYD JOWERS: I certainly was. Why, sure I was. Now, if there was no conspiracy – let me pass this by you. If there was no conspiracy, Dr. King, whenever

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he come up to Memphis, he checked into the Rivermont Hotel where he stayed when he come to Memphis. Everybody knew that. I knew it, even. I kept up with him not real close. You know, the black people that come in my restaurant, we'd talk about it. I'd carry on a conversation with them.

The very next day, I think the very next day, they moved him over to the Lorraine.

Okay. Now – I can't remember her name. Anyway, the lady that runs the place.

DEXTER KING: Ms. Bailey?

LOYD JOWERS: Ms. Bailey. She put him downstairs. They almost – I don't think he stayed downstairs one night. They almost immediately moved him to the second floor.

Now, there had to be a conspiracy. I couldn't have done it. James Earl Ray couldn't have done it. There had – it had to be his security people or the CIA or the FBI. It had to be.

DEXTER KING: Did you know of

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anybody else who may have mentioned the plot before, you know, it happened other than Liberto? I mean, did anybody mention the possibility that this might happen or that it was going to happen to you?

LOYD JOWERS: I don't remember anyone mentioning it black or white. I really don't. I had about half my customers – I'm talking about overall about half black and half white, because I was in a mixed neighborhood. Which was fine with me.

I didn't care what color they were. You know, I always tried to see that everybody had enough food when they left. But to my knowledge, no one ever mentioned that.

ANDREW YOUNG: Mr. Jowers, do you mind saying how old you are now?

LOYD JOWERS: I'm just passed seventy-one. November 20th I'll be seventy-two. I have glaucoma in both eyes. I've got a cataract on this one.

ANDREW YOUNG: But you are looking pretty fit, though?

LOYD JOWERS: I am. I exercise

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every day. I do. I exercise every day. Hell, I may live to be a hundred, but I don't believe it. I smoke two packs of cigarettes every day.

LEWIS GARRISON: You told Mr. King before about a meeting that was held in your place where some people identified themselves as –

LOYD JOWERS: Yeah. Do you remember me telling you that?

DEXTER KING: I do.

LOYD JOWERS: About these policemen meeting there.

LEWIS GARRISON: The CIA and FBI – (Inaudible).

LOYD JOWERS: The CIA and the FBI were there, but they weren't there the same time all those policemen were there.

They were not there at the same time. But that wasn't unusual. Cab drivers would meet in there, policemen met in my place.

ANDREW YOUNG: This is all before Dr. King was killed?

LOYD JOWERS: Oh, yeah, this

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all took place before. Very rarely did they have any more meetings after the – if a policeman came in, it would be be Johnny Barger or Clark or someone like that that would just stop in for a minute.

DEXTER KING: So did you ever overhear anything that they were saying or did you have a sense for what they were meeting about?

LOYD JOWERS: Now, I would be working. You know how it is in a restaurant. I would be working and I'd pick up a word. I wouldn't know what the meeting was about. What was discussed, I couldn't say. Of course, I would only get a word now and then from going by the table.

DEXTER KING: Now, you said they didn't meet together. You mean the Memphis police met separately from the CIA?

LOYD JOWERS: In the past, yeah. See, this CIA business with the FBI on my part of it was just guesswork, because they always wear plain clothes.

ANDREW YOUNG: Did they come

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together, the FBI and CIA?

LOYD JOWERS: Yeah, they was together.

ANDREW YOUNG: But not with the –

LOYD JOWERS: They were not with the – now, there was one stranger who was with the police that I never seen before or after the meeting. That was with Johnny Barger and Clark. I just don't remember who all was at that meeting. Like I say, I was working. They had been there spending money. Of course, I waited on them.

LEWIS GARRISON: How many times was Merrell McCullough there before this?

LOYD JOWERS: How many times what now?

LEWIS GARRISON: How many times was Merrell McCullough in there before this meeting?

LOYD JOWERS: How many times was he in there? I can't remember. He could have been in there when I wasn't even around.

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LEWIS GARRISON: But you saw him in there several times?

LOYD JOWERS: I saw him several times, sure.

LEWIS GARRISON: He was introduced to you as a police officer, wasn't he?

LOYD JOWERS: Yeah.

LEWIS GARRISON: Johnny Barger told you that was his assistant or –

LOYD JOWERS: I believe he was a sergeant at that time.

LEWIS GARRISON: Barger?

LOYD JOWERS: No.

LEWIS GARRISON: Merrell McCullough?

LOYD JOWERS: McCullough. I believe he was a sergeant when Dr. King got killed. I think he was.

LEWIS GARRISON: Was he in a police uniform when you saw him?

LOYD JOWERS: No.

LEWIS GARRISON: He was not?

LOYD JOWERS: No. He was

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plainclothed whenever he would come in the restaurant. I never did see him in his uniform. Now, Johnny Barger always came in his uniform.

DEXTER KING: Tell me again, because I just want to make sure I've got the details down, when you received the money, who brought the produce to you, the produce box?

LOYD JOWERS: One of Frank's regular drivers. I don't recall his name, I really don't, if I ever knew his name.

DEXTER KING: Do you remember when you received it, what date and time, that kind of thing?

LOYD JOWERS: Yeah. They brought my produce on Wednesday.

DEXTER KING: Okay. This was afternoon or –

LOYD JOWERS: Yeah, it would be in the afternoon. I opened up about five o'clock, got lunch ready, I wouldn't go home until four o'clock in the afternoon.

DEXTER KING: Then Frank called

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you that afternoon?

LOYD JOWERS: Yeah.

DEXTER KING: To ask you whether you received it?

LOYD JOWERS: Yeah.

DEXTER KING: What did he say about the money?

LOYD JOWERS: He described this – he called him a Cuban the first time, then he called him a wetback after that. So I don't know. He was a foreigner, anyway.

DEXTER KING: What did he say about the money? He just said the money was in the box?

LOYD JOWERS: Yeah. He didn't tell me where. I knew it was hid then the bottom of it

DEXTER KING: He asked you if you had counted it?

LOYD JOWERS: Yeah.

DEXTER KING: You said no, you weren't going to count it?

LOYD JOWERS: That's the first and last, only time, he ever asked me if I

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had counted it.

DEXTER KING: Okay. But then what did he say you were supposed to did with the money?

LOYD JOWERS: He said put it up until tomorrow, there will be a wetback or a Cuban by there to pick it up. I said, well, okay. So I put it in the old cook stove I didn't use, because nobody ever went in there, and I knew they didn't. But they couldn't have got by me anyway.

DEXTER KING: So did the Cuban come and pick it up?

LOYD JOWERS: Yeah, the next any. The next day.

DEXTER KING: That's the person that is alleged to be Raul?

LOYD JOWERS: Yeah.

DEXTER KING: Was that your first time ever seeing him?

LOYD JOWERS: If he had ever been in there before then, I didn't know it. Now, I won't tell you he wasn't in there, but I didn't know if he was.

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DEXTER KING: So you just gave him the money panned that was it?

LOYD JOWERS: Sure. He walked on out the door. Same way when he come and picked that rifle up I took in the back door. He come in, picked it up, hit that door, turned right north on Main Street, and I haven't seen him anymore since then.

DEXTER KING: That was Clark?

LOYD JOWERS: No, I'm talking about Raul.

DEXTER KING: I'm sorry. I was confused. You said you haven't seen him since he came to the back door. Is that what you said?

LOYD JOWERS: I'm talking about the guy that picked the rifle up the next day, the one that actually –

DEXTER KING: Is that the same guy you gave the money to?

LOYD JOWERS: Yes, same guy.

DEXTER KING: Same guy?

LOYD JOWERS: Same guy.

DEXTER KING: Okay.

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LOYD JOWERS: Now, they said it his name was Raul. It could have been.

DEXTER KING: What's confusing is I think that – I thought that the person who picked up the money was different from the person who picked up the rifle.

LOYD JOWERS: No.

DEXTER KING: It was the same person?

LOYD JOWERS: Same person.

ANDREW YOUNG: But a different person gave you the rifle?

LOYD JOWERS: Oh, yeah, definitely.

ANDREW YOUNG: Who gave you the smoking rifle?

LOYD JOWERS: That was a white man that gave me the rifle. I could see that much.

LEWIS GARRISON: Wait a minute, Mr. Jowers. You are getting confused. You are talking about after the shot was fired?

LOYD JOWERS: Yeah.

LEWIS GARRISON: A white man

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gave you – this white man gave you a rifle after the shot was fired?

LOYD JOWERS: Yeah, in the back door.

LEWIS GARRISON: You are pretty sure that's Clark?

LOYD JOWERS: I'd almost swear to it. But now as far as getting a good look at him, I did not, because the thing really took (snapping of fingers) that fast.

LEWIS GARRISON: But the person who brought the gun in was the one he called a wetback?

LOYD JOWERS: Yeah.

LEWIS GARRISON: Then the person when came back and got it was –

LOYD JOWERS: The same person, sure was.

ANDREW YOUNG: Let's see. We've got three trips: One that they came to pick up the money. That was the same man that brought you the rifle?

LOYD JOWERS: The same man that picked it up, yeah.

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ANDREW YOUNG: He brought you the rifle?

LOYD JOWERS: Yeah.

ANDREW YOUNG: He picked up the money. Then he came back and picked up the rifle?

LOYD JOWERS: Now, wait a minute now. There is a misunderstanding here somewhere. I never seen a rifle in my restaurant until after the killing.

LEWIS GARRISON: You said they brought in a box.

LOYD JOWERS: There was a box. How would I know? It had never been opened. I don't know what it was. Now, there was a box.

LEWIS GARRISON: A long box?

LOYD JOWERS: It was big enough for that rifle to go in.

ANDREW YOUNG: Raul brought that – I mean the Cuban had brought that box?

LOYD JOWERS: The same guy. There are three trips he made.

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ANDREW YOUNG: Okay.

LOYD JOWERS: That's right.

DEXTER KING: Okay. So he brought the box after the produce was delivered, the long box?

LOYD JOWERS: Yeah, he brought that separate.

DEXTER KING: But he didn't deliver the produce?

LOYD JOWERS: No.

DEXTER KING: That came from Frank's market?

LOYD JOWERS: Frank Liberto.

LEWIS GARRISON: You bought from them pretty regularly? You bought all your produce from them, didn't you?

LOYD JOWERS: The same driver, yeah. It was the same driver.

LEWIS GARRISON: How long had you owned Jim's Grill at that time?

LOYD JOWERS: I opened that grill up I believe in either late 1966 or early 1967.

LEWIS GARRISON: You had been

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buying produce from this same place all the time?

LOYD JOWERS: Yeah. If Frank didn't have something, I would get it from –

ANDREW YOUNG: Do you remember what it was, what kind of produce it was with the money?

LOYD JOWERS: That day?

ANDREW YOUNG: Uh-huh.

LOYD JOWERS: If I thought about it long enough, I could remember. Well, I know I ordered three or four stalks of celery, because I was going to have soup. You have to have celery to go in soup. Anyway, I know that celery was in there and maybe a head or two of lettuce. Just what you would use in a restaurant.

DEXTER KING: Then when he brought the long box – when was that brought?

LOYD JOWERS: What time of day?

DEXTER KING: Was this the same day?

LEWIS GARRISON: Was it the

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same – are you talking about the same day he brought the produce in?

DEXTER KING: Right. The same day?

LOYD JOWERS: You know, I don't believe it was. I don't think there was but that one delivery that day. You know, I don't believe that long box was brought when I was – you know, I believe that long box was brought when I wasn't there. That would have been the next day. That would have been the day that Dr. King got killed.

DEXTER KING: Who came and got the long box? Who came and got the rifle? How did they get the rifle?

LOYD JOWERS: If it was a rifle. If it was a rifle.

DEXTER KING: Okay.

LOYD JOWERS: Raul would have had to have picked it up. He had to come after it, because I never give that long box to no one else.

DEXTER KING: Where did you put it?

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LOYD JOWERS: Under the counter. Under my – you know, you have a long counter. I put it up under the counter. Now, it wasn't wrapped up or anything. It was just along box. It was about that thick, about that wide. It wasn't all that long. Maybe as long as this table.

DEXTER KING: They told you to store it?

LOYD JOWERS: Just hold on to it.

DEXTER KING: So they came back to get it when you weren't there?

LOYD JOWERS: I don't remember giving it to anyone, I don't. I do not.

ANDREW YOUNG: And the police never searched your store?

LOYD JOWERS: No, never. I talked to one. He said he was FBI. That's the next day.

ANDREW YOUNG: But they never searched your place?

LOYD JOWERS: No, sir.

ANDREW YOUNG: Never looked

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back in the back in the storeroom?

LOYD JOWERS: No, sir. To my knowledge – it had a full basement underneath that place. To my knowledge, they never went down there. As far as I know, they didn't.

Now, I thought that was kind of strange. There could have been a half dozen people down in that basement, you know. Of course, there wasn't nothing down there.

DEXTER KING: Who owned the produce company that sent you the vegetables?

LOYD JOWERS: Who owned it?

DEXTER KING: Who owned it?

LOYD JOWERS: Well, I always believe Frank Liberto owned it. But that don't mean he did. He always said he owned it, anyway.

DEXTER KING: Did Latch have any –

LOYD JOWERS: I don't know. I can't answer that.

DEXTER KING: Did you know Latch?

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LOYD JOWERS: Pardon.

DEXTER KING: Latch, do you know Latch? Is he still living?

LOYD JOWERS: No. I met him one time. As far as knowing anything about him, I don't.

DEXTER KING: I wanted to go back to the meeting with McCullough. Did he come in with the Memphis Police officers or with the Feds?

LOYD JOWERS: No, he come in with the Memphis Police. I believe there was a total amount of five. The reason I say that, we had two people sit here and two over here at a booth, and I took them a chair, so there had to be five.

I know one I had seen – I know one I had never seen before and haven't seen him since. Now he could have been FBI, could have been CIA. I don't know.

DEXTER KING: You never heard their conversation, but you had a sense of what they were meeting about?

LOYD JOWERS: I knew it was

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something illegal. I knew that part of it. I would pick up a word now and then. I knew they were up to something illegal, sure I did. I wasn't really too concerned about it because I didn't want to know about it. I really didn't.

DEXTER KING: Did anybody else see the money that you received?

LOYD JOWERS: Yeah. [Betty Spates says she saw it](#). Now, whether she did or not, I don't know.

LEWIS GARRISON: One of the other ladies that worked there?

LOYD JOWERS: She described it to me.

LEWIS GARRISON: Her sister?

LOYD JOWERS: I'm almost sure she saw it.

LEWIS GARRISON: Two of them did.

DEXTER KING: How would she have seen it? Did she go and look in the –

LOYD JOWERS: She would have had to have opened that oven up, the old stove,

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and looked at it.

LEWIS GARRISON: We have taken a deposition from her.

DEXTER KING: Now, Betty Spates was the black waitress?

LOYD JOWERS: Yeah.

DEXTER KING: And you had a relationship with her. Is that correct?

LOYD JOWERS: That's true.

DEXTER KING: Would she have – I'm wandering around a little bit because I'm going off my memory.

LOYD JOWERS: I'm following you pretty good. Go ahead.

DEXTER KING: Did she say that she saw you run in with the rifle?

LOYD JOWERS: She said that, Dexter, but she couldn't have because she was not there that night. She was not.

Now, I was the only one working that night. If Harold Parker was still living, he would tell you that. He would also tell you I went to the back door at six o'clock, too. He was sitting – there a row of booths

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here. He was sitting sitting in the back booth, and the back door was down here. And the back door was standing open.

DEXTER KING: What did Frank tell you about the murder weapon? I remember before we met – when we met before, he said something about he said it was his property.

LOYD JOWERS: He said it was his, yeah, he sure did.

DEXTER KING: But that was after you retrieved it and put it under – well, let me ask you.

LOYD JOWERS: When he told me that, I had already given it to Raul or whatever his name was.

DEXTER KING: The next day?

LOYD JOWERS: He didn't tell me the next day, I don't think. Two or three days later after that I talked to him.

DEXTER KING: No. I'm saying when did you give it to Raul?

LOYD JOWERS: I give it to him early the next day, sure did.

DEXTER KING: April 5th?

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LOYD JOWERS: Yeah, the very next day.

DEXTER KING: Okay. But Liberto didn't know that Raul was picking it up?

LOYD JOWERS: Oh, yes, he did, too. I wouldn't have give it to him if Liberto hadn't told me. I believe he called him a wetback, he would be there to pick that package up you got in the back door.

Of course, after the shooting took place, then I knew what that damn rifle had done, I really had.

DEXTER KING: You had put it all together then?

LOYD JOWERS: Sure. It wasn't very hard to put together. I knew I was right in the middle of it. So all I could do from then on was keep my damn mouth shut. That's what I done. That's what the Mafia knew I would do. But I don't know. I don't think we'll ever get any more with it myself. Well just have to see.

ANDREW YOUNG: McCullough is a

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pretty young man?

LOYD JOWERS: He was young back then.

ANDREW YOUNG: He will be around a long time.

LOYD JOWERS: Oh, yeah.

LEWIS GARRISON: That is thirty years ago. He'd probably be – (Inaudible).

LOYD JOWERS: Don't he work for the CIA now?

ANDREW YOUNG: That's what I thought.

LOYD JOWERS: That's what I heard.

LEWIS GARRISON: Yeah.

LOYD JOWERS: That's what I thought. That's what I heard. I didn't know that for sure.

LEWIS GARRISON: If this was thirty years ago and – I think he would have been in his twenties back then, and this was thirty years ago.

LOYD JOWERS: I think the only way we're ever going to be able to prove that

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this conspiracy is to get the FBI and CIA's records on it. It is common knowledge, white and black both know, that J. Edgar Hoover hated Dr. King with a personal passion.

ANDREW YOUNG: But there wouldn't be any record of it.

LOYD JOWERS: You don't think they would make records on something like that?

ANDREW YOUNG: No.

LOYD JOWERS: Well, you are probably right. It wouldn't be too smart to, would it? How do you prove it?

ANDREW YOUNG: Well, it is very difficult to prove. That's the reason why we've advocated what they did in South Africa, declare general amnesty and let everybody come forward and clear their conscience.

LOYD JOWERS: Now, that would work if they did that.

ANDREW YOUNG: And it would help – I think it would help the country.

LEWIS GARRISON: I do –

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(Inaudible.)

DEXTER KING: Let me ask you, Mr. Jowers, I know you are really afraid of being indicted if you come forward, but what if you were to come to the media, tell your story, like maybe talk to a reporter who is friendly, I mean, somebody who we feel would be sensitive, they wouldn't try to paint you in a – you know, in a negative light, but just tell the story the way it happened, not the way you've been dealt with in the past, you know, by some of the media.

LOYD JOWERS: Yeah, right.

DEXTER KING: But what if they did a print story first and then you followed that up immediately, like let's say the story came out in the morning and you call a press conference that day and you told your story in front of a host of reporters where they can't isolate you, you know, like with *ABC Prime Time* and *Turning Point*, you know, they could control the message, whereas if you do you it in a live press conference, they can't edit it, they can't spin it in a way that

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they want it to be, how would you feel about that?

LOYD JOWERS: If I thought it would do any good, I'd do it in a minute. I think what it will do – I'm going to tell you what I think, Dexter. If I thought it would do any good, I would do it in a minute. But let me tell you, if I do that without immunity, the first damn thing a prosecutor in Memphis is going to do is get me indicted.

Now, you can just believe that or not, but that's what will happen. He has already said he has got enough evidence to indict me but he don't have enough evidence to get a conviction. That's the reason I'm not indicted right now. I guarantee you it is.

ANDREW YOUNG: They would indict you for being part of a conspiracy?

LOYD JOWERS: Yeah, they sure would.

LEWIS GARRISON: They did make that statement.

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LOYD JOWERS: Sure they did. The fact is I've investigated it. I had four or five beers in my belly, and I called him. I said, you son-of-a-bitch, do you think I'm scared to you? You are wrong.

DEXTER KING: Was this Cook?

LOYD JOWERS: What was that guy's name?

LEWIS GARRISON: Glankler?

LOYD JOWERS: Mark Glankler. That's who it was. I sure called him, got him out of a meeting. I told him, I said, hell, I'll come over and talk to you in a minute.

LEWIS GARRISON: They never did talk to you?

LOYD JOWERS: Ug-huh. He didn't have a whole lot to say. I went off on him. I sure did do it.

LEWIS GARRISON: From the time this occurred on April 4th, 1968, they never talked to you about any part you had in it?

LOYD JOWERS: No, never have. Whenever I went down to the police station

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the next day – maybe it was the next day. I think it was on the 6th. I went down and gave them a statement, you know, about who was in there.

Of course, that had just happened. I remembered everybody that was in the place. I knew most all of them. I knew all of them personally, even the black guy they put in, Frank Holt, I knew him personally. But as far as them asking me anything, no.

DEXTER KING: What was Holt doing there? Do you know?

LOYD JOWERS: All I know is what he told me. He was going to work at the produce place. Damn, I can't remember the name of it. It wasn't Frank Liberto's place. It was the one over on Front Street.

LEWIS GARRISON: I can't think of the name of it, either.

LOYD JOWERS: Well, Carter's, that's where he worked.

DEXTER KING: Did the rifle have a scope on it?

LOYD JOWERS: Oh, yes, sure

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did. Clip-on kind.

LEWIS GARRISON: The problem with what Mr. Holt is saying, Mr. Jowers, is they didn't operate at night over at the produce company, did they?

LOYD JOWERS: To my knowledge, they closed around five o'clock.

LEWIS GARRISON: I don't know that he had anything to do with this case at all.

LOYD JOWERS: I don't know, either. Not really.

LEWIS GARRISON: There is nothing to indicate that he ever had anything to do with it at all. You never told anyone he had anything to do with it?

LOYD JOWERS: All that detail that come out on *ABC* was Willie Akins' idea.

ANDREW YOUNG: Was there anybody black other than McCullough that was in on the early planning?

LOYD JOWERS: Not that I know of. There could have been.

ANDREW YOUNG: But he was the

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only one that showed up in your place?

LOYD JOWERS: He is the only one that ever showed up down there that had anything to do with it. If there was any more, if Jones was involved in it – that was Dr. King's driver. I knew him pretty well. Is he still living?

DEXTER KING: People talk and say they have seen him, but nobody has been able to really pinpoint or locate him.

LOYD JOWERS: I hadn't seen him in years. But I did know him.

LEWIS GARRISON: Last fall, a year ago, Mr. Young, you've heard of an Officer Redditt, an African-American, I had a chance to talk to him a long time, and – have you ever talked to him, Mr. King?

DEXTER KING: No, I haven't.

LEWIS GARRISON: He said that he was there and, as you know, had been watching Dr. King and I guess Mr. Young when they were in Memphis, and he told me he was startled because he had no knowledge of anyone ever threatening him and had no reason to. The

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first thing he knew, some officer came, I forget the name of the officer, and got him and took him to the police department, and the police commissioner was there along with who they identified as FBI agents and told him that he had received a threat.

They took him to his home. An officer went home with him to make sure he stayed there. He said he knew what was going on. By the time he got home, he heard about the assassination. (Inaudible.) Strange thing to me, though – I've seen so many strange things – there is Mr. McCullough, undoubtedly with the police department it has been established, there he was, an African-American on the scene, yet Officer Redditt and the firemen, they were removed.

DEXTER KING: I think the point you made was he was not interviewed as a witness.

LEWIS GARRISON: Never. Not in the police department or anywhere. His name doesn't appear. He is shown in the pictures.

ANDREW YOUNG: Sam Donaldson was

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the first one that pointed him out to me. He said he was with Army intelligence and that he was there to make sure that Dr. King was dead.

LOYD JOWERS: Make sure Dr. King was what?

ANDREW YOUNG: Was really dead.

DEXTER KING: He was checking his pulse when he leaned over.

LEWIS GARRISON: I heard he was supposed to give some type of a sign if he wasn't.

(Reporter note: At this point the tape ends and picks up with the following statement by Mr. Jowers:)

LOYD JOWERS: Snub .38, a short-shot .38. It was and snub nose. That's four-inch of barrel. It shot a projectile about that long. They called it a short .38. They didn't make many of them. I got it stolen from me.

LEWIS GARRISON: Mr. Jowers, you told Mr. King, too, before what happened to the casing of the bullet. What did you do

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with that?

LOYD JOWERS: I put it down – I tried to bend it together. Well, I did bend it together. I put it down in the commode and flushed it. It didn't go down. It stopped the damn commode up. Anyway – this is the next day. I got it out. That night, whenever I closed, I drove across the Mississippi bridge, and about in the center of it I threw it over the side while I was driving along. It is in the bottom of the Mississippi River, the actual shell, the casing.

DEXTER KING: What time did Lieutenant Clark – what time did you see him on April 4th? Like how many times or what time did you see him in the grill? Was he in before the actual shooting?

LOYD JOWERS: He had to be there before ten o'clock, because I left there about ten, ten-thirty.

DEXTER KING: That was in the morning?

LOYD JOWERS: In the morning,

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yeah.

DEXTER KING: What was he doing there?

LOYD JOWERS: Pardon?

DEXTER KING: What was he doing there?

LOYD JOWERS: He just stopped by like the policemen used to always do.

ANDREW YOUNG: That was Mr. Clark?

LOYD JOWERS: Yeah.

DEXTER KING: This is on April 4th?

LOYD JOWERS: This was on the day of the assassination, yeah. I don't think Johnny Barger come by that day, but I know Clark did.

ANDREW YOUNG: But now Clark had to come into the – into your store and had gone out through the back?

LOYD JOWERS: He didn't go all the way to the back. You mean that afternoon?

ANDREW YOUNG: That afternoon.

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LOYD JOWERS: It is a long brick building.

ANDREW YOUNG: I know it.

LOYD JOWERS: It had an opening over here. All he had to do was walk in front of that fire station, walk on into the – no, he didn't have to come through my place.

ANDREW YOUNG: What I was trying to figure out is how did the rifle get out in the backyard.

LOYD JOWERS: Clark had to carry it out there, if he is in fact the one that had it.

ANDREW YOUNG: So he carried it from the back of your store?

LOYD JOWERS: Wait a minute. He carried it from his car or a car. It could have been a police car for all I know. I wasn't back there. He carried it from the street. Here is the fire station over here. It ran around behind my store right around to wherever it was he wanted to do the shooting from, I guess.

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ANDREW YOUNG: But the box was in your store on the day before?

LOYD JOWERS: The box had been in my store, but I didn't give it to anyone. That's what I'm telling you. I did not.

ANDREW YOUNG: Okay.

LOYD JOWERS: But now someone picked it up. But I didn't give it to no one. I couldn't swear it was a rifle. I think it was. Which anyone – you know, I just didn't.

ANDREW YOUNG: But you are pretty sure that when you were standing at the back door, Clark gave you a smoking rifle?

LOYD JOWERS: I'm sure it was Clark.

ANDREW YOUNG: And then you put it under the counter?

LOYD JOWERS: I broke it down and put it under the counter. I breached it. You know how you take the empty shell out.

ANDREW YOUNG: Yeah.

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LOYD JOWERS: I broke it down into two pieces, wrapped it in a table cloth, put it up under the counter and put some more towels on top of it. That's where it stayed until the next day.

ANDREW YOUNG: And it was Raul that came back and picked it up?

LOYD JOWERS: He didn't do anything with it except left it wrapped in that table cloth. He went out the front door with it.

LEWIS GARRISON: What did he tell you he came in for that day, Mr. Jowers?

LOYD JOWERS: What did who say? Raul?

LEWIS GARRISON: Raul or Royal, whatever –

LOYD JOWERS: He come to pick that rifle up.

LEWIS GARRISON: Did he tell you he came to pick the rifle up?

LOYD JOWERS: He asked me if I had a package for him. I said, well, sure, I've got it under the counter, I got it last

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night. He said, that's what I'm asking for. He was real short about it, like if I wasn't going to give it to him, he'd blow me away. Anyway, I give it to him, and that's the last I seen of him.

DEXTER KING: Do you recall an hour before the killing there was a phone call made to Frank Liberto about – in Pepper's book they talk about this guy McFerren overhearing a comment about "get the SOB when he is on the balcony" or something like that.

LOYD JOWERS: There was no phone call that I know of made from my restaurant whatever. I had a pay phone, but there was not one made from my restaurant. If it was –

DEXTER KING: You don't have any idea who Liberto might have been speaking with?

LOYD JOWERS: No, I do not. Now, I had heard that, and I don't doubt it taking place, but all I know is if somebody made a phone call from my place, they would

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have stepped inside and they called back there while I was working. I was running that place myself that night because I had no help.

ANDREW YOUNG: Did you tell the help to stay home?

LOYD JOWERS: No, sir.

ANDREW YOUNG: They just stayed home accidentally?

LOYD JOWERS: I don't know if it was accidental or not. I always wondered about that, you know, because they were good workers. Betty was a good worker, always come to work.

ANDREW YOUNG: Is she still alive?

LOYD JOWERS: Yes, she is still alive. She lives in Memphis somewhere.

ANDREW YOUNG: Do you know where she lives?

LEWIS GARRISON: She gave her deposition.

LOYD JOWERS: She give a deposition. She lives at 931 Roland.

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LEWIS GARRISON: I'm not sure. Something like that.

LOYD JOWERS: That's where she lives. I understand she either has sold the house or done something with it and moved. I have no idea where.

DEXTER KING: You mentioned a pay phone. Where was it located?

LOYD JOWERS: Right in the front of the building. There was a front door – like there is a front door here. The pay phone was between the front of the building and my steam tables. Now, someone could have stepped in and used that phone.

DEXTER KING: You don't remember anybody –

LOYD JOWERS: I don't remember seeing anybody.

DEXTER KING: – about four-thirty?

LOYD JOWERS: I sure don't. That don't mean someone couldn't have stepped in that door and used that phone and I never would have known about it. Because I was

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trying to wait on everybody in the place. I think I had it full of customers, and I was trying to wait on them.

DEXTER KING: Did you discuss any of the details of what happened with any of your associates, like Adkins (sic) or anybody like that?

LOYD JOWERS: No. Willie said I told him a lot of things, but he is a big old liar. I ain't told him nothing. I'll tell him that, too, if I ever see him again.

DEXTER KING: What time did you come to work on the 4th, April the 4th?

LOYD JOWERS: Four o'clock. That's the time I came every day unless –

LEWIS GARRISON: Four a.m.?

LOYD JOWERS: No, p.m. You was talking about in the afternoon, wasn't you?

LEWIS GARRISON: He was talking about in the morning. What time did you open in the morning?

LOYD JOWERS: I opened at five. I thought you meant that afternoon. I already told you that I was home during the

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day.

DEXTER KING: Right. Did you come in on April 4th in the morning?

LOYD JOWERS: I was in there that morning, oh, yeah, about four o'clock, because I opened up at five.

DEXTER KING: What were you saying about four, that you came in at –

LOYD JOWERS: That afternoon I come in. See, after I got lunch ready, I turned it over to my cook, and she handled the lunch crowd. Then I come back to work that afternoon at four o'clock.

DEXTER KING: What type of car were you driving that day?

LOYD JOWERS: I don't know if I was driving my station wagon or my Cadillac. It was one or the other. Whichever one my wife wasn't driving, I was driving the other one.

DEXTER KING: Did you hear – were you told that there would be – actually, I read it – that there would be somebody in the organization, in Dr. King's

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organization, that would get him on the balcony, so to speak, or get him in the position? Had you been told that?

LOYD JOWERS: To my recollection, I don't remember anybody telling me that, I do not. Now, that doesn't mean they didn't do it. We're talking about thirty years ago or longer.

DEXTER KING: Had you heard of anybody on the inside that they had infiltrated or penetrated?

LOYD JOWERS: Sure, I heard that. I sure did, from customers in the restaurant. I heard plenty of it. How much of that talk was true, I don't know. Maybe none of it. I tend not to believe half of it.

DEXTER KING: What kind of stuff did you hear?

LOYD JOWERS: Well, I heard that Jones was involved in it. Then I heard that the other person I heard was – it wouldn't make sense to me, but the guy that took his place, what's his name?

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ANDREW YOUNG: Ralph Abernathy?

LOYD JOWERS: Abernathy, yes. I heard he had him moved from downstairs to upstairs. I always doubted that. But somebody had it done. It had to be someone in his organization that would do it, I would think, or his security. I always figured his security had to have done it.

DEXTER KING: You never heard anything mentioned about Reverend Kyles or Reverend Jackson?

LOYD JOWERS: No, sir. I never did. I never did. I heard a lot of good about them. I never heard anything bad about either of those men.

DEXTER KING: Did Liberto ever mention his ties to Marcellous or – what was the

guy in Memphis? – Genovise or Venovise?

LOYD JOWERS: No, not that I can remember.

DEXTER KING: But it was pretty common knowledge that he was associated with the Marcellous organization:

LOYD JOWERS: Oh, yeah. Half

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the police department knew that. Or maybe more than that.

LEWIS GARRISON: I believe you are talking about prostitution, gambling and what else?

LOYD JOWERS: Who you are talking about?

LEWIS GARRISON: Mr. Liberto.

LOYD JOWERS: Oh, Frank? He had a little gun-running deal, selling guns to I guess the Cuban rebels, I guess, or at least that is what I was told, you know.

LEWIS GARRISON: Gambling, drugs?

LOYD JOWERS: Oh, yeah.

LEWIS GARRISON: Prostitution?

LOYD JOWERS: I would think that money I handled for him before the assassination, that that money was going to buy drugs, guns, and payoff money. Now, he had to pay off, I can tell you that.

LEWIS GARRISON: Who did he have to pay off?

LOYD JOWERS: Well, he had the

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police department in New Orleans, the police department in Memphis. That got him a long way. I'm not too sure he didn't pay Mr. Crump some money back years ago. Because he was one powerful dude in this town, you can believe that.

DEXTER KING: Were there two back doors from the building leading to the brush area, one from the kitchen and the other one from the rear stairway of the rooming house?

LOYD JOWERS: Well now, are you talking about where my restaurant was?

DEXTER KING: Yes, sir.

LOYD JOWERS: Okay. My restaurant had a front entrance and it had a back entrance. Okay. The upstairs had a stairwell that come down the side, but it stayed blocked off all the time. How they got around the Fire Department blocking that off, I do not know, but they did.

You could go down the steps, but you get to that door and it would not open inside or out. Of course, they had a front

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entrance, and it went right down beside my grill, which was inside the building, and it went right out right next to my door.

My door was like here. Their entrance was right here, just right around the corner.

DEXTER KING: Do you know the name of the people who were staying upstairs in the rooming house –

LOYD JOWERS: Charlie Stephens.

DEXTER KING: – on April 4th?

LOYD JOWERS: Charlie Stephens is the only one I really knew. And the crippled boy lived there. Damn, his name – I'll be darn. I knew his name because he was a customer that come in and bought a lot of beer.

DEXTER KING: Was Earl Clark up there or Raul that afternoon?

LOYD JOWERS: Not to my knowledge. Not to my knowledge.

DEXTER KING: Do you remember what Clark was wearing that afternoon?

LOYD JOWERS: No, I sure don't.

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He wasn't wearing a police uniform. I know that.

DEXTER KING: I remember you mentioning a white shirt I thought the last time.

LOYD JOWERS: Are you talking about the guy that handed me the gun?

DEXTER KING: Right.

LOYD JOWERS: Yeah, he had a white shirt on. Sure did.

DEXTER KING: Do you remember what else he may have had on?

LOYD JOWERS: Dark pants and a white shirt. Other than that, I cannot tell you, because it happened so fast, about like that and he was gone.

DEXTER KING: Are you pretty comfortable – I should ask, did you see him fire the shot, the rifle?

LOYD JOWERS: No, I did not. I did not. I heard the shot when it went off. I couldn't miss hearing it. Whether it went off from upstairs or down in the bushes, I couldn't miss hearing it. It sounded like a

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damn cannon.

DEXTER KING: You say it did go off upstairs?

LOYD JOWERS: Whichever place it went off. There wasn't but how many feet up there, ten, twelve feet. That was right over my back door. That's where the bathroom is. My back door is right here, and the bathroom is about ten, twelve feet above.

DEXTER KING: But if he handed you the rifle, how could he have been upstairs?

LOYD JOWERS: He couldn't have been. Now, how you explain that and the test shows that that bullet was going down, there is only one explanation for it, and two or three different people have said this happened. Jones said something to him about getting his overcoat or a coat, and he bent over the counter – this is the only explanation I can come up with. He bent over the rail. That's when he got shot on the balcony.

DEXTER KING: From down in the

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bushes?

LOYD JOWERS: Yeah.

ANDREW YOUNG: Your place was on a hill, though.

LOYD JOWERS: Yeah.

ANDREW YOUNG: So the bushes and the room were about the same level?

LOYD JOWERS: They were about the same level. You see, if you shoot a rifle –

ANDREW YOUNG: He was sort of like that, leaning over talking.

LOYD JOWERS: He was leaning over trying to hear what Jones was talking about. That has to be the only explanation. It went in long about here.

ANDREW YOUNG: It hit the tip of his chin.

LOYD JOWERS: Oh, it did? It did hit his chin? Okay.

ANDREW YOUNG: And then –

LOYD JOWERS: So he had to be leaning over that railing. Now, if he in fact was shot from there, from that backyard,

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then that's where it had to be. I would say it would be a pretty good angle from up in that rooming house. Whether that is the way it happened, I don't know. That's the only explanation I have for it.

LEWIS GARRISON: Was the door to the basement open that afternoon?

LOYD JOWERS: I never locked it. There wasn't nothing down there. I figured there was no reason to lock it. There sure wasn't.

DEXTER KING: Do you know whether Clark or anybody went down there after the shooting?

LOYD JOWERS: I have no idea.

DEXTER KING: Do you think Clark put on a uniform or had a uniform after the shooting?

LOYD JOWERS: I have no idea.

DEXTER KING: But if he had on a white shirt, would it have been easy for him to change into other clothes?

LOYD JOWERS: He could change shirts in a matter of seconds if you didn't

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have it already buttoned up. Sure you could. He could have changed that when he got in the car.

DEXTER KING: So you never saw him anymore after that?

LOYD JOWERS: No.

DEXTER KING: Who was in the brush area at the time of the shooting?

LOYD JOWERS: I have no idea.

DEXTER KING: So you took the rifle and just went inside?

LOYD JOWERS: I was already inside. He handed me the rifle through the back door.

DEXTER KING: He just came into the back door or to the back door?

LOYD JOWERS: He was about from here to Junior there. He didn't have to hand me the rifle. He threw it to me. He threw it to me like you would do a soldier. Of course, I caught it. It had just been fired. I heard it when it went off. I done what Frank told me to, I broke it down and put it under the counter and went on and

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waited on my customers.

DEXTER KING: Did you see anybody driving the Mustang that afternoon, a white Mustang?

LOYD JOWERS: I did not. I know there was one parked in my parking place when I got to work at four o'clock. I pulled right up behind him like that.

DEXTER KING: That was on South Main?

LOYD JOWERS: On South Main. I did notice it had out-of-state tags, but I don't know what state it was. I knew it wasn't local. I figured it was shoppers over across the street over there shopping. That's what I figured. I got as far away from that sparkplug (sic) as I could and got on out and went to work.

DEXTER KING: In your opinion, and I know it is just an opinion, do you think Earl Clark was the trigger man?

LOYD JOWERS: Now, you know, I have an opinion of that. Now, my personal opinion, I think he was. I sure do.

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DEXTER KING: Why do you – aside from him throwing you a rifle, was there any conversation you all had beforehand or any talk you had heard about did he have a reason to or was it just money? Why would he have done it? What was his motive, I

guess?

LOYD JOWERS: I would think probably for money. That's what I would think. That's what I believed at the time.

ANDREW YOUNG: Somebody – was there any evidence that he lived a little better after the shooting?

LOYD JOWERS: I really don't know, Mr. Young.

ANDREW YOUNG: You didn't see him anymore?

LOYD JOWERS: If I ever seen that man any more up until – he is dead, isn't he?

LEWIS GARRISON: I think he has died.

LOYD JOWERS: I don't remember. I don't think I ever seen him anymore.

LEWIS GARRISON: Even though you

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had been a close friend and had been hunting companions?

LOYD JOWERS: Oh, yeah, we had been friends for years.

DEXTER KING: What about do you recall which police officers interviewed you after the shooting?

LOYD JOWERS: I have no idea. They really didn't do any interviewing that night. They took down a name and address and telephone number and told us to go home when they got all the information, name, address and telephone number. That's all I give them that night.

DEXTER KING: Who conducted the crime scene I guess interrogation? Was it FBI or the Memphis police?

LOYD JOWERS: I have no idea.

DEXTER KING: What about the people, Barger – is it Barger or Barjer?

LOYD JOWERS: Barger, B A R G E R.

DEXTER KING: Zachery, McCullough, Clark, Liberto, did you see any

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of those people after the killing?

LOYD JOWERS: You mean that night?

DEXTER KING: Right.

LOYD JOWERS: Or the next day? No, sir.

DEXTER KING: Or even the next day. I know you talked to Liberto.

LOYD JOWERS: I talked to Liberto. I didn't see him. I didn't see none of them the next day. I sure didn't.

DEXTER KING: How many times did you meet McCullough?

LOYD JOWERS: As far as actually meeting him, like you telling me his your name is McCullough and me telling him my name, I don't think I ever did. I did know him. I knew him when I seen him and still would, I think, even though it has been thirty years.

DEXTER KING: How deep do you think he was involved in the killing?

LOYD JOWERS: I don't really – really and truly? I think he was just

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following orders. That's exactly what I think. I always believed that. I believed he was just doing what he was supposed to be doing.

DEXTER KING: How many planning sessions did you see him attend?

LOYD JOWERS: How many what?

DEXTER KING: How many planning sessions did you see him attend?

LOYD JOWERS: Just that one time when he come in the grill. I had no idea what they were talking about. I got a word here or there. I knew it was illegal, whatever it was. It wasn't unusual.

DEXTER KING: And Barger brought him in?

LOYD JOWERS: I didn't say –

DEXTER KING: Did he work for Barger?

LOYD JOWERS: See, Barger was a field inspector.

DEXTER KING: What does that mean? He was over the uniformed division?

LOYD JOWERS: He was over a

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section of the uniformed. They had four field inspectors. I don't know how many policemen worked on each section. If I had to guess, I'd say about a hundred, maybe a hundred twenty-five.

Of course, they had the city split up. Each one of them had – I believe they call them assistant chiefs now, but they were field inspectors back then.

DEXTER KING: How much money was Clark paid?

LOYD JOWERS: I have no idea. I don't have the slightest idea.

DEXTER KING: What do you – who do you think paid him, then?

LOYD JOWERS: The man who said his name was Raul. He is the one I gave the money to. He had to be the one who paid him.

DEXTER KING: Do you think that Raul approached Clark about being the trigger man?

LOYD JOWERS: I don't know. I wouldn't doubt it, but I don't know.

DEXTER KING: Do you know of

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any other Memphis police officers that would have received money for the operation?

LOYD JOWERS: No, I do not. I don't know that Clark got any money out of it. I just know I believe he did. But as far as I seen him getting any, he may have done it for the fun of it. I don't know. You never know about people.

DEXTER KING: Did you ever hear anything about this hoax radio broadcast, you know, that this broadcast was put out over the police radio that the suspect was traveling in one direction?

LOYD JOWERS: Oh, yeah, I heard about that. He was supposed to have been out in Raleigh or somewhere like that, a white Mustang, the police were supposed to have been behind him, and James Earl Ray said he was going the other direction going down 65.

DEXTER KING: Going north? Going north or south.

LEWIS GARRISON: South.

DEXTER KING: South, rather. But the radio said he was going north?

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LOYD JOWERS: Going north, yeah.

DEXTER KING: Now, it has been said the only people who would have had the technology to break into police radio frequency would have been the military.

LOYD JOWERS: They are wrong about that. I had a scanner that picked up – I think they had four channels. I had a scanner that picked up all four of those channels.

DEXTER KING: No, no, not pick up but to actually break in and broadcast.

LOYD JOWERS: Oh, yeah, to break in and talk on it, that would be the military.

DEXTER KING: In fact, that came out in the House Select when they did their investigation.

LOYD JOWERS: I misunderstood you.

DEXTER KING: Sure.

LOYD JOWERS: I thought you said –

DEXTER KING: To listen. You

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can monitor. But to actually break in and broadcast.

LOYD JOWERS: Yeah.

DEXTER KING: What about [the taxi driver that](#) picked up the passenger at the time of the killing and [said they saw a man who came down over the wall and get into a Memphis police car](#) up on I think Huling? Is it Huling Street?

LOYD JOWERS: Huling, yeah.

DEXTER KING: And the driver was killed that night.

LEWIS GARRISON: I don't think he knows anything about that. What happened with that was after this Prime Time telecast, there was a gentleman that called me and gave his name to Dr. Pepper, like he states in his book.

The statement he made was that he was a cab driver that night and that a friend of his was also a cab driver and that this friend was over at the Lorraine Motel and radioed him and said I just saw – well, he said he was unloading some luggage and that

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he was looking up and recognized Dr. King, and he said – he radioed to his friend that "I just saw Dr. King was shot."

He said he called his dispatcher, and he told him to go ahead and get out of the area. So the gentleman called me who is still living in Memphis and said that he told his friend to meet him out at the airport at a place they frequent out there.

He said two officers came out there. He heard his friend give the police officer an account of what he had saw. He had seen just what you said, someone who ran and got in a police car.

Then he'll tell you this today – he has talked to several people. But at any rate, he said the police officer said, okay, come down in the morning to the station and give us a full statement. So the next morning they found the man's body across the bridge on the Arkansas side and they said he had been thrown out of a car.

LOYD JOWERS: I remember that cab driver getting killed. I didn't know

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about all that.

LEWIS GARRISON: But there is no account of it. You can't find a thing about this. But this man will tell you that today. I gave his name to Dr. Pepper.

ANDREW YOUNG: Do you remember his name?

LEWIS GARRISON: No, sir, I don't have it here with me right now.

DEXTER KING: This is actually in Pepper's book, the name of the fellow?

LEWIS GARRISON: Yes. He gave Dr. Pepper his name.

LOYD JOWERS: I didn't know anything about it.

LEWIS GARRISON: I've had someone interview him before Dr. Pepper did. That's exactly what happened. Louis Ward, I believe it is something like that.

DEXTER KING: You believe they just got rid of the file?

LEWIS GARRISON: I think there is no question. After we began to dig into it, we

could find no record where the man was

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even killed. I believe his name is Mr. Ward. He will tell you today that's what happened.

He said he heard the man at the airport tell the two police officers that he had seen Dr. King – he was unloading luggage, looked up and saw Dr. King over the railing, and he said he saw him – it looked to him like it blowed his whole face off. He looked around immediately and saw a man running and get into a police car.

Then he radioed his dispatcher. Of course, he said they were close friends. This man said he was out in East Memphis. He said, well, let's meet at the airport and we'll talk about it. He said two police officers came out there and interviewed the man.

He said, I heard him give the statement, tell the police exactly what he had seen. They said to come in in the morning and give a full statement at the police station. But then he was found dead on the Arkansas side. The story was someone

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threw him out of a car.

But we can't find even a trace of it. In fact, the cab company claims they can't find a company record that he even worked there. We went so far to check with the cab company. They couldn't find anything. They won't admit it.

DEXTER KING: What did you hear was learned about any prior knowledge about the killing or involvement of anybody with a public or private person in Memphis or elsewhere or any state officials or federal officials?

LOYD JOWERS: Any knowledge I had prior to the assassination?

DEXTER KING: Uh-huh. Or even after.

LOYD JOWERS: I heard everything in the world I guess after. But I didn't put much

stock in it. Most of it was just beer talk, you know.

DEXTER KING: Anything before?

LOYD JOWERS: Never heard a thing before.

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DEXTER KING: You mentioned Solomon Jones. But you heard that after. That is beer talk, is that what you mean when you you said beer talk, the thing you said about Solomon Jones?

LOYD JOWERS: Oh, yeah, I heard that afterwards, that he was talking to Dr. King up on the balcony. If he in fact was shot from my backyard, Dr. King would had to have been leaning over that balcony. He would have had to have been. Otherwise that bullet could have gone up. I mean, it was that or it would have gone level.

ANDREW YOUNG: It could have gone either way. It really – you can't tell which way it went because it was such a clean wound that –

LOYD JOWERS: Didn't it hit a bone in his –

ANDREW YOUNG: A bone in his spinal cord. I don't think it hit anything in his shoulder.

LOYD JOWERS: I thought it hit his collar bone.

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LEWIS GARRISON: I don't think so.

ANDREW YOUNG: The collar bone is up here.

LOYD JOWERS: That's what I'm talking about. It was like from here to here just blown away.

LOYD JOWERS: Yeah.

DEXTER KING: Now, Mr. Jowers, when we met the last time, it was clear that we felt we needed to meet again to really get –

LOYD JOWERS: Oh, yeah.

DEXTER KING: – get more detail. I'm trying to remember, and I'm going off the top of my head, what you had stated today that you haven't already stated, and I can't really seem to pinpoint anything much different than what you already said then.

I wanted to just ask for your – if you could help me here, because I'm trying to recall was there something that I missed the last time that you stated today that you

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didn't state before.

LOYD JOWERS: The only difference is that I'm almost positive it was Clark in my back door, and I'm not sure about the rifle. But I'll tell you what I thought. I thought it was a 30-30. It could have been a 30-06, as well as it could have been a 30-30.

Now, when the shot went off, it sounded like a 30-30, because they are a lot louder than a 30-06 when they are fired.

That is two things. The other – I told you something else that I didn't tell you before. I don't know what it was. It is on that tape, of course.

DEXTER KING: Well, is there anything you want to tell me that I haven't asked that you think might be helpful?

LOYD JOWERS: I can't think of a thing, Dexter. Now, I've told you up to now everything I know about it.

DEXTER KING: What have you – or from your opinion or what you have heard, rumors included, at what level of government

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or involvement do you think this assassination was carried out by plan?

LOYD JOWERS: What you want to know is where the order come from?

DEXTER KING: Right.

LOYD JOWERS: It is my opinion and my belief that the order come from J. Edgar Hoover. Now, that's where the order come from.

How to prove that, there is no way. I could just easily said the President, but I know better than that, because I don't believe the president would have done that.

But now J. Edgar Hoover hated your dad.

DEXTER KING: How could – if military were involved, wouldn't the Commander in Chief by just from you being in the service and knowing –

LOYD JOWERS: Well now, wait a minute now. The CIA or FBI are not military. No.

DEXTER KING: No, I'm saying –

LOYD JOWERS: You mean if the

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military was involved?

DEXTER KING: Right.

LOYD JOWERS: Yeah. Not only that, but there would be a record of it.

DEXTER KING: And wouldn't the Commander in Chief have to give the order if they were involved in something like that?

LOYD JOWERS: Some word between the guy that was doing the assassination and the President, somebody in between there would give the order. But first it would have to come from the head honcho.

ANDREW YOUNG: Hoover had a man who was his number two man who was almost staying in the White House, Lee DeLoach. He was the one that was keeping – that was sort of telling Lyndon Johnson what they wanted him to know.

LOYD JOWERS: Yeah.

DEXTER KING: Let me also ask you is there anyone that you know of that can present scientific evidence about this case, anything that occurred that you know of, somebody who is still living that would

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have – that would be able to say not only did I see this, here is evidence, a rifle or, you know, anything concrete?

LOYD JOWERS: To my knowledge, I don't know of anyone that has scientific evidence of which rifle did actually kill him. I definitely don't believe it was the one the police found. I'll never believe that in a million years.

ANDREW YOUNG: Where did they find that?

LOYD JOWERS: Right in front of – see, this was the street here and the sidewalk. My building was right here.

You've got the rooming house, two doors here, two rooming house doors, then you've got an amusement company over here. His front door sits back I guess it must be ten feet. That's where the rifle was found.

DEXTER KING: So it is your feeling that James Earl Ray did not –

LOYD JOWERS: No. He didn't no more kill him than you killed your own dad. No. No. Nope. I'd never believe that in a

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million – even if he told me I wouldn't believe it.

DEXTER KING: So why was he set up?

LOYD JOWERS: His own fault. They got him out of jail. They furnished him money. They furnished him passports. Now, they come up with that tale about him setting up a gun deal, but that wasn't true. They may have told him that, you know.

But now he stalked your father halfway across the United States, went to Atlanta, had all that written down. Now, he was doing that for the CIA and the Mafia. That's exactly why he was doing that.

DEXTER KING: What if they told him to go to these places so they could establish a paper trail with established documentation? If they were in fact using him as a set-up person, wouldn't they want him to appear that he was stalking him?

LOYD JOWERS: Why, certainly they would. Sure they would.

DEXTER KING: So is it possible

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that he was doing things that appeared to be stalking but maybe he didn't realize it?

LOYD JOWERS: He probably didn't even realize it, yeah. Yeah. I'm sure that's the way it went down. I'm sure.

Because if he wasn't going to – if he had no intention of hurting Dr. King, which I don't believe he did, why would he want to be stalking him?

He was doing what he was told to do. That was to make it look like that he was stalking Dr. King, whether he was or not.

DEXTER KING: Well, I think I have asked –

ANDREW YOUNG: Do you mind me taking a picture of this?

LOYD JOWERS: No, no. We'll make you a tape of that, if you want to. Help yourself. Go right ahead.

ANDREW YOUNG: Why don't you lean toward –

LOYD JOWERS: Can you see all of us?

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ANDREW YOUNG: Yeah, I can.

LOYD JOWERS: Do you want me to – do you want to take some pictures for your family?

DEXTER KING: Sure.

LOYD JOWERS: Do you want me to smile or not? Okay, I was just kidding.

DEXTER KING: Do you want me to snap you?

LOYD JOWERS: Well, Dexter, I wish I knew exactly who done the killing, but I don't. If I did, believe me, I'd say it. But I do know this for sure: It was a for-sure conspiracy.

LEWIS GARRISON: Well, Mr. Jowers, isn't it true that Mr. Young and Mr. King –

LOYD JOWERS: Lewis, I can't hear you.

LEWIS GARRISON: Isn't it really true that Mr. – that lieutenant Clark did it? You know that, don't you?

LOYD JOWERS: I'm almost positive. But as far as seeing his face, I

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did not.

LEWIS GARRISON: But he had on the clothes and all that you had seen him in earlier?

LOYD JOWERS: Yeah, I had seen him in the same clothes. But as far as me seeing his face, I did not. Now, I saw the back of his head.

ANDREW YOUNG: The people who were involved in this as far as you know that are still alive would be –

LEWIS GARRISON: Lieutenant Zachery.

LOYD JOWERS: Zachery is still alive.

LEWIS GARRISON: McCullough. McCullough is still alive.

LOYD JOWERS: McCullough.

LEWIS GARRISON: Who else? Of course, Mr. Jowers. Ms. Spates in front of Mr. Jowers – he knows because he was there – she says what he saw.

LOYD JOWERS: That was a big old lie.

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LEWIS GARRISON: You know she described it in lengthy statements under oath that she saw this.

LOYD JOWERS: Oh, yeah, sure.

LEWIS GARRISON: You heard that under oath, heard her say that?

LOYD JOWERS: Sure, I was right there.

LEWIS GARRISON: She had given the deposition. She gave affidavit after affidavit and described what she saw. You know, that don't you?

LOYD JOWERS: Yeah.

DEXTER KING: That's what I don't understand. How would she – why would she go to that extent?

LOYD JOWERS: To get at me.

DEXTER KING: What?

LOYD JOWERS: That's why. No other reason. She is really and truly – she is serious about that, too. There is not a dad-gum word of it that is true, but she believes it, and there is nobody that can change her mind, that I actually done the

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shooting.

DEXTER KING: Oh, she thinks you did the shooting?

LOYD JOWERS: Damn right she said it. I don't know if she said it in the deposition or not, but she told me that.

DEXTER KING: Now, how many times did you see Clark that day in your grill?

LOYD JOWERS: One time.

DEXTER KING: That was in the morning?

LOYD JOWERS: That don't mean he wasn't in there more than that. See, I left about ten, somewhere around ten.

DEXTER KING: You said Ms. Spates used to be your girlfriend?

LOYD JOWERS: Yes, sir.

ANDREW YOUNG: Hell hath no fury like a woman scorned.

LOYD JOWERS: And, buddy, she got one hell of a temper, too.

LEWIS GARRISON: She has two children and says he is the father.

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LOYD JOWERS: I offered to go with her to take a blood test. Then we'll find out if I am or not. She backed out. Right on up to the time to go, then she backed out. She knew damn well I wasn't the father of those children. If I had been, I would have been supporting them.

LEWIS GARRISON: Mr. Jowers, under oath, though, you said you were engaged in a sexual relationship with her?

LOYD JOWERS: Well, hell, yeah, for some period of time.

LEWIS GARRISON: That went on for a year or two?

LOYD JOWERS: It was longer than that, more like five years.

LEWIS GARRISON: I several years?

LOYD JOWERS: Like I say about the President, a man is allowed to do any damn thing, you know, especially a lounge man.

LEWIS GARRISON: Why don't you step outside a moment and let me talk to

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them.

LOYD JOWERS: Okay.

ANDREW YOUNG: We really appreciate your seeing us, your coming forward.

LOYD JOWERS: I hate I'm not any more help now. If there is anything I can do, you can believe I'll do it.

DEXTER KING: You said if you thought it would help, you would come forward –

LOYD JOWERS: Yeah.

DEXTER KING: – to the media? Don't you think it would cause people to start –

LOYD JOWERS: I think it would get me put in jail. I think it would get me indicted. That's exactly what I think. I could be wrong, but I don't think so.

DEXTER KING: Okay.

ANDREW YOUNG: Thank you very much.

LOYD JOWERS: See you later.

ANDREW YOUNG: Okay."

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(This is the end of the tape proceedings played in the court room.)

THE COURT: All right, ladies and gentlemen. This is a good time for us to break for

lunch.

(Jury out.)

(Lunch recess.)

THE COURT: All right. Bring the jury out, please, sir.

(Jury in).

THE COURT: All right, Mr. Pepper. You may proceed.

MR. PEPPER: Your Honor, plaintiffs call His Honor Judge Arthur Haynes.

ARTHUR J. HAYNES, JR.

Having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. PEPPER:

Q. Good afternoon, Judge Haynes.

A. Good afternoon, sir.

Q. Thank you very much for joining us here this afternoon: Would you state for the

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record, your full name and address.

A. Arthur Jackson Haynes, Jr., 3533 Spring Valley Terrace, Birmingham, Alabama.

Q. And what is your present occupation?

A. I'm a circuit judge, Tenth Judicial Circuit, Birmingham, Alabama.

Q. How long have you been a circuit court judge?

A. Fifteen years.

Q. And before you were a circuit court judge, what did you do?

A. I was a lawyer, a courtroom lawyer.

Q. You were a trial lawyer?

A. Yes, sir.

Q. Was there a time in 1968 that you were asked to become involved in the case of the assassination of Martin Luther King, Jr.?

A. I was.

Q. And what was the position that you undertook at that time?

A. Well, simple arithmetic will tell you I was a very young lawyer at the time. James Earl Ray contacted my father, who was also a trial lawyer. We had had some success in

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defending highly-publicized difficult, unpopular cases.

When James Earl Ray was arrested in London and contacted us, asked us to undertake his representation. Actually, we were contacted by R. J. Sneyed, which was the name he was traveling under on a Canadian passport. We went to London.

Q. You and your father then became defense lawyers for James Earl Ray?

A. Yes, sir.

Q. You were his first defense lawyers. Is that right?

A. Yes, sir.

Q. And did you undertake the trial preparation of that case?

A. Absolutely.

Q. And were you ready to go to trial?

A. Yes, sir. Absolutely. He changed lawyers the night before I was going to give the opening statement in the case.

Q. You were prepared to go to trial right up to the night before the trial date and then what happened?

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A. I left James Earl Ray on Friday. I spent all day with him here in Memphis on Friday getting ready for trial. I returned to Birmingham late Friday evening and came back on Sunday night. I had to get new suits, do some final things to get ready for trial. When we arrived, we were handed a note saying that when changed lawyers.

Q. Were you able to eventually learn what happened and why he made that change of counsel at the midnight hour?

A. I never did know for sure, Mr. Pepper. That remains a mystery to me. I know that he contacted us approximately one week later and said, gentlemen, I made the biggest mistake I ever made, would you please come back to try this case for me, all this new fellow wanted me to do is plead guilty.

Q. It was too late by then?

A. Yes, sir. The case was so bolloxed up that we just weren't willing to get back involved in it.

Q. Judge Haynes, since you took that case up to the eve of trial and diligently

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prepared the trial, you were very familiar with the evidence that the State had?

A. Yes, sir.

Q. We're going to talk about a particular aspect of that evidence here this afternoon, but in general what is your view, what can you tell us now in terms of how you saw the case?

A. In 1968 on the eve of trial the State was absolutely confined to a theory of one man: James Earl Ray, acting alone, killed Dr. King. Our view of it was that the evidence and testimony was inescapable that that was an impossible result both factually and it was an impossible result at the trial. We were absolutely confident that the case would be won.

Q. Were you and your father not in fact asked to take a plea bargain to James Earl Ray offered by the State early on because they didn't want to try this case?

A. I don't know what they wanted to do, but, yes, we had a plea bargain offered earlier and took it to James Earl Ray.

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Q. What were were the terms of that plea bargain, do you recall?

A. I've forgot exactly what they were, Mr. Pepper. Whatever the plea was, the plea we were offered allowed for parole in ten years. I believe he took a ninety-nine year sentence, which at that time made him eligible for parole in thirty-three years.

And we were offered a sentence that allowed for parole in ten years. Of course, parole wasn't a likelihood in that case, anyway. The offer was better than the one we had, at least theoretically.

Q. What was James Earl Ray's response to that offer?

A. It was preposterous. Neither he nor we were going to consider a plea of guilty in a case that should have been won. Obviously we would have considered a reasonable plea, but I think the circumstances were such that a lesser plea simply was not something that the prosecutors were putting forward.

Q. Okay. Moving on, you and your father and your team of investigators obviously

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interviewed a good number of witnesses.

A. Yes, sir.

Q. Did you do some of this interviewing yourself personally?

A. Yes, I did.

Q. And did you at one time or another interview a man called Canipe, who owned a store on South Main Street?

A. Sure. Canipe Amusement Company, yes, sir. We interviewed Mr. Canipe.

Q. So that we can set the location of that, Judge, if I can bring you back to an area which I'm sure you haven't thought about in many years, but –

A. I recognize it vividly.

Q. This, you see, is a depiction of the rooming house –

A. Yes, sir.

Q. – which it had two wings?

A. Right.

Q. And underneath one wing do you see roughly where Canipe's store would have been?

A. Put your pointer right back where it was. I believe there was a doorway to the

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rooming house there and then to the right there was an angle doorway. If you would cut off that corner roughly there was an angled entranceway to the Canipe Amusement Company. It would be in the lower right-hand portion of that building where you are pointing, right about where your pointer is.

Q. That's where Canipe's Amusement Parlor was located?

A. Yes.

Q. Now let's put up a couple of photographs. Does that look familiar?

A. Yes, sir.

Q. This is the amusement company you are speaking about?

A. Right. That's the angled entranceway.

Q. That's the angled entrance here?

A. Yes.

Q. This is the entrance – one of the entrances to the rooming house.

A. Yes, sir.

Q. The other entrance is right over here between the two wings of the rooming house.

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Q. There was a – on the second floor – I never went out that entrance, but there was a crosswalk used by anyone that went in that entrance there. There was another entrance there or around the back, one, I forget which.

Q. Right. Now, what was the State's contention with respect to evidence that was found in this area?

A. The State's theory was there was a Browning box, a Browning rifle box, that contained some items of clothing, a radio that had James Earl Ray's Missouri state penitentiary number on it and a Remington 760 rifle that James Earl Ray had bought in Birmingham. That box was – I believe the rifle itself was wrapped in clothing. I'm not totally sure of that. The box itself was wrapped and tied in some fashion.

The State's theory was that James Earl Ray had fired the shot that killed Dr. King, had run across the entranceway there in that slant between the two buildings. Adjoining these two buildings was sort of a

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rickety metal connecting-way. The State's theory this was James Earl Ray had fired the shot from the bathroom on that second floor, come down that hallway into his room and carefully packed that box, tied it up, then had proceeded across the walkway the length of the building to the back where that stair from that door came up, had come down the stairs out the door, placed the Browning box containing the rifle and the radio there in the Canipe entryway.

That was the State's theory. It was the only theory that they could have with James Earl Ray acting alone in order to prove their theory.

Q. Then he proceeded to get into a Mustang and drive away?

A. That's right.

Q. The Mustang was supposedly parked somewhere around here.

Would you put on the second photograph. Now, that's a closer view of the angled doorway. Where did they say this evidence box was –

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A. I've never seen that picture,

Mr. Pepper. I believe the evidence box was to the right sort of up against that brick wall to the right, I believe.

Q. Right here?

A. Yes.

Q. We're talking about thirty-one, thirty-two years ago. I believe that's where it was. Mr. Canipe, who owned that amusement company, was on the scene at the time of the killing. Is that right?

A. That's what they told me, yes, sir.

Q. Did you have an opportunity to interview him?

A. Yes.

Q. How long after the actual event do you recall that you interviewed him?

A. How long after the event was it when we interviewed him?

Q. Yes.

A. Dr. King was killed April the 4th. James Earl Ray was arrested in June. He contacted us immediately. We started investigating it immediately, even before we

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went to London. I would say it was in the August range, July, August of 1968.

Q. The summer of 1968?

A. I'd say so, yes, sir.

Q. That was at a time when the events would have been fresh in the mind of Mr. Canipe?

A. Of course, I don't know what was – here I am being a judge. I'm sustaining the objection. I don't know what was in his mind, but it should have been fresh. It was immediate.

Q. When you spoke with him, did he appear to be aware of –

A. Absolutely, sure. He remembered it very vividly. In fact, we turned over that entire area, as you can, imagine looking for not only witnesses but also to exclude people who later may or may not have knowledge about it.

He was one of the more reliable people truthfully that we found down there. Those in Dr. King's party, they were not aware of what was happening, as they were on

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the other side of the street.

Q. What did he tell you – precisely what did he tell you about what he recalled about

the dropping of that evidence?

A. He said that the package was dropped in his doorway by a man who dropped it in his doorway and headed down South Main Street, headed south down Main Street on foot, and that this happened at about ten minutes before the shot was fired. He was tied up doing something but saw it happen and didn't go out to check what it was.

Q. He told you that this bundle of evidence was dropped in his doorway about ten minutes before the shot was actually fired?

A. Yes, sir.

Q. What did you think of that?

A. We thought it was terrific evidence. Furthermore, it was very credible, because right next to that was a fire station, and the fire station was packed with Memphis Tactical Squad detectives, firemen, curiosity seekers, people who were security for Dr. King and also surveilling him. The fire

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station was packed with people looking out the back.

Of course, when they saw Dr. King go down, the fire station erupted like a beehive, and they poured out down the driveway out the door coming looking both in the bushes, where most of them thought the shot was fired, and also on down on Main Street.

So to us it is circumstantial. In addition to the time involved, it was circumstantially almost impossible to believe that somebody had been able to throw that down and leave right in the face of that erupting fire station.

Not only was Mr. Canipe a credible witness, but what he said was very credible taking into account all the circumstances. We were very very impressed with his testimony.

Q. Judge Haynes, at this point in the plaintiffs' case we're dealing with the rifle, the rifle in evidence.

A. Yes, sir.

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Q. And the death slug. Was the rifle that was found in that box the weapon that the State contended was the murder weapon?

A. It was. It was the only weapon found.

Q. Were you familiar at that time with any ballistics testing of that weapon?

A. Yes, sir, from the FBI lab. Of course, they took it to Washington and performed ballistics tests.

Q. What were the results of that testing that was done at the time?

A. I believe the phraseology used in the report was that the evidence slug, that is, the slug taken from Dr. King's body, and the rifle, that the evidence slug was consistent with the type of slug fired by that rifle.

In essence, the best they could do was that Dr. King was killed by a 30-06 rifle and that this was a 30-06 rifle.

Q. That's all they could say. Could they match the bullet, the death slug itself, to that rifle?

A. We didn't think they had a chance in

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the world of matching it. As the FBI – if there is a match, if they can make a match out of a little piece of a slug the size of your little fingernail, if they did, the testimony would be that the evidence weapon to the exclusion of all other weapons in the world fired the evidence slug. No, sir, they could not do that.

Q. But is there any doubt in your mind that if they could have matched that death slug they took from Dr. King's body to that rifle in evidence, that they would have done so?

A. There is no doubt about that. They would have prized that testimony. That would be crucial testimony. Then you wouldn't have to rely on any of the vagaries of eyewitness testimony. Sure, that would be very important testimony. Well, we thought it was important.

Q. Now, did there come a time in the course of your investigation when you actually yourself saw, held, examined personally the death slug?

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A. Yes, sir. I held the slug that killed Dr. King in my hand.

Q. Had you seen other death shrugs and other bullets at that point in your career?

A. Yes, sir.

Q. What was your view with respect to that particular slug that you examined at the time?

A. To the naked eye, it was as good an evidence slug as you can have. It was a Remington core lot bullet and it had a metal base to the slug. The metal base wasn't skewed. It was almost perfectly round. See could the lands and grooves, the marks on the slug with your naked eye. Visually it was an excellent evidence slug.

Q. As you looked at it, did you think that it could be matched easily if it was in fact the death slug?

A. It was a very small room I guess this courtroom, certainly the criminal courthouse, and when I saw that slug, I knew right then if the James Earl Ray fired that slug, we were going to see every expert that you can

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imagine in the whole world to put that slug with that rifle. It just didn't pan out that way.

Q. Judge Haynes, as a result of your intensive trial preparation and analysis of the State's case right up to that November date, how did you believe that a sitting jury at

that time analyzing that evidence and weighing that charge would have voted?

A. Well, of course, all a trial lawyer can do is the best he can in assessing what a jury is going to do. I have considered in my thirty-five-year career a jury is the best lie detector there is. But we felt like the jury would, if it would follow the law and the evidence, that on the evidence available and the law in the case, there was virtually no chance that the State could prove beyond a reasonable doubt that James Earl Ray could have acted alone in firing the shot that killed Dr. King.

MR. PEPPER: Nothing further. Thank you.

CROSS-EXAMINATION

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BY MR. GARRISON:

Q. Judge Haynes, I'm Lewis Garrison representing the Defendant Loyd Jowers. I'm going to ask you a few questions.

During your interviews with Mr. Ray and the others you interviewed, did they ever mention anything going on in James Grill located here next to the rooming house?

A. Yes, sir. James Earl Ray said at some point in the afternoon – he said he had an accomplice, an associate by the name of Raul. He said at some point in the afternoon that one or both of them had gone into Jim's Grill I think to have a beer. We interviewed everybody we could lay our hands on who was in Jim's Grill and could find no corroboration that they went in there.

Q. Did you ever hear the name Loyd Jowers mentioned in the investigation?

A. Yes, sir.

Q. In what capacity was he mentioned?

A. Renfro Hayes was an investigator who worked for us at the time. We had hired Renfro because, among other things, he knew

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that area of town and a lot of people involved.

Q. I knew Mr. Hayes well.

A. Then you know what I'm talking about. Hayes knew Loyd Jowers and at the time Loyd Jowers was operating Jim's Grill.

Hayes reported back to us that there was nobody in Jim's Grill that had testimony to offer that would in any way affect the case. We had so much ground to cover, we just excluded that.

Q. Did you ever hear the name Frank Liberto mentioned by Mr. Ray or anyone during your investigation?

A. I never heard the name Jowers or Liberto mentioned by Ray at all. The answer to that question is no. I think I heard the Liberto name – yes, before today I've heard the name Liberto. I know that Hayes mentioned it to me maybe in the 1970's but not contemporaneous with this.

Q. Did you make some effort to locate this person called Raul?

A. Yes. To some extent. To some

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extent. Bear in mind the question we had on the table was defending a murder case, not proving who killed Dr. King. Therefore, our focus was different than the search for Raul. But if you want me to go forward to the extent that we were interested in him –

Q. Yes.

A. – there was some information about New Orleans. We thought it was very – there was something about it that triggered us as being very important. In fact, Ray told us the reason the rifle was in Memphis was that it was part of an operation to bring guns from Mississippi down to New Orleans to Cuban revolutionaries.

We wanted to go to New Orleans. We thought it was very, very strange that James Earl Ray refused to allow us to go to New Orleans. He instructed us that no matter

what happens, to do nothing to investigate that connection.

To that extent, yeah, we were trying to trace down – if nothing else, to – a criminal case, as a criminal lawyer, you try

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to make your case on the evidence. You just cannot rely on what the client tells you. To some extent we were trying to corroborate what he had told us, but he wouldn't let us go.

Q. Judge, did Mr. Ray ever tell you that he – let me ask you, first of all, did you really think there was such a person name Raul?

A. It was inescapable to us that there weren't conspirators.

Q. I spent two days taking his testimony in prison. He never could tell me at any time that anyone ever saw him with this person named Raul.

A. Mr. Garrison, we looked and looked just for that, something that would corroborate that, to no avail. In fact, that's why we were interested in the Jim's Grill people, because that was contemporaneous. We were looking for anything, anybody that saw a stranger there who knew Ray or, ideally, Ray with a stranger. But nobody there at that time

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would say anything about that.

Q. Did you ever learn at any time that there was a witness who saw someone in the brush area? Did anyone ever tell you that, that they actually saw some person that in that brush area?

A. If I may reflect on the question you are asking. The only person that we talked to who we believe ever knew who fired the shot was a man in the rooming house. I'll tell you about him in a minute if you are interested.

As far as the brushy area is concerned, there were some associates of Dr. King who

were on the hotel side of the street who said that they thought the shot came from there. But that was all regarding that issue.

MR. GARRISON: Thank you, Judge Haynes. Nothing further.

REDIRECT EXAMINATION

BY MR. PEPPER:

Q. Judge Haynes, I know you said you did an extensive investigation of potential

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witnesses. Were there any Memphis Police or Fire Department witnesses the State shared with you?

A. I know we received none as far as the police or fire department.

Q. But you uncovered some of these witnesses yourself?

A. Sure, yes, sir.

Q. Are you familiar with the contention of the prosecution at that time that the bullet has fired from the bathroom window of the rooming house?

A. Yes.

Q. And that it was fired from the bathroom window, having been rested on a window sill?

A. I think so.

Q. And that the prosecution claimed that a dent in that window sill was made by the rifle itself?

A. I've heard that. I just cannot believe that they would have actually tried to prove that in court, though. That's beyond belief.

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Q. Well, would it surprise you to learn that in fact at the guilty plea hearing on March 10th, 1969, this contention was put forth as a matter of certainty that it could be proven that the dent was caused by the rifle?

A. I would be shocked if a lawyer said they could prove that with certainty based upon what I know of the layout.

Q. Did they turn over to you at any point in your investigation FBI reports with respect to laboratory analysis of evidence?

A. No, sir. Of the window sill?

Q. Yes.

A. I don't think so.

Q. It has been entered into these proceedings as evidence, plaintiffs' evidence, those reports which indicated that they could in fact not prove that the window sill – that the rifle rested on the window sill.

A. A report saying that they could not prove that?

Q. Yes.

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A. I didn't need a report. I could see the window sill and the rifle. That just wasn't an issue.

Q. I'm just wondering if that was disclosed to you in the course of your investigation, that report?

A. I don't remember, Mr. Pepper, specifically. I know this: There were reams and reams of evidence, much of which, as soon as we realized what it was, we were on to something else. We just didn't have time to chew on every little piece.

The window sill – you could not prove that that rifle rested on that window sill. There is no way. We know that as lawyers. If we saw a report that said we can't prove the rifle rested on the window sill, we would just flip that over and say, sure, and then move on.

MR. PEPPER: Judge Haynes, thank you very much.

MR. GARRISON: No questions for Judge Haynes.

THE COURT: You may stand down.

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THE WITNESS: May I be excused?

THE COURT: You may.

(Witness excused.)

MR. PEPPER: The plaintiffs call Ms. Bobbie Balfour.

BOBBIE BALFOUR

Having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. PEPPER:

Q. Good afternoon, Ms. Balfour.

A. Good afternoon.

Q. Thank you very much for coming here this afternoon.

A. Oh, you are welcome.

Q. Would you please state for the record your full name and address.

A. Bobby King Balfour, 422 (Inaudible.)

Q. Ms. Balfour, are you presently employed?

A. Yes, I am.

Q. What do you do?

A. I'm a cook.

Q. Where do you work?

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A. At Embassy Suites on American Way.

Q. In 1967 and 1968 were you employed at Jim's Grill on South Main Street in Memphis, Tennessee?

A. I probably was, sir, but it has been so long, it is hard to remember what year it was.

Q. Well, do you remember being employed in Jim's Grill at the time of the assassination of Martin Luther King?

A. Oh, yes, I do, uh-huh.

Q. On April 4th, 1968?

A. Right.

Q. And who was your employer at that time?

A. Loyd Jowers.

Q. Mr. Jowers, Loyd Jowers?

A. Uh-huh.

Q. What were your duties then, Ms. Balfour, at the time?

A. Waitress and cook, all around. I did everything.

Q. So you waited on tables and you cooked and you –

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A. Short-order cooked and cooked.

Q. Goodness. How many hours a day did you work?

A. We came to work in the morning time when he'd pick us up about four-thirty and stay there as long as he needed us.

Q. So you started at four-thirty?

A. Yeah. He would pick us up.

Q. He would pick you up and drive you?

A. Uh-huh.

Q. And who else did he pick up?

A. Another lady was named Rosetta.

Q. On April 4th, 1968, did he pick you and Rosetta up on that day as well?

A. I don't don't think Rosetta came to work that day, but I did.

Q. Do you think you were picked up by Mr. Jowers and independently taken to work on that day?

A. I know I was.

Q. You know you were?

A. Uh-huh.

Q. And you started at the usual time that morning?

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A. Uh-huh.

Q. Now, in the course of your work at Jim's Grill, were you familiar with a lady who

lived on the second floor just above the grill in the rooming house named grace [Grace] Stephens?

A. Yes. I would take her breakfast.

Q. You used to take her breakfast?

A. Uh-huh.

Q. What time did you take her breakfast up there as a rule?

A. Between eight-thirty and nine o'clock, somewhere like that.

Q. Eight-thirty or nine o'clock you would take her breakfast up?

A. Yeah.

Q. And would you leave the food with her and then come back downstairs?

A. I would set it beside the bed.

Q. And then would you go and get the dishes at another time?

A. No.

Q. What happened to the dishes that you left there?

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A. I don't know, but I guess they got back. I didn't bring them back.

Q. So you didn't bring them back?

A. No.

Q. So you just went up – you delivered the breakfast to her?

A. Right.

Q. Why was that? Was she ill?

A. She was in bed all the time.

Q. She was in bed all the time?

A. Uh-huh.

Q. Do you know if she had an illness or sickness?

A. No, I don't, didn't know what it was.

Q. You didn't know?

A. No.

Q. How long did you have that practice of going up there and delivering her food?

A. Oh, just sometimes. I didn't go all the time because sometimes Rosetta went.

Q. Sometimes Rosetta went?

A. Right.

Q. Was Rosetta working that morning on

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April 4th, as you recall?

A. I don't think so. It has been a long time. I can't hardly remember, though. I don't think Rosetta worked that day.

Q. You don't think she did?

A. I don't think she did.

Q. You were there alone?

A. No, I wasn't there alone. He had another girl there, too.

Q. He had another girl working there?

A. Yes.

Q. Ms. Balfour, did you take breakfast up to Ms. Grace Stephens that morning?

A. No, I did not.

Q. And why didn't you take breakfast up to Mrs. Grace Stephens that morning?

A. Mr. Jowers said I didn't have to take it up there that day.

Q. Mr. Jowers said you didn't have to take it up there that morning?

A. Uh-huh.

Q. So he told you not to go upstairs with the breakfast that morning?

A. Right.

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Q. Did he explain to you why he did not want you to go onto the second floor of the rooming house?

A. No, he did not.

Q. Did you ask him?

A. No.

Q. You just followed him because he was the boss?

A. Right.

Q. Do you know if Grace Stephens got her breakfast that day?

A. I don't know.

Q. Ms. Balfour, how long did you work on that day?

A. Well, I went in that morning, and I don't know the exact time it was, but just as I run across the street just in time to catch the bus, then I made it in the house and it

came on the TV that King had got killed.

Q. So you left Jim's Grill sometime early prior to the assassination, and by the time you got home, you heard about it?

A. Right.

Q. Now, did you go to work the next

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morning?

A. Yes, I did. He picked me up.

Q. Mr. Jowers picked you up the next morning?

A. Right.

Q. And he drove you to work?

A. Right.

Q. In the course of that ride to work the next morning, do you recall if he mentioned a rifle to you?

A. No. I remember him saying, you should have been here last night, we had a lot of excitement. I asked him what was he talking about. He said that the police had come through our place of business and found a gun.

Q. The police had come through the restaurant?

A. Right.

Q. And found a gun?

A. Uh-huh.

Q. Where did they say they found the gun?

A. In the backyard.

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Q. In the backyard?

A. In the backyard.

Q. Did you ever look out into that back area through the back door?

A. I have looked out that back door, but it was kind of woody out there, a lot of grass, weeds and stuff out there.

Q. Could you describe that area as you recall it as you looked onto it?

A. There was a lot of grass out there, you know, little trees that had grown up back there. It was in bad shape back there.

Q. Bad shape?

A. Uh-huh.

Q. Mr. Jowers said the police came through there and they found the gun in that back area somewhere?

A. Right.

Q. Did he say anything else about the finding of the gun or about the events of the night before?

A. Ug-huh.

Q. Nothing more than that?

A. No.

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MR. PEPPER: Nothing further.

CROSS-EXAMINATION

BY MR. GARRISON:

Q. Ms. Balfour, you had gone to work that day at the grill about four or five o'clock in the morning?

A. Right.

Q. Mr. Jowers as usual had come to your home and gotten you that morning and took you on to work?

A. That's true.

Q. Let me ask you something. On the day that this occurred, April the 4th, 1968, that was a Thursday, had you worked all that week as you recall?

A. Yeah.

Q. Did you ever see any money in that restaurant, anyone bring any money?

A. No.

Q. You were there most of the time in and out of the back?

A. Yes.

Q. Did you ever see a gun?

A. No.

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Q. No gun at all?

A. No.

Q. Did you ever hear Mr. Jowers make any statement before it occurred about the assassination of Dr. King or Dr. King, any talk about that at all?

A. No, Jowers wasn't that type person.

Q. He was not prejudiced at all, was he?

A. No, he wasn't.

Q. Very fair, wasn't he?

A. He sure was.

Q. Did you ever see any police officers in the grill before the assassination of Dr. King, did any of them come in on a regular basis?

A. No.

Q. Let me ask you, Ms. Balfour, on the day of the assassination, what time did you leave?

A. I don't know what time it was, but it was kind of late. Because after I made it in the house, it came on the TV that King had got killed.

Q. Did you see any new faces that were

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there, any strangers in the grill that day that you remember?

A. No.

Q. Now, as far as taking the breakfast to Ms. Stephens, do you know if Mr. Stephens was paying Mr. Jowers for this?

A. No, I sure don't. Charlie Stephens paid him all the time.

Q. In fact, that day Mr. Jowers had run Mr. Stephens out of the restaurant because he was so drunk he told him to get out of there, didn't he?

A. Several times.

Q. That had some problems, didn't they?

A. Yeah.

MR. GARRISON: That's all.

THE COURT: Anything further of this witness?

MR. PEPPER: Just briefly, Your Honor.

REDIRECT EXAMINATION

BY MR. PEPPER:

Q. Mrs. Balfour, were you – did you ever give a statement to the police or any

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investigating authority about what you told this Court today?

A. After King got killed?

Q. Yes.

A. No, they never did ask me.

Q. I'm sorry?

A. No, didn't nobody ever question me at that time. When they came in that next day, they asked me a question, but when I gave them an answer, they told me to go back in the kitchen.

Q. They told you what?

A. Go back in the kitchen.

Q. Told you to go back in the kitchen?

A. Uh-huh.

Q. They asked you a question, you gave them an answer, and they told you to go back in the kitchen?

A. Right.

Q. And no investigating authorities had ever questioned you about what you saw or what you heard or anything?

A. No.

MR. PEPPER: Thank you very

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much, Mrs. Balfour.

MR. GARRISON: Let me ask you one other thing.

RE-CROSS-EXAMINATION

BY MR. GARRISON:

Q. Did anyone from the police, FBI or Sheriff's Office ever come into the grill while you were there to look around, investigate anything after the assassination?

A. No.

MR. GARRISON: That's all.

THE COURT: You may stand down.

(Witness excused.)

MR. PEPPER: Your Honor, plaintiffs call the clerk of the criminal court, William Key.

WILLIAM R. KEY

Having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. PEPPER:

Q. Good afternoon, Mr. Key. Thank you very much for coming here this afternoon.

Would you state your full name and address

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for the record, please.

A. William R. Key. I live at 1574 Cherry Park Drive, Memphis, Tennessee, 38120.

Q. Mr. Key, would you tell the Court what is your present position?

A. I'm the criminal court clerk of Shelby County.

Q. What are your responsibilities as the clerk of the criminal court?

A. Basically the clerk of the court is the keeper of the records. In our case, we also keep the property and evidence.

Q. And you maintain an evidence room over in the criminal court clerk's office?

A. That is correct, on the 4th floor.

Q. When you keep property in that evidence room, what is the nature of the property that you keep there?

A. Those properties are brought in for court proceedings, and after that we continue to hold the property until the case disposed of, some of it for twenty, twenty-five years.

Q. And has the property in the case relating to the assassination of Martin

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Luther King been kept in your office or property room?

A. The property in the case of Martin Luther King's death is kept in a vault. We have a large room larger than this room here where most of the property is kept. However, in the case of the King killing, it is kept in a safe that is separate from that where we keep money and diamonds and things of that nature.

Q. Would you say that all of the evidence in that case that is known that has been turned over is kept in that facility?

A. That is correct. There are thirteen boxes of it, two hundred sixty-seven items.

Q. It is under your direct supervision?

A. That is true.

Q. Your care and custody?

A. Yes, sir.

Q. That evidence that has been kept in that vault in terms of its custodial chain, it has been kept in that vault since 1968?

A. Not in this particular vault. The criminal court clerk's office was moved

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across to 201 Poplar from 157 Poplar, and when it was moved there, it was formerly in a vault in 157, and when we moved into the new quarters there at 201 Poplar, it was moved there in 1981.

Q. So it has moved to a different facility?

A. Yes.

Q. But it has always been under the supervision, control, care and custody of the clerk of the criminal court, which includes your predecessors?

A. Yes, sir.

Q. You are the most recent in a long line?

A. Five years. I've had it for five years. Previous to that Mr. Blackwell had it.

Q. Now, Mr. Key, are you in attendance here this afternoon under subpoena?

A. Yes, I am.

Q. Have you been asked to bring a piece of evidence with you to this courtroom?

A. That is correct.

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Q. And what is that evidence that you have brought here to show us?

A. The rifle that is purported to have been the weapon that slew Dr. King.

Q. This is the evidence rifle in the case, the assassination of Dr. Martin Luther King?

A. That is correct.

Q. Is that evidence in this courtroom?

A. Yes, it is.

Q. Where is it?

A. It is over there.

MR. PEPPER: Your Honor, if the evidence may be brought forward.

THE COURT: Go ahead. Test it to make sure it won't fire.

(Rifle passed to the witness.)

Q. (BY MR. PEPPER) Now, do you recognize that as the evidence rifle in the case, the alleged murder weapon of Dr. Martin Luther King?

A. Yes, it is. This is the weapon that we've had since I've been there, and it was taken to Rhode Island and Pennsylvania for

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firing and testing.

Q. That is the weapon that has been in the care and custody and has not been

tampered with or exchanged or replaced in any way?

A. That is correct, since I've been there. Before I came into that office, I can't testify to that, but I have some feeling that it was kept there in the office that we presently keep it in.

Q. Mr. Key, is that rifle presently, as far as you are aware, capable of being used?

A. Yes, it is. It still is. We witnessed it being fired in Pennsylvania and Rhode Island.

MR. PEPPER: I have nothing further of this witness.

MR. GARRISON: I have no questions for Mr. Key. I know Mr. Key well. I've known you many years. What is it, forty?

THE WITNESS: A few years.

THE COURT: Let me see it.

(Rifle passed to the Court.)

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MR. PEPPER: It is a 30-06 760 Gamemaster. Your Honor, we would just like the jury to have a visit with that weapon, if it is possible.

THE WITNESS: Let me mention this. I am under court order that no one examines it nor holds it.

THE COURT: You may hold it for their inspection.

MR. PEPPER: Nothing further, Your Honor. Plaintiffs would like the weapon to remain in the courtroom for the next witness.

THE COURT: Is the next testimony concerning this?

MR. PEPPER: The next witness is on his way, yes.

THE COURT: Would you stay?

THE WITNESS: We will stay here.

THE COURT: All right.

(Witness excused.)

JOE B. BROWN

Having been first duly sworn, was examined

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and testified as follows:

DIRECT EXAMINATION

BY MR. PEPPER:

Q. Good afternoon, Judge.

A. Good afternoon, sir. How are you.

Q. If you would state for the record, please, your full name address.

A. Joseph B. Brown, business address, 201 Poplar.

Q. Thank you. What is is your present position, sir?

A. I'm a state judge for the 30th Judicial District, State of Tennessee, Division IX, Criminal Court of Shelby County.

Q. Are you testifying here this afternoon voluntarily or under subpoena?

A. Under subpoena.

Q. Thank you again for joining us. Judge Brown, would you tell the Court some of your qualifications and professional training.

A. All right. I have a law degree from the University of California, Los Angeles, 1973. Came out here – let's see. I've been

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a member of the bar of the State of Tennessee since 1975, worked for Legal Services here, then the Equal Employment Opportunity Commission.

I was I believe the first black prosecutor for the City of Memphis and I ran the City Public Defender's Office for awhile, then I went into private practice, and in 1990 I was elected judge for Division IX of the Criminal Courts, August of 1998 re-elected for another term.

Q. Prior to your law career, could you tell us what was your professional training and what was your –

A. You mean relative to the subject at hand?

Q. Relative to the subject at hand.

A. I've always had an intense interest in the field of ballistics, firearms and such like. I've been a hunter, target-shooter. It is sort of a hobby of mine.

At one time in life I thought when I might go into criminal law it was a decision I made to get as much into the subject as I

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might so I would be able to properly defend certain defendants.

Q. Over what period of time did you develop this knowledge and experience with weapons?

A. Let's see. My father taught me to shoot when I was six years old. So that would be going on too close to fifty years ago.

Q. And had you on your own studied and read about the science of ballistics and weapons?

A. I have.

Q. Over what period of time have you done that?

A. About the last forty years or so.

Q. How long have you handled weapons of various kinds?

A. Like I said, starting about six or seven years old.

Q. How long have you handled or had experience with rifles such as the type involved in this case?

A. I'd say thirty, thirty-five years

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worth of experience.

Q. And during the course of that experience, have you explored the nuances of ballistics and the matching of bullets to particular weapons?

A. I have, sir.

Q. Are you familiar with the techniques used in that process?

A. Yes, sir, I am.

Q. Have you familiarized yourself with the types of weapons and the types of bullets that go with those weapons, the range of weapons?

A. I have, sir.

MR. PEPPER: Your Honor, plaintiff would move that Judge Brown be – Judge Brown's testimony here be admitted as that of an expert for the purpose of this discussion.

MR. GARRISON: I certainly agree and have no objection.

THE COURT: All right. You may proceed.

Q. (BY MR. PEPPER) Judge Brown, would

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you please initially begin a discussion so that the Court and the jury can become aware generally of what the science of ballistics is about and how it is practiced.

A. Actually what ballistics is about is the flight of projectiles, in other words, a projectile that has an initial impetus placed upon it such as a ballistic missile, where there is a thrust at the beginning of the flight of the object, a projectile fired out of a catapult in Ancient Roman times where there is a slinging of an object, what happens once it gets that initial impetus, closely at hand what happens when you fire a bullet, projectile, from a rifle or pistol or such like, how does it behave as it travels from its point of firing to its target or until it impacts the ground or, in other words, stops its forward flight.

Now, in that process there are certain specified or special categories such as studying the internal ballistics they call the subject, that is how does a projectile behave in the barrel of a weapon, what

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happens when you take one of the self-contained cartridges that are about universal today, put that in the appropriate weapon, pull the trigger and fire it, what happens. Those are called internal ballistics. That is called internal ballistics.

One of the things that is common today is to take a projectile, a bullet, if you would, that has been found in the body of the victim of a homicide or a wounding and attempt to compare that bullet with the known sample fired from the suspect weapon. What commonly happens is the bullet is placed in a device that amounts to a microscope where the examiner can carefully move the suspect bullet around and then take the known sample and attempt to compare it using striations, which are fine grooves that are engraved on the bullet based on the particular characteristics of the weapon.

There are basal or base characteristics that are determined by the nature of the weapon, what caliber it is, who

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the manufacturer is, and then there are individual characteristics of weapons that are brought about by manufacturing flaws.

Nothing is perfect, and everything that is manufactured basically is going to leave some tool marks in the bore of the weapon. The idea is to see if you can compare the individual signature of a weapon that it would leave on a specimen or bullet, sample bullet, and see if you can match that up with the bullet that you have removed from the body of the victim.

Q. Right. Your Honor, would you describe for the jury the kind of bullet, projectile – but bullets are we're talking about here – that is involved in this case?

A. We're talking about a bullet that is nominally a .308 diameter, commonly known as a .30-caliber bullet. The allegation of the State was that that bullet was fired from a weapon known as a 30-06, in other words, a .30-caliber weapon firing a cartridge that was based on a military cartridge known as .30-caliber of 1906.

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It was a modification of the earlier .30-caliber of the model 1903 which resulted in a shortening of the case neck of that cartridge, a reduction of the weight of the initial military bullet from 220 grains down to appointed 150-grain bullet. That became known as a 30-06.

The actual caliber of the projectile is .308. In European terms that is known as a 7.62 by 63 millimeter cartridge. We know it as a 30-06.

Q. Judge, would you describe for the jury the difference between a military bullet or a hard point and a soft-point bullet?

A. As a result of the Geneva Convention, the military establishments of most of the world agreed to not use expanding bullets for humane purposes. In the latter part of the 19th Century, the English in India were concerned about the lack of stopping power that their bullets showed on some of the native population, so they had a dumb dumb arsenal in India.

They started producing a bullet with

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a large amount of lead exposed at the tip of the bullet, and in certain instances hollow pointed, that is, the bullet has a hole in the front or a large amount of lead exposed, and that would cause the bullet to expand when it hit flesh, which would result in a recovered bullet looking something like a mushroom. That caused a very, very bad wound.

So as a humane matter, most of the world has agreed not to use soft-point bullets, and they use what they call full metal jacketed bullets, where the point of the bullet is covered with a gilding of steel or brass or composite jacket so it does not expand. Most bullets still have a lead core.

Q. Would you explain how the bullets are manufactured by various manufacturers in terms of the composition of the lead and the similarity from batch to batch?

A. Regarding the case at hand, the situation is this: A manufacturer, say Remington, Winchester or Olin, Federal, when they make up a batch of bullets, they are

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faced with this: They do not have any machines that are dedicated to one particular type of bullet. So what happens, they may make a run of twenty-five million or thirty-five million of a given type a bullet, say 150-grain .308 bullets.

Then after they make that run, they may switch over to 6.5 millimeter with the same machine and run fifteen to twenty million of those. Then when it comes time to convert it back to .30-caliber, which was the .308, they can't get the tolerances exactly as they were before, so what they tend to do is they run batches which they call lots, L O T S, and they give each batch a lot number.

When they load up ammunition, that is, the completed cartridge, they generally try to make the lots consistent so that the customer can be assured that he will get reasonable accuracy and predictability with any cartridge that he buys from this company.

So what happens is they have a lot

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of bullets or a batch of bullets with an assigned lot number. The powder varies, too, from one batch number, so they'll have a lot number assigned to a particular batch of powder and they'll have a batch with a lot number assigned to the cartridge case that is to be used in the loaded cartridge. They will also do the same with primer.

So when they make a run, a batch of these cartridges, everything will have similar lot numbers, in other words, the bullets might be EO71565J3 with a number on that, and the same with the cartridge. They will use the same run or batch of lead, the same run or batch of gilding, the same run or batch of copper or alloy or brass for the cartridge case and the same applies.

So what happens is if you run a metallurgical analysis on any of the materials, you will expect to find that there is a metallurgical consistency from one cartridge to the next in the same batch, from one sample of powder taken out of a cartridge with another in the same batch, and the same

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with the bullets, the gilding metal of the jacket will be the same and the lead cores would be the same.

Q. Thank you, Judge. Have you familiarized yourself with the death slug in this case?

A. I have, sir.

Q. Have you familiarizeed yourself with other bullets and cartridges that were found in an evidence bundle in this case?

A. Yes, sir. What seems to have happened is that when the rifle in question was recovered, there were four unfired cartridge cases that were recovered along with the rifle and one fired cartridge case.

A primitive metallurgical analysis done some thirty years ago revealed or suggests that the fired cartridge case and the four unfired cartridge cases are metallurgically identical, that is, they are from the same lot.

The bullets from the four unfired cartridge cases are metallurgically identical when

the lead cores are analyzed, whereas the

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bullet removed from Dr. King is not identical. It is metallurgically different in its composition, which would suggest it is not from the same lot. That would be totally contrary to the policies of the ammunition companies.

Q. Let us understand what it is you are saying here. It is that the evidence bullets that were found in the bundle, the evidence bundle that was dropped, have a different metallurgical composition than the slug that was taken from Dr. King's body?

A. That's correct.

Q. Are you saying –

A. Further, the significance of that is developed by the fact that this cartridge case that appears to have definitely been fired in the rifle that is in evidence is in fact of the same lot as the other four unfired cartridges. You would expect the bullet that had been removed from Dr. King's body to have been of the same lot.

That suggests that this bullet was not fired from that empty cartridge case that

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was found with the rifle, and it was definitely fired in the rifle as per some tests that were run on that cartridge and that rifle and other sample cartridges.

Q. All right. Thank you. Now, would you tell the jury about the nature of the weapon – we're going to take a look at that in a minute – but the nature of the weapon as you understand it, the alleged murder weapon in this case?

A. The murder weapon in this case is a Remington 760 Gamemaster, caliber 30-06.

Q. And what is significant about the 760 Gamemaster rifle in terms of its comparison with other 30-06's?

A. It is what is known as a pump-action rifle. It is basically the only one still manufactured in America, though Browning last year came out with a weapon similarly activated.

At one time it was popular, but over the years since the end of the 19th century that is basically the only remaining center-fire pump-action rifle. There is also

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a slightly different version of that which is a semiautomatic weapon.

Q. Is there a counterpart weapon that is a military issue?

A. Well, I wouldn't say it is exactly a counterpart, but what you are talking about is .30-caliber weapons generally. It is perhaps the most popular caliber in America.

You have several weapons that will fire an identical bullet. By that, I mean that if you manufactured a lot of or a batch of these bullets, you could load those bullets correctly in several different caliber weapons.

One is what is known as a 308 Winchester, which is a civilian nomenclature applied to something known as a 76 2x51 nail round. It was adopted in 1954 by the U. S. Government and most of the NATO forces after some tests. It also fires a .308 bullet.

Likewise, there is what is known as a 300 Holland & Holland Magnum, a 30 Supra is another name for it, and it fires a .308 bullet, the same one. If you hand load, you

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can take a .308 bullet that you would buy in a gun shop, and if it is suitable for your purposes, you could load that in a 308 Winchester, a 30-06, a 300 H&H, also in a 300 Winchester Magnum.

You can load that very same bullet in a 300 Weatherby. Now you can load it in – let's see, I'm talking about factory ammunition only – a 30 x 378 Weatherby, and they have a 330 Super Magnum that Remington has that will take the same bullet.

There is something Laseroni has out called a WarBird, a very specialized thing. There is a company called Dakota that puts one out. They all use this exact same .308 bullet.

Now, what happens, back to your question about the military, is currently, since it is a standard NATO round, you have such items as the M-60 machine gun, which we're not talking about here, but you do have what is known as the M-14, which was adopted in 1956 as the standard battle weapon for the U.S. military, that is, the Marine Corps and

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the Army, that has been superseded by the M-16 family of weapons.

There is also an M-21, which is a sniper edition of the M-14. You have an M-24, which is a Winchester Model 70 that the military used in the late 1960's that was a bolt-action sniper weapon.

You have a version of the Remington 700 bolt-action weapon that the military currently uses as a sniper weapon, along with refurbished editions of the M-21. You have various and sundry permutations of weaponry that are .30-caliber that the military has used from time to time.

On the civilian market there are also a number of semiautomatic weapons that had military intentions initially, such as the F. N. Fowl that was commonly available and the G3/H and K91, which are available from time to time. So there are a number of weapons that will be such as to fire a similar bullet.

Q. And were there a number of weapons that could fire such a bullet back in 1969?

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A. There were. A number I could think of. The 308 Winchester was popular. The 30-06 was even more popular at the time. Those two would have probably been what you would have encountered if you were talking about a hunting caliber center-firing 30-06 or a 308 Winchester. You also have the old .30-30, which fires a similar diameter bullet, but that would be a blunt-nosed slug, which is an entirely different design for feeding through a tubular magazine.

You also had a .30-40 Frig that was this use starting from 1892 and the U.S. military used a .308 slug,, and if somebody was shooting one of those, you would have had it firing a similar bullet. Or if someone hand-loaded it, that would still be the case. There were very many foreign copies of the same weapon.

Q. So any one of those range of weapons could have fired this type of slug at that time?

A. That's correct, sir.

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MR. PEPPER: If it please the Court, I'd like to have the witness examine the weapon in evidence.

(Rifle passed to the witness.)

Q. (BY MR. PEPPER) Do you recognize that weapon?

A. Yes, that's the 760 Gamemaster in evidence in this case.

Q. What can you tell the jury about this particular weapon?

A. Although it doesn't exactly look it right now, it is a fairly new weapon. It has a Redfield 2 to 7 variable scope on it. It is mounted in Weaver scope rings, and mounts it is a pump-action weapon. And it is from the evidence, the marking on the barrel, 30-06 in caliber.

Q. Did you have occasion to consider this weapon as the murder weapon in this case in some degree of depth and careful consideration?

A. I did, sir.

Q. When was that?

A. That was during the course of

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proceedings brought by the late James Earl Ray, what are known as post-conviction relief proceedings to challenge his conviction.

Mr. Ray had never confessed to the killing of Dr. King, but he had entered what is known as an *Alford versus North Carolina* plea. That is a plea delivered under the principle of the case of *Alford versus North Carolina*, which is a moderately old U.S. Supreme Court case that stands for the proposition that you may plead guilty even if you are not actually guilty if you believe it is in your best interest to do so, from all of the proof in evidence you think it in your best interest to do that and you did it freely, voluntarily, knowingly, advisedly and intelligently if the State otherwise has a reasonable factual basis upon which to proceed.

In other words, you might say you may plead guilty even if you are not guilty if you think that is in your best interest if the State otherwise has a reasonable factual basis upon which to proceed. In other words,

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you might say you may cop out and plead guilty even if you are not guilty if that is in your best interest if the State has some case that they can go forward upon.

The entirety of that case, according to the petitioner's theory, was based on this rifle, which is what hooked him up with the case. During the course of reviewing the record for this matter, it developed that there was a transcript of James Earl Ray's guilty plea.

It develops that Mr. Ray aforesaid had never actually confessed to the killing of Dr. King. I believe there are at least two places in that transcript that revealed that when an investigator for the District Attorney's office testified during the course of the guilty plea proceedings and indicated that James Earl Ray acted alone, in at least one instance Mr. Ray rose and in sort of a mild outburst indicated that that was not true, that he did not act by himself, whereupon a recess was taken. That happened again. Another recess was taken. And then

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he did not rise the third time. They then went through the process.

It is not unusual, and we have a lot of cases that are disposed of on what we call Alford pleas. In other words, the defendant has a criminal record that would be revealed to a jury in the event that he testified which might be something that he would be leery of. There would be an instruction given to the jury to the effect that if the defendant testifies and you find that he has any felony convictions, you are not to consider this as touching upon his guilt or innocence but you may consider it in terms of evaluating his credibility.

Well, unless there is an exceptional situation, and you get in front of a jury and they find out you've got a criminal history, they are not going to look at you as well as they might have otherwise even in spite of the instructions give by the judge. You may think that the case is so outrageous or so gross or horrible that you don't really want to take your chances in front of a jury and

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you will settle for what has been offered.

So that is what we had going on here as far as the petitioner's theory. In other words, at the time, considering the person who was slain, the public outcry and uproar and the possible sentence he could have gotten, he thought it was in his interest to enter what is known as an Alford plea.

Q. Now, Judge Brown, how long did you preside over those proceedings?

A. I'd like to say about three years. It all sort of shifts into a blur. It got in my courtroom, there was at that time a set of laws and cases that had been decided that basically caused me to deny the petition of James Earl Ray for not being timely.

However, I did note that there was a loophole in the existing laws in the State of Tennessee, and it was this: A person could be sitting on death row, let's say, and through the use of DNA evidence he could prove his absolute innocence. But unless he had filed that case within the existing statute of limitations for post-conviction

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relief proceedings, which at that time was three years, and raised that evidence or he was able to avail himself of what was known as petition of era crim nobis, which has been an ancient thing, of within one year, then he had no remedy.

The law abhors a situation which is legal where there is no judicial remedy, which, of course, the only thing he could do was apply to the governor's office for clemency.

So what I ordered is that the petition would be denied, but I would allow the petitioner to put on what is known as a proffer of proof. In other words, if he were allowed to present this evidence, this is what it would show so an appellate court could determine whether or not the law needed to be reviewed.

Well, in any event, I ordered that the rifle be retested. That was in accordance with an order given by the late Preston Battle, who was the original judge.

In 1968 Judge Battle entered an order that

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said the rifle was to be tested since he was not satisfied with the ballistics tests that had been run at that point. But that rifle was never retested.

So I ordered it retested. It went to the Court of Criminal Appeals who went along with the prosecutorial side of things and declined to allow that rifle to be retested and issued a stay.

Well, a few weeks after that stay was issued, it developed that the legislature, which I was aware of, had been working on a new post-conviction relief statute and they passed that statute and they said if there is new scientific methodology that would establish the innocence of a petitioner, there is no statute of limitations, and such post-conviction relief petitions have no time limit on when they can be filed and no time limit on when they can be reopened for showing by new scientific evidence or methodology that the defendant is innocent. That is so you don't get someone stuck on death row when there is methodology

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such as DNA testing that would show he is not the fellow.

Q. Judge Brown, in the course of preceding over those proceedings for post-conviction relief, did you consider very carefully the testing history of that rifle and familiarize yourself with it?

A. I did, sir. I thought that it was totally inadequate. At the time this weapon was tested by the FBI, what they did is they took four cartridges and fired them through this weapon into what is known as cotton waste. If you fire a high-velocity projectile into cotton waste, you totally obliterate, that is, destroy, the fine striations that would enable you to do a valid ballistics test.

The only thing you can get to out of that would be the basal characteristics, in other words, the base characteristics, which would be this weapon fired a .30-caliber bullet of .308 in diameter, and it had four lands and grooves with an apparent right-hand twist.

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One thing they never did resolve out of that was what was the rate of twist. Historically 30-06's had rates of twist of one full turn in every ten inches. Weapons that are designed from the front end as 308 weapons have one full turn every twelve inches, though there are examples of each where the rifling twist is as the other would be. It depends upon what you are trying to achieve with the weapon, whether you think you will fire a heavier bullet or a lighter bullet for the caliber.

But, in any event, the tests that they did indicated – the tests that they did were totally incapable of giving a valid basis of comparison to determine whether the bullet removed from the body of Dr. King was in fact fired from this weapon.

Now, in any event, there are some other things that happened that I became aware of during the course of my examination of the record. One thing, I believe Mr. Key came up with this, that is when I asked for an inventory of all evidence in the case, he

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noted that there was a picture of the bullet or the slug that was removed from Dr. King's body before it was transmitted to the FBI. That picture revealed that the bullet

was intact, though mushroomed.

What the FBI sent back after the conclusion of the test was three jacket fragments and three lead core fragments that had been cut as though you were taking a banana and just pulled the peels all the way off of the banana and then took a knife and cut the banana length-wise in three equal sections.

Q. Judge, let me just stop you there. Let me put this picture up. Is that the photograph you referred to?

A. You found the picture, I see. It looks similar to that. I can't say if that is the actual item in evidence.

Q. Does it look similar to the evidence photo? That was a photograph of three fragments?

A. Right.

Q. So would you describe, as best can

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you –

A. What you can see in the lower right-hand corner is the jacket itself. It has been peeled back by a mushroom process. What you are looking at is the other two items are pieces of the lead core.

Q. Would you explain how that could occur.

A. Well, it could be that it was not a very well-constructed bullet and it simply fell out at some time during the course of testing. But what I found later in there was not just what you look at there but before the jacket had been peeled back so there are three separate fragments to the jacket itself.

Q. So the bullet that was taken from Dr. King's body was in one piece?

A. It was in one piece. It is a hunting bullet. It is a soft-core bullet. That bullet is designed for the human harvesting of animals. You don't want an animal to suffer. So what you want is for the maximum energy of the rifle to be dumped into the

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target so it dies quickly due to massive injuries. It mushrooms so the bullet transfers most of its energy into the animal rather than putting a clean hole through it.

If you were to shoot an animal between one hundred and about three hundred fifty pounds, any of the animals that are typical of this continent, with a 30-06 from say under a hundred fifty yards, which would be typical hunting range, if you got a solid torso hit in the lung or heart area, you could pretty much count on that animal dying. That would be a non-survivable wound.

You would dump the entire energy of the weapon into the target, and that would be about a ton and a half of energy at somewhere between a hundred fifty yards down to close to the muzzle.

In other words, if you fired this weapon, you would have 150-grain bullet moving at a nominal velocity, and with the type of ammo they were likely to have had in 1968, at about twenty-seven hundred,

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twenty-seven hundred fifty feet per second, which would leave you going on three thousand foot pounds of energy.

In other words, if you put a scale in front of the muzzle of this rifle, one foot in front of it, and fired it, you could register what that bullet weighed, and it would weigh about a ten and a half when it hit this scale.

What usually happens is when you shoot somebody with a military bullet, which is a full metal jacket, you put a nice clean hole in them and most of the energy is dumped in the dirt or in a tree or rock behind the target. If you shoot an animal with this, you dump all the energy in the animal and it expires quickly.

Generally hunters prefer these days to have the bullet completely penetrate the animal so you can leave a blood trail. But I will assure you it leaves a much bigger hole on the way out than it does going in.

If you shoot a deer, very seldom will one of them drop right in its tracks.

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It will usually take off and run twenty-five, a hundred fifty yards, and you've got the task of tracking that animal through the underbrush until you find the body which has expired from blood loss.

If you shoot the animal right and the bullet does not penetrate downward but stays inside and disintegrates, which is known as a bullet failure, then you may still disrupt the animal's central nervous system and it will drop in its tracks. That happens from time to time.

Q. Judge, do you recall from the evidence before you at that time how the petitioner came to buy that particular rifle?

A. What seems to have happened from the record is that James Earl Ray went into a business that sold firearms and bought what is known as a 243 Winchester. It is one of the 308 rounds that we had been talking about or at least the cartridge case, neck down, to .243 caliber. In other words, about six millimeters versus seven point six two millimeter.

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He brought it back the next day and advised the proprietor that he had been told or advised to get a .30-caliber weapon, whereupon he reportedly purchased this item right here and they mounted a scope on this weapon.

Q. Judge, I'm going to come to the scope, but could I ask you, was the 243 Winchester not an adequate rifle for the purpose that this one was allegedly used for?

A. Actually a 243 actually probably would have been a better weapon for the purpose than this would have been, commonly used to dispatch deer and also varments.

Also, it is a pretty accurate round, and we're talking about a range that is less than a hundred fifty yards, if you have any idea of the ultimate layout of the scene, which is Dr. King at the Lorraine Hotel with the apparent point of firing being somewhere

within a hundred fifty yards.

Q. The 243 Winchester in fact was as good or a better a rifle for the purpose of assassination than that weapon?

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A. At least as well. It would have been quite a bit better caliber than the one that was used to kill President John F. Kennedy.

Q. Why, then, in your opinion, after considering the varieties of the two rifles and the choice ultimately settling on this 30-06, why was petitioner instructed to buy this caliber rifle?

A. Based on the entirety of the record and the entirety of the circumstances of the case, it was my belief that it was so there could be a number of common-caliber weapons that might have been on the scene of the killing.

Q. That would have had the same caliber – produced the same caliber bullet?

A. Same caliber bullet. If the test for ballistic comparison purposes were run as they were by the FBI, that is, firing the sample projectiles into cotton waste so that you could not get more striations on them so you could compare the bullets with what was taken from Dr. King's body, you would have about sixteen or so million weapons that

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could have been the one that fired this bullet.

I think Remington ultimately made right now somewhere around eight or nine million of these using the same barrel machinery, either with this permutation of the 760 Gamemaster, the 740 semiauto or the Model 700 bolt-action series.

Q. Moving on to the scope, you were about to tell us about what you concluded with respect to the scope.

A. It is interesting in that the proprietor of the shop never did what they call

polarimated this scope. You can't just take a new rifle with a scope mount on it, put some rings on it and then put a scope on it and expect to hit anything. You've got to zero the thing. That is not very neat.

There is a device called a polarimeter, which looks like a small telescope, that has a little spindle that will fit down in the muzzle of this weapon. Usually when you get a polarimeter, they give you a number of spindles that will fit most

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common calibers.

You put that spindle-mounted polarimeter into the muzzle, you line it up. There are some crosshairs on it. You take these caps right here of the scope and you'll see in here a slot. What you do is you move these screws or these devices around using a coin until you get the crosshairs on the scope matching the crosshairs on the polarimeter.

There is another alternative method that you can use with a bolt action, which is to take the bolt out, and the receiver will be open. You lay this rifle on a sandbag and you aim down the barrel itself at some item about a hundred yards away, a small circular item, and you try to align it in the middle of the bore with the same amount of the bore showing around this item. Then you manipulate the adjustment knobs on the scope to align the crosshairs with the item one hundred yards away, and you keep looking back and forth.

As you can see with this rifle, it

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has got a closed receiver, so you cannot bore-sight this using that particular method. You'd have to polarimate it.

It has been my experience over the last thirty years firing I don't know how many hundreds of rifles that even when do you get it polarimated or you bore a sight, right after, when you take it out to the range to finalize your sight-in process and you put up a target at about twenty-five yards distance, that I would say would be about the size of one of these picture frames on the wall, you might be lucky to get it in at the

bottom left-hand corner at twenty-five yards. Then you'd have to dial in sixty clicks up, sixty clicks to the right or left to get it close on and then back out to a hundred yards and then try to sight the thing in further, and by a slow process make it so that the bullet impacts where your crosshairs are located.

Now, usually what you do on a .30-caliber weapon, if you are a hunter or somebody else, you try and get the typical bullet impact approximately two inches, maybe

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an inch and be a half or two inches, above point of aim. That would put your rifle dead on at two hundred yards, maybe two fifty actually, two hundred fifty yards.

That would mean if you fired at a target with the weapon cited [sighted] in like that at twenty-five yards, you'd hit with a scope like this on it about three quarters of an inch to an inch below the target. At about fifty yards you would start crossing over that target line. At about sixty-five to seventy you would hit right on.

At one hundred yards you'd be about an inch and a half, inch point nine, maybe two inches high. You'd be slightly over that at two hundred yards. And at two hundred fifty you'd be dead on. And at three hundred you might be six or seven inches low.

So you would have to sight this thing in. It does not appear that this weapon was ever sighted in.

Now, there was also an FBI report in the record that talked about this weapon having been test-fired shortly after it was

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taken into evidence. And that report revealed that it shot several feet to one side at a hundred yards and slightly half that low. So this does not appear to have been a sighted-in weapon.

Now, it is possible that it could have been knocked out of zero, but this rifle is not one for that to be something that was as likely as it would be with other weapons.

You will note that it has got a two-piece stock. This stock really is not firmly affixed to

the barrel. There is a rod, an operating rod, upon which this slide is affixed. That keeps it from having any impact on the barrel at all. This barrel is fixed tight with the receiver. You simply have a butt stock here which keeps this thing from occurring like your typical bolt action where there is wood that goes all the way up the receiver and up along the barrel which tends to warp one way or the other depending upon the temperature and humidity.

So this rifle probably would not have gotten much out of zero, and what I call

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out of zero is maybe an inch or so one way or the other. If you get real finicky, you make sure you get it right back on.

So this weapon, if it was in the condition it was in three some days, four some days after it was taken into evidence, literally could not have hit the broadside of a barn if somebody was shooting with it at a target.

That brings up some other circumstances if you want me to go into it about what I was observing about the target conditions themselves.

Q. Yes, I'd like like you to briefly summarize that. Let me also understand what you have told us now. Based upon your review of the –

A. You want me to say it simply? In other words, you buy one of these, put a scope sight on it, you've got to sight it in. It takes a bit of doing. It takes a little help with some mechanical devices on the front end. That was not done with this weapon.

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It does not appear that this weapon was sighted in. And when it was recovered and first taken into evidence, it would not hit what it was shooting at. It would hit several feet to either right or left. I think it was four feet one way and two feet down.

Q. Yes. That is what the FBI report indicates?

A. That's right. Anyway –

Q. Could that rifle scope have been thrown out that amount had it been dropped on a sidewalk?

A. That amount, no. I had one of these very scopes, fell out of a tree and landed on the bloody thing. Damn near broke my leg. But I could carry on with the hunt.

Q. The scope was intact?

A. Scope was intact. Rugged scope. That's why they sold a lot of them, the Redfield two to seven variable. One of the earlier variables, but a pretty good one.

Q. Let me just ask you: Moving on, based upon all this analysis and review of

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this rifle, the testing information, the documentation, is it your opinion that this weapon was the murder weapon that killed Martin Luther King, Jr.?

A. Well, I've not discussed the further ballistics tests I ordered and the result.

But based on the entirety of the record and the further ballistics tests I had run on this rifle, it is my opinion this is not the muder [murder] weapon.

Q. Could you just summarize for us the basis of that opinion?

A. Okay. The basis of that opinion would be run based on the subsequent ballistics analysis that was done with this weapon using scanning electron microscopy to analyze the sample bullet and compare it with the slug removed from Dr. King, the circumstances attendant upon the lack of similar batch status of the bullets from the rest the cartridges, this weapon itself in terms of it not being sighted in and also a description of the shooting itself in terms of what supposedly transpired that makes this

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a rather unique weapon.

Now, if you would like, I'll talk about the ballistics test that I got the results of.

Q. Yes, please. Go on.

A. Okay. What ultimately happened is I ordered this rifle thoroughly cleaned for this reason: It is a new weapon. The bore has not been shot in. It has not been broken in. The bores of rifles need to be broken in just like your car needs to be broken in. They are still rough.

Remington was not the worst at that, but in 1968, 1967, 1966, the firearms companies were switching over from a lot of hand labor to machine-manufacturing processes that had not been perfected. There was a big hue and cry in the whole gun world about the defects that you often found with new products. I know I had to send one back every four or fifth time I got a hunting rifle. There was a flaw in it that had to be sent back for correction.

In any event, I ordered this weapon

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cleaned, because even though it had – you can look through it right now. It looks like you've got a shiny bore. If you look under it – at it under certain light conditions, this whole bore is smeared with jacket powder. Basically a bullet fired in a hunting weapon has a lead core. It has a gilding metal jacket or a bronze jacket, and there is coating over the top of that.

When you fire it down this bore with the high heat of the combustion process and the higher pressure and the velocity, it leaves trace elements of that jacket all down the barrel. The more of the barrel that is broken in and the smoother it gets, the less it leaves.

When I inspected this weapon initially, the bore impressed me as quite filthy. I used a bore sight. It is a little device with a light in it. You can look through this thing. It is absolutely filthy.

In any event, I ordered it cleaned. They apparently did not clean it more than to

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run a patch down one or twice through it. I had given as a suggestion that they use something known as a file out, which is a device made by a company known as Outers, that is nonintrusive.

You fill this barrel with a chemical. You put a plug in it, an electrode in it, hook the barrel up to the other electrode and you leave it for twenty-four hours and it works a reverse-plating process and you get all the filings stripped out of this barrel and it adheres to the electrode.

So you would have a pristinely-clean weapon in twenty-four hours. They chose not to do that but to simply run a patch through it for a number of reasons, which through mistake – which was going against their mistaken understanding of my order – they thought I order them not to clean it.

But in any event, they fired eighteen bullets from this weapon into a water tank. Twelve of those bullets, that is, sixty-six point three four or seven five or sixty-seven percent, showed a similar

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characteristic that was a very unusual characteristic.

What usually happens when you take a bullet and you fire it down a rifle barrel is that the actual diameter of the bullet, that is, the .308 in this case, would match the bore diameter. But when you have the bore, there are some lands, some ribs that stick down. Those ribs would engrave the bullet. They would press markings into the bullet.

What was unusual about the characteristic of the projectiles that were fired out of this weapon is that there was a defect somewhere in this barrel that caused the bullet not to be pressed down but to come up into this particular flaw. So what you did is instead of a rounding, say one of these styrofoam coffee cups, with grooves that had been indented in that, imagine, if you can, that there would be a bump that would be sticking up on the surface.

So that is very unusual and indicated that there was some shattering in the tool that was used to make this barrel.

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It very seldom happens. It is very rare. But it was present on these bullets.

Now, because this weapon was not cleaned, what happened was that the filing material was being blown out of this flaw.

So one of these bullets would have a gross reflection of this flaw. The next shot through it would be somewhat less impressed because of the filing that had filled up this defect. The third one would have even less of an impression. Then the filing would get blown out. The next bullets through would not show it to a gross extent.

So you've got twelve bullets with the same common characteristic, that is, this raised area on the surface of the bullet.

There was not – that was not found on the corresponding portion of the bullet removed from Dr. King.

Now, using scanning electron microscopy, you can get a much more clear view of what you are looking at than the traditional method. One of the problems with the so-called experts that were called in on

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this is none of them were really expert in much of anything concerning firearms other than simply looking at one bullet, comparing it with another bullet, in a microscopic setting.

None of them had any experience in scanning electron microscopy, none of them had any significant experience in actually shooting or using a rifle or anything other than what they did in the laboratory.

None of them had ever cleaned a rifle other than I believe the testimony was that when they found one clogged with mud or dirt or debris, they would run a rod through just to get that out so they didn't destruct the weapon.

In any event, this characteristic was common. Sixty-seven percent of the bullets showed it. I ordered the weapon be retested once this cleaning was done. The nature of the defect was such that it would be expected that one hundred percent of the rounds fired would show this defect.

If I can give that to you in lay

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terms, it is like this: You are sixty-seven years old, seventy-four years, you are having trouble urinating. You go to the doctor. He says, I think you need to go see a proctologist, I'm noting a very hard area in your – hard something in your prostate area. The proctologist says, okay, fine, we need to run some tests. Every test they run is saying, okay, you've got prostate cancer.

That's where we are with this rifle here. The next step would have simply been a confirmation of everything that had gone before. But this does not appear to be the rifle that was used to kill Dr. King.

There is another thing about that that is unusual, too: The testimony that the barrel of this rifle was rested across a hard wood window sill, that the gunman, using one foot to prop himself up, holding on and using another arm to hold the weapon, he supposedly rested this barrel on this window sill and pulled the trigger.

Well, there is an unusual thing about this one. Being a slide-action, if you

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do that, nine times out of ten the slide is going to cycle itself before the pressure is dropped in the barrel, and what you'll get is a blown-up or ruptured shell casing, which will be quite exciting when it happens.

So this rifle fortuitously is incapable of being used as they indicated in the proof that was in the record.

So we've got, one, non-similar lots of components, two, we've got a rifle that has never been cited [sighted] in, three, we've got a usage suggested for that that is impossible for this particular type of weapon, and then in addition, when we run the more advanced ballistic comparison tests, none of that matches up.

Q. Judge, after all of that analysis, you had come to order retesting under very strict guidelines?

A. Very strict.

Q. The cleaning and the retesting. That was about to go forward. What happened?

A. Well, they removed me from the case. They said I was biased towards James Earl

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Ray, which found rather astonishing. If anybody knows me, me being biased in favor of a self-avowed racist and bigot is absolutely disgusting as a concept.

What I've always tried to do is be fair and impartial and neutral and detached straight down the middle, and sometimes I know that upsets people when things don't go as they expect them to go.

Q. So you were removed from the case by whom?

A. The Tennessee Court of Criminal Appeals. It is interesting that was done before a full transcript was developed. I must say this: That during the course of these proceedings, whenever the prosecution didn't like what I was doing, they would run up and file affidavits, which in my personal opinion misrepresented the state of the evidence, and they would go up there to get an emergency stay before a transcript was prepared.

Now, one thing that struck me as quite unusual is one of the affidavits they

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filed in this particular case, which was, quote, the weapon should not be tested because if it is tested, it may be damaged, which would prevent it from being tested in the future, unquote.

Q. Judge, would you explain to the jury how firing that caliber weapon might generate what appears to onlookers to be smoke rising from a brush area?

A. It is my saying you do not get smoke from smokeless power, but when you have a high-intensity cartridge like a 30-06, you don't, but what you might find is the

following: The compression may cause a condensation of water, which is a phenomenon that I've observed from time to time hunting or shooting, or, two, you may kick up fine dust in the area immediately in front of the rifle, or, three, because this rifle slug may be moving close to the speed of sound, the shock wave from the bullet passing a bush or some foliage that has dust on it will cause it to rise and it will look to the onlooker like smoke.

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Now, there is another thing about this rifle that is of significance. It goes back to what you asked me in terms of my opinion about why the .30-caliber weapon.

Not only could you use a number of civilian weapons, but if somebody were analyze the basal characteristics of a slug taken from Dr. King and this weapon with what the FBI did, you could not tell whether that weapon came out of an M-14, a M-21, an M-24 or the Remington 700 military sniper weapon that they had at the time, nor could you tell if it came out of that.

One of the things that they did not do is attempt to analyze the twist of the projectile that was recovered which might have been helpful. But in any event, what you have is a situation where let's say you have one, two, three, four or five people who have been for one reason or the other convinced that they were doing something worthwhile, they could have all been out there attempting to carry out their own little particular portion in some perceived

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assassination. Meanwhile, other people could have been involved, and if any of those people had been out there, then each of the .30-caliber weapons they possessed could have been tied into the case just like this one was.

Q. That fatal shot could have been fired from any number of .30-caliber weapons?

A. Any number of .30-caliber weapons, military or civilian. Let's put it this way: As a professional involved in the criminal justice system for a very long time, as a prosecutor, public defender, defense lawyer handling murders, robberies, very serious crimes, this had to be one of the most inept and incapable, if not downright incompetent investigations, I've ever seen in my life.

It would it would have struck me that if they had really wanted to analyze bullets fired out of this rifle, they would have fired them into water, not cotton waste. It would have struck me that they would have done a more intense analysis of

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what you have over there.

Now, you've got a base of that bullet that is completely intact, and it is quite subject to even ordinary ballistic analysis for striations. They did not do that.

Q. Judge, on that tack, the FBI reports indicated that the death slug was too badly deformed for them to do that kind of analysis?

A. That's not a badly-deformed slug. What you have here is an intact base. That is what you need. What has gone on here is that most of what is in this record is something that you would accept on trust. Ballistics is an arcane subject.

The FBI is supposed to know everything there is about the subject. In 1996 the FBI was trusted. The FBI said in our professional opinion this is not capable of being analyzed. They didn't do anything on, absolutely nothing at all, except the worst things you could do if you wanted to develop some test results.

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Judge Preston Battle looked at what they supplied, and even back in 1968 he was not satisfied with these tests, and ordered that they be redone. So from 1968 up until James Earl Ray died, there was a resistance on the part of local authorities to keep this weapon from being retested.

The first judge ordered it. I ordered it. When it was tested, sixty-seven percent of the bullets were found to not match that murder slug.

MR. PEPPER: Judge Brown, thank you very much.

THE WITNESS: You are welcome.

MR. GARRISON: I have no questions of Judge Brown.

THE COURT: Thank you, Judge.

THE WITNESS: Thank you, Judge.

(Witness excused.)

(Jury out.)

(The proceedings were adjourned at 4:35 p.m.)

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