

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

Volume 2

16 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 16th, 1999

VOLUME II

Before the Honorable James E. Swearngen,

Division 4, judge presiding.

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P R O C E E D I N G S

(November 16th, 1999, 10:15 a.m.)

MR. PERA: Your Honor, good morning. I have a couple preliminary matters related to the matter you have on trial. May I address the Court this morning?

THE COURT: Let me get my orders first.

MR. PERA: Okay. I thought that was done, Your Honor. That's why I approached.

THE COURT: Any additional orders? Okay. Go ahead, Mr. Pera.

MR. PERA: As you know, I'm Lucian Pera. I represent the *Commercial Appeal*. First, your Honor, I have an order on yesterday's proceedings as to our motion for access – I have served this on counsel for the parties – that both grants – both denies my

motion for access, grants our status as an intervenor for our limited

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purpose and grants the Rule 9 motion that you orally granted yesterday.

THE COURT: All right.

MR. PERA: Does that meet with your approval, your Honor? There are two other matters, your Honor, I want to present. One is a motion we filed this morning. As I understand it, although, of course, I wasn't here and my client wasn't in the courtroom, voir dire has been completed.

We have moved – filed a motion with the Court, I'm not sure if the Court has received it yet, for access – immediate access as soon as practicable to the transcript of voir dire proceedings. We have filed a motion and would ask the Court to grant us immediate access to the transcript of the voir dire proceedings held in this case.

THE COURT: Denied.

MR. PERA: Denied?

THE COURT: Uh-huh.

MR. PERA: May I, Your Honor –

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I'll obviously give a moment to counsel. I'm anticipating one of two possible results. I've actually prepared an order. Since I know my client may be interested in an appeal, I will share this with Mr. Pepper and Mr. Garrison.

There is one other matter, Your Honor. That is my partner Ms. Leizure is in a better position to address it than I. We know the Court has granted access to the trial to the broadcast media, but under Rule 30 we would also, as the Court knows, do use still photographers and would request and have filed a motion yesterday afternoon by access by one of our still photographers to the courtroom.

If the Court needs to hear that addressed from a legal point of view under Rule 30, my partner, Ms. Leizure, can address that.

THE COURT: As for still photography, I'll have to refer to the rule, which does allow it, but it is limited.

MS. LEIZURE: Your Honor, I

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believe the provisions are that you can limit it to two still photographers.

THE COURT: Who are you?

MS. LEIZURE: I'm sorry, Your Honor. I'm Kathy Leizure. I'm Mr. Pera's partner. I represent the *Commercial Appeal*.

THE COURT: Kathy who?

MS. LEIZURE: I'm Kathy Leizure. I believe the provision is, your Honor, you can limit it to two still photographers who are using no more than two cameras each.

THE COURT: I intend to abide by the rule.

MS. LEIZURE: Okay, Your Honor.

THE COURT: It says if there are more than two, if we're going to have still photography in the courtroom, you'll have to work it out among yourselves. If they can't work it out among themselves, then I'm going to disallow all of it.

MS. LEIZURE: I understand, Your Honor. There is a provision in here for pooling arrangements, which I would be happy

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to try to work out if I know, you know, what other media have been granted access pursuant to this rule for still photography purposes.

THE COURT: I intend to abide by the rules. It is for that same reason that I disallowed the presence of media during the jury selection. All right. Assuming that there are no others who want to have still photographers in the room, I'll allow yours, but if it comes to a point where there are more than the rule allows, if you can work it out among yourselves, I'll do that. If not, as I said, I'm going to disallow all of them, because I'm not going to become involved in a dispute over who can and who cannot.

MS. LEISURE: I understand, Your Honor. I understand. So I will advise my client that they can bring the still photographer in within the provisions, the criteria and guidelines of the rules.

THE COURT: The other thing is that I have instructed all of them that they are not to photograph my jury.

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MS. LEIZURE: That's right. That's certainly a provision that is in the rule. That's understood.

THE COURT: Yes.

MR. PEPPER: May I be heard, Your Honor?

MR. PERA: I've provided this order –

THE COURT: Just a moment. Go ahead, Mr. Pepper.

MR. PEPPER: Thank you, Your Honor. Your Honor, the family has its own still photographer who would like to be present in the courtroom and will abide by all of the rules. It is Mr. Benedict Fernandez, who for nearly forty years has followed the history of Dr. King's work and these proceedings.

THE COURT: All right. Those two, then.

MR. PEPPER: Thank you, Your Honor.

MR. PERA: Mr. Pepper, is this order okay.

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MR. PEPPER: Yes.

MR. PERA: Your Honor, if I could pass the order for immediate access to is the transcript. Mr. Garrison and Mr. Pepper have approved that order, although I haven't actually signed that original. Thank you, your Honor. I appreciate you hearing us.

THE COURT: Yes. Mr. Garrison, are you ready?

MR. GARRISON: Yes, Your Honor.

THE COURT: Mr. Pepper?

MR. PEPPER: Yes.

THE COURT: Bring the jury out, Mr. Sheriff.

(Jury in.)

THE COURT: Good morning, ladies and gentlemen. Glad to see that everybody made it this morning. Yesterday I inadvertently omitted one of the Court personnel. I should have introduced him. I have to constantly remind him that I'm elected by the residents of Shelby County and that he is not my boss. It is my court

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clerk, Mr. Brian Bailey over here. I think I introduced everybody else.

Before we begin the trial, I'm going to give you some preliminary facts that you can refer to during the course of this trial. Before the trial begins, I'm going to give you some instructions to help you understand how the case will proceed, what your duties many be, and how you should conduct yourselves during the trial.

When I have completed these instructions, the attorneys will make their opening statements. These statements will be brief outlines of what the attorneys expect to be evidence. After the opening statements, you will hear the evidence. The evidence generally consists of the numbered exhibits and testimony of witnesses. The plaintiffs will present evidence first. The defendant will then be given the opportunity to present evidence.

Normally the plaintiff presents all of the plaintiff's evidence before the other

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parties present any evidence. Exceptions are sometimes made out of this usually to accommodate a witness. The witnesses will testify in response to questions from the attorneys. Witnesses are first asked questions by the party who calls the witness to testify, and then other parties are permitted to cross-examine the witness.

Although evidence is preserved by asking questions, the questions themselves are not evidence. Any insinuation contained in a question is not evidence. You should consider a question only as it gives meaning to the witness' answer. Evidence may be presented by deposition. A deposition is testimony taken under oath before the trial and preserved in writing or sometimes it will be videotaped.

During the trial objections may be made to the evidence or trial procedures. I may sustain objections to questions asked without permitting the witness to answer or I may instruct you to disregard an answer that

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has been given. In deciding this case you may not draw an inference from an unanswered question, and you may not consider testimony that you are instructed to disregard. Any arguments about objection or motions are usually required to be made by the attorneys out of the hearing of the jury. Information may be excluded because it is not legally admissible. Excluded information cannot be considered in reaching your decision. A ruling that is made on an objection or motion will be based solely upon the law. You must not infer from a ruling that I hold any view or opinion for or against any parties to this lawsuit.

When all of the evidence has been presented to you, the attorneys will make their closing arguments. The attorneys will point out to you what they contend the evidence has shown, what inferences you should draw from the evidence and what conclusions you should reach as your

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verdict. The plaintiff will make the first argument and will be followed by the defendant. Plaintiff will then respond to the defendant's arguments. Unless you are otherwise instructed, statements made by the attorneys are not evidence. Those statements are made only to help you understand the evidence and apply the law to the evidence. You should ignore any statement that is not supported by the evidence.

After the arguments are made, I will instruct you on the rulings of law that apply to the case. It is your function as jurors to determine what facts – what the facts are and apply the rules of law that I have given you to the facts that you have found. You will determine the facts from all of the evidence. You are the sole and exclusive judges of the facts. On the other hand, you are required to accept the rules of law that I give you, whether you agree with them or not.

As the sole judge of the facts, you

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must determine which of the witness' testimony you accept, what weight you attach to it and what inferences you will draw from it. The law does not, however, require you to accept all of the evidence in deciding what evidence you will accept. You must make your own evaluation of the testimony given by each of the witnesses and determine the weight you will give to that testimony. You must decide which witnesses you believe and how important you think their testimony is. You are not required to accept or reject everything a witness says. You are free to believe all, none or part of any person's testimony. In deciding which testimony you believe, you should rely on your own common sense and every-day experiences. There is no fixed set of rules to use in deciding whether you believe a witness, but it may help you to think of the following questions:

- Was the witness able to see, hear or be aware of the things about which the witness testifies?
- How well was the witness able to recall and

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describe those things?

- How long was the witness watching or listening?
- Was the witness distracted in any way?
- Did the witness have a good memory?
- How did the witness look and act while testifying?
- Was the witness making an honest effort to tell the truth or did the witness evade questions?
- Did the witness have an interest in the outcome of the case?
- Did the witness have any motive, bias or prejudice that would influence the witness' testimony?
- How reasonable was the witness' testimony when you consider all of the evidence in the case?

There are certain rules that would apply concerning your conduct during the trial and during recesses that you should keep in mind. First, do not conduct your own investigation into the case, although you may be tempted to do so. For example, do not visit the scene of an incident, read any books or articles concerning any issue in the case or consult any other source of information. If you were

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to do that, you would be getting information that is not evidence. You must decide the case only on the evidence and law presented to you during the trial. Any juror who receives any information about the case other than that presented at the trial must notify the Court immediately. Do not discuss the case either among yourselves or with anyone else during the trial.

You must keep an open mind until you have heard all the evidence, the attorneys' closing arguments and my final instructions concerning the law. Any discussion before the conclusion of the case would be premature and improper.

Do not permit any other person to discuss the case in your presence. If anyone does attempt to do so, report that fact to the Court immediately without discussing the incident with any of the other jurors. Do not speak to any of the attorneys, parties or witnesses in the case even for the limited purpose of saying good morning. They are

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also instructed not to talk to you. In no other way can all of the parties feel assured of your absolute impartiality.

All right. There are a couple of additional comments I would like to make. I know that when you are over in the big room, the jury commissioner probably tells you don't ever leave anything lying around. I just want you to know that we have not had any unhappy experiences, that your personal affects are considered to be safe in the jury room.

So if you have sweaters or coats or lunches or whatever else, then you can feel pretty safe leaving them back there while you are here or while you are gone to lunch. Also, if we need to take a comfort break, let us know and we'll be glad to accommodate you. We want to make this a pleasant experience for everyone. We would ask you to be on time whenever we are supposed to congregate. We'd hate to have to be waiting on someone who is disrespectful of the others and for some

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reason couldn't make it on time.

Finally, I know that sometimes, usually after lunch, but any time of day you can become weary and just can't keep your eyes open. So I am going to designate each of you and authorize you to nudge your neighbor if you catch them dozing on us.

All right. As I promised, the attorneys will give their opening statements, that is, they will tell you what they expect the proof to be in this case. After they have done that, we will begin to hear the proof.

As I told you, this is a case on conspiracy. Conspiracy I guess in general terms would mean carrying out a design or plan where two or more have agreed to commit an act to do injury or damage. And the planning, of course, is not enough. They have to, in addition to the planning, do an act pursuant to that plan in order to be a co-conspirator.

All right. The plaintiff will begin. Then after the defendant has given

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their opening statement, we will start to hear the proof in the case.

Mr. Pepper.

MR. PEPPER: Thank you, Your Honor. Good morning, ladies and gentlemen of the jury. On the 3rd of April, 1968, loving husband, father of four young children kissed his family goodbye and left for Memphis, Tennessee. He would never return. They would never see him alive again.

On the 4th of April, 1968, approximately one minute past six in the evening as he stood on a balcony overlooking a parking area of the Lorraine Motel, he was felled by a single bullet, never regained consciousness and died shortly thereafter.

That, ladies and gentlemen, is the beginning of this story. The plaintiff in this case, the victim, was a husband and a father, but he also was a prophetic figure in American history. He had been a civil rights leader as a young man after school and in his early pastor's years, but he moved beyond

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that calling, beyond that calling on behalf of the poor in the southern part of this country, in this area of this country, to become an international figure concerned with the plight of poor people, economic injustice and with the issues of peace and war.

So as he grew in his leadership and his calling, [he was awarded the Nobel Peace Prize](#). With that award he became truly an international figure, not a regional pastor fighting for justice on behalf of his people. He then turned his attention to the plight of poor people and the effect of war.

He came out strongly during the last year of his life to oppose the war in Vietnam because he saw it destroying an ancient culture and civilization that had so much in common with the plight of black people and the poor everywhere in the world. So he opposed that war.

He also turned his attention to the plight of poor people, the growing numbers of poor in the United States, and had put together a poor people's campaign that was to

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descend on Washington D.C. in the spring of 1968, the very spring in which he was assassinated. That March an encampment did come off but without its leader. As such, it is history now that it did not have the impact that it might have had on the Congress of the United States. The victim was, of course, Dr. Martin Luther King, Jr...

The defendant in this case, Mr. Loyd Jowers, who owned Jim's Grill, which was at the ground floor of a rooming house on South Main Street in Memphis at the time. It no longer exists, but the building is still there.

Your Honor has quite correctly advised you not to go near the scene of this crime because it has changed so much over the years. It would only be very confusing for you. That is the reason for that instruction.

At that time and now that building backed onto an area, like a vacant lot area or a backyard. That backyard was covered with brush and bushes, and beyond it was the Lorraine Motel and the balcony on which

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Martin Luther King stood when he was assassinated. The defendant managed and owned that grill, and the plaintiffs will attempt to prove that the wrongful acts and conduct of this defendant led to the death of Martin Luther King from behind his very premises, from the bushes, the brush in that area.

Now, by way of disclosure to you, counsel for both parties have agreed not to conduct any interviews with the media, not to talk to the press at all, during the course of this trial. The Court has so instructed you with respect to that. We think that is a most important instruction, and, in addition, plaintiffs would hope that you would think carefully about the issues of this case and the facts that are presented and the evidence that comes before you and not considering what is on television or radio or in the newspapers regarding this case.

We would ask you please consider staying away from any coverage of that sort

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and make your decision solely on what you hear in this courtroom. It is most

important.

Also by way of disclosure I have the obligation to tell you that I was a friend and a colleague of the victim in this case during only the last year of his life. Years later I began to look into the facts of this case and ultimately became convinced that the man accused of the crime was not guilty and undertook to represent him and was his lawyer for the last ten years of his life.

He died in prison, never having a trial on the evidence in the case. And the plaintiff family decided that this man also was innocent of the crime and decided to come out and support a trial for him a few years before he died.

Now, the Court has properly instructed you with respect to the nature of the evidence. There will be mostly live witnesses, but there will also be some deposition evidence that you will hear, some affidavits, some public statements, and the

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Court will advise you as to the range of voracity you should put on any evidence that is admitted in this Court. But it will not all be live testimony, although indeed most of it will.

With respect to the plaintiff's proof, it is – the case will be divided into a variety of sections. It is important to us that you consider those sections in the order as it appears.

There will be a general introductory background area of the case that will familiarize yourself with what led up to this wrongful death so that will be hopefully as clear to you as can be.

There will then be evidence laid before you that will indicate that in fact the fatal bullet was fired from the brush area behind the rooming house, from a row of bushes that were very tall and thick where a sniper lay in wait and fired the shot. So that section will deal with the bushes.

There will be a section of proof that will deal with the rifle that is in evidence that is alleged to have caused the

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death of Dr. King. And the proof that the plaintiffs will put forward will demonstrate to you that in fact the rifle in evidence is not the murder weapon and that the murder weapon was disposed of in another way.

Plaintiffs will advance proof that there were a number of other people involved. As Your Honor has correctly told you, of course a conspiracy involves more than one. Whilst this case is focusing in a civil court on Mr. Jowers as the defendant, there were other people involved. And some of those individuals will be developed in evidence.

In particular one individual will be developed in evidence who was critical to the coordination of a lot of these activities and who is beyond the reach of this Court, although will be invited, has been invited, and will be invited to attend, but was a part of this conspiracy, this collaboration with Mr. Jowers.

Now, defendants have in their answer, their amended answer, indicated that

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if liability results, and counsel has mentioned that yesterday, if liability results, attaches to his client, that it should also attach to other agencies and individuals.

Because that door is open, plaintiffs will advance evidence of the extent and the scope of this conspiracy so that you understand the umbrella under which the defendant was operating, so it is clear to you the kind of total picture in which he found himself as he carried out his wrongful acts which led to this death.

One indication of this conspiracy, why we are here thirty-one years later in this courtroom in Memphis, Tennessee, is the suppression of the truth, the cover-up that has lasted for so long and the effects of that cover-up in terms of people learning the truth and courts, such as this Court, being able to entertain proceedings designed to unearth that truth.

This cover-up itself and that section of the case would show you

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indications of the wrong and will relate directly to the wrong itself that we are proving here and alleging here.

Now, because these witnesses will come from various parts of the country and various parts of the world, I must say, we've had to adjust to various schedules of people. So to some extent the evidence you hear up there may be disjointed. But what I ask you to consider is that each of the witnesses who testify with respect to facts will be putting forward to you a particular piece of this puzzle. And they are being called only for – he or she will be called only for that particular piece. So you must discern what that is in each instance.

Yes, there will be an introductory statement so that you get to know the witness and who the witness is, get a feeling for whether he or she is credible. But beyond that there will be a piece of information. It would be very useful in our view for you, if you could, to take notes in the course of these proceedings. I know the

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State I understand does not provide you with note paper or pads in this jurisdiction. But if you could provide yourselves with them just to make notes of particular facts that you think are relevant that a witness has testified to or an exhibit that you might want to look at further or later on during deliberations, that would be very helpful to you when you begin to refresh your own recollections, because there will be a lot of information coming out.

There will be a great deal of information coming out from a number of witnesses. You may very well expect to forget some of it unless you have noted it down so you understand what they said. I urge you to consider using that, to use some mechanical way of recalling what has happened.

I think that's basically it. I think plaintiffs believe that as a result of the evidence you will hear in this courtroom, that finally the truth will emerge in respect of the assassination of Martin Luther King, Jr. He often said that

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truth-crushed earth will rise again. Well, I think plaintiffs sincerely hope that the truth

will be resurrected in this courtroom. And that as a result of the truth being resurrected in this courtroom, the events, those horrible events of April 4th, 1968, will be unearthed and seen and understood.

Ladies and gentlemen, prepare yourselves for the resurrection of truth with respect to that horrible day, April 4, 1968. And I suggest to you that some of the evidence you hear may go to the essence of this Republic and may in fact shake some of the foundations of this Republic. So important is this case, so important is the evidence, please consider it carefully and well.

We seek a verdict of liability against the defendant because he played a critical role in these events. But it goes well beyond him. And we're prepared to acknowledge and to establish that.

Thank you.

THE COURT: Mr. Garrison.

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MR. GARRISON: If Your Honor please and Dr. Pepper and ladies and gentlemen, as you know, I'm Lewis Garrison. I represent Mr. Jowers, who is the defendant in this case.

I'd like to say this: I started forty years ago in this practice of law in August, and on April the 6th, 1968, I was about three hundred feet from this very spot in my desk when Dr. King was assassinated.

Now, Dr. Pepper and I agree on probably eighty percent of the things that he is advocating and stating to you. There are some areas that we do not agree upon. I'll touch on those now.

Ladies and gentlemen, April 4th, 1968, this city was racially divided. November 16, 1999, it is still racially divided. I'm sorry to tell you, it is. It is an error we need to work on, and I hope this trial will bring out some things that perhaps will have some bearing on that.

Mr. Jowers has been around the City of Memphis a long time. He is a former

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police officer. When this occurred in 1968, he was operating a small restaurant called Jim's Grill.

Now, you'll find that any part that he – he has conferred with Mr. Dexter King and Ambassador Young and told them some things that he knew and heard, but I think you will find that he was a very small part, if any – if any – in the assassination of Dr. King. He was simply operating a little restaurant down on South Main Street.

Anything that Mr. Jowers may have had to do with this certainly was unknown to him. He was never told that the target of an assassination was Dr. King. Certainly his feelings are that he was at sympathy with Dr. King and certainly for the things that Dr. King was seeking.

Certainly Ms. King and her family have been made to suffer more than any family should. There is no question about that. They've had to go through more than a family should have to go through. We're certainly in sympathy with them and have always been,

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always have been behind Dr. King and the things that he was seeking. When I was growing up, not too far from here, we had separate rest rooms, separate water fountains, those type things, separate schools. It doesn't seem like it was very long ago. But after Dr. King came along, those things came to some extent, but we still take too much of our rights for granted. It has not always been the way it is now.

In this trial you will hear from different persons that will bring forth things that you probably never heard before. For instance, there will be a police officer that will testify here about the United States government sending in agents just before Dr. King's assassination. You'll hear a lady here testify about a police officer who was her husband who was very prejudiced against people whose skin was not white.

You'll hear, ladies and gentlemen, from a gentleman who will also tell you that he had a chance to be with Mr. James Earl Ray

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for some months before the assassination, and he'll provide information to you as to what Mr. Ray disclosed to him as to how he escaped from the Missouri prison, who helped him, and the purpose of it.

I think, ladies and gentlemen, you'll find in this case that Mr. Jowers was a very, very small cog in a big wheel, if he was a party at all. He never knowingly did anything that would have caused the death of Dr. King or brought any hardship on Ms. King or her family.

Now, this has been a long process. I've been involved it seems like forever. It has been many, many years. Dr. Pepper has been involved in this three times as long as I have. But this is the final chapter.

Whatever historians may write, your verdict will be the final chapter in this case. So in this case I think when you hear all the testimony here and all the proof that Dr. Pepper will offer and I'll offer, I'm going to be able to stand here and ask you not only if you find that Mr. Jowers had

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anything to do with it, but there are others who are much more responsible than he was who knew what they were doing and who brought about the commission of this hate crime. That's what it was. And that others are responsible and that they should be held liable instead of Mr. Jowers. It will be an interesting trial. I think that you will certainly find it interesting, and I hope that you do. If you will listen attentively, because this is a very important case in the history of this country.

Thank you.

THE COURT: Mr. Pepper, call your first witness, please.

MR. PEPPER: Plaintiffs call Mrs. Coretta Scott King to the stand.

CORETTA SCOTT KING

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

DIRECT EXAMINATION

BY MR. PEPPER:

Q. Good morning, Mrs. King.

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A. Good morning.

Q. Thank you for being here. I realize how stressful it is at the time, particularly because of the gauntlet of the media out there. We're grateful for your presence. Could you just tell us by way of background what was the purpose of Dr. King's visit to Memphis, his involvement in Memphis and his coming here in 1968.

A. Martin came to Memphis to support the sanitation workers who were engaged in a strike for better wages and working conditions. He felt it was important to come to support them because they were working poor people.

Q. And how did the sanitation workers' strike and his support for that fit into the Poor People's March in Washington which had been planned for later on, the spring?

A. He felt that it was important that he give his support to them because they were a part of what he was really struggling to get the nation to understand, that people work full-time jobs but in a sense for part-time

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pay. Even people who were poor who worked could not make a decent living. So they would then be invited to join the mobilization for the campaign which was to be held in Washington.

Q. Right. And was this support – his support for the sanitation workers in Memphis and the plans for the Poor People's March in Washington to be covered by the umbrella of non-violence at all times?

A. Absolutely. He felt that – as you know, his whole life was dedicated to non-violent struggle. Any time there was violence of any kind, it was very disturbing to him, and he disavowed it completely and whenever he had an opportunity to. He dedicated his life to helping people to understand the philosophy of non-violence, which he

lived it as a way of life. And so when he came to Memphis – I don't know, Counsel, should I mention that he – I don't want to get ahead of myself, but when he came to Memphis the first time and there was a march that he led

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which his organization had very little to do with planning, that broke out in violence. It was very, very upsetting to him because most of the marches, I would say all of them, that he had led had always been mobilized with the support of the National Southern Christian Leadership Conference staff. Therefore, they were aware of any problems, any controversies that might exist, conflicts between groups and among groups.

But he came that day from a trip, got off the plane and went straight to the head of the march. Of course, the march did break out in violence. It was most disturbing to him. So when he – when this happened, he felt that it was very important for him to return to Memphis to lead a peaceful, non-violent march before he could go forth to Washington. He had to demonstrate that a non-violent march, a peaceful march, could take place in Memphis because of the criticisms that were being leveled at that time.

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Q. So he returned to Memphis that last time because of the violence that broke out on the march of March 28th, and he was determined, from what you are saying, to restore the position of non-violence to the movement?

A. Yes, that's correct.

Q. Did he attribute – did he have any idea why that march on March 28th turned violent? Did he have any notion of what caused that?

A. Well, I think he became aware that there was a local – well, he thought at the time what was a local group of young people who really precipitated the violence. The feeling was that there were some forces behind them, that they were not just persons who decided that they would throw rocks and break windows.

Q. Now, what was behind or underlay his decision to come out against the war in

Vietnam and to take on such a public political posture, if you will, which was quite a different change for him?

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A. I must say that my husband had wanted to speak out against the war in Vietnam for many years before he actually did do so. He always – he understood the conflict that existed in Vietnam from its inception. And he realized that it was an unjust war in the first place. Then it was being fought against, you know, people of color who were poor. And wars, of course, for him didn't solve any social problems but created more problems than they solved.

He felt that this particular war was not – we could not win. Of course, history proved him right within a very short period of time after he spoke out. As a matter of fact, one year after he spoke out against the war, he was vindicated in that the nation had reversed itself and its policy toward that war.

That was April 4th, 1968, [1967] when he actually [spoke out against the war in his first public statement](#). But he said he had to do it because his conscience – he could no longer live with his conscience without

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taking a position. He felt that doing so, perhaps he could help to mobilize other public opinion in support of his position, which was, again, against the war.

Q. Do you recall the reaction of other civil rights leaders at that time when he came out against the war?

A. Yes, I do. Civil rights leaders, other opinion makers, all criticized him, both black and white. It was certainly – certainly he expected it, but he probably didn't expect some of the people who criticized him to do so publicly.

His way in the non-violent way was to privately disagree and to go and talk to persons which are having a disagreement, but to be attacked publicly was very difficult for him. He also knew that if he spoke out, it would probably affect the support, the financial support, for his organization, the Southern Christian Leadership Conference. And, of course, it did very profoundly. He knew that before

he took that risk and that position. So it wasn't

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surprising, but, nevertheless, it was painful.

Q. Was there much discussion at the time about him running for public office because he was being pushed forward as a third-party candidate with Dr. Benjamin Spock as an alternative to Lyndon Johnson's being returned to office at that time? What do you recall about him moving in that direction of more serious political activity?

A. Well, I was aware of the fact that there was talk about his running for public office. It was interesting because from what I knew of him, I never thought that he would run for public office. Just knowing the kind of person he was, and because, you know, politics is very important and necessary, but he would be freer to make statements according to his conscience if he didn't run for public office, and because he was Christian minister and because he took his commitment so seriously, I felt that it would have been difficult for him.

But at the same time I remember him

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saying that because of the criticisms that he had gotten as he had spoken out against the war, the media had stopped carrying any of his statements and they didn't understand – no one was getting his message, because the message wasn't being carried forth.

There were a number of critical articles and some cover stories that were very critical of him at that time. *Time* magazine, for instance, did one in 1967 that was extremely critical. He had been the *Time* man of the year in 1964 [after the Peace Prize](#), and 1957 was the first time, so it was, again, very painful for him not to be able to get his message out.

So he said if I did run for office, it would be one way of getting my message out because I would have to be given equal time. The interesting thing about my husband, he always considered, you know, every aspect of an issue, both the pros

and the cons. And then he would make his mind up as to what he would do.

Q. Were there any comments that he made

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the night before his departure to Memphis, that last trip, any indications that he had of potential danger or the seriousness of the task that he faced in Memphis?

A. I don't remember specific comments in that regard. But he had – after he returned from Memphis after the violence broke out, which was like on a Friday evening, he went back on a Tuesday – he went back on –

Q. He arrived on a Wednesday, the 3rd.

A. – on Wednesday morning. But in between that time I was aware of how heavily it weighed on him, the problem of – this whole problem of the sanitation workers' conflict and what he could do to help by getting his staff united. Because some of the staff didn't feel he should go to Memphis in the first place. He was very strongly in favor of that.

So he came home late – I guess it was Tuesday evening he came in. There was not time to talk. He got up very early Wednesday morning to go to Memphis. He always called me, you know, almost every

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night when he was on trips, so he didn't say whole lot about it, but I could tell that he had a lot of anxiety and it was very heavily weighing on his mind.

Q. Did he go through these times, and particularly this last year, manifesting an awareness that his life was in danger, that he had taken a path of action now that might have brought his life into danger?

A. Yes. I think he was aware of that certainly. I might say he was aware from the early days after Montgomery, Montgomery forward, but I think as he got closer toward this period of his life, he was even more acutely aware.

Given the positions that he had taken, he realized that, you know, he could be killed at any time, but for him, his commitment to what he believed and to a higher authority was such that he didn't mind giving his life for a cause that he believed in.

He used to say that the end of life is not to be happy but to do God's will, come

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what may. So for him being happy was when he could come out against the war against Vietnam. He said to a colleague, and I heard this on the telephone, I was the happiest man in the world when I could come out personally against this evil and immoral war, because I came to a point where I felt that silence was betrayal.

So that was – I think that was his position.

Q. Mrs. King, on March 10th, 1969, one James Earl Ray entered a guilty plea and was sentenced to ninety-nine years in prison for the assassination of your husband. Mr. Ray stayed in prison until he died. But he tried continually to get a trial. At one point the family decided to support an effort for a trial for Mr. Ray. Why did the family take that position that late in the day at that point in time?

A. Well, as a matter of fact, it was because he of new information that we had received and largely because of the efforts that you had put forth to investigate a

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number of these leads that had come out and found that they were reliable enough. When we looked at it and investigated it, we felt then that we had to take a position. For years we hoped that somebody else would find out, find the answers. We wanted to know the truth. But the truth was elusive.

We wanted to go on with our lives. We felt the only way we could do it was to really take the position that we did take, because the evidence pointed away from Mr. Ray, not that he might have not had some involvement but he was not the person we felt that really actually killed him.

THE COURT: Just a moment. I see this man aiming a camera at my jury. I don't know that he has been told not to.

DEPUTY JAMES: I've instructed him not to take it of the jury.

THE COURT: All right. Go ahead.

Q. (BY MR. PEPPER) What was the general reaction to the family as a result of that

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position? Were there animosity? Were there attacks, lawsuits? What happened to the family, yourself and the children and the organization as a result of that position?

A. Well, there were a number of media articles that were negative toward the family. As a result of that – there were several really and over a period of months, and as a result of it, we feel that there was some – it had affected some of the support that we might have been able to receive for [the King Center](#).

Q. Financial support?

A. Financial support, yes.

Q. Contributions?

A. Yes.

Q. Is that similar to what happened to SCLC back in 1967?

A. That's right.

Q. Mrs. King, why is the family bringing this action now thirty – almost thirty-one years later against the defendant, Mr. Jowers?

A. Well, it has only been recently that

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we realized the extent of Mr. Jowers' involvement. So we felt that it was important to bring it now. We're all getting older, I'll say, and, of course, we wanted to be able to get the truth, as much of it as we can, out before it gets later.

I don't know how much longer any of us will be around. That's not given. But the fact is that my family, my children and I – I've always felt that somehow the truth would be known, and I hoped that I would live to see it. And it is important I think for the sake of healing for so many people, my family, for other people, for the nation. I think Martin Luther King, Jr., served this nation. He was a servant. He gave his – he willingly gave his life if it was necessary. It is important to know, actually not because we feel a sense of revenge – we never have.

We have no feeling of bitterness or hatred toward anybody. But just the fact that if we know the truth, we can be free, and we can go on with our lives.

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Q. Mrs. King, is the family seeking a large monetary award from Mr. Jowers as a result of this action?

A. No, it is not about money. That's not the issue. I think what we're concerned about is the fact that certainly there is some liability by Mr. Jowers, but we're concerned about the truth, having the truth coming out, and in a court of law so that it can be documented for all. And we were hoping that this would be one way of getting to the truth.

MR. PEPPER: Mrs. King, thank you very much.

MR. GARRISON: If we could possibly take a short break before I ask my questions.

THE COURT: Very well. We will take a fifteen-minute recess.

(Jury out.)

(Short recess.)

THE COURT: Are you ready for the jury?

MR. GARRISON: Yes, if Your

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Honor please.

THE COURT: Bring the jury out.

(Jury in.)

THE COURT: All right, ladies and gentlemen. I would like to read to you before we begin here the Court rules on taking notes. You are permitted to take notes during the trial. You may take notes only of verbal testimony from witnesses, including witnesses presented by deposition or videotape. You may not take notes during the opening statements or closing arguments or take notes of objections made to the evidence. You may not take notes during breaks or recesses. Notes may be made only in open court while witnesses are testifying. Your notes should not contain personal reactions or comments but, rather, should be limited to a brief factual summary of testimony you think is important.

Please do not let your note-taking distract you and cause you to miss what the witness said or how the witness said it.

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Remember that some testimony may not appear to be important to you at the time. The same testimony, however, may become important later in the trial. Your notes are not evidence. You should not view your notes as authoritative records or consider them as a transcript of the testimony. Your notes may be incomplete or may have certain errors and are not an exact account of what was said by a witness.

All right. You may proceed, Mr. Pepper. Oh, would you like to cross-examine, Mr. Garrison?

CROSS-EXAMINATION

BY MR. PEPPER: [BY MR. GARRISON:]

Q. Good morning, Mrs. King.

A. Goods morning.

Q. Ms. King, you and I met before and we've talked a few times. I've talked to your sons several times. Let me say this to you: I know it isn't easy for you to be the

mother of four children, but they are all fine, honorable

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sons and daughters, very fine, honorable people and I know you are pleased with them. I know Dr. King would be.

Let me ask you, Ms. King, you've never been afforded the opportunity to come into a court of law such as this and be able to be a witness as a part of it, have you? When Mr. Ray had a hearing, you were not a party to that hearing, were you?

A. No.

Q. You never had an opportunity to come into a court of law before this to have a jury decide the issues in the case. Am I correct, please, ma'am?

A. That's correct.

Q. Let me ask you, did Dr. King before his assassination, sometime before he came to Memphis, did he receive a lot of threats that you are aware of that may be hearsay? Was he aware of a lot of threats?

A. Well, the morning that he was to come back to Memphis that second time, which was the final time, his plane was delayed because of threats that had come to him. I

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understand that – well, of course, over the years there had been threats on his life many times.

Q. Do you recall, Ms. King, when Dr. King would appear at a place such as Memphis here who would plan his security? Do you know who was in charge of that or how they arranged for security for him? Did he have someone in his group that was responsible for it or did they rely on the local police department? Do you know how that was done?

A. I really don't know how that was handled except usually when he went into cities, the people who – when he went to towns, the people locally, the committee locally

that invited him, would handle the security.

Q. Let me ask you, Ms. King, when Dr. King returned from Memphis after the march, do you recall – was there any particular group or any particular person that insisted he come back here a second time? Did he ever mention to you anything about any particular person or any group that insisted on him

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coming back a second time?

A. I don't know about his coming back specifically, but I know about his coming initially. I think what he had said publicly before he left was that he was planning to come back. So I think there was that understanding that he would be coming back. How it came about I'm not sure.

Q. You mentioned earlier I believe that he seemed to be agonizing over the fact that he would return to Memphis. Was that because of the threat or because of the conditions here?

A. No, not because of the threats but just because it was so important that he lead a non-violent demonstration. Of course, there was an injunction. He had to get past the injunction as well. He took those – his responsibility very, very seriously, because he knew that the nation and indeed the world was watching. In his own conscience he wanted to be clear that he was doing the right thing.

Q. Now, Ms. King, you are aware of the

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fact that Mr. Jowers had met and conferred with Mr. Dexter King, your son, on one occasion, then again with Mr. Dexter King and Ambassador Young on another occasion. You have heard about that, I'm sure?

A. Yes, yes.

Q. Are you aware of the fact that Mr. Jowers stated to them each time he met with them that he was not aware of any of the acts he did that would lead up to the

assassination of Dr. King, that whatever acts – there was no mention of that to him, that he had no idea that whatever acts he may have been called upon he had no idea would lead to the assassination Dr. King? Are you aware of that?

A. I'm not aware of the conversation as much as I wasn't involved with it. So I couldn't speak to the detail of that.

Q. I see.

MR. GARRISON: I believe that's all. Thank you, Ms. King.

THE COURT: Any redirect?

MR. PEPPER: Nothing further,

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Your Honor.

THE COURT: You may stand down, Ms. King.

(Witness excused.)

MR. PEPPER: Plaintiffs call Dr. Cobey Smith.

COBEY SMITH

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

DIRECT EXAMINATION

BY MR. PEPPER:

Q. Good afternoon, Dr. Smith.

A. Good afternoon.

Q. Thank you for coming here. Would you state your full name and address for the record, please.

A. Cobey Vernon Smith, 2240 Brown Avenue, Memphis, Tennessee.

Q. And what is your occupation?

A. I'm an educator consultant.

Q. Were you a member of a group called the Invaders back in 1968?

A. Yes.

Q. You were an active member of that

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group at the time of the assassination of Martin Luther King?

A. Yes.

Q. At the time of the sanitation workers' strike?

A. Yes.

Q. And when were the Invaders formed?

A. In 1967.

Q. Who formed that group?

A. I formed that group along with Charles Cabbage and John Smith.

Q. What was the purpose of the Invaders? What was their organizational purpose?

A. The purpose was to provide an organizational format for young people, for people in the City of Memphis. We really formed as a result of the Meredith march in Mississippi, which is when I first met Dr. King. Many of us who had gone down became active in organizing and became proponents of the black power movement. We saw ourselves as agents for liberation of our people throughout the country.

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I don't know whether people can really remember this, but in 1966 and 1967 it was extremely unsafe to walk the streets in cities like Memphis and southern cities across the country, cities all over. So we saw ourselves as an organizing tool to make people aware of the fact that we were a free people with all the rights and privileges of Americans, to operate and seek prosperity, equality and all the other things that were rightfully ours by law.

Q. So the Invaders were a local community-organizing group?

A. That's right.

Q. How were the Invaders funded? How were they financed?

A. Out of our own pocket. We received no real funding. We received one grant for the black organizing project, which is a grant I wrote in 1967. We received some jobs from the War on Poverty Commission. Cab and I were hired as thirty-dollar-a-week organizers in 1967, a job from which we were fired because we had

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affiliation with SNCC and other organizations.

Q. Would you tell the jury what SNCC stands for?

A. The Student Non-violent Coordinating Committee.

Q. What was the Student Non-violent Coordinating Committee?

A. It was a national organization which spent – which really developed out of the civil rights movement which at its inception provided the foot soldiers for the civil rights movement, the young men and women who went out and desegregated lunch counters, students from all over the country, many from Memphis, incidentally, who became the cannon fodder for the movement, as a matter of fact.

We would go out and do the organizing work, go into the rural areas, go into the cities, the colleges, the prisons, everywhere there was a need really to let people know the kinds of things that Dr. King and others had talked about were realities

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for us.

Q. Did you see yourself in a sense as foot soldiers, community-based foot soldiers, in that movement?

A. Well, you know, now that I'm a gray-haired old man, I don't want to be vain enough to say that. We really thought that we were a chosen few on a mission. We really saw ourselves as helping fulfill the American dream.

We were idealists for the most part. We were people born of desire to change the concept in America from its desegregated biased roots and its hatred for African-Americans to people who understood that we should enjoy the right to vote, the right to speak freely, the right to come and go as we please, to live where we wanted to, to seek an education, all those little things that people now seem to say we take for granted.

Q. With this background and this history and this organizational activity, was there a time when you associated – became associated

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with Dr. King's activities in Memphis?

A. Oh, yes. Oh, yes.

Q. When was that?

A. When the sanitation workers started their – we did the basic street organizing, you might say, for the events that led up to the sanitation workers' strike. We went out and got the – we told grown men that they had a right to petition government, to question police, to do all kinds of things.

Then when the organization, the AFSCME, which is the American Federation of State, County, Municipal Employees, started to organize its membership, many of its leaders came to us and they accepted our efforts to go out in the communities and gain support for the kind of people who needed this help.

When you say this to somebody, it probably sounds – I don't know how to really describe it because this was a very dangerous thing to do. You didn't have a right to

go and talk to the city government about organizing its employees. That was against

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the law. You did not have a right to question a policeman if they stopped you and talked to you or if they asked you a question. And people were afraid. We didn't have many lawyers, judges, anything else, who would actually stand up to the kind of abuse that we were subjected to here in Memphis.

So when the sanitation workers got together and decided they would organize, they offered a list of things that they wanted, to be recognized as a union, to receive the same pay as white employees, other kinds of things, that seem so mundane to us now. That platform that they used, we had been using it for a few years since a man who is now a judge ran for public works commissioner.

So we were involved in this process actively trying to get it together. And that year when we became – when the union kind of put itself together, the real hell broke loose in Memphis. The mayor decided that it would never be recognized. A group of

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ministers got together and decided that they would work in support of the union. We worked hard to get them to come in.

And because we were having such great difficulty with the white community resisting this whole effort, with many people in the black community being threatened and who were afraid, the leadership of the strike itself decided to invite Dr. King here.

Dr. King was not only the greatest leader that we've ever had, he was a person who by his bearing and presence brought a kind of calm to the entire community, to those who were opposed to us. We understood because of our youth and our exuberance that sometimes we were not perceived as being ready to lead. There were people who were afraid of us because we would stop and ask questions.

Well – or because we would even resist the kinds of pushing around that we received. Several days after the start of the strike itself, the sanitation workers had a march down Main Street, and the police took their

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cars and pushed them into the sidewalk.

Q. Do you know – excuse me for interrupting. Do you know the date of that particular march?

A. No, I don't remember the exact date. But it was –

Q. Was it in February of 1967 [1968] or March of 1967 [1968]?

A. It would have been in February.

Q. Early on in the strike?

A. Yes. Very early in the strike. A number of sanitation workers were injured. Before that happened, two men were killed, were crushed, in a garbage truck, one that automatically closed down and collected the garbage. That set off a fierce to resistance, a fierce resistance.

When they had to march down Main Street and the police attacked them, dogs, clubs, guns, beat the hell out of a lot of them, we really decided to ask for a more militant stance from the union itself.

This probably sounds pretty mundane, but prior to that time the religious leaders

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did not want to approach this as if it were a regular strike. Many of us had grown up in the – with roots to the labor movement, just as we had to the civil rights movement.

We believed, for example, that ASCFME should operate its strike just like the AFL-CIO or the Teamsters or anybody else and that we should stop the flow of trucks that were being driven by strike breakers, that we should end this garbage collection that was designed to break the strike. Well, we found ourselves in a greatly divided strike effort.

Many of the ministers and some of the black leaders in town were much more interested in compromising and going along with the edicts of the city administration. We did not want to see that occur.

We wanted a full and legitimate recognition of the union. We wanted to make sure that the rights of these employees were protected. Most of these men were from rural West Tennessee, had been driven off the farm, had come in from places like Fayette County

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where they had been driven off the land in what we call the Tent City.

Q. The founder of Tent City will be testifying in these proceedings. So we can move from that. But let me move you onto the association with Dr. King. What was the relationship that emerged between the Invaders and SCLC, Dr. King's organization here in Memphis, related to the sanitation workers' strike?

A. Originally when Dr. King's people got here there was a kind of an uneasiness between the two organizations. In fact, there were – there was a brief struggle, skirmish, that kind of occurred, some bad feelings, some other things. It took Dr. King's arrival here to ease those problems out, to kind of smooth that over.

We insisted on following the same principles that we had learned from Dr. King during the Meredith march in Mississippi and other places.

Q. Did the Invaders with its relationship with SCLC play a role in the

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first march that Dr. King led here on the 28th of March, 1967 [1968], on behalf of the sanitation workers' strike?

A. We did not play an active role in that march because the night before, Reverend Jim Lawson and reverend H. Ralph Jackson came to the steering committee and presented a letter with bullets in it and said that they had been sent by the Invaders

and that we had threatened them. Consequently I ordered the members of our organization off the streets, not to participate.

Q. So the clergy-led steering committee received from somewhere –

A. From somewhere.

Q. – a letter with some bullets in it?

A. Yes.

Q. And that was represented as having been sent by the Invaders?

A. That's right.

Q. It was taken as a threat by the more traditional civil rights groups here?

A. Yes. They were very annoyed with us. They didn't like our style. They didn't

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like the blue jeans, the long hair. I used to have hair.

Q. Dr. Smith, style aside, did the Invaders send that threat to –

A. No, no.

Q. – to the organization?

A. Quite frankly, the protocol for groups like ours, if we intended on sending a message, we sent a message. We were not interested in showing –

Q. Let me move you on. You know the march on the 28th of March became violent?

A. Yes.

Q. That was perhaps the only violent march or march that turned violent that Dr. King ever led.

A. Yes.

Q. And you know that the Invaders have been blamed for causing that disruption.

A. Yes.

Q. And you know that Dr. King returned to Memphis to lead another march on his fatal trip here as a result of that violent march?

A. Yes.

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Q. Now, let me ask you, did the Invaders disrupt that march?

A. No.

Q. How was that march disrupted? Who disrupted that march, to the best of your knowledge?

A. We received –

Q. Strike that. Let me rephrase that. Did you conduct as an organization an investigation?

A. Yes. I personally conducted an investigation. I ordered a complete investigation to see if any of our people were involved. As I said, I put an order out that our people would not attend the march because we had already, once that letter had been sent with the bullets in it, we knew that we would receive the blame.

Our people started to report the influx of other individuals who were coming in with Illinois license plates who were seen about town, who were seen on Beale Street by our affiliates on Beale Street, and who were members of several organizations, some the

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Black Egyptians out of East St. Louis, some reported to have been Blackstone Rangers out of Chicago.

Q. So these were strangers that came to Memphis just prior to this march. Is that what you are saying?

A. That's right.

Q. Why would they have come to Memphis?

A. We have no idea, because usually when organizations came to town, they would contact us. The Black Egyptians did. Chuck Cohen and some other people did in fact contact our people in an appropriate fashion. The ones we were concerned about were unidentified.

This is very unusual, because the nature of the movement was such that people relied on each other for housing, for accommodations, for transportation, for information, for all kinds of things. The nature of the movement was a very communal kind of thing. Everybody helped everybody if we could.

Q. What did you learn about the

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disruption of that march and what do you know about – from personal knowledge do you know about how that march was disrupted?

A. That march was disrupted, in my opinion, by police and by agents from parts unknown who came here specifically to embarrass Dr. King and to disrupt the march.

The FBI reports, classified reports that have since been released, indicate to me that through the informants that they – they always black out the name of the informants – always indicate that there were plans to disrupt our activities, to single out the individuals in my organization and several other organizations as the kind of fall guys.

We were supposed to be the ones who would be blamed. Some indication was that the march was supposed to be stopped at Main Street and turned south on Main instead of being allowed to turn north where we were supposed to have had a warehouse with weapons in it and we were going to start a race war.

Q. This was the kind of rumor that you

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heard?

A. Yes, yes.

Q. As a result of the violent disruption of the march, Dr. King decided to come back to Memphis?

A. Yes.

Q. And the Invaders established yet a closer working relationship with him?

A. Yes.

Q. This time?

A. Yes.

Q. Were you going to work closely in the preparation of the next march?

A. Yes, yes. There were some essential problems with that first march. There were no marshals. There were no people on the march route who would establish what the perimeters of the march would be.

In a disciplined march, you always have to have someone organize the flanks to keep the people separated from the pedestrians, so to speak, who would stand there, even though we encouraged people to join the march, the idea is you have to have very disciplined people

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who will not break windows, who will not run, who will not panic, who will not be afraid, in case we met force. The marshals were instructed to protect people, to show them how not to panic and cause themselves to be hurt.

That didn't exist in the first march. In the second march, Dr. King made an agreement for the Invaders to participate in the march, to be marshals for the march,

to protect individuals and to make certain that we were not blamed for things that ultimately happened in the first march.

Q. Just reverting quickly to the break-up of the first march, do you know which hotel Dr. King was taken to when that march turned violent?

A. Yes. He was taken to the Rivermont. It was a Holiday Inn flagship, which is now an apartment building. But when our people went up there, he had no guards on his room, they went straight to the room and were able to see Dr. King without anybody protecting him. We thought that was horrendous. We

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thought that that was – we really were very afraid for Dr. King at that time.

Q. In the planning in which you were engaged in the second march, the march that Dr. King never made, the march which in fact became a memorial march for his death, did you take up rooms under the – with the financial support of his organization?

A. Yes. Yes.

Q. Did you take up those rooms at the Lorraine Motel?

A. Yes.

Q. The very place where Dr. King was assassinated?

A. Yes. As a part of the organization.

Q. Do you recall how many rooms the Invaders had there?

A. They had two rooms.

Q. And how many Invaders were in those rooms at that time?

A. The total numbers probably ran to about twenty, from ten to twenty Invaders. Some would leave and come back. Other people would come. But around ten to twenty.

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Q. And this was a part of your working arrangement with Dr. King so you would be on site to plan with him. Is that right?

A. That's right. And to assist in SCLC's efforts in whatever fashion was required.

Q. Were the Invaders at some point summarily asked to leave the Lorraine Motel?

A. My field representatives called and reported they had been asked to leave the hotel, that they had been put out.

Q. When did that take place?

A. Just a little while before the assassination.

Q. On the day of April 4th?

A. On the day of April 4th.

Q. Close to the time of the assassination?

A. Yes. Within a few hours.

Q. Excuse me.

A. Within a few hours.

Q. Did the Invaders in fact leave the motel at that time?

A. Yes. It was a very difficult

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situation. Some Invaders were still there, but once put out of the room, the main body of our group had to do what they were asked to do. At the time that I received the report from the people in the field, they were also concerned about a number of other things.

There was no police presence. It was a very confused situation. We did not know who was in charge. Some of – I could not get a clear answer about who gave the order to put the Invaders out of the hotel.

Q. We may come to that with other witnesses. But were you surprised that you were asked to leave the hotel?

A. Yes. Yes.

Q. This was not in accordance with your arrangements with Dr. King?

A. No, it was not. Dr. King had agreed to involve the Invaders. He had chastised his people for making it difficult for the Invaders to operate along with them. We had a very good relationship.

Dr. King probably is the reason –

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James Lawson and Dr. King are the reasons that I have spent almost thirty-five years of my life in the movement.

MR. PEPPER: No further questions. Your witness.

THE COURT: Do you expect your cross-examination to be lengthy?

MR. GARRISON: I don't think it will be terribly long. I'll go on if you want me to.

THE COURT: I'll take about five seconds. Then you can continue with your examination.

(Brief recess.)

THE COURT: Mr. Garrison.

CROSS-EXAMINATION

BY MR. GARRISON:

Q. Dr. Smith, if I may ask you a few questions, I would appreciate it. Let me ask you, during the time that you were working with Dr. King's group, were you made aware

of any threats against Dr. King by any source?

A. No.

Q. And when Dr. King came in the first

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time when there was a march and there was a riot and he had gone back to Atlanta, are you aware of the fact that he planned to come back or said I'll be back? How was that left?

A. I was aware that Dr. King was going to be back. We were extremely interested in making sure that the march worked, that the sanitation workers' strike was successful.

Q. Among the group that you were with, Dr. Smith, the Invaders, was there a gentleman whose name was Merrell McCullough?

A. Yes.

Q. What part did he play in this?

A. Merrell McCullough was our director of transportation. He had the only car and the only gas. So we made him the minister of transportation. That should have made us leery right there. We're talking about some poor youngsters in a very poor town. I guess you can say that Memphis is still a poor town.

We didn't have anything. We didn't have any money. We got around the best we

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could, which was usually to bum a ride. In fact, the police would sometimes have to give us a ride. The ones that were watching us would sometimes give us a ride.

McCullough was a very accessible person. He would come to my home every day, as he would go around all the Invaders. When I met him, he was introduced to me by what we call the Riverside Invaders, who brought him into the organization.

Q. Did you later learn that he at that time was working undercover for the Memphis Police Department?

A. Yes. I was invited down to the police department after Dr. King was assassinated, and I was introduced to him by inspector types of the Memphis Police Department as Officer Merrell McCullough.

Q. And would it surprise you to learn that he was brought into Mr. Jowers' restaurant by another officer and introduced as Officer Merrell McCullough?

A. I did not know about that until much later on, but I was extremely surprised. I

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think one of the reasons I was surprised is because we felt that there were people who would infiltrate our group, but we did not have any idea that the infiltration was of a nature broader than the local police department.

We knew that many members of the – many men who are now members of the police department, in fact, the former police director who has just recently resigned, was also an undercover agent in our organization.

Q. Dr. Smith, the day that the assassination occurred, you were along with some other members of your group in a room or two rooms at the Lorraine Motel. Am I correct, sir?

A. The members of my organization were there.

Q. What floor were you on?

A. On the second floor.

Q. All right. Was there a time that day that you had occasion to look across the street to see what was down on the street

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below the motel and across over there on the other side? Did you have any occasion to do that that day that you recall?

A. I did not. On that day I had to leave to maintain what we call our information center. What I had to do was to receive the information from around the city from our various locations where we thought the strategic information that told us what was happening with the strike itself, with the plans for events and activities, in preparation for the strategy team's meeting and that sort of thing.

Q. All the time that you were at the hotel and the going and coming, do you ever remember seeing anyone in that brush area there across from the hotel? Do you ever recall any activity, seeing anyone in that area?

A. No, I did not see anyone in that area.

MR. GARRISON: Dr. Smith, I had hair once like you. Thank you.

THE COURT: Any redirect?

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MR. PEPPER: Very briefly, Your Honor.

THE COURT: Go ahead.

REDIRECT EXAMINATION

BY MR. PEPPER:

Q. Dr. Smith, do you know where Merrell McCullough is employed today?

A. I understand he is employed at the Central Intelligence Agency out of Langley, Maryland.

Q. Langley, Virginia?

A. Virginia.

MR. PEPPER: No further questions.

THE COURT: All right. You may stand down, Dr. Smith.

(Witness excused.)

THE COURT: All right, ladies and gentlemen, we're going to take our lunch break at this time. We'll resume at two o'clock.

(Lunch recess.)

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

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(Jury in.)

THE COURT: All right, Mr. Pepper. Call your next witness.

MR. PEPPER: Thank you, Your Honor. Plaintiffs call in Charles Cabbage.

CHARLES CABBAGE

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

DIRECT EXAMINATION

BY MR. PEPPER:

Q. Good afternoon, Mr. Cabbage.

A. How are you doing, sir.

Q. For the record, would you state your full name and address, please.

A. Charles Laverne Cabbage, 1942 Florida Street, Number 6, Memphis, Tennessee.

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

A. You are perfectly welcome.

Q. We've heard testimony earlier about the Invaders and the background and the purpose of the organization and all of that detail.

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What I want to do is I want to move on with you. Would you tell us what your position was in the Invaders around the time of 1968?

A. Around 1968 – first of all, let me try to clear something up here as far as the name "Invaders" goes. My title was executive secretary of the Black Organizing Project, which was a project that we had put together and made up one of the groups we organized.

The press actually just gave us the name "Invaders" and it kind of stuck. You know, it kind of stuck. A lot of people can kind of relate to that.

Generally we were referred to as the Invaders about, but actually my title was executive secretary, Black Organizing Project.

Q. What was your role in the Black Organizing Project and that group in particular?

A. Well, basically training street organizers, going on to campuses, trying to set up various and different groups,

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educating, trying to empower black people basically, trying to make an impression on the structure, the power structure, as it was at the time, generally raising the consciousness of black people at that time period. We were basically facing difficult times.

Q. Consciousness-raising activities?

A. Absolutely.

Q. Now, when the march Dr. King led on the 28th of March broke up into a riot, did you and any of the members of the organization meet with Dr. King shortly after that?

A. We did. We met afterward. We had made an effort to meet with him before then, before the march. There were many indications that there was going to be a serious

problem, but we were unable to reach him at the time.

After the riot occurred, we made an effort to meet with him then. We knew he was staying at the Rivermont. That was public knowledge at the time. So a group of us we

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met out at John's apartment out in south Memphis and we decided that we best go over there and try to get a chance to talk to him and let him know what the situation was, what he had walked into.

Q. Some of you went along to the Rivermont to meet with Dr. King. Would that – when would that have been? Would have been the day after the riot?

A. You are going to have to help me here with these dates and times here. We're talking about a long time ago. As near as I can recollect, I think it was probably been the next day.

Q. The riot took place on the 28th of March. You would have met with him on the 29ing of March?

A. Probably. Probably.

Q. When you went to the Rivermont to meet with Dr. King after this disruption, did you notice any security at the Rivermont for him that the point?

A. No. It was nonexistent. It is kind of strange you should ask that question,

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because when we decided to go, that's the first thing we thought about, how were we going to get past the security, because we knew that there would be some.

So one of the fellows that was with us at the time, he said, well, we'll try and see if we can't get through the back door. We walked through the back door. Lo and behold, the back door came straight open, I mean, no problem at all. We walked right into the door, upstairs to his room, knocked on the door, never saw a soul, no

one.

Q. You went directly up to his room?

A. Directly.

Q. You knocked on the door?

A. Yes.

Q. Was there any security inside the room?

A. No security.

Q. Who answered the door?

A. I think Reverend Abernathy answered the door. No, wait a minute. Let me get this straight. Was it Bernard Shaw that was with him at the time. You have to help me

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here. I think Bernard answered the door because I think Dr. King was in the bathroom putting on his tie. I think Reverend Abernathy was standing in the background.

I introduced myself, told Mr. Shaw my name is Charles Cabbage, I'd like to talk to Dr. King, I represent the Invader organization. Reverend Abernathy immediately said, stop, no, the doctor does not want to talk to you all now. At this particular time I heard Dr. King call out from the bathroom, he said, no, let him in because I want to talk to him. So we went in the room and sat down and we had a nice long talk.

Q. Basically what was the nature of that conversation?

A. We had brought along some literature, discussing, you know – explaining our position on certain issues, describing our organization, its structure, some of our goals and objectives.

We were really trying to demonstrate to him that the rumors that had been spread

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about us were untrue and unfounded, that we were really not out to create any kind of disruptive behavior in the City of Memphis, that we were really about basically, like I said, consciousness-raising, introducing the concept of the empowerment of black people at the time generally referred to as black power. That was almost a criminal offense at that particular time. We felt there was some work that needed to be done.

In the process of presenting our literature to him, we also presented parts of a program that we had put together that we wanted to try to establish into the community called the Community Unification Program. We were seeking funding at that particular time.

But the conversation never really got into the literature itself. They looked it over and went immediately to the march and what happened.

Q. How did Dr. King react to this conversation that you had with him?

A. Dr. King was hot [not] hostile. He was

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positive all the way. His first reaction was, and it kind of shocked me in a way, because I was expecting him to be hostile and I was expecting him to be a bit defensive, you know, because the information that he had received was that we were opposed to everything he stood for, and the first question he asked me was, you know, Brother Cabbage, why did you all do this to me? I explained to him, I said, Doc, we did not do this to you.

Our intention from the very beginning has been, first of all, we did not want you to come here because we had been organizing around – we had been organizing around not a non-violent theme at that particular time.

For him to walk into Memphis trying to lead a non-violent demonstration on the occasion we're talking about was just walking into the jaws of a tiger. It was in our best interest as well as his for him not to be here. We wanted him not here.

So we weren't able to accomplish

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that, because we really just didn't have the voice that we wanted in the meetings and strategy sessions that were being held at the time that was controlling the sanitation strike and those events.

Q. There came a time as a result of this meeting and other discussions that your organization came to agree to work with Dr. King in terms of the following march, the next march that was planned?

A. All this was discussed – all this came about that day in that meeting, because, know, after I had told – I don't want to make it sound like I'm giving Dr. King advice, but I tried to inform him as best as I could of what the situation was, the volatility of the situation and some of the things that he could do to be able to come into Memphis and be able to have a non-violent demonstration.

I let him know that we had been organizing around counter-themes for at least a year, that a lot of people were aware of it, and in order for him to be able to pull a

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successful non-violent march off here in Memphis, that he needs to pull up all the way, go back to Atlanta, reorganize, send in some workers to begin to teach non-violent doctrines and discipline, because in order to be able to do and accomplish what they were setting out – what they were attempting to do would take some serious training.

Q. When you met with him and were agreeing to work together, you took up residence in the Lorraine Motel as a means of a place for working with him for manning the second march. Is that right?

A. His suggestion was one of the things we need to do then was probably try to work together. He said, what I will do is we will go back and I'll send some people in and we're going to put you and maybe some of your people on the staff.

We agreed immediately, you know. From that point on we decided when they came back, they were contacted. When they came back, I don't remember the exact time line on this, but we took up in the

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Lorraine Motel, we took the two rooms on the top floor, the right-hand side of the building.

Q. Do you know how many people were in those two rooms?

A. We just had the two rooms. At that time we were young. They just stayed full all the time.

Q. Those rooms were on the balcony level, the upper level?

A. Balcony level, yes.

Q. The same level on which he was assassinated?

A. Yes.

Q. Did there come a time when you were asked to leave those rooms?

A. Yes.

Q. When was that?

A. This was after the third meeting that we had had. Let me try and explain this. After the organizers for SCLC had come to Memphis, had come back to Memphis after Dr. King had left, Reverend Orange, Carl Reader (Phonetic) and some of the others at that

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time, we began to go out into the community and have workshops. So we began to get to be quite friendly. We got along well.

So when Dr. King came back, we began to meet downstairs in the dining room. We had two meetings downstairs in the dining room. We had one in his room. And in the meeting we were discussing how we would be able to pull the march off.

And one of the things that we had decided that would be necessary would be that the Invaders would be involved in actually marshalling the demonstration. I had problems with that initially because I didn't think I could sell that to the group.

So when I took this back to our board up on the second floor where we were staying, we had heated arguments about it, but eventually got this over to the entire group and we agreed to marshal the parade. This is after the second meeting we probably – finally came to a decision and we were on board to act as marshals.

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Q. You were on board after the second meeting?

A. After the second meeting we were on board.

Q. After the third meeting somehow you were told to leave the hotel?

A. Now, John had to remind me of this. After the second meeting after we had come to the conclusion that we were all going to work together on this, that we had as much at stake in it as they did, so, therefore, it would be the right thing for us to do, we had sort of an impromptu meeting in Dr. King's room where we had some final points to work out. That meeting lasted maybe about five to ten minutes. We go back to the hotel, to our rooms, and we discussed it a little bit, and we sat around, and here comes a knock on the door.

Q. There was a knock on the door?

A. Yeah.

Q. This was on the 4th of April?

A. Yes.

Q. On the day of the assassination?

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A. Yes, sir.

Q. What time was this knock on the door?

A. It took us about twenty minutes to clear the room.

Q. So it took you twenty minutes to clear the room?

A. Uh-huh.

Q. What is the significance of that? What time does that make it?

A. We weren't really keeping no watch or time on this. We weren't really watching the clock per se. But from some of the things that I read from some of the investigations that had been carried out since then, I think we left out about ten until six or eleven until six or something like this.

Q. You were told to leave?

A. Yeah.

Q. Sometime within a half hour, thirty-five minutes, of the killing you left?

A. Uh-huh.

Q. You left at ten minutes to six, which is about eleven minutes before the killing?

A. See, this is did –

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Q. Somewhere in there?

A. I always felt that as we were pulling out – it took us a little while to get organized to get out of the room. There were quite a few of us there. We got out as quickly as we could. We weren't ready to go. We were there all day for meetings and everything.

There was only one car there, that was mine. We threw things in the car, got in the car. As soon as we got in the car and drove up Mulberry, this is when I heard the shot.

Q. Very shortly after you –

A. Before I could make it to Main Street.

Q. Why were you asked to leave the motel within minutes of the killing?

A. There is a lot of conjecture on that. I do not know. I mean, it is illogical. It doesn't make any sense. Check-out time is the next day.

Q. Was your room paid for through that evening?

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A. Yes. I mean, SCLC was taking care of the entire bill.

Q. So they had paid for it through the evening?

A. I don't know what their records indicate, but I would assume if they had already rented the room, you know, then – they don't rent them by the half day. It was just a totally illogical move. It didn't make any sense.

Q. Who gave the orders for you to leave the motel?

A. Izzy answered the door. I wouldn't have been the one to answer the door. Izzy answer the door. Izzy, from my best recollection, says that one of the maids had come by to clean the room and asked us to leave, they said that you all would have to leave.

Next came Reverend Orange and came in and explained to us that, hey, man, you all will have to leave. Nobody asked why because – you know, we had feelings that there was something very, very wrong because

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it was sort of a surreal kind of a day. But we had no inkling that he would have been assassinated that afternoon.

Q. He was assassinated within a very few minutes of your being told to leave. Did

anyone ask the maid who gave the instructions for you to leave?

A. Not to my recollection. Not to my recollection. Nobody asked her that. I asked Orange why we got to leave.

Q. And what did he say?

A. My best recollection – I don't know how to put this. Jessie said you got to go.

Q. Jessie?

A. Yeah.

Q. Jessie Jackson said you had to go?

A. Yes.

Q. Was Jessie Jackson a person who worked closely with your organization?

A. No, no.

Q. Who were the SCLC people who worked closely with you?

A. Carl Reader and Orange.

Q. Why would Reverend Jackson be the one

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to give you instructions for you to leave?

A. I never questioned that. I assumed by him handling the money it was a clear-cut decision for him saying – the way it came down, we were not paying for the room, Jessie was not authorizing payment for the room anymore, so you all have to leave.

Q. They already had paid for the room apparently?

A. This I realize now, but at that particular time we never knew how serious these minutes and seconds were, you know, to a significant historical event. I mean, in hindsight we can see these things, but as they occurred, you know, who would take time to remember anything like that and write it down or jot it down.

Q. So, Charles, I put it to you your testimony this afternoon is that you were asked to leave late in the day close to the time of the killing, you did leave –

A. Yeah.

Q. – and then you heard the shot within a short time after you left?

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A. As soon as I pulled off the lot and made a right turn, got beside the fire station, the shot rang out. We all ducked down in the car. Normally we would make a right turn to go down to Beale Street and turn left to get on the interstate.

This time when we heard the shot we immediately began – See, we had a different route from leaving the hotel. At night we would take a different route because of the police surveillance around the hotel at night. So we took a left turn, took Calhoun, went toward the river, took a back street to Florida street, got to Crump, went back over to Castle, I think it was, and went over the railroad tracks and back alleys and made it all the way to south Memphis.

Q. Did you notice any security, any police presence or security, in the motel late that afternoon before you left and after you left?

A. Not at any time.

Q. I'm sorry?

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A. Not at any time.

Q. You didn't notice any security?

A. There was none. There was never any security, never.

MR. PEPPER: No further questions, Your Honor.

CROSS-EXAMINATION

BY MR. GARRISON:

Q. Mr. Cabbage, I have two or three questions I would to ask you if you don't mind. Before this date of April the 4th when you were asked to leave the room, did you ever learn of any threats against Dr. King? Was it common that you heard any threats against him?

A. Yeah.

Q. Was it a pretty much common day-to-day thing?

A. No, this was a direct knock on my front door to my house, which made it even more expedient for us to try and get to him and let him know. There was a gentleman that knocked on my mother's front door. We were

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sitting in the house. He came inside and introduced himself. He was from South Africa. He came in and sat down, sirens wailing, fires going off all over the city, curfew on. This man came into our house, sat down and talked to me and told me, said, Charles, I'm going to tell you something, they are going to kill Dr. King in Memphis. I done about passed out.

Q. Is that the day before the assassination?

A. I can't recall that date. I really can't.

Q. Was it the general feeling of the Invaders that it was unsafe for Dr. King to come here to Memphis?

A. Absolutely.

Q. You didn't want him to come here?

A. No, we did not.

Q. Is that because it was not safe to come?

A. It was unsafe, and we knew that because of the position that we had taken

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politically that if anything went wrong, that we would be the one to blame for it.

Q. They would blame it on your group?

A. Absolutely.

Q. Did you recall a gentleman in your group named Merrell McCullough?

A. Yes, I do.

Q. What part did he play with your group?

A. Merrell first came into the organization because of the activities that we were conducting out at Memphis State. We were organizing the Black Students Association out there. Merrell I think was attending classes out there. I think John B. Reddin told him. He was interested and wanted to learn more about the condition of black people in this condition, so John brought him to the apartment where we were generally holding these meetings, which were generally open to anybody who wanted to attend, they could come. And Merrell came.

Q. The day that you were organizing in

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the room before the assassination, Mr. Cabbage, was Merrell McCullough there, was he one of the ones?

A. No, he was not there. He was with Reverend Orange.

Q. Do you know where Merrell McCullough was when you left the room that day?

A. He and Reverend Orange gone out shopping or something like this. We knew that he was the police, but what can you do about this. You know you are going to be infiltrated. We made him minister of transportation. He had a car. We gave him something to do.

Then when we made the alliance with SCLC and began to work with SCLC, he came along with the group. So now he is moving driving people around, some of the SCLC staff people around. It is just of the one of the quirks the way things happened. He ended up driving the SCLC staff around. We did not know he was as highly connected as he was.

Q. Let me ask you this: You said you were ordered to leave sometime late that

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afternoon before six o'clock?

A. Yes, sir.

Q. Did you see Reverend Jackson at the motel before you left?

A. Yes, he was at the meeting.

Q. Late that afternoon?

A. We met during the day. If you want to go into the event, we can talk about the meeting, but he was there at the hotel that day. As a matter of fact, he was the last person we saw as we left the meeting. He was standing down by the pool.

Q. He was down on the parking level, lower level?

A. Uh-huh.

Q. And did you see Dr. King talking to reverend Jessie Jackson?

A. Not at that time, no.

Q. Mr. Cabbage, let me ask you this: You were in the room facing the street over across from the rooming house across there, weren't you?

A. We were right by where the pool used to be.

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Q. Did you ever look over there and see in the brushy area where it was raised up off the street with a concrete barrier, I think it is, and a lot of trees, did you ever see anyone in there moving around in the bushes that you could tell?

A. No. I never really paid any attention to it. We were constantly moving around, our people, because we provided our own security, and no reports ever came to me that we ever saw anything or anybody at that particular time.

Q. When you heard the shot the day that it occurred, did you go back to the scene or did you go ahead and leave?

A. We immediately went to Riverside Community. We got stopped once by a police officer, a young guy. I don't know who he was. He was nervous. He talked to us and he let us go. That took about five minutes.

We went directly to my mother's house. She come running. As I pulled up in front of the house, she is rushing down to the house crying, screaming to the top of her

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voice, they just shot Dr. King, they just shot Dr. King. I immediately began to think, oh, my God, how far is this going to go, because we were aware that the assassination plot was on because of the fellow that had come to my house.

So what I did was I got out of the car and turned the car over to some of the other people in our organization, sent it back down to the hotel to see in the event anybody else would be targeted, if we could be of any assistance security-wise. We weren't trained professionals or anything like that. Anybody in a situation like that would try to help.

MR. GARRISON: That's all I have. Thank you, sir.

REDIRECT EXAMINATION

BY MR. PEPPER:

Q. Mr. Cabbage, do you know who the man was who came into your home and told you that Dr. King was going to be assassinated?

A. He introduced himself as John Laue.

Q. I'm sorry?

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A. He introduced himself as John Laue.

Q. John Laue?

A. Yes.

Q. How do you spell his last name?

A. I didn't ask for a spelling, but there was another John Laue present at the hotel who spelled his name L O U E, I think, but, you know, this man was an entirely different – a totally different description.

Q. Was there man black or white?

A. He was Middle Eastern, long brown hair. I'd remember him again if I saw him. I never saw him again.

Q. Did you know him previously?

A. No. Never seen him before in my life.

Q. Never seen him before in your life?

A. No.

Q. Could his name have been spelled L A U E?

A. Something like that. I may have the spelling wrong. I didn't ask him how to spell his name is what I'm trying to say. I do remember him saying that his name was John

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Laue. I do remember that.

Q. Did you ask him how he knew there was going to be an assassination?

A. He just said he knew.

Q. He just said he knew?

A. Yeah.

Q. You didn't ask him how he knew?

A. No.

Q. Do you know where he was employed?

A. He said he was a photographer a freelance photographer, a journalist.

Q. Freelance photographer?

A. Freelance photographer journalist from South Africa.

Q. Was his first name John or Joseph?

A. I'm saying that he said he introduced himself as John Laue.

Q. Charles, was it routine practice for some of the Invaders to carry weapons?

A. Yes, sir.

Q. And why would they carry weapons?

A. Basically for protection.

Q. Protection against whom?

A. Well, it was a hostile environment we

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were working in. We had numerous confrontations with the police. There were armed bands of white citizens who rode around in the community with high-powered

rifles in their car. Some of us had been shot at before. It was basically for self-defense.

Q. When you saw Reverend Jackson standing down at the swimming pool, was he doing anything?

A. Well, he said – he had his arms folded and checking the time seeing how long it would take us to get out of the hotel.

Q. He was looking at his watch?

A. He was checking it.

Q. Lastly, did you have the occasion as a result of your suspicion of a white person who wanted to associate with the Invaders to go through some personal documents of that person?

A. That was an incident that occurred. This was a year prior to. A gentleman with military intelligence – we used to hang out at a place called the Log Cabin. This is where we used to meet on South Parkway. This

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guy come stumbling in drunk, strange in the first place, because he had to be nuts being there in south Memphis at this particular time anyway. He comes into our meeting room. He was immediately stopped, frisked and robbed. In the process of being robbed, somebody took his wallet. In going through the wallet, we found a military intelligence ID and three dollars.

Q. And three dollars?

A. Three dollars.

Q. You found an identification card with military intelligence officer?

A. Yes, I did.

Q. This was about a year before the killing?

A. Uh-huh.

Q. This would be then in 1967?

A. 1967, yes. Yes, sir.

MR. PEPPER: No further questions.

THE COURT: All right. You may stand down, sir. Thank you.

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(Witness excused.)

JOHN McFERREN

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

DIRECT EXAMINATION

BY MR. PEPPER:

THE COURT: Sit back and relax.

THE WITNESS: Yes, sir.

THE COURT: Thank you.

Q. (BY MR. PEPPER) Good afternoon Mr. McFerren.

A. Glad to be here.

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

A. My full name is John McFerren, spelled J O H N, capital M C F E R R E N, McFerren.

Q. And your address, Mr. McFerren?

A. 7615 Highway 195, Somerville, spelled S O M E R V I L L E, zip code is 38068.

Q. Thank you. John, would you just tell the Court, please, and the jury a bit of your

background, how you come to be where you are

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today.

A. First of all, I'd like to say my granddaddy was brought here five years before the Civil War in chains. He was a slave. And lesser than a mile and a half from the store, the record will show in 1867 he gave seven dollars and a half for four hundred acres of land. We have some of that in the family yet.

Q. John, did there come a time in 1959 or 1960 that you became involved in civil rights activity, voter registration activity, in Fayette County and the area of Somerville?

A. Well, I'd like to please the Court to go back a little bit further than that how I got deeply involved. I met Gerald Estes in Camp Ellis, Illinois, and later I met him again in 1957. In 1957 he was a young practicing attorney. He came to Somerville to defend Burton Dotson.

Q. John, what opposition did you meet when you started, though, moving – I'm moving forward – when you started the voter registration project in Fayette County?

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A. According to the way I got the records together, before 1960 there was no negroes registered to vote in that county. In 1957 me and Mr. Estes and the others got together. He was the legal counsel. We ormed a league called the Fayette County Civic & Welfare League to set out to get negroes registered to vote.

At that time the negroes didn't have no chance, and the law, they would pick them up, sentence them, and put them out on the road, and a negro didn't have no chance. The only way we could figure out to change that landscape was through the ballot box.

Q. What did you do?

A. We formed this group. It was the first – around about April or May in 1959 to get

the negroes registered to vote. We got a small majority of negroes registered, and we had a local sheriff election. The local man that we was supporting was named L. T. Redbanks. He run for sheriff against the local sheriff. The Democrat party refused to let us vote.

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That's how it got started. That's how it got started. When they refused to let us vote, on August the 12th, 1959, Gerald Estes filed a suit against the Democratic party asking for us to have the right to cast our ballot.

Q. What happened as a result of that action?

A. Well, that was in 1959. In 1960, the early part of 1960, we was still pushing to get negroes registered to vote, and the local editor of the *Fayette Falcon* was named Coaster. The wavy understand it, the *Commercial Appeal* man name here was named Coaster. They was folks.

When we got it going, he put an ad in the *Fayette Falcon* and the *Commercial Appeal* that they was going to make a thousand negroes move off the land in 1960, that winter.

During that time in 1960, if you registered, you had to move. The leaders of the movement, the citizen council and the Klu Klux Klan, they had a list that later

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that we got ahold to it through by borrowing it from the Klu Klux Klan's secretary. *Ebony* magazine published the list. We got ahold of it, forwarded it – we got a photostatic copy of it, and the made carried it back and put it in the safe and they never knew how we got the list.

The list in this *Ebony* magazine had all – had A's behind it, that you couldn't buy nothing nowhere. I was the leader of the group, and they run me out of every wholesale house in Memphis.

Q. Now, this was an embargo list, this was a list of people who no wholesale house should sell any products of any sort. Is that what you are saying?

A. Wouldn't sell them for money at no price.

Q. Moving on now, John, what kind of business were you in, what kind of business did you take over?

A. Well, my brother, he had the store. And he had an education and always followed saw mills and such. He said, I'm going to

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move, I'm just going to leave. He thought he was the one that was behind the movement all the time, and I was the one who was spearheading the movement with the people.

He moved to Memphis and left them out there. When he moved to Memphis, then Gulf Oil Company, they jumped in the squeeze. In 1960 no oil company would sell no black farmers no gasoline, no oil and no seed in 1960. It was a liberal at Eades named Ben Roafer. He told all the farmers to come down there to him and he'd sell them what they want. He had more business than he could look at.

During that time I made friends with the underworld. What I mean by the underworld, they run me out of every wholesale house in Memphis but Malone & Hyde. The bread companies wouldn't sell nothing to me. There was a young bread man who said, tell you what you do, you meet me out there on Summer Avenue and I'll sell you off the bread off the truck.

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I would come to Memphis and meet him on Summer Avenue in Memphis in a 1955 Ford car. That's what I had. I would come to Memphis and meet him on Summer Avenue and get bread. They Klan would get after me every night or two. I had – which I'm a top mechanic myself on the old models.

To make a car run fast and turn curves faster, if you noticed, a 1955 Ford has got a solid frame in the front. We took the torch and cut two inches out of the frame in the front. That brought the front wheels in and let the back wheels be wider, and we had chains on – see, a 1955 Ford has got straight springs behind it. That let the car

wheels up when it would go around a sharp curve, it would slide around. At that time, which I could see a nail in the highway now, at that time my vision was better and I could drive just like I was standing still, and when they'd get after me, I'd cut over in them back roads, and them new cars couldn't turn good like me. At that time wasn't no two-way radios in

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cars. During that time we had Tent City going.

Q. John, let me stop you there. Would you just tell the Court and the jury what Tent City was?

A. Tent City, we went to Washington, and me and my attorney, Carrie Porter Boyd and one other guy. At that time this was under the Eisenhower Administration, and they filed an injunction against the landowners from stop making the tenant farmers move. And this was under the Eisenhower Administration.

That was in 1961. President Kennedy got elected in 1961 in November, and he took office in 1962.

Q. Well, John, let's back up a minute. It is a historical fact that John Kennedy was elected in 1960, took office January 20th of 1961. So it is a year back.

A. A year back. I'm just –

Q. That's okay. Continue.

A. And during that time that I was leading my folks and all this was – we'd

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have meetings to discuss it, and I decided the only way to be successful in political ranks would be independent from the citizen's council and the Klu Klux Klan. What I mean by being independent, stay out of the Klan's pocketbook. When you borrow money from the Klan, he squeeze up on you in a minute.

Q. John, what kind of business do you run today?

A. I run a grocery store and oil company.

Q. How long have you run that business?

A. I've been running that business since 1960.

Q. That's when you took it over from your brother?

A. That's when I took it over from my brother. But now let me run back back just a second. Shaw, a fellow named Shaw, bought it from my brother first. He stayed in it about a month and a half. Because of me going into the business after then – there was an eighty-three year old man named John Lewis.

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He said, John, he says, they will starve us to death, we need somebody in that business who knows how to do and feed us. At that time a test was going. If you get *Jet* magazine, you can see some of the people were so poor, they were starving. Of course, you take most of the people at that time, they had never been nowhere or no-how to maneuver out of oppression.

The *Jet* magazine published some pictures how poor the folks were at that time.

Q. In Fayette County?

A. In Fayette County.

Q. Let's move on. You have run this business all these years?

A. That's correct.

Q. How many days a week is your business open?

A. The onliest time – at that time the business was – we were running seven days a week. I had a family. But after I lost – the Klan tore my family up. I only shuts it up when I go to pick up merchandise.

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Q. Now, where do you buy your merchandise?

A. All over Memphis.

Q. Where have you always bought your merchandise?

A. Well, I bought all over Memphis. I'd buy from Frank Liberto's Produce, I'd buy from the meat houses, Morrell Meat Company, Fineberg Meat Company. I know every one in Memphis.

Q. You sell produce and meats as well?

A. That's correct.

Q. And you sell fuel oil and gasoline?

A. That's correct.

Q. In 1968 where did you buy your produce?

A. From on market street.

Q. Was there a market there?

A. There was a market there when I first started coming there.

Q. What did you buy at this market?

A. I'd buy – on that street, the street runs north and south, and on that street, the banana house, the tomato house, and Frank

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Liberto sold most of the produce and sometimes bananas.

Q. So you bought produce from a warehouse run by –

A. Frank Liberto.

Q. – a man framed Frank Liberto. In 1996?

A. That's correct. I did before then. See, I knew him way before then. Around about 1960, 1960 or 1961, I got to know him real well.

Q. How many years had you been buying produce from Mr. Liberto?

A. Since 1906 or 1961.

Q. Since 1960 or 1961 he ran that warehouse?

A. He was there then, but I didn't know his name. When I first started going there, I didn't know his name like I did later.

Q. What day of the week – do you recall what day of the week did you go to pick up your produce in the year 1968?

A. It was on a Thursday, around five-fifteen.

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Q. So you would – why would you go there around five-fifteen every Thursday?

A. Well, you've got to understand how I made the runs. I first started with Malone & Hyde on south – Malone & Hyde was on South Parkway.

Q. Right.

A. I'd make that run, the dry grocery run. Then I would come on up and I'd have it to put my meat on ice and produce on ice. I'd make them's two places my last pick-ups.

Q. So Liberto's warehouse was your last pickup?

A. Was the last pickup.

Q. You would get there around five-fifteen?

A. I got there that day at five-fifteen exactly.

Q. We're coming to that day. April 4th was a Thursday, the day Martin Luther King was assassinated was a Thursday.

A. That's correct.

Q. Did you go to Frank Liberto's place that day?

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A. I went there that day.

Q. You arrived there at what time?

A. Around five-fifteen. Now –

Q. Would you describe what the layout of the place was and what you did when you arrived at that warehouse?

A. That warehouse faced east and west, but you enter in the gate on the south side, and when I drove around to the north side and come up about fifteen feet of the door, I stopped my truck. At that time I had a three-quarter ton pickup truck with a canvass on it, a cloth canvass over it.

Q. Okay.

A. When I drove up to the – when I stopped the pickup truck out in front of the door, this door is on the north side, and there is a big door that could you rollback and back a truck up in.

Coming in from the north side on the right side there is a little small office, and when I got within ten to fifteen feet of this office, why, Latch was standing up.

Q. Who was Mr. Latch?

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A. Mr. Latch had a scar around his neck like this.

Q. What was his relationship to Mr. Liberto?

A. He was a handyman. I never did know, because I was always scared of Mr.

Latch. You see, if you looked at him, he had a scar from right here to right there, and he would always be mean, but Mr. Liberto was always friendly. I wouldn't fool with Mr. Latch. I would stay away from him if I could.

Q. So you walked in that afternoon, into the entrance and the office. You said you were how far from the office?

A. Ten to fifteen feet.

Q. Ten to fifteen feet from the office?

A. That's correct.

Q. Then what happened next?

A. The phone rang. When the phone rang, Latch picked it up. When Latch picked it up, Latch said, that's him again. He give it to Mr. Liberto. Mr. Liberto said, shoot the –

Q. You can just say what he said.

A. Shoot the son-of-a-bitch on the

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balcony. Well, at that time they didn't have noticed me. I was just standing up a little closer to them just looking. I was a cash-paying customer. He would always tell me, you go get what you want and come by the office and pay for it.

If the warehouse hadn't been changed, the doors, you have a line formed going in there.

Q. Let's go back over what you saw. You heard Mr. Liberto talking on the telephone?

A. Telephone.

Q. Around what time of the day was this?

A. I'd say that was around five – ten minutes after, five-fifteen, around five twenty-five, not quite five-thirty.

Q. Five twenty-five to five-thirty you heard him talking on the telephone?

A. Telephone.

Q. He received a phone call. What did you hear him say once again?

A. Shoot the son-of-a-bitch on the balcony.

Q. Shoot the son-of-a-bitch on the balcony. Then what happened after that?

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A. Then he looked around and seen me. Then they said, go on and get your merchandise. The locker is made with two doors, you open one door, then you walks in and open another door. I went on in and got my merchandise, come on back out.

Then when I was coming back out, the phone rang again. Latch picked it up and give it to Mr. Liberto. And Mr. Liberto told him to go to his brother in New Orleans and get his \$5,000.

Mr. Liberto wrote me a ticket. I never would buy nothing from nowhere without a bill. He give me a bill. I took the bill, put my merchandise in the truck, then I went on the back side of the company out on that street and I come around to hit Summer Avenue and hit old 64 home.

When I got home, my wife called and says, do you know Dr. King done got killed? I says, I know it. It all come back to me in my mind what I had heard. That's what I told her, I know it.

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Q. John, did you tell this story at that time to anyone?

A. I didn't tell it to no one until it got to worrying me, I wondered what they know I heard. You know, when you gets kind of itchy – that was on a Thursday.

So on a Friday or Saturday, no later than Saturday morning, Mr. Baxton Bryant, who was a Baptist white minister that I know in Nashville, I called him and told him what I had heard. So that Sunday evening he said, John, I'm in church now. Says, I'll be

there about four o'clock tomorrow evening.

When he came down about four o'clock that Sunday evening, we talked it over, and in meantime he had contacted Mr. Lucius Burch's son-in-law to meet me and him with the FBI down here in Memphis.

Q. And did you have a meeting with the FBI and any local law enforcement people in Memphis on that Sunday?

A. Well, that night, that Sunday night, we met with the FBI. Now, I didn't know whether or not that they was local police or

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somebody else. But the only somebody I know was the FBI – one was a tall and one was a lower.

Q. Did you tell them this story, these details?

A. I gave them the same details. They questioned me two or three hours over the same thing, the same thing. They questioned me two or three hours over the same thing.

Q. Did you give these details to them on any other occasion?

A. That Monday, two little young FBI come out to the store and stayed there half a day questioning me the same thing.

So that Tuesday Robert Powell from New Orleans come there, which he used to run a store out there on 64 highway, and I wasn't at the store when he came, he – the lady where I hide was named Ms. Ida Mae. The record will show that in my deposition with the FBI. She told them that I was at the house. So Robert – I stayed about an hour and a quarter from the store.

Robert Powell drove on out there to

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the house, and when he come out this to the house – I knowed him – I never did have no dealings with him, but I knowed him, and he come out there to see me, and he talked with me, and at that time he had a big Gulf station in New Orleans tied up with the Mafias, I know it.

I wouldn't say much to him, but the onliest questions he asked me was how to get to my house from the back roads. It jumped curious in my mind that all this done happened and he wanted to know how to come to my house through the back roads.

Q. John, you told this story. What happened as a result of your giving this information to the officials?

A. Well, in the meantime, Hal Flannery, which I've got his phone in my pocket right now, he was in the Justice Department. Of course, he had been working with us on the landowners' case.

I called him that Tuesday and told him about Robert Powell had been there and I was scared of him. See, when you buy from

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groups, you begin to know who is who.

Q. Who has happened as a result of the information that you gave the officials? Has anything happened in succeeding years?

A. First of all, Dean Milk Company run my mama down, caught her on the road, run over the truck. After then they hired Marion Yancy and Rue Grady hired the Andersons to beat me up, beat me to death. And they give a 1961 Pontiac and three hundred fifty dollars to beat me to death.

They got out at the courthouse and run me in Ms. Fair Theater's yard. That's the person who owns the theaters in Somerville now. They still own it. When we was fighting in the yard, she come out there with her gun, said, if you all don't quit beating him, I'm going to kill you.

Q. John, were you put in the hospital as a result of that?

A. Well, I come to my family doctor – and I'd rather not discuss his name, because something else I'm going to bring out, I don't want any reprisals against him – I

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come to my family doctor, and by my grandparents on my daddy's side come up in slavery, I learned a lot about nerve doctors.

When you take mullet and boil it down, which mullet has got a little stickers on, it looks like a catfish, you can boil it down and take Vaseline and make a salve and take iodine salt and lay in it and draw a sweat out. That's what I did. I come to the doctor. They examined me and said I didn't have no – I didn't break no bones.

Q. John, I want to move along because of the time constraints we have.

A. I understand.

Q. Were you ever asked to go to Washington and testify before the [House Select Committee on Assassinations](#) and tell what you have told us here today?

A. Let me bring one other point up.

Q. John, no, stay, please, with me and answer this question.

A. All right. Gene Johnson came down investigating for the Select Committee. Me

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and him went over all the records. I discussed what I know, what I knew with him. And when the time come for me to if to Washington to testify before the Select Committee, he come out there with the papers for me to sign, and when he come out there with the papers for me to sign, I noticed that he had gotten a little hostile towards me.

Somebody had got, in my opinion, to him and changed his attitude. That's my thinking. I signed the papers and got everything ready. I says, John – he says, John, he says, I'll call you before you come up and testify before the Select Committee. And the Select Committee was going on. Two to three days before I was supposed to go, he called me up and said, John, we don't need you.

Q. So the answer to the question is that at the end of the day, you were not called to

testify before the Congressional committee?

A. I was not called.

Q. That's what you heard.

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MR. PEPPER: No further questions.

THE COURT: Let's take about fifteen minutes.

(Jury out.)

(Short recess.)

(Jury in.)

THE COURT: All right.

Mr. Garrison.

CROSS-EXAMINATION

BY MR. GARRISON:

Q. Mr. McFerren, you and I have talked before about all of the things that you know. You knew Mr. Liberto quite a long time, did you, Frank Liberto, over a period of years?

A. I know him from 1960 up until 1996, I was in his business once or twice a week.

Q. Okay. After the assassination of Dr. King, did you ever see him anymore after that?

A. I never did see him personally after that.

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Q. Okay. And during the time that you were around Mr. Liberto, Mr. McFerren, did you ever hear him mention the name of Loyd Jowers, ever hear him ever mention that name to you?

A. Not to me.

Q. All right. Let me ask you this, sir: After you saw Mr. Liberto when you would go for your produce to buy it – am I correct, sir?

A. That's correct. Ninety percent of the time he would be there, but sometimes Latch would be there.

Q. All right, sir. You've lived in Somerville many, many years, in the town of Somerville, am I correct, sir?

A. I've been there all my life. The only time I've been away is when I was in the Army.

Q. Do you know Mr. Liberto visited Somerville – are you aware that he visited Somerville on occasion?

A. He would – I wouldn't say every Saturday morning, but he would visit John

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Wilder's office, which is on the east side of the courthouse. Now, let me explain this to you so you'll understand. When the assassination committee of Dr. King was going on in Washington, getting ready to go on, he went to visiting John Wilder's office regular.

Now, the way I got ahold of it, I had some of our underground watching. Two to three weeks before James Earl Ray broke pen out of Brushy Mountain, I called Washington and told the Select Committee that they was going to kill James Earl Ray or something was going to happen to him.

I talked to Mr. Gene Johnson, which I've got his phone numbers, I've got Mr. Flanders' phone numbers in my pocket now, I've got Mr. Dole's phone numbers in my pocket now. I was in correspondence with all of them.

The Justice Department, what I said before, the Justice Department covered it up. When I said they covered up the barnyard, I mean they covered it up. Now, if

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you look at the records, the assistant to the United States Attorney General at that time was – it was under the Nixon administration. He had a heavy voice. I talked to him one time. I says, I know Dr. King's killings, who is in it, they trying to set me up to get me killed. Mitchell, that was his name. If you ever talked to him on the phone, he has got a gross voice like a bullfrog.

Q. All right. Let me ask you this, Mr. McFerren: Since all this started and you started the civil rights movement, have you ever been shot?

A. I've been shot, I've been beat up twice. The citizen council and the Klu Klux Klan hired a man named Benefield, gave him eighteen hundred dollars to kill me. He got chicken and didn't kill me. He sent word to me by Reverend Frank Jones. He came to my brother's house. He didn't even know which one of the houses I stayed in. Myself, Reverend Frank Jones and Mr. Benefield come down here on Vance. Our

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lawyer's office was at 860 Vance Avenue. That's Gerald Estes office on Vance. He filed – he made an affidavit with the law and sent it to the Justice Department that he was hired to kill me. It hit on a dead ear. Nothing come about it.

MR. GARRISON: I appreciate it. Thank you, sir.

REDIRECT EXAMINATION

BY MR. PEPPER:

Q. Is it true that almost thirty-one years ago you told the same story that you have told to this jury and this Court this afternoon?

A. That's correct.

Q. And is that story true to the best of your recollection and knowledge today as it was then?

A. That's correct.

Q. And have you ever had an opportunity to tell this story before in a court of law?

A. This is the first time.

MR. PEPPER: John, thank you very much. No further questions.

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THE COURT: All right. You may stand down, sir. You can remain in the court room or you are free to leave.

THE WITNESS: Thank you.

(Witness excused.)

JAMES NATHAN WHITLOCK

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

DIRECT EXAMINATION

BY MR. PEPPER:

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

A. My name is James Nathan Whitlock. I don't want to give you my address to where everybody can hear.

Q. That's all right. We will pass on that.

A. Okay.

Q. Have you been a long-term resident of Memphis?

A. Yes, sir.

Q. And, Mr. Whitlock, what do you do for a living?

A. I'm a taxi driver, professional

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musician.

Q. And how long have you been a professional musician?

A. For twenty-five years. Twenty-five years.

Q. What instrument do you play?

A. I'm a guitar player singer/song-writer.

Q. Have you played in areas other than Memphis and Tennessee?

A. Yes, sir. I've played in Las Vegas, Canada, California, the Bahamas, from one point all the way – just everywhere.

Q. So you've traveled a good deal?

A. Yes, sir.

Q. Have you in the course of the time you've been in Memphis, though, have you received any commendations or any awards as a result of civic activity?

A. Yes, sir, I have.

Q. Would you tell the Court and the jury what those have been?

A. I received Tennessee's outstanding achievement award from Governor McWhorter. I

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received the concern an Aide De Camp Award from the other governor, the heavy-set guy. I can't remember what his name is. I received a commendation from the city from Mayor Herenton, stuff from the senator, letters from – accommodating (sic) letters from Vice-president Gore, another letter from Jim Sasser, U.S. senator.

Q. Did any of these have to do with saving an individual's life, one or other persons' lives?

A. Yes, sir, they sure did.

Q. What were those occasions, those incidents?

A. The first one was pertaining to a passenger when I was driving a taxicab who caught a cab up to the Sterick Building downtown here and decided he was going to jump off the roof and commit suicide.

A police officer – I had radioed for the police to come. It was on top of the parking garage. The police officer came, and there was a tussle involved, and they both fell off the building and I climbed down the

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end of the building and pulled them both in. That is the first time something like that – I received some accommodation.

Then one of my neighbors was in a fight and got his throat cut down the street from where I lived, and I kept him from bleeding to death. I captured his assailant, too. So that was some more involved with that.

Q. You've been in the right place at the right time, or depending on how you look at it, maybe the wrong place at the wrong time. Did you in the course of your time here in Memphis in your younger years back in the 1960's come to know a man named Frank Liberto?

A. Not in the 1960's, no, sir.

Q. When did you come to know Mr. Liberto?

A. In the late 1970's, approximately 1978, 1979 and 1980.

Q. So you knew him at the end of the 1970's, that's when you came to know him?

A. That's right, yes, sir.

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Q. Would you describe to the Court and the jury how you come to know him, what the circumstances of your relationship were?

A. Mr. Frank and myself were friends. He would come to my mother's restaurant on a daily basis early in the morning and late in the evening he'd come back. I spent most of my time with him in the evening time. Occasionally he would come there at lunchtime.

We had a restaurant, an Italian restaurant, a pizza restaurant, and he would come and eat breakfast with my mother and spend the rest the day with me occasionally.

Q. Was the restaurant located somewhere between his work and his home?

A. Yes, sir, it was. It was located approximately – Mr. Frank's – the Scott Street Market was about a mile from my restaurant. The way I understand it, he lived off of Graham somewhere, and we were kind of in between.

Q. He had a produce house at the warehouse at the Scott Street Market?

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A. That's what I understand, yes, sir, tomato house.

Q. Right. When he – when you came to know him, he would stop at the cafe, at your mother's restaurant, and what would you talk about? What was there between the two of you that developed, this relationship?

A. Well, at the time I'd been performing in Las Vegas, and Mr. Frank, he would come in and drink beer a lot. I knew how to play a song, an Italian song, on the guitar called Malaguena. I used to play him this song. He used to like what I would play him and he would tip me money.

Then it got to where Mr. Frank was – I had a little small three-piece combo, and he would book – he would give me jobs, such as that, performing. He liked for me to play music. He would talk about the old times and where he came from. He would talk about my relationship with my mother. I reminded himself of – myself of him when he was young, how I treated my mother and how we lived.

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Q. When he talked to you about the old times or his earlier years, did he tell you where he lived or – what experiences did he describe?

A. He called it the old country. I remember playing him that song, he used to lay his head back and would say, yeah, it is just like I was in the old country, that's the way they would play it, I like that song.

That's the only mention of his origin he ever – where he came from he ever made to me directly that wasn't pertaining to the United States.

Q. Pertaining to the United States, did he ever discuss any experiences or life when in the City of New Orleans?

A. Yes, sir.

Q. What did he tell you about his life there?

A. Well, I asked him some stuff that led up to him telling me that he had come from New Orleans, but I had heard that he was in the Mafia. And I asked him if he was in the

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Mafia. And he didn't say yes or no. He answered me by saying, I pushed a vegetable cart in the French Quarter with Carlo Marcello when I was a boy. I didn't know what that meant. I let that go. It went over my head.

Years later I saw the movie the assassination of RFK or JFK with Oliver Stone, and Mr. Frank, he talked Italian, and he said, I push a vegetable cart with Carlo Marcello when I was a boy. Carlo Marcello, I didn't know what that meant. Then I saw that movie, and it said Carlos Marcello, the kingpin of the Mafia from New Orleans. I said, that's Carlo, that's not Carlos, that's Carlo. That's what threw the two together.

Q. So he confided or told you about his earlier life experience with Carlos Marcello, the New Orleans Mafia boss?

A. That's correct.

Q. But did you when you first met him and you heard he was associated with the Mafia, did you know what the Mafia was at that point?

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A. No, sir. I asked Mr. Frank what it was.

Q. What did he say?

A. I asked him, I said, what is the Mafia? Is it a bunch of bad guys that sit around and table and scheme up something mean to do? He said, no, it is a bunch of businessmen that take care of business.

Q. Now, did there come a time, Mr. Whitlock, when you heard about a conversation that Mr. Liberto had with your mother?

A. Yes, sir. Pertaining to Martin Luther King?

Q. Yes, sir. Pertaining to Martin Luther King.

A. Yes, sir.

Q. And did that conversation on the day of the assassination of Martin Luther King that he had with your mother, did that upset you in some way?

A. Yes, it did, in a way it did. Because that he would talk to my mother directly about gangsterism, that is what I

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was predominantly upset about. It wasn't the subject matter of what it was about, it was the fact that he would think that he could, you know, go to that level to talk to her about that. That's what upset me more than anything.

Q. When you heard about this, what did you do?

A. I went directly to Mr. Frank about it when he showed up at the pizza parlor and just asked him, I said, hey, Mr. Frank, did you kill Martin Luther King?

Q. Because what had you heard that he had said to your mother?

A. He told mama that he had killed Martin Luther King – had Martin Luther King killed. I didn't like him talking that to my mother. I thought he was out of line for coming forward with that, talking to her. He could talk to me about it. But he stepped over the line. So that's when I approached him.

Q. You became offended and you actually just went up to him and confronted him?

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A. That's right.

Q. How old were you at that point, Mr. Whitlock?

A. Eighteen.

Q. As an eighteen-year-old young man, you went up to this fairly formidable individual, wasn't he?

A. Define "formidable."

Q. He was good sized, he had an aura of power about him?

A. He was a big man, yes, sir.

Q. You confronted him by asking him the question, did he kill Martin Luther King?

A. Uh-huh.

Q. What did he say to you?

A. He glared at me, he says, you've been talking to your mother, hadn't you? I said, yeah. He said, you wired? I didn't even know what he meant by that. I went, no, I'm not wired.

Q. He asked if you were wired, and you didn't know what he meant by that?

A. I thought he was talking about – I thought he meant am I taking amphetamine

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pills and wired up. I said, no, I'm not crazy. He sat there for a second. He says –

THE WITNESS: Your Honor, I don't want to offend anybody, and I don't know how many people are watching this television, but I'm going to have to use some –

Q. (BY MR. PEPPER) Just speak clearly and plainly, just what he said.

A. I'm going to use that N word nobody wants to hear. I don't want to offend anybody by saying this.

Q. Mr. Whitlock, just say what you know.

A. He told me, he said, I didn't kill the nigger, but I had it done. I said, what about that other son-of-a-bitch up there taking credit for it? He says, ahh, he wasn't nothing but a troublemaker from Missouri, he was a front man.

I didn't know what that meant. Because "front man" to me means something different than what he was thinking about. I said, a what? He said, a setup man. I said,

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well, why did you kill the preacher for? He says, ahh, it was about the draft. He says, boy, you don't even need to be hearing about this. He said, don't you say nothing.

He stood up and he acted like he was going to slap me up upside the head. So I stood up there. Me and him are looking at each other. He has got this glare look on his eye. I could tell he was thinking about hitting me.

It run through my head, you old son-of-a-bitch, you hit me, I'm going to knock a knot upside your head, I don't care who you are. He is standing there glaring at me. He says, you fixing to go to Canada, aren't you? I said, yeah.

Then about that time the phone rang. I just walked over there and answered the phone and was busy with the pizza stuff, I looked up, and he is gone. He left his

beer sitting there on the table. It was about half full.

Q. Did you ever have any other discussion with him about this matter?

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A. No, sir.

Q. And do you recall what year this was?

A. 1979.

Q. 1979?

A. Uh-huh.

Q. You went off to Canada, then?

A. Yes, sir.

Q. Played your gig?

A. Uh-huh.

Q. Did you ever see or talk to Mr. Liberto again?

A. My time frame – he called me, okay, on the phone, right after that, and he says, Nate, I've got a job for you. I went, oh, man, he is going to want me to – well, let me back up just a little bit here.

Mr. Frank – there was something that happened over at the pizza parlor prior to this conversation I had with him about him having Martin Luther King whacked. Something took place right prior to that at the pizza parlor that left him open to talk to me in these kinds of ways. It was a pretty nasty situation, but

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I had to do what I had to do over there. I don't tell everybody what I did. About a week or two prior to this conversation I had with Mr. Frank, some guy came in, he

looked kind of like John Wayne. He was a big guy, a redneck guy, walked in my mother's restaurant drinking a beer.

Mama runs over there to the door and she says, you can't bring a beer in here but I'll sell you one. He just – once again, I'm going to have to use some nasty language to make it how it was. He says, I just might buy this mother-fucking place, and he back-handed my mama.

When he did, I walked around from the counter with a nightstick and knocked fire from his tail end and knocked him through the front door, hit him across here and busted his eye open real bad, busted his head open, knocked him out on the front doorstep out there and whacked him again with that stick.

There was a man that was working out there named Louis Bonsella. He come running

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out there and said, don't hit him no more, Nate, you are going to kill him. I said, I'm trying to kill this MF. Some other guy come running out the door and says, oh, wait a minute, come on, Red, talking about the guy I hit with the stick, come on, Red, they are going to kill us. So I hit him in the GP.

So the last I saw these two knuckle-heads, they were dragging each other down the sidewalk. Meanwhile, Mr. Frank had got me up in a truck a couple days later, he got me up in there.

Mama called the cops. They come over there. She filed a report on the guy causing such a disturbance. The lieutenant shows up over there. He gets me out on there on the sidewalk and says, Nate, you are going to have to watch yourself because there is going to start a war over here. I whacked this guy good with that stick.

Mr. Frank got me in the truck. He started asking me about this fight. He says, were you going to kill him, Nate? I said, yeah, I was, but Louis stopped me. He said,

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who? He said, the guy over there working at the place. He said, oh, that old dago

son-of-a-bitch.

Then he says, well, it is a good thing you didn't kill him, you would have been in a whole lot of trouble if you would have. You got out of it, but I would have helped your mama. He said, could you do it again? I said, I guess so, if somebody come up in the pizza parlor acting the fool and hit mama, I said, yeah, I'll tear them up.

He says, no, would you do it just in general? I said, to who? He said, mostly dope niggers over there on around Hollywood, going up around the Hollywood over Plough Boulevard. He motioned over there towards Hollywood.

I said, I don't know. He said, could you do it for some money? I said how much money? He said, five or ten, it depends. I said, who is it? He says, these dope boys get these white girls over there, the families still care something about them, either the police can't or won't do anything

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about it and he said that's it, that's who we want to get right there. I said, who exactly is it? He said, there is always some nigger around here needs to be killed. I don't know. I'll let you know.

Well, when he called my back after we had this conversation about Martin Luther King, he told me about that, he said, oh, I've got a job for you, Nate. Oh, God, he is going to want me to kill some dope idiot over here somewhere.

He says, get your nigger. I had a guy, a black man, that played drums for me, and another man. He says meet Billy down at the Cook Convention Center. He was talking about a music job.

Q. It wasn't a contract to kill somebody?

A. Yeah. He wanted me to play for Sheriff Bill Morris' Christmas party. I was to go down there to the Cook Convention Center, play this Christmas party and I get paid a check. Then he shows back up over

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there at the pizza parlor. That's what the conversation was about.

Q. Did there come a time years later when you wrote a letter to a government official in which you discussed or in which you stated what you have told this Court and jury today?

A. I didn't go into detail, but I had written the governor of Tennessee with a copy written to John Wilder, the lieutenant governor, and to the – I sent one to the person at the Board of Responsibility and to another Memphis attorney, yes, sir, I did.

Q. And were there any repercussions on you as a result of that letter and what you said about this case?

A. Yes, sir, it was.

Q. What happened you to?

A. Well, I started having this guy follow me around in a car that was undercover car that had a bunch of antennas on it. I was working my taxicab. He was constantly following me for about two days. Then I got down here at Poplar and

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Cleveland and I called my mother-in-law, ex-mother-in-law up on the phone in Shelby Forrest, and I had a bunch of cops roll down on me, a bunch of police. I said, heck, there is a robbery somewhere, I better get out of here. I hung up the phone and took off.

I didn't know they was there for me. I get around the corner and I'm pulled over. I had three squad cars with loads of police with guns to my head. They hit me in the groin twice, smashed my face up against the back of the car, stretched me out. One of them cops – I used to wrestle a couple years ago at the Coliseum, and one of the cops recognized me from when I wrestling.

He said, wait a minute, this is Nate. They was working on the hood smashing my face down in that thing, you know. I was just taking it. They didn't put anything on me that I hadn't hardly had before. So I'm just taking it however I can take it. But the one cop stopped it. The guy had a gun to my head while the other one

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was working on me. He said, wait a minute, Nate, what is this about? I said, I don't know, man, I guess it is my ex-wife or something. I didn't know what it was about.

Q. You didn't put it together at that point?

A. Not at that moment, no, I didn't. The top cop that knew me, he put me in his squad car and looks back at me, he said, Nate, have you been making phone calls to Nashville? I said, ug-huh, not me.

They jerked me out of the car again. They said, how much change you got on you? I had like eighty cents in change. They are all looking like he ain't got enough money to make a long-distance phone call. I said, what are you talking about? He says – the cop asked me, he says, do you – have you been making bomb threats? I said, I can't even set my VCR much less make a bomb. I don't know what you are talking about. This is the cop I know. He says, have you been trying to embezzle money out of anybody, some

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government guy? I said, no, ma'am, what the heck is this?

Then all of a sudden this guy that has been following me, he pulls up there real quick in this unmarked car, because they are on the radio saying – I said, if this is all what is going on, you've got the wrong guy, you need to go back over there wherever he is on the phone and see if you can find him, because you've got the wrong person here.

Well, when that took place, the cop that put all the regular Memphis police on me, the undercover guy, he come wheeling up and blocks his face so he can't see me and walks by the car and said, here is the number he is calling. I'm listening out the window to them. I call him a lying SOB when he walks by the door because that's what he was was. I ain't called anybody in Nashville.

Q. Well, the upshot of it all was that this was serious harassment that happened you to?

A. That's an understatement. Then they got me downtown, read me my Miranda

rights.

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I said, am I under arrest? He said, boy, you in a lot of trouble. He said, you can't get no lawyer, you can't get no bond. He said, why does the Secret Service have a hold on a cab driver?

This is that cop up there named Johnstone, eleventh floor, bomb unit. I says, I can't tell you. He said, well, you going to have to tell me. I said, I'll talk to the AG about it because he told me not to say a word to nobody about this. He said, you ain't talking to nobody until you tell me why the Secret Service has a hold on this cab driver right here. I said, okay if you really want to know it, I'll give it you. There are entities within the government – he is taking a statement. They give my give me my Miranda rights. I'm not sure if I'm under arrest or not. Then I give the statement. You can't make a statement unless I done read you your rights, he said. I said, fine. Okay. I guess I was arrested.

I give the statement. I said, the

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reason why they doing this to me is there are entities within the United States government that don't want me to say what I know about the assassination of Martin Luther King.

He almost fainted. He walked out of the room. I saw him through the window. He was on the FAX machine and he was working the FAX machine. I read the heading of the paper he had. It had something on there that said Washington. He walks back in there with the FAX. Him and Larkin, the other major up there, they read it, and they said, get the hell out of here. I was arrested with guns to my head, hit in the groin, read my Miranda, then un-arrested and kicked loose all at the same time.

Q. My goodness. Nate, thanks very much for coming down here this afternoon.

MR. PEPPER: No further questions.

THE WITNESS: Dr. Pepper, you don't have to thank me for telling the truth.

MR. PEPPER: No further

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questions.

THE COURT: Mr. Garrison might have some questions for you, sir.

CROSS-EXAMINATION

BY MR. GARRISON:

Q. Mr. Whitlock, I've known you and your family for quite a few years, haven't I?

A. Yes, sir.

Q. Let me ask you this: How long have you known Mr. Loyd Jowers seated over here?

A. Since 1985, Mr. Garrison.

Q. You worked when he was in the cab business, did you?

A. Yes, sir.

Q. You've been around him quite a bit?

A. Not in the last ten years I haven't, no, sir.

Q. You'd been around him quite a bit before then?

A. A long time ago, yes, sir.

Q. Has he ever made any mention to you about the assassination of Dr. King?

A. No, sir.

Q. He never said any word about that?

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A. I never drew the two together until I saw Mr. Jowers and yourself and Mr. Akins on one of them television programs. I called mama up on the phone. I said, does that sound familiar?

MR. GARRISON: That's all I have.

THE COURT: All right. You may step down.

(Witness excused.)

THOMAS H. SMITH

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

DIRECT EXAMINATION

BY MR. PEPPER:

Q. Captain Smith, good afternoon.

A. Hi.

Q. Thank you for coming here this afternoon.

A. You are welcome.

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

A. Thomas H. Smith, 2997 Knight Road, Memphis, Tennessee.

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Q. Captain Smith, were you employed by the Memphis Police Department?

A. No longer. I've been retired for eleven years now.

Q. How long did you work for the Memphis Police Department?

A. Thirty-three years.

Q. What was the rank that you achieved?

A. Well, at one time I was captain in charge of homicide.

Q. Were you assigned to homicide at the time of the assassination of Martin Luther King?

A. Yes, sir, I was. I was assigned to homicide in 1960.

Q. So in 1968 you were a homicide detective involved in that investigation?

A. Yes, sir.

Q. In the course of that investigation did you first of all arrive on the scene around the time of the killing?

A. Yes, sir. My partner and I, Roy Davis, were the first ones on the scene at the time of the killing.

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Q. At some point in time did you go over and into the rooming house on the opposite side of Mulberry?

A. Yes, sir, I did, during the time of my investigation after I did what I had to do at the scene. I was going around looking for witnesses and went over to the rooming house.

Q. Did you go up to the second floor of that rooming house and into a room occupied by a man called Charles Stephens?

A. Yes, sir, I did.

Q. And his common-law wife Grace Stephens?

A. Grace, yes.

Q. How long after the killing did you go into that room and see Mr. Stephens?

A. Well, it couldn't have been all that long, because we tried to expedite matters. It was still daylight. I talked to Mr. Stephens. I could not talk to Grace.

Q. You could not talk to Mr. Stephens?

A. No.

Q. Why couldn't you speak with Mr. Stephens?

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A. She is drunk, passed out on the bed.

Q. He was drunk and passed out?

A. Yes, sir.

THE COURT: He said "she" was.

Q. (BY MR. PEPPER) I'm sorry, Mrs. Stephens was drunk and passed out. What about Mr. Stephens?

A. He had been drinking heavily.

Q. Did you talk to him?

A. He was leaning up against the door and talked with me briefly, yes, sir.

Q. And what kind of condition was he in?

A. He was also intoxicated but not as bad as Grace.

Q. Were you aware of the fact that Mr. Stephens gave a statement that was used in the extradition proceedings from London against James Earl Ray?

A. I wasn't for a long time. I know he was.

Q. And that as a result of Mr. Stephens' identification of a profile in the distance that he saw, Mr. Ray was extradited from London and brought back to the United States.

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A. Yes, sir.

Q. In your opinion at the time when you interviewed him, within minutes of the killing, after the killing, would he have been capable of making that kind of identification?

A. No, sir. No way.

Q. Because of his intoxication?

A. No, sir. I don't think he could. I didn't think enough of his statement that I took to take him downstairs, downtown and take a formal statement from him and so put it in my arrest report that he was intoxicated to the point there was no sense in bringing him downtown.

Q. You put that in your report?

A. Yes, sir.

Q. Was that report ever reflected in the Memphis Police Department investigation report?

A. Yes, sir. It is quite full of the investigation. We all wrote our little part that we had in it.

Q. But did you read the official MPD

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report and did you ever see the comments that you have made just now included in that report?

A. No, sir. I have never read the report. I never had my hands on it. Well, I did have my hands on, it but I never had time to read it. When I was promoted in charge of the homicide squad, there was a report in the office, and I took it out of the desk – out of the file and put it in my desk drawer where I could securely lock it up.

Q. All right.

A. And it was later taken from me by Chief John Moore. He called me one day and asked me if I had it. I said yes, I did. He said, bring it to me. I carried it down there. I haven't seen it since.

Q. Do you know what happened to it?

A. No, sir.

Q. One final line of questioning. Were you over in the hospital at the time when the body of Martin Luther King was present in a morgue room?

A. Yes, sir, I was there.

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Q. And did you put your hand on the back of Dr. King under his lower left shoulder blade and feel an object?

A. Yes, sir.

Q. What was the object that you felt just beneath the skin?

A. Well, it felt just like a bullet to me, the lead jacket of a bullet.

Q. Did it feel as though it was one piece?

A. Yes, sir, it was still round.

Q. It felt as though it was one piece?

A. Yes, sir.

MR. PEPPER: Nothing further, Your Honor.

MR. GARRISON: Your Honor, I have no questions. Thank you, sir.

THE COURT: All right. Thank you very much, Captain.

(Witness excused).

MR. PEPPER: Your Honor, plaintiffs have another witness who has made a special

trip here. The entire testimony will not take more than about seven to ten

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minutes.

THE COURT: We'll hear it.

MR. PEPPER: Thank you.

MR. PEPPER: Call Mr. Charles Hurley, please.

THE COURT: Ladies and gentlemen, let me probably admonish you. You probably have heard some things you have never heard before about this case. You are not to discuss this evidence, not with your family, not among yourselves or anyone else.

CHARLES HURLEY

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

DIRECT EXAMINATION

BY MR. PEPPER:

Q. Good afternoon, Mr. Hurley. It has been awhile.

A. It has.

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

A. Charles Hurley, 2595 Cedar Ridge Drive, Germantown, Tennessee.

Q. Mr. Hurley, what do you do for a

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living?

A. I'm division manager for Save-a-lot Food Stores.

Q. How long have you held that position?

A. That position, about four years.

THE COURT: H U R L E Y?

THE WITNESS: Yes, Your Honor.

THE COURT: All right. Go ahead.

Q. (BY MR. PEPPER) At the outset let me thank you very much for coming down here at considerable inconvenience to yourself. Mr. Hurley, what position did you hold – what was your work back in 1968?

A. I was advertising manager for National Food Stores in Memphis.

Q. What did your wife do at that time?

A. She worked for the Seabrook Paint Company. She was a buyer at Seabrook Paint Company down on South Main Street.

Q. Physically where was the Seabrook Paint Company located in respect of the rooming house?

A. It would be immediately across the

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street, virtually right across the street.

Q. Virtually opposite the rooming house in question?

A. Right, uh-huh.

Q. And therefore virtually opposite Jim's Grill, the restaurant at the bottom of the rooming house?

A. Yes, I believe that would be correct.

Q. What was your practice on a usual day when you finished work?

A. Well, what I would do is I would go downtown and pick up my wife. I worked down on South Florida Street, which is not really very far from there, and we had one car at the time, so that's what our usual practice was to do.

Q. On the 4th of April, 1968, Thursday afternoon, did you go downtown to pick up your wife?

A. I believe, yes.

Q. Do you recall what time of day that was?

A. I normally got off about four-thirty. It is probably fifteen or

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twenty minutes to where she was. I would just normally drive down and pick her up.

Q. And so around a quarter to five –

A. About that, I would say.

Q. – ten to five, you drove to South Main Street?

A. Yes.

Q. And you were facing north as you go?

A. I would be facing north, yes.

Q. And would you pull over to the side of –

A. Yes. I would – if she wasn't downstairs, I would pull over and park.

Q. Was she downstairs on that day?

A. I believe she had come down and I was not downtown, so she had gone back up to her work space.

Q. So when you arrived, she wasn't down there?

A. No, she wasn't down there.

Q. What did you do?

A. I just sat in the car and waited for her.

Q. Where did you park your car?

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A. I parked, you know, facing north. That would be the east side of South Main right there almost opposite the rooming house.

Q. Was there an automobile parked immediately in front of you?

A. Yes, there was.

Q. And what kind of car was parked immediately in front of you?

A. It was a white Mustang.

Q. It was a white Mustang?

A. Yes.

Q. How far back, can you estimate, was that Mustang from Jim's Grill or the rooming house?

A. It was right there. That has been a long time.

Q. Sure.

A. But it was right there.

Q. Did you notice the license plates on that white Mustang?

A. Yes, I did. Yes, I did.

Q. What kind of license plates were there on that white Mustang?

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A. As I recall at the time and still believe, it was an Arkansas license plate, because the numerals were red and the background was white.

Q. Do you believe the license plate on that car was a white Mustang?

A. Yes, I am.

Q. Are you aware of the fact that James Earl Ray was driving a white Mustang in Memphis on that day?

A. I've heard that subsequently, yes.

Q. Are you aware of the registration of that Mustang that James Earl Ray was driving?

A. You know, only what I've been told or heard subsequently. I think it was the FBI or someone had told me it was an Alabama license, they believed it to be an Alabama license.

Q. He was driving an Alabama license-plate-registered car. You saw a white Mustang with Arkansas plates?

A. I believe them to be Arkansas plates.

Q. On that street?

A. Yes.

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Q. Was there anyone sitting in that car?

A. There was one person sitting in the car.

Q. When your wife came down and you picked her up and you drove away, was that person still sitting in that car?

A. Yes, uh-huh.

Q. Could you describe that person?

A. The only thing I could see was the back of someone's head sitting in the car. I couldn't identify him from that, I'm sure.

MR. PEPPER: That's fine. Thank you very much, Mr. Hurley. Nothing further.

MR. GARRISON: I have no questions of Mr. Hurley, thank you.

THE COURT: All right, sir. You may stand down. You are free to leave.

(Witness excused.)

THE COURT: Any more out-of-towners?

MR. PEPPER: Well, we do have on call outside two more witnesses whose testimony will be very brief. We can have them return, if Your Honor wishes, tomorrow

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to begin in the morning. One has come from Florida, but he is prepared to stay over. It is at Your Honor's discretion, whatever you wish.

MR. GARRISON: Your Honor, his testimony may not be quite as brief. I will have some cross-examination on him.

THE COURT: Very well. You've answered the question I might have asked. Ladies and gentlemen, we're going to stop at this point. We will resume tomorrow at ten o'clock. Again, please don't discuss the testimony with anyone. That also goes for the witnesses who have testified here. You are not to discuss your testimony on the stand here with any of the reporters or anyone else.

All right.

(Jury out.)

(The proceedings were adjourned at 4:30 p.m.)

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