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Siehan trial transcript
Date Feb 21, 1968 (3 days before Walfer testified) in Judge Walker's chambers 3967
3967

Siehan not present & not told of this fraudulent deal bet. prose.
to whether each picture that we prepare for the jury is a fair and accurate representation of the original exemplars? Defense attorney

MR. COOPER: No, we concede that it is his handwriting, as you know.

MR. FITTS: All right. Now, there is another problem that I'd like to get to with respect to the medical.

It is our intention now to call DeWayne Wolfer to testify with respect to his ballistics comparison. Some of the objects or exhibits that he will need illustrative of his testimony will not, because he is being taken somewhat out of order for reasons that we will come to later, will not have adequate foundation, as I will concede at this time.

MR. COOPER: You mean the surgeon took it from the body and this sort of thing? (how about chain of custody?)

MR. FITTS: Well, with respect to the bullets or bullet fragments that came from the alleged victims, it is our understanding that there will be a stipulation that these objects came from the persons whom I say they came from. Is that right?

MR. COOPER: So long as you make that avowal, there will be no question about that.

MR. FITTS: Fine. Well, we have discussed the matter with Mr. Wolfer as to those envelopes containing those bullets or bullet fragments; he knows where they came from; the envelope will be marked with the names of the victims

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Sirhan trial transcript

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1 to take up and that is the matter of conferences in
2 chambers on matters without requiring the necessity of
3 the defendant's presence.

4 MR. COOPER: Yes, your Honor please.

5 At this time, if your Honor please, I would offer
6 to stipulate and to have the defendant make a statement
7 agreeing that from time to time there are matters that are
8 not formal in nature but only informal in character where
9 it would be helpful both to the Court and counsel for the
10 Prosecution and Defense to confer from time to time in
11 the absence of the defendant.

see pgs 2651 + 2
and pgs 3900 + 3901 +
3967

12 Do you agree to do that?
13 (Sirhan)
THE DEFENDANT: Yes, I do.

Judge Herbert Walker

14 THE COURT: You join in that?

(see below)

15 MR. HOWARD: I will join.

16 THE COURT: Anything further, gentlemen?

Chief Defense Counsel

17 MR. COOPER: There is one other thing, your Honor
18 please. I think possibly that we should agree in the
19 record, and I request, and now since the case is now set
20 for trial for the 7th of January, and as I have read in
21 the newspaper there is a flu epidemic of an Oriental
22 origin, I think for the sake of everyone, so that we will
23 not have to ask for a continuance, that Mr. Sirhan should
24 be given a flu shot and I think that the Court should
25 consent and the defendant.

26 THE DEFENDANT: Yes, sir.

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Sirhan wasn't told about Spec. Ct. # Chapter XVIII a
the agreement bet. prose. & defense
to stipulate to ballistics. Why not prove up foundation?

1 and I will pick those up in order and ask for a stipulation
2 that this is the bullet or bullet fragment removed from,
3 ^{say} let us Elizabeth Evans, the victim alleged in Count 5 of
4 the Indictment.

5 MR. COOPER: No question about it.

6 MR. FITTS: Up to that point then we have no
7 particular difficulty.

8 Mr. Wolfer I would also want to testify with
9 respect to a bullet fragment that was removed from the
10 Senator's head.

11 MR. COOPER: That will be stipulated to.

12 MR. FITTS: That, of course, was done during the
13 course of surgery and the doctor is going to follow Mr.
14 Wolfer, so --

15 MR. COOPER: Well, now, let me ask you this -- I
16 would object to the necessity of calling that doctor in
17 view of the fact that we are stipulating that all of these
18 others were taken. It merely emphasizes gory details and
19 at this point I would object. That evidence would be
20 cumulative.

21 THE COURT: You make your objections when the time comes.
22 I don't want to sit here in chambers and rule on this, that
23 or the other.

24 I think we ought to get out there and get on
25 with the trial now.

26 Make your objections out there in court and I

Remember the secret sweet heart deal 3 days earlier to stipulate to ballistic evidence. Sison was not informed of this ultimate betrayal by his defense attorney. Prosecution lacked foundation/no problem - look up a deal to stipulate to ballistic evidence 4120

1 LOS ANGELES, CALIFORNIA

MONDAY, FEBRUARY 24, 1969

2 9:20 A.M.

3 - - -

4 (The following proceedings were had in
5 chambers.)

6 MR. MC COWAN: My first one is 3790, Line 1.

7 This is Mr. Compton speaking, "Are we going
8 to a new subject of the Times article?" And he made no
9 differentiation.

10 THE COURT: There would be.

11 MR. MC COWAN: We could insert "instead" between
12 "subject" and "of".

13 THE COURT: What is your next?

14 MR. MC COWAN: The next one, and I just wanted to
15 ask the Court if he could recall. This is 3801 and it
16 was Mr. Cooper speaking, Line 11, and this is first the
17 Court speaking.

18 "At the time of that comment I cited the
19 case of Jones vs. Nevada, which I think held. I
20 think you had some quarrel with it."

21 And then Mr. Cooper said, "We are agreeing
22 to it."

23 Did he say that?

24 THE COURT: That is right. He didn't mean he was
25 agreeing to Jones vs. Nevada, but he was agreeing to give
26 the psychiatric information back and forth.

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(The following proceedings were had in open court, within the presence and hearing of the jury.)

THE COURT: People vs. Sirhan, let the record show the parties and counsel present, and the jury is in the jury box.

You may proceed, gentlemen.

MR. FITTS: De Wayne Wolfer, please.

THE CLERK: You do solemnly swear the testimony you are about to give in the cause now pending before this Court shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

THE CLERK: Be seated, please.

State your name, please.

THE WITNESS: It is De Wayne A. Wolfer, and that is D-e W-a-y-n-e W-o-l-f-e-r.

DE WAYNE A. WOLFER,

called as a witness by and on behalf of the People, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. FITTS:

Q Your occupation, sir?

A Police Officer for the City of Los Angeles, assigned to the Scientific Investigation Division, Crime

1 Laboratory, where I act as a criminalist -- the study of
2 firearms -- and as a ballistics expert.

3 Q What is your rank and title?

4 A I am a police officer.

5 Q A sergeant?

6 A No, just a police officer.

7 Q Just a police officer.

8 If the Court please, if you will bear with me,
9 I have a number of exhibits which I wish to mark for
10 identification. Initially, I would say, before I proceed
11 -- and there are a number of these -- they have been the
12 subject of conversation with Mr. Cooper and there will be
13 stipulations offered with respect to some of these.

14 MR. COOPER: That is correct, your Honor.

15 MR. FITTS: First of all, I have an envelope which
16 contains an expended bullet; may that be marked People's 47
17 for identification?

18 THE COURT: So marked.

19 MR. FITTS: May it be stipulated, Mr. Cooper, that
20 this expended bullet was removed from the vicinity of the
21 sixth cervical vertebra of Senator Robert F. Kennedy at
22 the time of the autopsy which was performed upon him?

23 MR. COOPER: So stipulated. It may be received in
24 evidence then.

25 What is that exhibit number again?

26 THE COURT: 47 is the number I have.

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MR. COOPER: Thank you.

MR. FITTS: I have a large evidence envelope and, for the purpose of identification, it contains, in the upper left-hand corner the designation Item Numbers 25 and 27. It contains two vials containing bullet fragments.

May that be marked as People's next in order, as People's 48?

THE COURT: In evidence, Mr. Cooper?

MR. COOPER: I have no objection, your Honor.

THE COURT: In evidence.

MR. FITTS: And the next, Mr. Cooper, is a bullet fragment contained with the vials as part of Exhibit 48, which was removed from the head of Senator Robert F. Kennedy, both during the course of surgery performed upon him prior to his death and later upon the autopsy performed subsequent to his death.

MR. COOPER: So stipulated.

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MR. FITTS: I have a photograph, your Honor, a colored photograph, depicting an enlargement of the bullet fragment that has been marked People's 49.

MR. COOPER: For identification.

MR. FITTS: In an envelope, which is for identification purposes, bearing the designation, the number in the upper left-hand corner, Item 57. It contains a vial containing two bullet fragments.

May that be marked People's 49?

MR. COOPER: 50 is the next one.

THE COURT: Is that in evidence?

MR. COOPER: Two bullet fragments, and where did that come from, Counsel?

MR. FITTS: May it be stipulated -- but, I am getting a little bit ahead. And this is from the alleged victim in Count III of the Indictment, Mr. Paul Schrade.

MR. COOPER: So stipulated.

MR. FITTS: I have another envelope for identification purposes with the designation in the upper left-hand corner, Item 105.

May this envelope and its contents be marked People's --

MR. COOPER: What was that, 105?

THE COURT: He is getting to that next.

MR. COOPER: Pardon me.

MR. FITTS: Exhibit 51.

2. 1 MR. COOPER: Tell me first and then maybe we
2 can stipulate.

3 MR. FITTS: Item 51 contains one expended bullet,
4 and may it be stipulated that the expended bullet contains

5 THE COURT: Is that an expended bullet or shell?

6 MR. FITTS: Bullet.

7 THE COURT: Oh, all right.

8 MR. FITTS: That bullet is contained within an
9 envelope which I have now given the designation 51, and
10 it was removed from the body of Irwin Stroll, the victim
11 alleged in Count III of the Indictment.

12 MR. COOPER: So stipulated, your Honor, and this is
13 for the purposes of this case only. And may it be marked
14 51 and I make that because of the civil suit.

15 MR. FITTS: We understand.

16 THE CLERK: In evidence?

17 MR. COOPER: In evidence in this case only.

18 MR. FITTS: I have another envelope bearing for
19 identification purposes only the designation in the upper
20 left-hand corner Item 113, 114 and 115. Item 113 would
21 be all that would be material in this lawsuit, Mr. Cooper.
22 It is an extended .22 caliber bullet.

23 May it be marked People's 52 for identifica-
24 tion?

25 THE COURT: So marked.

26 MR. FITTS: For identification at this time.

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THE COURT: For identification.

MR. COOPER: As long as he lets me know where it came from.

MR. FITTS: All right, and may it be stipulated, Mr. Cooper, that this is an expended bullet which is contained in this envelope, People's 52 and given a designation on the cover of the envelope as Item 113 and it is a bullet which was removed from the person of Ira Goldstein, the victim alleged in Count IV of the Indictment.

MR. COOPER: So stipulated, but shouldn't 114 and 115 be removed if they are not material.

MR. FITTS: Item 114 has the notation "M.T." standing for medical treatment, and the other is 115, a receipt for property.

MR. COOPER: I would suggest, your Honor please, they be removed from the exhibit as being immaterial to the issues of this case.

MR. FITTS: I have no objection to that, however, for convenience, and in order to expedite what we are doing here, may they be removed at the time the witness examines the contents.

MR. COOPER: I don't care.

THE COURT: Let's put them in a smaller envelope within the bigger envelope : can't you do that?

MR. FITTS: Yes, your Honor. The only thing I am

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concerned about is the bullet.

THE COURT: I know, but the other should be put in an envelope but not received in evidence.

MR. FITTS: Fine, your Honor, but for the purpose of moving along this can be done at the time of the witness' testimony.

THE COURT: 52 is in evidence?

MR. COOPER: Yes, your Honor.

52 EV.

101.

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1 MR. FITTS: And an additional envelope for
2 identification purposes only, and in the upper left-hand
3 corner a designation Item 45, consisting of two bullet
4 fragments, and may it be stipulated that these bullet
5 fragments were removed from the head of Elizabeth Evans,
6 the victim alleged in Count V of the Indictment.

7 MR. COOPER: So stipulated, your Honor.

8 MR. FITTS: It would be People's 53 then in evidence,
9 Mr. Cooper?

Bv. 10 MR. COOPER: Yes, so stipulated.

11 MR. FITTS: I have an envelope bearing for
12 identification purposes only in the upper left-hand corner
13 the designation number 56, Item 56, as one expended
14 bullet.

15 May that be marked People's 54 for
16 identification, Mr. Cooper?

17 In case you want to offer it in evidence,
18 may it be stipulated that this is a bullet which was
19 removed from the person of William Weisel, the victim
20 alleged in Count VI of the Indictment.

21 MR. COOPER: So stipulated. It may be received in
ev 22 evidence.

23 THE COURT: In evidence, People's 54.

24 MR. FITTS: Now, to get back to you, Officer Wolfer.

25 MR. COOPER: Are those the only ones you have? Are
26 you finished?

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MR. FITTS: Yes.

Your Honor, I think this stipulation will save a couple days testimony.

THE COURT: Undoubtedly there is no question about that.

MR. FITTS: I would make it even more.

THE COURT: Well, it amounts to saving the testimony of a doctor passing it to a nurse who passes it to a police officer and all of the rest of them.

MR. COOPER: Yes.

MR. FITTS: About 20 witnesses.

Q BY MR. FITTS: Officer Wolfer, you have previously identified yourself as one versed in the science of ballistics, is that true, sir?

A That is correct.

Q What is that science?

A Ballistics is the science, a study of flight patterns of projectiles and we have internal ballistics and we have external, and that is from the time the bullet is fired or leaves the muzzle of the gun and flies through the air until it terminates.

Q What education and experience have you had or undergone to prepare yourself for this particular field?

A In this particular field, in the field of formal education I have my Bachelor's Degree from the

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