

Mrs. Kathryn Kelly a la 1933

Kathryn Tells About Jewelry

Kathryn Kelly, 54, widow of the late George "Machinagun" Kelly, kingpin of the 1933 Urschel kidnap gang, testified Friday that she handed over \$25,000 or more in valuables to pay for their defense 25 years ago.

She said she gave her defense attorney, James H. Mathers, items:

Two bags containing expensive clothing, including dresses worth \$500, with a total value of \$1,500 at very least."

Jewelry Included

A 16-cylinder Cadillac automobile, two Chevrolet automobiles and a Ford pickup truck.

The contents of a lock box which contained jewelry worth \$10,000. In the box, she claimed, was a 7-carat diamond, a \$3,000 watch, a \$1,000 bracelet, a \$500 lavalliere, and some ear clips and miscellaneous small items.

Also in the lock box was "\$1,800 in money — \$1,800 in gold pieces," she testified.

Kathryn Wondered

In testimony earlier this week, the attorney said he went to Kansas City and picked up from storage a fur coat which Kathryn had turned over to him. He said he later gave the coat to his wife.

Kathryn said Thursday she wondered for a long time what became of all the finery and valuables.

She said she never learned much about what was going on for several years, since she was in the women's prison at Milan, Mich., the first six years and "I didn't get my feet on the ground one time."

Mrs. Kelly and her mother, Mrs. Ora Shannon, opened an attempt in U. S. court here last Monday to set aside their conviction and sentence of life imprisonment.

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... took place, and that if such had occurred, he would have known of it," Judge Wallace declared.

Moreover, he (Hyde) testified that he and the FBI worked hand in hand in these cases, and that he had access to all information which the FBI had.

In doing this, Wallace continued, the former district attorney became the alter ego of the FBI and this "puts this matter in direct issue."

"The very fact you gentlemen are objecting so strenuously makes the court think there were reports (relating to investigation of defense attorneys in the Urschel trials)," he said at one point.

Wallace ended the exchange, remarking that he felt "I am the sole judge" in this matter.

When the district attorney pointed out that it might take "two or three days" to go through the extensive files of the Urschel case, Wallace remarked: "It doesn't make any difference to me about the size of the files. I will handle them."

Testimony Reviewed

In making the ruling, Judge Wallace summed up some of the testimony which has been heard since Monday.

He pointed out the defendants have unequivocally maintained that coercion existed and that Mrs. Kelly testified that Mathers told her on several occasions that no lawyer could properly defend her under the existing conditions, and that he was being investigated.

He said that in accordance with Hyde's testimony, Mathers maintained that he had no fear of investigation and had no knowledge that any investigation was ever threatened while he was defending Kathryn Kelly.

However, he continued, one of the defense attorneys was convicted of receiving ransom money. In addition, James C. Mathers, son of James H. Mathers and his law partner was indicted for receiving ransom money but was subsequently acquitted.

Evidence Sought

"With all these matters before the court, it certainly appears that the court should have the benefit of any evidence which tends to throw some light on this highly critical, contested point," Wallace said. "If in fact investigations were going on during these trials, such fact would lend credibility to Mrs. Kelly's testimony, and tend to challenge the testimony of Mr. Hyde."

Wallace offered to accept testimony by the district attorney or by an FBI agent that the records contain no investigation of the Urschel defense attorneys and the court will then be satisfied on this point.

If there was such an investigation, he said, he wants to see the files. Wallace said he would go through the files, remove any portions he deemed necessary for consideration in this case, and "carefully" protect the content of the remaining files.

Kathryn Kelly Victim In Fight to Open FBI Records of 1933 Trial

Order Issued Under Recent Court Decision

District Attorney Waits Instruction From Washington

By CULLEN JOHNSON

U. S. district Judge W. R. Wallace Thursday ruled that the FBI must produce records of investigations made in connection with the 1933 Urschel kidnaping trials. U. S. Attorney Paul Cress awaited instructions from Washington before responding.

The ruling was issued at the request of the attorney for Mrs. Kathryn Kelly, widow of the late George "Machinegun" Kelly, and her mother, Mrs. Ora Shannon, who are attempting to set aside sentences of life imprisonment in connection with the kidnaping of the Oklahoma City oil man.

Jencks Case Cited

Cress, who revealed Thursday he is present custodian of the FBI reports relating to the sensational kidnaping case, told Judge Wallace he was subject to an executive order relating to maintaining secrecy of FBI files and asked for time to take the matter up with department of justice officials.

Judge Wallace said he based his decision on the recent Jencks case under which the supreme court ruled FBI files under certain conditions could be used to impeach the testimony of a witness.

Wallace said he felt that it would be "inconceivably legalistic" not to try to uncover whether the claims of Mrs. Kelly and Mrs. Shannon that defense attorneys in the 1933 trials were under a state of "personal apprehension" were true or false.

Investigations Claimed

James J. Laughlin, attorney for the two women, argued that the FBI conducted investigations of various defense attorneys at the time of the trials, and that the attorneys knew they were under suspicion of handling part of the \$200,000 ransom paid for the release of Charles Urschel, victim of the kidnaping.

Wallace pointed out that Herbert K. Hyde, Oklahoma City lawyer who as district attorney prosecuted the Machinegun Kelly gang, has testified positively in the current hearing that there was no investigation of any defense attorney up to the time he left the office Jan. 1, 1934—about three months after the trials.

He also noted that the stenographic transcript of the Kelly trial is missing.

Wallace said that although no FBI agent has testified in the hearing which began here four days ago, the principle involved is the same as in the Jencks case.

Trial Court Overruled

In the Jencks case, a witness testified he made regular reports to the FBI immediately following meetings of a communist group which he attended as an undercover informer.

On cross examination the witness admitted the reports contradicted his testimony. The trial court and the court of appeals ruled that the government did not have to produce the FBI reports to substantiate credibility of the witness.

The supreme court ruled, however, that the burden was on the government to decide whether the public interest would be prejudiced by producing the reports, and to produce the reports or dismiss.

Mr. Hyde, who was then acting district attorney, has since fervently stated that no investigation was made.

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Kelly Pushes to Open FBI's Records

Files Requested To Support Charge Lawyers Harassed

By CULLEN JOHNSON

An attempt to force the government to open FBI reports on the 1933 Urschel kidnaping case was started Wednesday by the attorney for Kathryn Kelly.

U. S. district Judge W. R. Wallace indicated he probably would consider the request by James J. Laughlin, attorney for the widow of George "Machinegun" Kelly, and her mother, Mrs. Ora Shannon, who are seeking to set aside sentences of life imprisonment.

The hearing will go into its fourth day here at 9:30 a.m. Thursday.

Laughlin based his request on the contention that the current case cannot be completed until the FBI reports are available to his clients.

Claim Questioned

Laughlin will attempt to subpoena the FBI reports under the recent Jencks case, and the 1957 amendment to the criminal code, under which the U. S. supreme court and congress undertook to spell out conditions under which such information could be obtained to attack credibility of a witness.

Specifically, Laughlin told Judge Wallace, he wants to use the FBI reports in an attempt to refute the testimony of Herbert K. Hyde, U. S. district attorney in the Urschel case, that none of the defense attorneys was investigated by the FBI until after he left office Jan. 1, 1934.

Mrs. Kelly, and Mrs. Shannon testified earlier this week that attorneys who represented them and other defendants in the sensational trials were frightened and intimidated by federal agents searching for the ransom loot.

of the 1933 defense attorney, Ben Laska, Denver, following the Urschel trial was convicted of receiving ransom money and given a 10-year prison sentence.

U. S. attorney Frank Cress, who has personal charge of the government's response to the effort to free the two women, said he will fight the effort to subpoena the 1933 FBI reports relating to the case.

Both Cress and Laughlin told Judge Wallace at the close of Wednesday's session that they expected to wind up some time Thursday.

The government Wednesday produced three of the men who helped guard the members of the kidnap ring during the trials 25 years ago in an attempt to refute claims by Kathryn that she was badgered by throngs of agents during the 16 days she was held in the Oklahoma county jail.

Marshal Testifies

The witnesses were W. C. Rube Geers, the former U. S. marshal, now owner of a ranch near McAllen, Texas; Stanley Rogers, former Oklahoma county sheriff and now an employee of the state corporation commission; and Ross Biggers, chief criminal deputy in the sheriff's office.

An affidavit signed by Geers

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Kelly Attorney Pushes to Open FBI Records

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earlier this year at McAllen which attacked the trial and conviction of the two women was introduced in evidence.

"They had as fair a trial as anybody could have gotten at that time," Geers, now 85 years old, testified. The former marshal said he based the statement on the fact that public tension was high and resentment strong against kidnapers.

A thick scrapbook containing numerous newspaper clippings and photographs of principals in the Urschel case which the attorney for Kathryn has used throughout the trial was revealed to be the property of Geers.

Introduction of Geers' affidavit provoked much argument between Cress and Laughlin.

As finally put in the record, the affidavit affirmed "that there was tremendous feeling and resentment toward the defendants in this case."

"In his opinion," the affidavit said, "Kathryn Kelly and Ora Shannon did not receive fair trials due to the feeling and passion that had been worked up by the public and by the press and radio of the day."

"Affiant says further that the cameramen and the news photographers disrupted the conduct of the trial and made it virtually impossible for the matter to be decided fairly and impartially by the jury as related to Mrs. Shannon and Mrs. Kelly."

The affidavit continued that "The Urschels apparently exhibited tremendous influence and that he personally knows that at least one of the Urschels sat at the trial and assisted Mr. Keenan in the prosecution of the case and made certain suggestions."

Pressure Denied

Joseph Keenan, a special assistant to the U. S. attorney general, was a special prosecutor sent from Washington to help Hyde.

Rogers and Biggers, who was serving as a jailer at the time of the trials in 1933, denied Mrs. Kelly's claims she was put on bread and water in an effort to wring a plea of guilty from her. Asked by Laughlin if floodlights burned in Kathryn's cell all night, Rogers replied, "Not to my knowledge."

J. B. Dudley, veteran Oklahoma City attorney who defended six of the Urschel case "money changers," following Geers to the witness stand and testified he thought the trials were conducted "remarkably well and fair" by U. S. district Judge Edgar S. Vaught.

Laughlin said one FBI report he already had obtained for the record shows a "secret deal" with a key witness against Mrs. Kelly had been made before her trial.

One More Witness

The witness was Luther Arnold, a "contact man" in the case who was arrested and charged at one time with transporting a woman across state lines for immoral purposes, but was not prosecuted.

Hyde said he exercised his prerogatives as U. S. attorney in refusing to prosecute the informer.

Cress indicated he has only one more witness to call before winding up the government's case.

Judge Wallace told Cress and Laughlin they will be expected to before he would rule on the motions.

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over each morning at 9:45 and each evening at about 5:45 p.m. On July 30 there was a downpour of rain there was any morning plane. The next morning, July 31st, he was driven to the point near Norman and released.

Urschel Kept Books

Being a business man, you might say he "kept books" and the things he could tell officers helped a lot.

The time element on the passage of a plane over a certain place made it easy to check; also the canceled flight on July 30th was a factor. FBI checking the airlines found an American Airways plane from Ft. Worth to Amarillo, on Sunday, July 30, had to swing north of its regular course to avoid the rain storm, thereby not passing over the place Urschel was being held. The U. S. Weather bureau at Dallas disclosed that this general area had suffered from drought and the corn was beginning to burn until the July 30 rains came.

A little calculation showed that the morning plane leaving Ft. Worth and the afternoon plane leaving Amarillo would pass over a point near Paradise, Texas, at approximate time recalled by Urschel. The officers armed with the weather bureau and airline information, quickly located the farm house described by Urschel. The home of Mr. and Mrs. R. G. Shannon, step-father and mother of Kathryn Kelly. She in turn was the wife of the notorious "Machine Gun" George Kelly, who had a reputation of shooting a quarts eye out at 20 paces. Urschel identified the Shannon home, the tin cup and the mineral water from the well. The Shannons admitted guarding Urschel for Kelly and Bates. The FBI traced Albert Bates to Denver where he was arrested.

Kelly Caught In Memphis

Harvey Bailey was arrested in Dallas, Texas. He escaped the County jail and was again arrested in Ardmore, Oklahoma by U. S. Marshal J. (Red) Wright and Oklahoma officers. He was brought to the Oklahoma County jail on September 9th, 1933.

On September 25th, George (Machine Gun) Kelly and his wife, Kathryn, were arrested in Memphis, Tenn. in a hideaway. Although Kelly had a machine gun handy, he never attempted to use it, instead he screamed, "Don't shoot 'G-men'." That name has stuck to the FBI men ever since.

From the time Harvey Bailey was placed in the county jail, September 9th till the trials were over in October, I don't believe I have ever faced or seen so many special guards, all armed with machine guns. The Oklahoma county jail was back in an alley. There was a big department store, Montgomery Ward, to the north, the court house to the west. In each of these buildings were stationed two guards, to "cover" the entire jail. When Albert Bates arrived from Denver, Colorado, the U. S. District attorney, Herbert K. Hyde, said he was ready for trial. September 18th the first case began. On the first day of the trial all photographers were taken into the judge's chambers and told, "The court room is yours. You may make a picture any time in any place in the court room while the court is in session. We want all the publicity we can get on this case."

A Photograph

The first case was that of Harvey Bailey, Albert Bates and Mrs. Shannon and their son, Almon.

From the first day the building, especially the ninth floor, was a veritable abode of no place you could go but that a machine gun was in you. I had a gun by Rube G. and the Judge. Very time from the eighth floor, it prisoners were in the elevator (ninth floor). I was shook down. I here knew me happened every day.

The first two days seemed like a dream, here I was in the middle of practically popping in this ear shooting down in the court room, and every shot directing some one to come and let me for violating a federal law. Nothing happened.

At first the trial seemed to drag, every piece of evidence presented by the prosecution was challenged by the attorneys, either Mathers or Grady. There were many heated arguments. Judge Vaughn would over rule an objection and the trial would proceed. But when the news was spread over the court room on the morning of September 27th that George (Machine Gun) Kelly and his wife, Kathryn, had been captured the day before, there were many arrests among the attorneys, both federal and state. The trial stopped.

A Point of View

In the afternoon of September

30th when the jury brought in its verdict. Mr. and Mrs. R. G. Shannon, Armon Shannon, Harvey Bailey and Albert were requested to stand facing Judge Vaught, and heard him sentence them to life in prison, to be confined for the rest of their natural lives. The picture of the day was that line up. I made it standing in the witness chair.

On October 1 Kelly and his wife were flown back to Oklahoma City. They met them at the jail. They were heavily guarded by Marshall Geers, Deputy marshals and Stanley Rogers, sheriff of Oklahoma County. Kelly was handcuffed to a chain that was attached to a pair of leg irons. He walked with difficulty. He was promptly dressed in and put in a cell, with guards armed with machine-guns every few feet. He wore a smirk on his face, about half a laugh, and seemed to be pleased with the attention.

Ben Laska, a criminal lawyer from Denver, was soon on the job. The trial of George Kelly and his wife Kathryn soon got underway, the Shannons, Bailey and Bales were held over as material witnesses, however I don't know what good it did. I do know it created a hazard as far as security was concerned. The guard was doubled if that was possible. The transfer from the federal building to the County jail each day was a parade. The public enjoyed. They would line up in front of the federal building each morning and evening, to watch the guards bring in the prisoners.

The Kelly trial lasted all the 11th of October when Judge Vaught again read the findings of the jury and pronounced sentence of life in prison for both Kelly and his wife Kathryn.

Revenge or Rehabilitation?

To the Editor:

Can there be any doubt that Kathryn Kelly and Ora Shannon have been completely rehabilitated?

Was Nathan Leopold any more, or as much, entitled to a parole or commutation of sentence as these two women are?

In the Leopold-Lobel-Bobby Franks case an innocent little boy was brutally murdered and the ransom money collected from the father. Mr. Franks, after Leopold and Lobe murdered little Bobby Franks. The long-announced purpose of imprisonment in a federal case is rehabilitation, as well as punishment.

Under the Common Law as existed in the British Commonwealth of Nations for many centuries it is doubtful that either Kathryn or Mrs. Shannon would have even been tried for the kidnapping of Mr. Ulschel.

From all the information that was obtained by the FBI from July 22, 1933, the date of the crime, until all or almost all the facts were known (within 90 days thereafter) it would seem that what these two women did was the direct result of instructions and direction from their husbands.

Many will say, "So what since this crime was committed in the United States, not in England?"

Title 22, Section 9 of the Oklahoma Statutes reads as follows:

Common Law...
...pleading...
...point...

of George Kelly...
...they...

...other than...
...at...
...in...
...the...
...under...
...severely...
...intent...
...coerced...
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...long...
...is...
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...ministers...
...years...
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...or...
...slow...
...would...
...but...
...Kathryn...
...and...

By C. J. Kaho

About midnight July 23rd 1933, I was awakened by a phone call from the city desk Jack Bell, city editor, trying to tell me Urschel had been kidnaped and as he always said "Get on the job." (Personally I had never heard of Urschel).

I asked: "Where did they get him and what direction of travel did they take?" He said: "They have two Urschel and Walter R. Jarrett, and were taken at NW 16th and Hudson, Urschel's home, and at last reports were headed east. It so happened the only night I was allowed to take the "Car" home. (We had but one photo car) I headed east, hoping to cut them off on NE 23 or NE 10th. I failed to find a trace of the car. Walter R. Jarrett returned to the Urschel home two hours later and said the kidnapers drove 10 or 12 miles northeast, took \$50 from him, put him out of the car and headed south with Urschel.

The facts were about 9:30 p. m. on July 23rd 1933 Charles F. Urschel, his wife, Walter R. Jarrett and his wife were having a quiet card game on the screened porch of the Urschel home. Two men came into the room, carrying a machine gun and asked, "Which of you two men is Urschel?"

Shocked by the display of firearms, neither answered. So one of them said: "We'll take both of you." They took them out of the house and put them in a car parked across the street, and drove east. That was the last Mrs. Urschel and Mrs. Jarrett saw of them. Mrs. Urschel called police. A pick up was broadcast: "Pick up any car with four men in it, direction of travel east, on NE 23 and NE 10th, no description of car." At that time police had only one car in that district. Mrs. Urschel was told by the police dispatcher to call the FBI and report her husband kidnaped.

Stake Out On House

Failing to find anyone on the east side, I drove to the Urschel home. Jarrett, who had been taken along with Urschel, had returned. Officers were all over the place. I called Jack Bell, city editor and told him what I had found out. He advised a stake out on the house to cover any chance of a ransom note being delivered. I begged out on this and said: "Send Elnis Helm." Being outdoors minded, a great fisherman, I knew he would enjoy watching the house. Helm came down equipped with army cot, food, etc. It was beginning to get daylight by that time. They were to park across the street where they could watch the Urschel home. The day wore on and still no contact. The Skipper's son Dewey joined Helm and they just lived there three days. Nothing happened. In the meantime every law enforcement agency in the southwest was engaged in a gigantic search for the kidnapers.

Blind Want Ad Used

Four days later a friend of the Urschels received a package delivered by a Western Union messenger. The package

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Photographers Were Free At Win During Famous 1933 Kidnapping Trial

Urschel, Blindfolded Tracked Location By Passing Airliners

(Continued from Page 1)
contained four letters, one in Urschel's handwriting, another was a typewritten letter addressed to E. E. Kirkpatrick, of Oklahoma City. This letter demanded \$200,000 for the safe return of Urschel. There were instructions to place an advertisement in the Daily Oklahoman's classified columns, if the kidnapers price was to be met. The family and close friends agreed to meet the demands and an ad was run as follows:

For Sale—150 Acres land, good five room house, deep well, also cows, tools, tractor, corn and hay. \$3750 for quick sale. Terms. Box H-807.

Kirkpatrick left Oklahoma City carrying a brief case stuffed with \$200,000 in \$20 bills. **I'll Take That Bag**
In Kansas City Kirkpatrick

took a cab to a hotel as instructed by the kidnapers' note. Arriving, he paid the cab driver and with his valuable brief case walked west. He had gone only a short distance when a stranger approached him and said, "Kirkpatrick, I'll take that bag."

Of course Urschel arrived home the next night, unharmed but exhausted. He refused to pose for pictures and the FBI insisted on letting him rest.

The next day he gave us the police, FBI and other state law enforcement men an amazing detailed account of his experience. It seems he was never scared, kept his wits about him and tried to remember everything he heard and saw.

Urschel was blindfolded just after they let Jarrett out of the car. About daylight the kidnap car drove into a garage or barn and he was transferred to a larger car. He was told to lay on the floor on a pallet in the back of the car.

Plane Missed One Day

About three hours after

changing cars they went to a filling station. Urschel was blindfolded to see the driver of the car. One of the men asked, "How are you?" Urschel said, "I'm all right." The crows

burned up and made some make some next stop was a barn. Urschel said the man walked several feet

where he spent the night. The next day he was driven in another house about a 20-minute drive from the first house. He heard chains rattling, saw no one and was afraid. He could hear a car coming from a way off and he thought

be northward. He drank water from a bottle and ate a hard-boiled egg. The car drove into a garage or barn and he was transferred to a larger car. He was told to lay on the floor on a pallet in the back of the car.

The lip that was on his face when he could see his watch

Oklahoma City airtel 6/13/58 attaches clippings
"The North Star" and "The Daily Oklahoman"
6/12 and 6/13/58 regarding hearing on
Kathryn Kelly and Ora Harrison motion to vacate
their sentences. The articles relate judge's
decision to examine FBI files on Laughlin's
motion. The articles give background of case;
photographs of Kelly and George Kelly Barnes
in 1933; and testimony of witnesses in current
hearing. One article by C. J. Kaho, which
Laughlin is trying to bring into the hearing,
states he, Kaho, was "taking pictures from the
judge's bench, practically popping flash bulbs
in his (judge's) ear." Department has indicated
Judge Vaught will be subpoenaed to refute this

Assistant Attorney General
Malcolm Anderson

June 17, 1958

Director, FBI

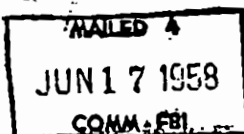
GEORGE KELLY BARNES, WITH ALIASES, ET AL.;
CHARLES F. URSCHEL — VICTIM;
KIDNAPING

This will confirm a conversation on
June 12, 1958, between Mr. James W. Knapp,
Criminal Division of the Department, and Special
Agent [REDACTED] of this Bureau.

Mr. Knapp referred to the hearing in
progress in the United States District Court,
Western District, Oklahoma, on the motions filed
in behalf of Ora Shannon and Kathryn Kelly to
set aside their life sentences imposed in 1933.
He indicated their attorney, James J. Laughlin,
Washington, D. C., had filed a motion for the
production of FBI reports and the Government is
endeavoring to quash this motion. Mr. Knapp
indicated that if any report is given to Mr. Laughlin
he will demand all. He indicated that he had
consulted with United States Attorney Paul Cress,
Oklahoma, and wanted to know if the reports
contained any confidential matters, techniques,
or informants. [REDACTED] advised Mr. Knapp that
for his information the reports do contain
numerous references to confidential information.

Later, on June 12, 1958, Mr. Knapp
requested that he be furnished copies of the
reports dated September 15, 1933, and October 5,
1933. These reports were furnished in compliance
with his request on June 13, 1958.

Tolson _____
Boardman _____
Belmont _____
Mohr _____
Nease _____
Parsons _____
Rosen _____
Tamm _____
Trotter _____
Clayton _____
Tele. Room _____
Holloman _____
Gandy _____



JUN 23 1958

REC-28

REC'D OF
14 JUN 1958
RECEIVED
JUN 15 1958

BUREAU OF INVESTIGATION
DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

JUN 12 1958

TELETYPE

OKURGENT

6-12-58

9-15 PM

Mr. Tolson
Mr. Boardman
Mr. Belmont
Mr. Mohr
Mr. Nease
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Trotter
Mr. Clayton
Tele. Room
Mr. Holloman
Miss Gandy

TO- DIRECTOR, FBI

FROM- SAC, OKLAHOMA CITY 8 P

GEORGE KELLY BARNES, WAS, ET AL, CHARLES F. URSCHER, VIKID.

REMY CALLS TO BUREAU JUNE TWELVE. DURING MORNING SESSION.

BOTH GOVERNMENT AND ATTORNEY JAMES LAUGHLIN RESTED THEIR CASES.

LAUGHLIN STATED HE HAD ONE FINAL MOTION, HOWEVER, WHICH

CONCERNED THE PRODUCTION OF FBI REPORTS. THEREAFTER PRODUCED

MOTION WHICH REQUESTED THAT FBI REPORTS BE EXAMINED TO DETERMINE

WHETHER INFORMATION CONTAINED THEREIN REFLECTED INVESTIGATION

OR INTIMIDATION OF DEFENSE COUNSEL WHILE KELLY AND SHANNON

TRIALS WERE IN PROGRESS. USA PAUL CRESS POINTED OUT THE

PROVISIONS OF DEPARTMENTAL ORDER THREE TWO TWO NINE. THEREAFTER

FILED MOTION TO QUASH LAUGHLIN- S MOTION FOR PRODUCTION OF FBI

REPORTS. SHORTLY AFTER NOON RECESS USDJ W. R. WALLACE HANDED

DOWN FOLLING RULING. QUOTE THE COURT IS GOING TO MAKE

THIS STATEMENT WITH REGARD TO THE QUESTION UNDER CONSIDERATION,

THE LEGAL QUESTION, THE QUESTION OF PRIVILEGED FBI REPORTS IS

ALWAYS DELICATED. HOWEVER, AFTER CAREFULLY CONSIDERING THE

DEFENDANTS MOTION TO PRODUCE CERTAIN REPORTS OR DOCUMENTS AND

GOVERNMENT- S MOTION TO QUASH, THE COURT HAS REACHED THE

END PAGE ONE

Mr. Rosen

58 JUN 24 1958

REC-1

TO JUN 17 1958

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PAGE TWO

FOLLOWING CONCLUSIONS. ONE CRITICAL ISSUE RAISED BY THE DEFENDANTS IS THE QUESTION OF WHETHER OR NOT DEFENDANTS COUNSEL CONDUCTED THEIR DEFENSE IN NINETEEN THIRTY THREE UNDER A STATE OF PERSONAL APPREHENSION OR COERCION BECAUSE OF ALLEGED INVESTIGATIONS BY THE FBI OF VARIOUS DEFENSE COUNSEL. ALONG THIS LINE, OF COURSE, THE VERY FACT THAT THE ISSUE IS, AS STATED IN THE SMALL TRANSCRIPT, IN THE KATHRYN KELLY CASE, THAT ONLY A CERTAIN ISSUE WAS RAISED, MIGHT GO TO THIS QUESTION, BECAUSE THE ATTORNEY MIGHT HAVE BEEN AFRAID TO RAISE ANY OTHER ISSUE. THE DEFENDANTS HAVE UNEQUIVOCALLY TESTIFIED THAT SUCH COERCION EXISTED, AND MRS. KELLY, I BELIEVE, STATED THAT MR. MATHERS TOLD HER ON SEVERAL TIMES THAT NO LAWYER COULD PROPERLY DEFEND HER UNDER THE EXISTING CONDITIONS AND THAT HE WAS BEING INVESTIGATED. CONTRARILY MR. HYDE POSITIVELY TESTIFIED THAT NONE OF THE COUNSEL INVOLVED IN THESE CASES WAS UNDER INVESTIGATION AT THE TIME OF THE TRIAL, AND THAT SUCH INVESTIGATIONS OCCURRED AFTER HE LEFT THE DISTRICT ATTORNEY- S OFFICE EARLY IN NINETEEN THIRTY FOUR. MOREOVER, MR. MATHERS HAS TESTIFIED THAT HE HAD NO FEAR OF INVESTIGATION AND HAD NO

END PAGE TWO

PAGE THREE

KNOWLEDGE THAT SUCH INVESTIGATIONS WERE EVEN THREATENED WHILE HE WAS DEFENDING MRS. KELLY. IN ADDITION, THE EVIDENCE INDICATES THAT ONE DEFENSE ATTORNEY WAS CONVICTED OF RECEIVING RANSOM MONEY, AND THAT MR. MATHER- S SON, A LAWYER PARTNER OF THE LAWYER WHO DEFENDED MR. KELLY, WAS INDICTED FOR RECEIVING RANSOM MONEY ALTHOUGH HE WAS ACQUITTED. WITH ALL THESE MATTERS BEFORE THE COURT IT CERTAINLY APPEARS THAT THE COURT SHOULD HAVE THE BENEFIT OF ANY EVIDENCE WHICH TENDS TO THROW SOME LIGHT ON THIS HIGHLY CRITICAL CONTESTED POINT. IF IN FACT, INVESTIGATIONS WERE GOING ON DURING THESE TRIALS. SUCH FACT WOULD LEND CREDIBILITY TO MRS. KELLY- S TESTIMONY AND TEND TO CHALLENGE THE TESTIMONY OF MR. HYDE. ALTHOUGH NO FBI AGENT HAS TESTIFIED, AS IN THE JENKS CASE, THE PRINCIPLE INVOLVED IS IDENTICAL. MR. HYDE, WHO WAS THEN ACTING DISTRICT ATTORNEY, HAS UNRESERVEDLY STATED THAT NO INVESTIGATIONS TOOK PLACE, AND THAT IF SUCH HAD OCCURRED, HE WOULD HAVE KNOWN IT. MOREOVER, HE TESTIFIED THAT HE AND THE FBI WORKED HAND IN HAND IN THESE CASES AND THAT HE HAD ACCESS TO ALL INFORMATION WHICH THE FBI HAD. AT THIS POINT IT SEEMS INCONCEIVABLY LEGALISTIC NOT TO GO INTO THIS MATTER.

END PAGE THREE

PAGE FOUR

OF INVESTIGATION OF THE DEFENSE COUNSEL AND TRY TO UNCOVER THE TRUTH OF THE MATTER. IF NO INVESTIGATIONS WERE IN FACT MADE DURING THESE TRIALS AND A RESPONSIBLE FBI AGENT, OR THE PRESENT DISTRICT ATTORNEY, SPEAKING AUTHORITATIVELY ON THIS POINT WILL TESTIFY TO THE EFFECT THAT THEY HAVE EXAMINED THESE FILES, ALL OF THE FILES, INVOLVING THE ATTORNEYS, THE DEFENSE ATTORNEYS, IN THE TRIAL OF THE KELLY AND SHANNON CASE, AND WILL TESTIFY THAT NO SUCH INVESTIGATIONS WERE MADE AND THAT THE FBI FILES INDICATE NO SUCH INVESTIGATION^S WERE MADE, THE COURT WILL THEN BE SATISFIED ON THIS POINT. HOWEVER, IF INVESTIGATIONS WERE MADE DURING THE TIME RELEVANT HEREING AND THE FBI FILES CONTAIN STATEMENTS WHICH TEND TO ESTABLISH SUCH FACT, TOGETHER WITH RELATED FACTS AS TO TH^E GENERAL SCOPE OF SUCH INVESTIGATIONS, THEN THIS COURT WANTS SUCH INFORMATION MADE AVAILABLE. THE COURT IS OF THE OPINION THAT THE FILES SHOULD BE TURNED TO IT, AND IT WILL PERSONALLY GO THROUGH THE FILES, HA^VING IN MIND ONLY THE ISSUE OF INVESTIGATION OF COUNSEL, AND REMOVE THE^FROM^A FOR CONSIDERATION IN THIS CASE ANY INSTRUMENTS WHICH IN THE COURT- S JUDGMENT ARE RELEVANT TO THIS VERY MATERIAL ISSUE. ALL

END PAGE FOUR

OTHER CONTENTS IN THE FILE WILL BE CAREFULLY PROTECTED AND IMMEDIATELY RETURNED TO THE GOVERNMENT- S AUTHORIZED AGENT. THAT IS MY RULING IN THIS CASE, GENTLEMEN ~~UNQUOTE~~ ^{NOTE}.

USA PAUL CRESS WAS THEREAFTER CALLED IN TO CHAMBERS OF USDJ W. R. WALLACE AND CONFIDENTIAL CONVERSATION ENSUED. IN THIS

CONVERSATION WALLACE POINTED OUT THAT HES DISAPPOINTED HE HAD NOT BEEN PERMITTED TO SEE FBI REPORTS CONCERNING THE POINTS AT ISSUE SINCE HE FELT THAT HE HAD ALWAYS GOTTEN ALONG VERY WELL WITH BOTH THE DEPARTMENT OF JUSTICE AND THE FBI. USA

PAUL CRESS POINTED OUT THAT HE HIMSELF HAD THE FBI REPORTS AND THAT HIS INSTRUCTIONS WERE TO PLEAD DEPARTMENTAL ORDER NUMBER THREE TWO TWO NINE. JUDGE WALLACE STATED THAT HE HAD HANDED DOWN THE RULING STATED HERINABOVE SINCE HE FELT THAT HE MIGHT AS WELL RESIGN AS U. S. DISTRICT JUDGE IF HE WERE NOT ABLE TO ENFORCE A RULING IN HIS OWN COURT. HE STATED

THAT HE WAS SORRY HE MIGHT HAVE TO SEND AN FBI AGENT TO JAIL ON JUNE THIRTEEN NEXT. CRESS POINTED OUT THAT HE HAD ALL FBI REPORTS AND THAT HE WAS THE ONE WITH WHOM THE JUDGE SHOULD

END PAGE FIVE

PAGE SIX

DEAL IN THE PRODUCTION OF REPORTS. USA CRESS HAS CONFERRED WITH THE DEPARTMENT TELEPHONICALLY AND SUGGESTED POSSIBLE SOLUTION AS FOLLOWS. USA CRESS WILL TAKE THE WITNESS STAND AND WILL STATE THAT HE HAS MY ASSURANCE THAT ALL REPORTS DURING THE YEAR NINETEEN THIRTY THREE WERE REVIEWED AND THAT NONE HAS ^{ANY} INFORMATION CONCERNING INVESTIGATION OR INTIMIDATION OF DEFENSE COUNSEL. HE FEELS THAT AN EXCEPTION SHOULD BE MADE IN THE REPORT OF SA JAHN A. DOWD, DATED SEPTEMBER FIFTEEN, NINETEEN THIRTY THREE. IN SALT LAKE CITY. PAGE THREE OF THIS REPORT POINTS OUT THAT A SURVEILLANCE OF BEN LASKA, ATTORNEY FOR BATES, WAS CONDUCTED, IT SHOULD BE NOTED THAT THE PURPOSE OF THIS SURVEILLANCE WAS TO LOCATE GEORGE AND KATHRYN KELLY, WHO HAD NOT BEEN APPREHENDED UNTIL THAT TIME. USA CRESS FEELS THAT EXCEPTION SHOULD ALSO BE MADE OF REPORT OF SA GUS T. JONES, DATED OCTOBER FIVE, NINETEEN THIRTY THREE, AT OKLAHOMA CITY, WHERE ON PAGES ONE AND TWO, INFORMATION IS SET FORTH THAT LUTHER ARNOLD WAS IN CONTACT WITH DEFENSE ATTORNEYS PRIOR TO THE TIME HE WAS INTERVIEWED BY AGENTS. FEEL THAT DEFENSE ^{E COUNSEL} LAUGHLIN WILL UNDOUBTEDLY OBJECT TO CRESS

END PAGE SIX

TAKING THE STAND AND TESTIFYING THAT HE HAS CONFERRED WITH ME. IT IS ENTIRELY POSSIBLE THAT LAUGHLIN WILL THERAFTER
||| ISSUE A SUBPOENA FOR ME AND WILL ACCOMPLISH THE SAME PURPOSE
||| HE HAS BEEN STRIVING FOR SINCE HE FILED HIS MOTION. JUDGE WALLACE HAS ALLOWED WIDE LATITUDE IN CROSS EXAMINATION. AND IT IS ENTIRELY POSSIBLE THAT THE CONTENTS OF THE REPORTS IN QUESTION WILL BE DISCUSSED DURING ANY SUCH CROSS EXAMINATION.

||| I FEEL THAT TO PUT AN AGENT ON THE STAND WOULD ACCOMPLISH
||| PRECISELY THE SAME THING, WHICH IS THAT THE CONTENTS OF THE PERTINENT REPORTS WILL COME OUT IN THE COURSE OF THE TESTIMONY.

||| I FEEL THAT THE MOST LOGICAL SOLUTION AT THIS POINT, IN VIEW
||| OF THE ADAMANT STAND TAKEN BY JUDGE WALLACE, IS TO ALLOW HIM TO EXAMINE THE PERTINENT REPORTS ~~PAREN~~ (NUMBERING SEVENTY FOUR)
||| ~~END PAREN~~ IN CAMERA. JUDGE WALLACE HAS BEEN ADVISED BY USA
||| CRESS PREVIOUSLY THAT THE REPORTS CONSTITUTE A LARGE VOLUME.

||| JUDGE WALLACE HAS ADVISED THAT IT MAKES NO DIFFERENCE TO HIM
||| AND HE WILL REVIEW THEM PERSONALLY. THERE ARE MANY CONFIDENTIAL
||| TECHNIQUES EXPOSED IN THE REPORTS. THE REPORTS ARE NOT WRITTEN
||| END PAGE SEVEN

PAGE EIGHT

IN THE CURRENT FORM, AND MANY QUESTIONABLE ITEMS, SUCH AS
DETENTION OF PRISONERS, ARE ALSO CONTAINED THEREIN. JUDGE
WALLACE HAS ADVISED, HOWEVER, THAT HE IS INTERESTED IN ONLY
ONE POINT IN ISSUE, AND THAT IS THAT THE DEFENSE COUNSEL WERE
OR WERE NOT INVESTIGATED OR INTIMIDATED. OUR REVIEW OF THE
SEVENTY FOUR REPORTS SUBMITTED IN NINETEEN THIRTY THREE IN
CAPTIONED MATTER DID NOT REFLECT SUCH INVESTIGATION OR
INTIMIDATION, WITH THE POSSIBLE EXCEPTION OF THE REPORT OF
SA DOWD, DATED SEPTEMBER FIFTEEN, NINETEEN THIRTY THREE AT
SALT LAKE CITY. AUSA GEORGE CAMP HAS TAKEN THE STAND THAT IT
WOULD BE BETTER FOR EITHER CRESS OR ME TO TAKE THE WITNESS
STAND AND BE HELD IN CONTEMPT RATHER THAN PERMITTING THE JUDGE
TO EXAMINE THE PERTINENT REPORTS IN CAMERA, SINCE THIS WOULD
BE SETTING A FAR REACHING PRECEDENT. SUMMARY OF DEVELOPMENTS
WILL BE FURNISHED BUREAU BY SEPARATE TELETYPE.

CORRECTIONS

~~TIME SHOULD BE 9-15 PM~~

~~LAST LINE PAGE SIX WORD ONE AND TWO SHOULD BE DEFENSE COUNSEL~~

END AND ACK PLS

1141PM OK FBI WA

TO DISC

CC MR. ROSEN

AND MR. TOLSON

INVESTIGATIVE DIVISION

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

JUN 12 1958

TELETYPE

Mr. Tolson ✓
Mr. Boardman ✓
Mr. Belmont ✓
Mr. Mohr ✓
Mr. Nease ✓
Mr. Parsons ✓
Mr. Rosen ✓
Mr. Tamm ✓
Mr. Trotter ✓
Mr. Clayton ✓
Tele. Room ✓
Mr. Holloman ✓
Miss Gandy ✓

URGENT 6-12-58

7-31 PM

CST

TO- DIRECTOR FBI

FROM- SAC OKLAHOMA CITY

GEORGE KELLY BARNES, WAS. ET AL, CHARLES F. URSCHEL VIKID.

REMYTEL DATE. WHEN COURT OPENED JUNE TWELVE, NINETEEN FIFTYEIGHT,

THE GOVERNMENT RESTED AND REBUTTAL BEGAN BY MR. LAUGHLIN STATING

THAT JAMES H. MATHERS HAD DENIED KNOWING KATHRYN KELLY PREVIOUSLY

OR REPRESENTING HER PREVIOUSLY. FURTHER THAT MR. MATHERS HAD

TESTIFIED HE HAD NEVER SIGNED THE REGISTER FOR ATTORNEYS AT THE

OKLAHOMA COUNTY JAIL. KATHRYN T. KELLY THEN TOOK THE STAND AND

TESTIFIED THAT SHE HAD NOT TOLD MR. MATHERS SHE HAD WRITTEN SOME

OF THE RANSOM NOTES- THAT SHE DID REQUEST MR. MATHERS TO OBTAIN

THE SERVICES OF AN INDEPENDENT HANDWRITING EXPERT TO TESTIFY IN

HER BEHALF AND TO REFUTE THE TESTIMONY OF A GOVERNMENT WITNESS.

SHE TESTIFIED THAT MR. MATHERS HAD REQUESTED A COURT ORDER TO STOP FBI

AGENTS FROM SURVEILLING AND INVESTIGATING HIM. WITH REGARD TO

ANOTHER COURT ORDER, MRS. KELLY TESTIFIED THAT MR. MATHERS OBTAINED

OR MADE A REQUEST FOR A COURT ORDER TO GIVE SOME OF MRS. KELLY'S

CLOTHES TO MRS. LUTHER W. ARNOLD. ON BEING SHOWN AND EXHIBIT WHICH

WAS A COURT ORDER, SHE TESTIFIED IT WAS SIGNED BY BOTH HER AND HER

HUSBAND, AND ~~HE~~ ^{WAS AN ORDER} ~~HE~~ ^{FOR THE COURT TO DELIVER TO MR. MATHERS,}

TWO HAND BAGS WITH EXPENSIVE CLOTHING, A SIXTEEN CYLINDER CADILLAC,

END PAGE ONE 309

58 JUN 24 1958

Mr. Rosen

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JUN 17 1958

7-115

PAGE TWO

TWO CHEVROLETS, A PICK UP TRUCK, AND THE CONTENTS OF A LOCKED BOX CONTAINING EIGHTEEN HUNDRED DOLLARS IN MONEY, AND A GREAT QUANTITY OF JEWELRY OR A TOTAL OF SOME TWENTY FIVE THOUSAND DOLLARS IN CASH AND MERCHANDISE. SHE ADVISED SHE RECOGNIA²ED THE SIGNATURES ON THE DOCUMENT BUT DID NOT BELIEVE SHE OR HER HUSBAND READ IT. SHE TESTIFIED THAT WHILE CONFINED IN MILAN, MICH. SHE RECEIVED A LETTER FROM MR. MATHERS, CONCERNING HIS ARREST IN KANSAS CITY BUT COULD NOT PRODUCE THE LETTER. WITH REGARD TO HER CONFINEMENT IN THE OKLAHOMA COUNTY JAIL, MRS. KELLY TESTIFIED THAT HUNDREDS OF PEOPLE WERE MILLING AROUND THE JAIL AND SHE HEARD MR. HAROLD NATHAN, AND AN ASSISTANT DIRECTOR OF THIS BUREAU TELL SOME ONE AT THE JAIL THAT HE WAS TAKING OVER THE ENTIRE CASE OF KATHRYN T. KELLY AS OF THE DATE OF HIS ARRIVAL IN OKLAHOMA CITY AND ISSUED THE ORDER FOR HER TO BE FED BREAD AND WATER. FURTHER THAT WHEN SHE BECAME WEAK AND ILL, A JAIL DOCTOR WAS CALLED FOR HER, NOT BY KATHRYN HERSELF, AND THE DOCTOR FED HER WARM MILK TOAST. SHE WAS SO WEAK SHE VOMITED AND THE DOCTOR FED HER BITE BY BITE. THE DOCTOR ALIEGEDLY STATED HE PLANNED TO RESIGN HIS POSITION IF THE PRISONERS WERE NOT FED PROPERLY

END PAGE TWO

PAGE THREE

SHE DID NOT RECALL WHETHER SPECTATORS TO HER TRIAL NEEDED PASSES TO GET IN THE COURT ROOM OR NOT. SHE RECALLED THAT MATHERS HAD VISITED HER AT THE JAIL AND TOLD HER THAT GEORGE KELLY HAD PAID HIM TEN THOUSAND DOLLARS. ON ONE OCCASION HE REMARKED ~~QUOTE~~ "DAUGHTER, YOU KNEW UNCLE JIMMY WOULD BE HERE," ~~UNQUOTE~~. FURTHER THAT HE TOLD HER IT WAS VIRTUALLY IMPOSSIBLE FOR AN ATTORNEY TO DEFEND HER BUT THAT HE WOULD GO THROUGH THE MOTIONS AND ENDEAVOR TO GET A REVERSAL ON APPEAL. MR. MATHERS ALLEGEDLY TOLD HER HE WOULD GET A CONTINUANCE FOR HER. LATER WHILE INCARCERATED IN A FEDERAL INSTITUTION, MR. MATHERS WROTE TO HER ASKING FOR MONEY SOME SIX TIMES. WITH REGARD TO MATHERS TESTIMONY HE VISITED KATHRYN AT THE COUNTY JAIL SEVERAL TIMES BETWEEN OCTOBER SEVEN AND NINE. NINETEEN THIRTY THREE, MRS. KELLY TESTIFIED MATHERS VISITED HER ONCE FOR LESS THAN AN HOUR. SHE WAS OF THE OPINION THAT ATTORNEY MATHERS DISCUSSED WITH HER THE FACT THAT LUTHER W. ARNOLD WAS CHARGED WITH TRANSPORTING WHISKEY INTO OKLAHOMA AND VIOLATING THE WSTA, AND THE GOVERNMENT PLANNED TO SEND ARNOLD TO PRISON. MR. LAUGHLIN
END PAGE THREE

PAGE FOUR

white slave traffic act
THEN WENT INTO THE FACTS OF THE ~~WETA~~ VIOLATION ON THE PART OF
ARNOLD. THE FACT THAT ASSISTANT DIRECTOR NATHAN WAS IN CHARGE OF THE
INVESTIGATION IN OKLA. CITY, THAT NATHAN DICTATED THE RULES OF
CONFINEMENT FOR KATHRYN KELLY. MR. LAUGHLIN THEN MADE A MOTION
TO OBTAIN THE FILES OF THE FBI CONCERNING THIS AND HANDED TH E
COURT A SUBPOENA DUCES TECUM. ~~PAREN (ALLEGEDLY) PAREN CLOSED.~~
MR. CRESS ADVISED THE COURT THAT HE HAD IN HIS POSSESSION ALL OF
THE FBI REPORTS. MR. LAUGHLIN THEN ASKED THAT MR. CRESS BE
SWORN. MR. CRESS WAS SWORN AND TOOK THE STAND WHEREUPON MR.
LAUGHLIN ASKED HIS NAME. AS MR. CRESS BEGAN TO ANSWER, GEORGE
CAMP, AUSA, OBJECTED AND ADVISED THE COURT HE DESIRED TO FILE A
MOTION TO QUASH. THE COURT ALLOWED MR. CAMP TO FILE HIS MOTION
BY DICTATING IT INTO TH E RECORD. DURING THE DISCUSSION BEFORE
AND AFTER NOON, THE USDJ, W

R. WALLACE ADVISED THAT HE HAD THE
HIGHEST REGARD FOR THE FBI AND DIRECTOR HOOVER. HE POINTED OUT THAT
CERTAIN ALLEGATION HAD BEEN MADE, AND IN VIEW OF THE POSITIVE
TESTIMONY OF MR. HERBERT HYDE, HE FELT THAT HE, THE COURT, SHOULD
BE ENTITLED TO SEE THE REPORTS OF THE FBI AS INDICATED. HE THEN ISSU-
ED THE RULING OF THE COURT WHICH WILL BE SUBJECT OF TELETYPE
FROM OC THIS DATE.

CORRECTION

~~LINE EIGHTEEN PHRASE FOLLING WORD AND SHOULD BE WAS AN ORDER~~

~~PAGE TWO LINE FOUR WORD SIX SHOULD BE RECOGNIZED~~

~~PAGE FOUR LINE EIGHT WORD FIVE SHOULD BE LAUGLXXX LAUGHLIN~~

END AND ACK HOLD

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Boardman

DATE: June 12, 1958

FROM : A. Rosen *R*SUBJECT: GEORGE KELLY BARNES, Was., ET AL.;
CHARLES F. URSCHER - VICTIM
KIDNAPING

Tolson	<input checked="" type="checkbox"/>
Boardman	<input checked="" type="checkbox"/>
Belmont	<input checked="" type="checkbox"/>
Mohr	<input checked="" type="checkbox"/>
Nease	<input checked="" type="checkbox"/>
Parsons	<input checked="" type="checkbox"/>
Rosen	<input checked="" type="checkbox"/>
Tamm	<input checked="" type="checkbox"/>
Trotter	<input checked="" type="checkbox"/>
Clayton	<input checked="" type="checkbox"/>
Tele. Room	<input checked="" type="checkbox"/>
Holloman	<input checked="" type="checkbox"/>
Gandy	<input checked="" type="checkbox"/>

With further reference to the proceedings in Oklahoma City in the above-entitled matter and the efforts on the part of attorney James J. Laughlin, Washington, D. C., representing Kathryn Kelly and Ora Shannon in their motions to set aside their sentences and his efforts to obtain the production of FBI reports, the following is submitted.

Mr. James Knapp, attorney, Criminal Division, called Supervisor [REDACTED] and advised that he had been in touch with the U. S. Attorney at Oklahoma City. He said that Laughlin has filed a motion for the production of all FBI reports and the Government has filed a motion to quash this request on the part of Laughlin.

Knapp said that he would like an expression of opinion as to what our attitude might be with reference to the production of such reports and he indicated that if any report is given to Laughlin, he will demand all. He has already discussed the matter with the U. S. Attorney at Oklahoma City, and the U. S. Attorney has been instructed to oppose the production of reports and to plead 3229 if the Government fails in getting the request for reports quashed. Knapp wants to know if there are any confidential techniques in our reports.

I talked with SAC Doyle at Oklahoma City, and he advised me that the motion to quash which has been filed by the Government will be heard this afternoon and that the U. S. Attorney will make every effort to get the request for the production of reports thrown out of court. If he fails in this, he will plead 3229 and decline to furnish the reports. Doyle stated that there are 74 reports and there are numerous references to confidential techniques. For instance, there are discussions in the reports which were written back in 1933 concerning the possible use of telephone taps. There is a reference concerning the possibility of holding an individual incommunicado and references to contacts with Western Union, telephone company, banks who gave us information on a confidential basis. If these reports were turned over we would be exposing such

cc: Mr. Nease

AR: [REDACTED]

All-b7C

REC-15

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JUN 17 1958

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Memorandum to Mr. Boardman

confidences. There is also under our old style of reporting a reference to other reports and, of course, this would immediately cause Laughlin to request additional reports beyond those in the 74 which are referred to in the Urschel case.

As it now stands the U. S. Attorney will oppose the production of reports and will not even allow an in camera inspection by the court.

With reference to the attitude of the court, Doyle advised me that the Judge had indicated that he was not going to allow any fishing expedition. Doyle indicated that former U. S. Attorney Hyde made a poor witness but did, however, state that he knew that no investigation of the attorneys representing the defendants had been made by the FBI and that the FBI reports would back him up. In connection with the above testimony of Hyde, it is noted that the Judge stated if the FBI had conducted an investigation of these attorneys, they would have had every right to do so.

ACTION TAKEN:

In view of the time element and in view of the fact that the U. S. Attorney already has the reports in his possession and is aware of the confidential techniques, I have instructed that attorney Knapp in the Criminal Division be advised that the reports do contain numerous references to confidential ~~techniques~~ information.

J. H. [unclear] *[initials]* *[initials]*

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

JUN 13 1958

TELETYPE

Mr. Tolson	
Mr. Boardman	
Mr. Belmont	
Mr. Mohr	
Mr. Nease	
Mr. Parsons	
Mr. Rosen	
Mr. Tamm	
Mr. Trotter	
Mr. Clayton	
Tele. Room	
Mr. Holloman	
Miss Gandy	

URGENT 6-13-58 4-39 PM CST

TO DIRECTOR, FBI

FROM SAC, OKLAHOMA CITY 6P

GEORGE KELLY BARNES, WAS, ET AL, CHARLES F. URSCHEL, VIKID.

REMYTEL JUNE THIRTEEN ADVISING THAT TRIAL HAS BEEN RECESSED

UNTIL NINE THIRTY AM, CST, JUNE SIXTEEN NEXT. USA

PAUL CRESS SINCE RECESS OF CASE HAS BEEN IN CONFERENCE WITH
USDJ W. R. WALLACE AND DISCUSSED THE FOLLOWING ON A CONFIDENTIAL

BASIS. JUDGE WALLACE FEELS WERE A SPECIAL AGENT OF THE FBI

TO TAKE THE WITNESS STAND HE WOULD BE SUBJECT TO CROSS

EXAMINATION CONCERNING THE FBI REPORTS IN QUESTION. THE JUDGE

ADVISED CRESS THAT THE JUDGE WOULD NOT BE ABLE TO LIMIT SUCH

CROSS EXAMINATION. THE JUDGE ALSO POINTED OUT THAT HE IS

UNABLE TO UNDERSTAND ATTITUDE OF FBI FOR NOT RELEASING REPORTS

FOR IN CAMERA INSPECTION SINCE HE HAS STATED THAT IF NO

INVESTIGATION OR INTIMIDATION OF DEFENSE ATTORNEYS IS REFLECTED

THEREIN, THE REPORTS WILL BE RETURNED TO USA CRESS FORTHWITH.

HAS ALSO STATED WERE HE TO ENCOUNTER INFORMATION CONCERNING

INVESTIGATION OF DEFENSE ATTORNEYS THE JUDGE WOULD EXCISE THAT

PORTION OF THE REPORT AND WOULD RETURN THE REMAINDER OF THE

REPORTS TO THE USA. THAT PART WHICH THE JUDGE EXCISED WOULD

out. It is not a straightened
decision but that at the Dept. - H.

Mr. Rosen

All b7C

PAGE TWO

BE MADE AVAILABLE TO ATTORNEY JAMES LAUGHLIN, ACCORDING TO JUDGE WALLACE. JUDGE WALLACE HAS STATED HE IS INTERESTED ONLY IN THAT MATERIAL PERTAINING TO ATTORNEYS WHO REPRESENTED ORA L. SHANNON AND KATHRYN KELLY. DURING THE COURSE OF THE HEARING INFORMATION HAS BEEN DEVELOPED THAT THE FIRM OF SAYERS, MC LEAN AND SCOTT, OF FORT WORTH, TEXAS, REPRESENTED ORA L. SHANNON AND WERE POSSIBLY ASSISTED IN PART BY MESSRS. [REDACTED] AND M. W. BURCH, ATTORNEYS FROM DECATUR, TEXAS. SAM SAYERS WAS THE PRINCIPAL DEFENSE COUNSEL FOR ORA L. SHANNON FROM THE ABOVE FORT WORTH FIRM. SAYERS IS NOW DECEASED. M. W. BURCH IS ALSO DECEASED. [REDACTED] HAS BEEN INTERVIEWED BY THE DALLAS OFFICE AND HAS ADVISED THAT HE AND BURCH DID NOT REPRESENT ORA L. SHANNON OR KATHRYN KELLY. JAMES H. MATHERS WAS PRINCIPAL DEFENSE COUNSEL FOR KATHRYN KELLY AND WAS ASSISTED BY HIS SON, JAMES C. MATHERS. JOHN ROBERTS ALSO ASSISTED IN DEFENSE OF KATHRYN KELLY. JOHN ROBERTS IS DECEASED. JAMES H. MATHERS TESTIFIED FOR THE GOVERNMENT IN THIS HEARING THAT THERE WAS NO INVESTIGATION OF DEFENSE COUNSEL OR INTIMIDATION OF DEFENSE COUNSEL BY THE FBI. ATTORNEY J. B. DUDLEY, WHO REPRESENTED

All b7C

PAGE THREE

THE MONEY CHANGERS IN THE MINNEAPOLIS CASE, ALSO TESTIFIED FOR THE GOVERNMENT IN THIS HEARING - THAT THERE WAS NO INVESTIGATION OR INTIMIDATION OF DEFENSE ATTORNEYS WHILE THE TRIAL WAS IN PROGRESS. THE BUREAU WILL NOTE THAT BEN LASKA HAS NOT BEEN MENTIONED IN THIS HEARING AS BEING DEFENSE ATTORNEY FOR EITHER KATHRYN KELLY OR ORA L. SHANNON. HIS NAME HAS ARISEN IN CONNECTION WITH HIS DEFENSE OF ALBERT BATES. THE REPORTS IN THIS OFFICE DO NOT REFLECT THAT BEN LASKA ASSISTED IN THE DEFENSE OF EITHER KATHRYN KELLY OR ORA L. SHANNON AND THEREFORE HE WOULD NOT COME WITHIN THE PURVIEW OF THE JUDGE-S STIPULATION THAT HE IS INTERESTED ONLY IN INFORMATION PERTAINING TO THE ATTORNEYS WHO REPRESENTED KATHRYN KELLY OR ORA SHANNON. USA GRESS HAS COMMUNICATED WITH THE DEPARTMENT AND AGAIN RECOMMENDED THAT HE FEELS THAT ALL FBI REPORTS IN THE KATHRYN KELLY AND ORA L. SHANNON CASES DURING THE YEAR NINETEEN THIRTY THREE SHOULD BE SUBMITTED TO JUDGE W. R. WALLACE FOR IN CAMERA INSPECTION. FOR BUREAU-S INFO, THE JUNE TWELVE ISSUE OF ~~QUOTE~~ "THE NORTH STAR," ~~UNQUOTE~~, WEEKLY OKLA. CITY PUBLICATION, HAS STORY APPEARING ON PAGES ONE AND SEVEN CONCERNING ORIGINAL

PAGE FOUR

KELLY TRIAL. ARTICLE STATES ~~QUOTE~~ NORTH STAR IS REPRODUCING A CAPSULE STORY WITH ART, THE WORDS AND MUSIC BY C. J. KAHO, FAMOUS STAFF PHOTOGRAPHER FOR THE DAILY OKLAHOMAN, NOW RETIRED ~~UNQUOTE~~. KAHO-S STORY POINTS OUT ON PAGE SEVEN

~~QUOTE~~ ON THE FIRST DAY OF THE TRIAL, ALL PHOTOGRAPHERS WERE CALLED INTO THE JUDGE-S CHAMBERS AND TOLD THE COURT ROOM IS YOURS - YOU MAY MAKE A PICTURE ANY TIME, IN ANY PLACE IN THE COURT ROOM, WHILE THE COURT IS IN SESSION - WE WANT ALL THE PUBLICITY WE CAN GET ON THIS CASE ~~UNQUOTE~~. THE STORY

CONTINUES IN PART ~~QUOTE~~ FROM THE FIRST DAY, THE FEDERAL BUILDING, ESPECIALLY THE NINTH FLOOR, WAS A VERITABLE ARSENAL, NO PLACE YOU COULD LOOK OR TURN BUT THAT A MACHINE GUN WAS FACING YOU ~~UNQUOTE~~. CONTINUING ~~QUOTE~~ THE FIRST TWO DAYS SEEMED LIKE A DREAM, HERE I WAS MAKING PICTURES FROM THE JUDGE-S BENCH, PRACTICALLY POPPING FLASH BULBS IN HIS EAR, SHOOTING DOWN IN THE COURT ROOM, AND EVERY SHOT EXPECTING SOMEONE TO COME AND GET ME, FOR VIOLATING A FEDERAL LAW. NOTHING HAPPENED.

~~UNQUOTE~~. THE STORY CONTINUES ~~QUOTE~~ THE PICTURE OF THE DAY WAS THAT LINE UP. I MADE IT STANDING IN THE WITNESS CHAIR

PAGE FIVE

~~UNQUOTE PAREN~~ (ALL DEFENDANTS IN THE FIRST TRIAL) ~~PAREN.~~

THE STORY ALSO STATES ~~QUOTE~~ BEN LASKA, A CRIMINAL LAWYER FROM DENVER, WAS SOON ON THE JOB ~~UNQUOTE.~~ ~~PAREN~~ (REFERRING TO ARRIVAL OF KATHRYN AND GEORGE KELLY BARNES IN OKLA. CITY FROM MEMPHIS,) ~~PAREN.~~

LAUGHLIN HAS SUBPOENAED C. J. KAHN AS A WITNESS AT THE HEARING ON MONDAY, JUNE SIXTEEN NEXT. IT SHOULD BE NOTED THAT HERBERT K. HYDE AND OTHER GOVERNMENT WITNESSES HAVE TESTIFIED THAT PHOTOGRAPHS WERE TAKEN ONLY AT RECESS AND BEFORE AND AFTER COURT, NOT WHILE

COURT WAS ACTUALLY IN SESSION. DEPOSITION EXECUTED BY FEDERAL JUDGE EDGAR S. VAUGHT ALSO POINTS OUT SAME INFORMATION TO THE EFFECT THAT PHOTOS WERE NOT TAKEN WHILE COURT WAS IN SESSION. CLIPPINGS FROM ABOVE REFERRED TO NEWSPAPER BEING SENT TO BUREAU TODAY. WHILE ARGUMENTS WERE BEING HEARD ON JUNE TWELVE CONCERNING MOTION FOR PRODUCTION OF FBI REPORTS, ATTORNEY LAUGHLIN READ FROM THE TRANSCRIPT OF TESTIMONY GIVEN IN THE CIVIL SUIT IN OKLAHOMA COUNTY COURT CONCERNING THE CLAIM MADE BY GERALDINE ARNOLD FOR THE REWARD OFFERED BY THE CITIZENS COMMITTEE FOR THE CAPTURE OF GEORGE AND KATHRYN KELLY.

LAUGHLIN POINTED OUT THAT FORMER ASSISTANT DIRECTOR HAROLD NATHAN AND FORMER SAC RALPH H. COLVIN GAVE DETAILED DEPOSITIONS

PAGE SIX

SUPPORTING GERALDNE ARNOLD-S CLAIM FOR THE REWARD. THESE DEPOSITIONS WERE LEFT IN THE CUSTODY OF THE DISRICT COURT CLERK BY LAUGHLIN AND WERE READ BY AUSA GEORGE CAMP ON JUNE THIRTEEN. CAMP ADVISED THE DEPOSITIONS BY NATHEN AND COLVIN GO INTO SOME DETAIL CONCERNING GERALDINE ARNOLD-S PARTICIPATION IN THE CASE, THE FACT THAT SHE VISITED COLVIN-S APARTMENT TO FURNISH THE INFORMATION, THE FACT THAT SHE DID AT THAT TIME FURNISH INFORMATION CONCERNING THE LOCATION OF GEORGE AND KATHRYN KELLY IN ORDER THAT THEY MIGHT BE APPREHENDED BY FBI AGENTS. INFORMATION RECEIVED AT THIS OFFICE INDICATES THAT FORMER SAC COLVIN IS DECEASED. POSSIBILITY EXISTS THAT LAUGHLIN MAY CALL FORMER ASSISTANT DIRECTOR NATHAN TO TESTIFY IN THE EVENT HE IS UNABLE TO SECURE INFORMATION LAUGHLIN DESIRES FROM FBI REPORTS.

END ACK

6-59PM OK FBI WA  b7c

DISCV

CC: MR. BORN

ADMINISTRATIVE

INVESTIGATIVE DIVISION

Substance of Oklahoma City teletype
6-13-58, furnished by James W. Knapp,
(6-14-58), Criminal Division of the Department.
Knapp advised that he had talked with U. S.
Attorney Cress, Oklahoma City, regarding the
handling of the case. Knapp advised that he
is sending a telegram to Cress indicating he
will have to stand on Department Order #322
as far as furnishing reports is concerned.
Knapp states it has been decided that
reports will not be released in this case.

SAC, Oklahoma City (7-6)

June 17, 1958

REC- 99

PERSONAL ATTENTION

EX 105
Director, FBI (7-115) - 2462

GEORGE KELLY BARNES, WAS., ET AL.;
CHARLES F. URSCHEL - VICTIM;
KIDNAPING

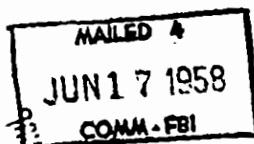
Reurtel June 13, 1958.

Retel reports that, in a conference with United States Attorney Paul Cross, United States District Judge W. R. Wallace pointed out that he was unable to understand the attitude of the FBI for not releasing reports in this case for in camera inspection.

In your next contact with Judge Wallace, you should discreetly point out to him that the decision not to release reports in this matter was the decision of the Department and not that of this Bureau.

(4)

All b7c



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Tolson _____
Nichols _____
Boardman _____
Belmont _____
Mohr _____
Parsons _____
Rosen _____
Tamm _____
Trotter _____
Nease _____
Tele. Room _____
Holloman _____
Gandy _____

RECEIVED - ROUTING

JUN 17 1958 3 23 PM '58

RECEIVED - DIRECTOR

50 JUN 20 1958

MAIL ROOM ☐

RECEIVED - DEPT. OF JUSTICE
FBI
JUN 17 5 00 PM '58

F B I

Date: **JUNE 16, 1958**Transmit the following in **PLAIN TEXT**

(Type in plain text or code)

Via **AIRTEL**

(Priority or Method of Mailing)

CR TO: DIRECTOR, FBI (7-115)
FROM: SAC, OKLAHOMA CITY (7-6)

7
GEORGE KELLY BARNES, WAS, ET AL
CHARLES F. URSCHEL - VICTIM
KIDNAPING

Attached for the Bureau's information is a clipping from pages one and two of the Oklahoma City Times, Oklahoma City, Okla., June 16, 1958, edition.

Enclosure - 1

[Redacted] b7C
(4)

EX-124

EX-124

ENCLOSURE

REC-91

REC-91

JUN 16 1958

Approved: JUN 23 1958

Special Agent in Charge

Sent

M

Per

JUDGE ORDERS

NEW TRIAL

FOR KATHRYN

AND MOTHER

THE OKLAHOMA CITY TIMES
OKLAHOMA CITY, OKLA.
JUNE 16, 1958

PAGE 1

7-115-2463

ENCLOSURE

FBI Refuses To Open Files In Kelly Case

Bonds of \$10,000 each were set Monday afternoon by Judge W. R. Wallace for Mrs. Kathryn Kelly and her mother, Mrs. Ora Shannon. If they post the bonds, both will be released pending retrial on kidnaping charges in the 25-year-old Urschel kidnap case.

By JIM CANTRELL

U. S. District Judge W. R. Wallace Monday granted new trials for convicted kidnapers Kathryn Kelly, 54-year-old widow of George "Machine Gun" Kelly, and her mother, Mrs. Ora Shannon, 70.

Wallace sustained the motions for new hearings after U. S. attorney Paul Cress refused to surrender long secret FBI files on the sensational 1933 Charles Urschel kidnaping case.

Defense attorneys immediately filed motions to free the two women on bail. Both Kathryn and her mother have served 25 years of a life term handed down in 1933 for their roles in the bizarre kidnaping plot.

Wallace's dramatic order, in effect, set aside the life terms and placed the convicted kidnapers in the same legal status they held a quarter of a century ago.

Trial in Fall

James V. Laughlin, defense attorney for Mrs. Kelly and Mrs. Shannon, predicted the two women will be tried again on the kidnaping charges this fall before a U. S. district court jury in Oklahoma City.

U. S. Attorney Cress indicated he would appeal the judge's ruling to the Tenth U. S. Circuit court in Denver.

Judge Wallace made clear his reason for granting the women new trials.

"The new trials were granted solely because justice cannot be done in this case because of the government's claim of possession over FBI records," he explained in a statement from the bench.

The FBI files in this case were critical on the issue of tagging the credibility of Herbert K. Hyde as a witness.

Wallace stressed that his ruling did not imply that this court felt the defendants were guilty or innocent of the kidnaping charges. "It is purely a matter of law," he explained.

Red-haired Kathryn Kelly, who has maintained a stoic silence throughout the week-long hearing, broke into sobs when the court's ruling was announced. She was led from the courtroom on the arms of her attorney and U. S. marshals.

Wallace recessed the hearing after delivering his precedent-shattering order to consider the question of bail for the prisoners. Laughlin indicated to newsmen that several persons have indicated a desire to post bond money for both Kathryn and her mother.

Bail Indicated

When pressed by the court for his views on the bond matter, Cress reported the government was "not vindictive" in the case.

Cress said the case will be studied and witnesses re-checked before any decision is made concerning re-trying the 25-year-old kidnaping charges.

Cress indicated the government was willing Monday to accept the court's original order which would allow government attorneys to testify that FBI files contained nothing pertaining to critical matters in the cases.

Judge Wallace modified his order Monday, however, and the government was flatly ordered to produce FBI records or concede defeat in the Kelly case. A telegram from William P. Rogers, attorney general, instructed Cress to "respectfully decline to produce the records on the ground that disclosure of such

(See KELLY—Page 2)

Kelly

(Continued From Page 1)

records and information is not in the public interest."

The hearing's morning session had been devoted to testimony from a news photographer who covered the 1933 trials. Wallace called a recess at 11:30 a.m. and then returned to the bench with the strong ruling.

Judge Wants to See

"The government is directed to deliver all pertinent government files to this court when we reconvene at 1:30 p.m.," Wallace ruled. "If the government fails to deliver the files and insists on maintaining the cloak of secrecy, then the court hereby notifies the government that the defendants' motion will be sustained."

Wallace promised to go through the files completely with reference only to the issue at hand, remove such details pertaining only to the issue and immediately return the files to the federal government.

The main point concerning FBI records concerning testimony by Kathryn and her mother that their defense attorneys during the 1933 trials were frightened and intimidated by FBI agents seeking the \$200,000 ransom money paid to free Urschel.

Hyde, former U. S. attorney, testified positively that no such investigations were made.

Red Case a Precedent

Wallace based his ruling, described as having "preponderant import" on federal laws on the 1933 Jencks case. In that trial, the government was ordered to produce FBI files or disprove their case against a man accused of being a communist agent.

Hyde, a veteran news writer, testified that a federal judge allowed government attorneys to examine any and all files relating to the case.

C. J. Kahlo, 34, a strong issue with the government's stand that no police allowed since federal judge George J. Laughlin, who said the gang were under way.

Kahlo said federal judge Edgar S. Young, a jurist who presided over the case, told him that the courtroom was a "hot" place in any place in the country while the court is in session. Kahlo testified he was a newspaper man while the trial in progress.

Cress reported he had advised Judge Young Saturday in Francisco that the court is holding court, and he denied Kahlo's statement.

"There is no one named Kahlo in that case," Cress said, as saying, "I am not a lawyer and could take no part in this case except when I am asked to do so."

Kahlo promised to be taken during the trial, one showing Judge Young on the bench and the jury.

James J. Laughlin, defense attorney for Kathryn Kelly and mother, reported he had additional witnesses for the cross-examination of the manager of the United Press, a man named Braden, a United Press editor, and a news feed station.

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

JUN 16 1958

TELETYPE

Mr. Tolson ✓
Mr. Boardman ✓
Mr. Belmont ✓
Mr. Mohr ✓
Mr. Nease ✓
Mr. Parsons ✓
Mr. Rosen ✓
Mr. Tamm ✓
Mr. Trotter ✓
Mr. W.C. Sullivan ✓
Tele. Room ✓
Mr. Holloman ✓
Miss Gandy ✓

URGENT 6-16-58 6-17 PM CST

TO- DIRECTOR , FBI

FROM- SAC, OKLAHOMA CITY 4P

GEORGE KELLY BARNES, WAS, ET AL, CHARLES F. URSCHEL, VIKID.

Victim-Kidnapping

ON JUNE SIXTEEN, FIFTY EIGHT, MR. C. J. KAHO, OKLA. CITY, A
RETIRED NEWS PHOTOGRAPHER, TESTIFIED HE ATTENDED BOTH TRIALS IN

THIS CASE. ON THE MORNING OF THE FIRST TRIAL, SEPT. EIGHTEEN,

NINETEEN THIRTY THREE, BEFORE COURT, HE AND OTHER NEWSMEN

AND PHOTOGRAPHERS WERE CALLED TO THE OFFICE OF USDJ EDGAR VAUGHT. THEY WERE TOLD THEY COULD TAKE PHOTOGRAPHS ANY

WHERE, ANY TIME, ANY PLACE WHILE COURT WAS IN SESSION. HE

TESTIFIED HE DID SO AND PRODUCED TEN PHOTOGRAPHS HE IDENTIFIED,

EIGHT OF WHICH WERE INTRODUCED INTO EVIDENCE. KAHO TESTIFIED

THAT HERBERT K. HYDE, USA AT THAT TIME, AND THE THEN USM,

W. C. GEERS, WERE PRESENT AT THE MEETING IN THE JUDGE-S OFFICE.

HE TESTIFIED THAT NEWSREEL PHOTOGRAPHER JIMMY ADAMS, OF OKLA.

CITY, WAS PRESENT AND HE BELIEVES STILL HAS FILM TAKEN DURING

THE TRIAL. HE TESTIFIED THAT [REDACTED] NOW OF CARLSBAD,

N. M., WHERE HE EDITS A MAGAZINE FOR MIDGET AUTO RACERS, WAS

A NEWSMAN WHO WAS PRESENT. HE RECALLED THAT [REDACTED]

[REDACTED] WERE ALSO PRESENT, BUT HE DOES NOT KNOW THEIR WHEREABOUTS.

END PAGE ONE

55 JUN 24 1958

Mr. Rosen

REC-62

All b7C

7-115-2464
JUN 19 1958

PAGE TWO

JUST BEFORE THE NOON RECESS, USDJ WILLIAM R. WALLACE READ AN ORDER DIRECTING USA PAUL CRESS TO PRODUCE IN OPEN COURT ALL THE FILES AND RECORDS OF THE FBI AT ONE THIRTY PM, THIS DATE, OR HE WOULD SUSTAIN THE MOTIONS FOR A NEW TRIAL FOR ORA L. SHANNON AND KATHRYN KELLY. AFTER THE NOON RECESS MR. PAUL CRESS, USA, ENDEAVORED TO ENLARGE ON HIS MOTION FOR A CONTINUANCE, WHICH HE HAD PREVIOUSLY FILED AND WHICH REQUESTED TIME TO GET USDJ VAUGHT BACK TO OKLAHOMA CITY OR TAKE HIS DEPOSITION. MR. CRESS THEN MADE A STATEMENT TO THE COURT CONCERNING THE REASON FOR DELAY IN COMPLYING WITH THE COURT-S ORDER CONCERNING PRODUCTION OF FBI RECORDS. IN EXPLAINING THIS, HE FURNISHED THE COURT WITH A COPY OF A TELEGRAM HE RECEIVED FROM THE ATTORNEY GENERAL AND STATED IN ACCORDANCE WITH HIS INSTRUCTIONS SET FORTH THEREIN, THE FBI FILES WOULD NOT BE PRODUCED. USDJ WALLACE ↓

■ THEN READ AN ORDER SUSTAINING THE MOTIONS FOR ANEW TRIAL. HE SET BOND IN THE CASE OF SHANNON AND KELLY AT TEN THOUSAND DOLLARS EACH. USA PAUL CRESS THEN MENTIONED AN APPEAL. HE ORDERED COPIES OF THE TRANSCRIPT WHICH WILL COST ONE THOUSAND DOLLARS. THE COURT REPORTER ADVISED THE JUDGE THAT IT WOULD BE FROM THREE TO FOUR WEEKS BEFORE HE COULD

END PAGE TWO

PAGE THREE

TRANSCRIBE THE NOTES. THE COURT THEN STATED THAT AS SOON AS THE TRANSCRIPT WAS RECEIVED IT WOULD BE POSSIBLE TO DETERMINE ADDITIONAL STEPS TO BE TAKEN. THE COURT REPORTER LEFT THE FEDERAL BUILDING AFTER THIS MATTER WAS ENDED AND COURT ADJOURNED. A STENOGRAPHER FROM THE OFFICE OF THE USA SAT AT THE COUNSEL TABLE AND TOOK THE JUDGE-S RULING IN SHORTHAND. IT DOES NOT APPEAR COMPLETE, BUT THE COURT SPOKE IN A LOW VOICE AND THE ACOUSTICS IN THE SECOND FLOOR COURT ROOM, WHERE THE HEARING WAS HELD, ARE POOR. THE COURT REPORTER-S VERSION OF THE RULING WILL BE OBTAINED AS SOON AS POSSIBLE. THE VERSION TRANSCRIBED BY THE USA-S STENO IS AS FOLLOWS ~~QUOTE~~

IT IS HEREBY ORDERED THAT IN THE CASE OF UNITED STATES OF AMERICA, PLAINTIFF, VS. KATHRYN THORNE KELLY AND ORA SHANNON, DEFENDANTS, NO. ONE NAUGHT FOUR SEVEN EIGHT CRIMINAL, THE MOTIONS OF THESE TWO DEFENDANTS TO VACATE AND SET ASIDE THEIR CONVICTION, ARE HEREBY SUSTAINED. THESE MOTIONS ARE SUSTAINED BECAUSE OF THE GOVERNMENT-S CLAIM OF PRIVILEGED DOCUMENTS IN CONNECTION WITH THE EARLIER ORDER OF THIS COURT THAT THE STATEMENTS OF THE FBI INVOLVING THE ALLEGED INVESTIGATION OF DEFENSE

END PAGE THREE

PAGE FOUR

COUNSEL AT THE TIME OF THE TRIALS IN NINETEEN THIRTY THREE. THE REQUESTED EVIDENCE IS CONSIDERED CRITICAL IN ADJUDGING THE EVIDENCE OF MR. HYDE, WHO PROSECUTED THESE DEFENDANTS IN NINETEEN THIRTY THREE AND WHO TESTIFIED IN SUBSTANCE THAT NO INVESTIGATION TOOK PLACE BEFORE HE LEFT OFFICE IN THE EARLY PART OF NINETEEN THIRTY FOUR AND THAT CONSEQUENTLY DEFENDANTS COUNSEL COULD NOT HAVE BEEN UNDER COERCION. NEW TRIAL IS GRANTED SOLELY BECAUSE THE COURT BELIEVES JUSTICE CAN NOT BE DONE IN THIS CASE BECAUSE OF THE GOVERNMENT-S CLAIM OF PRIVILEGE. THIS ASSERTED PRIVILEGE DEPRIVES THE COURT OF HAVING BEFORE IT ALL THE NECESSARY EVIDENCE ~~UNQUOTE~~.

MR. LAUGHLIN HAD SUBPOENAED MR. ADAMS, THE NEWS REEL PHOTOGRAPHER MENTIONED ABOVE, ALSO MR. CARL STUART, OF THE OKLAHOMA CITY TIMES, A NEWSPAPER, MR. NORMAN BAGWELL, OF WKY TV, FORMER AGENT, A MR. BRADLEY FROM ASSOCIATED PRESS, AND MR. MORTON OF UNITED PRESS. THESE WITNESSES WERE EXCUSED WHEN THE JUDGE SUSTAINED THE MOTION FOR THE NEW TRIALS.

AND AND ACK PLS

~~PAGE TWO PLS REPEAT LINE 14~~

~~IT IS ALRIGHT ALL YOU HAVE TO DO IS MOVE THAT LINE UP AND IT MAKES SENCXXX SENSE~~

TU 8-32 PM OK FBI WA [REDACTED] b7c

THRU IDSC

CO. MR. ROSEN
AND SUPERVISOR
INVESTIGATIVE DIVISION

Office Memorandum • UNITED STATES GOVERNMENT

TO : Director, FBI (7-115)

DATE: 6/18/58

FROM : SAC, Kansas City (7-8)

SUBJECT: GEORGE KELLY BARNES, was., et al;
CHARLES F. URSCHEL - VICTIM
KIDNAPING
(OC OO)

Re Kansas City letter to Bureau dated 5/20/58.

On June 12, 1958, [REDACTED]
[REDACTED] U. S. Penitentiary, Leavenworth, Kansas, made
available the file of HARVEY J. BAILEY, an inmate at
the U. S. Penitentiary.

A review of the file reflected no change in
the status of BAILEY at the institution.

The Kansas City Office will continue to follow
this matter and advise the Bureau of any changes.

2 Bureau (7-115)
1 Oklahoma City (7-6)
1 Kansas City (7-8)

[REDACTED]
(4)

All b7C

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REC-74

7-115-2465

20 JUN 23 1958

66 JUN 26 1958

GUY

Office Memorandum • UNITED STATES GOVERNMENT

TO: *[initials]* DIRECTOR, FBI (7-115) DATE: JUNE 17, 1958
FROM: SAC, OKLAHOMA CITY (7-6)
SUBJECT: GEORGE KELLY BARNES, WAS, ET AL
CHARLES F. URSCHEL - VICTIM
KIDNAPING

In connection with the investigation being conducted by this office in an effort to locate the missing transcript of testimony in the Kathryn Kelly trial, October 9-11, 1933, the possibility exists that Federal Judges or U. S. Attorneys trying similar kidnaping cases occurring immediately after this case may have requested a copy of the Court's instructions and might have been furnished the missing Kelly transcript.

In view of this possibility, the Bureau is requested to review the abstracts on kidnaping cases and to furnish a list of all such cases which went to trial since October, 1933, together with the location where such trial occurred. Upon the receipt of this list, it is contemplated that leads will be set out to have the pertinent records checked in each instance, as well as the individual files of the particular U. S. Attorney and Federal Judge, in an effort to locate the missing Kelly transcript.

For the information of the Bureau, a lead is now outstanding for the Dallas Office to obtain the location of all Federal records centers and whether or not a central index is maintained of all material contained in the various Federal records centers. This was done in view of the possibility that the missing Kelly transcript was, through inadvertence, sent to a Federal records center in some other jurisdiction instead of being returned to Oklahoma City.

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(3)

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REC-42

pa
7-115-2466

JUN 20 1958

*OK to DC
EHH/ma
6-30-58*

[initials]

EX-124
REC-42

SAC, Oklahoma City (7-6)

June 30, 1958

Director, FBI (7-115)-2466

GEORGE KELLY BARNES, was. et al.
CHARLES F. UNSCHUL - VICTIM
KIDNAPING

Rog

Reurlet dated June 17, 1958.

In your letter you propose extensive investigation in an effort to locate the missing transcript of the testimony in the Kathryn Kelly trial, October 9-11, 1933, you suggest the possibility that Federal judges or United States Attorneys who had tried similar cases might have requested a copy of the Court's instructions and might have been furnished the missing transcript. You request the Bureau to review abstracts on kidnaping cases and to furnish a list of such cases which went to trial since October, 1933, together with the locations where such trials occurred.

Your office in the recent past has conducted extensive investigation in an effort to locate this transcript. While the Bureau is extremely desirous of locating the transcript, it is mainly a problem between the United States Attorney, Oklahoma City and the Federal Records Center, Fort Worth, Texas. You should insure that the United States Attorney is exerting every effort to locate the transcript.

You may consider suggesting and assisting him in contacting the former United States Attorneys and Assistant United States Attorneys who served in Oklahoma and who may recall using the transcript of Kathryn Kelly's trial in preparing for another kidnaping prosecution.

United States Attorneys who may have been involved in their first kidnaping prosecution would be interested in the transcript of the Kelly trial only within a short period after October, 1933. After once having a prosecution under the kidnaping statute, they would refer to their own file and would not request a file from the United States Attorney in another district in a subsequent kidnaping prosecution. It would appear, therefore, that your inquiry should be confined to a period one or two years after October, 1933.

Tolson _____
Boardman _____
Belmont _____
Mohr _____
Nease _____
Parsons _____
Rosen _____
Tamm _____

(4)

COMM-FBI
JUN 30 1958

ALL
b7C

1958

Letter to SAC, OC
Re: GEORGE KELLY BARNES, was. et al.

It is possible that an Assistant United States Attorney in Oklahoma City may have borrowed the transcript of the Kelly trial while handling subsequent kidnaping prosecution and filed the transcript with the case he was handling at that time. It is suggested that you arrange to review the files in the United States Attorney's Office at Oklahoma City in the cases entitled [REDACTED] was.

[REDACTED] Victim, your file [REDACTED] was., et al.; [REDACTED] Bank Robbery - Kidnaping - ITSMV, your file [REDACTED] and [REDACTED] was., Victim, Kidnaping, your file [REDACTED]. It is noted that prosecution in the above cases occurred in 1935 and while guilty pleas were entered in two of the cases, the Assistant United States Attorney, in preparing for trial on the possibility of a not guilty plea, may have requested the transcript of the Kelly file and placed it in the respective files in the above three cases.

Your request of review of the abstracts in kidnaping cases which went to trial since October, 1933, has been considered. For your information, abstracts in all classifications have been destroyed prior to December 31, 1936. Confining a review to only the seven classifications would not necessarily produce kidnaping trial information, as convictions under the kidnaping statute could be recorded in other classifications such as, Bank Robbery, ITSMV, etc.

Two of the more prominent kidnaping cases which were prosecuted between the years 1934 and 1936 were handled in the area now covered by the Minneapolis Division. You may wish to request that office to consult with the United States Attorney in an effort to locate the missing transcript in the following cases: Charles Joseph Fitzgerald, was. et al., William A. Hamm, Jr. - Victim + Kidnaping (St. Paul file 7-5) and Leo Verne Sankey, was., et al., Charles Boettcher II - Victim - Kidnaping. While Denver was the office of origin in this case, trial of the subjects was had at Aberdeen, South Dakota, Aberdeen file 7-13.

The above is offered for your assistance.

June 19, 1958

AIRTEL

To SAC, Kansas City

From Director, FBI

GEORGE KELLY BARNES, WAS., ET AL.; CHARLES F. URSCHEL - VICTIM;
KIDNAPING.

As the result of Kathryn Kelly and Ora Shannon being granted a new trial by the U. S. District Court, Oklahoma City, it is to be expected that Harvey Bailey, serving a life sentence at the U. S. Penitentiary, Leavenworth, Kansas, may extend his efforts to obtain parole. Although you have been maintaining contact with authorities at the penitentiary and submitting a monthly letter to the Bureau as to Bailey's status, you should at this time arrange to be notified immediately of any developments concerning Bailey so that you may promptly inform the Bureau.

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Tolson _____
Boardman _____
Belmont _____
Mohr _____
Nease _____
Parsons _____
Rosen _____
Tamm _____

EX-101

REC-20

7-115-2467

F B I

Date: JUNE 18, 1958

Transmit the following in PLAIN TEXT
(Type in plain text or code)Via AIRTEL
(Priority or Method of Mailing)

Mr. Tolson	
Mr. Boardman	
Mr. Belmont	
Mr. Mohr	
Mr. Nease	
Mr. Parsons	
Mr. Rosen	
Mr. Tamm	
Mr. Trotter	
Mr. Clayton	
Tele. Room	
Mr. Holloman	
Miss Gandy	
W. C. Sullivan	

TO: DIRECTOR (7-115)
FROM: SAC, OKLAHOMA CITY (7-6)

GEORGE KELLY BARNES, WAS, ET AL
CHARLES F. DURSCHEL - VICTIM
KIDNAPING

ATTENTION - INVESTIGATIVE DIVISION

Attached is a clipping from the June, 1958,
issue of the Oklahoma City Times.

The Bureau will note that according to the
newspaper article KATHRYN KELLY may appear personally
in night clubs throughout the country to "tell her ex-
periences since she stepped off a Texas farm in 1930
to become one of the most wanted fugitives in the an-
nals of American crime."

This is furnished as a matter of information
for the Bureau.

Enclosure - 1

All 67C

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(4)

MCT - 8

REC-37

JUN 24 1958

REC-37

EX-136

CRIME REC.

Approved: _____
Special Agent in Charge

Sent _____ M

Per _____

She's Ready to Work

Kathryn Has Her Eye On Nightclub Circuit

By JIM CANTRELL

Kathryn Kelly, onetime running mate of notorious gangster George "Machinegun" Kelly, may hit the nightclub circuit this summer on a coast-to-coast personal appearance tour.

"It's only tentative," the red-haired former convict told newsmen, "but it looks like we may get some kind of tour under way this summer."

Kathryn's attorney, James J. Laughlin of Washington, D. C., indicated "Machinegun's" widow may appear personally all over the country to tell her experiences since she stepped off a Texas farm in 1930 to become one of the most wanted fugitives in the annals of American crime.

Kelly Is Dead

In 1933, Kathryn and her gangster husband drew screaming national headlines as ringleaders in the sensational kidnaping of wealthy Oklahoma City oilman Charles F. Urschel.

Both were convicted and sentenced to life imprisonment.

Kelly died four years ago in a federal prison. Kathryn and her mother, Mrs. Ora Shannon, 70, were freed on bond Monday after serving a quarter of a century in prison.

'Can't Realize'

The highly publicized gun moll of the 1930s apparently was still dazed by her dramatic release—which caught both the government and the defendants by surprise.

"I haven't begun to realize yet just what it means to be out of prison," the 54-year-old Kathryn stammered.

Guests I've been too shocked to do anything about. I've dreamed of freedom since I was released.

After spending 25 years in prison, Kathryn Kelly is ready to hit the nightclub circuit.

(See KELLY—Page 2)

OKLAHOMA CITY TIMES
OKLAHOMA CITY, OKLA.
JUNE 18, 1958

Page 1

Bufile 7-115

OCfile 7-6

Kelly

(Continued From Page 1)

hotel, Kathryn left Oklahoma City Wednesday for a few weeks' rest and visits with my relatives."

"I will return to Oklahoma City, though," she promised. "I want to rebuild my life here where it was torn down. And I sincerely believe the people will help me."

Kathryn said her mother has checked into a hospital, which she declined to name, for a three-day examination.

"Mother has had heart trouble since 1942. She was a bed patient at the prison in Alderson, W. Va. for 18 months. Not that we distrust the institution doctors—they were wonderful—but we just wanted her to be thoroughly examined by a family doctor."

Kathryn toured downtown Oklahoma City on a shopping trip Tuesday and found the city "simply glorious" after 25 years of growth.

"I guess the thing that impressed me most on my first trip out was the fast traffic. I was honestly afraid to cross the streets."

Ready for Work

Kathryn, once considered a fashion plate, a lover of luxurious furs and jewels, borrowed money from relatives to shop for a new pair of shoes to replace her stern black prison issue, and a modest hat.

"I'm ready to go to work, though," she told newsmen. "I have to think now about supporting mother and myself. Working won't be a problem—I haven't missed five days' work in 24 years with prison industries."

"I'm not asking for much salary. I just want my family and friends and a comfortable living. That's really all there is to life. My values have changed since I've been in prison. I don't realize now what is valuable to me."

Daughter, Daughter

Once a temptress, Kathryn who has been a newspaper and photographer, Kathryn now stays away from discussing only one point—her daughter.

"I'm sorry, I can't tell you about her. She's my one special something that I feel I can't talk about now. I would rather go back to Alderson prison than drag her name into all this. Now she has overcome all the sorrow she has had over the years. I want to shield her all I can."

The daughter, born in 1918 during Kathryn's marriage to a Texas rancher, was constantly at her mother's side during the 1933 kidnaping trials. Kathryn's grandson, a strapping youth of 17, visited her several times last week during the federal court hearings in Oklahoma City.

Asked about her connections with the notorious "Mechanic" Kelly, Kathryn paused briefly to think back over the years.

"I was just a young farm girl when I met Kelly back in 1930," Kathryn recalled. "I wasn't used to all the money, cars and money that George offered me. A farm girl would have been upset off her feet, the same as I was."

Plans for the future?

"Of course, there's those personal appearances and a house job. But my dream for all these 25 years has been to open up the gift shop here in Oklahoma. I learned handcraft in prison and I've become a perfectionist with leather, silver and fine jewelry."

"That's a long way in the future though, right now I want to rest and enjoy my little things. Television, for example, is brand new to me."

FBI

Date: JUNE 17, 1958

PLAIN TEXT

Transmit the following in _____
(Type in plain text or code)Via AIRTEL _____
(Priority or Method of Mailing)

Mr. Tolson	✓
Mr. Boardman	✓
Mr. Belmont	✓
Mr. Mohr	✓
Mr. Nease	✓
Mr. Parsons	✓
Mr. Rosen	✓
Mr. Tamm	✓
Mr. Trotter	✓
Mr. W. Sullivan	✓
Tele. Room	✓
Mr. Holloman	✓
Miss Gandy	✓

TO: DIRECTOR, FBI (7-115)
 FROM: SAC, OKLAHOMA CITY (7-6)

GEORGE KELLY BARNES, WAS, ET AL
 CHARLES F. URSCHEL - VICTIM
 KIDNAPING

Attached are two copies each of rulings of USDJ WILLIAM R. WALLACE handed down June 12 and June 16, 1958, which pertained to the production of FBI reports and records. Also enclosed is a prepared statement of Judge WALLACE, in which he sustained the motions for a new trial filed by KATHRYN THORNE KELLY and ORA L. SHANNON. These copies are being furnished for the completion of the Bureau's files.

When the motion for the new trial was sustained, several newsmen were in the court room under subpoena to testify for KELLY and SHANNON. One of those present was [REDACTED] former Special Agent of the FBI, who is [REDACTED] in Oklahoma City. During the recess that occurred during the morning of June 16th, [REDACTED] advised SA [REDACTED] that on the morning of June 16th he received a telephone call at his office. The caller asked [REDACTED] if he had worked on the URSCHEL kidnaping case while assigned to the Oklahoma City FBI Office. [REDACTED] stated he had not worked on the case, and when he requested the name of the person calling, the person immediately hung up.

As Bureau is aware, no present or former Special Agent was used as witness by Government in this hearing. Possibility exists in considering telephone call received by [REDACTED] that defense was trying to get a former Agent on the

ENCLOSURE

CD
(4)

Enclosures - 8

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

JUN 18 1958

7-115-2469

REC-37

EX-136

6/19/58

6/19/58

PERS. FILE

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Date:

Transmit the following in _____
(Type in plain text or code)Via _____
(Priority or Method of Mailing)

-2-

witness stand to further press the issue of FBI reports. I had occasion to speak with [REDACTED] on June 17th, and he advised me he was subpoenaed by the defense to introduce records from [REDACTED] for the year 1933. He stated no such records were in existence since [REDACTED] does not keep records that long.

On June 17, 1958, Mr. PAUL CRESS, USA, Oklahoma City, advised he plans to appeal Judge WALLACE'S decision in this hearing after the transcript is received. The court reporter has advised that the transcript will be available within three or four weeks. In connection with any possible retrial of the case, CRESS stated in his opinion a complete re-investigation of the case would be necessary, and in his opinion it is entirely possible that if the case is tried again certain FBI reports will have to be introduced into evidence or produced for inspection by the Court and counsel for SHANNON and KELLY. CRESS stated his opinion is based on the actions of LAUGHLIN and JUDGE WALLACE during the recent hearing. CRESS further stated that in the event it is necessary to retry this case, it will not be tried before the fall of 1958.

USA CRESS advised that Mr. CHARLES F. URSCHER has been in telephonic contact with CRESS from San Antonio, Texas, at least twice daily during the course of this hearing. URSCHER stated that he is displeased with the decision of Judge WALLACE and has told CRESS he is of the opinion the case will never be retried.

As matter of possible interest to the Bureau, [REDACTED] reporter for the Oklahoma City Times, advised SA [REDACTED] on June 17th he had just made a poll of "the man on the street" in Oklahoma City during the morning of June 17th to determine the reaction of the public to this hearing. [REDACTED] stated the consensus of this poll

*Advise A. G. & Anderson
of this report.*

Approved: _____
Special Agent in Charge

Sent _____ M Per _____

All b7C

*Memo 6/19/58
AGB*

F B I

Date:

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(Type in plain text or code)

Via _____
(Priority or Method of Mailing)

-3-

showed the FBI gained prestige, if that were possible, since general feeling is that this case is proof of fact that FBI files should be and are secure from inspection.

For Bureau's info, KELLY and SHANNON were released on \$10,000 bond each on June 16, 1958.

Enclosed are clippings from the June 17, 1958, issue of the Daily Oklahoman concerning the hearing on this matter.

This matter is being closely followed with the USA, and the Bureau will be kept advised of developments.

The Attorney General

June 19, 1958

Director, FBI

EX-136

REC-31

7-115-2469

SP
1-1
9-1

GEORGE KELLY BARNES, WITH ALIASES, ET AL.;
CHARLES F. URSCHEL - VICTIM;
KIDNAPING

I thought you would be interested to learn of the following reaction to the Government's refusal to produce FBI reports during the recent hearing in United States District Court, Oklahoma City, on motions filed in behalf of Ora Shannon and Kathryn Kelly to set aside life sentences imposed upon them in 1933.

Kathryn Kelly, widow of George Kelly Barnes, and her mother, Ora Shannon, were convicted and sentenced to life imprisonment in 1933 for their part in the kidnaping of Charles F. Urschel on July 22, 1933. Their many efforts to gain release from prison culminated in a hearing before United States District Court Judge William R. Wallace, Oklahoma City, who set aside their life sentences on June 16, 1958, and sustained motions for a new trial when the United States Attorney refused to produce in open court all the files and records of the FBI pertaining to the investigation of this case.

On the morning of June 17, 1958, a reporter for "The Oklahoma City Times" conducted a "man on the street" poll to determine the reaction of the public to this decision. The reporter informed our Oklahoma City Division that the consensus of this poll showed that the FBI had actually gained prestige since the general feeling was expressed that this case is proof of the fact that FBI files should be, and are, secure from inspection.

1 - Assistant Attorney General
Malcolm Anderson

Tolson
Boardman
Belmont
Mohr
Nease
Parsons
Rosen
Tamm

JUN 19 1958
FBI - OKLAHOMA CITY

JUN 19 6 52 PM '58
REC'D-READING ROOM

ALL b7C
FBI

FBI's Refusal To Open Files Brings Ruling

Life Terms Ended; Jail Doors Opened By Property Bond

By CULLEN JOHNSON

Kathryn Kelly and her mother, Mrs. Ora Shannon, Monday night were free on bond after their life sentences in the 1933 Urschel kidnaping were set aside and new trials ordered by U. S. district Judge W. R. Wallace.

Wallace Monday afternoon approved a motion vacating their sentences after the government refused to open FBI files relating to the kidnaping of Oklahoma City oilman Charles Urschel.

Property bond of \$40,000 was posted for the two women prior to 9 p.m. Monday. H. A. Leatherman, U. S. commissioner, at first said it was made by "family and friends," but later said only two persons were listed on the bond. One was Mrs. Pearl Hopkins, Shawnee, an aunt of Kathryn's.

Applause Halted

In the dramatic courtroom scene when the judge's decision was learned, the widow of the late George "Machinegun" Kelly, kingpin of the \$200,000 ransom plot, at first appeared dazed, then burst into tears.

U. S. marshals in the courtroom waved down a brief hand-clapping demonstration which followed Judge Wallace's announcement.

Climax of the six-day hearing—which lasted twice as long as Kathryn's trial 25 years ago—came swiftly after a noon recess.

Shortly before the noon hour, the judge gave U. S. District Attorney Paul Cress a final ultimatum to produce the FBI reports which were the basis for the nation's first trial under the Lindbergh kidnaping law.

Delay Is Denied

When the hearing resumed, Cress asked permission to present a motion for a continuance. This was refused by Judge Wallace, who called for a reply to his order for delivery of the secret files.

Cress then announced the refusal, which he said was made on orders from U. S. Attorney General William P. Rogers.

Wallace based his ruling that the government must produce the files to show whether or not defense attorneys in the Urschel case were under investigation during the trial on the celebrated Jencks case.

In that trial, the U. S. supreme court held that if FBI records bearing upon a prosecution were not made available, the government could not continue with the prosecution.

Appeal Announced

Cress immediately gave notice that an appeal will be taken from Judge Wallace's order.

James J. Laughlin, attorney for the two women, promptly rose to his feet to urge immediate re-trial.

"The defense will be ready to proceed with trial at 9:30 a.m. tomorrow," he announced.

Cress said the government undoubtedly would act with dispatch in setting the new trial, but no date was determined.

The hearing, which started June 9 and lasted longer than any of the principals anticipated, began building to its climax when Herbert K. Hyde, district attorney and chief prosecutor of the Urschel kidnapers, denied categorically the defense claim that attorneys were intimidated by

PLEASE TURN PAGE

FBI investigators hunting ransom money

On the fourth day of the hearing (last Thursday), Judge Wallace issued an order for production of the files but gave the department of justice an alternative which would prevent full disclosure of the secret reports.

He said if Cress or an FBI agent would verify Hyde's testimony and declare under oath that there was no record of any investigation prior to Jan. 1, 1934, he would accept the statement.

The government's reply was due Friday but Judge Wallace allowed a delay until 9:30 a.m. Monday.

It was nearly 24 hours after this deadline before he issued the flat demand for production of the reports.

Wallace, in ordering the FBI reports brought into court, ruled that as district attorney Hyde had full access to the files and therefore became the alter ego of the FBI in testifying concerning what the reports contained.

Attorney Denies Claim

Mrs. Kelly and her mother contested that they were prevented from getting a fair trial because of the fear under which defense attorneys were placed by threats of prosecution for receiving ransom money.

Kathryn's lawyer in the 1933 trial, James H. Mathers, present Coal county attorney, testified, however, that this was not true and that he was not questioned or threatened by the FBI.

Months after the 1933 trials, one defense attorney went to prison for 10 years for taking ransom money. Mathers' son, James C. Mathers, also an attorney, was indicted by a grand jury but was subsequently cleared.

At the start of Monday morning, C. J. Kaho, retired newspaper photographer, contradicted the government's claim that no photos were permitted during the actual trials of the kidnapers.

Pictures Introduced

Kaho said Judge Vaught, now retired, told photographers before the start of the Ora Shannon trial that "the courtroom is yours. You may make a picture any time, in any place in the courtroom while the court is in session."

He said he and a fellow photographer shot up to 70 pictures a day while the trial was in progress.

Cress told Judge Wallace he had contacted Judge Vaught in San Francisco and that the veteran jurist denied Kaho's version of the trial.

The photographer produced several pictures of Urschel case courtroom scenes, one showing Judge Vaught on the bench and the jury in the box.

Mrs. Kelly and Mrs. Shannon were among 18 persons tried in the kidnap plot. The two women have been in various federal prisons the last 25 years and were brought here from Alderson, W. Va. for the hearing.

Texas Trip Planned

Mrs. Shannon was arrested with her husband, R. G. "Boss" Shannon, and others at the Shannon's Paradise, Texas farm Aug. 12, 1933, and has been in custody since.

Mrs. Kelly and her husband were arrested at Memphis, Tenn., Sept. 26 and were arraigned here Oct. 7, 1933 the day her mother was sentenced. The Kellys went on trial Oct. 9, 1933, before U. S. district Judge Edgar S. Vaught and were found guilty by a jury three days later.

Monday Laughlin said as soon as the women are released they expected to go to the farm in Texas.

Cross said the decision as to whether there will be a new trial will be made by department of justice officials in Washington.

But before this is decided, there must be a decision as to whether an appeal from Wallace's ruling will be pressed, he said.

Problems Foreseen

"There is actually a problem whether the evidence would be available, and the outcome of the appeal would determine what evidence would be admissible," he said.

"There is a possibility that a lot of law would be made as a result of an appeal. The re-trial would not be held until after it is decided. At present, we believe but for the questions of law a new trial would be called for."

He said the transcript of the hearing must be completed before the decision on the appeal can be reached, and this will take three to four weeks.

He said government attorneys haven't checked to see how much evidence could be assembled for a new trial, but pointed out "for one thing, the transcript of the 1933 trial of Mrs. Kelly is lost. So we would be at some disadvantage."

Many of the principals in the trials are still alive, however, including the victim, the man who made the ransom payment, and officers who investigated the crime.



Headed toward freedom for the first time in 25 years but still in custody, Kathryn Kelly and her mother, Mrs. Ora Shannon, leave the U. S. marshal's office after

new trials were granted by U. S. district Judge W. R. Wallace. Accompanying them from left, are U. S. Marshal Ken Greer and U. S. deputy marshal Lee Carson.

Mrs. Kelly Says, 'I'll Have to Work'

By CLAIRE CONLEY

"I will have to go to work to support my mother and myself," Kathryn Kelly declared simply Monday night as she signed her bond with a shaking hand and accepted freedom after 25 years in prison.

The 54-year-old widow of George "Machinegun" Kelly and her

70-year-old mother, Mrs. Ora Shannon, walked down the steps of the federal building at 11 p.m. Monday night, private citizens again until the government calls them back for new trials.

Both women appeared before U. S. Commissioner H. A. Leatherman, in smiling good humor, though Kathryn showed a tendency to nervousness.

Kathryn Makes Speech

It was apparent that Kathryn had been selected the spokesman, giving a little speech at the outset concerning the pair's "happiness that after a quarter of a century we are going to be citizens again just like you good people."

Mrs. Shannon was more natural, expressing a desire to renew an old hobby, cooking, now that she is temporarily free to do as she pleases.

"I'm not bragging. I'm really an expert you know," Mrs. Shannon insisted.

"Someone will need an honest hardworking employe," Kathryn declared in a trembling voice into a television microphone. "Someone will offer me a job."

Prison Job Revealed

Her mother revealed that Kathryn has been "secretary to the big boss" in the garment shop in the federal penitentiary for women at Alderson, W. Va.

"She's been the bookkeeper, shipping clerk, and the works," her mother said proudly. "She won't have any trouble. She can do so many things."

Asked if they would return to their farm at Paradise, Texas, where Charles F. Urschel was reportedly held for ransom by the Kelly gang, Kathryn answered quickly:

"I don't believe so. We plan to make Oklahoma our home. We may visit relatives in Texas occasionally, but we will always come back here."

She said her first plan was to

(Continued on Page 2, Column 2)

Mrs. Kelly Says, 'I'll Have to Work'

put her mother in a hospital for a complete examination. She would not name the hospital nor state where the pair intended to spend the night.

Mrs. Shannon, who appears in excellent condition, has suffered a number of heart attacks in prison. She said only that she would go out of town to a hospital and "I will drive out away tonight."

Both women have been together in the same cottage at the Alderson penitentiary for the past 16 years. They worked together in the flower shop for a time, later transferred to the garment shop.

The penitentiary is considered a modern rehabilitative plant, with no bars and no walls. However, the two women have been subjected to the strict routine required of the prisoners.

"We practically got a college education while we were there," Mrs. Shannon explained. "Our pastime has been reading. We got the Oklahoma City papers every day."

The elderly woman declared they would have no trouble adjusting to freedom after 25 years of incarceration.

"We have kept up with the atomic bombs and the sputniks and all of that," she said. "We have studied and prepared for this day so we could step right out into the world and take our places."

The mother insisted that

"prayer has opened the prison door for us."

Kathryn commented that she was raised a religious child, but Kelly was an atheist when she married him.

"Prayer has been a solace in prison," she declared.

The scene on the federal building steps Monday night, as mother and daughter posed for pictures, was in direct contrast to their exit from the premises following their conviction.

At that time, Kathryn was a round faced, red haired spitfire, snapping at photographers and movie newswheel men.

Her face and figure are leaner now. A simple white tam replaced the famous jaunty cloche hat cocked over the right eye.

She was dressed conservatively in a completely prison-made wardrobe.

Only trace remaining of the glamour of 1933's most highly publicized, most hunted "gun moll" was the famous Kelly smile, which Kathryn turned on frequently for television cameras.

Since Kathryn was once considered a fashion plate, a lover of luxurious furs, jewels and expensive clothes, modern clothes came into the conversation.

What did she think of the new sack and chemise dresses?

"I hope I never have to wear one," Kathryn said emphatically. "I may be old-fashioned, but I just don't like them."

USA V. Kelly & Kathryn Thorne
SHANNON, Ora L.

No. 1047, Crim.

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA, AT OKLAHOMA CITY, OKLA.
BEFORE: Hon. W. R. Wallace, U. S. District Judge, N. E. & W.
Districts Okla.
EXCERPT FROM TRIAL PROCEEDINGS
June 12, 1958

(Being Only A Ruling By the Court)

THE COURT: The Court is going to make this statement with regard to the question under consideration, the legal question.

The question of privileged F. B. I. reports is always delicate. However, after carefully considering the defendants' motion to produce certain reports or documents, and the Government's motion to quash, the Court has reached the following conclusions:

One critical issue raised by the defendant is the question of whether or not defendants' counsel conducted their defense in 1933 under a state of personal apprehension or coercion because of alleged investigations by the F. B. I. of various defense counsel.

Along this line, of course, the very fact that the issue is, as stated in the small transcript, in the Kathryn Kelly case, that only a certain issue was raised, might go to this question, because the attorney might have been afraid to raise any other issue.

The defendants have unequivocally testified that such coercion existed; and Mrs. Kelly, I believe, stated that Mr. Mathers told her several times that no lawyer could properly defend her under the existing conditions, and that he was being investigated.

Contrarily, Mr. Hyde positively testified that none of the counsel involved in these SHANNON cases was under investigation at the time of the trial, and that such investigation

occurred after he left the District Attorney's office early in 1934.

Moreover, Mr. Mathers has testified he had no fear of investigation and had no knowledge that such investigations were even threatened while he was defending Mrs. Kelly.

In addition, the evidence indicates that one defense attorney was convicted of receiving ransom money, and that Mr. Mathers' son, a law partner of the lawyer who defended Mrs. Kelly, was indicted for receiving ransom money, although he was acquitted.

With all these matters before the Court, it certainly appears that the Court should have the benefit of any evidence which tends to throw some light on this highly critical, contested point. If in fact, investigations were going on during these trials, such fact would lend credibility to Mrs. Kelly's testimony, and tend to challenge the testimony of Mr. Hyde.

Although no F. B. I. agent has testified, as in the Jenks case, the principle involved is identical. Mr. Hyde, who was then acting District Attorney, has unreservedly stated that no investigations took place, and that if such had occurred, he would have known of it. Moreover, he testified that he and the F. B. I. worked hand in hand in these cases, and that he had access to all information which the F. B. I. had.

At this point, it seems inconceivably legalistic not to go into this matter of investigation of the defense counsel, and try to uncover the truth of the matter. If no investigations were in fact made during these trials, and a responsible F. B. I. agent, or the present District Attorney, speaking

authoratively on this point, will testify to the effect that they have examined these files, all of the files involving the attorneys, the defendants' attorneys in the trial of the Kelly and Shannon case, and will testify that no such investigations were made, and that the F. B. I. files indicate that no such investigations were made, the Court will then be satisfied on this point.

However, if investigations were made during the time relevant herein, and the F. B. I. files contain statements which tend to establish such fact, together with related facts as to the general scope of such investigations, then this Court wants such information made available.

The Court is of the opinion that the files should be turned to it, and it will personally go through the files, having in mind only the issue of investigation of counsel, and remove therefrom for consideration in this case, any instruments which in the Court's judgment are relevant to this very material issue. All other contents in the file will be carefully protected and immediately returned to the Government's authorized agent. That is my ruling in this case, gentlemen.

* * * *

Certified a True Transcript,

June 12, 1958,

Frank M. Sickles
Frank M. Sickles, Official Court
Reporter, U. S. & W. Districts
of Oklahoma.

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

BEFORE: THE HON. W. R. WALLACE, U. S. District Judge, N. E.
& W. Districts of Oklahoma.

At: Oklahoma City, Oklahoma, Monday, June 16, 1958.

Case: 10478 USA v. Ora L. Shannon
Kathryn Thorne Kelly.

For the Plaintiff: Paul Cress, U. S. Attorney, Western
District of Oklahoma; and
George Camp, Assistant U. S. Attorney,
Western District of Oklahoma.

For the Defendant: James L. Laughlin, Attorney-at-Law,
Washington, D. C.

EXCERPT FROM TRIAL PROCEEDINGS JUNE 16, 1958
(Being Only a Ruling by the Court)

Before we proceed further with this hearing, the Court wishes to make the following observation in regard to its previous order granting Mr. Cress, the United States Attorney and custodian of the controverted F. B. I. files, the alternative of turning these files over to the Court for examination or of testifying under oath that no investigations were made by the F. B. I. of any counsel representing any of the defendants in these 1933 trials and that "the F. B. I. files indicate that no such investigations were made".

Last Thursday, when the Court offered to accept a sworn statement by "a responsible F. B. I. agent or the present District Attorney, speaking authoritatively on this point", the Court issued such alternative order in the best of "good faith", and assumed that if in fact, as Mr. Hyde (the prosecutor in the 1933 trials) had testified, no such investigations took place until after he went out of office early in 1934,

the government would unhesitatingly and unequivocally so apprise the Court, under oath. At the time this alternative was given, the Court realized that a serious question existed as to whether it should, or could, accept such a sworn statement in place of personally examining the records, -- but, I decided to take full responsibility for not requiring the files to be opened, if to my own satisfaction, the accusation challenging Mr. Hyde's testimony on investigations of counsel was demonstrated to be utterly frivolous by virtue of an immediate denial of such accusation by a responsible government official in a position to know the true facts.

Immediately after the Court's alternative order, the Court granted a recess until later Thursday afternoon to grant Mr. Cress an opportunity to confer with his superiors in Washington. In addition, late Thursday afternoon, at the Government's request, Court was recessed until Friday morning. And, on Friday morning, Mr. Cress asked for a recess until this morning to give him an adequate opportunity to obtain instructions from Washington.

In view of this repeated delay and marked hesitancy by the government, the Court can but infer that some serious questions exists in the minds of the Government officials as to whether a responsible government official should unequivocally swear to this Court that no such investigations occurred and that the F. B. I. files contain no information as to any such investigations.

Thus, the Court is of the present opinion that in the interest of justice it must assert its judicial right to determine whether relevant information is contained in these files and cannot, in effect, partially abdicate its authority in favor of the Department of Justice and thereby permit such Department to pass upon the admissibility of evidence in a matter in which it in reality is an adversary party and has a vital interest.

Therefore, the court hereby modifies its earlier order by eliminating the alternative previously given the United States Attorney, and specifically orders that all files and reports of the Federal Bureau of Investigation pertaining to all prosecutions arising out of the kidnapping of Charles F. Urschel in 1933, be delivered to this Court for examination.

In this regard, the Court reiterates its earlier remark that "it will personally go through the file, having in mind only this issue of investigation of counsel, and remove therefrom for consideration in this case any instruments, which in the Court's judgment are relevant to this very material issue. All other contents in the file will be carefully protected and immediately returned to the government's authorized agent."

Moreover, if after going through such files the court determines that in fact there are no statements herein which have a real or material bearing on this dispute dealing with investigation of defense counsel, the Court will immediately return intact the entire file to the Government.

4

The court cannot decide these motions on their merits if the pertinent information held in the F. B. I. files is not made available. If the Department of Justice insists upon claiming that such relevant information lies within the sanctuary of privilege, then the Department cannot effectively resist the relief requested by the defendants.

The Supreme Court, in the Jencks case, quoted with approval the statement that "the Government can invoke its evidentiary privileges only at the price of letting the defendant go free. The rationale of the criminal cases is that, since the Government which prosecutes an accused also has the duty to see that justice is done, it is unconscionable to allow it to undertake prosecution and then invoke its governmental privileges to deprive the accused of anything which might be material to his defense.".

And, as stated by Judge L. Hand and repeated with approval in the Jencks case:

"while we must accept it as lawful for a department of the government to suppress documents, even when they will help determine controversies between third persons, we cannot agree that this should include their suppression in a criminal prosecution, founded upon these very dealings to which the documents related, and whose criminality they will, or may, tend to exculpate. So far as they directly touch the criminal dealings, the prosecution necessarily ends any confidential character the documents may possess; it must be conducted in the open, and will lay bare their subject matter. The government must choose; either it must leave the transactions in the obscurity from which a trial will draw them, or it must expose them fully. Nor does it seem to us possible to draw any line between documents whose contents bear directly upon the criminal transactions, and those which may be only indirectly relevant."

The Supreme Court in its holding in the Jencks case ruled that:

*****the criminal action must be dismissed when the government, on the ground of privilege, elects not to comply with an order to produce, for the accused's inspection and for admission in evidence, relevant statements of reports in its possession of government witnesses touching the subject matter of their testimony at the trial. (citing authority) The burden is the government's, not to be shifted to the trial judge, to decide whether the public prejudice of allowing the crime to go unpunished is greater than that attendant upon the possible disclosure of state secrets and other confidential information in the Government's possession."

Although this hearing is not a criminal prosecution but is held pursuant to a special Act of Congress, the principles to be applied are identical. The government cannot resist defendants' motions for new trials and at the same time refuse to come forward with evidence which may well help establish that the motions under consideration are well taken.

Mr. Cress, you are hereby directed to deliver to me in open court, when we reconvene at 1:30 P. M. this afternoon, the files in question, upon the conditions previously outlined. If you fail to make such delivery let it now be ~~stated~~ clearly understood that the court will enter an order SUSTAINING defendants' motions for new trials.

Certified a true transcript,
June 16, 1958.

Frank M. Sickles
Frank M. Sickles,
Official Court Reporter,
N. E. & W. Districts Okla.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,
Plaintiff,

-vs-

KATHERINE THORNE KELLY and
ORA L. SHANNON,

Defendants.

No. 10478 - Criminal

O R D E R

It is hereby ordered in the case of United States of America, Plaintiff, vs. Katherine Thorne Kelly and Ora L. Shannon, No. 10478 Criminal, that the motions of these two just-referred to defendants to vacate and set aside judgment of conviction and for new trial, are hereby **SUSTAINED**.

These motions are sustained because of the Government's claim of privilege as to the conf's earlier order in regard to statements in possession of the Federal Bureau of Investigation involving the alleged investigation of defense counsel at the time of the defendants' trials in 1933.

The requested evidence is critical on the issue of judging the credibility of Mr. Hyde, the United States Attorney who prosecuted these defendants in 1933, and who in substance testified in this hearing that no investigations of counsel took place before he left office in the early part of 1934, and that consequently defendants' counsel could not have been under coercion caused by investigation.

New trials are granted solely because the court believes that justice cannot be done in this case due to the Government's claim of privilege. This asserted privilege precludes this court

from laying all the evidence necessary to decide these motions
on their merits.

This order carries no implication that under the evidence
adduced at this hearing that the defendants are entitled to
prevail. Neither does this order imply that the defendants
are not entitled to so prevail.

Dated this 18th day of June, 1968.

V. E. WILLIAMS
United States District Judge

Office Memorandum - UNITED STATES GOVERNMENT

TO : MR. TOLSON

DATE: June 19 1958

FROM : G. A. NEASE

SUBJECT: [REDACTED]

CINCINNATI ENQUIRER

The captioned individual, a representative of the Washington office of the Cincinnati Enquirer, a newspaper in which Cyrus Eaton has considerable control, called my office at 7:25 PM, June 17, 1958, and spoke with DeLoach. He stated that SAC Mason in Cincinnati had, in answer to an inquiry from his paper, stated that the Cincinnati Enquirer would be able to obtain information concerning Mrs. Kathryn Kelly, a subject in the Urschel kidnaping case, if headquarters of the FBI could be contacted. He quoted SAC Mason as saying Cincinnati files were incomplete in so far as Mrs. Kelly's actions in that city were concerned. [REDACTED] then stated he would appreciate having immediately any information which might reflect a Cincinnati angle concerning Mrs. Kelly.

[REDACTED] was told that he would have to be more specific. He then stated that he was being as specific as he possibly could but he felt sure that we could understand that he needed the information. He then indicated that it was approximately 7:25 PM in the evening, that he was anxious to leave the office, and that he would appreciate having this information as expeditiously as possible. He was again asked for any specifics. He replied that he would like to have a local criminal record on Mrs. Kelly or any other information which might reflect criminal actions of a local nature in Cincinnati. He was told that we could not be of assistance in this regard, that he might desire to check his own newspaper morgue or contact the local authorities in Cincinnati, Ohio. [REDACTED] then indicated he would appreciate any public source information available regarding Mrs. Kelly. He was told that a check would be made and we would call him back but that necessarily it would take some period of time inasmuch as this case was some 25 years old and our files were in another building. He indicated the Cincinnati Enquirer was a morning newspaper and that he must have the information before morning; however, he would not want to wait around all night for the information.

After reviewing current memoranda regarding Mrs. Kelly, [REDACTED] was contacted telephonically and told that this was a pending matter

1 - Mr. Rosen

52 - Mr. Jones

(2)

All b7C

7-115-

NOT RECORDED

133 JUN 27 1958

24 JUN 27 1958

Tolson _____
Boardman _____
Belmont _____
Mohr _____
Nease _____
Persons _____
Rosen _____
Tamm _____
Trotter _____
Cleyton _____
Tele. Room _____
Holloman _____
Gandy _____

Handwritten initials and signatures:
J. Edgar Hoover
H. G. ...
6

Memorandum to Mr. Tolson:

and that we could be of no assistance. He was advised that he might desire to contact local authorities in Cincinnati; also that he might desire to contact the United States Attorney in Oklahoma City relative to this matter inasmuch as court action had been taken in that city regarding Mrs. Kelly. He then indicated that he would tell his newspaper that the FBI could be of no assistance inasmuch as this was a pending case. He stated he would follow the lead of checking with local authorities and possibly the United States Attorney in Oklahoma City.

After talking with [REDACTED] SAC Mason was telephonically contacted and asked exactly what he had told the Cincinnati Enquirer. Mason denied that he had mentioned that the Cincinnati files did not have complete information regarding Mrs. Kelly. He stated that the question put to him by the Cincinnati Enquirer was one indicating that information concerning Mrs. Kelly's entire criminal career throughout the country was desired and not necessarily the local angle. He stated the central files at FBI Headquarters would contain this information; therefore, he referred the matter to the Bureau. Mason stated he did not know that the Kelly case was a pending case at this time. He was straightened out in this regard.

OBSERVATIONS:

[REDACTED] from his remarks, is apparently a very arrogant and demanding individual with whom caution must be exercised in any contacts. We will, therefore, be on our guard in future dealings with him.

ACTION:

For record purposes.

All b7C

✓
✓
JTS
Well handled. The
Cincinnati Enquirer
is owned or was financed
by Cyrus Eaton
JTS
sk

Office Memorandum, UNITED STATES GOVERNMENT

TO : Mr. L. V. Boardman

DATE: June 19, 1958

FROM : Mr. A. H. Belmont

SUBJECT: ~~PUBLIC REACTION~~
RE URSCHER KIDNAPING SUBJECTS

Tolson	_____
Nichols	_____
Boardman	_____
Belmont	_____
Mohr	_____
Parsons	_____
Rosen	_____
Tamm	_____
Trotter	_____
Nease	_____
Tele. Room	_____
Holloman	_____
Gandy	_____

Mrs. Kathryn Kelly and Mrs. Ora Shannon, two of the principals in the quarter-century-old kidnaping of Oklahoma City oilman Charles Urschel, were granted releases from prison on 6/17/58 when United States District Judge W. R. Wallace ordered a new trial on the basis of the Government's refusal to release so-called "secret FBI files."

I thought you would be interested in knowing that a public opinion poll conducted by [REDACTED] reporter for the Oklahoma Publishing Company, Oklahoma City, Oklahoma, on the same day indicated a consensus of opinion that the FBI had gained in prestige through its stand in this matter. (OC Crimdel, 6/17/58)

RECOMMENDATION:

For the information of the Director.

- (7) DEM
- 1 - Mr. Nease
 - 1 - Mr. Boardman
 - 1 - Mr. Belmont
 - 1 - Section tickler
 - 1 - Mr. Sullivan
 - 1 - Mr. Rosen

EX-124

7-115-2470

12 JUN 24 1958

52 JUL 1 1958

RECEIVED
JUL 1 1958

(*File M*) *um* • UNITED STATES GOVERNMENT

TO : Mr. Boardman

DATE: June 19, 1958

FROM : *AR* Rosen *l*

SUBJECT: GEORGE KELLY BARNES, Was., ET AL.;
CHARLES F. URSCHER - VICTIM
KIDNAPING

l ✓
Tolson ✓
Boardman ✓
Belmont ✓
Mohr ✓
Nease ✓
Parsons ✓
Rosen ✓
Tamm ✓
Trotter ✓
Clayton ✓
Tele. Room ✓
Holloman ✓
Gandy ✓

Malcolm Anderson called me this morning to advise that he had just received a call from Jim Bennett. Bennett told Anderson about the Judge Wallace decision in Oklahoma City releasing Kathryn Kelly and Ora Shannon and Bennett indicated to Anderson that he thought the Department ought to move on Bailey on its own. Anderson said that he understood from what Bennett told him that Harvey Bailey is presently serving time on this kidnaping and Bennett is of the opinion that it was highly inequitable for the two women to be out and Bailey in jail.

I told Anderson that I could not believe what he was telling me and asked him whether he was serious. He said Bennett was most serious in what he was saying, whereupon I advised Anderson that Bailey was serving a life sentence and that he was one of the principals involved and that we had made known our position to the Department, the Parole Board on previous occasions and that I would be very glad to give him whatever background he needed. Anderson said that he did not need any background, that he understood our position clearly, but wanted to call to advise me concerning the call he received from Bennett.

I told him that I understood Jim Knapp, Anderson's assistant, was following the Oklahoma City matter closely and that a transcript was expected in approximately three weeks and that the Department was going to vigorously appeal the action of Judge Wallace. Anderson said that this was correct. He just wanted to give us this information and he said he would be able to handle the matter.

We have written to the Attorney General and also to the Chairman of the Parole Board concerning Harvey Bailey and we have pointed out that Bailey was found guilty of one of the most heinous offenses against society and was sentenced to serve a life imprisonment. On April 9, 1956, we sent a memorandum to the Attorney General with a copy to then Deputy Attorney General Rogers and Bennett of the Bureau of

EX-124

AR
(6)

REC-86

7-115-2471

52 JUL 1 1958

All b7C

17 JUN 24 1958

Memorandum to Mr. Boardman

prisons pointing out that the Kansas State authorities were endeavoring to have Harvey Bailey, who is at Leavenworth, returned to Kansas State Penitentiary, Lansing, Kansas, to satisfy a 10 to 50 year sentence for bank robbery. Bailey was serving this sentence at the time he escaped from the Kansas State Penitentiary on May 30, 1933. He has been incarcerated at Leavenworth and a detainer was filed against him by the Kansas State authorities on October 27, 1935, which detainer is still outstanding. The Parole Board, the Department, and the Bureau of Prisons are aware of this situation, and Bailey has not been released to the Kansas State authorities.

ACTION BEING TAKEN:

This memorandum is being submitted for the Director's information. We are presently preparing a memorandum which will be transmitted to the Attorney General with copies to Chairman of the Parole Board, Deputy Attorney General Walsh, Anderson of the Criminal Division, and Jim Bennett, restating our position concerning Bailey and indicating that every step should be taken to insure that his sentence is carried out.

gmr
H.B.
per

Right.
L.

memo to a. &
cc Walsh, Anderson
Reed, Bennett
6-19-58
b7C

F B I

Date: June 21, 1958

Transmit the following in _____
(Type in plain text or code)Via A I R T E L A I R M A I L
(Priority or Method of Mailing)

TO : Director, FBI (7-115)
FROM : SAC, Oklahoma City (7-6)
SUBJECT: GEORGE KELLY BARNES, was.; ET AL
CHARLES F. URSCHEL - VICTIM
KIDNAPPING

Enclosed is a clipping from the June 20, 1958 issue of the Oklahoma City Times. The clipping sets forth the public utterances of former United States Attorney HERBERT K. HYDE, who the Bureau will recall testified at the recent hearing in Oklahoma City, that information in FBI files would back up his testimony. The possibility exists that the public utterances set forth in the attached newspaper clipping could well have a bearing on any re-hearing in this matter in Oklahoma City.

DOYLE

Enclosure (1)
CD: [REDACTED]
(4)

ENCLOSURE

REC-64

REC-64

7-115-2475

JUN 24 1958

Approved: _____

Special Agent in Charge

Sent _____

M

Per _____

OKLAHOMA CITY TIMES
4 FRIDAY, JUNE 20, 1958



Herbert K. Hyde

Plea For Kidnapers Revealed

By BOB McMILLIN

A parole recommendation for Kathryn Kelly and her mother, Mrs. UFA Shannon, would have been made by the U. S. attorney who prosecuted them here 25 years ago for their part in the Charles F. Urschel kidnaping had he been asked.

"In fact, I did make such an unsolicited recommendation more than a year and a half ago," Herbert K. Hyde, said here Friday.

Hyde, now in private practice, was a young U. S. attorney here 25 years ago when the kidnaping case was splashed across the front pages of every newspaper in the United States.

Has 'Compassion'

Mrs. Kelly and her mother received life sentences for their parts in the kidnaping of the millionaire oilman and only Monday heard their sentences cut aside in federal court by Judge W. R. Wallace after a week long hearing.

"I told the court last week I would be less than human if I had anything but compassion in my heart for these two women after all these years," Hyde declared.

"I certainly would have recommended them for parole, because I feel that after 25 years in prison they have been punished enough and have been rehabilitated."

"The chemistry of a person's body changes after 25 years and they are not always what they were."

Sentiment Relayed

"As a matter of fact I did recommend, unsolicited, that they be paroled more than a year and a half ago," the former prosecutor said.

"I was in the office of Jim Bennett in Washington (James V. Bennett, director of federal prisons) and told him then I thought Kathryn and Mrs. Shannon had served long enough and would be glad to recommend their parole if I was requested."

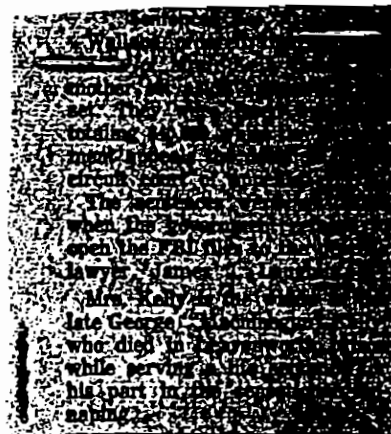
"I went another step further and said I also thought Harvey Bailey (serving life at Leavenworth federal prison for his part in the 1933 kidnaping) should also be paroled."

Trial Challenged

"Somewhere along the line you have to draw the line between punishment and rehabilitation. Bailey is 70 and would never again be a menace to society."

Mrs. Kelley and her mother came into federal court claiming they did not receive a fair trial here 25 years ago and that their lawyers had been intimidated by FBI men.

Friday, Hyde again stated their lawyers had been intimidated in any way or that they had not had a fair trial. He said of course they had a fair trial. Hyde said that the case was a sensational one and that the trial was a sensational one. He said that the trial was a sensational one and that the trial was a sensational one.



GEORGE KELLY BARNES, was.;
ET AL
CHARLES F. URSCHER - VICTIM
KIDNAPPING
(Bufile 7-115)
(OC file 7-6)

Oklahoma City Times
June 20, 1958
Page 4

7-115-2472

ENCLOSURE

F B I

Date: June 24, 1958

Transmit the following in _____
(Type in plain text or code)Via _____
(Priority or Method of Mailing)**AIRTEL - AIR MAIL**

TO: DIRECTOR, FBI (7-115)

FROM: ASAC, KANSAS CITY (7-8)

RE: GEORGE KELLY BARNES,
was., Et Al;
CHARLES F. URSCHEL - VICTIM
KIDNAPING

Origin: Oklahoma City

Reference Bureau airtel to Kansas City dated June 19, 1958, in which the Bureau noted court action of KATHRYN KELLY and ORA SHANNON and stated that HARVEY BAILEY, an inmate at the United States Penitentiary, Leavenworth, Kansas, may extend his efforts to obtain parole as a result of KATHRYN KELLY and ORA SHANNON's being granted a new trial.

On June 19, 1958, this matter was discussed with Warden C. H. LOONEY, United States Penitentiary, Leavenworth, Kansas, by Special Agent [REDACTED] and Mr. LOONEY stated if any additional action is taken by BAILEY in seeking a parole or additional court action, he will furnish this information to the Kansas City Office of the F.B.I. (9)

Mr. LOONEY noted that BAILEY had very recently been in contact with his attorney at the institution and LOONEY suggested that the reason for the attorney's visit may have been to discuss action to be taken by BAILEY in connection to obtaining a parole or retrial.

The Kansas City Office will continue to follow this matter closely and will keep the Bureau advised of any changes in BAILEY's status at the institution.

24 JUN 26 1958

- 3 - Bureau (7-115)
2 - Oklahoma City (7-6)
2 - Kansas City (7-8)

EX-117

All b7C

(7)

57

Approved: 2 1958 1257

Special Agent in Charge

Sent

M

Per

The Attorney General

June 19, 1958

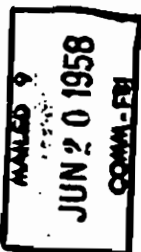
Director, FBI

①
GEORGE KELLY BARNES, WITH ALIASES, ET AL.;
CHARLES F. URSCHEL - VICTIM;
KIDNAPING

I would like to bring to your attention at this time my feeling that any efforts by Harvey Bailey, presently serving a life sentence at the United States Penitentiary, Leavenworth, Kansas, to obtain parole should be opposed. It is possible Bailey may extend his efforts to be placed on parole in view of the fact that Kathryn Kelly and Ora Shannon have been granted a new trial by order of the United States District Court, Oklahoma City.

On October 7, 1933, Harvey Bailey was sentenced to serve life imprisonment, upon conviction, for his participation in the kidnaping of Charles F. Urschel on July 22, 1933. He has been incarcerated at the United States Penitentiary, Leavenworth, Kansas. A detainer was filed against Bailey by Kansas state authorities on October 27, 1935, charging Bailey with escaping from the Kansas State Penitentiary on May 30, 1933, where he was serving a ten to fifty-year sentence for bank robbery. This detainer is still outstanding. My memorandum dated April 9, 1956, I informed you of efforts being made to have Bailey transferred to the Kansas State Penitentiary at Lansing, Kansas, to satisfy his state sentence and stated my feeling that these efforts should be opposed. I have previously expressed my opinion to the Chairman of the United States Board of Parole that any effort on Bailey's part to obtain parole should be opposed.

The offense for which Bailey was found guilty is one of the most heinous against society and I want to restate at this time my feeling that



Tolson _____
Boardman _____
Belmont _____
Mohr _____
Nease _____
Parsons _____
Rosen _____
Tamm _____

See Note pg. 2

JUN 26 1958

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The Attorney General

any efforts made by Bailey, or on his behalf, to avoid service of his sentence should be vigorously opposed. It is also noted that the Criminal Division of the Department has expressed the intention to vigorously appeal the order granting Kathryn Kelly and Ora Shannon a new trial.

- 1 - Mr. Lawrence E. Walsh
Deputy Attorney General
- 1 - Assistant Attorney General
Malcolm Anderson
- 1 - Mr. George J. Reed
Chairman
Board of Parole
- 1 - Mr. James V. Bennett
Director
Bureau of Prisons

NOTE: By memo 6/19/58, Mr. Rosen to Mr. Boardman, information received from AAG Anderson relative to suggestion of James V. Bennett, Director, Bureau of Prisons, that Justice Department should move on its own to release Bailey from prison as it was highly inequitable for Kathryn Kelly and Ora Shannon to be out and Bailey in jail. Memo reflected that memo to Attorney General would be prepared.

Kansas City has been following status of Bailey monthly. They have been instructed by airtel to insure immediate notification of any developments concerning Bailey's status so that Bureau may be promptly informed.

XXXXXX
XXXXXX
XXXXXXFEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

- ☐ Deletions were made pursuant to the exemptions indicated below with no segregable material available for release to you.

Section 552Section 552a☐ (b)(1)☐ (b)(7)(A)☐ (d)(5)☐ (b)(2)☐ (b)(7)(B)☐ (j)(2)☐ (b)(3)☐ (b)(7)(C)☐ (k)(1)☐ (b)(7)(D)☐ (k)(2)☐ (b)(7)(E)☐ (k)(3)☐ (b)(7)(F)☐ (k)(4)☐ (b)(4)☐ (b)(8)☐ (k)(5)☐ (b)(5)☐ (b)(9)☐ (k)(6)☐ (b)(6)☐ (k)(7)

- ☐ Information pertained only to a third party with no reference to you or the subject of your request.

- ☐ Information pertained only to a third party. Your name is listed in the title only.

- ☒ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

Page(s) withheld for the following reason(s):

- ☐ For your information:

- ☒ The following number is to be used for reference regarding these pages:

7-115-✓ (after 2474)

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X NO DUPLICATION FEE X
X FOR THIS PAGE X
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Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (7-115)

DATE: 6/30/58

FROM : SAC, Kansas City (7-8)

SUBJECT: GEORGE KELLY BARNES, was.,
ET AL;
CHARLES F. URSCHEL - VICTIM
KIDNAPING
OO: Oklahoma City

Re Bureau airtel to Kansas City, 6/19/58, and Kansas City airtel to Bureau, 6/24/58.

On June 25, 1958, [REDACTED] United States Penitentiary, Leavenworth, Kansas, made available a photostatic copy of the following letter, which was directed to HARVEY BAILEY, an inmate at the penitentiary from JAMES J. LAUGHLIN, an attorney at Washington, D. C. The letter states:

"JAMES J. LAUGHLIN
ATTORNEY AND COUNSELLOR AT LAW
NATIONAL PRESS BUILDING
WASHINGTON, D. C.

NATIONAL 8-2001

June 18, 1958

"Mr. Harvey Bailey
U. S. Penitentiary
Leavenworth, Kansas

Dear Sir:

I feel it is my duty to advise you that the Honorable W. R. Wallace, United States District Judge for the Western District of Oklahoma, on Monday, June 16, 1958, vacated and set aside the sentences imposed on Mrs. Kathryn

- ② - Bureau
1 - Oklahoma City (7-6)
2 - Kansas City

EX-124

REC-84

23 JUL 2 1958

(5)

All b7C

KC 7-8

Kelly and Mrs. Ora L. Shannon. We conclusively showed at the trial that their constitutional rights were consistently violated. Technically they may have to face a new trial but in my opinion I am certain that they will not seek retrial and that Mrs. Kelly and Mrs. Shannon will be free from this time forward. They are now out on bond.

I would suggest that you endeavor to hire an attorney or to prosecute a petition in your own behalf. In my opinion all of the points raised on behalf of Mrs. Shannon and Mrs. Kelly would be applicable to you. I feel sure that Mr. Bennett will have no objection to your receiving this letter and you must then take whatever course you may deem advisable.

I feel that since you are in prison that it is incumbent upon me to advise you of the outcome of Mrs. Kelly's and Mrs. Shannon's hearing.

With kindest regards, I am

Very truly yours,

/s/ James J. Laughlin

James J. Laughlin"

This is being furnished for informational purposes only and the Kansas City office will continue to follow this matter closely and will advise the Bureau of any changes in BAILEY'S status at the institution.

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (7-115)

DATE: JUNE 30 1958

FROM : SAC, OKLAHOMA CITY (7-6)

SUBJECT: GEORGE KELLY BARNES, was, et al
CHARLES F. URSCHER - VICTIM
KIDNAPING

Mr. Tolson	
Mr. Boardman	
Mr. Belmont	
Mr. Nease	
Mr. Parsons	
Mr. Rosen	
Mr. Tamm	
Mr. Trotter	
Mr. W.C. Sullivan	
Tele. Room	
Mr. Holloman	
Miss Gandy	

The Bureau is advised that Mr. E. E. KIRKPATRICK, who acted as intermediary in captioned case when it arose, telephonically contacted this office on June 30th.

Mr. KIRKPATRICK pointed out that he and Mr. URSCHER are disturbed over the action of Judge WALLACE in remanding KATHRYN KELLY and ORA SHANNON for a new trial. He stated that he intended to write a letter to the Director, pointing out that he hoped the Attorney General would proceed with an appeal on Judge WALLACE'S decision, since he felt that KATHRYN KELLY and ORA SHANNON should be back in prison.

I pointed out to Mr. KIRKPATRICK that any decision concerning an appeal is within the purview of the Attorney General. He stated that he understood this, but desired to convey his opinion to the Director in this regard. I pointed out that I was sure the Director would be very happy to hear from Mr. KIRKPATRICK.

As the Bureau is aware, Mr. KIRKPATRICK is a friend of long standing of the Bureau. He recently sent to me the enclosed clipping, which reflects he was rescued from the flood waters of the Frio River in Texas on June 22, 1958. It is suggested that when Mr. KIRKPATRICK'S letter concerning the KELLY-SHANNON matter is received, the Bureau may desire to congratulate him upon his narrow escape from drowning in the Frio River.

CD
(3)

REC-73

Enclosure - 1

REC-73

JUL 10 1958

Let from Kington
received Sunday
7/3/58
SMB/H

F148

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (7-115)

DATE: July 7, 1958

FROM : SAC, KANSAS CITY (7-8)

SUBJECT: GEORGE KELLY BARNES, was.;
ET AL
CHARLES F. URSCHER - VICTIM
KIDNAPING

00 OC

Mr. Tolson	.....
Mr. Boardman	.....
Mr. Belmont	.....
Mr. Mohr	.....
Mr. Nease	.....
Mr. Parsons	.....
Mr. Rosen	.....
Mr. Tamm	.....
Mr. Trotter	.....
Mr. W.C. Sullivan	.....
Tele. Room	.....
Mr. Holloman	.....
Miss Gandy	.....

Re Kansas City airtel to Bureau dated 7/3/58.

On July 5, 1958, [REDACTED] United States Penitentiary, Leavenworth, Kansas, made available to SA [REDACTED] a photostatic copy of a letter from E. E. KIRKPATRICK to C. H. LOONEY, Warden, United States Penitentiary, Leavenworth, regarding HARVEY BAILEY. This letter states as follows:

"KIRK - GREEN - WAY, INC.
Drilling Contractors
1208 Atlas Life Building
Tulsa, Oklahoma

114 East 5th St.
July 1, 1958

"Mr. C. H. Looney, Warden
United States Penitentiary
Leavenworth, Kansas

"Dear Mr. Looney:

"I was tied up in Oklahoma City Federal Court when Kathryn Kelly and her mother had a hearing for a new trial. We were greatly disappointed, but I think the FBI was correct in not surrendering their files.

"I had hoped to get something done soon on Harvey Bailey's case, but will wait and see the outcome of Kathryn's case. Whether it is a new trial or appeal.

"Confidentially, I talked to Gus Jones and [REDACTED] retired FBI agents. and they will sign anything I

All b7C

REC-86

7-115-2471

KC 7-8

want them to in order to help Bailey. I am sure Judge Vaught and Charles Urschel will approve anything I do. You might tell Harve this and tell him I will get on the matter as soon as possible.

"It might be that I will want to come up and see Harve again sometime soon. If so, I will phone you in advance.

"Sincerely yours,

/s/E. E. Kirkpatrick
E. E. Kirkpatrick "

Kansas City will continue to follow this matter and keep the Bureau and the Oklahoma City Office advised of any changes in the status of BAILEY.

July 16, 1958

AIRTEL

EX-124

To SAC, Oklahoma City (7-8)

REC- 55

From Director, FBI (7-115)-2477

**GEORGE KELLY BARNES, WAS., ET AL.; CHARLES F. URSCHEL - VICTIM;
KIDNAPING.**

Re Kansas City letter 7/7/58.

You should continue to be alert to this correspondence so as to be fully aware of Kirkpatrick's activities. Bear in mind for whatever probative value it may have and advise if any action taken. Refer Kansas City letter 11/15/57, relating to previous correspondence between Kirkpatrick and the warden, Leavenworth Penitentiary.

1 - Kansas City (7-8)

NOTE: Kansas City has been covering Bailey's correspondence at Leavenworth. In November, 1957, Bailey's file showed a letter from Kirkpatrick in which he (Kirkpatrick) thanked the warden for cooperation in his (Kirkpatrick's) last visit with Bailey. Also present with Kirkpatrick were [redacted] attorney, and [redacted] Oklahoma. [redacted] and Kirkpatrick were trying to obtain the release of Bailey on parole. The file contained a note dated 10/29/57, regarding above visit and the fact that the question of how Bailey would support himself on release was raised. Kirkpatrick suggested Bailey furnish enough information from his escapades so Kirkpatrick could write a book, with Bailey to receive the income.

(5)
Tolson _____
Boardman _____
Belmont _____
Mohr _____
Nease _____
Parsons _____
Rosen _____
Tamm _____
Trotter _____
Clayton _____



All b7C

F B I

Date: July 3, 1958

Transmit the following in A I R T E L
(Type in plain text or code)Via A I R M A I L
(Priority or Method of Mailing)

TO: DIRECTOR, FBI

FROM: SAC, KANSAS CITY

RE: GEORGE KELLY BARNES, was.,
ET AL;
CHARLES F. URSCHER - VICTIM
KIDNAPING

(Origin - Oklahoma City)

Reference Kansas City letter to the Bureau 6-30-58.

On 7-3-58, [REDACTED] U. S. Penitentiary, Leavenworth, Kansas, made available to Special Agent [REDACTED] photostatic copy of a letter dated July 1, 1958, from Mr. JAMES J. LAUGHLIN, Attorney, Washington, D. C., to Mr. C. H. LOONEY, Warden, U. S. Penitentiary, Leavenworth, Kansas; a letter dated July 1, 1958, from LAUGHLIN to HARVEY BAILEY, U. S. Penitentiary and a copy of the affidavit of HARVEY BAILEY entitled, "In the United States District Court for the Western District of Oklahoma, United States of America v. Harvey Bailey, Criminal No. 10478."

One photostatic copy of each of these documents is being forwarded both to the Bureau and the Oklahoma City Office for any action deemed advisable by them.

Warden C. H. LOONEY, U. S. Penitentiary, Leavenworth advised Special Agent [REDACTED] on 7-3-58, that LAUGHLIN is now the attorney of record for HARVEY BAILEY in connection with his attempt to have his sentence set aside. Mr. LOONEY advised that Attorney JOSEPH N. MINIACK, Kansas City, Missouri, continues to be the attorney of record for BAILEY in connection with BAILEY's attempt to obtain a parole.

3-Bureau (7-115) (Encls. 3)
1-Oklahoma City (7-6) (Encls. 3)
2-Kansas City (7-8)

Approved: [REDACTED]

Sent

M

Per

Special Agent in Charge

60 JUL 16 1958

All b7C

7-115

F B I

Date: **July 3, 1958**Transmit the following in _____
(Type in plain text or code)Via _____
(Priority or Method of Mailing)**KC 7-8**

The Kansas City Office will continue to follow this matter closely and advise the Bureau of any changes in BAILEY's status.

FELT**2.**

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

JAMES J. LAUGHLIN
ATTORNEY AND COUNSELLOR AT LAW
NATIONAL PRESS BUILDING
WASHINGTON, D. C.
NATIONAL 8-2001

Mr. Harry Bailey
F. I. Penitentiary
Topeka, Kansas

Dear Harry:

I appreciate your letter. While it has always been my policy never to embark into the field of litigation unless satisfactory financial arrangements are made, I am willing to make an exception in your case. Accordingly I am enclosing an affidavit. Will you please execute this before a Notary and return to me in the self-addressed Air Mail envelope attached herewith. I am sure you will realize speed is an important element and in order to expedite the matter I have written the Warden asking him to permit you to have this notarized and return to me promptly. I feel sure that the Warden will cooperate in this respect.

Within the next day or two I will prepare a motion to vacate and set aside your judgment of conviction. At the same time I will ask the United States District Court for the Western District of Oklahoma to issue a writ of habeas corpus ad testificandum permitting your appearance in the Court in Oklahoma City. I will be there. I feel sure that at the conclusion of your hearing you will be released.

In the meantime I would appreciate a frank, candid statement from you as to the resources you now have on hand and what you can perhaps do in the future. I am sure you realize it is rather expensive to proceed to Oklahoma City and I want you to give consideration to this. However, I would never permit a man to remain in prison for the lack of financial means -- if I can avoid it.

When you reply to this letter I am sure if you will notify Mr. Looney, the Warden, he will permit you to send it to me promptly by Air Mail. Speed is essential in your case because I am of the positive opinion that your conviction is unlawful, unjust and unconstitutional and you should be released forthwith.

With all good wishes, I am

Sincerely yours,

James J. Laughlin

Inclosures

JAMES J. LAUGHLIN
ATTORNEY AND COUNSELLOR AT LAW
NATIONAL PRESS BUILDING
WASHINGTON, D. C.

NATIONAL 8-2001

July 1, 1958

AIR MAIL

Mr. C. H. Looney
Warden
U. S. Penitentiary
Leavenworth, Kansas

Dear Mr. Looney:

I wish to thank you for your letter enclosing letter from Harvey Bailey.

This man's case makes a strong appeal to me since I have only recently returned from Oklahoma where I was successful in upsetting the convictions of Mrs. Kelly and Mrs. Shannon. The same points would apply to Harvey Bailey. I might say that my good friend Mr. Bennett is conversant with what went on in Oklahoma City.

It will be impossible for me to execute the papers you enclosed with your letter because I do not know what resources Mr. Bailey has at his disposal. If you could inform me as to this I would appreciate it very much indeed.

In the meantime, if it meets with your approval, I will be very grateful to you if you will deliver to him the enclosed letter and affidavit. I will appreciate it very much indeed if you will permit Bailey to have this affidavit notarized and return to me in the self-addressed envelope.

Thanking you for your kindness in permitting Bailey to write to me and with all good wishes, I am

Sincerely yours,

James J. Laughlin
James J. Laughlin

Enclosures
JJL:lk

*Parole
Officer
Let me know
when reply is made
C.H.*

NOTED
JUL 3 1958
C. H. LOONEY

NOTED
JUL 3 1958
C. H. LOONEY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA

Criminal No. 10478

HARVEY BAILEY

AFFIDAVIT OF HARVEY BAILEY

Harvey Bailey, being first duly sworn on oath, deposes and says unto the Court that his constitutional rights were violated at his trial and therefore the Court could not proceed to judgment and therefore it followed that the conviction and sentence imposed are null and void and that he should forthwith be granted a new trial.

Affiant says that his constitutional rights were violated in many particulars and as to the main ones he lists them as follows:

1. Counsel was not given ample time to prepare for his defense and affiant was not given an opportunity in fact to confer privately with his counsel. Affiant says that furthermore he was denied effective assistance of counsel in that all attorneys were being investigated and interrogated by Agents of the Federal Bureau of Investigation and other persons, in addition to counsel, were being interrogated and investigated with respect to counsel. Affiant says that one attorney was indicted and sent to prison. Another attorney was indicted but acquitted. Affiant attorney, therefore, was in fear of a criminal indictment, embarrassment and humiliation and as a result thereof was afraid through such fear to properly represent the affiant.

2. Affiant was hurried to trial in an atmosphere of feeling, passion and prejudice. The feeling against affiant and others was at fever pitch. When the trial got under way it was not possible to enter the courtroom without spectators being searched. In fact no one could enter the courtroom unless there was a pass signed by the trial judge. This denied affiant a

public trial, contrary to Davis v. United States, 27 F. 304, and Gaines v. Washington, 277 U.S. 81. Affiant says further that photographers were given free rein in the courtroom and newsreel cameras clicked merrily. The popping of flashlight bulbs and the clicking of the newsreel cameras distracted from the orderly course of the trial and worked to the prejudice of affiant. Affiant says further that machine guns were stationed at every entrance of the courtroom. He further says that he was brought into the courtroom handcuffed and manacled, all this to his prejudice.

3. Affiant says further that there was constant quarreling and bickering between the then United States Attorney Mr. Hyde and the Assistant Attorney General Mr. Keenan who was sent from Washington to conduct the case. Affiant says that when Mr. Keenan arrived in Oklahoma City for the trial he told Mr. Hyde that he was unceremoniously fired. Affiant says Mr. Hyde refused to stay fired and pulled wires and exerted political influence with certain persons in Washington to permit him to stay on the job. Affiant says this unholy spectacle detracted from the orderly conduct of the trial and since there was divided authority and petty jealousy existing between Mr. Hyde and Mr. Keenan there was no one in authority to ease the affiant's method of confinement.

4. Affiant says that he had nothing to do with the kidnapping but that Mr. Hyde and Mr. Keenan put on the witness stand a telephone operator who was forced against her will to reveal an intercepted message although Mr. Hyde and Mr. Keenan knew this to be a violation of the law and insisted that the operator give false testimony which they knew to be false.

5. Affiant says further with respect to his constitutional rights the attorney representing him in fact was serving the interests of other defendants and there was a conflict in interest.

within the meaning of Glasser v. United States, 315 U.S. 457.

HARVEY BAILEY

Subscribed and sworn to before me
this ____ day of July, 1958.

Notary Public

FEDERAL BUREAU OF INVESTIGATION

Reporting Office OKLAHOMA CITY	Office of Origin OKLAHOMA CITY	Date 7/11/58	Investigative Period 6/6,9-18,23,24,25,27,30/58
TITLE OF CASE GEORGE KELLY BARNES, was., et al; CHARLES F. URSCHER - VICTIM		Report made by [REDACTED] b7C	Typed By: [REDACTED]
		CHARACTER OF CASE KIDNAPING	

Synopsis:

Motions were filed by ORA L. SHANNON and KATHRYN THORNE KELLY to vacate their life sentences imposed in 1933. Hearing held under Title 28, Section 2255 USC, 6/9-16/58 at Oklahoma City, Okla. Testimony heard by U.S. District Judge WILLIAM R. WALLACE included allegation that attorneys representing the defendants could not properly represent their clients in 1933 during the two trials because they were under investigation by the FBI. This testimony refuted by HERBERT K. HYDE, who was U.S. Attorney and prosecuted the cases in 1933; JAMES H. MATHERS, who represented HARVEY BAILEY in the first trial and KATHRYN THORNE KELLY in the second trial; and by Mr. J. B. DUDLEY, who represented a group of Minneapolis defendants in the first trial. On 6/12/58 the Court ruled that testimony concerning investigation of the defense attorneys was a critical point and requested testimony from the present U.S. Attorney or a representative of the FBI denying the allegation. As an alternative the Court ruled that Bureau reports be furnished for inspection by the Court. A delay was requested by the U.S. Attorney, which was granted; on 6/16/58 Judge WALLACE ordered all files and reports of the FBI, pertaining to all prosecutions arising out of the

DISPOSITION MUST BE DETACHED
AND HANDLED SEPARATELY

Approved [Signature]	Special Agent In Charge	Do not write in spaces below	
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		JUL 15 1958	

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Synopsis (continued):

kidnaping of CHARLES F. URSCHER in 1933, be delivered to the Court for examination. The Court also ordered U.S. Attorney PAUL CRESS to deliver the files to him in open court on 6/16/58 or the Court would sustain the motions for new trials. The files were not delivered as ordered and the motions for new trials were sustained. ORA L. SHANNON and KATHRYN THORNE KELLY were released 6/16/58 on \$10,000.00 bond each. USA, Oklahoma City, has ordered copies of transcript of this hearing in contemplation of appeal to the Tenth Circuit Court of Appeals. Disposition sheets submitted.

- P -

DETAILS: AT OKLAHOMA CITY, OKLAHOMA

SA [REDACTED] ^{b7C} was seated at the counsel table during the course of the hearing.

The following motions were filed by attorney JAMES J. LAUGHLIN with the U.S. District Court Clerk, Oklahoma City, Oklahoma.

"IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA	:	
	:	
vs.	:	Criminal No. 10478
	:	
ORA L. SHANNON	:	

MOTION TO VACATE AND SET ASIDE JUDGMENT OF CONVICTION

"Now comes Ora L. Shannon, defendant, and says that she invokes the jurisdiction of this Court pursuant to Section 2255 of the New Judicial Code. She says that at her trial her constitutional rights were violated and as a result of the violation the Court was without power to proceed to judgment and the resulting conviction and sentence that followed were null and void and that she is entitled to a new trial. The following are the grounds:

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"1. Her constitutional rights were violated in that she did not have adequate assistance of counsel in that counsel were fearful to properly defend her due to a threat of a criminal prosecution and that in other respects the counsel were serving conflicting interests to the end that the protection of the Sixth Amendment was lost.

"2. The prosecuting officials presented testimony that was false and known by the prosecuting attorneys to be false.

"3. The defendant was denied compulsory service of process.

"4. The atmosphere in the courtroom prevented a fair and impartial trial due to the feeling that had been engendered as a result of the publicity given the case by agencies of the Government.

"5. Defendant's constitutional rights were violated in other respects that will be brought to the attention of the Court when this motion is argued.

"Counsel says there is annexed hereto and made a part hereof affidavit of defendant setting forth in detail the various aspects of the violation of her constitutional rights as contended by her.

/s/ James J. Laughlin
James J. Laughlin
National Press Building
Washington, D. C.
Counsel for Defendant

CERTIFICATE OF SERVICE

"I hereby certify that a copy of the foregoing Motion to Vacate and Set Aside Judgment of Conviction has this ____ day of March, 1958 been delivered to the Office of the United States Attorney.

/s/ James J. Laughlin
James J. Laughlin "

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"IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA :
v. : Criminal No. 10478
ORA L. SHANNON :

AFFIDAVIT OF ORA L. SHANNON

"Ora L. Shannon, being first duly sworn on oath, deposes and says unto the Court that her constitutional rights were violated at her trial and therefore the Court could not proceed to judgment and therefore it followed that the conviction and sentence imposed are null and void and that she should forthwith be granted a new trial.

"Affiant says that her constitutional rights were violated in many particulars and as to the main ones she lists them as follows:

"1 Affiant says that she was denied effective assistance of counsel. That she at all times maintained that she knew nothing of the kidnaping, had no part in it and was in nowise connected with it. She says that she was not given an opportunity to talk with counsel before trial and that there was a conflict of interest in violation of Glasser V. United States, 315 U.S. 457, in that counsel was receiving no compensation from affiant but was receiving compensation from others and that his energies were directed toward the representation of other persons. Affiant says further that the attorneys were intimidated and coerced in that all lawyers having any participation, direct or indirect, large or small, with the Urschel case were subjected to merciless interrogation by the Federal Bureau of Investigation and there always loomed large the danger of criminal prosecution. In fact one lawyer was convicted and sentenced to prison and another lawyer was indicted and forced to stand trial and that every attorney was forced to reveal the source of his legal fee. Affiant says that on account of these threats and coercions the attorney was afraid to make a vigorous defense on behalf of affiant and

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"2. Affiant says that her trial was conducted in a circus-like atmosphere. Affiant says that dozens and dozens of FBI agents were present day by day during the trial and that cameras and newsreel devices were physically present in the courtroom and there was a constant flashing of lights and bulbs during the course of the trial which was disturbing and distracting to witnesses and all of this placed the affiant in the role of a circus star-performer.

"As to this circus atmosphere-in the courtroom, affiant desires to point out that advance publicity had been given out by the FBI and that several streets were blocked off -- in fact roped off -- and traffic was not permitted within three blocks of the courtroom. The only ones permitted access to the Court House were motorcycles and automobiles containing law enforcement officers. Affiant says that perhaps 40 FBI men surrounded the Court House with shotguns and machine guns and were even standing on the running board of cars. Affiant says she was in a bullet-proof car, heavily guarded, and that all along the street were news boys with extra editions of papers with flaming headlines as to the Urschel kidnaping. People were looking out windows, standing on parked cars, standing on house tops and many persons climbed telephone poles and women held small babies to watch the passing parade. Affiant says that the jam at the Court House was so great that it was very difficult for the law enforcement officers to force their way into the Court House. Affiant says that the courtroom was jammed from the opening of the trial to the closing and that people would bring their lunch.

"3. A relative of the Urschel family was permitted to sit at the trial table which worked to the distinct prejudice against the affiant and prevented her from selecting a fair and impartial jury. Affiant was not given an opportunity to select a fair and impartial jury in that Mr. E. E. Kirkpatrick who was a man of great wealth and a brother-in-law of the victim was permitted to sit at the trial table and confer with the prosecuting officials as to the selection of a jury.

"4. Affiant did not receive a fair and impartial trial. Affiant desires to point out that when her trial was in progress the defendant George Kelly was still at large, having not yet

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been apprehended. The papers were full of news articles detailing the activities of the Federal Bureau of Investigation in the search for Kelly and fully exploited and embellished Kelly's past illicit activities. All of this worked to the prejudice of the affiant and prevented a fair and impartial trial.

"5. Affiant says that Mr. Keenan, who was in charge of the prosecution, used false testimony and the testimony was known by Mr. Keenan to be false. Affiant says that her constitutional rights were violated in that Mr. Keenan placed on the witness stand a telephone operator who testified that she had listened to certain conversations of affiant. She particularly recited one conversation where George Kelly had called from a distance and stated that his car had broken down and that he had requested Mr. Shannon to wire him a sum of money (\$400). Affiant says that Mr. Shannon was busy on the farm and directed affiant to proceed to Bridgeport and cash Mr. Shannon's check for \$400 and wire this to Kelly in order that his car could be repaired. Affiant says that the operator at her trial related this conversation and that she in fact had nothing to do with any transactions between Mr. Shannon and George Kelly but Keenan had the operator relay it in such a manner as to give the impression that the affiant was conversant with the whole matter and was a willing partner in the illicit activity. Affiant says that the same operator related other conversations that affiant had over the telephone with various persons and that these conversations brought about her conviction.

"6. Affiant was the victim of false testimony offered by Mr. Keenan and known by Keenan to be false. Affiant says that she had nothing to do with the kidnaping. She had nothing to do with the placing of Urschel on the Shannon farm and that actually her only participation in the case had to do with cooking a chicken dinner for Urschel.

"Affiant says to the Court that on August 12, 1933 she was awakened by loud talking near her bedroom of their farm home located in Paradise, Texas. She says there were 30 to 50 FBI agents there and that they arrested her, her husband and one Harvey Bailey. Affiant says that the FBI men entered

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the home and practically tore it apart and all of them were shouting, 'Where is that money'. Affiant says that this was the first contact she had ever had with the FBI agents and never at any time had she been arrested in her life. She says that one of the agents ran up to her with a drawn pistol shouting, 'I ought to shoot your guts out!'. Affiant says she was not permitted to talk to her children. Affiant says that she was rushed to the Dallas, Texas jail. She says that she was questioned throughout the afternoon. She was told that unless she made a full and complete confession that her children would be sent away and she would never see them again. She says that she asked that she be given an opportunity to get an attorney and she was advised that she could have no attorney until she had made a full and complete confession. Affiant says that she was told by the agents of the FBI that she would be questioned constantly and not given any food and drink until she signed a statement. She says the statement was prepared by the agents of the FBI and she signed it without reading it. She says she only signed it to prevent further interrogation and in order to get food and drink.

"7. Statement signed by affiant was obtained under duress and coercion. Affiant says that she was compelled to give testimony against herself and that the statement signed by her was obtained under duress and that this was known to Mr. Keenan, the prosecuting official, and that this fact was suppressed by the prosecuting officials and that the attorneys in the case, fearful of a criminal indictment, were afraid to properly attack the validity of the written statement.

"Affiant says that she has read this affidavit with care, that what she states as facts are true and what she states on information and belief she believes to be true. She asks that there be a full and complete hearing and with this done she says that it will be shown that at her trial her constitutional rights were violated and the Court was powerless to proceed to judgment and accordingly the judgment and sentence were void and that she should be awarded a new trial.

/s/ Ora L. Shannon
ORA L. SHANNON

Subscribed and sworn to before me this 10 day of March, 1958.

(SEAL) /s/ Laura L. Lehman

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"IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITED STATES OF AMERICA :
vs. : Criminal No. 10478
KATHRYN THORNE KELLY :

"MOTION TO VACATE AND SET ASIDE JUDGMENT OF CONVICTION

"Now comes Kathryn Thorne Kelly, defendant, and says that she invokes the jurisdiction of this Court pursuant to Section 2255 of the New Judicial Code. She says that at her trial her constitutional rights were violated and as a result of the violation the Court was without power to proceed to judgment and the resulting conviction and sentence that followed were null and void and that she is entitled to a new trial. The following are the grounds:

"1. Her constitutional rights were violated in that she did not have adequate assistance of counsel in that counsel were fearful to properly defend her due to a threat of a criminal prosecution and that in other respects the counsel were serving conflicting interests to the end that the protection of the Sixth Amendment was lost.

"2. The prosecuting officials presented testimony that was false and known by the prosecuting attorneys to be false.

"3. The defendant was denied compulsory service of process.

"4. The atmosphere in the courtroom prevented a fair and impartial trial due to the feeling that had been engendered as a result of the publicity given the case by agencies of the Government.

"5. Defendant's constitutional rights were violated in other respects that will be brought to the attention of the Court when this motion is argued.

"Counsel says there is annexed hereto and made a part hereof affidavit of defendant setting forth in detail the various