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FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2012 FEB 13 AM 11:06

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON
DIVISION ONE

STATE OF WASHINGTON
Respondent,

v.

DAWUD HALISI MALIK, F/k/a
DAVID W. RIGGINS,
Appellant.

Case No.: 67462-5-I

STATEMENT OF ADDITIONAL
GROUNDS FOR REVIEW

I, Dawud Halisi Malik, F/k/a David W. Riggins, have received and reviewed the opening brief prepared by my attorney, Mr. David B. Koch. Summarized below are the additional grounds for review that are not addressed in the brief. I understand the Court will review this Statement of Additional Grounds for review when my appeal is considered on the merits.

Additional Ground 1

Whether appellant was deprived of his Fourteenth Amendment Due Process when the State withheld And destroyed material exculpatory evidence to wit: Hair samples; soil from appellant's shoes and cloth- Worn by appellant when he was arrested, has been Destroyed?

Mr. Malik's trial counsel provided the Court with a motion to produce reports and statements of State's witnesses and evidence gathered in this case. CP 43-48. (see

Appendix). The motion was denied. Government suppression of material exculpatory evidence violates due process. *Brady v. Maryland*, 373 U.S. 83, 87 S. Ct. 1194 (1963). The Fourteenth Amendment demands that the State preserve potentially material exculpatory evidence on behalf of the defendants.

The duty to preserve evidence whose exculpatory value was apparent before its destruction and that is of such nature that the defendant cannot obtain comparable evidence from other sources. The constitutional requirement of due process imposes a duty on the State to disclose and preserve material exculpatory evidence to the defense. *State v. Wittenbarger*, 124 Wn. 2d 467 (1994), “Suppression by the State of evidence that is favorable to the defendant violates due process if the evidence is material either to guilt or punishment”. *Brady*.

The State’s failure to preserve material exculpatory evidence requires dismissal of the charges against the defendant. *State v. Copeland*, 130 Wn. 244 (1996). Mr. Malik can demonstrate and show bad faith by the State through the process that (1); the police and the prosecutor’s office did not have the authority to have the material exculpatory evidence destroyed. (2); there is no exception to the prosecution’s duty to preserve evidence favorable to an accused and the effect of the destruction of such evidence is unaffected by the prosecution’s good faith, administrative inconvenience, or the absence. (3); The prosecution has a duty in protecting the truth-finding process not only to disclose favorable evidence to an accused but also to preserve such evidence prior to any request for discovery. *State v. Wright*, 87 Wn. 2d 783 (1976); *United States v. Perry*, 471 F.2d 1057,1063 (D.C. Cir 1972).

Due Process imposes certain obligations on law enforcement and investigatory agencies to ensure every criminal trial is a “search for truth, not an adversary game”. Under the rule governing suppression of evidence the circumstances surrounding the nondisclosure, including the motivation of the party responsible for the suppression, are irrelevant.

In the instance case, Mr. Malik’s trial counsel requested the prosecution and the State to produce reports and statements and evidence gathered in this case. RP 43-48. The prosecution failed to render the FBI Report and the Seattle Police Department Report. (See Appendix). That revealed witnesses who actually observed the shooting in the Hutton case. The FBI forensic Report that showed the hair sample did not match Mr. Malik’s characteristics; nor did the soil found on Mlaik’s shoes match the soil found around the Krimsky’s resident. Had the jury had the opportunity to hear these facts the outcome of the trial would have been different.

Mr Malik have been denied a fair trial and afforded an opportunity to present a complete defense. Under the due process of the Fourteenth Amendment, criminal prosecutions must comport with the prevailing notions of fundamental fairness, the courts have long interpreted this standard of fairness to require that criminal defendants be afforded a meaningful opportunity to present a complete defense. To safeguard that right, the court has developed “what might loosely be called the area of constitutionally guaranteed access to evidence”. *United States v. Valenzuela-Barnal*, 458 U.S. 858, 867 (1982).

Judge Bradshaw erred by not holding an evidentiary hearing into the matter of the destroyed material exculpatory evidence that Mr. Malik requested DNA testing. He

ruled that the material exculpatory evidence had been destroyed therefore the request for DNA testing is denied because there is nothing to test. (See Appendix).

Mr. Malik submitted another motion for reconsideration asking Judge Bradshaw to hold an evidentiary hearing to determine when the exculpatory material evidence was destroyed. Because Malik was never notified or given the opportunity to have the exculpatory material evidence preserved. Washington v. Wright, 87 Wn. 2d 783 (1976), the Supreme Court stated, “under the strange circumstances of this case, the destruction of the evidence deprived defendant of a fair trial. Obviously, for the same reason, it will never be possible for the defendant to have a fair trial. Under such circumstances it is a real substantial reason and not a technicality that requires reversal. He urges reversal of his conviction on several grounds, including a claimed violation of due process by the destruction of numerous items of material evidence prior to trial. The destruction was undertaken by or at the direction of officers investigating the crime without consent of appellant or the Superior Court. Finding a serious breach of appellant’s due process rights we must reverse the conviction and dismiss the charges.”

Thus, where, as here as in Wright, the State intentionally destroyed evidence without giving notice thereof to the defense or appellant’s consent, a court’s review must be sensitive to any potential deprivation of due process rights. The Wright court defined the standard appropriate for assessing sanctions in cases involving either the suppression or destruction of evidence.

GROUND II

**Did Judge Bradshaw erred or abused his discretion
When he failed to hold an evidentiary hearing?**

On February 15, 2010, Malik filed his first motion for DNA testing, 7.8 motion under RCW Statute 10.73.170(3). (See Appendix). On May 25, 2010, Malik filed his second 7.8 motion requesting DNA Testing and motion for Production of Exculpatory Evidence. On October 28, 2010, Malik filed a writ of Mandamus and Affidavit In Support thereof requesting DNA testing, because appellant was being denied his day in court by the long delay of the Superior Court Judge not following the Washington State Constitution Article 4 & 20 and RCW 2.08.010; RCW 2.08.240.

In accordance Rule CrR 7.8(c),(2) & (3), the Superior Court Judge abused its discretion by failing to hold an evidentiary hearing to determine the facts whether the material exculpatory evidence had been destroyed as stated by the prosecution's. In both instances Judge Bradshaw abused its discretion when he failed to adhere to CrR 7.8 (c) (2) *Transfer to Court of Appeals*; (3) *Order to show cause*. " If the court does not transfer the motion to the Court of Appeals, it shall enter an order fixing a time and place for hearing and directing the adverse party to appear and show cause why the relief asked for should not be granted."

The questions remain (1) when was the court directive issued for the evidence to be destroyed?; (2) Where is the court order?; (3) What Superior Court issued the order?; and (4) Why did the judge failed to notify Malik for his consent or given the opportunity to oppose such an order and have the evidence preserved?

A court abuses its discretion when an "order is manifestly unreasonable or based on untenable grounds." *Wash. State Physicians Ins. Exch. of Ass'n v. Fisons Corp.*, 122 Wn. 2d 299, 339, 858 P. 2d 1054 (1993). A discretionary decision "is based 'on untenable grounds' or made for untenable reasons' if it rests on facts unsupported in the

record or was reached by applying the wrong legal standard.” State v. Rohrich, 149 Wn. 2d 647, 654, 71 P. 3d 638 (2003).

Judge Bradshaw erred in denying Malik’s request for DNA testing pursuant to RCW 10.73.170 and Rule 7.8 (c),(2) &(3), in light of the requested items allegedly being destroyed by the state without procedural Due Process deserves an evidentiary hearing to ascertain and determine the facts behind their destruction. CrRLJ 4.7 lists the information and items the prosecutor must provide the defense. The most important of these include the following: (1), (2), (3), (4), (5) and (6).

The prosecution duty to disclose this information continues throughout the case. Rule 7.04 State’s Duty To Preserve Evidence. A defendant due process rights are violated when the State destroys or loses material exculpatory evidence. State v. Wittenbarger, 124 Wn. 2d 467, 880 P. 2d 517 (1994) citing California v. Trombetta, 467 U.S. 479 (1984); State v. Straka, 116 Wn. 2d 859 P. 2d 888 (1991); State v. Burden, 104 Wn. App. 507, P. 3d 211 (2001); see Brady v. Maryland, 373 U.S. > 83, 83 S.Ct. 1194 (1963). The State’s duty to preserve material exculpatory evidence follows upon the state’s duty to provide material exculpatory evidence. 17.03 provide that failure to provide exculpatory or mitigating information violates due process.

The Due Process Clause of the United States Constitution requires the government to provide the defendant favorable evidence material to guilt or punishment. This evidence must be provided whether or not the defendant has requested the information. Favorable evidence includes both exculpatory evidence. United States v. Agurs, 427 U.S. 97, 96 S.Ct. 2392 (1976); Giglio v. United States, 405 U.S. 150,154, 92 S.Ct. 763 (1972); United States v. Bagley, 473 U.S. 667, 105 S. Ct. 3375 (1985).

The hair samples and soil sample that was tested by the FBI forensic laboratory in June 1966, was material exculpatory evidence that was favorable to Malik which was suppressed and destroyed by the State. The forensic examination that was performed by the FBI had already shown that none of the characteristics matched Malik's characteristics. This information was suppressed and withheld by the State until 1998. Thirty two years after Malik's trial. The jury was deprived of hearing this favorable material exculpatory evidence and Malik was denied a fair trial.

The State's misconduct need not be of an evil or dishonest nature; simple mismanagement will do. *State v. Sherman*, 59 Wn.App. 763,801, P.2d 274 (1989). The remedies available for such misconduct under Washington Court Rules, CrR 8.3 allows dismissal only when there has been prejudice to the rights of the accused which materially affect the right to a fair trial, which is the case herein Malik's.

Grounds III

Judge Bradshaw erred when he failed to conduct An evidentiary hearing to examine and determine Whether the State had destroyed the material ex- culpatory evidence?

It was not until December 9, 2010, that Malik discovered through the Prosecuting Attorney Ms. Ann Summers Supplemental Response to Malik's Request for DNA testing that the material exculpatory evidence he requested to be tested had allegedly been destroyed. There is no substantial record(s) of any kind that supports the fact of the material exculpatory evidence has been destroyed.

Judge Bradshaw erred by ^{not} holding an evidentiary hearing to examine the circumstances of the destruction of the material exculpatory evidence. Just because the

prosecutions asserts the material exculpatory evidence has been destroyed does not substantiate or prove that it was destroyed.

At the very least this Court should order an evidentiary hearing to answer the above questions and establish a record to these important pertinent questions, of due process regarding the DNA testing to determine when, who, why, where, and how the exculpatory material evidence was destroyed. For certain the procedural process was not adhered to or followed by the person(s) who destroyed the material exculpatory evidence which the jury never had the opportunity to see or hear.

In essence Judge Bradshaw made a decision/finding without holding an evidentiary hearing... such finding clearly result in an unreasonable determination of the facts. *Earp v. Ornoski*, 431 F. #d 1158,1166-67 (9th Cir. 2005).

Malik is entitled to an evidentiary hearing if he (1) alleges facts, which, if proven, would entitle him to relief; and (2) show[s] that he did not receive a full and fair hearing in state court either at trial or in collateral proceeding. *Alberni v. McDaniel*, 458 F. 3d 860,873 (9th Cir. 2006).

As to evidence in the prosecution's possession, the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution. *Brady v. Maryland*, 373 U.S. 83, 87 S. Ct. 1194 (1963) Even when no request has been made, the prosecution must provide defense counsel with exculpatory evidence if it is "material [i.e.,]... if the omitted evidence creates a reasonable doubt that did not otherwise exist..." *United States v. Agurs*, 427 U.S. 97 112, 96 S.Ct. 2392 (1976). Materiality requires "a reasonable probability that, had the

evidence been disclosed to the defense, the result of the proceeding would have been different. A 'reasonable probability' is a probability sufficient to undermine confidence in the outcome." United States v. Bagley, 473 U.S. 667,682, 105 S.Ct. 3375 (1985).

The material exculpatory evidence value was apparent before the evidence was destroyed and was of such a nature that Malik would be unable to obtain comparable evidence by other reasonable available means. California v. Trombetta, 467 U.S. 479,488-89, 104 S. Ct. 2528 (1984).

CONCLUSION

Malik's case should be remanded for an evidentiary hearing or the charges should be dismissed for the State's failure to follow the procedural rules before destroying the apparent favorable exculpatory evidence.

DATED this 9th day of February, 2012.

Respectfully submitted,

Dawud Halisi Malik, F/k/a
David W. Riggins #622989
Coyote Ridge Correction Center
P.O. Box 769 (E-A-40L)
Connell, Washington 99362

Appendix

EXHIBIT 1

REPORT
of theFEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D. C.

To: Mr. F. C. Ramon
Chief of Police
Seattle, Washington 98104

June 20, 1966

Airmail

Attention: Mr. A. A. Kretchmar
Detective Division Chief

This examination has been made with the understanding that the evidence is connected with an official investigation of a criminal matter and that the Laboratory report will be used for official purposes only, related to the investigation or a subsequent criminal prosecution. Authorization cannot be granted for the use of the Laboratory report in connection with a civil proceeding.

Re: DAVID WASHINGTON RIGGINS AND
LEODIS SMITH, SUSPECTS;
REVA KRIMSKY, VICTIM;
HOMICIDE - ROBBERY

J. Edgar Hoover
John Edgar Hoover, Director

YOUR NO. 66-14960
FBI FILE NO. 95-130571
LAB. NO. PC-92828 KS JV
PC-92908 JV

Examination requested by: Addressee

Reference: Letters 5-31-66 and 6-1-66

Examination requested: Microscopic

Specimens: received 6-7-66 (PC-92828 KS JV)

Q1 - Q2 Shoes
Q3 - Q4 Shoes

K1 - K2 Slippers
K3 Soil from north side of flower bed
K4 Soil from left of doorway
K5 Soil 2' from house
K6 Soil from near sidewalk

Specimens received 6-10-66 (PC-92908 JV)

Q5 Comb
Q6 Brush

Results of examination:

The soil from the Q1 through Q4 shoes is different from specimens K3 through K6 in physical characteristics and composition. Therefore, the soil from the shoes did not

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POLICE DEPARTMENT IN RESPONSE TO YOUR
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TIONS MADE ARE PURSUANT TO CH. 12.17 OF
THE R.C.W. OR OTHER APPLICABLE LAW.

TO: *Schattauer*
DATE: *1-18-98* SERIAL # *2700*

come from the spots represented by specimens K3 through K6.

No hairs were found on the Q1 through Q4 shoes that could be associated with the hairs removed from the Q6 brush. No hairs were on Q5. The "gray hairs" referred to in your letter of June 1, 1966, as being on the shoes were identified as white woolen fibers.

The K1 and K2 slippers are composed of various shades of blue lustrous and delustered orlon fibers.

The tuft of fibers removed from the Q1 shoe consists of various shades of delustered viscose fibers and blue woolen fibers. The fibers from Q1 could not, therefore, be associated with the K1 and K2 slippers.

The evidence is being returned under separate cover by registered mail.

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TO: Schattauer
DATE: 1-18-98 SERIAL #: 270

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PC-92828 KS

EXHIBIT 2

1 first. The assault first is charged with assault
2 in the commission of the crime of robbery. The murders
3 are charged as being connected with the robbery or occur-
4 ring in the commission of the robberies.

5 I do not see how you can distinguish the
6 two cases, this case and the Winters case.

7 The question of whether it is prejudicial
8 to the defendants: It's prejudicial to the defendants
9 to file one count against them. Certainly each
10 additional one jeopardizes them, their ultimate freedom,
11 possibly their lives, to some additional extent.

12 The question is whether it becomes unreasonable to
13 charge this number of counts, the seven counts arising
14 out of the four different occasions or incidents.

15 I do not think that I can say that it does. I do not
16 think this is unreasonable. I think that much of
17 the evidence that would be admitted, if you separated
18 these into four separate trials, you would be
19 introducing in each of the trials almost identical
20 evidence throughout with the exception that if you
21 had to try the Ohlinger robbery alone, then you
22 probably would not be permitted to introduce anything
23 relative to the assaults or the murders.

24 If that is true then joining them together
25 would not add or detract in any respect.

26 The motion to strike and the motion to
27 demur to the Information will be denied.

28 MR. SOUKUP: Thank you, your Honor.

29 THE COURT: With regard to the additional
30 motions which counsel has indicated that he is going to

1 Amendment to the United States Constitution in view of
2 the fact that there had not been a preliminary hearing
3 as there are in the great majority of other criminal
4 cases. I would urge that as an additional ground that
5 should lead to your Honor to grant the motion.

6 THE COURT: Is there anything further on the
7 motion to produce?

8 MR. EGGER: We might as well handle it all
9 at the same time, your Honor.

10 The defendant Riggins has a motion to
11 produce the autopsy reports and the statements of the
12 State's witnesses, whatever they might be. I will, of
13 course, join counsel in his arguments and save a little
14 time here. I think this, that the courts are more and
15 more getting more precise and away from the trial by
16 ambush, so to speak. There is no question about the
17 law in its present state that it is still discretionary
18 with the Court but I think one of the later decisions..
19 as cited in the State's opposing brief that they are
20 not going to just close their eyes to this thing and
21 they are not ruling out the possibility that there may
22 be a right here; I think they have to take into
23 consideration his financial ability and the circumstances
24 under which the individual is operating. I think here
25 you have already one indigent person and we are asking
26 for a declaration of indigency today for Mr. Riggins;
27 that this is an important factor, the fact they don't
28 have funds to hire an investigator to go out and run
29 these matters down. Certainly the State does not
30 want to pay the attorneys extra money for the extra

1 hours that it is going to require to go out and talk
2 to these sixty-six to eighty witnesses, and no telling
3 how many before trial. I think all these things
4 should be taken into consideration.

5 Surely the State would not, for a moment,
6 say that they were trying to hide something from us.
7 I don't believe this. If so, we are in trial by ambush.
8 That is all I have to say on that particular motion.

9 THE COURT: Mr. Soukup?

10 MR. SOUKUP: May it please the Court,
11 Counsel, there were some statements Mr. Sullivan made
12 that I would like to answer.

13 The first one is that there is nothing at
14 all in the record about this defendant's prior contacts
15 with the law.

16 Secondly, both counsel were served with
17 names of the State's witnesses as endorsed on the
18 information before the arraignment, even at the time of
19 arraignment were served with some additional nine
20 witnesses who became known in the meantime, so they
21 have had the names of most of these State's witnesses
22 for over a month and there is no showing that a single
23 one of these witnesses have been contacted by them.

24 The fact we are not trying cases from
25 ambush, that doesn't mean one gets out on the plane
26 and the other stands in the bushes and shoots at them.
27 If they both want to get out there, fine. It's not
28 the Prosecutor's function or the Police Department's
29 function to prepare the case for them. That is their
30 function. In fact, two attorneys have been appointed

1 for defendant Smith and defendant Riggins is asking
2 for a second attorney to be appointed in his behalf,
3 and a psychiatrist has been appointed so they can
4 prepare their own cases here.

5 With regard to what is said in the Supreme
6 Court, it is not my understanding that anything said
7 in chambers on the preliminary hearing on a writ is
8 authority even if that statement had been made.
9 I was there and that statement was not made.
10 The Court simply indicated that these were matters that
11 would have to be dealt with by the trial court as
12 these things came up.

13 MR. RINDAL: Are you saying, David, that
14 Judge Rosellini did not suggest that it might not be
15 a denial of equal protection if the statements were
16 not furnished?

17 MR. SOUKUP: Absolutely. He was not
18 referring to the statements of the witnesses.

19 MR. RINDAL: What was he referring to?
20 This is my information furnished to Mr. Sullivan
21 upon which he made that statement.

22 MR. SOUKUP: You overcame your hesitation
23 rather promptly but this, as I recall it, was not said
24 in the Supreme Court. Judge Rosellini had one matter
25 before him as to whether or not he was going to issue
26 a writ to have this matter heard by the Court and he
27 said he was not. The law was clear there was no right
28 to a preliminary hearing. He referred to discovery
29 proceedings. He did not make any mention of what
30 should or should not be given to anybody on either side

1 in this case.

2 MR. RINDAL: Are you stating that you have
3 no recollection of him mentioning denial of equal
4 protection if statements were not produced?

5 MR. SOUKUP: That is my statement, Counsel.
6 In addition to this, the State is willing to furnish
7 certain things to the defense in this case and that
8 includes, of course, the addresses of all of our
9 witnesses. We have a list just about completed I
10 think and we can get that to them probably today or
11 the first part of next week. There are still two
12 more months before the trial of this case. There is
13 absolutely no showing in this record that anything
14 other than that is required. If they come to a witness
15 who refuses to talk to them or for some other reason
16 it appears that it may be necessary to have further
17 information, then certainly that is a matter to be
18 brought before the Court at this time. These other
19 things are simply not called for under the present
20 state of the law and the present state of this case.

21 THE COURT: What about the coroner's
22 autopsy report?

23 MR. SOUKUP: I will be happy to furnish
24 those, your Honor.

25 THE COURT: And what about any photographs
26 that the State might have?

27 MR. SOUKUP: No problem, fine. The State
28 would be happy to furnish any photographs or drawings
29 that we intend to offer in evidence.

30 THE COURT: With that statement of the State,

1 the Court is in accord with any statements that trial
2 should not be by ambush and that probably there should
3 be some discovery. I am satisfied that it ought to be
4 equal on both sides. If one side is entitled to
5 discovery in a case, then the other side is entitled
6 to discovery equally.

7 For the time being, and without prejudice
8 to renewal of any motions in the event that circumstances
9 are different and that they are not different merely
10 by lack of diligence, I am going to deny the motion to
11 produce as far as number one is concerned, "All state-
12 ments, oral or written, of defendant Leodis Smith.
13 Two, all statements taken from persons interviewed in
14 the investigation of this matter. Three, all reports
15 and follow-ups of any nature, made by officers or others
16 investigating the case, specifically including any and
17 all background information available on the defendant,
18 Leodis Smith. Four, all tape and electronic recordings
19 made in connection with the investigation and preparation
20 of this case."

21 With regard to Five, I will require that
22 copies of any photographs which the State expects to
23 offer in evidence and any sketches or maps or drawings
24 which have been made which the State expects to offer
25 in evidence will be supplied to each of the defendants.

26 As to number Six, I will require that the
27 current address of all endorsed witnesses or any
28 additional witnesses which the State anticipates it may
29 call be supplied.

30 With regard to Seven, I will deny Seven.

1 Eight I will grant. The State has indicated
2 that it is willing to grant it.

3 MR. SULLIVAN: I might certainly say, your
4 Honor, that on behalf of defendant Smith that we will
5 go on record at this point as being entirely willing
6 to furnish the State the statements of any additional
7 witnesses that we may come across at any time.

8 THE COURT: I merely require that you supply
9 them with the names and addresses of any witnesses
10 that the defendant proposes to call and that each side
11 furnish the names and addresses as soon as they
12 conveniently can, or practically can, after the dis-
13 covery of the witnesses. This will apply also to
14 the defendant Riggins in the same respect.

15 I may say that this also, that the funds
16 available to the Court for the assistance to indigent
17 defendants does include funds for investigation when
18 there is an adequate showing made for the need for
19 such funds and such a request may be addressed to the
20 Court later on after counsel is in a better position
21 to judge whether the assistance of an investigator is
22 justified and to what extent the services are needed
23 and so forth.

24 MR. SULLIVAN: Very well. I do not have
25 an order prepared here. Shall we present this to the
26 Presiding Judge?

27 THE COURT: It can be presented to the
28 Presiding Judge and if there is any question about it
29 at all, either the Reporter can transcribe the portion
30 that is necessary or read his notes, in case counsel do

1 the case in chief and I am wondering what might happen
2 if I put Riggins up there and they start using Smith's
3 statement against Riggins for cross-examination.

4 MR. SOUKUP: There is no case that says I
5 can do that and I would try it but I don't know of any --

6 MR. EGGER: I want to try and cover all the
7 different possibilities here.

8 THE COURT: I cannot see at this point how
9 the defendant could be in any different position in the
10 crimes charged as they are charged here and as the
11 Court is led to believe the evidence will develop
12 whether he was tried separately or jointly.

13 MR. EGGER: I hope you are right.

14 THE COURT: At this point at least I am
15 unable to see how he could be in any different position.

16 Is there anything further?

17 MR. EGGER: Not on that motion.

18 THE COURT: The motion for separate trial...
19 made on behalf of Mr. Riggins will be denied.

20 MR. EGGER: This will be at least partially
21 based on the State's assurance that it will not use
22 Smith's --

23 THE COURT: The Court is taking cognizance
24 of the State's statement that they will not use it in
25 their case in chief and is not only assuming that they
26 won't do so but assuming that the Court would sustain
27 an objection in the event they attempted to do so.

28 MR. SOUKUP: I will certainly include that
29 in the order as well.

30 THE COURT: Very well.

1 MR. EGGER: Same objection for Mr. Riggins.
2 THE COURT: Objection sustained.
3 (State's Exhibits Nos. 9 and 10
4 for identification were offered
5 and refused.)
6
7 DIRECT EXAMINATION (Cont'd.)
8
9 BY MR. SOUKUP:
10 Q Mr. Klepeck, is there any question in your mind that
11 these two defendants are the persons that you saw on
12 that occasion?
13 MR. SULLIVAN: I object, your Honor, as
14 repetitious.
15 MR. SOUKUP: No, it isn't.
16 THE COURT: Sustained.
17 Q (By Mr. Soukup) What did you do then when you saw
18 Mr. Klepeck get into that car, Mr. Klepeck, what did
19 you do when you saw Mr. Hutton get into that car?
20 A I locked up the tavern and walked up to the corner and
21 these two fellows were sitting in the car and Ed was
22 getting in under the wheel on the driver's side.
23 Q Are these the same, the defendants were sitting in the
24 car?
25 A Yes.
26 Q Okay.
27 A I hollered up there and said, "Are you all right, Ed?"
28 He says, "Yeah, it's a couple of my friends."
29 Q Don't say anything he said. That is hearsay.
30 Then what happened after that?
A I turned and walked back to the tavern.

1 MR. SULLIVAN: May I ask the witness to
2 speak into the microphone?
3 A It would be approximately between ten after and a
4 quarter after 2:00.
5 Q (By Mr. Egger) Had the two people already reached your
6 side of the street over here when you unlocked the
7 tavern and came out?
8 A Yes, they disappeared from my sight.
9 Q They disappeared from your sight. Of course, by then,
10 I assume, that Mr. Hutton would have disappeared from
11 your sight?
12 A (Witness nods affirmatively.)
13 Q In fact, he would have disappeared from your sight
14 before they reached your side of the street?
15 A Right.
16 Q Now the next time you saw Mr. Hutton is when he was
17 beginning to get into the driver's side of the automo-
18 bile, correct?
19 A Correct.
20 Q He had already reached his car?
21 A Right.
22 Q And apparently by that time whoever it was had already
23 gotten into the car?
24 A Yes.
25 Q You didn't actually see them get in the car, though?
26 A No.
27 Q So how far out here did you come when you looked over
28 and hollered at Ed?
29 A I was up to the corner.
30 Q Up to the actual corner?

1 A Yes.

2 Q Were you looking at Ed?

3 A Yes.

4 Q All the time?

5 A Yes.

6 Q Did you look down the street?

7 A No, I did not.

8 Q If these two people walked down the street you wouldn't
9 have even seen them, would you?

10 A Possible.

11 Q So there were two people sitting in the car?

12 A (Witness nods affirmatively.)

13 Q And you saw Ed there?

14 A (Witness nods affirmatively.)

15 Q You hollered at Ed and Ed said they were a "couple
16 friends of mine"?

17 A (Witness nods affirmatively.)

18 MR. SOUKUP: Objection; move to strike that
19 last.

20 THE COURT: It will be stricken. The jury
21 is instructed to disregard it.

22 Q (By Mr. Egger) So you don't know that those two
23 fellows that you saw on the other side of the street
24 or walk across the street, got into that car at all?

25 A Well, one had a hat on.

26 Q Did the fellow in the car have a hat on?

27 A Yes.

28 Q Did both of them have a hat on in the car?

29 A No.

30 Q Are you sure?

1 A Positive.

2 Q Where was the person with the hat sitting when you
3 saw him in the car?

4 A He was in the middle but I don't know which one for sure
5 it was.

6 Q You don't know which one it was. It might have been
7 the tall one that had the hat on?

8 A I don't believe so. It was the short one that had the
9 hat on.

10 Q But you don't know.

11 MR. SOUKUP: Objection; that's argumentative.
12 He's answered the question.

13 THE COURT: I will overrule the objection.

14 Q (By Mr. Egger) You don't know?

15 A The short one had the hat on.

16 Q He had the hat on when he came across the street?

17 A Yes.

18 Q And you indicated on either direct examination by counsel
19 or cross-examination by other counsel, I think, that you
20 didn't know the relative positions of the parties once
21 they got in the car except that Ed was on the driver's
22 seat. Didn't you say that? Now you're saying that
23 your recollection has improved.

24 MR. SOUKUP: That's argumentative. Objection.
25 THE COURT: Sustained.

26 When you answer, don't shake your head.
27 The Reporter has to get into the record your answers
28 and if you don't speak audibly we have to try and guess
29 what you mean by the motion of your head.

30 Q (By Mr. Egger) You are saying that the shorter man was

1 sitting in the middle?

2 A Yes.

3 Q The reason you say that is because whoever was in the
4 middle had a hat on?

5 A Right.

6 Q Is that car that is parked on the other side of the
7 street where you have the block a fairly good
8 representation of the position of the car in relation
9 to the corner?

10 A Yes.

11 Q And this is a four-door that he had?

12 A Yes.

13 Q And if anything this car would have been at some slight
14 angle to your left as you stood there on the corner,
15 is this not true? I mean it wouldn't have been parked
16 in the walkway there?

17 THE COURT: Counsel, I think you asked three
18 questions one after the other.

19 MR. EGGER: I will slow down; I'm sorry,
20 your Honor. I will take them one at a time.

21 Q (By Mr. Egger) This car certainly wouldn't have been
22 parked up here blocking, it wasn't, was it, blocking
23 the walkway or -- there's a crosswalk there, I presume?

24 A (Witness nods affirmatively.)

25 Q Either marked or unmarked. Certainly if it were right
26 here at the corner it would have been the first parking
27 space here on the corner, is that correct?

28 A (Witness nods affirmatively.)

29 Q You were back over here?

30 A Right.

1 Q You didn't proceed down this avenue any distance at all,
 2 did you?
 3 A I was just up and around the corner.
 4 Q Just up and around the corner. So you were about right
 5 here?
 6 A Directly across.
 7 Q Directly across the street?
 8 A (Witness nods affirmatively.)
 9 Q But even at that, considering you were directly around
 10 the corner, you would have been right on the edge of
 11 the crosswalk here, would you not?
 12 A Yes.
 13 Q So your line of vision, if this car were actually moved
 14 down here to the crosswalk, your line of vision would
 15 be at this type of an angle looking at the front seat,
 16 isn't this correct?
 17 A (Witness nods affirmatively.)
 18 Q You couldn't look directly straight across in that front
 19 window, could you, because if you did Ed would have
 20 been blocking your vision. Is this true?
 21 A He hadn't got into the car yet.
 22 Q All right, he hadn't gotten into the car yet. He was
 23 standing in the, had the car door open?
 24 A (Witness nods affirmatively.)
 25 Q He was blocking, he was standing, was he not, blocking
 26 the driver's side of the car?
 27 A Yes and no.
 28 Q Explain it, if you would.
 29 A He was, to a point, yes, blocking my view.
 30 Q Was he standing? Was the car door completely open?

- 1 A He was standing like behind it.
- 2 Q So he had opened the car door and you called.
- 3 Did he turn around this way?
- 4 A This is right.
- 5 Q He turned around like this (demonstrating). The car
- 6 door of necessity would have had to block part of the
- 7 front seat?
- 8 A The car door was wide open. You could look right in.
- 9 Q All right, it was wide open and he was standing there.
- 10 All right.
- 11 Can you tell us where the vapor light is
- 12 if there is one on the other side of the street on that
- 13 car, by that car? Is there a vapor light over there?
- 14 A There is a veterinary's shop right there on 14th and
- 15 he's got a big sign out there that's lit all night.
- 16 Q I see.
- 17 A Lights up the whole street there.
- 18 Q Is there a vapor light up above?
- 19 A Whether there is a vapor light there on 14th, I'm not
- 20 sure. In front of the tavern on Pike Street there is.
- 21 Q All right. Now, you couldn't, with any degree of
- 22 accuracy, if you had never ever seen the people in that
- 23 car, given a description of them because of the shadows
- 24 that the car itself would throw, isn't this true?
- 25 A I don't think so.
- 26 Q You don't think so. Were you not at least forty or
- 27 fifty or sixty feet away by the time you hollered at Ed?
- 28 A This is a 35-foot street approximately, a 30-foot
- 29 street possibly, and the car is taking up -- how wide
- 30 is a car, eight foot? It's taking up that part and I

- 1 A It's pretty poor lighting.
- 2 Q Any street lights on East Terrace there?
- 3 A Not that I remember.
- 4 Q Did you see these two persons' faces?
- 5 A No.
- 6 Q Could you tell their approximate age?
- 7 A I couldn't tell, no.
- 8 Q Could you tell whether they were old or young?
- 9 A No. I could tell they were sort of young.
- 10 Q How could you tell that?
- 11 A From the way they were running.
- 12 Q What do you mean by that?
- 13 A Well, they ran fast and smooth.
- 14 Q Like young kids?
- 15 A Yes.
- 16 MR. SULLIVAN: I object.
- 17 THE COURT: Sustained.
- 18 Q (by Mr. Soukup) Could you tell what race they were?
- 19 A Yes.
- 20 Q What race?
- 21 A Negro.
- 22 Q Are you acquainted with the defendants in this case?
- 23 A Yes, I am.
- 24 Q Do you know them very well?
- 25 A I know them pretty well.
- 26 Q You have seen them before?
- 27 A Yes.
- 28 Q Had you seen them before December 4?
- 29 A I'm not sure.
- 30 Q Could you tell the approximate size of these two people?

1 A One was tall and the other one was short.
2 Q I think you said you didn't see their faces?
3 A No, I did not.
4 Q Do you think you would be able to recognize these two
5 people if you saw them again?
6 A No.
7 Q How did the physical description of the taller person com-
8 pare to the defendant Smith in this case?
9 MR. RINDAL: I am going to object to that ques-
10 tion as obviously leading.
11 THE COURT: Objection overruled.
12 Q (by Mr. Soukup) You can answer that.
13 A I'm not sure.
14 Q What about the shorter of the two as compared to the de-
15 fendant Riggins?
16 A The short one was heavy built.
17 Q Like the defendant Riggins.
18 MR. SOUKUP: Will the reporter read the answer?
19 MR. EGGER: I ask the Court to instruct counsel
20 not to lead this witness.
21 THE COURT: All counsel are instructed not to
22 lead witnesses except when they are permitted to do so
23 on cross-examination.
24 MR. SOUKUP: I would like to hear the answer.
25 (The answer was read by the reporter, as
26 follows: "The short one was heavy built.")
27 Q (by Mr. Soukup) Can you say whether or not these indi-
28 viduals could have been the two defendants?
29 MR. EGGER: Object to this, your Honor. Specu-
30 lative. Calls for a conclusion.

1 the victim and remained with the victim then until the
2 other officers arrived. Then I left the victim again, and
3 I would come back again, and was back and forth.

4 Q Did more people come on the scene, more of the neighbors,
5 people from the area?

6 A I didn't notice any.

7 Q You did not have a discussion at any time with any of
8 these people -- is that correct -- coming on the scene?

9 A Yes. I had asked them if anybody knew anything about this,
10 did anybody see this happen, things of this nature. I did
11 have discussion. Some of them answered me and replied
12 they had not.

13 Q Sergeant, these items that were shown to you -- I am
14 referring now to Exhibit 18 for identification, which
15 apparently are the two casings that you found in the
16 street --

17 A Yes.

18 Q -- did you initial these yourself?

19 A No, I did not.

20 Q What did you do with them?

21 A The detectives were on the scene, and I indicated the
22 position to the detectives, and they would follow up on
23 me, took the casings, themselves.

24 Q Then your testimony is that these appear to be the casings
25 you saw?

26 A Yes.

27 Q You have no means of specifically identifying them?

28 A I did not mark them.

29 Q Would that also be true of Exhibit 17 for identification,
30 the wallet, and also 16 for identification, the key ring?

- 1 Q You don't recall?
- 2 A I just told them, you know, one is a high fellow and
3 the other one is shorter.
- 4 Q Do you recall telling the police that they were Negro
5 boys?
- 6 A Yeah.
- 7 Q Did they show you lots of pictures?
- 8 A Yeah.
- 9 Q You weren't able to identify anybody?
- 10 A No, I told them the closest what I can, what I see it.
11 I show them what look like --
- 12 Q Speaking now to Mr. Riggins over here, you never were
13 able to identify him, were you, from the pictures?
- 14 A From the picture?
- 15 Q Yes.
- 16 A No, I think so.
- 17 Q Well, did you? Did you pick a picture of him?
- 18 A On the picture, I don't remember that, you know, I
19 couldn't tell you that.
- 20 Q Now you remember this police line-up where they had all
21 these people in front of you?
- 22 A Yeah.
- 23 Q And you think that is a fair representation as to how
24 far away it was over to that wall?
- 25 A Something like that, yeah, something like that.
- 26 Q Now do you recall the policeman asking the shorter man
27 to say something?
- 28 A No.
- 29 Q He didn't ask him to say anything?
- 30 A No, they don't say nothing.

1 Q Didn't say anything?

2 A No.

3 C Do you recall telling the policeman that you weren't sure
4 about the shorter man?

X 5 A Yeah.

6 Q Now is that still your position today?

+ 7 A I think so.

8 MR. EGGER: I have nothing further.

9
10 REDIRECT EXAMINATION

11 BY MR. SOUKUP:

12 Q Mr. Krinsky, what do you use your glasses for, sir?
13 What type of vision do you need your glasses for, sir?

14 A For me?

15 C Yes.

16 A For my mind.

17 Q Can you see things close up without your glasses, sir?

18 MR. SULLIVAN: Objection as leading.

19 THE COURT: Objection overruled.

20 Q (By Mr. Soukup) Can you see things close up without your
21 glasses?

22 A Yeah.

23 Q Counsel asked you if you remember telling the police
24 if you weren't sure. I'm not sure you understood that
25 question. When you viewed this line-up what did you
26 tell the police about the shorter guy? Did you tell
27 them that you were positive this was the guy or you
28 weren't sure, or what did you tell them?

X 29 A I told them, you know, there was two, and I told them
30 one, one from the two was in my place. This is what I

1 notice the two Negroes because he is apprehensive.
2 He is counting his cash and there are two strangers
3 standing across the street looking at him.

4 He goes on counting his cash. He is watching
5 both defendants for approximately ten or fifteen
6 minutes, he testified. Just then Ed Hutton comes
7 walking by going east on Klepeck's side of the street.
8 Remember, he left going west on the other side.
9 He is going east now on Klepeck's side. Klepeck
10 knows Edwin Hutton. He knows him to talk to, knows
11 who he is, knows what he looks like. He sees Edwin
12 Hutton walk by, and at the same time he sees the same
13 two Negroes he saw standing in front of the Drum Room
14 for that ten or fifteen minutes, trotting across the
15 street following Hutton. He's now apprehensive again.
16 He runs to his window. He watches the scene as much
17 as he can. He is looking out the window this way.
18 He is watching as much as he can until he loses sight
19 of them.

20 He puts the cash down, walks east out of
21 his tavern, locks the door and runs to the corner and
22 he actually asks Ed if everything is all right.
23 He gets an answer from Ed, so he knows he was talking
24 to Edwin Hutton, and we know he's talking with Edwin
25 Hutton. Those two Negroes are still there, still
26 with him and they're in the car. He testified that
27 the lighting was not fair, not good, but very good,
28 that he could see what was going on both when the
29 defendants ran across the street and also by the car
30 because he testified that right in back of the car

1 there is this big neon sign for a veterinarian and it
2 is lit.

3 So he is watching the whole thing.
4 The sign is right in back of the defendants shining
5 light on them.

6 On the corner as the defendants are in the
7 car he also notices who is where. He says the short
8 one that ran across the street is sitting in the middle.
9 The tall one who ran across the street is sitting on
10 the end, Edwin Hutton is just getting in, that's when
11 he has the conversation, "Is everything all right, Ed?"
12 After this conversation Edwin Hutton gets in the car
13 and Ken Klepeck sees them drive off.

14 All right, Ken Klepeck testified that Smith
15 and Riggins are those two Negroes. The two same
16 persons who were standing in front of the Drum Room
17 and who got into the car with Edwin Hutton; the same
18 two people. You recall that he picked their photographs
19 out of five or six or seven photographs. He picked
20 these two Negroes. Nobody told him who to pick.
21 Nobody told him anything. He saw those photographs
22 and he said, "These are the two men." Remember now,
23 we are talking about 2:10 or 2:15 a.m.

24 He also remembered that the tall one,
25 Smith, was not wearing glasses, keep this in mind.
26 Smith was not wearing glasses.

27 The next words of Hutton as he's lying in
28 the gutter, they had driven down to Jackson Street
29 up the hill and they told me to turn in some side
30 streets. I went into some side streets and I was told

1 and see it. You saw him on the stand with his nervous
2 smile when he was up there because he was too scared to
3 do anything else. You saw those buck teeth, protruding
4 teeth. You wouldn't forget this if you were accosted by
5 this man. I'm not saying that somebody that looks
6 similar to him didn't do these things. To be sure, some-
7 body did. Somebody who must certainly resemble him must
8 have. But are you sure it was him? You have to be sure,
9 ladies and gentlemen, absolutely sure beyond a reasonable
10 doubt.

11 The Krinsky affair was indeed a nightmare for
12 Mr. Krinsky, and you can't blame him for perhaps not
13 remembering too much. In fact, I think he remembered
14 an awful lot, considering the circumstances that he went
15 through that night. But the poor old man's eyesight is
16 failing him. He admits it. Nothing to be ashamed of.
17 But he is apparently almost blind under certain condi-
18 tions.

19 I brought him -- talking about David now --
20 I brought David up close to him, or at least this close
21 (indicating) to him; and I didn't count the seconds that
22 he paused or searched around, looking at you and then
23 back over here and then back to where another person,
24 another colored fellow, was sitting. He didn't know.
25 He said, "I'm not sure." And then the Prosecutor brought
26 him down, and he said, "I think so. I think so." He
27 would never say he was positive, ladies and gentlemen.
28 Never.

29 Are you going to convict a man and even consider
30 the death penalty on that type of evidence? Lack of

1 want to, if you don't think that meant anything. If you
2 don't think that this man looked over the whole court-
3 room, white people and negro people, with glasses,
4 without glasses, sitting here, and told you four months
5 later his conviction still that these two were the men --
6 if you don't believe that, if you don't want to consider
7 that, throw it out. But remember his identification
8 within two days afterward.

9 And remember too that these two people are also
10 the two people that were involved together in committing
11 other robberies three days before and two days before
12 under identical circumstances. This is something that
13 you can consider.

14 The attorneys for both defendants have gotten
15 up here and told you, "You consider these counts one, two,
16 three, four, five, six, seven -- just put them all in
17 a row and take them one at a time. And just look at
18 Mr. Krinsky's testimony. Don't you think about these
19 other things when you are considering Krinsky."

20 The Court says you don't have to do that, be-
21 cause the Court tells you in Instruction No. 20 that you
22 can consider the other evidence when you are considering
23 whether these two are the people that killed Mrs. Krim-
24 sky. You can consider it, and you should consider it,
25 because the Court tells you in Instruction 20:

26 "In considering your verdict on a particular charge
27 you may consider testimony concerning other alleged
28 incidents in determining identity" --
29 in determining identity, in determining who the people
30 are that committed the Krinsky crime and the Hagen

EXHIBIT 3

AFFIDAVIT

44-4476

1 STATE OF WASHINGTON)
2 COUNTY OF WALLA WALLA) ss.

3 COMES NOW LEODIS SMITH, BEING DULY SWORN UPON OATH, DEPOS
4 AND SAYS THAT: I AM THE PERSON HEREIN NAMED IN THIS PETITION
5 OF AFFIDAVIT.

6 THAT THE STATEMENTS AND DIRECT TESTIMONY OF MINE, INVOLVING
7 DAVID WASHINGTON RIGGINS, WITH THE CRIMES THAT I WAS CONVICTED
8 OF, WAS PERJURED STATEMENTS AND TESTIMONY.

9 THAT I WAS THREATENED BY THE SEATTLE POLICE, AND THE PROS-
10 ECUTOR, THAT UNLESS I IMPLICATED DAVID WASHINGTON RIGGINS, AS
11 A PARTICIPANT (ACCESSORY) THAT THEY (POLICE AND PROSECUTOR)
12 WOULD MAKE SURE THAT I DID NOT LIVE LONG ENOUGH TO GET OUT OF
13 PRISON.

14 THAT DAVID WASHINGTON RIGGINS, WAS NOT INVOLVED IN THE
15 CRIMES OF DECEMBER 4, 1955, MAY 20, 1956, ~~MAY 22, 1955~~, OR THE ^{10/17/56}
16 ON MAY 25, 1956. Witness: *[Signature]*

17 THAT BECAUSE OF MY FEAR OF THE AUTHORITIES THAT I HAVE NOT
18 COME FORTH BEFORE THIS, AND THE FEAR THAT I WOULD BE CHARGED
19 WITH PERJURY, HAS KEPT ME FROM TELLING THE TRUTH AND FREED
20 AN INNOCENT PERSON, NAMELY DAVID WASHINGTON RIGGINS.

21 I LEODIS SMITH, DO HEREBY STATE UNDER PENALTY OF PERJURY
22 THAT THE STATEMENTS HEREIN CONTAINED AND MADE BY ME TO BE TRUE
23 AND TO THE BEST OF MY ABILITY AND BELIEF, AND THAT THESE STATE-
24 MENTS MADE BY ME ARE BEING MADE FREELY OF MY OWN WILL, WITHOUT
25 THREATS OR PROMISES IN ANY WAY SHAPE OR FORM OF ANY KIND FROM
ANYONE.

[Signature]
LEODIS SMITH

SUBSCRIBED AND SWORN TO BEFORE ME
THIS 17 DAY OF SEPTEMBER, 1977.

NOTARY PUBLIC, IN AND FOR THE STATE OF

BEFORE THE WASHINGTON STATE
BOARD OF CLEMENCY AND PARDONS

In re the Clemency Petition)
of:)
DAWUD H. MALIK) CERTIFIED STATEMENT
(formerly known as) OF
David W. Riggins.) LEODIS SMITH

I, LEODIS SMITH, am of the age of majority and am competent to make the following statements.

I am currently incarcerated at the Washington State Reformatory at Monroe, Washington. I am incarcerated as a result of my conviction under King County Cause No. 44446. The person charged with me under King County Cause no. 44446 is Dawud H. Malik, who was formerly known as David W. Riggins.

I have reviewed the Affidavit I previously provided in September, 1977. A true and correct copy of that Affidavit is attached hereto and by this reference is incorporated herein. That Affidavit bears my signature. That Affidavit was made voluntarily, knowingly, and willingly by me without any threats or coercion to do so. *I have made one change to my 9/77*

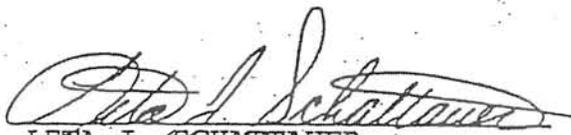
RS *L.S. Affidavit.*
I have reviewed the contents of my September, 1977 Affidavit and the contents of this Certified Statement with Leta J. Schattauer, who I know to be the attorney representing Dawud H. Malik in his Petition to the Board of Clemency and Pardons. I have discussed the contents of the September, 1977 Affidavit and the contents of this Certified Statement with Ms. Schattauer. I

fully understand the contents of both and the implications of my signature on each.

I have voluntarily, knowingly, and willingly signed my name to this Certified Statement.

DATED this 17 day of October, 1994 at Monroe, Washington.


LEODIS SMITH


LETA J. SCHATTAUER

When the police picked me up the evening of the crime against the Krimskys, they asked me who I had been with. I told them Dawud gave me a ride to the area in town where the Krimsky apartment was, that was all. That was where my crime partner was waiting for me.

My crime partner was Charles Daniels. I do not know if he had a middle name or initial. But, he lived around 29th and Yesler in Seattle, Washington at the time we committed these crimes together.

On the evening of the Krimsky crime, as he did when we committed a crime together, Charles Daniels had checked out the place we were going to burglar. He would do this. And then because of my tall, very thin size, I could enter the building where he had found an opening for me. Once inside, it was my job to open the door and let him in. This I also did at the Krimsky home.

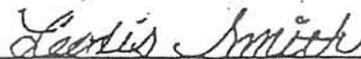
When I was arrested by the police for the Krimsky crime, the police never asked me if anyone else was with me at that crime or any of the others. At that point in my life, I would not have volunteered Charles' name. But I am willing to give Charles' name now. I believe it may help Dawud get some justice. And, it is my understanding that Charles Daniels entered the service and went to Viet Nam, where he was killed. I have never heard anything from him since I was arrested.

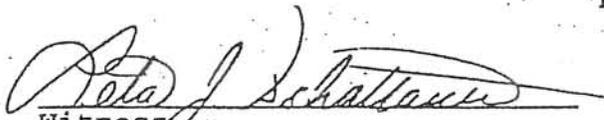
In 1965 and 1966, I was tall (about 6'3") and very thin. In contrast to me, Charles Daniels was much shorter. He was a dark

skin Black man; he had an athletic build; he wore a short process; and he had a light mustache. Charles Daniels was a little taller than Dawud but, like Dawud, much shorter than me. If Charles was next to me or Dawud was next to me, and someone was looking at us who did not know us, because of Charles' size and build, Dawud would be mistaken for Charles.

At our trial, my attorneys told me not to testify to anything, but to take the 5th when I was asked any questions. I remember there was a lot of conversation about whether I would testify for Dawud or not, but my attorneys told me not to. So I did not. If I had been given the chance to tell the truth then about Dawud not being my crime partner, I would have. But I was not allowed to. So, in 1977 I made my affidavit, because it was the least I could do and was the only thing I knew to do to try to right the wrong against Dawud.

I make this declaration knowingly, willingly, and voluntarily this 27 day of November, 1995, at the Washington State Reformatory, Monroe, Washington.


LEODIS SMITH


Witness

11/27/95
Date

DECLARATION OF RICHARD J. GLEIN, SR.

I, Richard J. Glein, Sr., declare as follows:

1. I am now and at all times mentioned a citizen of the United States and a resident of the State of Washington, over the age of 18 years, confident to make this declaration, and make this declaration from my own personal knowledge and belief.

2. I am currently retired, however I practiced law in the State of Washington for over 35 years. I spent two years as a King County Deputy Prosecutor. I then entered private practice.

3. In 1967 I was appointed by the King County Superior Court Presiding Judge in Seattle, Washington to the defense of David Washington Riggins in his trial for multiple crimes, including, but not limited to, the capital murders of Edwin Hutton and Reva Krimsky. Mr. Robert Egger was the principal attorney defending Mr. Riggins on this matter and I served as his co-counsel. I remember this case because it was and is the only case I have ever been involved with as an officer of the court in which the defendant received the death penalty.

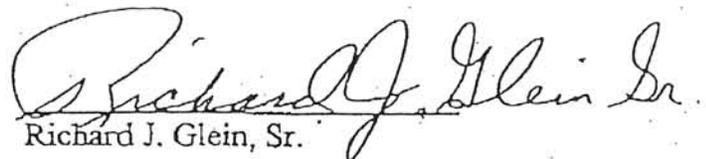
4. In December 1999, I was contacted by Robert D. Leinbach of Heller, Ehrman, White & McAuliffe regarding Mr. Leinbach's *pro bono* representation of Mr. Riggins (now known as Dawud Halisi Malik ("Malik")). Mr. Leinbach requested that I review certain documents to ascertain whether or not I had knowledge of the existence of such documents during the trial of Malik. I agreed

to Mr. Leinbach's request and he sent certain documents to me via certified mail for my review.

5. To the best of my knowledge, I saw none of the documents in the File prior to, during, or after Malik's trial.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

EXECUTED this 27th day of January, 2000, in Palm Springs, California.


Richard J. Glein, Sr.

INTRA-DEPARTMENT COMMUNICATION

621 218UR

SEATTLE POLICE DEPARTMENT

FROM C ELSTER²⁰²⁵ M ERICKSON²⁰⁶³ - CAP#125 DATE 12-13-65

TO DET. B. LEE - HOMICIDE

SUBJECT SUSP. IN HOMICIDE - 22ND & E TERRACE.

WE RECEIVED INFORMATION FROM OUR INFORMANT THAT DIANE FISHER'S BOYFRIEND, FLOYD BELL BROWN @ DUCK - LOC# 59788 WAS ONE OF TWO MEN WHO ROBBED AND KILLED AT 22ND & E TERRACE AT APPROX 2 AM 12-4-65. BROWN DRIVES A 56 W/GREEN PONT. LIC# AMS 4 AND ASSOL. WITH -

BOBBY MOSELY NM/24-25 - 1900 23RDS. LOC# 5
 CURTIS JONES NM/25 - possibly (WALTER JONES) LOC# 5
 ANTHONY EUGENE DENIS NM/20-25 1211 E TERRACE

OUR INFORMANT WAS TOLD BY DIANE FISHER THAT FLOYD AND A FRIEND HITCHHIKED A RIDE WITH A MAN, DIRECTED HIM 22ND & TERRACE AND ROBBED HIM. THE VICTIM HIT FLOYD BROWN CAUSING HIS GUN TO GO OFF & HIT THE VICTIM. THE TWO THEN RAN OFF.

* DIANE FISHER IS LIVING WITH HER MOTHER AT 23 & E FIR (156 23RD AVE) FREQUENTS 14TH & YESLER & CHINATO & THE KINGFISH - 14 & JEFFERSON DAYS.

* FLOYD BROWN WAS LIVING WITH HIS MOTHER PRIOR TO HIS LAST ARREST IN OCT. AT 207 22ND E. FLOYD WAS WORKING AT THE GAS STATION AT 19TH & E REPUBLICAN.

* BOBBY MOSELY WAS LAST WORKING AS A BARBER IN A SHOP AT 24TH & E. UNION.

* DENIS IS A FREQUENT VISITOR AT 458 13TH, OCCUPIED BY ANN THRASH NF/40 - PART TIME BOOTLEGGER. (MOTOR HOTEL)

* OUR INFORMANT IS GOING TO TRY TO LOCATE BROWN'S GUN, IT MIGHT BE IN FLOYD'S CAR BEHIND DASH BOARD OR BEHIND BACK CUSHION IN SPRINGS OF REAR SEAT.

IT MAY BE A GOOD BET TO QUESTION DIANE - SHE IS APPARENTLY UPSET & PROBABLY SCARED. AS SHE HAS DRIVEN OUT OF SIGHT. SHE HAS BEEN DRIVING FLOYD'S

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RESPECTFULLY SUBMITTED

C ELSTER
 M ERICKSON CAP#125

TO: schattauer
 DATE: 1-18-98 SERIAL #2700

436 LEASE 12-7-65 1440 CS 65-34552

DEPT. OF JUSTICE

HOMICIDE AND HIT AND RUN - WANTED FOR QUESTIONING
REQUEST TO LOCATE AND IDENTIFY OCCUPANTS OF 1954 CHEVROLET YELLOW OR
ORANGE IN COLOR. POSSIBLE RIGHT FRONT DAMAGE AND RIGHT HEADLIGHT
MISSING. SUBJECTS WANTED FOR QUESTIONING REGARDING HOMICIDE CASE
65-34552 AND HIT AND RUN ACCID NBR 19403.

IF LOCATED NOTIFY HOMICIDE AND ROBBERY DETAIL JU 5-2340.

DET. J. MITCHELL M & R DETAIL
SEATTLE, WA

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POLICE DEPARTMENT IN RESPONSE TO YOUR
PUBLIC DISCLOSURE REQUEST. ANY DELE-
TIONS MADE ARE PURSUANT TO CH. 42.17 OF
THE R.C.W. OR OTHER APPLICABLE LAW.

TO: Schattauer
DATE: 7-18-98 SERIAL 2701

INTRA-DEPARTMENT COMMUNICATION
SEATTLE POLICE DEPARTMENT

FROM

H. P. Schoenewald
Commander, Records Bureau

UNIT 51

DATE 12-6-65

TO

Commander, Records Bureau

SUBJECT

Request for: Uncleared Crimes M.O. Information

List only

Full Cases

Type of Crime

Robbery

Suspects

Robbery

Time Period

1963 thru current

Description

N. M. under 35 yrs

Area (Census Tracts)

3 18th - 15th - 16th

Premises

How Entered/Approached

Weapon/Instrument

Type of Property

Trademarks

*Above in connection with Robbery
committed 12-4-65. (I worked together)
also try for search on forfeited*

H. P. Schoenewald

[Signature]

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TO: *Schattauer*
DATE: *1-18-98* SERIAL: *1700*

A/R	ADD'L	FILE
WARRANT	OTHER	

SEATTLE POLICE DEPARTMENT

FORM 5.8 21.3 -64	FOLLOW-UP REPORT		PRESENT DATE 12-9-65	CASE NUMBER 65-34112
TYPE OF CASE HOMICIDE & ROBBERY	DATE OF OCCURRENCE	EVIDENCE NUMBER	UNIT FILE NUMBER	
ORIGINALLY REPORTED AS SAME	LOCATION OF OCCURRENCE		CORRES. NUMBER	
VICTIM HUTTON	ADDRESS	PHONE		
PERSONS INTERVIEWED - NAME	ADDRESS	PHONE		

CASE DISPOSITION: CLEARED (ARREST-UNFOUNDED-REFERRAL JUVENILE CT.-EXCEPTIONAL CLEARANCE); AT LARGE WARRANT; ETC.

PROPERTY: RECOVERED AND/OR ADDITIONAL STOLEN - (INCLUDE ID MARKS - COLORS - SIZES - SERIAL NUMBERS - ETC.)

ENTRY: COMMENCE EACH ENTRY WITH A NUMBER AND THE DATE AND TIME
 SUSPECTS: SUMMARIZE ALL SUSPECT(S) INFORMATION: INCLUDE NAMES, B/A NUMBERS, DESCRIPTIONS, DISPOSITION, ETC.
 GENERAL: SUMMARIZE STEPS OF INVESTIGATION: INCLUDE ADD'L WITNESSES, RESULTS OF INTERROGATIONS, EVIDENCE, ETC.
 CASE M.O.: INDICATE ADD'L M.O. FACTORS NOT INCLUDED ON OFFENSE REPORT.

1 OFFICERS S. K. FRIDELL AND P. FABRY WHO ARE MEMBERS OF THE SPECIAL PATROL SQUAD RECEIVED INFORMATION FROM A FAIRLY RELIABLE INFORMANT WHO STATED THAT NM(19) EDDWYNN JORDAN SPD LOC # 59428 1-7-46 6' 190 COULD POSSIBLY BE ONE OF THE SUSPECTS IN CASE # 65-34112. AS HE WENT ON THREE STICK UPS WITH JORDAN WHERE THEY WERE SUPPOSED TO GET A GIRL FOR THE VICTIM THEN ROBB HIM AT GUNPOINT WITH A SMALL BLACK AUTOMATIC WITH WHITE GRIPS. THIS GUN WAS PAWNEED BY JORDAN AT BARNEY'S USING A NOTHER NAME APPROX THREE TO FOUR MONTHS AGO. HE ALSO STATED THAT JORDAN SAID "HE WOULD NOT HESITATE TO SHOOT ANYBODY WHO WOULD RESIST HIM."
 ANOTHER SUSPECT COULD BE EDDIE LEE GOLIDY NM 26 10-30-38 6' 175 SPD LOC # 49703 LAST ADDRESS OF 220 22 AVE.
 GOLIDY IS ALSO THE BOYFRIEND OF THIS DEPARTMENT'S SISTER.

POLICE DEPARTMENT IN RESPONSE TO YOUR PUBLIC DISCLOSURE REQUEST ANY DELETIONS MADE ARE PURSUANT TO CH. 42.17 OF THE R.C.W. OR OTHER APPLICABLE LAW.

TO: Schattauer
 DATE: 1-18-98 SERIAL # 2700

ISTRIB:	B/R	DETS	WOMEN	JUV	PRECINCT	OTHER
INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
S. K. FRIDELL	1748	18	P. FABRY	1926	18	[Signature]

SEATTLE POLICE DEPARTMENT

FORM 5.3
11.3
1-44

FOLLOW-UP REPORT

PRESENT DATE: 12-11-65
CASE NUMBER: 65-34552

TYPE OF CASE: **HOMICIDE**
DATE OF OCCURRENCE: 12-11-65
EVIDENCE NUMBER: _____
UNIT FILE NUMBER: _____

ORIGINALLY REPORTED AS: _____
LOCATION OF OCCURRENCE: 22 & Terrace
CORRES. NUMBER: _____

VICTIM: _____ ADDRESS: _____ PHONE: _____

PERSONS INTERVIEWED - NAME: _____ ADDRESS: _____ PHONE: _____

CASE DISPOSITION: **CLEARED (ARREST-UNFOUNDED-REFERRAL JUVENILE CT.-EXCEPTIONAL CLEARANCE); AT LARGE WARRANT; ETC.**

PROPERTY: **RECOVERED AND/OR ADDITIONAL STOLEN - (INCLUDE ID MARKS - COLORS - SIZES - SERIAL NUMBERS - ETC.)**

ENTRY

COMMENCE EACH ENTRY WITH A NUMBER AND THE DATE AND TIME

SUSPECTS: SUMMARIZE ALL SUSPECT(S) INFORMATION: INCLUDE NAMES, B/A NUMBERS, DESCRIPTIONS, DISPOSITION, ETC.
GENERAL: SUMMARIZE STEPS OF INVESTIGATION: INCLUDE ADD'L WITNESSES, RESULTS OF INTERROGATIONS, EVIDENCE, ETC.
CASE M.O.: INDICATE ADD'L M. O. FACTORS NOT INCLUDED ON OFFENSE REPORT.

Officers D. Jorva & R. FARRY members of the Special Patrol Squad, observed a 1953 ^{Wht/Yellow} Chev Bel-Air, Wn. Lic. AEU0111, registered to a JAMES C. RONNY 2111 E. Jefferson, parked in a lot on the South west corner of 14th & Jeff. This car had extensive damage to the right side. The right front fender had been removed.

This is Floyd Jones Car.

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TO: *Schattauer*
DATE: *1-18-98* SERIAL: *274*

DISTRIB: B/R DETS WOMEN JUV PRECINCT OTHER

INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
D. JORVA	2130	18	R. FARRY	1926	18	<i>Schattauer</i>

INDEX	STATS.	BULL.	FOR RECORDS BUREAU ONLY:
A/R	ADD'L	FILE	
WARRANT	OTHER		

FOLLOW-UP REPORT		PRESENT DATE 6/15/66	CASE NUMBER 65-34552
TYPE OF CASE HOMICIDE	DATE OF OCCURRENCE 12/4/65	EVIDENCE NUMBER 9626	UNIT NUMBER 287
ORIGINALLY REPORTED AS Same	LOCATION OF OCCURRENCE 22nd and E. Terrace	CORRES. NUMBER	
VICTIM HUTTON, EDWIN A.	ADDRESS 3623 - 13th W.	PHONE	
PERSONS INTERVIEWED - NAME	ADDRESS	PHONE	

CASE DISPOSITION: CLEARED (ARREST-UNFOUNDED-REFERRAL JUVENILE CT.-EXCEPTIONAL CLEARANCE); AT LARGE WARRANT; ETC.

PROPERTY: RECOVERED AND/OR ADDITIONAL STOLEN - (INCLUDE ID MARKS - COLORS - SIZES - SERIAL NUMBERS - ETC.)

NOTE: COMMENCE EACH ENTRY WITH A NUMBER AND THE DATE AND TIME
 SUSPECT: SUMMARIZE ALL SUSPECT(S) INFORMATION: INCLUDE NAMES, B/A NUMBERS, DESCRIPTIONS, DISPOSITION, ETC.
 GENERAL: SUMMARIZE STEPS OF INVESTIGATION: INCLUDE ADD'L WITNESSES, RESULTS OF INTERROGATIONS, EVIDENCE, ETC.
 CASE M.O.: INDICATE ADD'L M.O. FACTORS NOT INCLUDED ON OFFENSE REPORT.

1 Show-up on Suspects LEODIS SMITH, B/A 9078, and DAVID RIGGINS, B/A 9079, was conducted with four other men from city jail. Identification was made but show-up photos did not turn out. Others in show-up with SMITH and RIGGINS were as follows:

Number 1 man -	PLASIDO LINDSEY	Loc. #59602
" 2 "	- JOHN MATHEWS	#43777
" 3 "	- LEODIS SMITH	#62423 *
" 4 "	- EDDIE HARRISON	#58801
" 5 "	- WILLIAM HICKS	#47819
" 6 "	- DAVID RIGGINS	#60072 *

Photos of LINDSEY and HARRISON not available. Their mugs requested.

2 6/20/66. Checked with Lab. Mugs of LINDSEY and HARRISON will be ready tomorrow, 8:30 A.M., 6/21/66.

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TO: *Schattauer*
 (S) all conc. SER # 2700

DISTRIB:	B/R	DETS	WOMEN	JUV	PRECINCT	OTHER	JAIL	SERIAL	UNIT	APPROVING OFFICER
Investigating Officer	Det. Orin C. Church #1725	UNIT		INVESTIGATING OFFICER						Sgt. H.L. Arnold, #509-51

FORM 9.24 REV. 9-63	SEATTLE POLICE DEPARTMENT LABORATORY ANALYSIS REQUEST	CASE NO. 65-34552 EVIDENCE NO. 9826
VICTIM HUTTON, Edwin A.		REQUEST FOR: <input type="checkbox"/> PACKAGE FOR F.B.I. <input type="checkbox"/> PRELIMINARY EXAM. <input type="checkbox"/> REPORT FOR COURT
SUSPECT(S) B/A # (S)		
TYPE OF OFFENSE HOMICIDE	TYPE OF PREMISE VEHICLE	DATE AND TIME OF OFFENSE 12-4-65 2:15 P.M.
TYPE OF EXAMINATION DESIRED <input type="checkbox"/> ALCOHOLIC CONTENT <input type="checkbox"/> BLOOD ANALYSIS <input type="checkbox"/> PLASTER CASTS <input type="checkbox"/> BALLISTIC EXAMINATION <input type="checkbox"/> NUMBER RESTORATION <input type="checkbox"/> NARCOTICS OR DRUGS <input type="checkbox"/> NITRATES EXAMINATION <input checked="" type="checkbox"/> LATENT FINGERPRINTS <input type="checkbox"/> HAIR OR FIBER EXAMINATION <input type="checkbox"/> SPERM ANALYSIS <input type="checkbox"/> PAINT EXAMINATION <input type="checkbox"/> TOOL MARKS <input type="checkbox"/> OTHER	REQUESTED BY: Det. C.W. Lee <small>NAME</small>	1498 <small>SERIAL #</small>
	APPROVED BY: Det. H. Schauer <small>NAME (SIGNATURE)</small>	12-9-65 <small>DATE</small>
	LIST OF ITEMS TO BE EXAMINED: 13 - FINGER PRINT LIFTS	12-9-65 <small>DATE</small>
	1 - FINGER PRINT CARD belonging to the victim.	
LABORATORY REPORT: <p>Four of the above lifts show partial latent prints. They do not match with prints of victim Hutton or with elimination prints submitted on a copy of Jones.</p> <p style="text-align: right;">L. Jensen Identification Bureau</p> <p>(prints of victim taken in Coroner's office returned to him detail.)</p> <p style="text-align: right;">THIS COPY WAS PREPARED BY THE SEATTLE POLICE DEPARTMENT IN RESPONSE TO YOUR PUBLIC DISCLOSURE REQUEST. ANY DELETIONS MADE ARE PURSUANT TO CH. 42.17 OF THE R.C.W. OR OTHER APPLICABLE LAW.</p> <p style="text-align: right;">TO: <u>Schattauer</u> DATE: <u>1-18-98</u> SERIAL <u>2700</u></p>		
BROUGHT TO LABORATORY BY:		LABORATORY NUMBER
NAME _____ SERIAL # _____	DATE _____ TIME _____ AM/PM	
EVIDENCE RECEIVED BY:	DATE _____ TIME _____ AM/PM	
NAME _____ SERIAL # _____	DATE _____ TIME _____ AM/PM	
DISPOSITION OF EVIDENCE:		DATE _____ TIME _____ AM/PM
EXAMINER:	EXAMINATION TIME	CONSULTATION TIME
SIGNATURE _____ TITLE _____	A.M. P.M.	A.M. P.M.
		COURT TIME
		A.M. P.M.

DATE 12-13-65 TIME 10³⁰ AM, PLACE 404-20th Ave

STATEMENT OF: NATHANIEL (N) Goodwin - N/M- 9-16-27

The above is my true name and I live at 404-20th Ave
EA 5-3960 I am self employed as a junkie and
clean up man

On Friday Dec. 3, 1965 I left my home at about 8pm
and went to the King Fish Cafe at 14th + Jeff I had a
cup of coffee there then called a Farmist Cab and went to the
Ridge Farm at 1st Ave + Times St arriving there about 9pm
I ordered a glass of beer and looked around and saw two
guys I know - one Rudy and the other one I didn't know
The guys came over to my table and joined me a few minutes
later Floyd James came in I called him over to my table.
Floyd had a double shot of wine and a bottle of Olymper
Beer. About 10:30pm Floyd and I left the Ridge and Floyd
drove me to the liquor store at 2nd + James where I bought
a quart of Johnny Walker Red Label. We went back to the
Ridge but somebody had our seats so we left there and
took Floyd and I went to the 410 Club at 7th + Jackson
We were in Floyd's yellow + white 1953 Chev 4 door.
We got to the 410 Club just before 11pm. Floyd and I
drank the part of whiskey while we were at the 410 Club. We
left the 410 Club just about 2AM. As we were leaving
the 410 Club another fellow came up to me and asked for a
ride to his car I don't remember where his car was
I told him that I was riding with Floyd as the other fellow
asked Floyd for a ride and Floyd said OK. The

STATEMENT TAKEN BY E. H. Lightman

SIGNED: [Signature]

WITNESS C. W. Lee

WITNESS: _____

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PUBLIC DISCLOSURE REQUEST. ANY DELE-
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THE R.C.W. OR OTHER APPLICABLE LAW.

PAGE 1 OF 2

TO: _____
DATE: _____ SERIAL: _____

DATE 12-12-65

TIME 10⁴⁵ A.

PLACE 404-20th Ave

STATEMENT OF: Nathaniel Goodwin (Cont'd)

Three of us got into Floyd's car. We drove to my house first and I got out of Floyd's car. The other fellow is in the back seat and he got into the front seat when I got out. Floyd's car was heading south on 20th when I got out. He then raised the motor two or three times and took off with his wheels spinning. He drove on south on 20th and when he got to the end of the next block which is Alder St. I heard a loud crash. Floyd's car had hit a dark colored car that was parked on the right side of 20th Ave. at about Alder St. Floyd's car did not stop. I think he turned left and went towards 23rd Ave. I went on into my house and went to bed. I saw Floyd a couple of days later and Floyd told me that he had been picked up by the Police and Floyd told me then that if anybody asked me about the accident to tell them that Floyd's car was not up in this area.

I don't know the name of the guy that was in Floyd's car at the time of the accident but I would describe him as a negro male, about 30 yrs old lt. skinned 5' 9" tall wearing a rain coat, no hat.

I have read the above and it is a true statement given freely without threat, promise or duress of any kind.

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STATEMENT TAKEN BY: E. H. Wittinger

SIGNED:

Nathaniel Goodwin
 DATE: 12-98 SERIAL: 276

NESS:

C. W. Lee

WITNESS:

5100-527e

TRAFFIC CASE SUMMARY REPORT

9700

DATE OF INCIDENT 12-4-65		DAY OF WEEK Saturday		HOUR 2:30 AM		LOCATION OF OCCURRENCE In front of 303 20th Ave			
VEH NO 1 HIT AND RUN					DRIVER VEH. NO. 2 OR PEDESTRIAN Parked on Street				
ADDRESS					ADDRESS				
CITY & STATE					CITY & STATE				
BIRTH DATE					BIRTH DATE				
AGE					AGE				
SEX					SEX				
DRIVER'S LIC. NUMBER					DRIVER'S LIC. NUMBER				
LIC STATE					LIC STATE				
BUSINESS ADDRESS					BUSINESS ADDRESS				
OCCUPATION					OCCUPATION				
VEH MAKE		YEAR		BODY STYLE		COLOR			
POSSIBLE		54		CHEV.		Yellow			
VEH MAKE		YEAR		BODY STYLE		COLOR			
Buick		64		4 Door		Lt Blue			
VEH LIC NUMBER		YEAR LICENSE		STATE					
AXZ 662		1965		Wash					
REGISTERED OWNER					REGISTERED OWNER				
YOUNG, Maurice (-)					19403				
ADDRESS OF REG OWNER					ADDRESS OF REG OWNER				
2114 B. E. Jefferson									
PARTS OF VEH. DAMAGED					PARTS OF VEH. DAMAGED				
Left Rear + Side					Left Rear + Side				
IMPOUND NO.					IMPOUND NO.				
VEH TOWED BY					VEH TOWED BY				
R.T.O.					R.T.O.				
ESTIMATED COST TO REPAIR \$					ESTIMATED COST TO REPAIR \$				
					150.00				

DAYLIGHT					DAWN					DUSK					DARK (ST LIGHTED)					DARK (NO ST LIGHTS)					CLEAR					RAIN					SNOW					FOG					OTHER																																																																										
ROAD SURFACE										TRAFFIC CONTROL																																																																																																													
WET										SNOW/ICE										OTHER										STOP SIGN										STOP/GO SIGN										OFFICER/FLAGMAN										R.R. SIGNAL										OTHER										NO TRAFFIC CONTROL																																							
ROAD CHARACTER										ROAD DESIGN																																																																																																													
TRAIGHT										CURVE RIGHT										CURVE LEFT										LEVEL										GRADE										HILLCREST										ONE WAY										TWO WAY										INTERCHANGE										TWO WAY LEFT TURN										OTHER										BRICK									

- (1) WITNESS (S): NAME-ADDRESS-PHONES-WILL TESTIFY TO.
- (2) INJURED NAME-ADDRESS-AGE-IN VEH NUMBER-SEVERITY (1, 2, 3, 4)-SEX-DESCRIBE INJURIES-WHERE TREATED.
- (3) PROPERTY DAMAGED IDENTIFY OBJECT'S - OWNER'S NAME-ADDRESS-ESTIMATE COST TO REPAIR.
- (4) RECONSTRUCT ACCIDENT/INCIDENT: TELL WHAT HAPPENED.
- (5) POINT OF IMPACT: INDICATE SAME.
- (6) BRAKES: INDICATE CONDITION OF BRAKES ON EACH VEHICLE.
- (7) CHARGED DRIVERS: INDICATE NAME-CODE SECTION-CODE TITLE-NUMBER OF "VR, C & C AND/OR B/A.
- (8) OFFICER'S OPINION: WHAT IN YOUR OPINION CAUSED ACCIDENT?

Veh # 2 was legally parked on West Side of 20th ave in front of 303 20th ave. Owner of Veh. (Young) was inside residence (303 20th ave) and heard the crash when his car was struck by the Hit and Run vehicle. Officers recovered a vehicle headlight rim and yellow paint chips at the scene. Evid. taken to special Detail. HIT and Run Vehicle is possible suspect car in the Robbery-Shooting Case which occurred at 22nd and E. Harrison at approximately the same.

On Street in front of 303 20th Ave (303 No. of E. ALDE Special Detail to follow-up and

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TO: Schattauer
 DATE: 1/18/98 SERIAL 2708

INVESTIGATIVE TEST BY		RESULT		CHEMICAL TEST BY		RESULT	
INVESTIGATING OFFICER		SERIAL		UNIT		INVESTIGATING OFFICER	
J. O. Clark		2775		11		C. E. Elster	
SERIAL		UNIT		SERIAL		UNIT	
2025		11		2025		11	
APPROVING OFFICER				APPROVING OFFICER			
Det. WR Long				Det. WR Long			

INDEX	STATS.	BULL.	FOR RECORDS BUREAU ONLY:
A/R	ADD'L	FILE	
WARRANT	OTHER		

SEATTLE POLICE DEPARTMENT

FOLLOW-UP REPORT		PRESENT DATE 6-8-1966	CASE NUMBER 65-3458
TYPE OF CASE HOMICIDE	DATE OF OCCURRENCE 12-4-1965	EVIDENCE NUMBER 9826	UNIT FILE NUMBER 65-287
ORIGINALLY REPORTED AS SAME	LOCATION OF OCCURRENCE 22ND AND E. TERRACE		CORRES. NUMBER
VICTIM HUTTON EDWIN A.	ADDRESS 3623 13 th W	PHONE	

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PERSONS INTERVIEWED - NAME	ADDRESS	PHONE

CASE DISPOSITION: CLEARED (ARREST-UNFOUNDED-REFERRAL JUVENILE CT.-EXCEPTIONAL CLEARANCE); AT LARGE WARRANT; ETC.

PROPERTY: RECOVERED AND/OR ADDITIONAL STOLEN - (INCLUDE ID MARKS - COLORS - SIZES - SERIAL NUMBERS - ETC.)

ENTRY

COMMENCE EACH ENTRY WITH A NUMBER AND THE DATE AND TIME

SUSPECTS: SUMMARIZE ALL SUSPECT(S) INFORMATION: INCLUDE NAMES, B/A NUMBERS, DESCRIPTIONS, DISPOSITION, ETC.

GENERAL: SUMMARIZE STEPS OF INVESTIGATION: INCLUDE ADD'L WITNESSES, RESULTS OF INTERROGATIONS, EVIDENCE, ETC.

CASE M.O.: INDICATE ADD'L M.O. FACTORS NOT INCLUDED ON OFFENSE REPORT.

1. 10³⁰ AM ATTEMPTS TO CONTACT WITNESSES ESTILL AND HOUSTON UNSUCCESSFUL, IN AN ATTEMPT TO RE-INTERVIEW THEM, REGARDING THIS CASE. W.M. E. ESTILL MOVED FROM 220 22ND AVE SOMETIME PRIOR TO LAST CHRISTMAS. THE LANDLORD LIVING NEXT DOOR IS SUPPOSED TO KNOW ESTILL'S PRESENT ADDRESS BUT HE TOO WAS GONE UNTIL 6⁰⁰ PM. NOBODY ELSE HOME. PRESENT TENANT AT ESTILL'S OLD ADDRESS DID NOT KNOW LANDLORD'S PHONE NUMBER. LANDLORD LIVES IN NEXT HOUSE SOUTH OF ESTILL'S OLD ADDRESS OF 224 22ND AVE. LANDLORD'S ADDRESS: 218 22ND AVE.

2. 5⁵⁵ AM PRESENT TENANT OF 2200 E. TERRACE DOES NOT KNOW FORMER TENANT NANCIE HOUSTON'S PRESENT ADDRESS. NEVER HEARD OF HCR. NANCIE HOUSTON'S HUSBAND IS FRANK HOUSTON WHO WAS EMPLOYED BY LOCKHEED LAST DECEMBER AND POSSIBLY MAY STILL BE SO EMPLOYED.

3. 2⁰⁰ AM TOOK A TAPE RECORDING OF WHISPERING CONVERSATION BETWEEN B/A 9078 SMITH AND B/A 9079 RIGGINS TO U. OF W. THIS WAS RECORDED WHEN BOTH SUSPECTS WERE LEFT ALONE IN INTERROGATION ROOM 517 ON NIGHT OF THEIR ARREST. MOST OF RECORDING IS UNINTELLIGIBLE WHISPERINGS. CONTACTED U. OF W. SECURITY OFFICE LT. INGRAHAM. SEE CONTINUATION SHEET.

ISTRIB:	B/R	DETS	WOMEN	JUV	PRECINCT	OTHER
INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
ORIN C. CHURCH	1725	51				

CASE NUMBER 65-34582
UNIT FILE NO. 65-267
B/A NUMBER 9078 - 9079

ITEM OR ENTRY	CONTINUATION SHEET		ACCIDENT NUMBER
	(1) OFFENSE AND ARREST (2) FOLLOW-UP	(3) TRAFFIC INCIDENT CASE SUMMARY	CORRES. NUMBER

3.
CONTINUATION

LT. INGRAHAM WENT WITH INVESTIGATOR TO PARRINGTON HALL, TALKED TO MR. BERT BROWN, SOUND EXPERT. FEATURES OF CASE WERE EXPLAINED, AND CIRCUMSTANCES OF THIS RECORDING. MR. BROWN HAS VERY REFINED EQUIPMENT AND WILL GET ON THIS RIGHT AWAY. SOME PARTICULAR EQUIPMENT NEEDED BY MR. BROWN WAS ELSEWHERE ON CAMPLS AND WILL HAVE TO BE MOVED TO MR. BROWN'S LAB. HE REQUESTS PERMISSION TO KEEP ORIGINAL TAPE UNTIL HE CAN GET IT RE-TAPED ON THE PROPER EQUIPMENT. HE WILL THEN RETURN ORIGINAL, ALTERED IN NO WAY. HE UNDERSTANDS THE THEORY OF CHAIN OF EVIDENCE AND WILL TAKE PROPER CARE OF THE ORIGINAL. HE WILL KEEP IT IN HIS POSSESSION AT ALL TIMES WHEN WORKING WITH IT, AND WHEN NOT WORKING WITH IT HE WILL HAVE IT LOCKED IN A LOCKER TO WHICH THERE IS ONLY ONE KEY, HIS OWN.

MR. BROWN'S ADDRESS IS 203 PARRINGTON HALL. PHONE: 543 4858

69466

8 photos of scene taken by Sgt Schattauer from helicopter

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TO: Schattauer
DATE: 1-18-98 SERIAL # 2700

INVESTIGATING OFFICER GRIN C. CHURCH 1725 51	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
---	--------	------	-----------------------	--------	------	-------------------

A/R	ADD'L	FILE
WARRANT	OTHER	

FORM 5.1
SS 21.3
Rev 12-64

FOLLOW-UP REPORT

PRESENT DATE
12/11/65

CASE NUMBER
65-311552

TYPE OF CASE
ROBBERY

DATE OF OCCURRENCE
12/11/65

EVIDENCE NUMBER
9826

UNIT FILE NUMBER

ORIGINALLY REPORTED AS
Some

LOCATION OF OCCURRENCE
22nd Ave. & E. Terrace

CORRES. NUMBER

VICTIM
HUTTON, EDWIN A.

ADDRESS
3623-13th west

PHONE
AT 2-8810

PERSONS INTERVIEWED - NAME
Victim

ADDRESS

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THE RCW OR OTHER APPLICABLE LAW

Schattauer

CASE DISPOSITION: **CLEARED (ARREST-UNFOUNDED-REFERRAL JUVENILE CT.-EXCEPTION TO CLEARANCE); AT LARGE WARRANT; ETC.**

DATE **1-18-98** BY **2708**

RECOVERED AND/OR ADDITIONAL STOLEN - (INCLUDE ID MARKS - COLORS - SIZES - SERIAL NUMBERS - ETC.)

PROPERTY:

**E
N
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R
Y**

COMMENCE EACH ENTRY WITH A NUMBER AND THE DATE AND TIME

SUSPECTS: SUMMARIZE ALL SUSPECT(S) INFORMATION: INCLUDE NAMES, B/A NUMBERS, DESCRIPTIONS, DISPOSITION, ETC.

GENERAL: SUMMARIZE STEPS OF INVESTIGATION: INCLUDE ADD'L WITNESSES, RESULTS OF INTERROGATIONS, EVIDENCE, ETC.

CASE M.O.: INDICATE ADD'L M.O. FACTORS NOT INCLUDED ON OFFENSE REPORT.

- 12/11/65 9:35AM Called Doctor's Hospital. The victim is listed as in Fair condition. They think he still has a bullet in him. The Nursing Supervisor is going to check and see when we can see him.
- 12/11/65 9:50AM The Nursing Supervisor called back and said that we can have short interview with the victim at this time.
- 12/11/65 10:05AM To Doctor's Hospital. The victim is in Room 313. They have not X-rayed him yet to check for another bullet. One bullet was found by someone at the hospital. It fell off the stretcher onto the floor when they lifted the victim from the stretcher to a bed. It must have been tangled up in his clothes. The bullet was marked and placed in Evidence under #9826. I talked with victim and he states that he is a cook at the Drum Room. He had just left work and had cashed a \$30.00 check at the Drum Room. He was driven around and the two suspects halted him down. They wanted a ride to 23rd Ave. He agreed. They then directed him to 22nd & Terrace. At this point Suspect #1 drew out a gun and pointed it right at the victim's head. Suspect #2 then got out of car and ran around to the driver's door. The victim then hit Suspect #1 in the face and this knocked both of them out of the car. This was when he was shot the first time. The gun went off when he hit the suspect. He does not remember much after that. He describes Suspect #1 as being a NM early 20's, 5'9" tall, husky build with a scar on his forehead. (OVER)

ISTRIB:	B/R	DETS	WOMEN	JUV	PRECINCT	OTHER	(4) all other info	Cononer
INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER		
Det. C. W. Lee	1198	51				Sgt. R. Schoener		

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LAW.

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ITEM OR ENTRY	CONTINUATION SHEET		ACCIDENT NUMBER	UNIT FILE NO.			
	(1) OFFENSE AND ARREST (2) FOLLOW-UP	(3) TRAFFIC INCIDENT CASE SUMMARY	TO: <i>Schattauer</i>	<i>65-311552</i>			
			CORROSION NUMBER	SERIAL			
			<i>1898</i>	<i>270</i>			
(3 cont)	d.) Suspect #2 is a NM early 20's, tall with a slim build. He was wearing a small dark dress hat. The victim claims she has never seen either suspect before. They at no time called each other by name. The hospital will notify us when they are through with the X-Rays to determine if there is another bullet in the victim.						
4	12/5/65 11:30AM Contacted witness DICKEY by phone. He was in bed. Heard two shots being fired. Looked out the window and saw two people running. Can give no further description.						
5	12/5/65 12:30PM Called the hospital. They have not found the second bullet yet.						
6	12/5/65 1:05PM The Nursing Supervisor from Doctor's Hospital called - states the victim died at 12:48PM this date.						
7	12/5/65 1:30PM The Coroner's Office has a copy of the major report.						
8	12/5/65 1:40PM Lab slip sent in on the bullet and casings for a ballistic check.						
9	12/5/65 2:20PM Coroner's office notified to hold off on telling the press anything on this for awhile per Sgt. Schoener's request.						
10	12/5/65 2:30PM Sgt. Schoener suggests that we try and get papers to hold on the story about victim dying and see if we can work up any leads.						
11	12/6/65 8:30AM To the processing room in the Police Garage with Det. Dunnagan and Sgt. Schoener. Car processed for prints. 13 lifts were taken from the car. Also found in the car were a pair of sunglasses on the floor on the driver's side. These were dusted and one print was taken from them. The glasses were then placed in Evidence under #9826. Four on the front seat of the car was a Ben plaid sport coat, apparently belonging to the victim. This along with some personal papers found in the coat and on the front seat were placed in evidence also. Attempted to contact the victim's daughter Mrs. STEPHANIE WEISS, 3033 N.E. 105th, LA 3-6085, to release car to her but no answer. Also 5 pictures of the car were taken.						
12	12/6/65 10:00AM Pulled similar case files.						
13	12/6/65 10:50AM Attempted to call Chief McCann, Navy Intelligence. Apparently the victim worked for the Navy Exchange also. Find out his record and who he associates with.						
(OVER)							
INVESTIGATING OFFICER		SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
Det. C. R. Lee		1498	52	Det. E. H. Wittman	1145	51	Sgt. R. Schoener

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Schattauer

CASE NUMBER
 65-21-552

ITEM OR ENTRY	CONTINUATION SHEET		DATE: 1-18-98	ACCIDENT NUMBER	UNIT FILE NO.
	(1) OFFENSE AND ARREST (2) FOLLOW-UP	(3) TRAFFIC INCIDENT CASE SUMMARY		SERIAL # 2700	
				CORRES. NUMBER	B/A NUMBER

14 12/6/65 11:05AM Chief McCann called back and stated he would run a background check on victim and let us know.

15 12/6/65 11:30AM Chief McCann called back and is going to send the form that they have that was filled out by HUTTON for employment. He further states that a fellow that was about the same age as the victim, brown hair, 5'7", would stop by and see the victim quite a bit. Nothing further on that.

16 12/6/65 1:00PM To the victim's house and interviewed the victim's two daughters that were there, Mrs. STEPHANIE WEISS and PEGGY HUTTON. They state that their father had a large drinking problem and also had some Negro girl friends. They say that one of them by the name of MARIAN called the house for him, in fact this MARIAN called yesterday for him. He had on at least one occasions a Negro girl at the house with him for the night. She gave us a letter that was sent to her father from the City Jail by a NORMA STAPELTON. This letter just referred to bringing her some clothes when he came to visit her. There was also an address on a note at the house of 419-21st Ave., Apt. #5, no name. Also another note on a MICHELLE at the Terrace View Apts., #118 MA 2-9751. She also stated that her dad did not save any money, just blew it. She is going to check on all of his return checks for names. He also had another girl friend by the name of LULU MAE JACKSON that was supposed to have died of cancer in the King County Hospital, and that LULU lived in the High Point project. Also we have information that he has been seen in the Drum Room with some Negro women.

17 12/6/65 Received information that victim had a Negro girl friend he had been seeing quite frequently. Girl friend now in city jail. Search of visitor slips to City Jail revealed girl to be YNORMAL LEE STAPLETON @ MICHELLE, prostitute and narco. user. Victim visited STAPLETON 11/28/65 2:00PM interviewed STAPLETON City Jail. She states she has had victim a regular customer for quite some time. She has called him at home on several occasions. He always hung around Cosmopolitan Tavern and different establishments in the area of 14th & E. Yesler. He was not known to carry any large sums of money on his person. Usually would cash a check at the Drum Room to cover the nightly expense (OVER)

INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
						Sgt. R. Schoener

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CASE NUMBER
65-31-552

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ITEM OR ENTRY	CONTINUATION SHEET		ACCIDENT NUMBER	UNIT FILE NO.
	(1) OFFENSE AND ARREST (2) FOLLOW-UP	(3) TRAFFIC INCIDENT CASE SUMMARY	<i>e. Chatter</i> CORREC NUMBER 1-1898 SERIAL: 2700	B/A NUMBER

(#17 cont.) The only other Negro girl STAPLETON knows the victim visited was VIVIAN PARNELL. She believes the victim was too experienced to pick up

a couple of colored men and give them a ride as victim related. Suggested we contact "HANK", bartender at Cosmopolitan Tavern. HANK knew victim and if victim made a contact 12/4/65, it would most likely be out of the Cosmopolitan. Younger colored girls in that area are supposedly picking up tricks and their male associates are known to follow and strong arm victim.

18 12/6/65 1:30PM A picture of the victim was obtained from the victim's daughter.

19 12/7/65 8:40AM Contacted Cordes Tow re: name of driver who towed victim car from 22nd & Terrace - driver's name BUD BRIAN, he states all tires were inflated and he was very careful not to touch anything for fear of destroying fingerprints. He further states that headlights were on and motor was running when he arrived at the scene.

20 12/7/65 9:00AM Interviewed ROBERT HENDERSON, City Jail. He knows victim - last saw him Friday 12/3/65 8:00-9:00PM at Cosmopolitan. Victim stayed in tavern for a short time, talked with MARY SULLIVAN and NONA they left.

21 10:00 Contacted SOL THOL, 204-42nd East, SA 2-5589, owner of Drum Room re: victim. He states victim worked at Drum Room 12/3/65 until around midnight. Has worked part time as his cook since Oct. 17, 1965. THOL has known victim for about 20 yrs. Very steady and reliable. BILL EDWARDS, 3724-N.E. 125th, day bartender, states around 1:00AM victim and night bartender ED FOSTER came to his home and obtained some keys for a back room at work. Victim had locked his keys inside. FOSTER has more information - works 6:00-2:00AM.

22 Received phone call from KENNETH KLEPACK, bartender at Lucky Inn tavern. He relates on Saturday morning around 2:00AM he saw two Negro males standing across the street on Madison between the Drum Room and Triangle Tavern. Lucky Inn is in 1400 blk. E. Madison, north side). Both Negroes in late teens or early 20's. He felt they may be casing the tavern so he watched them. He then saw the victim walk to his car, '56 Plymouth, parked (OVI

INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
						Sgt. J. Schoener

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TO: Schattauer

CASE NUMBER
65-34552

ITEM OR ENTRY	CONTINUATION SHEET		DATE	ACCIDENT NUMBER	SERIAL #	UNIT FILE NO.
	(1) OFFENSE AND ARREST (2) FOLLOW-UP	(3) TRAFFIC INCIDENT CASE SUMMARY				B/A NUMBER
				11898	2700	

(#22 cont'd.) on E. Madison 1400 blk. Victim appeared rather unsteady on his feet. He started to get into his car and KLEPACK then noticed the two Negro males were in victim's car. KLEPACK stuck his head out the door of the tavern and asked victim if everything was alright. Victim replied "Hell yes, They're a couple friends of mine". They then drove off.

23 10:30 Went to Cosmopolitan Tavern, 14th & E. Yesler - unable to contact owner HANK HASHIMOTO

24 11:00AM Took photos of scene at 22nd & E. Terrace, 4 photos by Det. Wittman

25 11:15AM Contacted and took statement from witness WM. ESTILL, 220-22nd Ave.

26 11:15AM Contacted NANCY HOUSTON, 2200 E. Terrace, EA 5-2566. She states that she was home during the shooting. Her husband had left the apartment and was going to service station to get new tires for his car. Mr and Mrs. HOUSTON were supposed to go out when he returned. Mrs. HOUSTON waited around and when her husband didn't return, she fell asleep on the sofa. She was awakened by some commotion outside her front door. She looked out through the peep hole in the door and saw the victim in his car parked directly in front of HOUSTON'S door. There were other people in victim's car at this time and there was another car parked along side of victim's car. Make and description of this car unknown. Mrs. HOUSTON heard the 2 shots. Then saw some other car leave west bound on Terrace. Mrs. HOUSTON feels that if she sees another car with some kind of tail lights, she will be able to identify. Mrs. HOUSTON is asthmatic and was having difficulty breathing and appeared quite excited during interview. She should be contacted later for statement when she is more composed.

27 1:30 Special Detail notified us of ACC. #19403 Hit & Run at 303-20th Av 12/4/65 2:30AM. 1954 yellow Chev. south bound on 20th struck 1964 Buick left rear. This vehicle may be the same as mentioned by witness HOUSTON. Request to locate issued King County area. Damaged right front or side

28 2:00PM To 444 Yale Avenue North - interviewed FRANK HASHIMOTO, owner of Cosmopolitan Tavern, 14th & Yesler. He recognizes photo of victim and states he recalls seeing victim in his tavern on several occasions. Doesn't recall when he saw victim last. States victim usually came (OV

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CASE NUMBER
85-34552

ITEM OR ENTRY	CONTINUATION SHEET THE R.C.W. OR OTHER APPLICABLE LAW.		ACCIDENT NUMBER	UNIT FILE NO.
	(1) OFFENSE AND ARREST (2) FOLLOW-UP	(3) TRAFFIC INCIDENT CASE SUMMARY:	CORRES. NUMBER <i>Michael Miller</i> 1-1898	B/A NUMBER 270

(#28 cont'd.) to tavern between 2:00 and 5:00PM during the shift that FRANK'S mother-in-law worked. FRANK has no idea of who was involved in this shooting.

29 5:30PM Checked 419-21st Ave., #5, home of CAROL WRAY, EA 4-0872. Has known victim for past 4 mos. Victim called her early Friday evening 12/3/65 from Drum Room. Asked her to come in for dinner. She had previous engagement, did not hear from victim again.

30 6:00AM Contacted ED FOSTER, bartender at Drum Room. He states victim was at Drum Room until closing 2:00AM. FOSTER drove victim to home of BILL EDWARDS, day bartender, to pick up some keys. He at this time warned victim of his dangerous activities, fooling around with the people around Jackson St. FOSTER was told to mind his own business. Victim sober when he left. Contacted KEN KLEPACK again, 1980R Danvers Road, Alderwood Manor, PR 8-8372. He stated both Negro males were in late teens or early 20's, one 6', slim, the other shorter and stocky. One wearing a jacket, black with orange design of some type. About 2:15AM 12/4/65 victim walked in front of Lucky Inn and suspect ran across Madison to north side and the corner of 14th where victim's car was parked. They left together. This is all witness could add to previous item #22.

30 Checked hit and run area and lower hill for suspect car, negative result
31 12/7/65 7:00PM Contacted Mr. & Mrs. WARREN WEBER, 2200 Terrace Ave., Apt. #4. They were home but heard or saw nothing.

32 7:00PM Contacted Mrs. VIRGINIA HAYES, same address Apt. #2 EA 3-4425. She was just coming home. Apparently the shooting had already taken place. As she parked her car and opened door, she heard someone say, "Help me, I am hurt". She then saw victim. At first she thought he was drunk, but another tenant by the name of DICKEY told her that he had been shot. She then ran up to her apartment and got some blankets and put them over victim. She did hear victim say that he was robbed by two colored boys. She states there was a man there in an old Ford that helped them with the victim.

33 7:30PM Contacted Mr. ROBERT DICKEY in Apt. #3, EA 5-7426. He states all he heard was the shots and then saw two figures run away, no further (C

INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
						Sgt. R. Schoener

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CASE NUMBER
 #65-34552

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ITEM OR ENTRY	CONTINUATION SHEET		ACCIDENT NUMBER	UNIT FILE NO.			
	(1) OFFENSE AND ARREST (2) FOLLOW-UP	(3) TRAFFIC INCIDENT CASE SUMMARY DATE	CORRES. NUMBER 71899 SERIAL # 270	B/A NUMBER			
			Schattauer				
(33 cont'd.)	description on suspects.						
34	6:30PM To Drum Room 11th & Madison, interviewed waitress NANETTE DE MI and her husband JIM DE MILE, 4908-47th Ave. So., PA 5-8610. NANETTE I known as DUCKY around the restaurant. She was on duty Friday night Dec 3rd until about 12:00 midnight. She states that victim HUTTON was cooking at the Drum Room Friday and was in a good mood. NANETTE remembers HUTTON making several calls during the evening and at one time said that he was going to a party up on the hill after getting off work. She further states that HUTTON went outside about 10:00PM and came back into restaurant and said he had a flat tire. He called his home and apparently talked to his son about coming down to get him. The son apparently declined and NANETTE offered to drive HUTTON home. He said no, he would take a cab. The tire was still flat at midnight and HUTTON apparently went somewhere to have it pumped up or repaired. NANETTE went home at 12:15AM and didn't see HUTTON after that. NANETTE'S husband JIM has a friend named JOHNNY who used to be a dishwasher in the Drum Room. JOHN now hangs around the Lucky Inn across the street from the Drum Room and lives nearby on 13th Ave. The only thing JIM DE MILE knew about the incident is what he heard from JOHNNY and all JOHNNY knew was what he heard from the Lucky Inn bartender KEN KLABECK.						
35	7:30PM To 2200 E. Terrace, Apt. #1, re-interviewed and took written statement from NANCY HOUSTON. Her story is substantially the same as before, see Item 26. She is positive that there was another car along side of victim's car at the time the shots were fired and the other car left the scene west bound on Terrace toward 20th Ave., where Terrace dead ends.						
36	12/8/65 9:00AM Pick up issued for the two suspects.						
37	12/8/65 9:15AM Contacted Dale Kent. He is going to have a girl go through the latest gun permits on our 32 cal. automatic.						
38	12/8/65 10:00AM Located a '54 Chev. at 24th & Union that fit description of car wanted (see Item 27). The car belongs to FLOYD E. JONES, 3134 S.W. Holly who is employed as a mechanic at Horton Auto Repair, 24th & Union. Brought JONES into Homicide/Robbery for questioning. He states his car was struck Friday Dec. 3, 1965 between 10:00PM and 12:30AM (OV						
INVESTIGATING OFFICER		SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
Det. E. N. Wittman		1145	51				Sgt. R. Schoener

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CASE NUMBER	#65-34552
UNIT FILE NO.	
B/A NUMBER	

ITEM OR ENTRY	CONTINUATION SHEET THE R.C.V. OR OTHER APPLICABLE LAW.		CORRES. NUMBER	B/A NUMBER
	(1) OFFENSE AND ARREST (2) FOLLOW-UP	(3) TRAFFIC INCIDENT CASE SUMMARY:		

(#38 cont'd.) while parked just north of Pike St., in the Pike Place Market. did not report the accident because he had a car hit once before and

reported it to police and nothing ever happened. JONES claims that he went to the Ridge at 1st & University at about 10:00PM Friday. He sta until about 12:30AM. He met two colored girls while there but doesn't know their names. He says the one girl is called DORIS NF 29-30, shor thin, wearing a red coat. The other girl was about the same age and w tall. Doesn't remember clothing. JONES claims DORIS and the other gi left the Ridge with him and he drove them to the 410 Club at 7th & Jackson, dumped them out and went on home. DORIS and the other girl c verify that the car was damaged when they left the Ridge. JONES denie being up in vicinity of 22nd & Terrace or anywhere near that area. JO was taken back to garage at 24th & Union.

39 12/8/65 2:00PM To Dreslar Wesche Buick to check Buick struck in Hit an Run accident (Item 27). The Buick was struck in the left rear corner. There are also scratches on trunk lid, molding around left rear window and rear view mirror was broken off of left front door. The damages o trunk lid appear peculiar as though something was drug across top. Pai sample taken from Buick and placed with paint sample from hit and run. E.H.W.)

40 2:45PM MOSES KAY, I.D. Bureau called - states there are 12 readable fi prints in evidence taken from victim's 1956 Plymouth. Only one of the prints belong to victim. FLOYD JONES fingerprints were checked agains prints in evidence with negative results.

41 3:00PM VIVIAN PARNELL to Homicide/Robbery office. She has known victir for quite sometime - states he always treated her very well. The last time she saw victim was Thursday 12/3/65 in Chinatown. She knows no or fitting the suspects' description.

42 2:00PM Contacted MAURICE YOUNG, owner of the Buick that was in the hit run accident. He saw nothing.

43 12/9/65 10:00AM Interviewed ED DEONCH who was the night attendant at th Standard service station at 12th & Madison. He cannot recall the victi coming in there on the night of this incident. He did not work late as indicated - a JIM BATTLE did. JIM BAILY has since been transferred (OV

INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
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CASE NUMBER
 #65-34552

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ITEM OR ENTRY	CONTINUATION SHEET		THE	ACCIDENT NUMBER	POLICE DIV.	UNIT FILE NO.
	(1) OFFENSE AND ARREST (2) FOLLOW-UP	(3) TRAFFIC INCIDENT CASE SUMMARY	TO	CORRES. NUMBER		B/A NUMBER
			DATE	1-1898	SERIAL #	270

- (#43 cont'd.) to the warehouse.
- 44 10:45AM Contacted JIM BATLEY. He remembers the victim coming into the station but states he was alone at the time. He cannot place a definite time that the victim was in, but it would have been before 2:00AM as they close at that time.
- 45 9:00AM 12/9/65 Went with Det. Short to interview informant known as BOBBIE, The Punk. He hasn't heard too much about the shooting but will keep us informed. Says description we have of suspects matches with that of BUTCH CALLAHAN and JERRY ALLEN, addresses unknown, but BOBBIE will try to find out. Checked I.D. Bureau and we have a JERRY EARL ALLE, Loc. #56376, mug photos requested. Too many CALLAHANS - none named BUTCH.
- 46 12/9/65 10:00AM To 220-22nd Ave., re-interviewed witness ESTILL. He insists that he was at the alley on north side of Terrace between 21st and 22nd when both shots were fired and he remained there until the two suspects ran into the alley across Terrace St., and the two suspects ran through the alley to Alder Street. Witness ESTILL did not see any car leave the scene but did see the headlights of a car at 20th & Terrace while the Police were investigating at the scene. The car with the headlights was facing the scene and it appeared as though the occupants were watching the investigation. Witness ESTILL will notify us if he thinks of anything else that may be of value.
- 47 12/9/65 10:30AM To 212-21st Apt. 4 - interviewed witness MACK DORROUGH. He arrived on the scene after the Police arrived and doesn't know anything.
- 48 12/9/65 Canvassed houses in vicinity for possible witnesses with negative results.
- 49 12/9/65 Check with Crime Lab - they state no prints obtained from victim wallet or key case.
- 50 12/9/65 2:00PM To the body shop at 24th & Union - JONES not there. I then went to his home at 3134 S.W. Holly. He was there. Says he will be in at 1:30PM on Tuesday 12/14/65 to take a Polygraph.
- 51 12/10/65 9:00AM to 10:45PM Checked hill for hit and run car (Item 27) with negative results.

INVESTIGATING OFFICER Det. E. H. Wittman	SERIAL 1145	UNIT 51	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER Sgt. R. Schoener
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A, R	ADD'L	FILE							
WARRANT	OTHER								
DRM 5-6 SS 21.3 CV 12-64	FOLLOW-UP REPORT					PRESENT DATE 6/8/66	CASE NUMBER 65-34552		
TYPE OF CASE HOMICIDE		DATE OF OCCURRENCE 12/4/65			EVIDENCE NUMBER		UNIT FILE NUMBER 287		
ORIGINALLY REPORTED AS Same		LOCATION OF OCCURRENCE 22nd and E. Terrace					CORRES. NUMBER		
VICTIM HUTTON, EDWIN A.		ADDRESS 3623 - 13th W.			PHONE				
PERSONS INTERVIEWED - NAME		ADDRESS			PHONE				

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CASE DISPOSITION: CLEARED (ARREST-UNFOUNDED-REFERRAL JUVENILE CT.-EXCEPTIONAL CLEARANCE); AT LARGE WARRANT; ETC.
TO: Schallauer
DATE: 11898 SERIAL #: 2700

RECOVERED AND/OR ADDITIONAL STOLEN - (INCLUDE ID MARKS - COLORS - SIZES - SERIAL NUMBERS - ETC.)
PROPERTY:

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COMMENCE EACH ENTRY WITH A NUMBER AND THE DATE AND TIME
SUSPECTS: SUMMARIZE ALL SUSPECT(S) INFORMATION: INCLUDE NAMES, B/A NUMBERS, DESCRIPTIONS, DISPOSITION, ETC.
GENERAL: SUMMARIZE STEPS OF INVESTIGATION; INCLUDE ADD'L WITNESSES, RESULTS OF INTERROGATIONS, EVIDENCE, ETC.
CASE M.O.: INDICATE ADD'L M. O. FACTORS NOT INCLUDED ON OFFENSE REPORT.

6/8/66. Contacted Witness WILLIAM ESTILL, 1107 E. Jefferson, EA 4-2119. Obtained a statement in which he elaborates in the clothing that the suspects were wearing. He does think he could identify the two men whom he saw leaving the scene. He did state that they were 17 or 18 years old and clothing they were wearing could have matched that of our current suspects.

Witness ESTILL states he knows B/A SMITH and B/A RIGGINS but not by name, only by sight. He has seen them in the White Sands Restaurant. It is the opinion of this detective and partner that Witness ESTILL may know more than he is willing to admit. He is unemployed at present and hangs out in the same areas as did the suspects.

6/8/66. Bureau record check reveals that the NANCIE HUSTON who gave a statement to the Police in December '65 is in fact a NANCIE GRATTON. B/R gives NANCY KATHLEEN GRATTON 1615 - 35th, M#139312 (B/A 24935, 12/5/64; 5:52 A.M. last arrest) N-F, 21, 5'6", 121#, medium, light choc., black hair brown eyes. Arrested 1962 Del. Larc/Shoplift; '64 D.C. Dist. and Resisting. FRANK EDMOND HOUSTON T/N FRANK EDWARD MITCHELL M 72845, Loc. #51357, N-M, d.o.b. 9/20/39, 5'11", 190#, blk, brn., resided at 1809 East Denny, in 1964. Long record of Felonies. Mother, DOROTHY GRATTON, resides at 1939 - 25th East EA 3-4543, works during day. Mother will have NANCIE call Sgt. Arnold days, or Stansbury nights.

6/10/66. Attempted to contact NANCIE GRATTON at mother's house, 1939 - 25th East.

(continued)

DISTRIB:	B/R	H&R	Pros.	WOMEN	JUV	Capt.	PRECINCT	OTHER	Offs. Halmes, H. & McKinney, M. (5)
INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER			
Det. O.R. Brice	1826	51	Det. J.D. Stansbury	1736	51	Sgt. F.L. Mitchell, #430-5			

CASE NUMBER
65-34552

ITEM OR ENTRY	CONTINUATION SHEET (1) OFFENSE AND ARREST (2) FOLLOW-UP XXX Page 2 (3) TRAFFIC INCIDENT BASE SUMMARY	ACCIDENT NUMBER	UNIT FILE NO. 287
		CORRES. NUMBER	B/A NUMBER

4(cont.) Mother, Dorothy Gratton, states she has not seen daughter last two days. Chronic asthma victim being treated at Cabrini. Medical records should be checked tomorrow
 5 6/11/66, 4:30 P.M. Telephoned Cabrini. Obtained Supervisor of Medical Records' name and telephone. Contacted her at home. Received return telephone call from Cabrini states PAT L. GRATTON lives at 1431 - 24th S., EA 5-8328. NANCIE GRATTON resides at 1615 - 35th Ave. or 2200 E. Terrace #1. Contacted Pat Gratton, sister of NANCIE. Pat stated she would have NANCIE call H&R.
 6 6/11/66, 5:30 P.M. NANCIE GRATTON HOUSTON called H&R, made arrangement to interview her at mother's house. Refused to state present address.
 7 6/11/66, 6:30 P.M. Interviewed NANCIE GRATTON at 1939 - 25th East. GRATTON has financial difficulties and is avoiding bill collectors. Definitely truthful in stating she cannot identify any suspects. Only observed them inside the car and could not identify if white or black. No additional statement taken as she could add nothing.

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TO: Schattauer
 DATE: 1-18-98 SERIAL # 2100

(5) ES

INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
Det. J. D. Stansbury	1736	51	Det. O.R. Brice	1826	51	Sgt. F.L. Mitchell, #430-5

INDEX	STATS.	BULL.	FOR RECORD - BUREAU ONLY:
A/R	ADD'L	FILE	
WARRANT	OTHER		

FORM 5.8 21.3 7-64	FOLLOW-UP REPORT		PRESENT DATE 6/13/66	CASE NUMBER 65-34552
TYPE OF CASE HOMICIDE	DATE OF OCCURRENCE 12/4/65	EVIDENCE NUMBER	UNIT FILE NUMBER	
ORIGINALLY REPORTED AS Same	LOCATION OF OCCURRENCE 22nd and E. Terrace	CORRES. NUMBER		
VICTIM HITTON EDWIN A.	ADDRESS 3623 - 13th W.	PHONE		
PERSONS INTERVIEWED - NAME ESTILL, WILLIAM W.	ADDRESS 1107 E. Jefferson	PHONE EA 4-2119		

CASE DISPOSITION: ~~CLEARED~~ ~~CURRENT-UNFOUNDED-REFERRAL~~ ~~JUVENILE CT.-EXCEPTIONAL CLEARANCE~~; AT LARGE WARRANT; ETC.

RECOVERED AND/OR ADDITIONAL STOLEN - (INCLUDE ID MARKS - COLORS - SIZES - SERIAL NUMBERS - ETC.)
PROPERTY:

ENTRY
 COMMENCE EACH ENTRY WITH A NUMBER AND THE DATE AND TIME
 SUSPECTS: SUMMARIZE ALL SUSPECT(S) INFORMATION: INCLUDE NAMES, B/A NUMBERS, DESCRIPTIONS, DISPOSITION, ETC.
 GENERAL: SUMMARIZE STEPS OF INVESTIGATION: INCLUDE ADD'L WITNESSES, RESULTS OF INTERROGATIONS, EVIDENCE, ETC.
 CASE M.O.: INDICATE ADD'L M. O. FACTORS NOT INCLUDED ON OFFENSE REPORT.

- 12:40 P.M.
Picked up above witness, WILLIAM ESTILL, and took him to property room to view coats seized from home of suspect DAVID RIGGINS. PURPOSE: To see if ESTILL could identify coat as same one worn by suspect DAVID RIGGINS on night of shooting. Witness ESTILL viewed coat but was unable to say if coat was worn by shorter suspect of the two who were seen by ESTILL running from scene.
- 1:00 P.M. Took witness ESTILL to Dep. Prosecutor Soukup for conference.
- Took witness ESTILL back to H&R Office where he gave additional statement.

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TO: *Shattauer*
DATE 7-18-98 SERIAL # 2700

DISTRIB:	B/R	DETS	WOMEN	JUV	PRECINCT	OTHER	(5) all conc.	ES
INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER		
Det. Orin C. Church	1725	51				Sat. H. I. Arnold	#500-5	

INTRA-DEPARTMENT COMMUNICATION 621 2/65
SEATTLE POLICE DEPARTMENT

FROM C ELSTER 2025 M ERICKSON 7063 # DATE 12-13-65
CAR 125

TO DET. B. LEE - HOMICIDE

SUBJECT SUSP. IN HOMICIDE - 22ND & E TERRACE.

WE RECEIVED INFORMATION FROM OUR INFORMANT THAT DIANE FISHER'S BOYFRIEND, FLOYD BELL BROWN @ DUCK - LOC # 59788 WAS ONE OF TWO MEN WHO ROBBED AND KILLED AT 22ND & E TERRACE AT APPROX 2 AM 12-4-65. BROWN DRIVES A 56 W/GREEN PONT. LOC # AMS AND ASSOL. WITH -

- BOBBY MOSELY NM/24-25 - 1900 23RD S. LOC #
- CURTIS JONES NM/25 - possibly (WALTER JONES) LOC #
- ANTHONY EUGENE DENIS NM/20-25 1211 E TERRACE

OUR INFORMANT WAS TOLD BY DIANE FISHER THAT FLOYD AND A FRIEND HITLITED A RIDE WITH A MAN, DIRECTED HIM 22ND & E TERRACE AND ROBBED HIM. THE VICTIM HIT FLOYD BROWN CAUSING HIS GUN TO GO OFF & HIT THE VICTIM. THE TWO THEN RAN OFF.

* DIANE FISHER IS LIVING WITH HER MOTHER AT 23 & E FIR (156 23RD AVE) FREQUENTS 14TH & YESLER & CHINA & THE KING FISH - 14 & JEFFERSON DAMS.

* FLOYD BROWN WAS LIVING WITH HIS MOTHER PRIOR TO HIS LAST ARREST IN OCT. AT 207 22ND E. FLOYD WAS WORKING AT THE GAS STATION AT 17TH & E REPUBLICAN.

* BOBBY MOSELY WAS LAST WORKING AS A BARBER IN SHOP AT 24TH & E. UNION.

* DENIS IS A FREQUENT VISITOR AT 458 13TH, OCCUPIED BY ANN THRASH NF/40 - PART TIME BOOTLEGGER. (WALTER HOTEL)

* OUR INFORMANT IS GOING TO TRY TO LOCATE BROWNS GUN IT MIGHT BE IN FLOYD'S CAR BEHIND DASH BOARD OR BEHIND BACK CUSHION IN SPRINGS OF REAR SEAT.

IT MAY BE A GOOD BET TO QUESTION DIANE - SHE IS APPARENTLY UPSET & PROBABLY SCARED. AS SHE HAS APPROX OUT OF SIGHT. SHE HAS BEEN DRIVING FLOYD.

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RESPECTFULLY SUBMITTED

C ELSTER
M ERICKSON CAR 125

TO: schattauer
DATE: 1-18-98 SERIAL #2701

A/R	ADD'L	FILE	
WARRANT	OTHER		
FOLLOW-UP REPORT			CASE NUMBER 65-34552
TYPE OF CASE HOMICIDE		DATE OF OCCURRENCE 12/4/65	EVIDENCE NUMBER 3826
ORIGINALLY REPORTED AS Same		LOCATION OF OCCURRENCE 22nd and E. Terrace	UNIT NUMBER 287
VICTIM HUTTON, EDWIN A.		ADDRESS 3623 - 13th W.	PHONE
PERSONS INTERVIEWED - NAME		ADDRESS	PHONE

CASE DISPOSITION: CLEARED (ARREST-UNFOUNDED-REFERRAL JUVENILE CT.-EXCEPTIONAL CLEARANCE); AT LARGE WARRANT; ETC.

RECOVERED AND/OR ADDITIONAL STOLEN - (INCLUDE ID MARKS - COLORS - SIZES - SERIAL NUMBERS - ETC.)

PROPERTY:

INVESTIGATION: COMMENCE EACH ENTRY WITH A NUMBER AND THE DATE AND TIME

SUBJECT: SUMMARIZE ALL SUSPECTS' INFORMATION INCLUDE NAMES, B/A NUMBERS, DESCRIPTIONS, DISPOSITION, ETC.

GENERAL: SUMMARIZE STEPS OF INVESTIGATION INCLUDE ADD'L WITNESSES, RESULTS OF INTERROGATIONS, EVIDENCE, ETC.

DETAILS: INDICATE ADD'L M. O. FACTORS NOT INCLUDED ON OFFENSE REPORT.

1 Show-up on Suspects LEODIS SMITH, B/A 9078, and DAVID RIGGINS, B/A 9079, was conducted with four other men from city jail. Identification was made but show-up photos did not turn out. Others in show-up with SMITH and RIGGINS were as follows:

- | | |
|--------------------------------|-------------|
| Number 1 man - PLASIDO LINDSEY | Loc. #59602 |
| " 2 " - JOHN MATHEWS | #43777 |
| " 3 " - LEODIS SMITH | #62423 * |
| " 4 " - EDDIE HARRISON | #58801 |
| " 5 " - WILLIAM HICKS | #47819 |
| " 6 " - DAVID RIGGINS | #60072 * |

Photos of LINDSEY and HARRISON not available. Their mugs requested.

2 6/20/66. Checked with Lab. Mugs of LINDSEY and HARRISON will be ready tomorrow, 8:30 A.M., 6/21/66.

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TO: *Schattauer*
JHI (5) all conc. 3826 # 2700

DISTRIB:	B/R	DETS	WOMEN	JUV	PRECINCT	OTHER
INVESTIGATING OFFICER	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER		
Dst. Chm C. Church 1725	517			Sgt. H. L. Arnold, #509-51		

DATE 12-13-65

TIME 10²⁰ AM, PLACE 404-20th Ave.

STATEMENT OF: Nathaniel (N) Goodwin - NM- 9-16-27

The above is my true name and I live at 404-20th EA 5-3960. I am self employed as a junkie in clean up work.

On Friday Dec. 3, 1965 I left my home at about 8pm and went to the King Fish Cafe at 14th + Jeff. I had a cup of coffee there then called a Farmer Cab and went to the Ridge Farm at 1st Ave + Third St arriving there about 9

I ordered a glass of beer and looked around and saw two guys (one I know as Rudy and the other one I don't know). The guys came over to my table and joined me a few minutes later Floyd & James came in. I called him over to my table.

Floyd had a double shot of wine and a bottle of Olympic Beer. About 10:30pm Floyd and I left the Ridge and Floyd drove me to the liquor store at 2nd + James where I bought a quart of Johnson's Malibu Red & White. We went back to the Ridge but somebody had our seats so we left there and

Floyd and I went to the 410 Club at 7th + Jackson. The car was a 1953 Chevy 4 door.

We got to the 410 Club just before 11pm. Floyd and I drank the quart of whiskey while we were at the 410 Club. We left the 410 Club just about 2AM. As we were leaving

the 410 Club another fellow came up to me and asked for my address. I don't remember where he said his car was. I told him that I was riding with Floyd as the other fellows asked Floyd for a ride and Floyd said OK. The

STATEMENT TAKEN BY E. H. Lightman

SIGNED: [Signature]

WITNESS C. W. Lee

WITNESS: [Signature]

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DATE 12-12-65

TIME 10⁴⁵ - A PLACE 404-20th Ave

STATEMENT OF: Nathaniel Goodwin (cont'd)

Three of us got into Floyd's car. We drove to my house first and I got out of Floyd's car. The other fellow is in the back seat and he got into the front seat when I got out of Floyd's car. We were heading south on 20th when I got out. He then raised the motor three or four times and took off with his wheels spinning. He drove on south on 20th and when he got to the end of the next block which is Alder St. I heard a loud crash. Floyd's car had hit a dark colored car that was parked on the right side of 20th Ave. at about Alder St. Floyd's car did not stop. I think he turned left and went towards 23rd Ave. I went on into my house and went to bed. I saw Floyd a couple of days later and Floyd told me that he had been picked up by the Police and Floyd told me then that if anybody asked me about the accident to tell them that Floyd's car was not up in this area.

I don't know the name of the guy that was in Floyd's car at the time of the accident but I would describe him as a negro male, about 30 yrs old, 5' 9" tall wearing a rain coat, no hat.

I have read the above and it is a true statement given freely without threat, promise or duress of any kind.

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STATEMENT TAKEN BY: E. H. Wittman
 BY: C.W. Lee

SIGNED: Nathaniel Goodwin
 DATE: 1/18/98 SERIAL: 277(x)

500-507e

TRAP CASE SUMMARY REPORT

DATE OF INCIDENT 12-4-65

DAY OF WEEK Saturday

HOUR 2:30 AM

LOCATION OF OCCURRENCE

In front of 303 20th Ave

VEH NO 1 HIT AND RUN (LAST-FIRST-MIDDLE)

DRIVER VEH. NO. 2 OR PEDESTRIAN (LAST-FIRST-MIDDLE) Parked on Street

ADDRESS RES PHONE

ADDRESS RES PHONE

CITY & STATE BIRTH DATE AGE SEX

CITY & STATE BIRTH DATE AGE SEX

DRIVER'S LIC. NUMBER LIC STATE

DRIVER'S LIC. NUMBER LIC STATE

BUSINESS ADDRESS OCCUPATION

BUSINESS ADDRESS OCCUPATION

VEH. MAKE YEAR BODY-STYLE COLOR POSSIBLE 54 CHEV. Yellow

VEH. MAKE YEAR BODY-STYLE COLOR Buick 64 4-Door Lt Blue

VEH. LIC. NUMBER YEAR LICENSE STATE

VEH. LIC. NUMBER YEAR LICENSE STATE AXZ 662 1965 Wash

REGISTERED OWNER

REGISTERED OWNER

ADDRESS OF REG. OWNER

ADDRESS OF REG. OWNER

PARTS OF VEH. DAMAGED IMPOUND NO.

PARTS OF VEH. DAMAGED IMPOUND NO. Left Rear + Side

VEH. TOWED BY ESTIMATED COST TO REPAIR \$

VEH. TOWED BY ESTIMATED COST TO REPAIR \$ R.t.o. 150.00

DAYLIGHT DAWN DUSK DARK (ST LIGHTS) DARK (NO ST LIGHTS)

CLEAR RAIN SNOW FOG OTHER

ROAD SURFACE STOP SIGN STOP/GO SIGN OFFICER/FLAGMAN

TRAFFIC CONTROL NO TRAFFIC CONTROL

ROAD CHARACTER GRADE HILLCREST

ROAD DESIGN TWO-WAY LEFT TURN OTHER

- 1. WITNESS: NAME-ADDRESS-PHONE-WILL TESTIFY TO.
- 2. INJURED: NAME-ADDRESS-AGE-IN VEH NUMBER-SEVERITY
- 3. PROPERTY DAMAGED: IDENTIFY OBJECT'S OWNER'S NAME-ADDRESS-ESTIMATE COST TO REPAIR
- 4. RECONSTRUCT ACCIDENT/INCIDENT: TELL WHAT HAPPENED.

- 5. POINT OF IMPACT: INDICATE SAME.
- 6. BRAKES: INDICATE CONDITION OF BRAKES ON EACH VEHICLE.
- 7. CHARGED DRIVERS: INDICATE NAME-CODE SECTION-CODE TITLE NUMBER OF "VR, C & C AND/OR S/A.
- 8. OFFICER'S OPINION: WHAT IN YOUR OPINION CAUSED ACCIDENT?

Veh #2 was legally parked on West Side of 20th ave in front of 303 20th ave. Owner of Veh. (Young) was inside residence (303 20th ave) and heard the crash when his car was struck by the Hit and Run vehicle. Officers recovered a vehicle headlight rim and yellow paint chips at the scene. Evid. taken to special Detail. HIT and Run Vehicle is possible suspect car in the Robbery-Shooting case which occurred at 22nd and E. Harrison at approximately the same.

On Street in front of 303 20th Ave (303 No. of E. ALD Special Detail to follow-up and

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TO: Schattauer
DATE: 1/18/98 SERIAL: 2-708

INVESTIGATIVE TEST BY RESULT CHEMICAL TEST BY RESULT

INVESTIGATING OFFICER SERIAL UNIT INVESTIGATING OFFICER SERIAL UNIT APPROVING OFFICER
J. O. Clark 275 11 C. E. Elster 2025 11 Lt. W. R. Long

A/R	ADD'L	FILE
WARRANT	OTHER	

SEATTLE POLICE DEPARTMENT

FOLLOW-UP REPORT		PRESENT DATE 6-8-1966	CASE NUMBER 65-345
TYPE OF CASE HOMICIDE	DATE OF OCCURRENCE 12-4-1965	EVIDENCE NUMBER 9826	UNIT FILE NUMBER 65-287
ORIGINALLY REPORTED AS SAME	LOCATION OF OCCURRENCE 22ND AND E. TERRACE		CORRES. NUMBER
VICTIM HUTSON EDWIN A.	ADDRESS 3623 13 th W	PHONE	
PERSONS INTERVIEWED - NAME	ADDRESS	PHONE	

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CASE DISPOSITION: CLEARED (ARREST-UNFOUNDED-REFERRAL JUVENILE CT.-EXCEPTIONAL CLEARANCE); AT LARGE WARRANT; ETC.

DATE: _____ SERIAL #: _____

RECOVERED AND/OR ADDITIONAL STOLEN - (INCLUDE ID MARKS - COLORS - SIZES - SERIAL NUMBERS - ETC.)

PROPERTY: _____

ENTRY

COMMENCE EACH ENTRY WITH A NUMBER AND THE DATE AND TIME
 SUSPECTS: SUMMARIZE ALL SUSPECT(S) INFORMATION: INCLUDE NAMES, B/A NUMBERS, DESCRIPTIONS, DISPOSITION, ETC.
 GENERAL: SUMMARIZE STEPS OF INVESTIGATION: INCLUDE ADD'L WITNESSES, RESULTS OF INTERROGATIONS, EVIDENCE, ETC.
 CASE M.O.: INDICATE ADD'L M. O. FACTORS NOT INCLUDED ON OFFENSE REPORT.

- 1) 10³⁰ AM ATTEMPTS TO CONTACT WITNESSES ESTILL AND HOUSTON UNSUCCESSFUL IN AN ATTEMPT TO RE-INTERVIEW THEM, REGARDING THIS CASE. W/M E. ESTILL MOVED FROM 220 22ND AVE SOMETIME PRIOR TO LAST CHRISTMAS. THE LANDLORD LIVING NEXT DOOR IS SUPPOSED TO KNOW ESTILL'S PRESENT ADDRESS BUT HE IS AWAY UNTIL 6⁰⁰ PM. NOBODY ELSE HOME. PRESENT TENANT AT ESTILL'S OLD ADDRESS DID NOT KNOW LANDLORD'S PHONE NUMBER. LANDLORD LIVES IN NEXT HOUSE SOUTH OF ESTILL'S OLD ADDRESS OF 220 22ND AVE. LANDLORD'S ADDRESS: 218 22ND AVE.
- 2) PRESENT TENANT OF 2200 E. TERRACE DOES NOT KNOW FORMER TENANT NANCIE HOUSTON'S PRESENT ADDRESS. NEVER HEARD OF HER. NANCIE HOUSTON'S HUSBAND IS FRANK HOUSTON WHO WAS EMPLOYED AT LOCKHEED LAST DECADE AND POSSIBLY MAY STILL BE SO EMPLOYED.
- 3) 11⁰⁰ AM TOOK A TAPE RECORDING OF WHISPERING CONVERSATION BETWEEN B/A 907A SMITH AND B/A 9079 RIGGINS TO U. OF W. THIS WAS RECORDED WHEN BOTH SUSPECTS WERE LEFT ALONE IN INTERROGATION ROOM 517 ON NIGHT OF THEIR ARREST. MOST OF RECORDING IS UNINTELLIGIBLE WHISPERINGS. CONTACTED U. OF W. SECURITY OFFICE, LT. INGRAHAM. SEE CONTINUATION SHEET

DISTRIB:		B/R	DETS	WOMEN	JUV	PRECINCT	OTHER
INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER	
ORIN C CHURCH	1725	51					

CASE NUMBER
65-3458
UNIT FILE NO.
65-257
B/A NUMBER
9078 - 9079

ITEM OR ENTRY	CONTINUATION SHEET		ACCIDENT NUMBER
	(1) OFFENSE AND ARREST (2) FOLLOW-UP	(3) TRAFFIC INCIDENT CASE SUMMARY	CORRES. NUMBER

3.
CONTINUATION

LT. INGRAHAM WENT WITH INVESTIGATOR TO PARRINGTON HALL, TAL TO MR. BERT BROWN, SOUND EXPERT. FEATURES OF CASE WERE EXPLAINED, AND CIRCUMSTANCES OF THIS RECORDING. MR BROWN HAS VERY REFINED EQUIPMENT AND WILL GET ON THIS RIGHT AWAY. SOME PARTICULAR EQUIPMENT NEEDED BY MR. BROWN WAS ELSEWHERE IN CAMPUS AND WILL HAVE TO BE MOVED TO MR. BROWN'S LAB. HE REQUEST PERMISSION TO KEEP ORIGINAL TAPE UNTIL HE CAN GET IT RE-TAPED ON THE PROPER EQUIPMENT. HE WILL THEN RETURN ORIGINAL, ALTERED IN NO WAY HE UNDERSTANDS THE THEORY OF CHAIN OF EVIDENCE AND WILL TAKE PROPER CARE OF THE ORIGINAL. HE WILL KEEP IT IN HIS POSSESSION AT ALL TIMES WHEN WORKING WITH IT, AND WHEN NOT WORKING WITH HE WILL HAVE IT LOCKED IN A LOCKER TO WHICH THERE IS ONLY ONE KEY, HIS OWN.
MR. BROWN'S ADDRESS IS 203 PARRINGTON HALL, PHONE: 543.4858

6-9-66 8 photos of scene taken by Sgt Schattauer from Helicopter.

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TO: Schattauer
DATE: 1-18-98 SERIAL 270

INVESTIGATING OFFICER	SERIAL	UNIT	INVESTIGATING OFFICER	SERIAL	UNIT	APPROVING OFFICER
GIRIN C. CHURCH	1725	51				

APPENDIX – A

**DECLARATION OF SERVICE BY MAIL
GR 3.1**

I, Dawud Halisi Malik, declare and say:

That on the 21st day of May, 2010, I deposited the following documents in the Stafford Creek Correction Center Legal Mail system, by First Class Mail pre-paid postage, under cause No. _____:

Rule 7.7. & 7.8 Motion Requesting for DNA testing ;
Motion for Production of Exculpatory Evidence RCW 10.73.170(3) ;
Note For Calendar: June 11, 2010 ;

addressed to the following:

COUNTY CLERK: BARBARA MINER,
SUPERIOR COURT, KING COUNTY
516 3rd Ave., Rm. E-609,
Seattle, WA 98104-2363

DAN SATTERBERG, PROSECUTING
ATTORNEY, KING COUNTY
KING COUNTY COURTHOUSE
516 3rd Ave.,
Seattle, WA 98104

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED THIS 25th day of MAY, 2010, in the City of Aberdeen, County of Grays Harbor, State of Washington.

Dawud Halisi Malik/D. Riggins

DOC 622989 . Unit H4-B114L
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen. WA 98520-9504

DECLARATION OF SERVICE BY MAIL
GR 3.1

I, Dawud Halisi MALIK, declare and say:

That on the 28th day of October, 2010, I deposited the following documents in the Stafford Creek Correction Center Legal Mail system, by First Class Mail pre-paid postage, under cause No. 44446, Superior Court :

MOTION FOR WRIT OF MANDAMUS/HABEAS CORPUS RCW 10.73.170(3); REQUEST FOR ;
DNA TESTING AND MOTION FOR PRODUCTION OF EXCULPATORY EVIDENCE ;

addressed to the following:

Dan Satterberg, Prosecuting _____
Attorney Office, King County _____
Courthouse, 516 Third Avenue _____
Seattle, WA 98104 _____

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED THIS 28th day of October, 2010, in the City of Aberdeen, County of Grays Harbor, State of Washington.

Dawud Halisi Malik/D.Riggins



DOC #622989 . Unit H3-A95L
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen. WA 98520-9504

property of D. Riggins / Dawna Malok 602989

RETURN OF SERVICE

I made service of the ^{motion} Summons and Complaint on Nov, 1 20 10

Name of Server: Paula Younkin Title: -

Check one box to indicate appropriate method of service:

I left copies at the defendant's dwelling, house, or usual place of abode with a person of suitable age and discretion residing therein. The name of the person with whom the summons and complaint were left is: _____

Return Unexecuted, (specify): _____

Other, (Specify): Office of Chief Prosecutor,
Mark Larson -
Superior Court of State of Washington,
to clerk - 596 3rd Ave., Seattle, WA

I declare under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Dated this 1st day of Nov 20 10.

Paula Younkin
Paula Younkin

Paula Younkin
Signature of server
SIA PULORA
Printed name

634 13th Ave. E.
Seattle, WA 98102

Servers address

DECLARATION OF SERVICE BY MAIL

GR 3.1

I, Dawud Malik, declare and say:

That on the 4th day of January, 2011, I deposited the following documents in the Stafford Creek Correction Center Legal Mail system, by First Class Mail pre-paid postage, under cause No. A4446:

Supplemental Motion For Reconsideration of Order;
Denying Request For DNA Testing Pursuant To
RCW 10.73.170; And Request for Evidentiary
Hearing

addressed to the following:

Ann Summers, # 21509
Senior Deputy Prosecuting Attorney
King County Courthouse
516 Third Avenue
Seattle, WA 98104

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED THIS 4th day of January, 2011, in the City of Aberdeen, County of Grays Harbor, State of Washington.

Dawud Halisi Malik / D. Eiggins
Dawud Halisi Malik / D. Eiggins

DOC 622989 UNIT H3-A89L
STAFFORD CREEK CORRECTIONS CENTER
191 CONSTANTINE WAY
ABERDEEN WA 98520

APPENDIX – B

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Dawud Halisi Malik, P/k/a
David W. Riggins #622989
Stafford Creek Corrections Center
191 Constantine Way (H4-B114L)
Aberdeen, WA 98520

August 1, 2010

Clerk, King County Superior Court
516 Third Avenue
Seattle, WA 98104

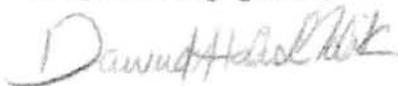
Dear Clerk:

I am writing this letter to inquire about the two 7.6 Motions Requesting A DNA Testing and Motion For Production of Exculpatory Evidence RCW 10.73170(3). Also motion for Note for Calendar: June 11, 2010. This Motion was file on May 25th, 2010.

I have not received anything from the Court Clerk stating that it had received either Motions that I file. The Motion for DNA testing was file in February 2010, which prompt me to file the second motion on May 25, 2010. I am requesting that the Court Clerk explain what is the status of both motions that I filed.

Thanking you in advance for your prompt reply to this letter.

Respectfully yours,



Dawud Halisi Malik, Pro Se

Cc: File

1 Dawud Halisi Malik, F/k/a
2 David W. Riggins #622989
3 Stafford Creek Corrections Center
4 191 Constantine Way (H4-B114L)
5 Aberdeen, WA 98520

6 August 19, 2010

7 The Honorable Barbara Linde
8 Presiding Judge King County Superior Court
9 516 3rd Avenue PM C-203
10 Seattle, WA 98104-2361

11 Dear Honorable Judge Ms. Linde:

12 I am writing this letter for the purpose of inquiring about the two
13 (2) 7.8 Motions that I filed requesting a DNA Testing and Motion for
14 Production of Exculpatory Evidence under RCW 10.73.170(3). The first
15 motion was filed to this Court in February 2010. When I did not received
16 any response or a Docket number I filed another 7.8 Motion on May 25,
17 2010.

18 As of this date I have not received any notice from the Clerk of the
19 King County Superior Court or the Judge that either Motion was received
20 by the Court and no Docket Number has been assigned. The Motion included
21 a Motion for Note for Calendar: For June 11, 2010.

22 It will be greatly appreciated if this Honorable Court will inform
23 me as to the status of both Motions that I filed. Thanking you in
24 advance for your time in reading this letter.

25 Respectfully submitted,

26 

Dawud Halisi Malik, Pro se

F/k/a David W. Riggins

APPENDIX – C

1
2 IN THE SUPERIOR COURT OF
3 THE STATE OF WASHINGTON FOR
4 KING COUNTY, AT SEATTLE

5 EDWARD MALIK MALIK, t/w/a,
6 DAVID W. RICHINS,

7 Petitioner,

8 -vs-

9 DAN SATTERBERG, et al.,
10 Prosecuting Attorney

11 Respondents.

)
)
) Case No. 44446
)

) DECLARATION IN SUPPORT OF
) MOTION FOR WRIT OF MANDAMUS
) RCW 10.73.170(3)
)

) MOTION FOR DATE OF

) CALENDAR: NOVEMBER 19, 2010
)

12 OATH OF PETITIONER)

13 THE STATE OF WASHINGTON)

14) ss

15 COUNTY OF GRAYS HARBOR)
16

17 1. After being first duly sworn, on oath, I depose and say: That I
18 am the petitioner, that I have read the petition, know its contents, and
19 I believe the petition is true and correct.

20 2. I make this declaration in support of the Motion for Writ of
21 Mandamus; Request for DNA Testing; and Motion for Production of
22 Exculpatory Evidence in accordance to RCW 10.73.170(3). For an immediate
23 hearing pursuant to RCW 2.08.240, on the merits of the documents of
24 facts presented in his Motion For Writ of Mandamus/ Habeas Corpus.

25 3. Mr. Malik is in custody of the Washington Department of
26 Corrections (DOC) and under the jurisdiction of the Indeterminate

1
2 DONE this 28th day October, 2010, in the County of Grays Harbor, State
3 of Washington.

4
5 I declare under penalty of perjury under the laws of the State of
6 Washington that the foregoing is true and correct.

7
8 Respectfully submitted,

9 *David Halisi Malik / D. Riggins*
10 David Halisi Malik, Pro Se
11 t/k/a David W. Riggins #622989
12 Stafford Creek Corrections Center
13 191 Constantine Way (H3-A95L)
14 Aberdeen, WA 98520
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2
3 IN THE SUPERIOR COURT OF
4 STATE OF WASHINGTON FOR THE
5 COUNTY OF KING AT SEATTLE

6 DAVID HALISI MALIK, f/k/a)
7 DAVID WASHINGTON RIGGINS,)
8 Petitioner,)

9 v.)

10) Case No. 44446
11) SUPERIOR COURT
12) STATE V. SMITH, 74 Wn. 2d 744
13) (1966); 408 U.S. 238 92 S.Ct.
14) 2726 (1972)

15) MOTION WRIT OF HABEAS AND
16) REQUEST FOR DNA TESTING AND
17) MOTION FOR PRODUCTION OF
18) EXCULPATORY EVIDENCE RCW
19) 10.73.170(3)

20 DAN SATTBERG, KING COUNTY)
21 PROSECUTOR, et al.,)
22 Respondents.)

23
24 COMES NOW, Dawud Halisi Malik, f/k/a David W. Riggins, appearing Pro
25 se, pursuant to RCW 10.73.170(3),(i),(ii) and (iii), moves this
26 Honorable Court to order a DNA test to establish his innocence of the
crimes of murder that he was wrongfully convicted of in 1966, Cause
No. 44446, in the Superior Court of King County. Petitioner moves this
Honorable Court to order Production of Exculpatory Evidence.

Mr. Malik, moves the Court to allow DNA testing on three grounds of
evidence: (1) hairs recovered from the crime scene; (2) soil discovered
on petitioner's shoes; (3) clothing worn by petitioner when arrested to
determine whose blood it was that was found on petitioner's clothing.
DNA testing will provide significant new information as to who the hair
sample belong to. Petitioner asserts that any absence of his DNA on the
comb (Q5) and brush (Q6). (See Exhibit #1 Report of the FBI). In
conjunction with the soil from the crime scene that did not match the
soil found on petitioner's shoes, will establish his innocence on a

1 Cases, which shall not be taken, as respects the law applicable thereto,
2 by the court, 71st.

3 Mr. Bell, further, I was the first to submit a copy of the
4 report to the Chief Clerk of the Court, and to copy and forward it to
5 the Commission. It is my recollection, however, that I was not aware of any
6 evidence, or of any proceedings, in the case, until after the same
7 had been filed in the Court. It is also my recollection that the
8 Chief Clerk, in the course of his duties, had been directed to
9 forward to the Attorney General and the Chief Clerk of the Court
10 a copy of the report, and that the Chief Clerk of the Court had
11 advised me of the same, and that I had been directed to forward
12 a copy of the report to the Commission, if necessary.

13 The Commission, in its report, advised to the effect in favor
14 of the prosecution and failure to disclose such information. I am
15 advised that, having the knowledge of the facts, and the knowledge
16 of the law, and the knowledge of the facts, and the knowledge of the
17 law, and the knowledge of the facts, and the knowledge of the law,
18 and the knowledge of the facts, and the knowledge of the law, and
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26 the knowledge of the facts, and the knowledge of the law, and

27 I am further advised that the Commission, in its report, advised to the effect in favor
28 of the prosecution and failure to disclose such information. I am
29 advised that, having the knowledge of the facts, and the knowledge of the
30 law, and the knowledge of the facts, and the knowledge of the law,
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37 I am further advised that the Commission, in its report, advised to the effect in favor
38 of the prosecution and failure to disclose such information. I am
39 advised that, having the knowledge of the facts, and the knowledge of the
40 law, and the knowledge of the facts, and the knowledge of the law,
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50 the knowledge of the facts, and the knowledge of the law, and

1 petitioner committed or is criminally responsible for the offense of
2 murder.

3
4 GROUND FOR REQUESTED RELIEF

5 Petitioner has discovered that a FBI Report and a Seattle Police
6 Department File, establishing his innocence had been withheld from his
7 defense trial counsel by the prosecution at the time of his trial in
8 1956. (See Exhibit #1 and Exhibit #2). Mr. Malik have been incarcerated
9 for 45 years for crimes of which he is actually and factually innocent
10 of. The DNA testing now requested would be significantly more accurate
11 than prior Forensic testing, plus DNA testing technology was not
12 sufficiently developed to test the DNA evidence in this case.

13 Further, had petitioner been granted a separate trial as motion for,
14 which the trial judge denied, petitioner could have and would have called
15 Leodis Smith, as a witness to testify on his behalf to the fact that
16 petitioner is/was innocent. (See Exhibit #3 Affidavit's of Leodis Smith).

17 In granting Mr. Malik's Motion/Request For a DNA Test base on the
18 evidence that is still in the possession of the Prosecutor's Office in
19 accordance to RCW 10.73.170(1),(2) and (3) to prove that he is innocent
20 and has been wrongfully convicted of the crime of murder will be in the
21 best interest of justice.

22 WHEREFORE, PREMISES, CONSIDERED, the petitioner prays that his
23 Motion be in all things granted.

24 DONE this 28th day of October, 2010.

25
26 I declare under the penalty of perjury under the laws of the State of
Washington that the foregoing is true and correct.½

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Respectfully submitted,

David Halisi Malik / D. Riggins

David Halisi Malik, f/a/a
David W. Riggins, #622099
Stafford Creek Corrections Center
191 Constantine Way (H3-A95L)
Aberdeen, WA 98520

APPENDIX – D

Rec. 10/19/10

THE SUPREME COURT
STATE OF WASHINGTON

RONALD R. CARPENTER
SUPREME COURT CLERK

SUSAN L. CARLSON
DEPUTY CLERK / CHIEF STAFF ATTORNEY



TEMPLE OF JUSTICE
P.O. BOX 40929
OLYMPIA, WA 98504-0929

(360) 357-2077
e-mail: supreme@courts.wa.gov
www.courts.wa.gov

October 15, 2010

David Malik aka David Riggins
#622989
Stafford Creek Corrections Center
191 Constantine Way
Aberdeen, WA 98520

Dear Mr. Malik:

Your "MOTION FOR WRIT OF MANDAMUS" was forwarded to this Court by the Court of Appeals and received on October 14, 2010. Pursuant to RAP 16.2, only the Supreme Court and the superior courts have jurisdiction to consider a request for mandamus.

Your motion was not accompanied by the required \$250 filing fee and accordingly cannot be accepted for filing. If a Petitioner does not pay the filing fee and believes he is indigent, then the Petitioner should submit an appropriate motion seeking waiver of the filing fee (and, as appropriate, a request that the Court make personal service of the petition-see the discussion in the following paragraph). A complete statement of Petitioner's financial situation should accompany any such motion. For your information, I have enclosed such a suggested "STATEMENT OF FINANCES."

RAP 16.2(b) provides that an original action must be started in the same fashion as is required for starting an original action in Superior Court. This includes personal service of the petition on the proper parties. Service of the petition "must be made as provided in the Superior Court Civil Rules and statutes for service of a summons in a superior court action." It is noted that the "personal service" requirement is not satisfied if service is only by mail. The proof of service you submitted for filing indicates that you mailed a copy to the Attorney General. This does not meet the service requirements. Further, the Respondent in this matter would be the King County Prosecuting Attorney since your motion was directed to the King County Superior Court.

Please be advised that pursuant to RAP 16.1 (b) and RAP 16.2 (a) this Court only exercises original jurisdiction over petitions which are filed against "state officers"; see *Mochizuki v. King County*, 15 Wn. App. 296, 548 P.2d 578 (1976). Your petition is not directed



against an identified individual but rather names a governmental entity. A governmental entity does not qualify as a "state officer" for the purpose of the applicable rules. The petition does not demonstrate that it is directed against a "state officer" acting in a public capacity.

Accordingly, your motion has been rejected for filing and placed in the unfiled papers section of our files.

I am forwarding a courtesy copy of your motion to the King County Prosecuting Attorney's Office for informational purposes.

Sincerely,

A handwritten signature in black ink, appearing to read "Susan L. Carlson". The signature is fluid and cursive, with the first name "Susan" being the most prominent.

Susan L. Carlson
Supreme Court Deputy Clerk

cc: King County Prosecutor's Office with enclosures.

Dawud Halisi Malik
f/k/a David W. Riggins #622989
Stafford Creek Corrections Center
191 Constantine Way
(GB-19L)
Aberdeen, WA 98520

April 28, 2011

Timothy A. Bradshaw, Judge
King County Superior Court
King County Courthouse
516 Third Avenue
Seattle, WA 98104

Dear Honorable Bradshaw:

RE: Case No. 44446

I am writing this letter to inquire about the above case number. On January 4, 2011, I filed a Supplemental Motion For Reconsideration of Order Denying Request For DNA Testing Pursuant To RCW 10.73.170 and Request For Evidentiary Hearing.

Will you please inform me as to the status of the above mentioned motion? Thanking you in advance for your prompt reply in this matter.

Respectfully submitted,

Dawud H. Malik / D. Riggins

Dawud H. Malik / D. Riggins #622989

Rec
6/3/11

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**SUPERIOR COURT OF WASHINGTON FOR
COUNTY OF KING**

STATE OF WASHINGTON,

Plaintiff,

v.

DAVID RIGGINS aka Dawud Malik,

Defendant.

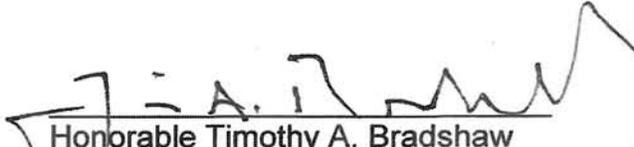
No. 44446

ORDER ON DEFENDANT'S MOTION
FOR RECONSIDERATION OF ORDER
DENYING RQUEST FOR DNA TESTING
PURSUANT TO RCW 10.73.170

This matter came before the undersigned Court on Defendant's Motion for Reconsideration of Order Denying Request for DNA Testing Pursuant to RCW 10.73.170, dated December 10, 2010. The Court has reviewed the Defendant's Motion for Reconsideration dated 1/4/11, Defendant's letter dated 4/28/11, State's Response to Motion to Reconsider, dated 5/26/11.

Therefore, the Court's Order of 12/10/10 is confirmed and it is **ORDERED** that Defendant's Motion for Reconsideration, is **DENIED**.

DATED this 01 day of June, 2011.



Honorable Timothy A. Bradshaw

TIMOTHY A. BRADSHAW
JUDGE OF THE SUPERIOR COURT
MALENG REGIONAL JUSTICE CENTER
401 4TH AVENUE NORTH
KENT, WASHINGTON 98032-4429

FILED
COURT OF APPEALS DIV I
STATE OF WASHINGTON
2012 FEB 19 AM 11:06

The Court of Appeals, Div. I

STATE OF WASHINGTON

State of Washington
Respondent,

vs.

Dawud Malik/D. Riggins
Defendant/Appellant

Case No.: No. 67462-5-1

AFFIDAVIT OF SERVICE BY MAIL

I, being first duly sworn, on oath deposes and says, that I am a citizen of the United States and over the age of 18 years, that on the 9th day of February, 20 12, I served the following papers:

Statement of Additional Grounds

upon Deborah Dwyer, WSPA #18887, Senior Deputy Pros. Atty.
by placing same in the United States mail at

Coyote Ridge Corr. Ctr., PO Box 769, Connell, WA 99362 [name
and address of institution].

Dated: 2/9/12

Signed: Dawud Malik/D. Riggins

Subscribed and sworn to me before this 9th day of February, 20 12.

I declare under the penalty of perjury
of the laws of the State of Washington
that the foregoing is true and correct.

~~Notary Public for the State of Washington
Residing in.
Commission Expires:~~