

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
AMERICUS DIVISION

HATTIE BRAZIER, widow of
James Brazier, deceased,
Plaintiff

v.

W. B. CHERRY, RANDOLPH McDONALD,
ZACHARY T. MATTHEWS, et. al.
Defendants

Civil Action

No. 475

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DAWSON, GEORGIA,
January 19, 1963.

Original

CLAUDE JOINER, JR.
REPORTING SERVICE
920 PERSONS BUILDING
MACON, GEORGIA

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ZACHARY T. MATTHEWS and THE
FIDELITY CASUALTY CO. of N. Y.,
Defendants

DAWSON, GEORGIA

10:45 A. M.

JANUARY 19, 1963

Depositions of RAGAN ARNOLD and MARY CAROLYN CLYDE,
witnesses called by Plaintiff in above case for discovery
under Rule 26, Federal Rules of Civil Procedure, before
Claude Joiner, Jr., Notary Public, Georgia, Bibb County,
and Official Reporter for above Court, in grandjury room,
Terrell County, Georgia, courthouse, Dawson, Georgia,
at the time above stated.

A p p e a r a n c e s:

For Plaintiff: MR. DONALD L. HOLLOWELL,
859½ Hunter St. N. W.,
Atlanta 14, Georgia.

MR. C. B. KING,
221 S. Jackson Street,
Box 1024, Albany, Ga.

For Defendants: BLOCH, HALL, GROOVER & HAWKINS,
710 Walnut Street, Macon, Ga.
MR. CHARLES J. BLOCH, of counsel.

(Also for MR. JAMES M. COLLIER,
Witness: Bank of Dawson Building,
Ragan Arnold) Box 526, Dawson, Ga.

S t i p u l a t i o n:

Depositions taken by agreement of counsel for all parties, with all formalities being WAIVED. Reading and signing of depositions waived by all counsel and by each witness.

All objections, except as to form of question, RESERVED to the time of trial.

MR. RAGAN ARNOLD

witness called for discovery by Plaintiff,
being first duly sworn, testified on

DIRECT EXAMINATION

BY MR. HOLLOWELL:

Q Would you give your full name, sir?

A Ragan Arnold.

Q How do you spell your first name?

A R-a-g-a-n (spelling).

Q Ragan, I think we have it as Reginald. Mr Arnold,
what is your present employment or business?

A You mean what business I'm in?

Q Yes sir?

A I'm the Chevrolet dealer.

Q How long have you been the Chevrolet dealer?

A Well, I've been with Chevrolet since 1959.

Q What were you doing prior to that time?

A Right there in the same business.

1 Q In the same business?

2 A Yes.

3 Q What was your position in that business as of that
4 time, that is prior to '59? You said that you had been a
5 dealer since '59?

6 A Well, I've been the manager of the business.

7 Q Oh, you were manager of the same business?

8 A Yes.

9 Q Now, what period of time were you manager?

10 A Well, I'm President of the Company now and I was
11 manager up until that time.

12 Q From when until '59?

13 A Oh, I think 1946, I think. I'm not for sure.

14 Q Well, that's close enough?

15 A I'm not sure.

16 Q As the manager of the business did you have a
17 responsibility for all of the pay records of the persons
18 who were employed by your firm?

19 A Well, of course, my bookkeeper took care of that
20 and, of course, my department heads took care of the individual
21 men. You see, I have approximately 30 men or over 30 men
22 working down there; and, of course, it's departmentalized;
23 the business is departmentalized.

24 Q What is the name of the business, sir?

25 A Stevens Chevrolet Company.

1 Q Stevens?

2 A Yes.

3 Q "Stph" or "v"?

4 A "v".

5 Q These department heads and bookkeepers that you
6 make mention of were responsible to you as manager and now,
7 of course, as the dealer, is that correct?

8 A That's right.

9 Q Now, did you have in your employ prior to April,
10 1958, a man by the name of James C. Brazier?

11 A Yes.

12 Q What did he do at your installation?

13 A Well, he was under the department head of Leon
14 Newsom and J. C. Wheeler. Now, at that time I don't remember
15 which one it was but I think it was Leon Newsom. I don't
16 remember which one definitely he was under there and working.

17 Q What department?

18 A As a dependent - I mean as an employee in the
19 Service Station Department.

20 Q Is that N-e-w-s-o-m (spelling)?

21 A N-e-w-s-o-m, I think is right, or "s-o-n", I don't
22 know which it is.

23 Q And Mr. Wheeler's name was what now?

24 A J. C. Wheeler.

25 Q And that was the service station department?

1 A Yes.

2 Q Are both of those gentlemen still with you in that
3 capacity?

4 A No.

5 Q Are either of them with you?

6 A Neither one of them.

7 Q Who handles that now?

8 A Well, right at the present, right now, it's Paul
9 McPherson and Richard Wills.

10 Q That's W-i-l-l-s (spelling)?

11 A Yes.

12 Q Mr. Arnold, did you have in 1958 a central book-
13 keeping department?

14 A Oh yes.

15 Q So that, although you had various departments, the
16 bookkeeping was central as relates to pay, is that correct;
17 that is, employees of the Company - payment of employees?

18 A Yes.

19 Q All checks were issued through a central office?

20 A Yes.

21 Q All payroll deductions and payroll items came into
22 a central department?

23 A Yes.

24 Q Who handled that?

25 A Well, I would have to go back and check on the

1 records. I don't know exactly whether the man is still there
2 now, which is Mr. 'Phonzo Donaldson, if he was my bookkeeper
3 at that time or not. I just, to be perfectly frank, I don't
4 know.

5 Q Do you know when Brazier came to work there?

6 A No, I don't. I don't have a record of it. I just
7 don't know. It's been some time and I just don't know the
8 dates, as far as that goes.

9 Q Was it for a number of years?

10 A Well now, I just don't know.

11 Q I mean roughly, I'm not asking you to pin-point
12 whether it was 2, 3, 6, but --

13 A I don't remember. I mean I don't know.

14 Q For some time you would say, for quite some time?

15 A Well, I know he was there at least a year or two,
16 as well as I remember; but further than that, I don't remember;
17 but he was there a year or two, I think, before.

18 Q What were his duties specifically, do you know?

19 A Well, he was there helping out in catching the front
20 out there, checking oil and wiping windshields and working
21 out there at the front.

22 Q Washing cars?

23 A No.

24 Q Service cars?

25 A No.

1 Q As a matter of fact, he had more than one job,
2 did he not?

3 A No, he didn't have but one job.

4 Q He spent his full time there, to the best of your
5 knowledge?

6 A Yes.

7 Q Do you know what his salary was?

8 A No, I don't. There's records of it at the place
9 but as far as knowing exactly what his salary is, I don't.
10 I do have records down there, I'm sure, that they're there
11 somewhere.

12 Q Would you be willing to make those records avail-
13 able, so that we might inspect them and furnish us with a
14 photostatic copy of the records?

15 A You can get a photostatic copy of them. I have no
16 objection to that.

17 Q Well, I mean you have no objection to our seeing the
18 originals?

19 A Well, I don't see any reason for any objection to
20 that.

21 Q I believe you said that the man who is your present
22 bookkeeper is Mr. Alphonso Donalson or McDonald?

23 A Donalson.

24 Q Does he work on Saturday morning?

25 A Well, he isn't working this morning. He's in.

1 Alabama this morning.

2 Q I see, you have your assistant bookkeeper there now?

3 A Yes.

4 Q Who is he?

5 A Jimmie Spear.

6 Q Is he working today?

7 A Yes.

8 Q Would you be kind enough, sir, to let your attorney,
9 Mr. Collier, have that record, so that we might get a
10 chance to look at it while we're down here, so Mr. Bloch
11 could see it and so we could see it; we'll be here for
12 probably an hour or an hour and a half; and then, if there's
13 a fee for the photostatic service, we would be very happy
14 to accommodate by paying, or bring it yourself or send it
15 by Mr. Donaldson, so that we could take a look at it?

16 A Well, as I said a while ago, Mr. Donaldson is
17 not there but, if this boy can find it; of course, every
18 year the records are taken out and put in filing cabinets
19 and filed away and there's a possibility that he's not
20 going to make - if he doesn't have them available at his
21 hands, Mr. Donaldson can get them for you at a later date;
22 but if he can find them, if they're there in the files and
23 he can find the payroll records, that's satisfactory.

24 Q Fine. You would accommodate us to that extent,
25 would you, Mr. Collier?

1 A MR. COLLIER: Yes, I'll call the boy and ask him
2 to see about them.

3 MR. HOLLOWELL: All right, and let us know.

4 Q Now, I believe, Mr. Arnold, on the evening of the
5 20th, I believe it was, of April of 1958, being a Sunday
6 when Brazier was arrested, you had the occasion to be called
7 by Brazier's wife; isn't that correct?

8 A Well, I was out of town that day as well as I
9 remember but that night after I came in, she came by the
10 house and told me about it; and I came up here to the court-
11 house and they told me that they had had a doctor with him
12 and he was in jail; and so, that's as far as I know about it.

13 Q Who told you about it, Mr. Arnold? You say "they
14 told you"; who told you? With whom did you talk?

15 A I talked to, as well as I remember, Cherry and
16 also whoever was in the courthouse here at that time.
17 I don't know whether Z. T. was here or who. As far as
18 pin-pointing, I don't remember.

19 Q But you did talk to the Sheriff about it and then
20 you talked to the City police officers who were around, did
21 you not?

22 A I talked to the one I told you I talked to, as
23 well as I remember now; and also as far as - I don't remember.
24 It's been some time and, as far as knowing exactly in detail
25 which ones I talked to about it, I don't remember.

1 Q Well, I understand that it's been some time but
2 I just wanted to have it for the record as clearly as possible.
3 Do you remember the nature of your conversation with the
4 Sheriff or did you just inquire as to his welfare, as to
5 Brazier's welfare?

6 A Well, that's what I came up here for, is to find
7 out where he was and what the trouble was, as far as that
8 goes; and they told me that he was in jail and that Dr. Ward
9 had already examined him.

10 Q Who was it that told you that?

11 A Cherry, as well as I remember. Wasn't it, Cherry?
12 Didn't I talk to you about it (addressing Mr. Cherry)?

13 Q You talked to Mr. Cherry and to the Sheriff and
14 you don't know whether-

15 A I don't remember now. Was Z. T. in here at
16 that time? I don't think he was. I don't know whether
17 Z. T. was in here or not.

18 Q Well, Mr. Arnold - excuse me, Mr. Arnold, we can't
19 rely upon anybody's memory but your own?

20 A Well, I tell you the truth; mine is not too good.

21 Q You had the occasion to talk with the Sheriff
22 about it though, did you not?

23 A I'm sure that I probably in time have talked to
24 the Sheriff about it.

25 Q As a matter of fact, during the course of that

1 particular evening, it was called to the attention of the
2 Sheriff by you and you indicated that -

3 A I do not remember talking to the Sheriff that night.

4 Q You don't?

5 A No.

6 Q Did you talk to the doctor?

7 A I don't remember talking to him.

8 Q You didn't arrange for the doctor to come, did you?

9 A No, I didn't.

10 Q But you were informed that the doctor had been
11 there?

12 A That's right.

13 Q Was it night when you arrived?

14 A It was night.

15 Q It was after dark?

16 A Yes.

17 Q Did Mrs. Brazier talk to you while you were here
18 at the courthouse?

19 A Yes, she talked to me at home.

20 Q You met her here, down here at the courthouse,
21 didn't you, sir?

22 A I don't remember whether I did or not. I know she
23 came by the house and talked to me.

24 Q And you came down yourself?

25 A Yes.

1 Q Did you come down at that time or was it later?

2 A I came down right after she came out to the house;
3 and after I checked on it, she talked to me again, and I
4 told her that the doctors had checked him and that he was -
5 and that they assured me that they would see that he was
6 continuously checked.

7 Q Who assured you of that?

8 A Well, Cherry assured me of that.

9 MR. BLOCH: Told you what?

10 The Witness: Assured me that they would continue
11 to have the doctor to check him.

12 Q Mr. Hollowell: Did you go in to see him yourself?

13 A I didn't go in to see him.

14 Q When did you get your next report on him?

15 A I don't know.

16 Q Sir?

17 A I don't remember.

18 Q Did you get another report that night?

19 A No.

20 Q Do you recollect about what time it was that Mrs.
21 Brazier came to see you?

22 A Well, it was around dark; now, what time, I don't
23 know.

24 Q And when you came right on over?

25 A Yes.

1 Q How long were you in the vicinity, roughly?

2 A What do you mean?

3 Q How long were you in the vicinity of the courthouse?

4 A Oh, I would say probably maybe 10 minutes. I don't
5 think probably it was much longer than that. I don't remember
6 to tell you the truth. To be perfectly honest, I don't
7 remember.

8 Q Now, would you be kind enough to relate again
9 the names of the persons that you saw while you were here
10 at the courthouse? Mr. Cherry?

11 A Well, he's the only one that I definitely
12 remember. There were several in the courthouse but I don't
13 remember the names of them.

14 Q Several police officers?

15 A Yes, I would say that.

16 Q Would it be more than two?

17 A What?

18 Q Would it be more than two?

19 A I would think that probably the Deputy Sheriff
20 was here as well as I remember. I don't remember whether
21 he was here or not but some of them. There was more than one
22 in here. I know there were some policemen, but I don't
23 remember the names of any of them.

24 Q There were some policemen; there was Mr. Cherry
25 and then there were some others?

1 A That's right, as far as I know. I just don't
2 remember the names of any of them. There was more than
3 one man in the courthouse at the time I came in here.

4 Q Would you say there were more than four?

5 A Well, I just don't know.

6 Q Would you say there were more than two? Your
7 best recollection is that there were more than two, but
8 you wouldn't remember whether -

9 A Well, I don't remember. It's been so far back I
10 really don't remember, to tell you the truth.

11 Q But your memory is clear that there were more than
12 one; you know there were others besides Mr. Cherry? I be-
13 lieve you so indicated?

14 A Yes, I think there was; as well as I remember,
15 there were more than Mr. Cherry. As far as knowing how many
16 there was, I don't know.

17 Q And your best recollection is that the Deputy
18 Sheriff was here?

19 A Well, to be sure about that, I don't know who it
20 was .

21 Q Well, I say, your best recollection?

22 A I mean I just don't remember about that.

23 Q Are you saying you have no recollection at all?

24 A Of who was in here outside of Cherry, I don't.

25 Q Mr. Arnold, I believe you indicated that Mr. Newsom

1 and Mr. Wheeler were in charge of the service station depart-
2 ment back in '58, is that correct?

3 A As well as I remember.

4 Q Do you know what they're doing now?

5 A I don't know exactly what Mr. Newsom is doing.
6 He's down in Florida. But he was the one, as well as I
7 remember, who was in charge.

8 Q What about Mr. Wheeler?

9 A Mr. Wheeler is running the Standard Oil station,
10 service station, here in Dawson.

11 Q Is that the new Standard station?

12 A It's the only one here in town.

13 Q Where is it located?

14 A Right up here next to the hotel.

15 Q Now, didn't Brazier do some other work for the
16 Stevens Industries?

17 A I think possibility at night time he was janitor
18 for the Dawson Cotton Oil Company office. I'm not sure.
19 It might have been his wife.

20 Q What office?

21 A Stevens Industries. It might have been - it was
22 either his wife or him one that was janitor down there at
23 the office. I'm not sure. I mean I don't know any of the
24 particulars about that.

25 Q What office was that?

1 A Stevens Industries' office. But I don't know
2 whether it was his wife's job or his job.

3 Q Do they have anything to do with the Chevrolet sales,
4 that is with the Chevrolet business?

5 A No; in other words, it's a separate corporation
6 but they are stockholders in Stevens Chevrolet Company.

7 Q Do they pay their own help up there?

8 A Pay their own help.

9 Q Where are they located?

10 A Located across the street from me.

11 Q Are they open on Saturday?

12 A (Witness nodding head affirmatively).

13 Q You're shaking your head that they do?

14 A They're open part of the day on Saturday. I think
15 they close up at noon time.

16 Q Did you have the occasion to frequent the jail,
17 Mr. Arnold?

18 A Have occasion to do what?

19 Q Any occasion to frequent the courthouse and the
20 jail, to visit in this vicinity with frequency?

21 A Well, I come to the courthouse periodically, just
22 drop in, just like I do now.

23 Q You knew the turn-key and jailer over there, this
24 colored boy they call Gene, didn't you?

25 A No, I didn't.

1 Q You never saw him?

2 A No.

3 Q You didn't know him?

4 A No.

5 Q Did you know Mr. Lee, Howard Lee?

6 A Yes.

7 Q What was his office, to the best of your recollec-
8 tion?

9 A As well as I remember, he was Chief of Police.
10 I'm not sure. I don't know about it; I think he was
11 either - you know, he had bad health and whether he was
12 sick at that time or not, as far as that goes, I don't
13 remember.

14 Q Do you know Mr. McDonald, Randolph McDonald?

15 A Yes.

16 Q What was he, do you know?

17 A He was a policeman.

18 Q Did you see him on the evening that you talked with
19 Mr. Cherry?

20 A I don't remember.

21 Q Did you see Mr. Hancock, or Mr. Jones - you knew
22 them, the city police officers?

23 A I know Mr. Hancock and I know Mr. Rollie Jones.

24 Q Did you talk with them that evening that Brazier
25 was arrested?

1 A Not that I know of.

2 Q Not that you know of?

3 A No.

4 Q So that, to the best of your recollection, the
5 only person that you have any definite recollection of
6 seeing and talking to is Mr. Cherry and, to the best of
7 your recollection, you talked to the Sheriff but you don't
8 recall whether Mr. Mansfield Matthews was here or not, is
9 that correct?

10 A No, I don't know for sure whether he was in here
11 or whether Z. T. was in here. I don't remember at the time
12 I came in here. Of course, I wasn't in here but about,
13 approximately 10 minutes, I would say, I don't know how
14 long I was here, but I'm just guessing.

15 Q As of the time that you talked with Mr. Cherry,
16 did you ascertain what Brazier's condition was?

17 A The only thing that I remember was that I asked
18 if they had had a doctor and they assured me that they would
19 continuously have the doctor to examine him; and I went back
20 and told his wife the same thing.

21 Q Where was she?

22 A Well, she came back to my house after I went back
23 home, as well as I remember; and I told her there wasn't
24 anything that I -- that all I could say was that I had
25 requested them to see that he had a doctor, and that they

1 had assured me that they would see that he had a doctor and
2 would continuously keep him checked.

3 Q What "they" is this?

4 A Huh?

5 Q What "they" is this?

6 A The same day it happened.

7 Q I say you say "thdy", that they assured you -

8 A Mr. Cherry.

9 Q Mr. Cherry and the others who were here?

10 A Cherry, yes.

11 Q Now, did he say what had happened; did Mr. Cherry
12 say what had happened?

13 A I don't remember any of the details of it.

14 Q He didn't tell you and you didn't inquire as to what
15 had happened, Mr. Arnold?

16 A He told me that they had trouble with him and that
17 they had put him in jail and that was as far as I knew
18 about the case.

19 Q They didn't indicate to you what the extent of his
20 damage was?

21 A No.

22 Q You didn't inquire, Mr. Arnold, as to what his
23 physical condition was, which would require a doctor?

24 A I don't remember any of the details about that.

25 Q Well, what did you come for, Mr. Arnold, if you are not

1 didn't make an inquiry as to his condition?

2 A I came the same as I would for any other of my
3 employees that came and told me that they were in trouble;
4 and I came up here to check on it; and they told me that
5 they had a doctor with him, had already done checked him ,
6 and they assured me that they would continuously have a
7 doctor with him.

8 Q But nobody indicated to you what part of his body
9 was injured or what his condition was?

10 A Well, my understanding was that his whole trouble
11 was a lick on his head. I don't know any of the details
12 about it. I've never seen him. I haven't seen him from
13 the time he left work Saturday night and I haven't seen him
14 up until now.

15 Q What did you get that impression from?

16 A Got it from Mr. Cherry.

17 Q That he had gotten hit on the head by whom?

18 A I don't know.

19 Q But your understanding was that he had received a
20 lick on the head, is that what I understood you to say?

21 A That's my understanding.

22 Q That day?

23 A I don't remember. I mean you're -- you mean that
24 day?

25 Q Yes, that he had received a lick on the head that day?

1 A My understanding was it was the time that they had
2 trouble with him in arresting him.

3 Q That day?

4 A My understanding.

5 Q On the particular day that you were here to visit?

6 A That's my understanding.

7 Q All of this happened on the same Sunday, the 20th
8 of April, '58, so that there can be no misunderstanding as
9 to when we're talking about?

10 A As far as remembering any date, I don't remember
11 any date. All I remember was it happened on Sunday and
12 she came down to the house about dark that night. As far
13 as remembering any particular dates, I don't remember any
14 particular dates.

15 Q But it was your understanding that this blow that
16 you say your impression was about had occurred on that same
17 day, this blow to the head?

18 A That's my understanding.

19 Q Was Brazier a good worker?

20 A Well, as I said, I've got over 30 men working
21 down there and he was working under another department head;
22 and as far as I knew, his work was satisfactory.

23 MR. HOLLOWELL: I believe that's all the questions
24 I have for him.

25

CROSS EXAMINATION

BY MR. BLOCH:

Q Mr. Arnold, I understood you to say that you had not seen Brazier since the Saturday night preceding his arrest on Sunday?

A No sir.

Q Is that right?

A I haven't seen him at all since some time Saturday; and actually, as far as seeing him that night, when they leave, I don't see all of the men leave work as far as that goes; and as far as seeing him, I haven't seen him since then.

Q Since then?

A Since that time.

Q Do you know of your own knowledge whether Brazier had lost much time from the job on account of drinking?

A Well, really I don't have any particular records about it. I knew that he did drink. I knew of it; but as far as having any records of it, I don't have any records.

Q You knew that he did drink though?

A Yes.

Q That's all I have.

REDIRECT EXAMINATION

BY MR. HOLLOWELL:

Q You also drink, don't you, Mr. Arnold, on occasions?

1 A Beg pardon?

2 Q I say, you also drink on occasions, don't you?

3 A I have no objections to it as long as it don't
4 interfere with my business, I have no objections to it.

5 Q I have no further questions. Thank you very much,
6 Mr. Arnold.

7 MR. BLOCH: So that you will know Mr. Collier's
8 status, let me say this for the record: There is con-
9 siderable detail work that I have to do or that has to
10 be done for my side of the case between now and whenever
11 the case is tried. So, in dealing with Mr. Collier, I
12 wanted you to understand that he's going to be associated
13 with me as counsel in helping with some of the details
14 of the case.

15 MR. HOLLOWELL: I see. Give me his name then.
16 But he's actually Mr. Arnold's counsel?

17 MR. BLOCH: From now on. He was acting as Mr.
18 Arnold's counsel during this hearing and I've asked him
19 this morning if he would be in position to help me with
20 some of the details down here next week.

21 MR. HOLLOWELL: Well, let me ask you: You will
22 have no objection, I presume, to my getting with him on
23 t the pay records of Brazier?

24 MR. BLOCH: I have no objection to your getting
25 with him but I'm not making any agreement as to the use
of them.

1 MR. HOLLOWELL: No, but what I'm saying is that
2 as soon as you get them, we'll clear with him and send
3 you photostatic copies of them so you can see --

4 MR. BLOCH: Clear with me.

5 MR. HOLLOWELL: Clear with you then, all right.
6 We'll get them. What I'm thinking about is this -

7 MR. BLOCH: I mean that none of those records
8 shall be admissible until I've signed a stipulation
9 with reference to them.

10 MR. HOLLOWELL: I understand that but what I'm
11 saying is, that we will at some time between now and
12 the time of the trial, we will clear up the details
13 on them.

14 MR. BLOCH: I don't know whether we will or not
15 but we'll try to.

16 MR. HOLLOWELL: We'll try to, all right.

17 MR. ARNOLD: I'll go back down to the office
18 and if this boy can find the pay records, I'll send
19 them back up here to Mr. Collier; and if I can't, they
20 certainly can be found, as far as that goes. We have a
21 record of it as far as that goes and as soon as Mr.
22 Donaldson gets back, we can certainly get the records
23 for you.

24 MR. HOLLOWELL: Allright. Will you notify -
25 well, you'll send them up, if they can be found, is
that correct?

1 MR. ARNOLD: If he can find the records, I'll
2 send them back up here to Mr. Collier. Of course, this
3 morning he's busy getting up payroll and writing checks
4 and I've got to get back down there and sign those
5 checks. And so, if we can get the records for you
6 this morning, I'll do it; and if not, you can certainly
7 get the records.

8 MR. HOLLOWELL: The first thing next week if you
9 can't get them today.

10 MR. ARNOLD: You can certainly get them next week,
11 I would say, if you don't get them today.

12 MR. HOLLOWELL: All right, thank you very much,
13 sir.

14 (RECESS for counsel to talk with following
15 witness, Mary Carolyn Clyde)

16 11:20 AM to 11:55 AM 1-19-63
17
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25

MRS. MARY CAROLYN CLYDE

witness called by Plaintiff for discovery
under Federal Rules, being first duly
sworn, testified on

DIRECT EXAMINATION

BY MR. HOLLOWELL:

Q Now, Mrs. Clyde, where do you live?

A I live up at Bronwood with my father.

Q Bronwood with your father?

A Yes.

Q Now, let me say this, Mrs. Clyde; you'll have
to speak up, look right over here at me and speak loud
and talk to me; if you talk to me, then Mr. King and
Mr. Bloch can hear and all of us in here can hear you and
the court reporter can hear you. There's absolutely nothing
for you to be afraid of.

And I'll ask you whether or not you've been talking
with the lawyer who is examining you now and with Attorney
King, is that who you've been talking to for the last 15 or
20 minutes? Have you been talking to me and to Mr. King
for the last 15 or 20 minutes?

A Yes.

Q Speak right out. Did they tell you that what they
wanted you to do was to tell the truth?

A Yes sir.

Q Is that what you're planning to tell?

A Yes.

1 Q I'll ask you whether or not you were in jail over
2 here in the County jail in April of 1958?

3 A Yes.

4 Q You said "Yes sir"?

5 A Yes.

6 Q All right, speak right up, young lady; there's
7 nothing to be afraid of?

8 A Yes.

9 Q Did you have the occasion to see a man brought in
10 jail there on a Sunday afternoon, the 20th of April, the
11 man's name being Brazier?

12 A Yes sir, I seen him when they brought him in.

13 Q Where were you at that time?

14 A I was standing up to the door looking out the
15 window.

16 Q In what cell were you? Can you see the jail over
17 there now?

18 A Yes sir.

19 Q You can?

20 A Yes sir.

21 Q Stand up there and look over there for a moment,
22 and you will see on the left wing there, as we look from the
23 courthouse over to the back, that there are 1, 2, 3, 4 windows
24 on the left wing, is that right?

25 A Yes.

1 Q Which window were you nearest to?

2 A That one away back down yonder going to the last
3 one.

4 Q The next to the last one?

5 A Yes.

6 Q The next to the last one or the last one?

7 A No sir, not to the last one; it was to the second
8 one.

9 Q The next to the last one?

10 A Yes sir.

11 Q That would be the second window, the second one
12 toward the courthouse from the porch, is that correct?

13 A Yes sir.

14 Q Is that right?

15 A Yes sir.

16 Q You see, he can't hear you when you shake your
17 head; so, you have to speak up. Now, let me show you P-1
18 here and orient you for a minute. Now, this is not the best
19 drawing in the world, you understand, but I want you to
20 understand that this is the courthouse here where it says
21 "courthouse", do you see that (exhibiting drawing, P-1)?

22 A Yes.

23 Q Like you're sitting here looking out that window
24 over to the jail: do you see the right wing there?

25 A Yes.

1 Q Do you see the screen porch there, see that?

2 A Yes.

3 Q Do you see that; see the left side?

4 A Yes.

5 Q Now, do you recognize that on this end on the left
6 side is the bull-pen?

7 A Yes.

8 Q You have to speak up?

9 A Yes sir.

10 Q And then, there was another cell - how many cells
11 were there on the left side?

12 A I don't know.

13 Q You don't remember how many cells there were?

14 A No sir.

15 Q Now, here's a cell here and here comes the screen
16 porch and the Sheriff's office, do you recognize the
17 Sheriff's office right here, right here at the end of the
18 porch?

19 A Yes sir.

20 Q And then, here's the first cell, the second cell,
21 the third cell, the fourth cell: Now, was it in this second
22 cell right here that you were in?

23 A Yes sir.

24 Q It's your recollection that you were in the second
25 cell?

1 A Yes sir.

2 Q Was there a cell, at least one cell, between you and
3 the door, the door to the Sheriff's office; was there at
4 least one cell between the cell in which you were and the --

5 A There were two between us.

6 Q There were two between you?

7 A Yes sir.

8 Q So, you were in the third cell from the porch
9 coming this way, that is coming toward the courthouse on
10 the left wing, as you view it from your position here in
11 the courthouse, is that right?

12 A Yes sir.

13 Q When you were sitting in that cell or standing at
14 the window rather of the cell; can you see across into the
15 right wing?

16 A If I be in my cell, I couldn't.

17 Q If you were standing at the window of your cell,
18 could you see over there?

19 A Yes sir, I could see on the outside.

20 Q That's what I mean?

21 A Yes sir.

22 Q Don't shake your head. He can't hear you shake your
23 head. So, you say that you saw them bring in a man that you
24 learned had the name of Brazier, is that right?

25 A Yes sir.

1 Q Who told you his name was Brazier?

2 A That's what Irene Gladdin told me because she was
3 in there with me. I told her, I said "Come here", I was
4 standing to the window, and I said "They bringing a man
5 in". I said "Who is that?" And she said "Some Brazier
6 boy." But I told her, I said "I don't know him." And she
7 said "Well, I do", said "he stay around there not too far
8 from me."

9 Q Irene Gladdin was your cell-mate; she was in jail
10 in the same cell with you, is that right?

11 A Yes sir.

12 Q Did you know Gene?

13 A Yes sir.

14 Q Where was Gene? Where did he sleep?

15 A He slept up there in a cell up above us.

16 Q Did he sleep back toward the courthouse?

17 A Yes sir.

18 Q He slept in a cell back toward the courthouse from
19 where you slept, is that right?

20 A Yes.

21 Q Did you discuss the matter of them bringing that
22 man in with Irene; did you talk about it?

23 A No sir.

24 Q Nothing except the matter of the name, is that right?

25 A That's all.

1 Q Now, what did the man look like?

2 A He just looked like an ordinary man to me.

3 Q Was he dressed at that time?

4 A I don't know sir. All I know, I know he had on

5 some - had on pants.

6 Q Did he have on clothes?

7 A Yes sir, he had on some clothes.

8 Q Did you see who brought him in?

9 A I don't know sir. I don't know sir whether I did

10 or not.

11 Q What? You know you saw who brought him in?

12 A I know one of them brought him in but I don't know

13 who the other one was.

14 Q Well, who was the one?

15 A I know Mr. Cherry come in there with him.

16 Q Mr. Cherry?

17 A Yes sir.

18 Q Doyou know Mr. Cherry when you see him?

19 A Yes sir.

20 Q Is he in the room?

21 A Yes sir.

22 Q Point him out?

23 A That's him over there (pointing).

24 Q He's the Chief of Police there?

25 A Yes sir.

1 Q Let the record show that she pointed to the Chief
2 of Police Cherry, one of the defendants in the case.

3 Do you know Mr. Z. T. Matthews?

4 A Yes sir, I know him.

5 Q Is he in the room?

6 A Yes sir.

7 Q Beg pardon?

8 A Yes sir.

9 Q Point him out?

10 A There he set next to him (pointing).

11 Q Sitting there next to Mr. Cherry?

12 A Yes sir.

13 Q Let the record show that she pointed out one of
14 the defendants, Sheriff Z. T. Matthews.

15 I'll ask you whether or not you had the occasion -
16 strike that, Mr. Joiner, and let me ask you this: About
17 what time was it when you first saw Mr. Cherry and somebody
18 else bringing in Mr. Brazier?

19 A To my knowledge, they brought him in there before
20 sundown.

21 Q They brought him in there before sundown, shortly
22 before sundown?

23 A Yes sir.

24 Q And did you have the occasion, any occasion, to
25 see him later?

1 A No sir; after they brought him in, they carried
2 him over there on the men's side, and then they took him
3 out of there and brought him over there on the side by us.

4 Q Was that later in the evening, later in the night?

5 A No sir, that was some time after they brought him
6 in there.

7 Q Well, they didn't bring him in there and then just
8 take him out and bring him right on over on the other side,
9 not right at that time, did they?

10 A Yes sir, when I see'd them it seemed like to me it
11 was.

12 Q Beg pardon?

13 A It seemed like to me it was; looked like to me
14 when they brought him in that cell over there, they took
15 him out and brought him over there and put him in a cell
16 by us.

17 Q You don't rememer when that was?

18 A No sir, I can't hardly remember all of that.

19 Q Let the record show that as the witness is answering
20 that pargicular question that she frowned, she shakes her
21 head, she gesticulates with her hands somewhat differently
22 than when she answers the other questions; that is, as if
23 it is very difficult to make the answer or to give the
24 answer.

25 Now, Mrs. Clyde, who brought him around on the other

1 side next to where you were?

2 A I don't know.

3 Q Tell the truth now; all we want you to do is to
4 tell the truth: Who did you tell us up there brought him
5 over there?

6 MR. BLOCH: Is it understood - let's have it
7 distinctly understood, by reason of the nature of your
8 question, that I am not agreeing to the use of this
9 testimony on the trial.

10 Secondly, that I need not make any objections to
11 questions now?

12 MR. HOLLOWELL: That's right, except as to matter
13 of form.

14 MR. BLOCH: Do you mean leading questions?
15 Do you want objections made to leading questions at
16 this time?

17 MR. HOLLOWELL: Not necessarily. You'll have the
18 opportunity. We're waiving all objections except as to
19 matter of form.

20 MR. BLOCH: Then, it is distinctly understood
21 that I am not agreeing to the use of this testimony on
22 the trial.

23 MR. HOLLOWELL: This is understood.

24 Q You did in fact see the person, did you not, that
25 brought him around?

1 A No sir, I ain't seen him.

2 Q I'll ask you whether or not you had the occasion to
3 talk to me earlier at your home back in November?

4 A Yes sir, you come there.

5 Q Did you also have the occasion to talk to Mr. King
6 at your home in November, this man (pointing)?

7 A Yes sir.

8 Q Were there any others with those two when they came
9 to see you?

10 A Yes sir, there were five there.

11 Q There were five who came to see you?

12 A Yes sir.

13 Q Did any of them ever tell you to tell anything
14 other than the truth?

15 A No sir.

16 Q As a matter of fact, they encouraged you to tell
17 the truth, didn't they?

18 MR. BLOCH: May I ask who it is you're talking
19 about, "they"?

20 MR. HOLLOWELL: The five persons that she made
21 reference to.

22 Q Isn't that true?

23 A Yes sir.

24 Q Now, you didn't tell them, did you, that you didn't
25 know who brought him around there, did you?

A

1 A No sir, I didn't see him. Irene, she got up and
2 went to the window to look out and told me to look out; and
3 I was going to come and look out.

4 Q Now, when you looked out, whom did you see?

5 A Well, after they brought him in there, I didn't see
6 him 'til that next morning, after they put him in that cell
7 there by us.

8 Q After who put him in there?

9 A I think she said Mr. Cherry brought him over there.

10 Q You think she said Mr. Cherry?

11 A Yes sir, that's what she said.

12 Q Don't you know?

13 A No sir, I didn't see him.

14 Q You didn't see him yourself?

15 A No sir.

16 Q Now, after they brought him in there - well, how
17 did you know he was in there?

18 A That's what she said.

19 Q That's what she said?

20 A Yes sir.

21 Q Did you do anything or did she do anything to bring -
22 MR. BLOCH: Who is she?

23 MR. HOLLOWELL: Irene Gladdin.

24 Q - to bring to your attention that there was somebody
25 over there?

1 A Somebody over where?

2 Q Next door to you in the next cell?

3 A Yes sir, she went to the door and looked out and
4 she come back and said "They done put him in this cell
5 right here by us."

6 Q Did you find out whether or not there was anybody
7 in there?

8 A No sir, because I couldn't; I was locked up.

9 Q When somebody comes in the next cell, what methods
10 do you sometimes use in order to try to find out whether
11 there's somebody over there, if you use any method?

12 A What you mean about that?

13 Q Wel, if there was somebody in a cell next to you
14 or you thought there was somebody in there, how would you
15 go about trying to find out?

16 A Well, me? I'd ask if anybody over there or some-
17 thing like that.

18 Q Is that what you did?

19 A No sir, I didnt ask or nothing because I didn't
20 know who it was.

21 Q Is that what she did?

22 A She just knocked on the wall.

23 Q Did anybody knock back?

24 A No sir, I ain't heard nobody.

25 Q You haven't heard anybody?

1 A No sir.

2 Q You say "No"? Did you say your head "no"?

3 A No sir, I didn't hear nobody.

4 Q Now, did you have the occasion to see any other
5 police officers that night or any time around the time
6 that you say a man was brought in the cell next to you?

7 A No sir.

8 Q Did you hear anybody whistling?

9 A No sir, I don't think so.

10 Q Let me ask you this: Let the record show that
11 we're treating this witness as a hostile witness, and that
12 we seek to lead her:

13 Isn't it true that you told us, Mr. King and I,
14 that you saw one of the officers go in the jail office and
15 pick up the telephone and make a call?

16 A No sir, I didn't see that.

17 Q You didn't see that?

18 A No sir.

19 Q You didn't say that either?

20 A No sir, I didn't say that. That's what Irene -
21 Irene went to the window then and was standing there.

22 Q Beg your pardon?

23 A Irene Gladdin was up to the window then. I didn't
24 see that.

25 Q You didn't see that?

1 A No sir.

2 Q Now, let me ask you this: Isn't it true that you
3 said that you saw the Sheriff come down to the office?

4 A No sir, I ain't seen him.

5 Q You didn't see that either?

6 A No sir.

7 Q Isn't it true that you said, not only did you see
8 the Sheriff, but that you heard the Sheriff?

9 A No sir, I couldn't hear him in there. When you be
10 in there you couldn't hardly hear nothing.

11 Q Is that right? Isn't it also true that you said
12 that you heard the Sheriff whistling when he came across the
13 porch?

14 A No sir, I didn't hear it.

15 Q You didn't say that?

16 A No sir, I ain't heard him whistling.

17 Q You haven't heard him whistle?

18 A No sir.

19 Q Let the record show that the witness in the process
20 of answering seems to be in a high state of agitation -

21 MR. BLOCH: Are you testifying now?

22 MR. HOLLOWELL: I'm asserting something for the
23 record; that the witness shakes her head, that her hands
24 are working; and that at the time that she answered the
25 last question she frowned and closed her eyes in the process

1 Mr. Hollowell:

2 of shaking her head.

3 Q Is it not also true that you told me and Mr. King
4 that one of the officers, Mr. Mansfield, as near as you
5 could recollect, came and pushed the door of the jail --

6 A No sir, I ain't seen Mr. Mansfield that night.
7 If I did, I ain't seen him.

8 Q You didn't see him?

9 A No sir.

10 Q And you didn't say that?

11 A No sir.

12 Q Can you read?

13 A Yes sir, I can read some.

14 Q Let me show you this and ask you to read it:
15 Can you read that (exhibiting transcript)?

16 A No sir.

17 Q You can't read that?

18 A No sir, I can't read no type reading.

19 Q Well, let me ask if you were asked this question
20 by me and you gave this answer -

21 MR. BLOCH: May I ask what's that you're reading
22 from?

23 MR. HOLLOWELL: I'm reading from the statement of
24 Mary Carolyn Clyde.

25 MR. BLOCH: Taken by?

1 MR. HOLLOWELL: Taken by me on Thursday, November
2 15, 1962.

3 MR. BLOCH: Transcribed by?

4 MR. HOLLOWELL: Transcribed by Carl F. Potswald.

5 MR. BLOCH: Atlanta?

6 MR. HOLLOWELL: Atlanta.

7 ____Q (Reading from statement): "I see. Now, you
8 remember hearing the Sheriff asking the fellow, quote,
9 did you do a good job, don't you remember that, that night;
10 you know you do"; and you answered "Well, he come down there
11 but I never, I didn't hear him say nothing, but he come down
12 there; someone called him down there, I think": Did you
13 say that? Yes or no?

14 A I don't know, sir.

15 Q You mean you don't know?

16 A No sir, don't look like I told you that, that night
17 when you come there.

18 Q You don't remember saying that?

19 A No sir.

20 Q Allright, then I'll ask you this, "When did they
21 come down there" and you answered "Well, they come down there,
22 they brought him over there and put on the side prison and
23 I think one of them called and he come down there" - do you
24 remember saying that?

25 A No sir.

1 Q "Did you see him? Answer: No sir, I couldn't see
2 him but he were out there in the office?"

3 A How did I know he were out there when I couldn't
4 see him?

5 Q You didn't say that?

6 A I didn't say - I don't remember saying none of that.

7 Q You don;t remember saying it. "Did you hear him?
8 Answer: Yes, I could hear him some times. Question: I mean
9 you know his voice? Answer: Yes. Did you know he was up
10 there? How did you know he was up there? You could hear?
11 Answer: I knowed he was up there when he come down"?

12 A (Witness shaking head negatively) . . .

13 Q You don't remember saying that?

14 A No sir.

15 Q Do you remember Belle that was there and went to
16 Rome?

17 A Who?

18 Q A girl that was staying there by the name of Belle?

19 A No sir.

20 Q You don't remember her?

21 A No sir.

22 Q You know the girl that Gene used to play around with;
23 you don't remember her?

24 A No sir, I don't know nobody like that.

25 Q You don't know nobody like that?

1 A No sir.

2 Q I mean the girl that was transferred to Rome?

3 A There been so many peoples over there I don't know
4 sir who you talking about.

5 Q You don't remember anything about Belle being there?

6 A I don't know no Belle.

7 Q Do you know a Belle?

8 A No sir.

9 Q Do you anybody that was transferred to Rome, a
10 colored woman?

11 A No sir, I sho don't; when they carry peoples off,
12 I don't know where they be sending them to.

13 Q Do you remember telling me that you knew the girl
14 by the name of Belle?

15 A No sir, I don't know nobody by that name.

16 Q I believe her name was Carrie Belle; do you remember
17 her, that went to Rome?

18 A No sir, no sir, I don't remember.

19 Q Beg pardon?

20 A No sir, I don't remember her.

21 Q Do you remember my asking you, "What about the
22 other girls" and you answered "There was some one or two
23 other girls up in there. Question: What did he do with them?"
24 And you said, "He carried Belle and went to Rome. Did what?
25 She went to Rome and made her time; she had 12 months". Do

1 you remember saying that?

2 A No sir.

3 Q You don't remember saying any of that?

4 A No sir.

5 Q Did you have the occasion to see Brazier the next
6 morning after he was put in jail?

7 A I see'd him the next morning when they brought him
8 out.

9 Q Beg pardon?

10 A I see'd him the next morning when he come out.

11 Q You did?

12 A Yes sir.

13 Q What did he look like?

14 A I don't know, sir. He looked like he did to me
15 when I first seen him.

16 Q What did he have on?

17 A I think he had on a white "T" shirt and some kind
18 of breeches.

19 Q Was he bare-footed?

20 A No sir, I thought he had on his shoes.

21 Q You thought he had; do you know?

22 A Yes sir, looked like to me he had them on.

23 Q Now, this T-shirt, was it clean?

24 A I don't know sir. It looked kind-of dingy-looking
25 like it was old T-shirt or something.

1 A Yes sir.

2 Q At the time that - did you ever see him any more?

3 A No sir.

4 Q That was the last time you saw him?

5 A Yes sir.

6 Q That you saw him? What were you in jail for?

7 A Killing my husband.

8 Q When was that?

9 A I think it was '57.

10 Q Beg pardon? '57?

11 A Yes.

12 Q How much time did you spend in jail here in this
13 County after the trial?

14 A I don't know, sir. I don't remember whether I
15 stayed up here 6 months or 7. I don't know, sir. I didn't
16 stay there too long.

17 Q And then, where did you go?

18 A Well, I went up yonder to Milledgeville.

19 Q How long were you up there?

20 A I think I was up there a year and 8 months.

21 Q And then, you got out?

22 A Yes sir, my daddy got me out on parole.

23 Q On parole?

24 A Yes sir.

25 Q Who helped him get you out, do you know?

- 1 A I guess our boss-man.
- 2 Q Are you still on parole?
- 3 A Yes sir.
- 4 Q Who's your parole officer?
- 5 A Mr. F. B. Perry.
- 6 Q Mr. F. B. Berry?
- 7 A F. B. Perry.
- 8 Q Perry?
- 9 A Yes sir.
- 10 Q Who's place do you live on?
- 11 A Mr. Price.
- 12 Q Mr. Price, what Price?
- 13 A Mr. Price.
- 14 Q Beg pardon?
- 15 A Just Mr. Price.
- 16 Q I see; you don't know what his other name is?
- 17 A His first name is Mr. Albert, Jr.
- 18 Q Mr. Albert Price, Jr.?
- 19 A Yes sir.
- 20 Q Have you ever had the occasion to talk to the
- 21 Chief of Police about this case?
- 22 A No sir, I ain't had no talk with him at all.
- 23 Q Have you had any talk with the Sheriff about it?
- 24 A No sir.
- 25 Q Did you tell your parole officer about it?

1 A No sir.

2 Q Did you talk to your boss-man about it?

3 A No sir.

4 Q Isn't it true, as a matter of fact, that even when
5 the subpoena was taken to you, one of themen in your house
6 said "you know that the Sheriff said that you didn't have to
7 come down there"?

8 A It wasn't no man there that day when that - when
9 that first man come up there? Wasn't no man there that
10 day.

11 Q I mean last night even?

12 A No sir, when that man come in there last night, my
13 little baby got up and opened the door and she had her feet
14 against the door like that (indicating), looking out the door;
15 and he asked her "Is Carolyn Clyde here?" She say "Yes
16 sir", said "she's in the bed". And when she said "she
17 in the bed", he pushed on in the house.

18 Q He did?

19 A Yes.

20 Q What did he give you, a paper?

21 A Yes sir.

22 Q And who else was there?

23 A Wasn't nobody. After he left, got up - he left -
24 he just throwed it down on the bed and said "You have to
25 meet the court in the morning." He say "I think there some

1 "money in there."

2 Q And then what?

3 A And he left and went on out.

4 Q Who else was there at the house?

5 A Nobody but me and my sister what stay down there
6 at Shellman and her husband. He was in the house.

7 Q What's her husband's name?

8 A He named Nathaniel Butler.

9 Q Nathaniel Butler?

10 A Yes.

11 Q And Nathaniel said "You know that the Sheriff said
12 that you don't have to meet no court", isn't that what he
13 said?

14 A No sir, Nath ain't said that.

15 Q He didn't say that?

16 A No sir.

17 Q You know you're under oath?

18 A Yes sir, I do.

19 Q Why didn't you come before when we wanted to take
20 your deposition?

21 A Because I didn't have no way to come.

22 Q They told you they would pick you up?

23 A Yes sir, he told me, he said "I'll carry you down
24 there" but I told him "I don't want to go to no court because
25 I was in court my own self and that was enough for me." And

1 I told him I didn't want to go back to no more court.

2 Q You didn't want to go to any more court, and the
3 Sheriff told you that you didn't have to go?

4 A No sir, the Sheriff ain't told me nothing.

5 Q Well, he sent you word, didn't he?

6 A No sir, he ain't sent me no word.

7 Q As a matter of fact, when we were out to your house,
8 your father said he was coming to see the Sheriff about it,
9 didn't he?

10 A No sir, daddy ain't see'd no Sheriff, I don't think ,
11 about that.

12 Q Didn't you hear him make that statement?

13 A No sir.

14 Q That he was going to see the Sheriff about it?

15 A No sir.

16 Q You didn't hear that?

17 A No sir, he said this, that if you'll keep on
18 coming out there fussing, he was going to come up here and
19 see the Sheriff." That's what he say.

20 Q I see . You had never seen us before, had you?

21 A Yes sir, I see'd you heep of times because you come
22 up yonder when I was in the chain-gang.

23 Q I mean, you'd never seen me in your house?

24 A Yes sir.

25 Q When?

1 A I don't know sir when it was but you come out there
2 though.

3 Q When you gave that statement, that 's the only time
4 that you've ever seen me at your house, isn't it?

5 A I give you a statement but it wasn't like that.

6 Q Well, I say, have you seen me at your house?

7 A Yes sir.

8 Q Other than that?

9 A No sir.

10 Q That's the only time you've ever seen me?

11 A That's the only time I've seen you, that night
12 that y'all come there.

13 Q That's right, and that's the only time that you've
14 ever seen Mr. King too, wasn't it?

15 A Yes sir, that's the only time I've seen him but
16 there been some more of them excusing him.

17 Q Who were they?

18 A 2 or 3 ladies and things.

19 Q But that wasn't us?

20 A No sir, but they said you sent them up there.

21 Q What?

22 A They told me when they come there, said you sent
23 her up there.

24 Q A lady said I sent her up there?

25 A Yes sir.

1 Q When was that?

2 A I was in the field pulling corn and she come to
3 the corn field where I was at.

4 Q When was that?

5 A That was back here before Christmas.

6 Q You know all we've been trying to do was to get you
7 to tell the truth, don't you?

8 A Yes sir, and I say I told the truth.

9 Q You're not telling the truth about that statement?

10 A Yes sir, I did too.

11 Q Are you scared of the Sheriff?

12 A No sir, he ain't never done nothing to me.

13 Q Are you scared of the Chief of Police?

14 A No sir.

15 Q They, why don't you tell the truth?

16 A I'm telling the truth.

17 Q Now, the next morning after you said that they
18 took him out, that they took Brazier out, going somewhere;
19 did you have the occasion to look in the cell where he was?

20 A No sir, I was locked up.

21 Q You were locked up? Didn't you get out some time?

22 A No sir.

23 Q You didn't ever get out?

24 A Sometimes I might would and sometimes I didn't.

25 Q Don't you remember telling me that you saw the

1 blanket in there and that the blanket was blood; do you
2 remember that?

3 A No sir, it don't seem like I told you that. You
4 told me that. You said when Irene, when y'all took her
5 to court, when she was up yonder, that she said blood was
6 on the blanket but I told you I didn't see none because I
7 didn't go in there.

8 Q Well, let me ask you if you were asked this question
9 and if you didn't give me the answer: "Now, when was it tha t
10 you first discovered the blanket and mattress full of blood?
11 Answer: Well, that was after they had left out and we got
12 breakfast and went out next to the cell over there, and
13 Irene and me looked in there": Did you make that statement?

14 A No sir.

15 Q You didn't make that statement?

16 A No sir.

17 Q And then, you were asked, "both of you went there
18 and looked in there"; and you answered, "Yes"?

19 A I didn't make that.

20 Q You didn't make that statement?

21 A No sir, because I was locked up.

22 Q "After you had had breakfast?" The answer "Yes".

23 "And after they had taken the prisoners to the City court,
24 is that right?" The answer; "Yes". Did you make those
25 statements?

1 A No sir, I made one to you but I didn't tell it like
2 that.

3 Q You didn't tell it like that?

4 A No sir.

5 Q Let me ask you whether you made this statement:
6 "Now, how many times did you see Mr. Lee? Answer: I only
7 see'd him once and that was the morning he come. Question:
8 Chief Lee, you say, came and got him, as near as you can
9 recollect? Answer: Yes." Did you say that?

10 A You said it - you told me.

11 Q No, answer me, did you say that?

12 A No sir.

13 Q You didn't say that?

14 A No sir.

15 Q And then the question was asked, "When did you
16 see Mr. Chapman, how many times? Answer: I see'd him one
17 time too. Question: Only once? Answer: Yes." Did you say
18 that?

19 A No sir, because I didn't see Mr. Chapman at all.
20 If I would, I would have knowed it.

21 Q Isn't it true that you were asked this question
22 and you gave this answer: "How about Randolph McDonald,
23 Officer McDonald, do you know him when you see him? Answer:
24 I don't know. I don't know. I can't think of him. I can't
25 remember him." And then you were asked: "Do you remember

1 "what he looked like? I think Mr. Hancock was there then,
2 Mr. Hancock? Answer: Yes. Where did you see him? He come in,
3 let me see, once I think, after they come in and went out.
4 Hancock came in once? Yes, after they brought him in, he
5 came in there once and went back out".

6 Did you say that?

7 A I don't know. I don't know nobody named no Mr.
8 Hancock.

9 Q You don't know anybody named Mr. Hancock?

10 A No sir.

11 Q I see. All right, I don't believe we have any further
12 questions.

13 MR. BLOCH: I have none.

14 MR. HOLLOWELL: All right, you may be excused, young
15 lady.

16 (Witness excused)

17 MR. HOLLOWELL: Here's a copy of the death certifi-
18 cate --

19 MR. BLOCH: Are you submitting these to me?

20 MR. HOLLOWELL: Yes. And here's copy of the marriage
21 certificate.

22 (Off the record discussion)

23 MR. BLOCH: Counsel for the Plaintiff has submitted
24 to counsel for the Defendant at 12:45 noon, January 19,
25 1963, one marriage certificate of James Brazier and Hattie

1 Mr. Bloch:

2 Belle Brown; (2) Certificate of death. (3) Medical
3 Center admission record and further medical record;
4 all of which are submitted in accordance with the
5 Judge's order and any objection thereto reserved to the
6 trial.

7 MR. HOLLOWELL: Yes. Now, we will want to submit
8 prior to trial, Mr. Bloch, evidence of his birth and
9 photograph of the jail, and the pay records, which we
10 are going to work out with Mr. Collier.

11 MR. BLOCH: All right.

12 MR. HOLLOWELL: If anything else comes up or if
13 you have anything at any time between now and the time
14 of the trial, it is all right.

15 MR. BLOCH: Now, I have submitted, I wrote you
16 on the 17th, sending you a copy of the warrant, a
17 photostatic copy of the warrant.

18 MR. HOLLOWELL: I see.

19 MR. BLOCH: That we propose to introduce; and
20 second, I said that we proposed to introduce the perti-
21 nent parts of the books which you saw at the taking of
22 the depositions at Americus on October 10. We're also
23 going to have a diagram made of the jail and some photo-
24 graphs of the jail.

25 MR. HOLLOWELL: All right.

1 MR. BLOCH: And as soon as they are made, we
2 will give you copies of them.

3 MR. HOLLOWELL: All right, we can clear them; any
4 time before the trial will be satisfactory.

5 MR. BLOCH: All right, now, the proposed
6 Plaintiff's witnesses, no use of us going on the
7 record about that.

8 MR. HOLLOWELL: A list of the witnesses came from
9 Mr. Bloch and we've given him a list of ours.

10 MR. BLOCH: Did you receive the letter that I
11 wrote you where I gave you a list of the witnesses
12 that I propose to use?

13 MR. HOLLOWELL: My office indicated that such a
14 letter came.

15 MR. BLOCH: Alright, I've done my part on that.
16 Now, did you get a letter from Judge Elliott dated
17 January 17?

18 MR. HOLLOWELL: I understand that there was such a
19 letter that came.

20 MR. BLOCH: I imagine he's going to ask us
21 what we've done about it.

22 MR. HOLLOWELL: I wouldn't be surprised; relative
23 to the second statement in the pre-trial order, I believe.

24 MR. BLOCH: Here's what the letter says.

25 MR. HOLLOWELL: Mr. King has a copy of it here.

1 Mr. Hollowell:

2 I don't see it here though. Read it to me, Mr. Bloch.

3 MR. BLOCH: It's addressed to Mr. D. L. Hollowell,
4 Mr. Charles J. Bloch and Mr. C. B. King, with the
5 title of the case and says:

6 "I acknowledge receipt on this date of the proposed
7 pre-trial order in connection with the above identified
8 case as forwarded to me by Mr. Hollowell.

9 "Apparently, Mr. Bloch received his copy in his
10 morning mail." This is dated January 17. "-also, because
11 before I reached my office this morning, Mr. Bloch was
12 calling me and had left word that he wanted me to know
13 that he did not agree with the proposed pre-trial order
14 as drawn. Being so advised, I have deferred signing the
15 proposed order and suggest that you gentlemen confer
16 further in the hope that such differences as exist may
17 be resolved, and that I may be able to sign the order
18 by the time originally indicated. If you are able to
19 agree, you may forward the order to me in Americus, since
20 I will be there beginning next Monday."

21 Now, I had written you on that same date, the 17th.
22 I don't believe I have a copy with me of that letter.
23 Do you have a copy of the letter? I sent you a copy of
24 the letter?

25 MR. KING: Yes.

1 MR. BLOCH: I don't see any need in reading
2 that into the record. The part that I specifically
3 object to is the last sentence in paragraph numbered 2
4 of the pre-trial order: "Both Plaintiff and Defendant
5 shall be entitled to use appropriate statements of the
6 said deceased parties, insofar as they may be effective
7 and proper from an evidentiary standpoint, but no judg-
8 ment may be rendered against the said deceased parties
9 without proper substitution."

10 I'm not going to agree to that.

11 MR. HOLLOWELL: What's your problem there, Mr. Bloch?

12 MR. BLOCH: "That both Plaintiff and Defendant
13 are entitled to use appropriate statements . . . insofar
14 as they may be effective and proper from evidentiary
15 standpoint." I just don't think that means anything.

16 MR. HOLLOWELL: Well, it means what it says;
17 that the only way they can submit any evidence relating
18 to statements made by the deceased parties is that you
19 have complied with the evidentiary laws. That's what it
20 says.

21 MR. BLOCH: Well, I didn't understand it that
22 way and I still don't. That may be what you meant, but
23 I would not agree to the pre-trial order with that
24 sentence in there. I will agree to a pre-trial order
25 with a statement in it something like this, that both

1 Mr. Bloch:

2 parties shall be entitled to use such statements of the
3 deceased parties as may be admissible under the law;
4 and that doesn't mean anything but we're following the
5 law. And that's all I'm going to agree to.

6 MR. HOLLOWELL: This is really what that's saying
7 and I have no objection to it being amended to that
8 extent. That's alright.

9 MR. BLOCH: You're going to be busy next week
10 and I'm going to be sort of busy from what I hear, I'm
11 not going to be as busy as you are next week. So, if
12 you like I'll take this home with me and re-draw it and
13 send it to you and then, if you agree to it, you can sign
14 it and send it to the Judge.

15 MR. HOLLOWELL: All right, fine.

16 MR. BLOCH: And we'll tell him that that's been
17 done.

18 MR. HOLLOWELL: All right, that's fair enough.

19 MR. BLOCH: Because we're under a duty to
20 conscientiously try to agree on a pre-trial order.

21 MR. HOLLOWELL: Well, I think you and I try to do
22 that. We don't always get together but we make a good
23 effort at it, at least. Now, let me see, you're going
24 over anyhow and maybe we can go at the same time; we want
25 to take a look through the jail. I think you said you

1 Mr. Hollowell:

2 said you were going over anyhow.

3 MR. BLOCH: Well, it's not a matter for me to
4 decide. I have no objection to your going. Of course,
5 after you leave, there may be some questions that I'll
6 want to ask my clients.

7 MR. HOLLOWELL: Oh, certainly. Oh, you mean for
8 the record?

9 MR. BLOCH: Oh no. It's a public building;
10 you've got a right to go in there.

11 MR. HOLLOWELL: Do you have any objections,
12 Sheriff?

13 SHERIFF MATTHEWS: If he doesn't, I don't.

14 MR. BLOCH: We're just going and looking;
15 we're not asking any questions, are we?

16 MR. HOLLOWELL: No, no. Now, as I said, we want
17 to have someone make some photographs.

18 MR. BLOCH: No objection.

19 MR. HOLLOWELL: It may be we could get them free of
20 cost.

21 MR. BLOCH: I was going to suggest that when you
22 get ready to have your photographs made, that you have
23 whoever is going to make them get in touch with Mr.
24 Collier.

25 MR. HOLLOWELL: Yes.

STIPULATION

MR. COLLIER: Defendants' stipulate that this is a photographic copy of original exhibit marked PLAINTIFF'S EXHIBIT #7, being a photostatic copy of the original pay record of James Brazier while employed with Stevens Chevrolet Company, from January 1, 1958 through April, 1958; and that the same may be used by the Plaintiff as if it were the original.

MR. HOLLOWELL: Okay.

Depositions concluded: 12:55 PM 1-19-63

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
AMERICUS DIVISION

HATTIE BRAZIER, widow of
James Brazier, deceased,

Plaintiff

Civil Action

v.

No. 475

W. B. CHERRY, RANDOLPH McDONALD,
ZACHARY T. MATTHEWS and THE
FIDELITY CASUALTY CO. of N. Y.

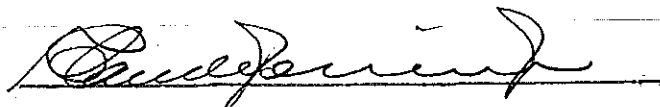
Defendants

GEORGIA, BIBB COUNTY:

I, Claude Joiner, Jr., the reporter and Notary Public
named herein, CERTIFY that in such capacities on January 19,
1963 I personally reported in shorthand the depositions of
RAGAN ARNOLD and MARY CAROLYN CLYDE, witnesses called by
Plaintiff in above case for discovery under Rule 26, Federal
Rules of Civil Procedure, and on the foregoing pages numbered
2 to 63, both inclusive, have transcribed a true and correct
transcript of the complete depositions of said witnesses
given at said time and place herein stated.

I FURTHER CERTIFY that I am not related to or counsel
for any party to the above action and have no interest
in the event thereof.

WITNESS my official hand and seal as Notary Public, at
Macon, Georgia, this the 22nd day of January, 1963.



Notary Public, Bibb County, Georgia
My Commission Expires Aug. 27, 1965

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
AMERICUS DIVISION

HATTIE BRAZIER, widow of
James Brazier, deceased,
Plaintiff

Civil Action

v.
W. B. CHERRY, RANDOLPH McDONALD
and ZACHARY T. MATTHEWS, et. al.
Defendants

No. 475

Depositions of RAGAN ARNOLD and MARY CAROLYN CLYDE,
witnesses called by Plaintiff in above case for
discovery under Rule 26, Federal Rules of Civil
Procedure, before the undersigned, at Dawson, Ga.,
Terrell County courthouse, January 19, 1963

[Signature]
Notary Public Georgia, etc.

FIRST CLASS MAIL

PENALTY FOR PRIVATE USE TO
PAYMENT OF POSTAGE: \$50
(PMGC)

Re 1/E 22949
68297

FILED at 10 A.M.

JAN 25 1963

[Signature]
Deputy Clerk, U.S. District Court

CLAUDE JOINER, JR.
OFFICIAL COURT REPORTER
P. O. BOX 3XX 94
MACON, GEORGIA

HON. CLIFFORD PANTONE,

Deputy Clerk, U. S. District Court,
Middle District of Georgia,

AMERICUS, Georgia.

Original deposition herein received in sealed envelope
and FILED, this the 22 day of January, 1963.

[Signature]
Deputy Clerk, USDC - M-D Georgia, Americus Divn.

Dr. J. H. Smith
D. P. Smith
L. H. Smith