

3-3-1981

**Defendants-Appellants' Appendix After Evidentiary Hearing on
Remand (Volume II)**

Lewis M. Steel '63

THE STATE OF NEW JERSEY, <div style="text-align: center;">Plaintiff- Respondent,</div> vs. RUBIN CARTER and JOHN ARTIS, <div style="text-align: center;">Defendants- Appellants.</div>) SUPREME COURT OF NEW JERSEY)) CRIMINAL INDICTMENT NO. 167-66)) CARTER DOCKET NO. 16,638) ARTIS DOCKET NO. 16,639)) <u>Criminal Action</u>)) ON REVIEW OF TRIAL COURT'S) FINDINGS AND CONCLUSIONS AFTER) REMAND FOR HEARING PURSUANT TO) DECISION OF MARCH 3, 1981
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DEFENDANTS-APPELLANTS' APPENDIX
AFTER EVIDENTIARY HEARING ON REMAND
-VOLUME II-

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On the Brief: Leon Friedman
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* Previously filed with appeal courts. Not reproduced in Appendix by agreement.

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1:00 [unclear]
 1:20 [unclear]
 1:12 Comm. Ed - to verify 24328
 2:55 [unclear]
 3:25 Dep. Childs - 944-2828 - LHH call kept on edge
 4:5 [unclear]
 4:50 LHH call Capt. Williams re
 [unclear]

Thurs. 10/23/70
 9:00 [unclear]
 9:30 [unclear]
 10:35 Forensic Lab. p.o. S
 [unclear] [unclear] [unclear]
 [unclear] [unclear] [unclear]
 11:10 [unclear]
 11:25 [unclear]
 12:50 wrong number
 12:53 [unclear]



Passaic Cty. Pros. Office - re Carter file
 require of LHH background & exper.
 attn. Pros. Burrell I Humphreys

EXHIBIT "DC-1211"
HUMPHREYS' CALENDAR NOTATION 8/11/76 RE: CALL TO HARRELSON

Neither the defense nor the State have been able to locate this Exhibit. The original was presumably filed with this Court by the trial court. The Exhibit reflects a notation on former Prosecutor Humphreys' calendar, August 11, 1976, for a telephone call to Leonard Harrelson.

EXHIBIT "DC-1213"
MEMO RE: DISCUSSIONS BETWEEN DESIMONE AND ARTHUR (8/18/76)

August 18, 1976

TO: File

FROM: Vincent J. De Simone, Acting Chief of County Detectives

RE: Detective Sgt. Robert H. Rohlfs - Bello (New Mexico)

On August 16, 1976 writer received report from Sgt. Rohlfs regarding his participation in the return of Bello from New Mexico.

Previous to receiving this report, writer had contacted Sgt. Rohlfs regarding information received from Dick Arther to the effect that he (Arther) could not conduct a polygraph examination in New Mexico since he was not licensed to do so. This information was related to Sgt. Rohlfs. Sgt. Rohlfs then made inquiries in New Mexico and learned that a polygraph operator named Jim Wilson from Albuquerque was a former student of Dick Arther. They explored the possibility of Arther conducting a polygraph examine in New Mexico utilizing the license of Jim Wilson.

On August 18, 1976 Sgt. Rohlfs telephoned writer and advised that the Attorney General had ruled that Dick Arther could, in fact, conduct a polygraph examination in New Mexico providing a polygraph operator licensed in the state of New Mexico was present in the room when the test was conducted.

Writer endeavored to relay this information to Dick Arther but he was not readily available, but the message will be delivered.

EXHIBIT "DC-1214"
MEMO RE: DESIMONE TO HUMPHREYS (8/23/76)

Neither the defense nor the State have been able to locate this Exhibit. The original was presumably filed with this Court by the trial court. The Exhibit states that Arther had a conversation, on or about August 23, 1976, with DeSimone. In that conversation, Arther advised DeSimone that he had received the polygraph charts from Best, had reviewed the charts of DeMasi, had been in contact with Harrelson as recently as the Friday before, anticipated receiving Harrelson's charts within the next day or two, and would contact DeSimone after reviewing Harrelson's charts to advise DeSimone whether he would test Bello.

The memorandum also discussed that Arther and DeSimone talked about arrangements with New Mexico authorities for Arther to conduct a test of Bello in New Mexico under the license of another person. See 5/21/81H143-144.

SCIENTIFIC LIE DETECTION, INC.

Utilizing the Fourth Generation of The Arther Polygraphs

1109 MEDICAL ARTS CENTER 57 WEST 57TH STREET NEW YORK, N. Y. 10019
(212) PLAZA 5-5241

PRESIDENT SINCE 1958
RICHARD O. ARTHUR, B.S., M.A., A.C.P.

CERTIFIED POLYGRAPHISTS
GENE T. SANDACZ, A.C.P.
DORI J. PEARL, A.C.P.

September 10th
Sat.

Dear Gene,

Many thanks for sending me
Bello's statements.

I plan to go to New Mexico
the week-end of Sept 24th --
& to examine Bello on Sunday, Sept.
26th.

In that way he can't complain
of having to lose any time from work.

I will be in contact with you
this coming

RICHARD O. ARTHUR
EXPERT POLYGRAPHIST SINCE 1951

FOUNDER, 1964
NEW YORK STATE POLYGRAPHISTS
FOUNDER, 1964
NEW JERSEY POLYGRAPHISTS

PRESIDENT SINCE 1964
THE NATIONAL TRAINING CENTER OF POLYGRAPH SCIENCE
MANAGING EDITOR SINCE 1966
THE JOURNAL OF POLYGRAPH SCIENCE

week, around Wed. to 15th

Sincerely,
Dori

EXHIBIT "DC-1216"
MEMO -- DESIMONE TO HUMPHREYS 11/19/76
RE: RICHARD ARTHUR

November 19, 1976

TO: Prosecutor Humphreys
FROM: Chief De Simone
RE: Richard Arther

At 10:00 A.M. this date VDS had a telephone conversation with Dick Arther. Dick Arther stated that in January or February of 1976 he had a long conversation with Myron Beldock who he knows well.

HE NEVER TOLD BELDOCK THAT A TEST WAS VALUELESS AFTER 10 YEARS. He did say that tests after such a period of time were difficult but were dependent upon the circumstances. He will state that the Bello test was true and accurate.

Arther suggested to Beldock that he (Beldock) allow Arther to test Hurricane Carter. The offer was declined.

Arther stated at one time in the past he tested a man in Philadelphia who had been in prison for a murder for 17 years. Arther cleared the man and after running 2 witnesses they both admitted commission of the crime.

VDS
V.D.S.

VDS:sr

EXHIBIT "DC-1217"
LETTER 1/11/78 FROM BELDOCK TO MARMO

BELDOCK LEVINE & HOFFMAN

565 FIFTH AVENUE

NEW YORK, N. Y. 10017

ELLIOT L. HOFFMAN
LAWRENCE S. LEVINE
MYRON BELDOCK
BRUCE E. TRAUNER
ELLIOT G. SAGOR

JON B. LEVISON
KATHLEEN C. WRESIEN
DANIEL E. GILIOLI
Member Ohio & D.C. Bars Only
PETER S. MATORIN
CYNTHIA ROLLINGS

(212) 490-0400
CABLES: TELHOFFLAW, N. Y.
TELEX: 422046

VIALE MONTE SANTO, 4
20124 MILAN ITALY
COUNSEL
GILBERTO GILIOLI
Member Republic of Italy Bar Only

January 11, 1978

Ronald Marmo, Esq.
Passaic County Prosecutor's Office
Passaic County Courthouse
Paterson, New Jersey 07505

Re: State v. Carter and Artis

Dear Mr. Marmo:

This is to confirm your representation made in court today, before Judge Leopizzi, that you would provide defense counsel with copies of all notes which you, Mr. Humphreys or Mr. Goceljak made in connection with the objections, discussions and rulings as to cross and redirect examination of Bello in the area of communications between Bello and anyone associated with the Prosecution (subsequent to the July "DeVesa" meeting) which led to Bello's reversion to the 1967 trial testimony during the 1976 trial, including, without limitation, all discussions concerning the lie detector tests.

Since we are anxious to complete the record, we would appreciate your prompt production of those materials.

Thank you for your cooperation in that respect.

Very truly yours,



Myron Beldock

MB:rg

cc: Hon. Bruno L. Leopizzi
Burrell Ives Humphreys, Esq.
John P. Goceljak, Esq.
Ronald J. Busch, Esq.
Lewis M. Steel, Esq.
Jeffrey R. Fogel, Esq.
Mr. Rubin Carter
Mr. John Artis

EXHIBIT "DC-1218"
LETTER 1/24/78 FROM MARMO TO BELDOCK



PASSAIC COUNTY PROSECUTOR
COURT HOUSE
PATERSON, NEW JERSEY 07505
(201) 525-5000

BURRELL IVES HUMPHREYS
PROSECUTOR

JOSEPH A. FALCONE
FIRST ASSISTANT PROSECUTOR

ANTHONY P. TIRINATO
DEPUTY FIRST ASSISTANT PROSECUTOR

JOHN P. GOCELJAK
CHIEF, APPELLATE SECTION

RONALD G. MARMO
CHIEF, TRIAL SECTION A

GEORGE TOSI
CHIEF, TRIAL SECTION B

MARTIN R. KAYNE
CHIEF, HOMICIDE AND
SPECIAL INVESTIGATIONS SECTION

FRANK M. SANTORA
CHIEF, ORGANIZED CRIME,
GAMING AND NARCOTICS SECTION

W. JOSEPH WEINER
CHIEF, GOVERNMENTAL CORRUPTION
AND WHITE COLLAR CRIME SECTION

January 24, 1978

Beldock, Levine & Hoffman
565 Fifth Avenue
New York, New York 10017

Attention: Myron Beldock, Esq.

Re: State v. Carter and Artis

Dear Mr. Beldock:

In response to your letter to me of January 11, 1978, in this matter, please be advised that, while I do not agree with your representations as to what occurred in Judge Leopizzi's courtroom on January 11, 1978, I have reviewed my notes concerning the discussions which occurred in chambers regarding Bello's testimony concerning polygraph examinations which were administered to him. I made no notations in this regard.

Prosecutor Humphreys and Chief Assistant Prosecutor John Goceljak have advised me that they likewise examined their notes and also found that they made no notations regarding this matter.

With regard to your request for any additional discovery, please be advised that you have received complete discovery in this matter.

Very truly yours,

BURRELL IVES HUMPHREYS
PASSAIC COUNTY PROSECUTOR

By: Ronald G. Marmo
Chief Assistant Prosecutor

RGM:jd

8a

EXHIBIT "DC-1220"
VOUCHER 8/4/76 (AIRPLANE)

All bills must be itemized, have the Special Voucher Order Number, and be presented promptly to the Department ordering same

Paterson, N. J. August 4, 1976

COUNTY OF PASSAIC

To AROUND THE WORLD TRAVEL BUREAU
Address 186 Market Street
Paterson, N.J. 07655

DEPARTMENTAL APPROVAL
 Audited and Checked by _____
 Recommended for payment by _____

DATE	SPECIAL VOUCHER ORDER NUMBER	QUANTITY	ARTICLE	AMOUNT
8/1/76	4 27314	2	R/T Newark-Albany 8/5/76 Fredricks Mohl 001 3432 731 734	306.00
			001 3432 731 735	306.00
STATE vs. CIRCULAR				
APPROVED ASS'T PRES.				
APPROVED ASS'T PRES.				
				\$10.00

Amount of Bill in Words six hundred and twelve dollars Dollars and 00 Cents

CLAIMANT'S SIGNATURE AND DECLARATION

I do solemnly declare and certify under the penalties of the law that the within bill is correct in all its particulars; that the services have been furnished or received as stated therein; that no bonus has been given or received by any person or persons with the knowledge of this claimant in connection with the above claim; that the amount therein stated is justly due and owing; and that the amount charged is a reasonable one.

8/4/76

Date

W. J. McNeill
Signature of Claimant

Manager
Official Position

Do not write or stamp on this side of voucher.

2-15-76

RECEIVED
PASSAGE SERVICE
AUG 24 1 3 PM '76

12091
VOUCHER NUMBER

ACCOUNT OF

Pros

112.00 A27344

PAYER

World Travel Bureau

ADDRESS

156 Market St
Boston MA 02105

12082

10a

==AROUND THE WORLD==

Money Exchange

TRAVEL BUREAU

Money Exchange

185 Market St.
Paterson, N. J. 07505

N. J. (201) 742-1438
N. Y. (212) 594-9121

Date

4 Aug

76

MASSAC County Prosecutor's Office

Address County Courthouse

Paterson, NJ

SOLD BY

BIR

CASH

CHECK

CHARGE

ON ACCT.

2 R/T NEWARK -

ALBUQUERQUE

8/5

001 8432 751 734

306.00

" " " 735

306.00

Fredricks

Mohl

STATE VS CARTER

Complete Travel Facilities
Air Lines • Ships • Trains • Buses

THANK YOU

TOTAL

612.00

No. A 27344

RECEIVED BY

E. J. [Signature]

JERRY STUBBS SYSTEMS, PATERSON, N. J. 07652

EXHIBIT "DC-1221"
VOUCHER 8/10/76 (AIRPLANE)

All Bills must be itemized, have the Special Voucher Order Number, and be presented promptly to the Department ordering same

Paterson, N. J. 10 August 1976

COUNTY OF PASSAIC

To AROUND THE WORLD TRAVEL BUREAU INC

Address 186 Market Street

PATERSON NJ 07505

DEPARTMENTAL APPROVAL	
Rec'd and Checked by	<i>[Signature]</i>
Recommended for payment by	<i>[Signature]</i>
	Signature
	Title

DATE	SPECIAL VOUCHER ORDER NUMBER	QUANTITY	ARTICLE	AMOUNT
10 Aug 1976	A 27557	1	O/W NEWARK-ALBUQUERQUE 8/10	
			002 8259618906	153.00
			MR A. BELLO	
			STATE US CARTER	
			APPROVED	
			AMOUNT	

Amount of Bill in Words ONE HUNDRED FIFTY-THREE Dollars and NO Cents

CLAIMANT'S SIGNATURE AND DECLARATION

I do solemnly declare and certify under the penalties of the law that the within bill is correct in all its particulars; that the articles have been furnished or services rendered as stated therein; that no bonus has been given or received by any person or persons with the knowledge of this claimant in connection with the above claim; that the amount therein stated is justly due and owing; and that the amount charged is a reasonable one.

10 August 1976 Date

[Signature]
Signature of Claimant

MANAGER
Official Position

9040

Do not write or stamp on this side of the voucher.

2-153-0000

RECEIVED
PASSAIC COUNTY TREASURER
AUG 24 1 34 PM '76

12090
VOUCHER NUMBER

ACCOUNT OF

Pros

153.00 ~~7127557~~

PAYEE

around the world fund

ADDRESS

140 Market St

Paterson NJ 07505

13a

12090

== AROUND THE WORLD ==
TRAVEL BUREAU

Henry Rosenkrantz

on Line

185 Market St.
 Paterson, N. J. 07505

N. J. (201) 742-1438
 N. Y. (212) 594-9121

Date 10 Apr 19 76

M PASSIC COUNTY PROSECUTOR'S OFFICE

Address COURT HOUSE ST

PATERSON N.J.

SOLD BY <u>WAM</u>	CASH	CHECK	CHARGE <input checked="" type="checkbox"/>	ON ACCT.
-----------------------	------	-------	---	----------

<u>1</u>				
----------	--	--	--	--

<u>1/2</u>	<u>1/2</u>	<u>1/2</u>	<u>1/2</u>	<u>1/2</u>
------------	------------	------------	------------	------------

CC 8259 618906

<u>1/2</u>	<u>1/2</u>	<u>1/2</u>	<u>1/2</u>	<u>1/2</u>
------------	------------	------------	------------	------------

UP A. BELL

157.00

STATE VS CARTER

Complete Travel Facilities
Air Lines • Ships • Trains • Buses

THANK YOU	TOTAL	<u>157.00</u>
-----------	-------	---------------

No. A 27557 E. J. Anderson

RECEIVED BY

HEAVY BUSINESS SYSTEMS, PATTERSON, N. J. 07650

EXHIBIT "DC-1222"
GEORGIA ORDER (WITHERSPOON)

IN THE SUPERIOR COURT OF THE
COUNTY OF FULTON
STATE OF GEORGIA

-----X

In the Matter

of

The Application of Rubin Carter and John Artis, Defendants, for the Production of ROGER WITHERSPOON to testify before the Superior Court of the State of New Jersey, Law Division (Criminal), pursuant to the Uniform Act to Secure the Attendance of Witnesses From Without the State, Sections 38-2001a et seq., Code of Georgia.

FILED IN OFFICE

MAY 21 1981
DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GEORGIA

C-75242

-----X

ORDER

Upon a hearing held in *the Superior Court of Fulton County*
on May 21st 1981, at *Atlanta, Georgia*
Atlanta, Georgia, and upon the certificate of the Superior Court of New Jersey, State of New Jersey, a court of record, pursuant to Section 38-2001a et seq. of the Code of Georgia, in which it appears:

1. That there is now being conducted in Passaic County, State of New Jersey, a hearing, pursuant to an order of the Supreme Court of the State of New Jersey, on matters of fact and law relevant and material to the ultimate disposition of the criminal prosecution of Rubin Carter and John Artis by the State of New Jersey.

2. That ROGER WITHERSPOON, now residing in the County of Fulton, State of Georgia, is and will be an important, vital, and necessary material witness in the said hearing.

3. That the presence of the said ROGER WITHERSPOON will be required before the Superior Court of the State of New Jersey, Passaic County, at the Passaic County Courthouse, Paterson, New Jersey, on May 19, 1981, to and including May 26, 1981.

AND a hearing having duly been held this date to determine whether said witness ROGER WITHERSPOON should be directed to appear before said Court in the State of New Jersey, and after hearing J. Richard Young, Esq., serving as local counsel for Beldock Levine & Hoffman, New York, New York, ^{and James J. Moxton, New York,} counsel for the ^{New York,} defendants, Ruben Carter and John Artis, and *David Bailey* for said witness, and,

IT APPEARING that it will not cause undue hardship to the said ROGER WITHERSPOON to be compelled to attend and testify in the said hearing in Passaic County, State of New Jersey, that the laws of the State of New Jersey will give said ROGER WITHERSPOON protection from arrest and the service of civil and criminal process while attending such hearing, and that a check in the amount of the witness fees provided by law has been submitted with the aforesaid certificate, and

THIS COURT relying on the reciprocity between the State of New Jersey and the State of Georgia pursuant to their mutual adoption of the Uniform Act to Secure Attendance of Witnesses From Without the State in criminal cases, and upon the good faith of the Superior Court of Passaic County of the State of

New Jersey, and being satisfied that the attendance of ROGER WITHERSPOON as a witness at the hearing in Passaic County, State of New Jersey, is in the public interest.

IT IS HEREBY ORDERED AND ADJUDGED that the attached summons and copy of the certificate of the Superior Court of New Jersey be issued and served forthwith compelling ROGER WITHERSPOON to attend and testify before the Superior Court of the State of New Jersey, County of Passaic, Law Division (Criminal) in the State of New Jersey at the above mentioned hearing, commencing ^{at 10:00 A.M.} on May 26, 1981, ~~to and including May 26, 1981~~ and the failure to so attend will result in punishment in the manner provided by law for any witness who disobeys a summons issued from a court of record in this state.

DATED this 21st day of May, 1981.

[Handwritten signature]
Judge, J.C.
I am to bring with him all notes, memoranda, correspondence and other writings, if any, which he may need to refresh his memory as to the identity of his alleged source.
~~...~~
~~...~~

NATIONAL MFG. REPS. CO.
(212) 431-4500 FORM NO. 811A

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Attorneys for the Defendant
John Artis

STATE OF NEW JERSEY

V.

RUBIN CARTER and
JOHN ARTIS

Defendants

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION

PASSAIC COUNTY

CRIMINAL ACTION

INDICEMENT NO: 167-66

ON RECALL BY ORDER OF THE SUPREME COURT
OF NEW JERSEY
A-24/A-25 SEPTEMBER TERM, 1980

CERTIFICATE OF JUDGE ADJUDGING ROGER
WITHERSPOON TO BE A MATERIAL WITNESS

I, the Honorable Bruno L. Leopizzi, Judge of the Superior Court of New Jersey, Law Division, (Criminal, Court of Record for the State of New Jersey), do hereby certify:

1. That there is now pending in this court, pursuant to an order of

the Supreme Court of New Jersey dated March 3, 1981, a hearing in the above entitled Criminal Prosecution by the State of New Jersey against Rubin Carter and John Artis, wherein Rubin Carter and John Artis stand accused and charged with having committed the criminal offenses against the Laws of the State of New Jersey of three counts of murder.

2. That the said Rubin Carter and John Artis, the defendants in the said prosecution, pleaded not guilty thereto, but was convicted on a verdict of the jury and is presently back in this court as a result of an appeal and a hearing has been directed by the Supreme Court of the State of New Jersey on matters of fact and law relevant and material to the ultimate disposition of the case and that the hearing referred to herein has been set by the court to be held before the said court at the Passiac County Courthouse, Paterson, New Jersey on Monday, May 18, 1981 at 9:00 a.m. or as soon thereafter as counsel may be heard.

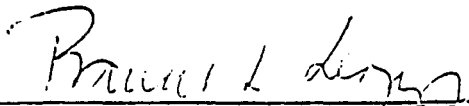
3. That Roger Witherspoon, now being at the Atlantic Constitution, 72 Marietta Northwest in the City of Atlanta in the State of Georgia, is a necessary and material witness for the defendants Rubin Carter and John Artis in such criminal prosecution by reason of the following: ^{It is indicated in a newspaper article written by Roger Witherspoon} that he has personal knowledge of information given to him concerning a polygraph test given by one Leonard Harrelson and he personally knows individuals who knew opinions of Professor Harrelson concerning a test of Alfred Bello, and that these individuals knew the opinions of Professor Harrelson and the version of testimony given by Alfred Bello to Leonard Harrelson, and that this knowledge is a material and central issue to the hearing and substantially and materially affects the rights of John Artis and Rubin Carter, and that the presence of the said Roger Witherspoon, personally in the said court, upon said hearing, in the

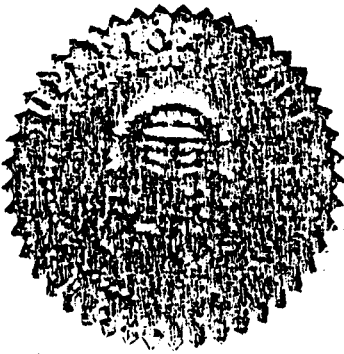
criminal prosecution for the purposes of giving testimony therein upon the part of the defendants John Artis and Rubin Carter will be required on May 19, 1981 to and including May 26, 1981.

4. That if the said Roger Witherspoon, as such witness, comes into the State of New Jersey in obedience to a summons directing him to attend and testify at the hearing, the Laws of the State of New Jersey and of any other State through which Roger Witherspoon may be required to pass by the ordinary course of travel to attend said hearing gives him protection from the arrest for the service of process upon him, civil or criminal, in connection with matters which arose before his entrance into said state, pursuant to said summons.

5. That this certificate is made for the purpose of being presented to a Judge of a court of record of the County of Fulton, State of Georgia, where said Roger Witherspoon now is, upon proceedings to compel said Roger Witherspoon, to attend and testify at a hearing of the said criminal prosecution before this court, in the County of Passiac, State of New Jersey, upon the dates and days herein before set forth.

WITNESS this Honorable Judge of said Court at Paterson, New Jersey, this 11th day of May, 1981.


HONORABLE BRUNO L. LEOPIZZI, J.S.C.



GEORGIA, FULTON COUNTY; C. - 75-242
I, do certify that the within and foregoing is a true,
complete and correct copy of the original in said case, as
appears by the original on file and of record in the office of
Clerk of Fulton Superior Court. Consisting of 7 pages.
Witness my hand and the seal of said Court this 11th

21st day of May, 1981:
Cardyn M. Stanley
DEPUTY CLERK FULTON SUPERIOR COURT

IN THE SUPERIOR COURT OF
FULTON COUNTY
STATE OF GEORGIA

FILED IN OFFICE

In the Matter
of the Application
of Rubin Carter, et al.,
for the Production of
Roger Witherspoon, et al.

MAY 21 1981

DEPUTY CLERK SUPERIOR COURT
FULTON COUNTY, GEORGIA

C-75242

Upon the application of Mr. Roger
Witherspoon, Respondent in these proceedings,
through his counsel David Bailey, Esq.,
of Mansell, Post, Brandon + Dorsey, Atlanta,
Georgia, for an Order dismissing the
proceedings as convened through a
Show Cause Order issued by this Court
on May 13, 1981, the Honorable Orgood
Williams, Superior Court of the County of
Fulton, State of Georgia, presiding,
on the grounds that Respondent
Witherspoon was denied due process and his
right to counsel under Ga. Code Ann. § 38-2003(a)
at the New Jersey certification proceedings

held before the Honorable Bruno Scoppigi,
Superior Court of New Jersey, Law Division,
Passaic County in that he was not
present thereat and did not have notice
thereof, <sup>and that the Certificate issued by Judge Leppizzi and the
concerning petition to this Court are null and void</sup> and on the further
grounds that his constitutional right
under the First Amendment to the
United States Constitution would be
violated by compulsion attendance
in New Jersey.

It is hereby ordered that said
motion is denied on all grounds.

This 21st May, 1981

Jeffrey Taylor
Judge, Sup. Ct. Atlantic Judicial
Circuit.

GEORGIA, FULTON COUNTY

I do certify that the within and foregoing is a true, complete and correct copy of the original in said case, as appears by the original on file and of record in the office of Clerk of Fulton Superior Court. Consisting of 2 pages.

Witness my hand and the seal of said Court this the

21st day of May 19 87
Carolyn M. Hoagy
DEPUTY CLERK, FULTON SUPERIOR COURT



EXHIBIT "DC-1225"
WITHERSPOON AFFIDAVIT (5/15/81)

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

IN THE MATTER)
OF)
THE APPLICATION OF RUBIN)
CARTER AND JOHN ARTIS,)
DEFENDANTS, FOR THE PRODUCTION)
OF ROGER WITHERSPOON TO)
TESTIFY BEFORE THE SUPERIOR)
COURT OF THE STATE OF NEW)
JERSEY, LAW DIVISION (CRIMINAL),)
PURSUANT TO THE UNIFORM ACT)
TO SECURE THE ATTENDANCE OF)
WITNESSES FROM WITHOUT THE)
STATE, SECTIONS 38-2001a ET SEQ.,)
CODE OF GEORGIA.)

AFFIDAVIT OF ROGER WITHERSPOON IN OPPOSITION
TO PETITION FOR ORDER TO SHOW CAUSE

On the date shown below personally appeared before the undersigned officer duly authorized by law to administer oaths in this state the undersigned ROGER WITHERSPOON who, upon being duly sworn, testifies as follows:

1.

My name is Roger Witherspoon. I am over 21 years of age and competent in all respects to make this affidavit. The facts recited herein are based upon my own personal knowledge.

2.

During the period from 1976 through 1979 I was employed as a reporter for The New York Daily News. I am now employed as a reporter for The Atlanta Constitution.

3.

While employed by The New York Daily News I was assigned to cover the second trial of Rubin "Hurricane" Carter and John Artis in Passaic County, New Jersey. As part of that assignment, I researched and wrote the article attached to the petition now

before the Court as part of Exhibit C thereto. That article recites statements made to me by certain sources. I obtained those sources and gathered information from them in the course of my duties as a reporter for The New York Daily News assigned to cover the case in question.

4.

On Wednesday, May 13, 1981, attorney Richard Young came to my office and served me with the petition pending before the Court. At that time I was told that the testimony sought from me in connection with the pending New Jersey proceeding is the identity of the sources referred to above. I was not advised of any further questions I would be asked in those proceedings except, perhaps, questions which might be designed to secure general information about my sources and their employment without expressly calling for the disclosure of their names and addresses. It is my understanding that no other testimony will be required of me.

5.

While I was employed as a reporter assigned to cover the Carter and Artis case, I was subpoenaed more than once in the proceedings in that case in an effort to obtain the very same information now sought from me. With respect to the particular story attached as part of Exhibit C to the petition before the Court, I was subpoenaed by both the defense and the prosecution within days after the story was published. After that, I was subpoenaed three other times and was asked my sources on other stories that I wrote also pertaining to the case. In each instance, the New Jersey judge presiding in the case upheld my assertion of the privilege available to me under the "New Jersey Shield Law", authorizing me to refuse to reveal the identity of sources of information published in my articles or the manner in which I gathered that information. In each instance, my court appearance in response to subpoenas has been accordingly limited to essentially nothing more than my name,

address, professional background, and testimony that I in fact wrote the articles in issue and that copies of those articles entered in evidence were accurate copies of the original publications.

6.

Based on my prior experiences in responding to other subpoenas issued to me in this same case, I submit that my presence at the upcoming hearing in New Jersey is both unnecessary and immaterial. If I am compelled to attend that hearing as a witness, and if I am once more asked to reveal the identity of my sources, I will again claim the privilege available to me under New Jersey law.

7.

Traveling to New Jersey will take me away from my job with The Atlanta Constitution and from my normally assigned duties as Editor of the Health and Science Section of that newspaper. In view of my steadfast intention to avail myself of the privileges open to me, my presence at that hearing would benefit no one and would simply waste my time as well as the time of those involved in the New Jersey proceeding.

8.

Before Mr. Young confronted me in my office on May 13 and presented me with a "courtesy copy" of the Certificate issued by Judge Leopizzi, I had no knowledge that the certificate had either been sought or obtained. I had no opportunity to obtain counsel to represent me at the certification hearing, and no attorney appeared at that hearing in my behalf.

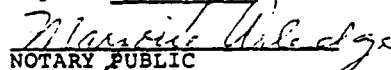
This 15 day of May, 1981.


ROGER WITHERSPOON

Sworn to and subscribed

before me this 15th

day of May, 1981.


NOTARY PUBLIC

Notary Public, Georgia, State of Large
My Commission Expires Jan. 3, 1982

-3-

EXHIBIT "DC-1228"
LIST OF TELEPHONE NUMBERS

DC 1228

County of Passaic

ADMINISTRATIVE BUILDING
200 PENNY PLAZA, WEST
PATTERSON, NEW JERSEY 07650

(201) 761-2000

ANTHONY M. BARRIERI
COMMISSIONER

May 27, 1981

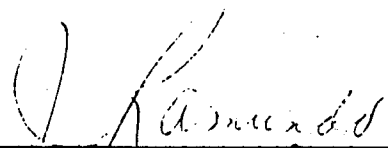
The following numbers were listed to the Passaic
County Prosecutor's Office for 1976

279-7594 742-4357

279-8442 345-8192

345-1144 345-8275

684-1414 (NOT IN SERVICE UNTIL PLC)



J. RAMUNDO, SUPVR. BKCP.

PASSAIC COUNTY PROSECUTORS OFFICE PERSONNEL LIST DATED: Aug. 12, 1976 1221

Prosecutorial Staff Heads	Home address	Home phone if listed	Office ext. - Secty & Assig
HUMPHREYS, Burrell Ives, PROSECUTOR-27	Glen Rd., Wayne, N.J. 07470		217 Conf. Aide
FALCONE, Joseph A. (1st Ass't. Pros.)	65-67 Carmer Ave., Belleville		501 & Secty Mrs. Arlene Dar Mrs. Vi Gormley Beverly Bernard
TIRINATO, Anthony P. (Depty 1st Asst.)	9 Heights Rd., Wayne, NJ	280	Gloria Sinforos
GOCELJAK, John (Ch. App. Sec. Asst.)	West Brook Rd., RFD 3, W. Milf	301	Mildred Scotell
MARMO, Ronald G. (Ch. Tr. Sec. A)	93 High Mt. Rd., Ringwood	494	Marie Conklin
TOSI, George (Chief Trial Sec. B)	30 Cedar St., Little Falls	508	Marie Conklin
THAYER, Richard F. (Ch. Asst. of Governmental Corruption and White Collar Crime Unit)	29 Oxford St., Montclair	606	Pat Bruno
KAYNE, Martin R., Sr. (Trial Counsel)	227 Rafkin Rd., Bloomingdale	328	Lenore Ricciar
*MONGIARDO, Dante (Police Legal Advisor)	29 Terrace Ave., W. Pat.	628	Mildred Scotel
COSMI, John (2nd Ass't. Pros.)	195 Lexington Ave., Paterson	517	Lenore Ricciar
DOUGHERTY, James "	871 Montgomery St., J.C., NJ	613	Pat Bruno
KAISER, Thomas C. "	305 Van-Winkle St., E. Rutherford	333	Lenore Ricciar
SANTORA, Frank M. "	390 Ackerman Ave., Glen Rock	300	Mildred Feldm
WOODS, JOHN J. "	15 Wagaraw Blvd., Pr. Park	507	Marie Conklin

Assistant Prosecutors

*ABDY, George J. (Case Screener)	330 Dakota Street, Paterson	625	Pat Mockler
ANDRUZZI, Mary	440 Ridge Rd., Lyndhurst	635	
ASCHER, Michael Roy	1086 Mayfair Rd., Union	537	Pat Mockler
CASALEGGIO, Giles W.	13 E Street, Wanaque	521	Marisa DeSiti
DE VESA, Frederick	12 Blakstone Drive, Livingston	606	Pat Bruno
DINDAY, Brian R.	171 North 16th St., Bloomfield	530	Pat Mockler
FERRO, Thomas	555 Grove St., Ridgewood, NJ	638	Mildred Fel
FREGA, James J.	139 Fairview Ave., Pr. Park	635	
HECHT, Carl M.	Apt. 5.J, 215 Aycrigg Ave., Paterson	523	M. DeSimone
IPPOLITO, Joseph V.	17 Brookside Ave., Pompt. Plains	637	
ISKRA, Allan J.	1124 Valley Rd., Wayne, N.J.	226	Pat Mockler
KESSLER, Michael	107 A. Troy Drive -Springfield	639	M. Feldman
LAMB, Joyce	515 Boulevard, Westfield, NJ	629	
LATIMER, William	381 Broad Street, Newark	495	
REM, Joseph J.	150 Johnson Ave., Teaneck, NJ	525	
*ROCCO, Anthony M.	241 Michigan Ave., Paterson	625	Pat Mockle
RODGERS, Joseph	114 Franklin St., Morristown	520	Mildred Fel
SCHLYEN, Gary H.	38 Brook Ave., Passaic	258	M. Scotella
*SCIACCA, Susan W., Rape Squad Unit	60 E. Linden Ave., Apt 6C -Englewood	538	Pat Mockl
WEINER, W. Joseph	28 Van Winkle Court, W. Paterson	635	
WHITE, Alan	32 Knox Terr. Apt. 1-B. Wayne	635	

POSPIS, Joseph Paul (Legal Research Analyst) 470 Piaget Ave., Apt. D5, Clifton 301

OFFICE MANAGER:

* DANCKWERTH, Edward T. 6 Longview Rd., Livingston, NJ 992-8433 300 Patricia Dransfield

COUNTY DETECTIVE - OFFICERS:

Chief DE SIMONE, Vincent J.	137 Pasadena Place, Hawthorne	229	Sharon Smith
Dpty Chief EDMOND, Thomas R.	116 Dixon Avenue, Paterson	235	Pre G.J. Sq.
Capt. WALTER, Wm. H.	120 Grant Ave., Totowa	622	
Capt. BRIGLIADORO, Victor L.	389 20th Avenue, Paterson	606	Corrup. Sq. E
CAPT. DOORN, John H.	37 Elberon Avenue, Paterson	506	Narco-Gam. -1
CAPT. PORTER, Walter W.	414 E. 25th St. Paterson	221	Court Squad
LT. FREDERICK, Eugene J.	1084 Colfax Ave., Pompton Lks	604	Pre G.J. Sq.
LT. FUNK, Louis	219 Linwood Ave., Paterson	296	Homicide - 1 nv
LT. STEVENS, Frank J.	213 Maryland Avenue, Paterson	234	Court Squad

COUNTY DETECTIVES	Address	Phone (temp)	Ext.	Assignment
BURNEY, John M.	183 Trenton Ave., Paterson		619	Pre G.J.
CALCINES, Joaquin	8 Crest Court, Wayne		606	Spec. Assignment
DE SENZO, Dominic	31 Newby Ave, W. Paterson		503	Narco
DI ROBBIO, Emil	555 Mc Bride Ave, W. Paterson		262	Homicide
FAILLA, Frank	15 Bradford Ave., Passaic		522	Homicide
HAYDEN, Donald	32 Burlington Ave., Paterson, NJ		233	Court Squad
LYDECKER, William	126 Emerson Ave, Paterson		514	Court Squad
NATIVO, John L.	45 Providence Ave., W. Paterson		222	Homicide
PINELLO, Frank D.	49 High Street, Clifton		303	Homicide
SNYDER, Walter J.	58 Terhune Ave., Passaic		303	Homicide
VERWER, Raymond	85 Arlington Ave., Hawthorne		627	Pre G.J. Sq.
VILLALOBOS, William	97 Rafkin Rd, Bloomingdale		222	Homicide

COUNTY INVESTIGATORS

				Sq
AYLWARD, John F.	11 C Thornton Place, Clifton		606	Gov't/Corruption E
BISSET, James I.	231 West 2nd St., Clifton		616	Pre G.J. Sq. A
CARUSO, Richard D.	27 Stockton St., Bloomfield		606	Spec. Squad F
COFRANCESCO, Jos.	6 Bertrand Drive, Wayne		502	Narcotics C
COLVIN, Frank W.	117 Vernon Ave., Paterson		497	Court Squad D
CZERNIAK, Bruno	1 Essex St., Passaic		512	Court Squad D
CARR, Raymond	196 Madison Ave., Paterson		240	Court Squad D
DARRAH, Arlene	30 Ashwood Lane, Wayne		450	Conf. Aide
DWORAK, Joseph	29 Park St., Paterson, N.J.		618	Pre G.J. Squad A
EDWARDS, Vivian	555 East 22nd St., Paterson		603	Pre G.J. Squad A
FITZSIMMONS, James	196 Burnt Meadow Rd., Ringwood		611	Anti Corrup. Sq. E
FOSTER, Jacob	26 Evergreen Ave., No. Haledon		510	Court Squad D
GRANADO, Humberto E.	225 E. Jersey St., Elizabeth		509	Narco Squad C
GLASSPIE, Gordon	85 Presidential Blvd., Apt. 2J		223	Court Squad D
HUGHES, Matthew J.	264 Addison Place, Paramus, NJ		506	Anti Corrup. E
KASSAR, Madeleine Aimee*	628 Winding Hollow Dr, Fr. Lks, NJ		#697	Rape Squad Unit C
LEACH, Robert S.	981 Clifton Ave., Apt. 8, Clifton		522	Narcotics C
MAROTTA, Emily E. *	1776 Overmount Ave, W. Paterson		697	Rape Squad C
MISKE, George	70 Kensington Terr., Passaic		617	Pre G.J. Squad A
PELUSO, Benjamin	16 Segar Ave., Clifton		614	Pre G.J. Squad A
POLIZZO, Frank	4 Crosby Ave., Paterson		514	Court Squad C
POST, Edwin J.	284 Maryland Ave., Paterson		484	Court Squad C
PREZIOSI, Salvatore	69 Buschmann Ave., Haledon		260	Court Squad C
PURDY, William J. (Supt. Writs)	1049 Valley Rd., Clifton, NJ		512	Court Squad C
RECCA, Charles	44 13th Ave. Paterson		673	Court Squad C
ROSCIANO, Anthony	152 Arlington Ave., Paterson		505	Gambling Squad C
SERVEN, Paul H.	118 Marion Court, Pompton Lakes		511	Court Squad C
SHOCKNER, Lawrence W.	154 Doherty Drive, Clifton		496	Court Squad C
SMITH, Michael	7 Ferncliff Terr., Glen Ridge		505	Gambling Sq. C
SYREK, Edwin J.	222 Roosevelt Ave., Hasbrouck Hts.			
TUMMINELLI, Jo Anne	54 Union St., Lodi, NJ		601	Pre G.J. Sq. /
TUTHILL, J. Howard (Traff. Coord)	73 Knickerbocker Ave., Pat.		510	Court Squad C
VANDER BRINK, William	604 Allwood Rd., Clifton		615	Pre G. J. Sq. /
VAN HOOK, Thomas	27 Willie St., Haledon, NJ		606	Corrup. Sq. E
TAYLOR, Charles	1027 Olive St., Elizabeth		606	Spec. Squad F

Ceta: TELES, James F. 72 Elmwood Dr., Clifton

LIAISON OFFICERS

LOCASIO, Salvatore	Passaic P.D. Coord.		695	Liaison Officer
LAWLESS, John	Paterson P.D.		257	Liaison Officer

CLERICAL DIVISION

Administrative:

PARADISO, Eugene J., Chief Clerk	308 Washington Ave., Clifton	310	Chief Clerk
GORMLEY, Violet S., Adm. Secty	110 Mawhinney Ave., Hawthorne	218	Secty. to Pro
BERNARDO, Beverly, Superv. Leg. Sten.	116 Trenton Ave., Paterson	230	Secty to Ist
CONKLIN, Marie-Pr. Legal Sten.	118 Mt. Pleasant Ave., W. Pat.	494	Secty Ch. Tr
SINFOROSA, Gloria-Sr. Leg. Sten.	105 Ramsey St., Paterson	280	Secty, Depty

Secretarial Division (in addition to above):

BRUNO, Patricia A., Legal Sten.	12 Tracy Ave., Totowa	606	Secty to Thayer
De SIMONE, Marisa, Clerk Sten.	49 Ryerson Ave., Paterson	517	Secty to Assts/D.
DRANSFIELD, Patricia Anne "	63 Mereline Ave., W. Pat.	300	Secty to Danckw
DZIEWIC, Jeanette C., Cl. Sten.	191 9th St., Passaic		Secty to Assts.
CESTARO, Dawn, Clerk Sten.	23 Hillside Dr., Totowa	637	
FELDMAN, Mildred, Sr. Legal Sten.	82 Fairmont Ave., Clifton	527	Secty. to Pros.
LATERZA, Donna, Clerk Sten.	425 Crooks Ave., Paterson	626	Secty. to Assts.
MOCKLER, Patricia, Sr. Leg. Sten.	39 Sherman Ave., Paterson	226	Secty. to Assts.
RICCIARDI, Lenore, Sr. Cl. Sten.	60 Howard St., Paterson	613	Secty. to Assts.
SCOTELLARO, Mildred, Cl. Sten.	367 Sussex St., Paterson	301	"
SMITH, Sharon, -Clerk Sten.	126 Warren St., Clifton	229	Secty to Chic
WEGLARZ, Veronica, Clerk Sten	317 Getty Ave., Paterson	625	Secty to Asst

Typists

Adm. Clerk (supervisor)			
SOTER, Lillian -	110 Ave., C., Haledon	625	Head of typist
NEWTON, Jacqueline, Cl. Typist	112 Warren St., Clifton, NJ	626	Typing section
SNAGUSKY, Joyce "	2 Westervelt Ave., Clifton	625	Clerk-Typist

Receptionist

PAYNE, Ada, Pr. Clerk	266 Caldwell Ave., Paterson	219	Receipt-Tel. ir
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Docket Section

Head Docket Clerk (Supervisor)			
RICCIO, Ann	18 Haven Ave., Totowa, NJ	227	Supervis. do. s
ALIOTTA, Joan, Do. Cl.	142 Caldwell Ave., Paterson	304	Do. Cl.
BELLOFATTO, Jo Ann, Cl. Typist	7 Capalbo Ave., Little Falls	304	Do. Cl. Typist
FALONE, Catherine, Do. Cl. Tup/	235 N. 7th St., Pr. Pk, NJ	304	"
FOX, Bernadette, Sr. Cl. Tupist	49 Clark St., Paterson	227	Sr. Do. Cl.
RAMM, Angela, Do. Clerk	14 Haven Ave., Totowa	304	Do. Cl.

Thursday, November 18, 1976

The Court met

Present: Honorable Bruno L. Lepizze.

Florence Ferrari, court reporter, in attendance.

Intt
167-66

The State of New Jersey } Indictment
 } for
 } Murder (3 ctv each deft.)
Rubin Carter
John Artis

Appearances

Mr. Burrell Ince Humphrey, Prosecutor, for the State
Mr. Ronald Marino, Asst. Prosecutor for the State

Mr. Myron Bellack atty. for deft. Carter
Mr. Louis Steel atty. for deft. Artis

8⁴⁵
8⁴⁵ AM The Court having ordered on the continuation of the trial of
this indictment from Wednesday, November 17, 1976, the
same is now taken up.

By order of the Court the families of jurors are not to be
contacted. Such order must be signed by spectators,^{man} ^{man}
entering the court room or admittance will be denied.

8⁵⁸
8⁵⁸ AM The jury, sworn, being called, all appear.

Evidence sworn on behalf of State
Alfred Patrick Bello (cross)

10¹³
10¹³ AM In chambers on the record the Court instructs
council re questioning witness

10¹⁵
10¹⁵ AM Evidence sworn on behalf of State
Alfred Patrick Bello (cross cont'd)

10³⁰
10³⁰ AM The Court declares a recess

11⁰⁰
11⁰⁰ AM The Court recommences.

Evidence sworn on behalf of the State
Alfred Patrick Bello (cross)

12³⁰ The Court declares luncheon recess

1³⁰ PM The Court reconvenes.

The Court holds in-camera conference on the record.

1⁴⁰ AM The jury is returned into court room.

The Court addresses the jury re questions and also
seft. Artis's doctor's appointment.

Evidence sworn on behalf of the State
Alfred Patrick Bello (cross)

2⁰¹ PM The Court holds side bar conference off the record.

Evidence sworn on behalf of the State
Alfred Patrick Bello (cross)

2⁰⁴ The Court holds side bar conference off the record.

Evidence sworn on behalf of the State
Alfred Patrick Bello (cross)

2⁴⁵ PM The Court declares a recess

3⁰⁷ PM The Court reconvenes and the jury is returned
into the court room.

Evidence sworn on behalf of the State
Alfred Patrick Bello (cross)

3¹⁵ PM The Court declares a recess.

3⁴⁰ PM The Court reconvenes and the jury is returned
into the court room.

November 18, 1976

Evidence sworn on behalf of the State
Alfred Patrick Bello (cross)

3⁵⁰ pm In-chambers conference on the record

3⁵³ pm Evidence sworn on behalf of the State
Alfred Patrick Bello (cross)

4²¹ pm The Court holds in-chambers conference on the record.

4²⁷ pm Evidence sworn on behalf of State
Alfred Patrick Bello (cross)

4⁵⁰ pm The Court orders on the continuation of the trial of this indictment to Friday, November 19, 1976 9 a.m. and the jury is excused until that time.

4⁵⁵ pm The Court holds conference with all counsel in chambers off the record.

5:12 pm The Court adjourns for the day.

Friday, November 19, 1976

The Court Met

Present: ^{Hon.} Bruno L. Sepicze

Florence Ferreri, court reporter, in attendance

11.16.76 The State of New Jersey) Indictment
vs)
Rubin Carter) for
John Artis) Murder (3 to each deft.)

Appearances:

Mr. Burrell Owen Humphreys, Prosecutor, for the State

Mr. Ronald Marnis, Asst. Prosecutor, for the State

Mr. John Coceljeb, Asst. Prosecutor, for the State

Mr. Guyon Bellock atty. for deft. Carter

Mr. Lewis Steel atty. for deft. Artis

The Court, having ordered on the continuation of the trial of this indictment, the same is now taken up.

9³⁵ am. The Court holds in-camera hearing with all counsel and Alfred Patrick Bello, on the record.

9⁴⁹ am. The jury, sworn, being called all appear.

Evidence sworn on behalf of the State /
Alfred Patrick Bello (cross exam'd)

11⁰⁰ am. The Court declares a recess.

11³⁰ am. The Court reconvenes and the jury is returned into the Court room.

11⁴⁰ am. Evidence sworn on behalf of the State /
Alfred Patrick Bello (cross - Mr. Steel)

11⁴⁵ am. The Court holds in-camera conference of record.

November 19, 1976

Evidence sworn on behalf of State.

Alfred Patrick Bello (cross - Mr. Stahl.)

1⁰⁰ The Court declares luncheon recess.

2⁰⁰ The Court reconvenes and the jury is returned into courtroom.

Evidence sworn on behalf of the State

Alfred Patrick Bello (cross - Mr. Steel.)

2³⁰ Cross examination of Mr. Bello is continued by Mr. Bellock playing D502 - Bello tapes Oct. 11, 1966 - The jury is supplied with a copy of transcript per juror to follow tape as it is played.

3⁰⁰ The Court declares a recess.

3⁴⁵ The Court reconvenes and the jury is returned into the court room.

Evidence sworn on behalf of the State

Alfred Patrick Bello (cross - Mr. Bellock.)

Mr. Bellock continues playing Bello tape D502

4⁰⁵ Mr. Bellock resumes cross examination of Mr. Bello.

Mr. Bellock supplies each juror with transcript of portions of tape D267 which he plays in the Court room.

4³⁰ The Court declares a recess.

4⁴⁵ The Court reconvenes and the jury is returned into courtroom.

Evidence sworn on behalf of the State

Alfred Patrick Bello (cross - Mr. Bellock.)

Mr. Bellock, continues type 6267.

11:54
P.M. Mr. Bellock resumes cross examination of Mr. Bello

5:07
P.M. Evidence sworn on behalf of the State
Alfred Patrick Bello (cross - Mr. Steel)

5:17
P.M. The Court holds in-camera hearing.

Evidence sworn on behalf of the State
Alfred Patrick Bello (cross - Mr. Steel)

The Court orders on the continuation of the trial
of this indictment to Saturday, November 20,
1976 at 10 A.M. and the jury is excused
until that time

11:54 P.M. The Court adjourns for the day.

EXHIBIT "DC-1234"
BELDOCK'S MEMO (5/10/77)

MEMORANDUM

TO: RUBIN CARTER FILE

FROM: MB

DATED: 5/10

Telephone call yesterday with Lew Steel. Very reliable information from the New Jersey lawyer that Bello failed the Harrelson lie detector test and that the results were revised after DeSimone went to see Harrelson and somehow straightened him out as to what was at stake. Also that Pat Valentine had attended a meeting in Paterson some time prior to the trial and that she met with the family of the victims; and that DeSimone was present during same.

4
EXHIBIT "DC-1236"
AFFIDAVIT - CASSIDY (5/6/81)

STATE OF NEW JERSEY

:ss

COUNTY OF MONMOUTH

The undersigned, Harold J. Cassidy, Attorney at Law in the State of New Jersey, and of counsel to the defendant Rubin Carter and John Artis, being duly sworn according to Law, upon his oath, deposes and says:

1. There is now pending in the Superior Court of New Jersey, Law Division (Criminal), Passaic County, a hearing ordered by the Supreme Court of New Jersey as part of the criminal prosecution of the State of New Jersey against the defendant Rubin Carter and John Artis who stand accused and charged with having committed murder on June 17, 1966 against the Laws of the State of New Jersey.

2. A Judgment of Conviction against Rubin Carter and John Artis was entered on February 9, 1977 after a jury trial, and subsequent to appeal from that final order, the Supreme Court has remanded the matter to the Law Division for an evidentiary hearing pursuant to the court's opinion and order dated March 3, 1981, and the hearing date has been set by the court to be held before the Honorable Bruno Leopizzi at the Passaic County Courthouse, Paterson, New Jersey commencing Monday, May 18, 1981.

3. Roger Witherspoon, a person who works for and is found at the Atlantic Constitution, 72 Marietta Northwest, in the City of Atlanta in the State of Georgia is a necessary and material witness for the defendants Rubin Carter and John Artis in the hearing scheduled for May 18 for the following reasons:

(a) An issue which is central to the May 18 hearing concerns prosecutorial knowledge of members of the Passaic County Prosecutor's Office in

August of 1976 concerning the conclusions of Professor Leonard Harrelson subsequent to Professor Harrelson's polygraph test of one Alfred Bello. At page 17 of the March 3, 1981 opinion of the Supreme Court, that court stated:

"Additionally, for Brady rule to apply there must be a threshold determination of prosecutorial knowledge."

(b) On September 1, 1976 the said Roger Witherspoon authored an article which appeared in the New York Daily News entitled "State to try Rubin on old indictment". A copy of that newspaper article has previously been marked as an exhibit in this case, Exhibit D-15. A photocopy of that article is attached hereto. A reading of that article indicates that Mr. Witherspoon received information about the Leonard Harrelson polygraph test results concerning the test administered to Alfred Bello on August 7, 1976 and information concerning the test giving to Annie Ruth Haggins on or about July 27, 1976. A fair reading of the article infers that the source of the information came from the Passaic County Prosecutor's Office. The article clearly indicates that the source related the Bello in the bar version which was given to Harrelson on August 7, 1976 and that it was Harrelson's opinion that it was the in the bar version which was reliable. Attached hereto is a photocopy of notes of Professor Harrelson taken on August 7, 1976. The version is clearly the in the bar version where the gunman are not Carter and Artis. It is clear that the source who related the information to Witherspoon for the September 1, 1976 article was well aware of the version given to Harrelson and it was Harrelson's opinion that that version was truthful. The Witherspoon article states in part the following:

"Because of the recent lie detector test, sources said Passaic Prosecutor Burrell Ives Humphreys will try to prove only that Carter and Artis were involved in the

triple slayings at the Lafayette Bar and Grill and not that they committed the killings.... The shift in the Prosecutor's position it was learned stems from the inability of the key witnesses to pass lie tests on their testimony that Carter and Artis actually committed the killings."

It further states that:

"The recent lie detector tests reportedly showed that Bello was not lying when he said Carter and Artis had been outside the bar."

This statement is perfectly consistent with the version given to Harrelson by Bello. It is significant to note that in the Witherspoon article there is no reference to Carter and Artis having guns in their hands. The notes of Harrelson concerning the August 7, 1976 incident also reveals that there is an absence of any reference to guns being in the hands of Carter and Artis.

(c) The article further quotes the source as saying that:

" 'It was decided to forego the Grand Jury'...!because there is just no case against the two alleged triggermen.' and that "that case rest almost entirely on the testimony of Annie Haggins'...".

It is worthy to note that a review of the Harrelson notes indicates that Bello told him at two separate places in the notes that he saw a black woman in the bar. This may account for the source using the word almost in his statement to Mr. Witherspoon and again indicates a knowledge by the source of the Harrelson information.

(d) It is clear that the source of the article is one or more members of the Passaic County Prosecutor's Office. The information could only originate from that office at this time and the quotes in the article clearly indicate

that it is a person within the Prosecutor's office. For instance the source is attributed to have said: "Since the courts don't allow us to use a Grand Jury merely to strengthen an existing indictment-in this case the old one against Carter and Artis."

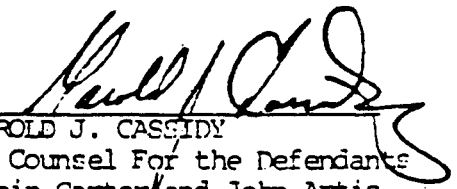
(e) On April 29, 1981 defense lawyers interviewed the Honorable Burrell Ives Humphreys in the presence of certified shorthand reporter John J. Kollar. On page 35 of that transcript Judge Humphreys answered that he did not know who the source of the information was to Mr. Witherspoon in connection with this article, but that he did ask around because he wanted to learn the identity of the person. His responses seem to indicate that he does not know who the source was, but he believed it to be somebody in his office.

(f) I have personally interviewed persons who worked in the prosecutor's office in August of 1976 and I have been unable to learn the source of that article. The one reliable person who does have knowledge is Roger Witherspoon. He clearly knows exactly what he was told, by whom it was told, and he is a necessary material and material witness at the upcoming hearing. Through Mr. Witherspoon's testimony the defense can establish the fact of prosecutorial knowledge concerning what Mr. Farrelson was understood by the prosecutor's office to have said and what it was understood by the prosecutor's office was his opinion concerning Bello's statement. This is central to the hearing.

(g). Since the remand by the Supreme Court of March 3, 1981, I have personally spoken to Roger Witherspoon in Atlanta by telephone on approximately seven separate occasions. My last telephone conversation was on Tuesday, March 5, 1981. In that last telephone conversation Mr. Witherspoon indicated to me that he would not travel to the State of New Jersey voluntarily to testify in the Carter case, and that it would take a court order for him to appear.

4. If said Roger Witherspoon comes into the State of New Jersey in obedience to a summons directing him to attend and testify at the above mentioned hearing, the Laws of the State of New Jersey and of all other states through which Mr. Witherspoon may be required to pass by ordinary course of travel to attend said hearing, gives him protection from arrest for the service of process, civil or criminal, in connection with the matters which arose before his entrance into said state, pursuant to said summons. The States of Georgia, South Carolina, North Carolina, Virginia, Maryland, Delaware and the District of Columbia have all adopted the Uniform Act to Secure the attendance of the witnesses from without a state in a criminal proceeding.

WHEREFORE, it is requested for and on behalf of the defendants Rubin Carter and John Artis that Your Honor certify to the above and foregoing by the issuance of a certificate thereto under the seal of the Superior Court of New Jersey, Law Division (Criminal) for the County of Passiac, for the purposes of being presented to a Judge of a court of record in the State of Georgia in a proceeding to compel the attendance of the said Roger Witherspoon as a witness at the said hearing from May 19, 1981 to and including Tuesday, May 26, 1981 and pursuant to law.


HAROLD J. CASSIDY
Of Counsel For the Defendants
Rubin Carter and John Artis
A Member of the Firm of
PERKINS & CASSIDY, P.C.

Sworn and Subscribed to before me
this 6th day of MAY, 1981

-6-



RITA D. LYNCH, A Notary Public in the State of N.J.
My Commission expires 12/22/82

EXHIBIT "DC-1237"
AFFIDAVIT - MRS. COLEMAN (5/18/81)

IN THE SUPERIOR COURT OF FULTON COUNTY

STATE OF GEORGIA

IN THE MATTER)	
OF)	
THE APPLICATION OF RUBIN)	
CARTER AND JOHN ARTIS,)	COLEMAN AFFIDAVIT
DEFENDANTS, FOR THE PRODUCTION)	IN OPPOSITION TO
OF ROGER WITHERSPOON TO)	APPLICATION BY
TESTIFY BEFORE THE SUPERIOR)	DEFENDANTS CARTER
COURT OF THE STATE OF NEW)	<u>AND ARTIS</u>
JERSEY, LAW DIVISION (CRIMINAL),)	
PURSUANT TO THE UNIFORM ACT)	
TO SECURE THE ATTENDANCE OF)	
WITNESSES FROM WITHOUT THE)	
STATE, SECTIONS 38-2001a ET SEQ.,)	
CODE OF GEORGIA.)	
)	
STATE OF NEW YORK)		
:	ss.:	
COUNTY OF NEW YORK)		

MARJORIE THALHEIMER COLEMAN, being duly sworn says:

1. I am an attorney duly admitted to practice in the courts of the State of New York and am associated with the firm of Patterson, Belknap, Webb & Tyler, which, with Hansell, Post, Brandon & Dorsey represents Roger Witherspoon in this matter. I am familiar with the proceedings in this action and with the facts and circumstances hereinafter set forth. I submit this affidavit in opposition to the application by defendants Rubin Carter and John Artis for a subpoena compelling Mr. Witherspoon's attendance as a witness in the criminal prosecution of these defendants in the New Jersey Superior Court.

2. On April 29, 1981 or May 1, 1981 I spoke to Michael B. Mukasey, a member of the firm of Patterson, Belknap, Webb & Tyler concerning a request by Harold Cassidy, an attorney for the defendants, that Mr. Witherspoon voluntarily come to New Jersey to testify concerning a story Mr. Witherspoon wrote in the September 1, 1976 edition of the Daily News. Mr. Cassidy was proposing that Mr. Witherspoon testify whether the source for his story was an employee of the Passaic County Prosecutor's Office.

3. On May 5, 1981, after talking both to Mr. Witherspoon and an employee of New York News Inc. [the "News"], publisher of the Daily News, I called Mr. Cassidy to inform him that Mr. Witherspoon would not voluntarily come to New Jersey to testify. I informed him that the source or sources for the story were confidential, and that it was the policy of the News not to reveal confidential sources. I also informed him that Mr. Witherspoon refused to reveal confidential sources. When Mr. Cassidy argued that he was not attempting to have Mr. Witherspoon name the source, but only testify as to whether the source was from within the Prosecutor's Office, I pointed out that this made no difference, since a statement by Mr. Witherspoon about whether the source or sources for the article were within or without the Prosecutor's Office would tend to lead to the revelation of the source. Therefore I informed him that it was the position of the News and Mr. Witherspoon that he would not testify in the proceeding in New Jersey.

Dated: New York, New York
May 18, 1981

Marjorie Thalheimer Coleman
MARJORIE THALHEIMER COLEMAN

Sworn to before me this
18th day of May, 1981.

Jill A. Legg

Notary Public

JILL A. LEGG
Notary Public, State of New York
No. 31-4724522
Qualified in New York County
Commission Expires March 30, 1982

IN THE MATTER

OF

THE APPLICATION OF RUBIN
CARTER AND JOHN ARTIS,
DEFENDANTS, FOR THE PRODUCTION
OF ROGER WITHERSPOON TO
TESTIFY BEFORE THE SUPERIOR
COURT OF THE STATE OF NEW
JERSEY, LAW DIVISION (CRIMINAL),
PURSUANT TO THE UNIFORM ACT
TO SECURE THE ATTENDANCE OF
WITNESSES FROM WITHOUT THE
STATE, SECTIONS 38-2001a ET SEQ.,
CODE OF GEORGIA.

COLEMAN AFFIDAVIT IN OPPOSITION
TO APPLICATION BY DEFENDANTS
CARTER ARTIS

PATTERSON, BELKNAP, WEBB & TYLER

Attorneys for Roger Witherspoon

OFFICE AND POST OFFICE ADDRESS

30 ROCKEFELLER PLAZA

BOROUGH OF MANHATTAN

NEW YORK, N. Y. 10112

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AFFIDAVIT -- BELDOCK (8/10/81)

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Attorneys for Defendant
John Artis

_____)
THE STATE OF NEW JERSEY,) SUPERIOR COURT OF NEW JERSEY
) LAW DIVISION
Plaintiff-Respondent,)
) PASSAIC COUNTY CRIMINAL
vs.) ACTION
) INDICTMENT NO. 167-66
RUBIN CARTER and JOHN ARTIS,)
) ON REMAND BY ORDER OF THE
Defendants-Appellants.) SUPREME COURT OF NEW JERSEY
) A-24/A-25 SEPTEMBER TERM,
_____) 1980

AFFIDAVIT

STATE OF NEW YORK)

ss.:

COUNTY OF NEW YORK)

MYRON BELDOCK, being duly sworn, deposes and says:

1. I make this affidavit as counsel for Rubin Carter and on behalf of John Artis at his counsel's request.

2. This affidavit is submitted in support of an application to the court (a) to reconsider its denial of the request to inspect the files of former Passaic County Investigator Richard Caruso which were sealed by the court in the course of his testimony at the 1981 evidentiary hearing; or, alternatively, (b) to include in the court's pending decision specific findings, conclusions and legal authorities as to why those files should not be made accessible to counsel.

3. At the hearing Officer Caruso did not object to the defense request to examine the contents of his files. As represented at the hearing, defense counsel have never had access to or examined the Caruso files or their contents. However, based on conversations with Mr. Caruso and in line with information that was partially developed at the hearing, defense counsel believe that his files will contain notes and memoranda pertinent (a) to the hearing issues and (b) to other serious questions regarding prosecutorial violation of the discovery obligations and possibly regarding prosecutorial misconduct in connection with the 1976 trial and convictions. In that regard, Mr. Caruso has told defense counsel that his files include certain notes

that he took while acting as an investigator for the "Carter-Artis Task Force" in 1976, some of which relate to questioning of or obtaining information about witnesses. Those notes, contrary to discovery obligations and court directives, were not turned over to the defense in connection with the 1976 trial. Mr. Caruso has advised defense counsel that his file also includes notes and/or memoranda that he has made subsequent but relating to the 1976 trial. Mr. Caruso has also advised defense counsel that his files contain notes or copies of notes of an interview of a witness made by another former Passaic County Investigator, Fitzsimmons, who also testified at the recent hearing. Therefore, inspection of the Caruso files is necessary to determine whether they contain further evidence relevant to hearing and trial issues; and whether such evidence would require further application for relief to the trial or Supreme Court.

4. In the course of the recent hearing, the defense attempted, with limited success, to explore certain significant matters which we believe will be at least partially supported by the contents of Caruso's files. For the purposes of this application and, if necessary, an application to the Supreme Court to expand the record and obtain the relief here requested, we offer the following list of some of the items which the defense believes to be significant. This listing is not all inclusive. It is submitted as a more than sufficient showing of matters that may be reflected in the sealed papers to require the court to open the Caruso files.

(a) Officer Greenough suggested butterfly tail lights to Valentine. The description did not originate with her.

(b) Pat Valentine, interviewed extensively about all matters relevant to the Lafayette Bar killings, never mentioned having seen a bullet or shell at headquarters.

(c) Valentine knew DeSimone and others in the prosecutor's office before the 1966 events. She had been a waitress at a restaurant across the street from the Courthouse.

(d) Marins, the surviving victim, knew Rubin Carter and what he looked like before his non-identification of Carter and Artis on the night of the killings.

(e) The skidmarks of the getaway car were farther up the block from the Lafayette Bar than stated in Valentine's trial testimony -- thus contradicting what she had and could have seen.

(f) Cal Deal, a reporter working on a book with DeSimone, had received various notes from DeSimone, including notes relating to "daily" communications with Hazel Tanis while she was in the hospital.

(g) DeSimone attended two meetings prior to the 1976 trial at which Valentine and various other persons (including the owner of the Lafayette Bar and other friends of the deceased) were present and at which information concerning the case and photographs were reviewed. There may have been another pretrial occasion when DeSimone and Valentine spent time alone reviewing the case.

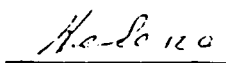
(h) A state "expert" reached conclusions concerning Valentine's psychological makeup which would have related adversely to her credibility.

5. We make no attempt here to argue the importance of the above listed illustrative matters, although we think that their significance should be obvious in context of the 1976 trial and subsequent appellate issues. Nor do we know whether all or most of the above matters are specifically reflected in Caruso's files, although we believe that some of them would be so reflected. Nor do we know whether there are other matters of significance in Caruso's files concerning his investigations and the witnesses in this case. We do submit, however, that the information outlined above is more than sufficient to require access to the Caruso records. Moreover, if the trial court were to allow access at this time, it would greatly simplify subsequent proceedings. We could now determine which if any of the papers in Caruso's files are worthy of further consideration and submissions to the Court. We could in any event have all matters deemed material brought before the Supreme Court at the same time as it considers the principal issues in connection with the recent evidentiary hearing.

6. It is respectfully requested that the Court grant this application and such other and further relief as it may deem just and proper.


MYRON BELDOCK

Sworn to before me this
10th day of August, 1981.

 HELENE FROMM
Notary Public, State of New York
No. 31-4707097 53a

I hereby certify that true copies of the foregoing Affidavit were served by mail on August 10, 1981 upon Joseph A. Falcone, Passaic County Prosecutor, Courthouse, Paterson, New Jersey 07505, and upon the Clerk of Passaic County Court, at the same address, pursuant to the Rules of Court.



MYRON BELDOCK, ESQ.

Dated: August 10, 1981