

## Case Closed (?)

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As a juror in the pseudo-trial of Lee Harvey Oswald, I have been charged with evaluating eyewitness testimony that supports both the single and multiple assassin theories pertaining to the murder of President John F. Kennedy on November 22, 1963. After reviewing this testimony, I have concluded that although it is *possible* that shots were fired from the area of the "Grassy Knoll," the case for this determination is weak. The eyewitness evidence pointing toward the Texas School Book Depository and Oswald's guilt -- whether acting alone or not -- is more convincing.

Lee Bowers was working as a signalman in the second story of a railroad tower, 130 feet behind the Grassy Knoll. From this vantage point, Bowers had an unobstructed view of both the rail station, the parking lot, and the back of the fence from which a second gunman may have fired. Prior to the assassination, Bowers testified, he saw two men behind the fence, about fifteen feet apart. They were standing a short distance from where the fence met the Triple Underpass, about fifty or fifty-five feet from where some critics charge a second gunman fired shots at Kennedy.

In his original testimony, Bowers said that one of the men, or possibly both, remained where they were even after police arrived to search the area in the minutes following the assassination. Bowers also said that "there was some commotion" near the parking area, but when asked to clarify what this activity was, he could only say, "nothing that I could pinpoint as having happened."

Although three years later Lee Bowers would tell author and conspiracy theorist Mark Lane that he had also seen "a flash of light," he did not make this claim in his initial testimony. Gerald Posner, in his book *Case Closed*, questions whether Bowers saw anything at all during the assassination, because thirteen railroad tracks converged on his station,

and he admitted later that he had been busy giving signals at the time. Bowers also admitted that immediately after he heard the last shot, he had to signal "red- on- red," which blocked all trains. To perform this or any other task on his signal control panel, Lee Bowers' back would have had to be turned toward Dealey Plaza; if that is so, then he could not have had a clear view of the Plaza. Oliver Stone, in his movie *JFK*, dramatized what Bowers' claimed to have seen, but did not include these facts. Discounting for a moment the fact that he later altered his original testimony, Bowers' credibility as an eyewitness must be called into serious question.

S.M. Holland, a railway supervisor, was standing on the top of the Triple Underpass with a number of other railway workers, as well as a Dallas Police officer. He testified to the Warren Commission that he heard perhaps four shots, and that they came from the grassy knoll. He also stated that "a puff of smoke" rose in the air from trees situated near the Grassy Knoll. In his film, Oliver Stone shows a puff of smoke emanating from these trees, and later, via Kevin Costner's Jim Garrison character, cites Holland as an eyewitness who courageously came forward to testify that there was a second gunman shooting from the Grassy Knoll.

In reality, however, Holland testified that he could not be certain that the smoke he saw came from a firearm. Gerald Posner shows that in an affidavit taken the day of the assassination, Holland was mistaken about many issues; he believed, for instance, that Jackie Kennedy had attempted to climb into the back seat of the Presidential limousine to reach her husband (Mrs. Kennedy had been riding alongside President Kennedy, and actually began to scramble toward the back of the car after the third, and fatal, shot was fired). Holland also thought that a Secret Service agent in the President's car had brandished a machine gun at one point. Posner points out that others standing on the Triple Underpass with Holland, like Frank Reilly, Royce Skelton, and Dallas policeman J.W. Foster, did not see any kind of smoke. James Simmons said he believed the shots came from the Texas Schoolbook Depository, and that the "smoke" may have been exhaust fumes.

Clemon Johnson, in his statement for the FBI, stated that he saw white smoke, but that probably "came from a motorcycle abandoned near the spot by a Dallas policeman." Austin Miller, another witness standing by Holland at the time of the assassination, thought the smoke was actually steam.

Further debunking the notion that Holland's "puff of smoke" came from a gun of some kind, Gerald Posner notes that modern ammunition is, in fact, smokeless, and thus rarely creates anything that could be construed as "smoke." In addition, Posner states, on Friday, November 22nd, "there was a stiff wind blowing north to south, gusting up to twenty miles an hour." A puff of smoke from a rifle would be unlikely to hang in the air if this was the case. Posner concludes his refutation of Holland's "smoke" statement by showing that, in 1963, there was a steam pipe running along the wooden fence near the edge of the Triple Underpass. Seymour Weitzman, a Dallas policeman, burned his hands on this pipe when searching that area right after the shots were fired. Posner believes that, if there was smoke, it was probably the result of either automobile exhaust fumes or steam coming from the pipe. Due to the obvious mistakes, mentioned above, that S.M. Holland made when giving his statement to the Dallas Police the day of the assassination, and the contradictory statements of others who were with him when the shots were fired, *and* the additional evidence that Gerald Posner was able to uncover, as a juror I must surmise that Holland's testimony is, at best, flawed. He may have seen smoke emerge from an unseen firearm, but if he did, there is little credible evidence to attest to that possibility.

The most sensational testimony from a Dealey Plaza eyewitness about the possibility of a second gunman shooting from the Grassy Knoll came from Jean Hill. Hill is prominently featured in *JFK*, and receives sympathetic treatment from director Stone as a sincere witness with a compelling story to tell. The day of the assassination, she was standing on the southern side of Elm Street as President Kennedy's limousine passed. Her friend, Mary Moorman, took a Polaroid photograph of the back of the President's car a fraction of a second before Kennedy was hit by the fatal shot. In an affidavit signed on

November 22nd, Hill stated: "Just as Mary Moorman started to take a picture we were looking at the President and Jackie in the back seat and they were looking at a little dog between them." Since there was actually no dog in the President's car, Hill later amended this statement by substituting the dog for white roses (the roses were red).

In her original statement, Jean Hill also said that Kennedy looked at her when he was first shot. Later, she changed this, saying that she ran to the edge of the street and called out, "Hey, we want to take your picture," and this was why Kennedy looked at her. Gerald Posner states in *Case Closed* that examination of the Zapruder film shows that Hill never moved toward the President's car, and did not shout or say anything to him as the limousine passed, either. Further analysis shows she was not even looking at Kennedy when he was first shot. Hill said that Jacqueline Kennedy shouted, "My God, he has been shot!" Mrs. Kennedy and the Presidential limousine's other surviving occupants deny she said anything.

In her testimony, Jean Hill said that there were two shots, a pause, and then "three or four shots more... " She stated her belief that the first three shots came from a bolt-action rifle, and that the others might have been fired from some kind of automatic weapon. On the 22nd, Hill told Dallas police that she saw "... some men in plain clothes shooting back... " This gunfire, she claimed, was not returned. In her written statement the same day, Hill wrote that she saw "a man (near the Depository) running toward the monument" on the other side of the Plaza, and that she then ran after him. Gerald Posner, in examining Hill's public statements in the proceeding years, found that her original account of this incident changed drastically. Hill was later quoted as saying that when she chased the man, she saw "a trail of blood in the grass." Stating that she followed it in the belief that the man she was chasing had been shot by a police officer, Hill realized that the drops of "blood" were actually a trail of red Sno-Cone syrup. Hill later claimed that the man she had followed was Oswald's assassin, Jack Ruby.

Jean Hill did not state at any time that the man near the Schoolbook Depository had a gun. In her testimony to the Warren Commission, she said that when she ran across Elm Street to pursue the suspicious man, she was nearly struck by a police motorcycle from the Presidential motorcade. Hill also claimed that she lost sight of the man as he ran over the railroad tracks behind the Grassy Knoll. Yet Posner cites the photographs of another Dealey Plaza witness, Wilma Bond, behind and to the east of Jean Hill, who took several still photos the day of the assassination. Minutes after the shooting, some of these photos show a group of people moving toward the fence on the Grassy Knoll, yet Jean Hill is either still sitting on the grass or standing next to Mary Moorman. In one of the photos, Posner notes, the back of a bus, situated at the tail-end of the motorcade, is passing under the Triple Underpass. This indicates that most of the motorcade had already left Dealey Plaza. However, Jean Hill is still shown in her original position on the southern side of Elm Street, not yet crossing to the opposite side in search of the suspicious man, as she had claimed.

In her original statement, Hill said that upon reaching the Grassy Knoll, the police barred her from proceeding onward, so she then returned to her friend Mary Moorman. Subsequently, a "Mr. Featherstone of the *Times Herald*," she said, "brought us to the press room down at the Sheriff's office and (asked) us to stay." Later, Hill would completely reinvent this aspect of her testimony. She told author Jim Marrs (*Crossfire: The Plot that Killed Kennedy*) that when she arrived at the Grassy Knoll, she was confronted by two strange men impersonating Secret Service agents: "I was looking around but I couldn't see anything, when these two guys came up behind me. One of them said, 'You're coming with us,' and I replied, 'Oh, no I'm not. I don't know you.' 'I said you're coming with us,' one of them said, and then put this horrible grip on my shoulder. I can still feel the pain when I think about it. They marched me across the Plaza and into a building. They took me into a little office upstairs and they wouldn't let me out... "

Nevertheless, the man named Featherstone, who worked for the Dallas *Times Harold*, later confirmed that he was the person who escorted Jean Hill and Mary Moorman to the sheriff's office, as Hill said in her original statement.

Jean Hill was interviewed by a local Dallas television station only 30 minutes after the assassination, and when asked if she had seen anyone suspicious, or anything remotely out of the ordinary prior to Kennedy's murder, she replied succinctly, "No." In 1986, though, Hill told Jim Marrs that she'd seen a man fire shots from behind the wooden fence at the top of the Grassy Knoll, and that she had seen a puff of smoke. In 1989, she told Marrs that she had also seen a "flash of light" from the Grassy Knoll as well.

Jean Hill says now that her testimony before the Warren Commission was a "fabrication from the first line." She asserts that Arlen Specter, then an attorney working for the Warren Commission, extracted her testimony through threat and intimidation. Gerald Posner, who has reviewed the stenographer's verbatim transcript of Hill's deposition, found no evidence whatsoever for this charge. Given all of this, it is difficult in the extreme for me, as a juror, to put much credence in Jean Hill's eyewitness testimony. She is simply not a credible witness.

None of the testimony I have reviewed here, whether from Lee Bowers, S.M. Holland, or Jean Hill, leads me to believe that there was a second gunman shooting at the President from the Grassy Knoll.

The eyewitness testimony which tends to incriminate Lee Harvey Oswald as at least *a*, if not *the* assassin firing shots from the sixth floor of the Texas Schoolbook Depository, however, is stronger.

Robert Jackson, a *Dallas Times Harold* photographer, was riding in the motorcade with four other reporters in an open convertible. His car was approximately a block behind Kennedy's limousine. He testified before the Warren Commission that he had heard three shots, and that they all came from the Texas Schoolbook Depository. After the shots were fired, Jackson looked up at the Depository and noticed two black men "straining to see

directly above them" (presumably either Bonnie Ray Williams, Junior Jarman, or Harold Norman, Depository employees who were watching the motorcade from the southeast corner of the building's fifth floor, right below what was later dubbed "the sniper's nest"). "My eyes," Jackson later stated, "followed right on up to the window above them and I saw the rifle... approximately half of the weapon... and just as I looked at it, it was drawn fairly slowly back into the building..." Jackson testified that the rifle had been pointing down Elm Street, and that he had also seen a stack of boxes in the window, "enough to hide a man."

Malcolm Couch, a cameraman traveling with Jackson in the motorcade, also testified before the Warren Commission that he had heard three shots, and that he thought they came from the Schoolbook Depository. "After the third shot, Bob Jackson, who was, as I recall, on my right, yelled something like, 'Look up in the window! There's a rifle!' And I remember glancing to a window on the far right, which at the time impressed me as the sixth or seventh floor, and seeing about a foot of a rifle -- the barrel -- brought into the window." Couch also testified that the rifle was aimed toward Elm Street.

As a juror, I can accept the testimony of these two men. One was a professional newspaper photographer, the other a professional news media cameraman. Both were in a good position to see the rifle, with an unobstructed view of the sixth floor of the Depository. Most significantly, both testified they heard three shots, both saw a rifle in the same far right window, and both stated that it was pointed toward Elm Street. This is important because, to my knowledge, no two eyewitnesses claim to have seen the same assassin's weapon at the same time near the Grassy Knoll; yet here, each account corroborates the other. Neither man changed his story in later years, either.

James Crawford was standing on the corner across the street from the Depository, not far from Jackson and Couch's convertible: "As the third shot sounded, I looked up and from the far east corner of the sixth floor window I saw a movement in the only window that was open on that floor." Crawford also saw a "profile, somewhat from the waist up," noticed something white -- perhaps Oswald's T-shirt -- and the boxes piled high in the window. He

told deputy sheriff Allan Sweatt to "check the boxes directly behind this window that was open on the sixth floor -- the window in the far east corner."

Mrs. Earle Cabell, the wife of the mayor of Dallas in 1963, was four cars behind the President's limousine, in an open convertible. She testified before the Warren Commission that she, too, heard three shots coming from the Texas Schoolbook Depository, and believed that she saw something in one of the building's windows on the sixth floor. She also testified that she smelled gunpowder. (Mayor Cabell also heard three shots.) Although some conspiracy theorists, or director Oliver Stone, might dismiss Mrs. Cabell's testimony on the grounds that she was a part of the political establishment in Dallas and therefore possibly fabricated her account, others might accept it because, as the wife of the mayor, she would have no reason to lie. If she *were* lying, and thus party to a conspiracy, then this would implicate not only the Dallas Police, but also the Mayor and his family.

In front of the Depository, James Worrell heard the first shot and thought it may have travelled over his head on its way toward the President's car. He looked straight up, and saw "a rifle, about six inches of it. I saw about four inches of the barrel... but it had a long stock and ... I saw about two inches (of the stock)." Worrell testified before the Warren Commission that he saw the rifle actually fire. Like both Jackson and Crouch, Worrell also testified that "the gun was pointing right down at the motorcade" (on Elm Street). James Worrell's testimony cannot be corroborated by any eyewitnesses in the immediate vicinity, yet it nonetheless adds further weight to the eyewitness accounts of Robert Jackson and Malcolm Couch.

Amos Lee Euins, who was interviewed by Gerald Posner, also supports the contention that the shots came from the Texas Schoolbook Depository. Standing on top of a concrete edifice across the street from the Schoolbook Depository, Euins saw what he thought was a pipe jutting out from a window, before any gunfire erupted. After the shots were fired, Euins looked up at the sixth-floor window of the Depository. He saw, according to Gerald Posner, "the rifle laying across (the shooter's) hand, and I could see his hand on the



trigger part." Following the third shot, Euins saw the sniper retract the rifle from the window. Again, although Euins account cannot be verified by someone who saw exactly the same thing, it further supports eyewitness testimony that there was a rifle present and that shots were fired from the sixth floor of the Depository. Euins also told a nearby policeman what he had seen almost immediately after the shots had been fired.

The most powerful eyewitness testimony upholding the argument that the shots that killed Kennedy were fired from the sixth floor of the Texas Schoolbook Depository, and that those shots were fired by Lee Harvey Oswald, came from construction worker Howard Brennan. Brennan was sitting on top of short retaining wall on the corner of Houston and Elm, right across the street from the School Book Depository (about a hundred feet from the sixth floor window). Brennan arrived at the corner at 12:18. A few minutes later, he noticed a man in the southeast corner of the sixth floor of the Depository building. He later described the man as about five feet eight, to five feet ten inches tall, white, slim, with dark brown hair, and ranging between 25 and 35 years of age. "It struck me how unsmiling and calm he was. He didn't seem to feel one bit of excitement. His face was almost expressionless... He seemed preoccupied."

Soon after the Presidential motorcade passed by Brennan's corner, the first shot was fired. This was at approximately 12:30 p.m. Brennan looked up at the Texas School Book Depository, and, in his words, "what I saw made my blood run cold. Poised in the corner window of the sixth floor was the same young man I had noticed several times before the motorcade arrived. There was one difference -- this time he held a rifle in his hands, pointing toward the Presidential car. He steadied the rifle against the cornice and while he moved quickly, he didn't seem to be in any kind of panic. All this happened in a matter of a second or two. Then came the sickening sound of a second shot... I wanted to cry, I wanted to scream, but I couldn't utter a sound."

According to Brennan, the man in the sixth floor window of the Depository "aimed again, and I wanted to pray, to beg God to somehow make him miss the target... the sight

became so fixed in my mind that I'll never forget it for as long as I live... then another shot rang out." As the President's car sped away from Dealey Plaza, Brennan claims he stole another glance at the man in the sixth floor window, and that " to my amazement, the man still stood there in the window. He didn't appear to be rushed. There was no particular emotion visible on his face except for a slight smirk. It was a look of satisfaction, as if he had accomplished what he set out to do... (then) he simply moved away from the window until he disappeared from my line of vision." Brennan, who later said "the last thing I wanted to do was get involved," then found a policeman and explained what he had seen.

The problem with Brennan's account is that the night of assassination, he was unable to positively identify Lee Harvey Oswald as the man he saw shooting at the President from the sixth floor of the School Book Depository. Gerald Posner argues that this fact does not invalidate the seemingly unequivocal, and rather melodramatic, account of the "smirking assassin" Brennan supplies above. Posner's explanation for Brennan's failure to pick Oswald from a police line-up is that "he did not do so because he feared others might be involved in the assassination, and if word leaked that he was the only one who could identify the trigger man, his life would be in danger." Brennan felt that "since they already had the man for murder, and that he wasn't going to be set free to escape and get out of the country immediately, I could very easily... get in touch with (the FBI) to see that the man didn't get loose."

"With all fairness, " Brennan testified to the Warren Commission, " I could have positively identified the man... I knew I could never forget the face that I had seen in the window on the sixth floor of the Texas School Book Depository." Brennan was able to positively identify the three men on the fifth floor of the Depository within 30 minutes of the assassination.

Critics like Mark Lane (*Rush to Judgment*, 1966) have charged that Brennan suffered from poor eyesight, and therefore could not have seen what he claimed to have seen, but Posner points out that, according to the Warren Commission report, Brennan was in fact

farsighted. If this was truly the case, Brennan would have been able to see into the sixth floor window. Brennan himself claims that his vision at the time for viewing objects at a distance was "extraordinary." Howard Brennan also "fervently believed" that God had placed him in the exact location he was in on that November day in 1963, to faithfully record the identity of the assassin with "my gift of super-eyesight."

Although Howard Brennan provides dramatic eyewitness testimony implicating Lee Harvey Oswald as the shooter in the sixth floor window of the Texas School Book Depository, as a juror examining the case against Oswald, his story must be called into question on two counts. To begin with, Brennan's eyesight was evidently damaged in a sandblasting accident after the assassination, and I have no one's word but his own that prior to the accident, he was indeed gifted with "super-eyesight." Gerald Posner, as meticulous as he is in other areas, does not produce any medical records that attest to Brennan's excellent vision, which makes it difficult to ascertain just how "super" Brennan's eyesight really was in November of 1963.

More importantly, Brennan's inability to positively identify a man he claimed to have seen quite well both before and after the assassination, and his explanation for why he did not do so, casts at least reasonable doubt upon his subsequent assertion that Oswald was definitely the man responsible for murdering President Kennedy. His testimony is certainly riveting, and it does support other eyewitness accounts which place the shooter in the sixth floor window of the southeast corner of the Texas School Book Depository, but as a juror I would be inclined to weigh his assertions against his failure to immediately identify Oswald as the culprit. Ultimately, I am not certain I find Howard Brennan's testimony trustworthy; it lends itself to the same kind of nagging inconsistencies that plague many of the eyewitness proponents of the Grassy Knoll/second gunman theory.

Despite the problems inherent in Howard Brennan's testimony, I have come to the conclusion that the majority of eyewitness accounts, such as those described above, correspond with one another in all important respects. Again, while no eyewitness claiming the existence of a second (or a third) gunman firing from the Grassy Knoll can produce

another eyewitness that says the same thing, there are numerous eyewitnesses that tell similar stories of hearing three shots coming from the Book Depository, and/or seeing a rifle sticking out of the southeastern window of the sixth floor of that building. Because of the volume of these specific and relatively unassailable eyewitness accounts, as a juror in the mock-trial of Lee Harvey Oswald, accused of assassinating the 35th President of the United States on November 22nd, 1963, I would likely move to convict. However, this does not mean that Oswald *necessarily* acted alone, although he certainly may have. All I can say for sure is that the evidence reviewed here establishes that *someone* fired shots from the sixth floor of the Depository, and with all of the circumstantial evidence I have analyzed thus far (which does not appear in this essay but which would, one assumes, be introduced by the prosecution in this case), I am willing to say that someone was probably Oswald. Whether or not he was involved in a wide-ranging conspiracy, as Oliver Stone and his ilk believe, and whether there was actually a "second shooter" at Dealey Plaza, I cannot say. I may be equivocating, but I suspect we will never really know the answer to that question. If the trial were held today, might it end with a hung jury?