

APPENDIX B

four-story building in Memphis. The morgue was also housed in this building, on other floors.

6. At that time, records of the Medical Examiner's Office were maintained and stored under two largely separate filing and storage systems, depending on the types of records. The official Medical Examiner's file, which consists of written records or documents such as autopsy reports and protocols, charts, laboratory reports, and other document-type records were maintained in the administrative office's main filing system. These records were largely subject to disclosure as public records. For cases that were more than four (4) years old, such records were maintained only on microfilm. Any autopsy photographs that may have been taken were also considered part of the official Medical Examiner's file. However, once written records were placed on microfilm, photographs would be maintained and stored separately from the microfilm records, on another floor of the building.
7. Other non-documentary records, *e.g.*, x-rays, forensic slides, etc., were considered part of the morgue's files, and were maintained and stored separately by the morgue's autopsy technicians. Such items were not maintained as part of the Medical Examiner's file. These types of records were not generally considered to be public records.
8. In my capacity as the Administrative Assistant for the Medical Examiner's Office, while I did not have direct responsibility for maintenance of the morgue's files, I would make a diligent search of those files for subpoenaed material.

9. Prior to approximately 1986, the morgue was located across the street from the administrative office, and neither office was located at the Regional Forensic Center. At that time, the morgue was relocated to another location approximately four (4) blocks from the administrative office. It was not until approximately 1990, when both offices were housed together in the Regional forensic Center.
10. It is my understanding, based upon documents I have reviewed, that a subpoena was issued to the Shelby County Medical Examiner's Office on June 2, 1995, requesting records on the autopsy of Ronald Oliver, Case No. A&I-351.
11. While I do not have any present memory of this particular subpoena, it would have been the normal practice in the office at the time to respond to such a subpoena by making copies from microfilm of the written, public records maintained in the administrative office, as described in paragraph 6, above, and providing copies thereof to the requestor. A search of the photograph files would normally also have been done, and copies of any photographs would normally have been provided. A search of the separately-maintained and stored files of the morgue for non-document records, as described in paragraph 7, above, would consist of a request to morgue personnel to search their files in compliance with the subpoena.
12. The office's response to any subpoena would, in any event, be approved by the doctor who conducted the autopsy. As of June 2, 1995, Dr. James Bell, the doctor who conducted the autopsy of Ronald Oliver, was deceased.
13. With respect to x-rays, in particular, which were maintained and stored as part of the morgue's files, it is my understanding that at the time (1981) the morgue did

not have its own x-ray equipment. X-rays were not routinely taken as part of the autopsy. When desired by the pathologist, x-rays were obtained through a portable unit of the City of Memphis Hospital. No documentation of x-rays were noted in the record, and the x-ray would have been maintained in the morgue but not recorded. The only means of knowing an x-ray existed would be to physically recover the film. Given the history of a fire in the morgue in 1981, the subsequent disruption of morgue function and organization, the remodeling and return to function, the death of Dr. Bell in 1987, the displacement of the morgue to a new structure in 1988, and the turnover of morgue personnel, in 1995 there would be few, if any, persons with anecdotal recall of an x-ray being made in 1981. It could only be through physical recovery of the x-ray that its existence could be determined. Apparently, for the reasons outlined above, the x-ray was not recovered for the subpoena purposes and may justifiably have been felt not to have existed.

14. It is my understanding that an x-ray of the body of Ronald Oliver has now been located by the Shelby County Medical Examiner's Office. Based on the above, and to the extent such an x-ray was included anywhere in the morgue's files in 1995, any non-production in response to the June 2, 1995, subpoena would certainly not have been intentional or deliberate. I have no memory at all of making any decision on my own, or of anyone, at any time, directing me or anyone else in the office, not to produce such an x-ray; nor would I comply with such a direction.

15. Such non-production could only have been completely inadvertent, as I can only conclude that it was due either to the lack of any indication in the administrative file, or from any other available source, that such an x-ray existed, resulting in the morgue's files not being searched for an x-ray, or that such an x-ray could not be located.

Tami Ruth
TAMI RUTH

Subscribed and sworn before me
This 8 day of March, 2000.

Quinn J. Bowden
NOTARY PUBLIC
My commission expires 8-29-2001

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

PHILIP R. WORKMAN,
Petitioner-Appellant,

v.

RICKY BELL, Warden,
Respondent-Appellee.

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No. 96-6652

AFFIDAVIT

I, TAMI RUTH, do hereby depose and say:

1. I am currently employed as the Office Administrator for the Knox County Medical Examiner's Office in Knoxville, Tennessee.
2. As of June 2, 1995, I was employed as the Administrative Assistant for the Shelby County Medical Examiner's Office in Memphis, Tennessee. I was employed in that capacity from approximately September, 1985, until June, 1998.
3. In my capacity as the Administrative Assistant for the Shelby County Medical Examiner's Office, I was responsible for responding to requests and/or subpoenas for records that were delivered or served on the office.
4. During that period of time, I would estimate that the office would handle from between ten (10) to twenty (20) such requests and/or subpoenas for records per week.
5. As of June, 1995, the administrative office of the Shelby County Medical Examiner's Office was housed on one floor of the Regional Forensic Center, a