

September 25, 1951

MEMO: TO All Members of the Court of Last Resort and
Committee of Counsel

FROM: Tom Smith

I am enclosing a copy of a communication addressed to Governor John S. Battle of Virginia in regard to the Silas Rogers case. This communication was sent at the conclusion of our investigation and these copies should have been dispatched along time ago but due to changes in our stenographic force, the mailing of them was overlooked. Hope you will find them interesting.

Enc.

Honorable John S. Battle
Governor - Commonwealth of Virginia
Richmond, Virginia

Re: Silas Rogers
Richmond, Virginia

Dear Governor Battle:

In accordance with the conversation we had with Mr. Carter Lowance recently in connection with the application of the above mentioned prisoner for a pardon based upon a plea of innocence of the crime of which he was convicted, I am setting forth herein very briefly, the results of our investigation of the murder of Officer Hatchell in Petersburg, Virginia in July 1943.

For the purpose of making this communication as brief as possible we wish to adopt and concur in the digest of the case prepared for you by Mr. Jack Kilpatrick of the News Leader, Richmond. We wish to join with attorney William P. Martin of Richmond and Mr. Jack Kilpatrick in their separate petitions for clemency for the prisoner, Rogers.

The following items of new information have been developed through our investigation:

- (A) The witnesses Stevens and Jordan testified falsely at the trial of Rogers with respect to the circumstances of their being A.W.O.L. from the U. S. Army. We are enclosing a photostatic copy of the letter received from the Honorable Hugh B. Mitchell, member of congress, concerning the official records of these two soldiers which clearly establishes the element of perjury.

It is our conclusion that in the light of this evidence that the entire testimony of these witnesses, which on its face could be self-serving, should be stricken and given no weight in the relation to the guilt of the accused.

- (B) Since the arrest and trial of Rogers, all of the police officers who participated in the investigation of the case and were subsequently responsible for the brutal treatment of Rogers have, with one exception, severed their connections with the Petersburg police department. The present chief of police, Mr. Walter Traylor, and Captain Parrish of the Petersburg department, who were in a subordinate capacity at the time of the Hatchell killing, have very serious doubts about Rogers guilt. They have also indicated that disciplinary action was threatened against any officer in the department who talked about Silas Rogers' beating or attempted to make any independent investigation of the case. It is related that the then city manager, a Mr. Hatchett, delivered this threat at a meeting of all the police officers.
- (C) Our investigation reveals that at the time Officer Hatchell was shot there were, in all probability, three negroes in the brush below the hospital bank along Lieutenant Run.

It is further established that, on the evening before, or the second evening before, two negroes escaped from the Chesterfield jail and were at large in that vicinity.

Haley Davis, a negro employee at the gas plant immediately below the hospital, is a person whom everyone in Petersburg seems to respect. He has worked for the gas company for thirty-eight years and is now retired on a pension. He stated to our investigator that he saw two negroes enter the run just ahead of Officer Hatchell. Other officers who were at the scene at about that time stated that the trails made by these men through the wet grass and weeds were plainly visible.

The investigation reveals that some person, perhaps the driver of the car which was abandoned at the hospital and in which Jordan and Stevens were arrested, emerged from Lieutenant Run near the gas plant and went on down toward the railroad at a time some 15 to 20 minutes before Officer Hatchell was shot and killed.

- (D) Our investigation reveals that witnesses Jordan and Stevens in spite of the fact that they were material witnesses in a murder case and were apprehended in an admittedly stolen car, were either released by the police or permitted to walk off within five hours of the time they were arrested by Officer Jolly. In this connection Silas Rogers claims that neither Stevens or Jordan identified him as the driver of the car when they were first brought in to see him, in fact, they said he was not the man.

Our inquiry also indicates that at the time Jordan and Stevens saw Rogers in the police station for the first time Rogers had been severely beaten and was bleeding from cuts about the head and his hair and shirt were a mass of blood. The inferences that Jordan and Stevens may have drawn from the condition of the prisoner, Rogers, are quite obvious and it is not difficult to understand that in subsequent questioning they would be quite willing to do and say whatever the police suggested to them.

- (E) It is further indicated by our inquiry that during the entire afternoon of July 18th and well into the daylight hours of July 19th the Petersburg police, assisted by some members of the National Guard, maintained a search of the area around Lee Park on the edge of Petersburg for a negro who had been sighted by Officer Parrish and who, upon being hailed by the officer and called to the police car, took to his heels. Officer Parrish states that he and a state police officer who was with him, fired several shots each at the fleeing man but were unable to stop him.

This casts serious doubt upon statements by Beasley and Jolly on the witness stand that Jordan and Stevens identified Rogers when they first saw him.

- (F) In connection with our investigation, we had an extended interview with Mr. Oliver Pollard, Commonwealth Attorney of Petersburg, in which Mr. Pollard reviewed the case from the standpoint of the record and the witnesses that were available to him.

His version of the flight of witnesses Jordan and Stevens was somewhat different than that given to us by Officer Jolly who was also interviewed.

Mr. Pollard stated that Stevens and Jordan simply walked off. Officer Jolly, on the other hand, stated that Jordan and Stevens had talked Detective Lt. Beasley into releasing them. In any event, the loose handling of the witnesses Stevens and Jordan indicates that there was a doubt in the minds of the police as to whether they could throw any important light on the death of Officer Hatchell.

Mr. Pollard is now willing to admit that in all probability Rogers arrived in Petersburg on the Silver Meteor and not by automobile or truck. His present theory of the case is that Rogers, Jordan and Stevens got together in Petersburg after the arrival of Jordan and Stevens in the stolen car and that somehow or other Jordan and Stevens persuaded Rogers to drive their car for them. In our opinion this theory is wholly inconsistent with the circumstances.

Jordan and Stevens relate that they left Raleigh, N. C. some time around 2:30 in the morning with Rogers arrival. It is unlikely that they arrived in Petersburg before 5:30. It is wholly improbable that in the hour-and-a-half between the probable arrival of Jordan and Stevens and the interception of the Studebaker car by Officers Jolly and Hatchell, that they could have met Rogers and established such a degree of mutual confidence that Rogers would have agreed to drive their car knowing it was stolen, and certainly the driver of the car, whoever he was, knew that the car was "hot" otherwise there would have been no point in his flight from the police.

The incident of the police chase, every aspect of it, and the subsequent actions of Stevens and Jordan and their testimony, indicates very strongly that the driver of the car was a party to its theft and that he was known to both Stevens and Jordan sufficiently well to have been their partner in the theft of the automobile and the operation of it. Rogers is no fool and it is highly questionable that he could be persuaded, upon casual acquaintance, to drive a car, which he knew to be stolen, for two white men.

The new theory by Mr. Pollard does not seem to us to be impressive in the face of new evidence produced on behalf of Rogers.

Mr. Kilpatrick in his excellent statement of the case has analyzed the testimony of other identifying witnesses and we agree fully with his analysis.

The gist of our conversation with Mr. Pollard was that he believed Rogers to be guilty but that if he could be convinced that Rogers could not drive a car then he would be willing to concede to Rogers' innocence.

- (G) In connection with the matter of Rogers' ability to drive an automobile, it seems to us to be significant that in the extended investigation made by the police and by the Virginia state police

in a previous application for clemency, and by Mr. Jack Kilpatrick of the News Leader, not one shred of evidence has been produced to dispute Rogers testimony, which was to the effect that he had never driven a car and could not drive a car.

It is true that one written statement was obtained in which it was claimed that Rogers had worked as a chauffeur for a family in Florida. This was later proved erroneous and a confusion of Silas Rogers with his identical twin brother, Paul.

There is a further element in connection with the driving of the stolen automobile while it was being chased by Officers Hatchell and Jolly. A driver would have to have considerable skill and rather extensive experience in driving a motor vehicle to be able to maneuver an automobile, driven at what was alleged to be a high rate of speed, around the corner at the dead end of Washington Street into Madison Street and another turn into the walk way by the hospital without tipping the car over or completely losing control of it.

One thing stands out, the sharp reflexes of the driver in bringing the car to a stop with the emergency brake as it plunged into the brush at the brink of the bank away from the hospital is hardly the act of a totally inexperienced driver.

If Rogers could drive an automobile at all certainly his experience was very limited as was his skill. No one who knows him could say that he has driven an automobile. He has never had a drivers license, a learners permit, nor has an automobile ever been registered in his name.

The economic circumstances of his family and his associates were such as to provide him with little, if any, opportunity to learn to drive and it must be concluded that if he could drive at all his skill and experience were not such as to permit him to drive in the manner in which this particular stolen car was driven.

On the basis of information available at this time and our judgment of Rogers as a personality in the several interviews with him, it is our considered opinion that Rogers is not guilty of the slaying of Officer Hatchell and that he should be granted a full pardon by the commonwealth of Virginia.

The Court of Last Resort has no interest in Rogers personally. We are concerned only with the matter of justice. The Court of Last Resort accepts no fees for its investigations. It is not affiliated in any way with any society or group dealing with racial, economic or political causes.

The experts in criminology which constitute our board perform their services without compensation, with the exception of the writer and Mr. Bob Rhay who devote their full time to this work. The expense of the Court of Last Resort is borne by Argosy magazine as a public service project of the magazine which reaches 4 to 5 million readers each month in the United States.

If there should be further information required in the consideration of this petition, the services and facilities of the Court of Last Resort are readily available and we will be happy to discuss with you at any time any further contribution that we may make.

We do hope in view of Rogers extended confinement that favorable action in the case will not be too long delayed.

Respectfully Submitted,

COURT OF LAST RESORT

Tom Smith

Richmond, Virginia
January 5th, 1952.

All CLR Members:

Re Silas Rogers

Several weeks ago on a visit to Richmond I was informed that some action could be expected on the Silas Rogers case before the Virginia Assembly convened on January 9th. Recent contacts with the Governor's office indicated that there was going to be a change in this situation. Accordingly I came down here right after New Year's Day to see what could be done.

Contact with Jack Kilpatrick at the News*Leader didn't help much, he seemed resigned to another wait, at least until after the legislative session. Acting on suggestions of Harry Steeger I contacted Clifford Dowdey hoping to obtain a lead to an appointment with Governor Battle. He suggested a man named Wm Ellison, who is Public Relations Director for Miller and Rhoads, a large department store. I talked with Ellison who is a good friend of Governor Battle. Ellison stated that he had never asked any favor of the Governor and would not do so but after listening to what I had to say made what I think is a shrewd guess about the Governor's attitude. He thinks that there must be some more or less powerful opposition to a pardon for Rogers, probably stemming from the ex-prosecutor - now Judge Pollard. He suggested further that I might get some interesting light on this by contacting the Petersburg newspaper. This will be done.

After these conferences I went back to the Governor's office and talked with Carter Lowance his right hand man, Lowance stated that he was quite sure the Governor could not do anything about Rogers before the Assembly session. I then suggested to him that perhaps Mr. Steeger would be in town soon and I felt that he and Governor Battle could profitably spend a little time together quite aside from the Rogers Case, this seemed to open the matter up a little and indications that if Harry can make it a meeting with the Governor can be arranged.

The purpose of these moves is to put a gentle squeeze on the Governor and get some action within a reasonable and stated time. Kilpatrick will see the Governor Monday noon at a pre-assembly Virginia Press Association luncheon at the Governor's mansion. He has promised to put in a pitch. He will co-operate with us in getting some promise from the Governor that if it is not possible to act now that he will clear the matter by a certain date after the legislators have gone home.

The conference between Mr. Steeger and the Governor ought to bring out any doubts that the Governor may have and give us a chance to combat them. You will recall that in our report to Battle we offered to give Rogers a Polygraph examination and to extend our investigation if he required further information.

Rogers - 2

Kilpatrick and the others with whom I have talked have suggested several reasons for this delay:

Kilpatrick: Thinks Governor Battle is an habitual procrastinator. Believes now there may be some active opposition from Pollard or the Petersburg paper or both.

Dowdey: Has little use for the political powers here - thinks Battle strictly a stooge for the Bird interests, the Bank of Virginia and the Merchants Association (headed by Miller & Rhoads) this is reason he suggested the visit to Ellison.

Ellison: Believes there must be some opposition. Governor may not want to antagonize any member of the Assembly - has a close fight on some of his budget and legislative recommendations.

Kilpatrick does feel that the matter will eventually be resolved in our favor but that excessive pressure might succeed only in getting a quick rejection. This is the primary reason for my suggestion that we give Battle a chance to act now and try to commit him definitely as to time if he does not feel that he can act now. Handled in this way with the prestige of the publisher of ARGOSY to help along I believe we can get Rogers out before too many months go by. There will be a further report when I have seen the Petersburg newspaper people and perhaps Pollard again.

Tom Smith

MEMORANDUM

September 3, 1952

To: Members Court of Last Resort

From: Bob Rhay

Re: Silas Rogers Case

There have been several new developments in the Silas Rogers case on which I think everyone should be brought up to date.

I think you have all received copies of a memorandum dated July 28 from Vera Brown outlining the information that Governor Battle requested from Jack Kilpatrick about the coat found in the abandoned automobile.

Burnett Roth, Vice Mayor of Miami Beach, did a fine job in tracking down Robert Franklin Carroll and his record. He sent an affidavit, a copy of which is enclosed, and an F.B.I. report on Robert Franklin Carroll, the colored man who identified the coat under discussion as being that of Rogers.

The F.B.I. report showed Carroll's last arrest as July 22, 1952, for assault and battery at Bridgeton, New Jersey. Last week I went down to Bridgeton to try to find Carroll. I located him living in one of the colored sections, and talked with him for about an hour and a half. Carroll had made his original affidavit covering three points:

1. He identified the coat shown by Petersburg detective and Miami detective as being that of Silas Rogers;
2. He swore that Silas Rogers was able to drive a car, and that he had seen him drive;
3. He swore that Silas Rogers smoked, and that he had seen him smoke.

By the time I talked with him, Carroll had evidently forgotten just what he had said in the affidavit, as he assured me that Rogers could not drive, and that he had never seen him smoke. He said he was willing to give me an affidavit as to these facts.

The subject of the coat was a different matter. Carroll very distinctly remembers the two detectives bringing the coat to him for identification. He said they brought the coat to him because one of his cards was in one of the coat pockets, and also there was handwriting on the back of the card which Carroll identified as his own. It mentioned something about a loan that Carroll had given Rogers on this coat. He described the coat as a "light brown jitterbug coat with a zigzag weave." I assume he meant it was a herringbone zoot-suit. The color was the most important thing in his description. Carroll assured me that he would be willing to give me an affidavit on any of the points.

MEMORANDUM

September 3, 1952

I came back to the office and called Jack Kilpatrick, and he described the coat that was found in the car as a dark blue suit coat. He checked with the court in which the case was tried, and it seems that the coat cannot now be located. Actually, I do not think it was ever introduced in evidence, but it was mentioned and described several times during the trial. I thought it was a little odd, if they had such a positive identification of this coat, that they would not bring Carroll to Petersburg to testify.

Jack Kilpatrick is relaying this information to Governor Battle today, so we should have some word shortly. Governor Battle told Jack Kilpatrick previously that the coat was the one point he wanted cleared up before granting Rogers' pardon. I have assured Mr. Kilpatrick that if he wants an affidavit covering the points mentioned herein I can make a trip to Bridgeton and pick it up.

Incidentally, I think you will all be interested to know the kind of a reception I received in Bridgeton. I went to the police department as soon as I arrived. I identified myself to the desk sergeant and told him the reason for my visit. He was most cooperative. He said, "Oh, I'm one of your subscribers. When I finish with a magazine I bring it down here so the rest of the boys can read it." He already knew the Silas Rogers case. When I told him that an important witness was in Bridgeton whom I wanted to locate, he went directly to the files, got the address of Carroll, called in a prowler car to escort me out to where Carroll lives. I guess our work is really being noticed by the law enforcement agencies.

BR/vb
Enc.

STATE OF FLORIDA)

SS

COUNTY OF DADE)

Before me, the undersigned authority, duly authorized to administer oaths, there personally appeared BURNETT ROTH, who being first sworn, deposes and says:

1. I am a practicing attorney in the State and Federal Courts of the State of Florida, and have been a member of the Bar for eighteen years.

2. I have undertaken an impartial investigation into the police record of Robert Franklin Carroll. He formerly was employed at 327 N.W. 14th Terrace, Miami, Florida. I have also investigated the police and other records concerning Silas Rogers.

3. Attached hereto and made part of this affidavit is the Federal Bureau of Investigation report on Robert Franklin Carroll which indicates a record of police arrests, charges, investigations and convictions from February 18, 1934 to July 22, 1952.

4. An examination of the complete police report in connection with the arrest of May 20, 1948, reveals that Robert Franklin Carroll stabbed Lamar Miller and that Miller withdrew charges before the trial apparently having been intimidated as to the possible consequences with proceeding with charges against Carroll.

5. My investigation reveals that police departments do not report all arrests to the Federal Bureau of Investigation. I have examined the police record of arrest in the City of Miami for Robert Franklin Carroll, whose address is 327 N.W. 14th Terrace, Miami, Florida, and have determined that the same Robert Franklin Carroll was involved, in addition to the matters set forth in the Federal Bureau of Investigation report, in the following arrests:

- a. Disorderly conduct, July 31, 1943. No disposition.
- b. Assault and battery with pistol and hands, February 11, 1946. Fined \$25.00 and costs.
- c. Disorderly conduct, March 16, 1946. Fined \$10.00 and costs.
- d. Assault with revolver, January 24, 1947. Fined \$25.00 and costs.
- e. Disorderly conduct and carrying concealed weapon (knife), August 11, 1947. Fined \$15.00 and costs.
- f. Drunk and disorderly conduct, June 7, 1948. Fined \$15.00 and costs.

6. Carroll was working as manager of a low class hotel which had an unsavory reputation in the colored community. No one remembers Rogers having worked at that hotel and if he did, it must have been for a very short period of time. Carroll was constantly in difficulty. It would appear that to ingratiate himself with the police he would make any statement however damaging and untruthful, if he believed such apparent "cooperation" might be helpful to him in some further fracas he might be involved in. His reputation among other negroes was one of complete dishonesty. He is identified as a mean man of violence and hatred. He left town hurriedly on June 17, 1948 and has not been heard from by any of his former associates, or by any residents at the hotel in which he worked. Individuals contacted were afraid even to discuss Robert Franklin Carroll because he is a "mean and dangerous" man.

The police have no record of any misdemeanor or felony or any arrest of Silas Rogers, who seems to have been a law abiding citizen. No one recalls Silas Rogers residing at his former residence in Miami, Florida, the personnel having changed hands.

Sworn to and subscribed before me
this 15 day of August, 1952.
Notary Public, State of Fla. at large

BURNETT ROTH

Daniel Roth
My commission expires 1/12/54

Fla. 1894 M.B.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON 25, D. C.

8-6-52 4762 psc
J. Edgar Hoover
Director.

630083

The following FBI record, NUMBER

, is furnished FOR OFFICIAL USE ONLY.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
SO, Bartow, Fla.	Bob Carroll #424	2-18-34	A. and B.	not guilty
SO, Bartow, Fla.	Bob Carroll #766	9-13-34	A. and B.	
SO, Bartow, Fla.	Robert Franklin Carroll, #1556	5-18-35	agg. asslt.	
SO, Bartow, Fla.	Robert Carroll #2101	12-25-35	asslt. to murder	
SO, Bartow, Fla.	Robert Carroll #2563	7-18-36	D.C.	
PD, Miami, Fla.	Robert Franklin Carroll, #14214	applicant for position 10-26-41		
Captain of the Port Miami, Fla.	Robert Franklin Carroll, #---	applicant for Janitor 6-26-42		
PD, Miami, Fla.	Robert Franklin Carroll, #33608	10-13-46	inv. G.L.	10-14-46, rel.
PD, Miami, Fla.	Robert Franklin Carroll #33608	5-20-48	inv. asslt. to kill (knife)	6-4-48, dem.
Cumb Co JI Bridgeton NJ	Robert F Carroll #8234	9-23-51	D & Dis	pend
PD Bridgeton NJ	Robert Carroll #44358	7-22-52	A & B	pend

Notations indicated by * ARE NOT BASED ON FINGERPRINTS IN FBI files. The notations are based on data furnished this Bureau concerning individuals of the same or similar names or aliases and ARE LISTED ONLY AS INVESTIGATIVE LEADS.