

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
CIVIL ACTION

FILED BY CLERK
KS. DISTRICT COURT
SHAWNEE JUDICIAL DIST.
TOPEKA, KS

2012 SEP 27 P 3: 21

STATE OF KANSAS *ex rel.*)
DEREK SCHMIDT, ATTORNEY)
GENERAL,)
)
Plaintiff,)
)
vs.)
)
RONALD NYE,)
JOYCE NYE, TERRI HURLEY, and)
GARY McAVOY, individually and)
d/b/a VINTAGE MEMORABILIA,)
)
Defendants.)
)

Case No. 12 CV 1053
Division 6

Filed Pursuant to K.S.A. Chapter 60

VERIFIED PETITION FOR DECLARATORY JUDGMENT
AND OTHER TEMPORARY AND PERMANENT RELIEF

COMES NOW The State of Kansas on relation of Derek Schmidt, duly elected, qualified and acting Attorney General, and brings this action seeking a declaratory judgment that the State is, in fact and by law, the owner of Kansas Bureau of Investigation investigative file materials relating to the murder of members of the Clutter Family in Holcomb, Kansas in November, 1959, and related relief, including but not limited to the orders of this Court directing the return and delivery by defendants of any such materials to and into the custody of the State, and prohibiting, temporarily and permanently, the sale, publication, replication and distribution thereof by defendants, or any of them, as hereinafter more fully provided. In support thereof, the State alleges the following, verified upon oath:

Parties to the Action

1. The Kansas Attorney General is authorized to bring this action on behalf of the State of Kansas, as relator for the Kansas Bureau of Investigation and the State Records Board. The Attorney General has jurisdiction over the KBI pursuant to K.S.A. 2011 Supp. 75-711, and is a member and the chairman of the State Records Board, which is charged, *inter alia*, with the retention and disposition of government records, pursuant to K.S.A. 45-404 and 75-3502, including the permanent preservation of important state records.

2. By virtue of K.S.A. 2011 Supp. 60-2005 and K.S.A. 60-905(b), the State of Kansas is excused from any requirement to post bond or pay a filing fee.

3. Harold R. Nye was a special agent in the employ of the Kansas Bureau of Investigation from July 1, 1955 until his retirement on July 15, 1975, and during his tenure served as KBI director from September 1, 1969, until January, 1971.

4. Harold R. Nye died August 27, 2003, a resident of Winfield, Cowley County, Kansas, leaving surviving Joyce Nye, his spouse; Terri Hurley, his daughter; and Ronald Ray Nye, also known as Ron Nye, and as Ronnie Nye, his son; said parties are the only known heirs of Harold R. Nye, and all are of adult age.

5. Upon information and belief, there has been no probate, administration or other judicial determination of the estate of Harold R. Nye, deceased.

6. Upon information and belief, Ronald Nye resides at 4329 NW 60th Street, Oklahoma City, Oklahoma 73112-1318, and may be there served with process; alternatively, Nye may be served at 3535 NW 58th Street, Suite 500, Oklahoma City, Oklahoma 73112. Ronald Nye claims an ownership interest in certain Kansas Bureau of Investigation criminal investigation records relating to the murder of members of the Clutter Family in Holcomb, Kansas in November, 1959, as hereinafter more particularly identified, by virtue of such ownership having purportedly devolved to him from his father, Harold R. Nye.

7. Joyce Nye currently resides at a location in Oklahoma City, Oklahoma, unknown to Plaintiff; that upon information and belief, the residence of Joyce Nye is in a facility where she has assisted living, or is receiving attendant care, and that she has appointed her son, Ron Nye, her attorney-in-fact, and accordingly Joyce Nye may be served with process by service upon her agent, Ron Nye. Joyce Nye may have or claim an interest in the property subject to this action, by virtue of operation of law, being the surviving spouse of Harold R. Nye, and is thus named in this action as required by K.S.A. 60-1712.

8. Terri Hurley currently resides at 308 E. Nassau Ave., Holyrood, Kansas 67450, and may there be served with process. Terri Hurley may have or claim an interest in the property subject to this action, by virtue of operation of law, or otherwise, and is thus named in this action as required by K.S.A. 60-1712.

9. Gary R. McAvoy is a resident of the State of Washington, and does business in the name, and as the President/CEO, of Vintage Memorabilia, upon information and belief

a sole proprietorship, at 413 NE 70th St., Unit 311, Seattle, WA 98115-5846, and may there by served with process.

10. Jurisdiction and venue in Shawnee County are appropriate by virtue it being the county where the cause of action arose, and the county wherein the State maintains its Capitol, where the Plaintiff maintains its offices, and where the State permanently maintains and preserves its public records.

Statement of Facts

11. On or about November 15, 1959, Herb Clutter and three members of his family were murdered in Holcomb, Kansas (herein the “Clutter Murders”).

12. The KBI assigned the responsibility for the investigation of the Clutter Murders to four special agents, namely Alvin Dewey, lead investigator, Clarence Duntz, Roy Church, and Harold R. Nye. Said special agents, being trained in the detection and apprehension of criminals were, at all times pertinent hereto, employees and special agents of the KBI, and acted and were acting in the course of the performance of their duties as such.

13. In the course of the performance of his duties in making a full and complete investigation into the Clutter Murders, Special Agent Nye produced crime records within the scope of K.S.A. 2011 Supp. 75-712(b)(1), inclusive of investigative file notebooks and other materials relating to such murders and the subsequent arrest and prosecution of the offenders, Richard “Dick” Hickock and Perry Smith.

14. Such materials coming into the possession of Nye, or produced by him, constituted and became a part of the crime record compiled by the KBI in the course of the performance of the duty of the members of the bureau to make full and complete investigations. Plaintiff has herein referred to such crime record as the “Clutter Investigative Records,” but because of the use of an alternate term by the defendants for those records which are the subject of this action the alternate term of “Clutter Murder Files” is also used, depending upon the context.

15. Through the investigative efforts of the KBI special agents, including Harold Nye, the Clutter Murders suspects were identified; arrested in late December, 1959, in Las Vegas, Nevada; thereafter interviewed and confessed to the crimes in the course of being held and then returned to the State of Kansas to stand trial; and were convicted on March 29, 1960, by a jury in Finney County, Kansas, and sentenced to death. The offenders and convicted murderers, Hickcock and Smith, upon exhaustion of all due process and legal remedies, including appeals, and with their convictions and sentences having been affirmed, were executed by the State on April 14, 1965.

16. The Clutter Murders were recounted, publicized and given notoriety, if not sensationalized and invested with legacy status, by the publication in 1966 of a book by Truman Capote, “In Cold Blood.” The Capote book subsequently became the subject of several film adaptations, including a 1967 film of the same name.

17. Through newspaper articles and other published accounts in late July 2012, the KBI became aware that investigative file items relating to the Clutter Murders were being

offered for sale. *See, e.g.*, “Company Auctioning Off Clutter Case Files,” July 20, 2012, The Garden City Telegram, a true copy of which is marked Exhibit A and attached hereto. The same article may be viewed at <http://www.gctelegram.com/news/Clutter-auction-7-20-12>. Hereafter the term “Clutter Case Files” may be used to describe those records the defendants claim ownership of and intend, or intended, to sell by public auction.

18. Prior to being made aware of such newspaper articles, neither the KBI nor the State of Kansas had knowledge or was otherwise aware that any documents or records from the Clutter Investigative Records had been copied by or were in the possession of Harold Nye or members of his family.

19. According to published accounts, the Clutter Case Files being offered for sale included photographs of the murder scene, original investigative file notebooks and other materials described as the “investigative records of Special Agent Harold Nye.”

20. Although defendants have attempted to discount their original intent by suggesting that out of respect for the family of the victims of the Clutter murders they thought about contacting the KBI and later returned the crime scene photographs, the fact remains that all such materials were offered for sale, with digital images posted online and available for viewing by any person interested in doing so.

21. Initially, the items were offered for sale by Vintage Memorabilia, a Seattle-based auction company, in a single lot “to preserve their historical value,” with a “focus . . .

to tastefully auction the lot off as something historic,” through a sealed bid auction then scheduled to occur on August 31, 2012.

22. Such published accounts, as well as the website of Vintage Memorabilia, quoted Gary McAvoy, as owner, president and CEO of Vintage Memorabilia, as stating that Vintage Memorabilia obtained the Clutter Case Files from defendant Ronald Nye, son of Harold Nye.

23. On or about July 28, 2012, Kirk Thompson, Director of the KBI, contacted Ronald Nye by telephone to make arrangements to travel to Oklahoma City to discuss the matter of the Clutter Case Files. Defendant Ronald Nye later contacted Director Thompson, advised that he was going to be in Topeka, Kansas, for the purpose of conducting business, and offered to meet Thompson in Kansas for such purpose. On August 2, 2012, Ronald Nye and Director Thompson met at the Hampton Inn in Topeka, Kansas.

24. During the Topeka meeting, Ronald Nye recounted to Director Thompson a story of how he came to be in possession of the Clutter Investigative Records. Ronald Nye related that on multiple occasions during the late 50's (specifically referencing 1958 and 1959), on weekends when no one else was in the office, he had accompanied his father, Harold, to the Statehouse where the KBI had its offices, and into the “catacombs” of the Statehouse where KBI case files were kept; that his father would go through the boxes of KBI investigative case files, then take the files and “duplicate” original case file images, by making photographs, or by directing KBI clerical employees to make duplicate copies of

materials. Ronald Nye was impressed by how unique it was that his father had a key to access the Statehouse and the otherwise secure KBI storage facilities.

25. Ronald Nye recounted to Director Thompson that as copies were made or documents were retained, his father would write "Property of Harold Nye" on the back or place his name in one of the upper corners of the documents; and, that at one time, there were 14 boxes of such KBI case file records stored in Harold Nye's home.

26. Ronald Nye told Director Thompson he remembered moving or seeing the 14 boxes of documents when his father moved from Topeka to Great Bend, Kansas, and again when his father moved from Great Bend to Winfield, Kansas.

27. Prior to the death of Harold Nye, and while he and Joyce were living in Winfield, Kansas, defendant Ronald Nye recalled seeing the 14 boxes in the attic of that Winfield residence.

28. Approximately four months after Harold Nye's death, Ronald Nye was helping move his mother out of her Winfield residence, and in process Ron located an expandable file containing Clutter Investigative Records in his father's bedroom. Ronald Nye stated to Director Thompson that he took possession of the expandable file containing Clutter Investigative Records while in Winfield, Kansas, claiming that his father would have wanted him to have them.

29. Ronald Nye reported to Director Thompson that when he asked about the 14 boxes of KBI case file records, his mother, Joyce, told him the records had been professionally destroyed by shredding.

30. Ronald Nye further advised Director Thompson that during the spring of this year, and specifically on April 23, 2012, Nye transferred the Clutter Investigative Records to Gary McAvoy and Vintage Memorabilia to be sold at auction. Ronald Nye further asserted that he retained no ownership in such delivered materials, and therefore could not return the documents. Ronald Nye insisted he was at the mercy of Gary McAvoy to provide Nye such compensation from the proceeds of the sale auction as McAvoy deemed appropriate.

31. Upon information and belief, and as represented by Gary McAvoy d/b/a Vintage Memorabilia on his website and otherwise, Gary McAvoy and Vintage Memorabilia are custodians of the Clutter Investigative Records and are offering the sale of the same on a consignment basis, with Ronald Nye being the owner, and Vintage Memorabilia the auction company and consignee.

32. The Clutter Murder Files, which defendants have also identified or described as the Clutter Investigatory Records, have been advertised for sale by Gary McAvoy and Vintage Memorabilia through the means of a solicitation for bids since at least early July, 2012, as disclosed at <http://www.vintagememorabilia.com/>, with greater detail available by following the indicated links; such materials are being marketed for sale to interested Kansas bidders, among others.

33. During the August 2, 2012, meeting in Topeka, Director Thompson told Ronald Nye that the KBI had reviewed the Clutter Investigative Records identified for sale by Vintage Memorabilia on its website, and had preliminarily concluded that certain of the items were KBI property, and belonged to the State of Kansas; additionally, Director Thompson provided Ronald Nye with a highlighted list thereof.

34. Further, and at such time and meeting, Director Thompson informed Ronald Nye that documents which would have been collected in the course of the KBI's investigation and which were or should have been placed in the official KBI case file and records should be returned and handled according to law, which would include eventual transfer to the Kansas State Historical Society.

35. Director Thompson also informed Ronald Nye that the KBI had been contacted by members of the victims' family, as well as by members the families of Hickcock and Smith, and had been asked to intercede in the sale and public disclosure and publication of the Clutter Investigative Records.

36. Following the meeting between Ronald Nye and Director Thompson, Director Thompson was informed by agents of Gary McAvoy, d/b/a Vintage Memorabilia, that digital copies of all records delivered by Ronald Nye to McAvoy and Vintage, inclusive of the Clutter Investigative Records, had been created; and, that a set of such records, believed to be in the digital form, had been released or given to a reporter of a prominent national news organization.

37. After repeated urging, Gary McAvoy and Vintage Memorabilia forwarded copies of the Clutter Investigative Records at issue by U. S. Mail, in the form of what were represented to be the original copies of any photographs of the crime scene and autopsies of the Clutter family members who were murdered, and on a DVD, digital images of all other documents and materials. The same were received by the KBI on August 24, 2012 and thereafter reviewed by its agents and determined to be incomplete or in part inaccurate when compared with the inventory of the Clutter Murder Files items known to have initially been listed on the Vintage Memorabilia website.

38. Subsequently, and on September 11, 2012, Gary McAvoy and Vintage Memorabilia produced at the Office of the Attorney General for the State of Washington, in Seattle, for inspection and photographing, those materials comprising the Clutter Murder Files as consigned by Ronald Nye.

39. As a result of such inventory and inspection, both by personnel of the Washington Attorney General's Office, and personnel of the KBI, the KBI confirmed that those materials in the possession of Gary McAvoy and Vintage Memorabilia consigned by Ronald Nye, with the exception of two autographed books, four items related to the production and release of two movies based on the Capote book, and three letters, two from Truman Capote and one from Duane West, were and are records removed from the KBI case file, or produced for the purpose of being placed therein, and are the property of the State of Kansas.

40. The items of consigned materials not produced or owned by the State of Kansas are:

- (1) Two (2) personal letters to Harold Nye signed by Truman Capote, including one envelope;
- (2) One (1) first edition of the book "In Cold Blood" signed by Truman Capote and inscribed to Harold Nye; also signed by several case investigators, and some of the case and crew from the 1969 film *In Cold Blood*;
- (3) One (1) first edition of the book "Selected Writings of Truman Capote" signed by Truman Capote and inscribed;
- (4) Studio Picture of *In Cold Blood* film actor Leo Rossi;
- (5) Picture of cast and crew from second *In Cold Blood* film, filmed in Canada 1996;
- (6) Personal letter on letterhead and letterhead envelope, to Harold Nye from Janet McCaums, Assistant to the Producer, Pacific Motion Pictures, October 9, 1996;
- (7) Original Story Bill for first *In Cold Blood* film, premier in Kansas City.
- (8) Typewritten letter to Harold Nye dated March 29, 1960, from Duane E. West, Finney County Attorney.

41. The State, by and through the Attorney General, has made demand upon Ronald Nye, Gary McAvoy and Vintage Memorabilia for the return of the State property. Nye, McAvoy and Vintage claim to have returned the murder scene and autopsy photographs, and KBI acknowledges receipt of photographs from McAvoy in the mailed materials above noted. However, to date, the return of the remaining consigned materials owned by the State has been refused, and the existence and/or disposition of any electronic or other copies of the photographs and balance of the documents comprising the Clutter Case Files is unknown.

42. As to the original file notebooks created by Harold Nye in the course of the performance of his duties as a KBI special agent, including any Clutter Investigative Records which came into the possession of Ronald Nye in Winfield, Kansas, Nye, McAvoy and Vintage have claimed that such records were given to Harold R. Nye by former KBI Director Logan Sanford, and are now owned by Ronald Nye. No writing demonstrates or supports such claim.

43. At K.S.A. 45-403(a), Kansas law specifically provides that:

All government records made or received by and all government records coming into the custody, control or possession of a state or local agency, in the course of its public duties, and all government records deposited in the state archives, shall be public property and shall not be mutilated, destroyed, transferred, removed, damaged or otherwise disposed of, in whole or in part, except as provided by law, or as may be authorized in the retention and disposition schedules. (Emphasis added.)

44. Any claim of ownership of Clutter Investigative Records by the defendants is denied. No one acting on behalf of the KBI or the State of Kansas had authority to make gifts of criminal investigation records, or any portion thereof. Harold Nye at no time acquired title to or ownership of any KBI criminal investigation records. Any copying of Clutter Investigative Records by Harold Nye, or holding out materials from inclusion in the investigative case file, was not permissive. Any possession of Clutter Investigative Records by Harold Nye would accordingly have been the result of his wrongdoing or a default in the performance of his duties as a special agent of the KBI.

**Count I: Request for Declaratory Judgment and Order Quieting Title,
K.S.A. 60-1701, *et seq.*, 60-1707, 60-1002(a)**

45. The allegations of numbered paragraphs 1 through 44, inclusive, are herein incorporated by reference as though fully restated.

46. K.S.A. 60-1701 and K.S.A. 60-1704 authorize the filing of a petition to declare parties' rights and status pursuant to statute or other writings. Notwithstanding the more specific enumerations in K.S.A. 60-1704, 60-1705 and 60-1706, K.S.A. 60-1707 recognizes Kansas courts' discretion and authority to render declaratory relief where "a judgment will terminate the controversy or remove an uncertainty."

47. Pursuant to law, including but not limited to K.S.A. 45-403 and K.S.A. 2011 Supp. 75-712(a), the State of Kansas is the rightful and sole owner of any and all materials acquired, collected, classified and preserved criminal identification or other crime record made by members of the KBI in the course of investigation duties, whether in, derived from or which are to be included in KBI investigative case files, and the Court should so declare.

48. The State seeks a determination and declaration that the State of Kansas is the owner of the Clutter Investigative Records, also referred to by the defendants as Clutter Murder Files, the same constituting KBI investigation records.

49. The State seeks a determination and declaration that there exists no lawful basis upon which Harold R. Nye, or his heirs, the defendants herein, or their agents, successors, assigns or transferees, may base any claim of ownership, and that no such interest or right has accrued to or vested in the defendants or their agents, specifically including Gary McAvoy d/b/a Vintage Memorabilia, as a consignee or otherwise.

50. The State seeks a determination and declaration that the possession by defendants of the Clutter Investigative Records and what defendants have identified as the Clutter Murders Files was and remains wrongful.

51. The State seeks a determination and declaration that any and all Clutter Investigative Records and what the defendants have described as Clutter Murder Files, including images thereof in digital form, be returned to the possession and control of the State of Kansas; and, pursuant to K.S.A. 60-1002(a) quieting title thereto or interest therein against the claims of the defendants.

Count II: Request for Injunctive Relief, K.S.A. 60-1703, 60-902

52. The allegations of numbered paragraphs 1 through 51, inclusive, are herein incorporated by reference as though fully restated.

53. Pursuant to K.S.A. 60-1703 and K.S.A. 60-902, this Court has authority to enter appropriate Orders to preserve the status quo and to prevent Ronald Nye and his agent or agents, including Gary McAvoy d/b/a Vintage Memorabilia, from proceeding with any previously-stated intention to offer the Clutter Murder Files material for sale at auction, or from otherwise publishing, replicating or distributing Clutter Investigative Records, or any portion thereof.

54. Gary McAvoy and Vintage Memorabilia have advised Ronald Nye that he has been contacted by parties who have expressed an interest in the materials from as far away as “overseas.”

55. Irreparable injury to the State of Kansas, the surviving members of the Clutter family, the surviving members of the families of Hickcock and Smith, and the public as a whole will be sustained if relief is not granted to prevent State property from being sold by the defendants at auction, or otherwise transferred or conveyed, or published, replicated or distributed.

**Count III: Request for Replevin and Order of Delivery,
K.S.A. 60-1703, 2011 Supp. 60-1005**

56. The allegations of numbered paragraphs 1 through 55, inclusive, are herein incorporated by reference as though fully restated.

57. The State of Kansas is the owner of the Clutter Investigative Records, inclusive of the Clutter Murder Files, as such records have been identified by both Ronald Nye and the KBI, and is lawfully entitled to possession thereof.

58. A demand for return of the Clutter Investigative Records has been made on behalf of the State of Kansas, and refused; such property is being wrongfully detained by defendants.

59. The property comprising the Clutter Investigative Records is of inestimable and enduring value to the State; in published articles Gary McAvoy has placed a value in

excess of \$40,000 on the property comprising what the defendants describe as the Clutter Murder Files. On the Vintage Memorabilia website which is currently advertising for sale by auction four of the many items that make up the consigned Clutter case file material, Vintage Memorabilia has placed minimum opening bid amounts totaling \$17,500. Accordingly, the State would value the property which is the subject matter of this action at a minimum of \$40,000.

60. As authorized by K.S.A. 60-1703 and pursuant to K.S.A. 2011 Supp. 60-1005(b), an order for delivery of the property is necessary, both in the interest of justice and to protect the interest of the parties.

61. The possession of the Clutter Investigative Records by the State of Kansas, inclusive of what the defendants describe as the Clutter Murder Files, and the prohibition of any publication, replication or distribution thereof, in whole or in part, is directly necessary to secure the important governmental interest in securing and permanently preserving state property, including criminal investigation case files and records.

62. Returning the property to its rightful owner, the State of Kansas, is also important to the general public interest.

63. Given the imminent impending sale, there is a special need for prompt action due to the danger that the defendants may sell, conceal or otherwise dispose of the property at issue, or portions thereof.

Count IV: Request for Inspection and/or Accounting, K.S.A. 60-1703

64. The allegations of numbered paragraphs 1 through 63, inclusive, are herein incorporated by reference as though fully restated.

65. As per this verified petition, the State of Kansas is the owner of the Clutter Investigative Records, inclusive of what the defendants describe as the Clutter Murder Files, and is lawfully entitled to possession thereof and to control the disposition thereof, inclusive of any copies.

66. The State has made additional demand upon Ronald Nye and Gary McAvoy d/b/a Vintage Memorabilia, to account for all copies made and any distribution of the digital images of any portion of the Clutter Investigative Records, inclusive of crime scene photographs; such demand has been refused.

WHEREFORE, Plaintiff, State of Kansas *ex rel.*, Derek Schmidt, Kansas Attorney General, prays that this Court grant judgment and relief, and issue orders, as follows:

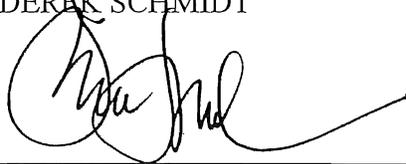
- A. That Ronald Nye, Gary McAvoy and Vintage Memorabilia be restrained and enjoined, both temporarily and permanently, from any sale or further distribution, replication or publication of any portion of the KBI criminal investigation records related to the Clutter murders, inclusive of what the defendants have described as the Clutter Murder Files, the Clutter Investigative Records, and any digital images or copies thereof;

- B. That the State of Kansas be declared the sole and rightful owner of KBI criminal investigation records related to the Clutter murders, including specifically what the defendants have described and identified as the Clutter Murder Files on consignment, and any digital images or copies thereof, and quieting any title or claim of ownership or interest therein of the defendants;
- C. That the delivery of the property subject to this action to the State be ordered in the manner prescribed by subsection (b) of K.S.A. 2011 Supp. 60-1005; and, for damages for the wrongful taking and withholding the same.
- D. That defendants and each of them be ordered and directed to disclose and otherwise account for all copies made and any distribution of the digital images of the Clutter Investigative Records, or any portion thereof; and

Such other and further relief as the Court may deem just and proper in the premises.

Respectfully Submitted,

OFFICE OF ATTORNEY GENERAL
DEREK SCHMIDT



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VERIFICATION

STATE OF KANSAS)
)
COUNTY OF SHAWNEE)

ss

I, Kyle Smith, of lawful age, being first duly sworn upon my oath, depose and state:

1. That I am the Deputy Director of the Kansas Bureau of Investigation; that I have read the above and foregoing Verified Petition; and that the information contained therein is true and correct to the best of my knowledge.

2. The property which is the subject matter of the Verified Petition is more particularly identified and described upon the attached Exhibit B, excepting those items of property specifically identified in Paragraph 40 of the Petition, and such exhibit is incorporated into this affidavit and verification and filed herewith under seal.

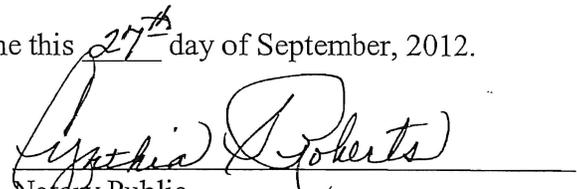
3. The identified and described property is part of the KBI criminal investigation files, and in particular the case file regarding the 1959 murders of members of the Clutter family, and is the property of the State of Kansas.

*work drawn
by
9.27.12*



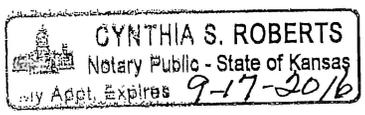
Kyle Smith, Deputy Director
Kansas Bureau of Investigation

SUBSCRIBED AND SWORN TO before me this 27th day of September, 2012.



Cynthia S. Roberts
Notary Public

My appointment expires:



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Company auctioning off Clutter case files

Published 7/20/2012 in Local News

By **JOSEPH JACKMOVICH**

jjackmovich@gctelegram.com

Original documents from a local murder case that sparked a film and novel are being auctioned off to anyone looking to own a piece of Finney County history.

The Clutter case files of Kansas Bureau of Investigation Agent Harold Nye currently are being auctioned by Vintage Memorabilia, a Seattle-based auction company specializing in film and literature relics. The files include original investigation notebooks and photographs from Nye, one of the investigators charged with solving the 1959 murder of the Clutter family in Holcomb.

Author Truman Capote found inspiration in recording the case, resulting in the true-crime novel "In Cold Blood." The book later would inspire a film of the same name.

Vintage Memorabilia President Gary McAvoy said the materials for the auction were given to him a few months ago by Nye's son, Ronald Nye of Oklahoma City. With several items detailing the details of the case, McAvoy said that he and Nye worked hard to ensure the presentation for the auction was implemented properly.

"Our focus was to tastefully auction the lot off as something historic," McAvoy said. "Both Ron and I did not want to exploit the family, but it is part of the history and has to be passed on."

Nye could not be reached for comment.

The files are being auctioned off as a single lot to preserve its historical value. While McAvoy said he, of course, has no power over the items after they are sold, he hoped that whoever bought the items would have the historical respect to keep the items together.

Of particular note in the lot are crime scene photographs of the killing that have never been made public.

"The crime scene photos have never been released before by any entity, and we would prefer they not be," McAvoy said.

For the presentation, McAvoy kept the photographs small to obscure the more grisly details. He said he did this to balance respect for the surviving family with enough information that potential buyers would know what they are looking at.

Also included are letters from Capote to Nye, detailing some of his exasperation with the case. In one of the letters, he decried the postponement of convicted killers Richard "Dick" Hickock and Perry Edward Smith's executions because he wanted to finish the book and put it behind him. McAvoy said that the sentiments presented in the letters, such as the aforementioned, were not seen or heard publicly from Capote regarding the case.



There are also two copies of "In Cold Blood" included in the lot, with one of the copies signed by Capote, members of the investigating team, and members of the film crew.

"Two other dealers have said that this is the most important 'In Cold Blood' copy ever auctioned," McAvoy said.

The sealed bid auction, which is currently ongoing, was started at \$20,000. McAvoy said that by the time the auction closes on Aug. 31, he expects the lot to go for at least twice that price.

He said that he has seen interest in the lot but no official bids so far, stating that collectors tend to research these auctions carefully before making a move.

Unrelated to the current auction but related to the case, McAvoy said he also has come to recently acquire the prison diaries of Smith. He said that there will be a presentation and auction for that material at a later, unspecified date.

"They're shocking, " McAvoy said in reference to the diaries. "They're just amazing."

To view the presentation of the Clutter case file auction, as well as to make a bid, visit Vintage Memorabilia at www.vintagememorabilia.com.

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