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# JUDGE BLOCKS SHAW TRIAL PENDING RIIING

**Fifth Invoked by Russo; Hearing Ended**

The hearing called by Clay Shaw to prevent a perjury trial ended in U.S. District Court Wednesday with Shaw taking the stand and former chief prosecution witness Perry Raymond Russo invoking the Fifth Amendment.

Federal District Judge Herbert W. Christenberry issued a preliminary injunction to prevent the district attorney's office from bringing Shaw to trial until he rules on the matter.

He also gave attorneys for both sides 30 days to file briefs and another 15 days to reply.

The three-day hearing took a surprising turn Wednesday afternoon when Russo, main witness in the trial of Shaw who was charged with conspiring to kill President John F. Kennedy, refused to testify.

**ACQUITTED IN 1963**

He told Judge Christenberry he wanted to avoid incriminating himself.

At Shaw's trial in 1963, Russo refuted earlier statements that he had seen Shaw with accused assassin Lee Harvey Oswald and David Ferrie at the latter's apartment.

Shaw was acquitted by a Criminal District Court jury.

Now, District Attorney Jim Garrison is trying to prosecute Shaw for saying he never knew either Oswald or Ferrie.

Shaw and his attorneys went to Federal Court to try to block this prosecution.

On Wednesday, Shaw from the witness stand again denied ever meeting Oswald or Ferrie and said he has spent "a very agonizing three and a

half years." He said he volunteered to testify at his conspiracy trial and is now being prosecuted for testifying he did not know Oswald or Ferrie.

**NO ANSWER**

"So I see no end to this thing, and I think my rights to express myself are severely restricted," Shaw commented.

He wondered about that if he denied knowing a "Joe Blow" at a perjury trial could he later be charged and indicted for denying knowing "Joe Blow."

Judge Christenberry asked Asst. D.A. John P. Volz what would prevent this and Volz had no answer.

During this period of questioning, though, Volz said the state wanted to test Shaw's credibility.

Judge Christenberry commented that in his opinion Shaw's credibility had been fully tested in the conspiracy trial, with the jury believing Shaw instead of the "characters" the district attorney's office brought to the witness chair.

Volz reply was that the jury didn't rule on whether Shaw knew Ferrie or Oswald but only as to whether there was a conspiracy among the three to kill the President.

**Newsmen Await Him, Is Complaint**

Shaw, who asked for the hearing on the grounds that a perjury trial would violate his constitutional rights, said that every time he appears in state or federal court newsmen and photographers are waiting for him.

"They must have taken hundreds of thousands of pictures of you," Judge Christenberry agreed. "I wonder what they do with them?"

Shaw said that during his 19

years with International Trade Mart, he made at least 1,000 lectures in many places on subjects related to international trade.

This has ceased since his legal troubles began, but he admitted to Volz that he has since lectured and been paid for it.

There were two areas Wednesday in which the testimony of Shaw and Garrison's chief investigator, Louis Ivon, varied.

Shaw testified that his attorney, Edward Wegmann, "vigorously protested" the use of handcuffs at the time of Shaw's arrest and asked they be removed.

However, Ivon, who testified about Shaw's questioning and arrest, said use of handcuffs "is proper police procedure" and knew of no request to remove them from Shaw.

**Told He Must Take Lie Test, Shaw Says**

Shaw testified also that Ivon or Sciambra told him he had to take a polygraph (lie detector

test) "or I would be charged with conspiracy to kill the President of the United States."

Ivon testified that Shaw was asked to take a polygraph but he refused.

Shaw testified he refused but said he probably would have taken the test if his attorney, Salvadore Panzeca, present at the arrest, had advised this.

Edward Wegmann asked Ivon if he knew of the conditions which he said Panzeca wanted for such a test.

These were that Shaw was to see the questions first, that the questions would not be used in court and that Shaw would have 24 hours' rest before the test.

Ivon replied that he knew of no such conditions.

After Russo was called to the stand Asst. DA William Alford objected, saying defense attor-

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SECTION 1

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699-0 ENCLOSURE

ney F. Irvin Dymond knew Russo would invoke the Fifth Amendment.

Alford called this "an improper tactic."

However, Judge Christenberry said the proceeding is not a criminal case, so the accusation has no legal weight.

Shaw's case was handled by Dymond and Attys. William and Edward Wegmann.

The assistant district attorneys at the hearing were Andrew Sciambra, Numa Bertel, Volz and Alford.

The first question Dymond asked of Russo was:

"Did you see Clay Shaw in David Ferrie's apartment in September of 1963?"

After Russo declined to testify, Dymond also asked, "Would your answers to any other questions regarding Clay Shaw be substantially the same?" Russo replied, "Yes, sir."

Judge Christenberry said he could grant Russo immunity from prosecution in Federal Court but doubted this would extend to Criminal District Court.

He asked Volz and Alford later why they didn't grant immunity to Russo to permit him to testify. They said there was no state statute permitting this.

### Shaw's Testimony Brings Laughter

Despite Shaw's comments that his legal troubles have been "a disaster" and he has met with "abysmal failure" in trying to now get a job, there was amusing testimony.

Under an objection by the state, Shaw testified that he attended, at former Mayor Victor H. Schiro's invitation, a reception given by the Consular Corps on May, 1967, in the

Plimssoll Club, International Trade Mart.

Shaw said he was leaving the event when a newsman took a picture of him shaking hands with Schiro.

"Mayor Schiro was so horrified at being seen on film with me that he ducked down behind his wife," Shaw commented, as a burst of laughter erupted in the court.

Shaw said he has not since been invited to such a reception. May, 1967, was two months after Shaw was arrested for conspiracy.

Earlier, Criminal District Court Judge Malcolm V. O'Hara, one of three judges who held a preliminary hearing before Shaw's conspiracy trial, testified.

When Judge O'Hara took the witness stand he was asked by Dymond if at any time prior to Jan. 18 Shaw's attorneys asked for a continuance of the perjury case.

He was then handed a copy of the minutes of his court and after examination of them he answered in the negative.

### Illness of Garrison

#### Delayed Proceeding

Judge O'Hara then acknowledged that he overruled a motion to quash the bill of information filed in the perjury case on Dec. 16, 1970.

The motion to quash was filed May 14, 1969, and the judge testified that the proceedings were delayed because of the illness of Garrison and his inability to appear in court.

"The delay was not brought about by the defendant?" Dymond asked.

"No," Judge O'Hara answered.

The witness added that at the time of his ruling he gave no written or oral reasons.

He also said that during his consideration of the motion to quash the perjury charge he did not read or study the transcript of the conspiracy case.

He was then asked if he read the testimony of Russo.

"I did not, I was under the impression that I was pretty familiar with his testimony because I was on the preliminary hearing and that I was pretty aware of what his testimony was," Judge O'Hara answered.

Dymond then asked the judge if he was aware at that time that Russo had changed testimony he gave at the preliminary hearing when he took the stand at the conspiracy trial.

Judge O'Hara replied that he was aware through other media that there were changes in Russo's testimony.

### Entire Record Not Available

The witness was asked if the entire transcript of the conspiracy trial was made available to him on the motion to quash and he said that the entire record was not available.

"Did the defense attorneys ask that it be made available to you?" Dymond asked.

"Yes," Judge O'Hara replied.

"Did the state oppose the motion to have it made available to you?" was Dymond's next question.

"They did," the witness replied.

Dymond asked the judge if it was not a fact that he limited Garrison's testimony to the extent that all he did was identify his opening statement in the conspiracy trial.

Judge O'Hara said that he remembered cutting the district attorney off.

Under cross examination by

Volz Judge O'Hara was asked if he presided at the three-judge preliminary hearing at which the court ruled that there was probable cause for the arrest and trial of Shaw.

Judge O'Hara answered that he was one of the judges and that the court found that there was probable cause for the arrest and that Shaw was "simply bound over for further proceedings by your office."

### Testimony Limit Reasoning Given

He said that the court made no recommendations.

At this point Judge Christenberry asked "Did the three-judge court know that the district attorney's office had only one witness?"

"I did not know who they had," Judge O'Hara replied.

Volz then asked "Was there more than one witness at the hearing?"

Judge O'Hara answered that there were at least four or five.

The witness said that the reason he limited Garrison's testimony at the preliminary hearing was because he thought that it was "getting into an area thoroughly inadmissible."

Dymond asked if, as a matter of fact, there were only two factual witnesses at the hearing, and Judge O'Hara replied in the affirmative.

The judge said that the only two factual witnesses were Russo and Vernon Bundy.

Daniel J. Jones, 3431 Touro, bookkeeper in the district attorney's office, followed Judge O'Hara to the witness stand and was questioned by Edward Wegmann.

He testified that a total of \$99,483.96 was received by Garrison for use in the Kennedy assassination probe.

The witness said that this amount did not cover the cost of the trial which was paid for from the office's fines and fees money.

### 'Smith Case' Used Initially in Probe

He also revealed that the "Smith case" was a term used to apply to the assassination

probe in the beginning but that it was never used in connection with Shaw.

At this point Judge Christenberry remarked that in his opinion it was "all one."

When Jones' attention was called to a donation from Gov. McKeithen he said that he recalled one check for \$5,000 "from the governor's office."

There has been testimony during the case that McKeithen sent two \$5,000 checks to the investigation fund.

Jones also testified about an advance to the fund in the amount of \$15,875 by Garrison for which he has not been reimbursed.

The bookkeeper also testified that his records show a total of \$8,500 in Garrison campaign funds were deposited in the J. G. Safi bank account.

That account was used for contributions to the investigation fund.

He also testified about certain expenses paid from the account to William Boxley, identified Tuesday by Garrison as a member of the Central Intelligence Agency who infiltrated the district attorney's office and described by Garrison as a "spy."

#### Guard Services Expenses Noted

Jones identified such expenses items as \$72.52 for guard services. He explained that this was for private guards at Garrison's home during the investigation.

He pointed to \$8,102 for certain investigative expenses paid to investigators on the DA's staff for their special services.

Jones said that the expenses of witnesses brought from Dallas and other places were paid out of the fines and fees money.

Wegmann asked Jones for a total paid from the fines and fees account from the beginning of the assassination investigation in 1967 to the end of the trial of Shaw in 1969.

He said that from memory it was from \$45,000 to \$50,000.

Wegmann asked if this was in addition to the \$39,488.

The witness answered, "No, that would be subtracted from the total, perhaps \$20,000 or \$25,000 should be subtracted from the total."

The bookkeeper also testified that the DA's office made a disbursement of \$315 to attorney Steven R. Plotkin for rent on Ferrie's Louisiana Ave. Pkwy. apartment for the months of July, August and September, 1967.

He said that he did not know when the DA's office took possession of the apartment after Ferrie's death.

Jones said that the J. G. Safi account is now inactive and the balance in the account is about \$400.

#### Judge's Comment Draws Protest

The bookkeeper testified that all of the financial records of the investigation have been turned over to Shaw's attorneys with the exception of actual receipts of hotel bills and the like. He added that these are available to the attorneys.

Judge Christenberry commented at one point during Alford's cross examination of Jones that it would have been easy for an individual to make wrongful use of the contributions if they so desired.

Alford took issue with the judge's statement but Judge Christenberry replied that he was merely stating "what was possible."

In closing Wegmann asked Jones if in his 21 years with the district attorney's office he ever handled any account like the Safi account.

He replied in the negative but Alford then asked, "Have you ever been connected with any other office that investigated the death of a President?"

He replied, "No."



—Photo by The Associated Press.  
PERRY RAYMOND RUSSO