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# District Attorney Appeals Against Haggerty Ruling

Assistant District Attorney James L. Alcock last night filed an appeal in the Louisiana Supreme Court against Criminal District Judge Edward A. Haggerty Jr.'s rulings in the Clay L. Shaw trial.

Supreme Court Clerk Harold Moise said the court had not considered the appeal early this morning. But, he said, any of the seven justices could stay today's proceedings of the trial pending a hearing of the appeal.

JUDGE HAGGERTY said he would confer with high court officials by telephone in Alcock's presence before starting today's trial session. Moise said the documents filed by Alcock would not be made public until the justices saw them, but Alcock said yesterday he would appeal Judge Haggerty's denial of a mistrial and his refusal to permit the Shaw jury to hear testimony by New Orleans policeman Aloysius J. Habighorst.

Shaw, 55, is on trial on charges of conspiring to kill President John F. Kennedy.

IT WAS NOT clear whether

Alcock was asking the high court to declare a mistrial or to permit Habighorst to testify. He asked Judge Haggerty for the mistrial yesterday after the judge said in court—with the jury absent—that he did not believe Habighorst's story.

Alcock's angry request for a mistrial climaxed an eventful day in which Shaw took the stand for the first time in his own defense.

The defense had promised to put Shaw on the stand after the state rested its case, but he went on early as a transverse witness in a lengthy hearing on the admissibility of Habighorst's testimony.

Afterwards, the judge ruled out Ptn. Habighorst's testimony on constitutional grounds, and interjected he did not believe the witness' story. This provoked an angry reaction from Alcock.

The ruling came at the end of a four-hour hearing—during which the jury was out of the courtroom—on prosecution evidence involving Habighorst's claim that when he fingerprinted Shaw on March 1, 1967, he asked Shaw if he used any alias and Shaw replied: "Clay Bertrand."

District Attorney Jim Garrison contends Shaw used in plotting with Lee Harvey Oswald and others to murder Kennedy.

Judge Haggerty based his ruling on testimony that Shaw's attorney, Edward Wegmann, was barred from the Bureau of Identification room at the Central Lockup while Shaw was being fingerprinted.

This, the judge said, violates the U.S. Supreme Court decision in the Escobedo case "because no police officer has the right to tell an attorney he cannot be with his client."

THE JUDGE ADDED that "if Ptn. Habighorst's testimony is correct," he also violated the Miranda Supreme Court decision because he did not forewarn Shaw of his right to remain silent when he told him to sign the fingerprint card.

The judge said: "Officer Habighorst did not forewarn Shaw of his right to remain silent. Even if officer Habighorst did question him—and from what I've heard I seriously doubt it . . ."

"Your honor!" Alcock shouted. "Are you ruling on the credibility of Habighorst?"

THE JUDGE PEERED at Alcock over his spectacles. "No jurors are present," he said.

"But you are passing on the credibility of a witness before the press and the world," cried Alcock.

"I don't care," said Judge Haggerty. "The whole world can hear that I do not believe officer Habighorst. I do not believe officer Habighorst."

"I DEMAND A mistrial," Alcock sputtered. "A judge's unsolicited comment on evidence . . ."

"Denied," said Judge Haggerty. "I rule this evidence is inadmissible before the jury."

Alcock announced his intention to appeal, and the judge said that unless he heard from the high court by the time court was due to open today, he would go ahead with the trial.

The jury was sent out of the courtroom as yesterday afternoon's session began with Gar-

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PAGE 1

SECTION 1

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arison investigator Lou Ivon on the stand. Ivon had the arrest of Shaw March 1967.

It soon became apparent that Ivon was not present when Habighorst filled out the fingerprint card. He was excused and Habighorst took the stand.

Habighorst testified he fingerprinted and photographed Shaw about 8 p. m. on that date and that Edward Wegmann was "in and out" during the process.

**THE POLICEMAN** said that as a matter of routine a suspect is asked his vital statistics. He said he asked Shaw no questions except routine information needed for the fingerprint card.

Shaw, he said, read the card over and then signed it. He said Wegmann was present at the time.

Then the defense began calling transverse witnesses. The first was Capt. Louis J. Curole, who said he was on duty at the Central Lockup when Shaw was delivered for booking.

**HE TESTIFIED** to the routine of booking procedure, and said Ptn. Habighorst should have had the arrest form with all the information he needed at his disposal.

Sgt. James J. Butzman testified he heard Habighorst question Shaw in the B of I room about the correct spelling of a name, but said the name was not Bertrand.

He said he did not remember seeing Wegmann in the B of I room, but said he saw him near the booking door about 27 feet away.

**EDWARD WEGMANN** was then called to the stand. He testified he was given a copy of the arrest record before Shaw was fingerprinted and it had no mention of any aliases on it.

He said he was barred from the B of I room by Curole.

Wegmann said he was given an opportunity to confer with his client, but did not do much talking because he feared the room in the DA's office was bugged.

Another Shaw attorney, Salvatore Panzeca, took the stand briefly and said he was the first of Shaw's attorneys on the scene after the arrest.

**HE SAID HE** advised Shaw not "to speak to anyone at

all about anything; not even to say hello or goodby. I told him not to answer questions from anyone."

Then Shaw took the stand, wearing a blue suit and red tie. He spoke calmly, making his replies in a crisp tone.

He said he was in the DA's office when Assistant DA Andrew J. Sciambra told him he was to be charged "with conspiring to murder the president of the United States."

Shaw said he asked for an attorney, and was permitted to call Panzeca. He said Panzeca told him not to talk to anyone.

**ASKED IF HE** followed Panzeca's advice, Shaw replied, "I did."

Shaw said that by the time he was taken to the Central Lockup for booking, Wegmann had arrived. He said he wanted "my lawyer with me at every stage," but was told he had to go into the B of I alone.

He said the fingerprint card was blank when he signed it. Asked why he signed, Shaw said, "I was told it was necessary for getting bail."

Shaw said he was not asked about any alias.

**CHIEF DEFENSE** counsel F. Irvin Dymond pressed him: "Did you ever tell anyone at Central Lockup you used an alias?"

"I did not," said Shaw. Under questioning by Alcock, Shaw said he was not abused and not offered any reward for answering questions.

When Panzeca arrived, Shaw said, he communicated with him mostly by writing because of the fear the room was bugged.

Shaw said Habighorst did not ask him any questions of any kind.

**AT THE CLOSE** of the testimony, both sides filed exhibits and Dymond objected to Alcock's introduction of the fingerprint card.

It was then Judge Haggerty said he would sustain the objections of the defense to the entire Habighorst testimony, gave his reasons, and interjected he did not believe the policeman's story.

In yesterday morning's session, the state put on three witnesses. They were:

—Dr. John M. Nichols of the

University of Kansas.

—Miss Parker, a former hostess at the Eastern Air Lines VIP Room at New Orleans International Airport.

—Richard R. Carr of Dallas.

Dr. Nichols had testified Monday that his opinion as an expert on pathology and forensic medicine is that Kennedy was shot from the front and that separate bullets hit Kennedy and former Gov. John B. Connally of Texas.

He based his opinion on his study of the Abraham Zapruder film of the assassination, which took place Nov. 22, 1963, in Dealey Plaza in Dallas.

**ON CROSS-EXAMINATION** yesterday, Dr. Nichols said the proper way to conduct an autopsy was to carefully study X-rays and photos. He said he is suing the U.S. government for access to the Kennedy autopsy reports and photos.

Dymond attacked Dr. Nichols' credentials as an expert and elicited an acknowledgment from the witness that he is largely self-taught in the fields in which he qualified as an expert.

Mrs. Parker testified that she saw Shaw sign the guest register at the VIP room as "Clay Bertrand" in December, 1966. A copy of the register was introduced in evidence.

**SHE SAID SHE** particularly remembered Shaw because of his "pretty gray hair." She pointed out the defendant in the courtroom as the man she saw.

She testified she took a lie detector test on the matter, and a police department polygraph expert testified he administered the test. The results were not revealed.

Carr said he was watching the presidential motorcade in Dallas the day of the assassination from a seventh-floor window overlooking Dealey Plaza directly across from the Texas School Book Depository from where the Warren Commission says the shots were fired.