

ANDREWS LOSES DISMISSAL PLEA

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Perjury Defendant Renews

His Attack on Garrison

By MARTIN WALDRON

Special to The New York Times

NEW ORLEANS, Aug. 10—Dean A. Andrews Jr., the "jive" talking New Orleans lawyer who says he represented Lee Harvey Oswald in May and June of 1963, today extended his attack on District Attorney Jim Garrison's investigation into the assassination of President Kennedy.

In a motion for dismissal of a perjury charge against him, Mr. Andrews said that "daily wage earners" such as laborers and longshoremen were purposely excluded from the grand jury that indicted him.

State District Judge Frank J. Shea refused to dismiss the charge after the presiding judge, Bernard J. Bagert, who had picked the grand jury, said that he had not excluded wage earners just because they were wage earners.

One member of the grand jury could qualify as a wage earner, said Judge Bagert. I. L. Fleming, a schoolteacher, was a bricklayer during the months when school was not in session, the judge said.

Mr. Andrews charged yesterday that the District Attorney "put the hat on me" because the prosecutor had become personally interested in the outcome of the investigation and did not have an impartial attitude.

'Rumble on the Vine'

"I heard a rumble on the

vine ahead of it," Mr. Andrews told the District Attorney during a brief appearance by Mr. Garrison on the witness stand.

Mr. Garrison said there was no truth in the rumor that he had been out to get Mr. Andrews.

Explaining his conversation at the request of Judge Shea, Mr. Andrews said that his words had meant that he had heard a rumor that Mr. Garrison had told the grand jury to indict him in an attempt to get him to "open up."

Mr. Andrews was indicted for perjury last March 16 after he had testified before the grand jury that he could not identify Clay L. Shaw, a retired New Orleans businessman, as "Clay Bertrand," a mystery figure whose name was mentioned in testimony to the Warren Commission.

Mr. Andrews had told investigators for the commission that a "Clay Bertrand" had called him on Nov. 23, 1963, and had asked him to go to Dallas and defend Oswald, who had been charged with assassinating the President.

Mr. Garrison has alleged that Mr. Shaw is Bertrand. Mr. Shaw was indicted in early March on a charge of conspiring to murder Mr. Kennedy.

Mr. Andrews is asking, on the ground of alleged partiality, that Mr. Garrison be ousted as prosecutor in the perjury trial. Judge Shea indicated today that he would rule on this request tomorrow. The actual perjury trial has not yet begun. END

A GARRISON 'DEAL' CHARGED AT TRIAL

Andrews Tells of Accord on
Identity of Bertrand

MARTIN WALDRON
Special to The New York Times

NEW ORLEANS, Aug. 12—
There was testimony today in the perjury trial of Dean A. Andrews Jr., a New Orleans attorney, that he had made a "deal" with District Attorney Jim Garrison to avoid saying that Clay L. Shaw Jr. was not Clay Bertrand, the man who allegedly asked Mr. Andrews on Nov. 23, 1963, to defend Lee Harvey Oswald, accused assassin of President Kennedy.

Mr. Shaw, a retired New Orleans businessman, was indicted as plotting to assassinate Mr. Kennedy but has not been tried. The arrest warrant served on Mr. Shaw on March 1, 1967, listed his name as Clay L. Shaw Jr., alias Clay Bertrand.

Mr. Andrews was charged with perjury for testifying on March 16 to a grand jury that he could not say that the two were not the same person.

In a subsequent appearance before the grand jury last June 28, Mr. Andrews sold of "dealing" with Mr. Garrison in a meeting at Brennan's Restaurant in the French Quarter of New Orleans last February.

Testimony Is Read

The testimony of June 28 before the grand jury was read

into the record today.

Mr. Andrews said that he had told Mr. Garrison that Clay Shaw was not Clay Bertrand, but that the District Attorney had "convinced" him to some extent that he had "other evidence" showing that Mr. Shaw was Clay Bertrand.

When the grand jury subpoenaed him for questioning on March 16, "I kept my deal with the giant," Mr. Andrews said. Mr. Andrews has referred to Mr. Garrison on occasions as "the jolly green giant."

In keeping his "deal" not to say that Mr. Shaw was not Bertrand, Mr. Andrews told the grand jury, "I said that I can't say he is and I can't say he isn't, and I got indicted for perjury."

Mr. Andrews, 44 years old, has said that he was Oswald's lawyer in the spring of 1963 and told the Warren Commission that Clay Bertrand had called him on the telephone the day after President Kennedy was assassinated and asked him to go to Dallas to defend Oswald.

Oswald was a resident of New Orleans in the spring of 1963.

The grand jury investigating the assassination under Mr. Garrison's direction indicted Mr. Andrews after his March 16 testimony, charging that he had committed perjury when he testified on the identity of Bertrand.

The March 16 testimony has not yet been read into the

record in the perjury trial.

Andrews Asked to Appear

Mr. Andrews had asked to appear before the grand jury on June 28 so that he could testify definitely that Mr. Shaw was not Bertrand.

He told the grand jury during his testimony on June 28 that he "believed" that Clay Bertrand was a name used by a New Orleans bar manager, Eugene Davis. He testified that he had known Mr. Davis for years, and about 10 years ago was introduced to him "at a fag wedding reception." Mr. Davis, he said, was introduced under the name as Clay Bertrand.

From time to time, thereafter, Mr. Andrews told the grand jury, Mr. Davis had called him to go to court to represent homosexuals. However, in most of those calls, Mr. Davis identified himself as Gene Davis and not as Clay Bertrand, Mr. Andrews testified.

Mr. Andrews told the grand jury on June 28 that if Mr. Garrison was basing his conclusion that he had "solved" the assassination of President Kennedy "on the fact that Clay Shaw is Clay Bertrand, it's a joke."

Mr. Andrews's trial, the first to grow out of the assassination investigation, is expected to continue through tomorrow as State District Judge Frank J. Shea indicated that he would hold court on Sunday. (ENI)

Hint Case To Continue On Sunday

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An aide of Criminal District Judge Frank J. Shea today quoted the judge as saying he will hold court tomorrow unless the perjury trial of Dean Adams Andrews Jr. can be ended by tonight.

The state continued to unfold its case today against the chubby former Jefferson Parish assistant DA, and the defense was still awaiting its turn at bat.

Testimony this morning centered around Andrews' statements before the grand jury June 28 in which he said Clay L. Shaw is not the mysterious Clay Bertrand.

Andrews is charged on 11 counts of perjury. Garrison has accused the former Jefferson Parish Assistant DA of lying before the grand jury in connection with his probe of the slaying of President John F. Kennedy.

The June 28 testimony was introduced today over the objections of defense attorneys through Mrs. Maurene Theil, stenographer for the grand jury, who said she took down Andrews' testimony on his latest jury appearance.

Asst. DA Richard Burnes began reading excerpts from the transcript and asking Mrs. Theil if they were accurate.

Defense attorney Harry Burglass objected to Burnes' picking out selected quotes and skipping around in the transcript, complaining that the remarks were taken out of context.

"THIS IS OUTRAGEOUS. This is disgraceful," said Burglass. He moved for a mistrial.

Judge Shea denied the motion for a mistrial by Burglass, then told the jury that it must consider any statement from the grand jury testimony in the light of the entire testimony.

BURGLASS TOLD the court

that the judge's statement to the jury did not correct the situation and was "inadequate."

Burnes then objected that the defense attorney was trying to imply that the prosecution was trying to hide something by having only part of the Andrews transcript read.

Burglass asked that the entire June 28 testimony of Andrews before the grand jury be read into the record.

MRS. THIEL then began reading the twenty pages of testimony.

Included in the testimony was a statement by Andrews

that "if this case is based on the fact that Clay L. Shaw is Clay Bertrand, it's a joke."

He told the grand jury that he was introduced to Davis at a French Quarter bar as Clay Bertrand by Helen Girt.

ANDREWS TOLD the grand jury on the 28th that Helen Girt was also known as "Big Joe, or Butch," and added, "Y'all sent her to gola . . . (Angola State Penitentiary). You put her on the Ponderosa. . ."

At one point he told the grand jury that he had been bothered by experts and others concerning the case.

"They pick you like a chicken and shuck you like corn," he said.

ON SEVERAL occasion he told the grand jury flatly that Clay Bertrand was not Clay Shaw, and said he had told the "Jolly Green Giant" (his

name for Garrison) the same thing.

After the reading of the June 28 testimony Burglass asked Mrs. Theil if she had also been a stenographer on March 16, the first time that Andrews appeared before the grand jury in connection with the case.

He then asked for a copy of this testimony, and a recess so that he could study it.

SOME OF THE alleged quotes from Andrews read by Burnes included:

"I may have said a thousand times one thing, but the one time I say Clay Shaw ain't Clay Bertrand clears me of all the rest."

"It doesn't make any difference to me if I am convicted."

"Clay Shaw is not Clay Bertrand. Indict me if you want to."

Also included was a reference to a meeting between Garrison and Andrews at Brennan's Restaurant before the June 28 Grand Jury meeting.

Andrews said he told Garrison then that Shaw was not

Bertrand.

A few lines later in the testimony, Andrews said:

"I kept my deal with the Giant. I said I can't say he is and I can't say he ain't. And I got indicted for it."

Andrews said, however, that the DA's office had convinced him that Shaw and Bertrand might be the same.

Mrs. Theil was the first witness to testify today, but not the first one called. The first called was Albert V. LaBiche, foreman of the Orleans Parish Grand Jury, who was nowhere to be found.

Judge Shea had him called a second time, with no result.

"I hate to put the foreman of the grand jury in jail," said the judge. "Let's call another witness."

MRS. THEIL THEN took the stand. (Later, LaBiche appeared and replaced Mrs. Theil on the stand.)

Selection of the five-man jury to hear the case yesterday ended three days of preliminary legal skirmishing.

In a marathon court session that lasted until 9:15 last night, assistant DAs Burns and James L. Alcock began

sketching the roundabouts of the case.

Before the final witness of the night, the state got into the record portions of Andrews' interrogation by a Warren Commission lawyer, and seven typed copies of various conversations and television interviews. Defense objections were overruled.

IT WAS ANDREWS' Warren Commission testimony that began his troubles. He told the commission that a man he knew as "Clay Bertrand" called him the day after Kennedy was shot and asked him to go to Dallas and defend Lee Harvey Oswald, then charged with killing the President.

Garrison contends that Bertrand is an alias for Clay L. Shaw, whom he has charged with criminal conspiracy in the President's murder. Shaw denies this, and Andrews, after a long period in which he indicated he did not know whether Shaw was Bertrand, finally named French Quarter bar owner Eugene C. Davis as the man who called him about Oswald. Davis denies this.

When the state offered portions of the Warren Commission report in evidence yesterday, the defense objected that the report constituted hearsay and that no cross-examination was possible.

THE STENOGRAPHER who took down Andrews' testimony on July 21, 1964, was called to the stand but failed to recall most of Andrews' statements.

Mrs. Monya Gray Super

said her "independent memory" could tell her only the portion of the testimony in which Andrews said he saw "Clay Bertrand" run from him when he recognized Andrews in a bar.

Burnes asked the court to take judicial notice of presidential executive orders creating the Warren Commission and cited three cases in which state courts took such notice of federal acts.

JUDGE SHEA permitted the testimony to be introduced, and the defense reserved a bill of exceptions for a possible appeal.

Burns, in his opening state-

ment, told the jury Andrews lied to the jury several times, primarily in insisting that he could not say whether Shaw and Bertrand were the same.

For instance, Burnes said, Andrews told the jury he saw Shaw on TV and he seemed taller than the man he knew as Bertrand.

"IF A MAN CAN state one person is taller than another, he can also state he is not the same person," said Burnes.

With the jury ordered out of the room so the judge could hear testimony whether Andrews' grand jury testimony was given voluntarily, Andrews took the stand in his own behalf.

ANDREWS TESTIFIED he was emotionally upset when he appeared before the jury. Only minutes before, he said, he had been handed a subpoena which made him "annoyed and angry."

The chubby attorney said he was walking up the courthouse steps to testify voluntarily when he was served. He said he was so upset about this he was unsure what went on during the grand jury proceedings.

Other troubles—loss of his job and a hungry family — compounded his highly emotional state that day, Andrews said.

ALCOCK AND BURNES took the stand in turn, questioning each other about the circumstances of Andrews' grand jury appearance.

Alcock said he had briefed Andrews on his constitutional rights and warned him that if he lied he would be charged with perjury.

Burnes said Andrews originally said he would appear voluntarily, but later sent word he was backing out. This led to his being subpoenaed, Burnes said.

The jury was closeted for the night at the Fontainebleau

Motor Hotel.

Selected for the jury were: William E. Bailey, 520 Pelican ave., Algiers.

Joseph L. LaPierre Jr., Negro, 6435 DeBore dr., New Orleans.

Walter T. Niklaus, 927 Atlantic ave., Algiers.

Henry R. Nuss, 8305 Nelson st., New Orleans.

Leslie J. Roussell Jr., 8230 Forshey, New Orleans.

Picked as an alternate juror was James S. Boudreaux Sr., Negro, 1927 Abundance.

Minutes after he was sworn in, Niklaus reported his wallet was missing. It was feared he was the victim of a courtroom pickpocket, but sheriff's deputies said he told them today he later discovered he had left the wallet at home.