

ANDREWS SENTENCING POSSIBLE TOMORROW

DA Subpenas 3 for Grand Jury Quiz

9-15-63  
S. J. [Signature]

District Attorney Jim Garrison today issued subpoenas for three persons to appear before the Orleans Parish Grand Jury tomorrow in connection with his probe of the Kennedy assassination. The subpoenas were issued to: Steven R. Plotkin, the Barronne Building, Byron Chiverton, 4209 Fontainebleau, Rancier B. Ehlinger, 103 Homestead ave., Metairie. Assistant DA Alvin Oser said today that Garrison is also filing for a writ of habeas corpus to have Miguel Torres returned to New Orleans from Angola State Penitentiary to testify before the grand jury next week.

leading to appeals in higher courts. IF ANDREWS' sentence runs to the maximum length — five years on each count—he may have to remain in jail while his case is being appealed, it was reported. If it is for a lesser term, he can go free on bond, according to Judge Shea following the sentence before Judge

On another front of the probe, sentencing of attorney Dear Andrews Jr., found guilty of perjury in a trial which ended early Monday

morning, was not expected to be sentenced today. Earlier, there had been some indication that the hip-falking Andrews, who could receive up the Orleans Parish Grand Jury

Andrews' conviction was returned by a five-man jury early yesterday after two hours and 40 minutes of deliberation. COUNTS ON WHICH Andrews was convicted covered testimony in which the Jefferson Parish attorney told the jury he could not identify mysterious

“Clay Bertrand” as conspiracy defendant Clay L. Shaw. Shaw is under indictment and awaiting trial for allegedly conspiring with the late David W. Ferrie and Lee Harvey Oswald to kill the late President John F. Kennedy. Garrison charged that Shaw used the alias “Bertrand” and

“Bertrand” was Andrews' identification of a man he called him in 1963 and asked him to represent Oswald following the death of President Kennedy at Dallas. **END**

**Ruling Due Tomorrow**

# Andrews Asks New Trial

8-16-67

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Attorneys for Dean A. Andrews Jr., who was convicted of perjury this week in connection with DA Jim Garrison's assassination probe, today filed motions for a new trial and an arrested judgment.

The round lawyer with a hip tongue was indicted by the Orleans Parish Grand Jury for lying about the identity of Clay Bertrand and was found guilty early Monday after five days in court.

Garrison claims that retired New Orleans businessman Clay L. Shaw used Bertrand as an alias and participated in a conspiracy to murder President John F. Kennedy. Andrews told the Warren Commission that a man named Clay Bertrand called after the assassination and asked him to defend the accused murderer, Lee Harvey Oswald, but he contends that Shaw "ain't Clay Bertrand."

JUDGE FRANK J. SHEA, who presided over the trial, will rule on the motions tomorrow, according to minute clerk Max Gonzales.

The arrested judgment motion, if accepted, would allow Andrews to be released on bail and his attorneys then could take necessary steps to begin an appeal of the conviction before the State Supreme Court.  
Harry and Cecil Burglass, two of Andrews' attorneys,

showed up at the Criminal District Court's building today and Harry Burglass spent most of the morning in conference with the DA's staff.

On another front of the Garrison probe today, three men subpoenaed for the Orleans Parish Grand Jury showed up for questioning.

Those appearing were:

BYRON CHIVERTON, WHOSE connection with the case is unexplained; Steve Plotkin, attorney for Gordon Novel, who has evaded Garrison's attempts to get him back to New Orleans for questioning, and Rancier Ehlinger, a former associate of Novel's, who has been before the jury once before.

Plotkin, who also represents Ehlinger, said before going into the jury room that he was out of town on business and "I returned in order to give full cooperation to the grand jury." He said that it is "very unusual" for an attorney to be called before the grand jury.

Asked if he thought he was subpoenaed because of his relationship with Novel, Plotkin said, "I don't know, but that appears to be the reason."

Ehlinger said he did not know why he had been subpoenaed again. **END**

8/16  
S-I  
**DA ORDERED**

**SOME SHAW**

**TO REVEAL**

**CASE DATA**

3/16 **Late September Trial Seen**

The trial of Clay L. Shaw, retired New Orleans businessman accused by Dist. Atty. Jim Garrison of conspiring to murder President John F. Kennedy, could be set for late next month, Criminal District Judge Edward A. Haggerty said today.

Judge Haggerty made this observation after ordering Garrison to tell Shaw's attorneys approximately when the DA contends Shaw met with Lee Harvey Oswald (the accused assassin), the late David W. Ferrie and Jack Ruby in Baton Rouge.

The judge also ordered Garrison to name the state and city on the West Coast in which he claims Shaw committed an overt act relating to the assassination conspiracy alleged by Garrison.

**THESE WERE THE ONLY POINTS** won by the defense as Judge Haggerty ruled on a set of motions asking the DA to give more information on his charges against Shaw.

The judge gave the defense until Aug. 30 to file a supple-

**Probable**

mental motion to quash the indictment against Shaw and the state until Sept. 6 to answer the motion.

Judge Haggerty said he will rule on the motion Sept. 13, then noted that, "barring some unforeseen development," the trial could be set for the latter part of September.

He said all of the pleadings will have been completed by the middle of the month and the state won the right to set a trial date as soon as pre-trial pleadings are over.

The judge ruled today on three defense motions and one state motion. The defense motions were for a bill of particulars which would reveal specific allegations, including dates and places of the charges against Shaw; a prayer for oyer, asking that the defense be allowed to see certain articles of evidence; and a motion for the return of seized property and to suppress evidence.

The state asked for a conference of all parties to set a trial date.

On the prayer for oyer motion, Judge Haggerty said the state has already let the defense see all the evidence it is legally entitled to see. He said he will rule during the trial on the materiality and relevancy of any item or object offered in evidence.

On the motion to return property and suppress evidence, Judge Haggerty said the state has returned \$30,000 worth of Shaw's Homestead stock and all other evidence is in possession of the clerk of Criminal District Court. He repeated that the admissibility of evidence will be ruled on during the trial and not before.

ON THE STATE'S motion for a meeting on the trial date, the judge cited Louisiana law to the effect that the DA has the right to set the date and said Garrison can set the matter for trial "as soon as the pre-trial pleadings have been properly and

legally concluded."

The motion for a bill of particulars was a 93-point document which the DA's office had already answered in part. Today's ruling by Judge Haggerty was on points on which the two sides disagreed.

The judge ruled that many of the defense's requests were based on the "fallacy" that alibi is a defense against a conspiracy charge.

JUDGE HAGGERTY issued a lengthy legal opinion dealing with the nature of the crime of conspiracy. He made the following key points:

1. When acts are committed within the state in performance of the conspiracy's purpose, the fact that other acts are to be performed outside the state does not prevent prosecution in the state for conspiracy in the state.

2. It is not necessary that each conspirator know or see the others. It is also not

necessary that each conspirator know all the details of the plan or operation or the part played by each of the conspirators.

3. When a conspiracy exists, the joining of new members thereafter does not create a new conspiracy.

4. It is not necessary that each conspirator commit an overt act . . . the overt act may be committed by any member of the conspiracy. The overt act need not in itself be criminal. Anything done to carry out the conspiracy is a sufficient overt act, even making a phone call or mailing a letter.

5. Criminal responsibility for the conspiracy is not affected by the fact that the purpose of the conspiracy was not accomplished.

6. Each conspirator is liable for any act of every participant in the conspiracy committed in pursuance of the original plan and object.

7. The criminal responsibility of a co-conspirator is not affected by the fact that he is absent when the criminal act contemplated is committed. The rule of responsibility includes acts done before the defendant joined the conspiracy.

8. The death of one conspirator does not prevent the conviction of another.

9. A conspirator may clear himself by proving that he withdrew from the conspiracy before the overt act was committed.

On the alibi matter, Judge Haggerty said:

"The legal error and fallacy that . . . the defense has fallen into . . . is that an alibi is not a defense when a person is charged with a criminal

conspiracy."

The judge then took the defense's requests in the bill of particulars by groups.

The first group asked for the exact date when Shaw allegedly entered into the conspiracy. The state has charged that it took place in September, 1963, and Judge Haggerty held that they did not have to be any more specific than that.

The judge said, "This is a peculiar type crime, calling for peculiar type proof, and counsel is not permitted to force the state to present to them their entire evidence prior to the date of trial."

THE SECOND group asked for information on overt acts committed by one or more of the alleged co-conspirators. Judge Haggerty ruled that since alibi is not a defense, the defendant is not entitled to this information.

The third group asked for specific evidence of what were the overt acts and what was

the agreement entered into by the conspirators. Since this is evidence, the judge ruled, the defense is not entitled to it

before the trial.

The fourth group related to the place and time of the alleged conspiracy. It was here that the defense won its only favorable rulings.

The judge said the state had already complied with most of the requests in this group, but on two specific requests Judge Haggerty said:

"I believe counsel for the defense is entitled to know the approximate time in the fall of 1963 that the meeting took place between Oswald,

Ruby and Shaw. I so order the state to particularize further. I further direct that the state's answer to paragraph 22D be more explanatory by explaining where on the West Coast, particularly the state and the city, I do order."

Paragraph 22D was in a group of overt acts alleged by the state in response to a defense request in the bill of particulars. One of the acts, the state said, was "a trip to the West Coast of the United States by Clay L. Shaw dur-

ing the month of November, 1963."

Another "overt act" charged by Garrison was Clay L. Shaw traveling from New Orleans to Baton Rouge in the fall of 1963 and there meeting Lee Harvey Oswald and Jack Ruby at the Capitol House Hotel and delivering to Oswald and Ruby a sum of money."

**THE FIFTH GROUP** of requests sought additional information about the alleged overt acts. Judge Haggerty ruled

the state was not required to furnish them.

The sixth group, again seeking more information about the alleged overt acts, were already complied with by the state, Judge Haggerty ruled.

A final seventh group of requests sought information about the state's evidence which Judge Haggerty said the state was not required to give.

Defense attorney F. Irvin Dymond told the court he would file exceptions to all of

the court's rulings except in the two cases where Garrison was ordered to supply information.

Ruling on a motion to select a trial date, Judge Haggerty said he saw no reason for a conference since the state can set the trial date when the pleadings are complete.

**SHAW'S ATTORNEYS** today also took steps to have testimony taken from Sandra Moffett (Mrs. Lillie Mae McMaines), in Des Moines, Iowa.

Mrs. McMaines, a former girlfriend of the state's star witness Perry Russo, has refused to return to New Or-

leans for questioning by the DA's office.

Today, Shaw's attorneys filed a motion for deposition by agreement to take her testimony in Des Moines and asked that the DA's office join them for the taking of the deposition.

They pointed out in the motion that the state has been anxious to have her testimony for the Shaw trial and said they, too, are anxious to have her testimony on record.

The motion said that the defense has a copy of a letter to Garrison from Mrs. McMaines' attorney, Lex Hawkins, which offers to have her available in Des Moines Aug. 24.

Judge Haggerty said he would need time to study the motion and said that he had "never heard of such a thing ... I never heard of taking a

deposition like this—like in a civil case." He said there is nothing in the criminal code to allow a deposition to be taken in the manner suggested.

He gave the state until Monday to file an answer to the motion.

Dymond told the court, "It is pretty obvious that both sides want this testimony."