

Move for Mistrial May Be Made by Sirhan's Attorneys

BY DAVE SMITH
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The possibility of motions for a mistrial or a change of venue were raised Wednesday by two defense attorneys for Sirhan Bishara Sirhan, accused slayer of Sen. Robert F. Kennedy.

New York lawyer Emile Zola Berman told Superior Judge Herbert V. Walker that the defense would be prepared to present evidence in support of a motion this morning regarding "the saturation of publicity in this area."

During a 10-minute recess, co-counsel Russell B. Parsons said the defense is concerned about both the amount and character of publicity devoted by local news media to the Sirhan case.

Refuses to Answer Directly

Asked if this indicated the defense would seek to move the Sirhan trial elsewhere, Parsons refused to answer directly, but referred to earlier defense statements indicating it was felt that there were few places in the world where the case had not been greatly publicized.

Asked if a motion for mistrial seemed the more likely prospect, Parsons answered, "I would say a motion for mistrial is more likely."

But the specific character of the planned defense motion was discussed in Judge Walker's chambers during a closed meeting that brought Wednesday's court session to a close.

It was expected that after motions are dealt with this morning, the trial will recess until Monday morning, when jury selection will begin.

Court observers felt the prospects were not bright for either possible motion. Judge Walker has declared his impatience to get the trial moving and in denying a continuance Wednesday, cited a long list of delays in the case since the assassination of the New York senator last

June.

Big Expense Cited

As to moving the trial to another county, observers cite the enormous expense already incurred and the massive security precautions undertaken to protect the defendant here. The money, manpower and time required to duplicate these precautions elsewhere could weigh heavily against

Judge Walker's ruling favorably on a change of venue.

The observers add that Walker, 69, plans to retire in July with the Sirhan trial as the capstone of a career that has made him the dean of criminal judges in Los Angeles County.

Wednesday, only the second day of Sirhan's long-delayed trial, was marked like the first by defense efforts to forestall the immediate opening of the jury selection phase — a process expected to consume three to four weeks.

Defense counsel Grant B. Cooper moved for a 30-day continuance, which he said the defense team needed to compile its evidence in support of other motions left unresolved Wednesday by Judge Walker.

But Judge Walker denied a continuance of that length, and after a closed session in chambers, Cooper

said defense and prosecution had agreed to begin questioning prospective jurors Monday.

Cooper suffered heavy going in arguing a series of motions aimed at gaining time. He first reintroduced a motion—denied Tuesday — that separate juries be impaneled—one to determine guilt or innocence, the other to fix the penalty if the 24-year-old Jordanian is convicted.

Cooper cited a pending case before the U.S. Supreme Court on grounds that the single verdict procedure forces a defendant to decide whether to offer mitigating evidence which could reduce the penalty but would also

bring the risk of self-incrimination.

Cooper contended that the single verdict procedure poses a dilemma which violates the 5th and 14th Amendments.

Another Rejection

Judge Walker again denied the motion, repeating the opinion he expressed Tuesday — that Cooper could reintroduce the same motion at a later phase of the trial if circumstances warrant.

The judge also pointed out that an earlier defense motion to set aside Sirhan's plea of innocence was no longer required under recent penal code changes. These allow for quashing of an indictment — still another defense motion—even after a plea has been entered.

With Judge Walker's denial of the 30-day continuance plea, the jurist also pointed out that the motion to quash the indictment could be ruled upon at any time in the course of jury selection and that this phase should give the defense ample time to gather its evidence.

The bulk of Wednesday's

day's court session was taken up with arguments on Cooper's motion to set aside the jury list, which the defense contends does not represent a broad cross-section of the population.

Cooper cited a long list of occupations which are excused from jury duty, including legislators, attorneys and their employes, clergymen, teachers, those in the medical profession and many others.

He then introduced Los Angeles County Jury Commissioner William A. Goodwin as a defense witness, said he had not had adequate time to question Goodwin in advance and asked to recall him later.

Begins Questions

But Judge Walker de-

nied this request and Cooper launched a series of questions designed to support his contention that selection of jurors from voters' lists automatically involves exclusion of broad classes of citizens.

Goodwin testified that the list of jurors for the county's central district, in which the Sirhan case is contained, is drawn up by data processing machines which select every fifth name from every sixth precinct throughout the county.

Dep. Dist. Atty. John E. Howard, cross-examining Goodwin, asked if there was ever any exclusion of prospective jurors on the basis of political belief, race, religion, or occupation.

To each question, Goodwin replied, "No."

Cooper protested that the defense still was not prepared to present its evidence supporting the motions to set aside the

jury list and the indictment.

Judge Walker then ruled that both motions would be held open for later ruling, but that the trial would continue.

Waves to Mother

For the second day of his trial on charges of first-degree murder, Sirhan was quiet but seemed in generally good spirits. Upon entering the courtroom, flanked by two sheriff's deputies, the short, slim defendant waved at his mother and two brothers in the back row.

Once seated, he again turned to his family, smiled broadly and waved again. He held numerous whispered conferences with Parsons, at his immediate right, and followed the courtroom procedure with an alert air.

Sirhan's mother, Mary, 55, in a black and gold dress, sat with two of Sirhan's four brothers, Munir, 21, and Adel, 30, who live in the family home in Pasadena. Two other brothers, Sharif, 37, and Saidallah, 36, who also live in the area, have yet to attend their brother's trial.