

Shaw Defense Gets 1967 Hearing Files

2-10-69 States Item

The conspiracy trial of Clay L. Shaw resumed today with chief defense counsel F. Irvin Dymond asking the court to make available minutes of the preliminary hearing two years ago which resulted in Shaw being held over for trial.

Trial Judge Edward A. Haggerty Jr. informed the defense that the records would be made available.

Assistant District Attorney James L. Alcock then introduced a series of pictures and leaflets into the record as evidence, marking them S-1 through S-10.

THE DEFENSE agreed to introduction of several pictures of Lee Harvey Oswald, the man named by the Warren Commission as the lone assassin

of the President, and David W. Ferrie, whom District Attorney Jim Garrison claims plotted with Shaw and Oswald to murder Kennedy.

But defense counsel objected to the introduction of a picture of a black Cadillac which prosecution witnesses have said was similar to the one they saw in Clinton occupied by a man they testified was Shaw.

Dymond also objected to the introduction of the leaflets which witnesses have testified they saw being handed out in front of the International Trade Mart and at the Nashville ave. wharf in 1963.

IN EACH CASE the defense was overruled by Judge Haggerty and in each case, Dymond took a bill of exception to the ruling.

Perry Raymond Russo, the state's principal witness, then took the stand. He was wearing a gray suit, blue tie and

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white shirt, his black hair neatly combed.

ALCOCK BEGAN the questioning.

Q—Mr. Russo, where do you reside?

A—5807 Elysian Fields ave.

Q—How old are you, Mr. Russo?

A—27.

Q—Were you born in New Orleans?

A—Yes, sir.

RUSSO THEN testified to an educational background that includes a bachelor of arts degree from Tulane University, one year of law school and other college training.

Q—During 1960, did you have an occasion to meet David Ferrie?

A—I met him with a friend of mine at his Kenner address.

ALCOCK THEN asked Russo to examine a picture.

Q—Who is that person?

A—Dave Ferrie.

Q—Could you recall for the court when you first met David Ferrie?

A—I guess about 1961.

Q—Could you recall who was present when you first met him?

A—He was there, a lady introduced as his mother. Al Landry was there and several members of the Civil Air Patrol were there.

Q—Mr. Russo, after your first encounter in 1961, did you have occasion to see him again?

A—I saw him in '63 extensively . . . some in '62, and in '64.

Q—How many times in 1964?

A— . . . 12-15 times.

RUSSO SAID he knew Ferrie in 1963 when he (Ferrie) lived on Louisiana ave. pkwy.

Q—Did you know the address?

A—I know the address now. It was 3330.

RUSSO THEN was asked to examine another photograph.

A—That's Dave Ferrie's house.

Q—Did he live upstairs or downstairs?

A—He lived on the second floor.

Q—Coming to the year 1963, the first six months of 1963, January to June, how many times did you see Dave Ferrie?

A— . . . 10-12-15 times.

Q—In the summer of 1963?

A—I'm also sure it would be twice a week or better.

Q—In the summer of 1963, during the course of your encounters with Davie Ferrie, what about his appearance?

A—It varied . . . he had strange hair or a wig. Sometimes it would be spotted. Sometimes it was combed straighter . . . most of the time he wore a white shirt and baggy trousers.

ALCOCK THEN showed Russo a picture apparently of Ferrie and asked:

Q—Would this always be the condition of his eyebrows?

A—No, not always.

Q—How would they differ?

A—These (referring to the picture) are pronounced. They wouldn't always be so pronounced.

Q—What was the color of the hair?



—States-Item photo.

PERRY R. RUSSO, the state's star witness, gestures as he talks with a passerby after testifying at this morning's session of the Clay L. Shaw trial.

A—Reddish-brown.

AT THIS POINT Alcock asked the court to make available for further questioning all of the exhibits from the preliminary hearing, especially those showing the interior of Ferrie's apartment.

AT THIS point, Russo testified that he met Lee Harvey Oswald at David Ferrie's apartment in September, 1963. He said that Oswald was introduced to him as Leon Oswald.

Alcock asked:

Q—Perry, now referring you to September, 1963, did you have occasion to go to the apartment of David Ferrie?

A—Yes, sir.

Q—Can you approximate how many times?

A—Perhaps three or four.

Q—Can you remember going in the middle of September, 1963?

A—Yes, sir.

Q—Was anyone else present? Who were they?

A—David Ferrie and a man introduced as his roommate.

RUSSO SAID that Oswald, introduced as Leon Oswald, was wearing dirty clothes, had unruly hair and a light beard.

Replying to a specific question by Alcock, he said that the beard appeared to be three or four days growth. He identified Lee Harvey Oswald from pictures as the man he met at Ferrie's apartment.

It was then that Russo said

that he saw Oswald cleaning or polishing a rifle.

Alcock asked:

Q—On this occasion, how long were you in the presence of the man introduced as the roommate?

A—Not very long.

Q—What was he doing when you entered the apartment?

A—He was cleaning a rifle or polishing it.

ALCOCK SHOWED Russo a long-barreled rifle and asked if it was similar "to anything you've seen in the past?"

Russo carefully examined it for several minutes before answering that he had seen the rifle before.

Q—Where did you see it before?

A—In Ferrie's apartment.

Q—In whose possession did

you see it?

A—In Oswald's.

Q—Are you testifying this is the same rifle or similar?

A—It's similar. The stock is similar and the barrel is similar.

RUSSO ALSO identified various pictures of Ferrie's apartment, indicating the front room, the front porch and a hallway where he said he had often visited.

Russo also testified that during the period from 1961 to 1963, he visited Ferrie's apartment 20-30 times.

RUSSO WAS shown a picture and asked if he recognized it and he said, "Yes, sir." (This was a photograph of the Ferrie apartment on Louisiana ave. pkwy.)

Q—Did you have another occasion to go to Ferrie's apartment in September of 1963 and see a man you identify as Leon Oswald?

A—Yes, sir.

Q—When was that?

A—Sometime in the middle of the month.

Q—What was the occasion for your going to that apartment?

A—I had come from Tulane or from playing basketball and just dropped in.

Q—Was there anyone there?

A—Several people.

Q—How many?

A—Eight or 10.

Q—Did you know any of them?

A—I had been introduced to Oswald and to Ferrie.

Q—Can you describe any of the others present?

A—There were three or four Latins or Cubans, a couple of young guys and one well-dressed man.

Q—Can you describe the well-dressed man?

A—He wore a deep maroon jacket, white shirt, but I'm not sure of the pants.

Q—Did he wear a tie?

A—Not the way I remember.

Q—Can you describe this man?

A—He was big, 6 foot 4 or 6 foot 5, broad shoulders and distinguished looking.

Q—What color was his hair?

A—White.

Q—Was he there when you arrived?

A—Yes, sir.

Q—Do you see him now?

A—I do. (And he pointed

out Shaw.)

Q—What, if anything, did you do in the presence of the defendant after you arrived at the apartment?

A—I don't think I did much. I don't think I had anything to drink, although I was offered some coffee.

Q—Were you introduced to the distinguished-looking man?

A—Yes.

Q—What was his name?

A—Bertrand.

Q—What first name did he give?

A—Clem.

Q—Perry, had you seen the defendant, whom you know as Clem Bertrand, before?

A—I had seen the defendant once or twice, I'm not sure.

Q—The one time you are sure you had seen him, where was that?

A—At the Nashville ave. wharf.

Q—Why had you gone to the wharf?

A—President Kennedy was coming to New Orleans to make a speech and I went with a colored friend of mine and we had to almost run to get there.

Q—What made you notice the defendant?

A—He didn't seem to be paying any attention to President Kennedy. He was looking around.

Q—What made you remember him?

A—I had never seen a president before. I had attempted to see President Eisenhower but didn't get the chance, and it struck me funny that some one would not look at the president.

Q—Was everyone else looking at the president?

A—Yes, sir.

Q—The man that you were with, did he observe the defendant?

AT THIS POINT Dymond objected on the grounds that this testimony would be hearsay. He said the best the witness could do is to describe the position of the second man with reference to where the defendant stood.

Q—Where, physically, did the other man with you stand in relation to you?

A—Right alongside of me.

Q—Would he have been on the side between you and the defendant?

A—He was on both sides of

me at one time or another.

Q—How long did you look at the defendant?

A—Eight to 10 minutes.

Q—Other than on that occasion, can you remember seeing the defendant?

A—At one time, I'm not sure, but there was a man resembling him who seemed to have the same type of build, although slimmer, who came into the Republican headquarters and picked up a couple of buttons.

Q—At the apartment, what conversations were there in your presence with the defendant?

A—Ferrie pretty much monopolized the conversation talking about the Cuban thing, just talking.

Q—Do you remember anything specific?

A—Ferrie said "we'll kill the president" but he said that before.

Q—How many times before?

A—Many times he had been obsessed with this Kennedy and Cuba thing.

Q—Did everybody stay at the Ferrie apartment?

A—Do you mean overnight?

Q—Yes.

A—No. I didn't notice how long people stayed.

Q—How long was the conversation in which the defendant participated?

A—Three or four hours.

Q—Who was present?

A—Ferrie, Oswald, the defendant and myself.

Q—Was anyone else in the house?

A—Not that I know of.

Q—In what rooms did this party or gathering take place?

A—In the first two rooms, mostly in the first room.

AT THAT TIME he was shown a picture of the apartment, which he identified.

Q—In the picture, was the furniture arranged roughly as it was when you were there?

A—The furniture was arranged roughly that way. As I remember there was a sofa along the side of this wall.

Q—Do you recognize any other objects that were present in the room?

A—That sofa was something similar to the one I remember. That coffee table and a lamp. That possibly could be the same lamp that was there, but I'm not sure.

ALCOCK THEN asked the

witness to mark an X on the picture of the objects he could recognize, and he did so.

Q—I note that in one of these pictures there is a question mark over a chair.

A—I don't remember those two chairs there. They might have been the ones but there might have been another one.

Q—Who were the guests in the front room?

A—We were in the first two rooms, but especially the front room.

HE THEN identified a dining area as the second room of the apartment.

Q—Do you remember what was in that room?

A—I can remember a dining room table and a cabinet against the wall.

He then was asked to put

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an X on the picture of the items he remembered in the room.

Q—What conversation took place then? Between the defendant, Oswald, yourself and Ferrie?

A—On several occasions Ferrie had talked about killing the president.

DYMOND THEN objected to testimony about all conversations except those made in front of the defendant.

Russo said Ferrie carried several newspaper clippings.

Q—You saw them?

A—I saw a couple and I suppose the rest of them were the same ones I saw. Two or three of them had to do with Kennedy.

Q—What did Ferrie say?

A—He paced back and forth. There was a record playing of a speech or something with someone talking in Spanish. He didn't say much except he was talking about Kennedy.

Q—What did he say?

A—Ferrie walked up and down telling about the projected assassination and how there could be a triangulation of cross-fire.

Russo said Ferrie talked about three persons firing in cross-fire. He said one of these would have to be a scapegoat. We could either have one diversionary shot or we could have all three shoot at one time, Ferrie reportedly said. The diversionary shot

would be to draw the attention of the police and after that the other two could shoot for the kill. There would only be a small delay and it would almost be simultaneous, he said.

Q—What else did he (Ferrie) say?

A—There would be no way to escape except by flight. And they discussed Brazil and Cuba, but to go to Brazil would mean stopping to refuel. He (Ferrie) then mentioned Mexico.

Q—Did the defendant say anything?

A—He said that was not possible. There would have to be a stop for refueling and there would have to be some friend to give them assistance to fly out and the police would be everywhere.

Q—What else was said?

A—Oswald told Bertrand to shut up. Ferrie knows what he is doing, he's a pilot.

Q—What else did Ferrie say?

A—He said that we would have to do something to make sure of our alibis and to be in the public eye at the time of the assassination.

Q—What did the defendant say?

A—He said he could go for his company on business to the West Coast and Ferrie said he could speak in Hammond or some place at a college.

Q—What did Oswald say, if anything?

A—He said nothing. The defendant said Ferrie was washed up as a pilot.

Q—When did he make this comment?

A—I'm not sure of his exact words, but it was right before Oswald told him to shut up.

Q—Was there specific reference to the number of people to take part in the shooting?

A—Two or three. One firing a diversionary shot and two to kill the President.

Q—Was there any reference to the type of gun to be used?

A—No, except that it was to be a rifle.

Q—Did you see a rifle?

A—No.

Q—Besides a rifle you saw Oswald cleaning, did you ever see another weapon in Ferrie's apartment?

A—I'm not sure.

Q—Perry, do you recall specifically whether or not you

went to the apartment with any person?

A—During that period of time, I associated with the same people . . . probably some of them came with me.

Q—Can you name these people?

A—Lefty Peterson was one. There were several people at Loyola.

RUSSO THEN named a number of individuals including a Mike Ogden, Tommy Hopkins and his brother and a Kenny Carter.

Q—At this time, did you know Sandra Moffel?

A—I did.

Q—Could you term her your constant companion?

Russo answered this in the affirmative although he said there were times when he said he would not see her for a week or so.

Q—Was she your girl friend?

A—There were several girls I was going out with at that time.

Q—Was she one of them?

A—She was.

ALCOCK THEN asked Russo if any further conversation went on among Os-

wald, Ferrie and the defendant other than what he had previously related.

A—No, not that I can recall.

Q—Do you recall who left the apartment first?

A—No.

Q—Do you recall how you got home . . . ?

A—I'm not sure but I think I took a bus home.

Q—Are you specifically telling us you did not drive home in a car of yours?

A—Yes.

Q—Perry, about what time did you leave Ferrie's apartment?

A—It would be after midnight, but the exact time I'm not sure.

RUSSO TESTIFIED that he saw Shaw again at Ferrie's apartment "a few days" later.

Q—Who was present?

A—Again, Dave Ferrie was.

Q—And what, if anything, was Oswald doing?

A—He wasn't doing anything; there was a conversation between Ferrie and Os-

wald.

At this point, Alcock asked for a recess and Judge Haggerty granted five minutes.

THE TRIAL resumed with Russo continuing his testimony.

Alcock questioned the witness:

Q—Perry, going back to the meeting between Oswald and Ferrie at Ferrie's apartment, who was present?

A—Oswald and Ferrie. They were having what appeared to be a private discussion.

Dymond objected at this point on the grounds that the witness could not discuss a purported conversation between two other parties. He was overruled.

DYMOND RESERVED a bill of exceptions.

The judge rifled through a few law books and said, "I want to cite the laws backing up the ruling I made but I don't want to hold it up now I will do it later. Continue."

Alcock rephrased the question:

Q—What was this private discussion about?

A—Oswald said he was having trouble with his wife, and Ferrie said for him not to worry that he would take care of it.

Q—Did you know Oswald was married?

A—Yes.

Q—How?

A—He was wearing a wedding ring.

Q—Did you ever see Oswald at any other time?

A—One other time.

Q—When was that?

A—A few days later.

Q—Where?

A—At Ferrie's apartment.

Q—Who was present?

A—Oswald and Ferrie.

ALCOCK ASKED the occasion of this meeting and Russo said Oswald was packed to leave town.

A—I don't remember his exact words, but he said he was going to Houston.

Q—Can you recall anything else being said?

DYMOND OBJECTED and again was overruled by Judge Haggerty, who said he would cite the law later. Once again, Dymond reserved a bill of exceptions.

Q—What was Oswald's phy-

sical appearance at that time:

A—I didn't get a good look at him. I remember he was wearing a white shirt, a tie pulled to one side; he appeared clean looking.

Q—Did you notice anything different about his face?

A—I didn't take great notice of his face.

Q—How long were you in his presence?

A—About five to 10 minutes.

Q—Did you see him leave Ferrie's apartment?

A—No.

Q—Did Ferrie leave the apartment and leave you and Oswald in the apartment together?

A—No.

Q—How long did you remain in the apartment?

A—About five to 10 minutes.

Q—Referring you to the first time you saw Oswald in the apartment cleaning the rifle, was there anyone else present?

A—First time, no.

Turning to a new line of questioning, Alcock asked the witness if he had occasion to see Shaw subsequent to mid-September, 1963, and before 1967.

A—Yes.

Q—Where did you see him?

A—In a Gulf station on the Veterans hwy.

Q—You mean a gasoline station?

A—That is right.

Q—Do you remember when this was?

A—Approximately the early part of 1964.

Q—What was the occasion?

A—I had some trouble with my car and I drove into this station and found out it was Ferrie's service station or he was working there, either one. I pulled over on the side and it appeared it was the trouble with my battery and two attendants began working on it. Ferrie walked up and said something like "How have you been?" I sat in my car with the door open while the attendants were working on it.

Q—What was Ferrie doing?

A—Ferrie was talking with a man in a car parked next to mine.

Q—Did you see the man?

A—Yes.

Q—Do you see him now?

AT THIS POINT, the wit-

ness pointed out Shaw.

Q—How long did you look at this man?

A—I don't know. I looked on and off. I was mad about the car. I just looked up, maybe three or four minutes.

Q—Who was behind the wheel?

A—The defendant was at the wheel; Ferrie was seated next to him on the side nearest to my car.

Q—Was the defendant wearing a hat?

A—No, I don't believe so.

Q—Do you recall having seen this man on any previous occasions?

A—Yes. Once at Ferrie's apartment. Once at the Nashville ave. wharf and once at the Republican headquarters.

Q—Did you talk to him?

A—No, I was in a rush to get out as soon as my car was fixed.

ALCOCK THEN started questioning Russo about how Russo first got in touch with the DA's office.

Q—Do you recall how you first made contact with the DA's office?

A—Yes, I wrote to the district attorney in February from Baton Rouge.

Q—Do you remember the date in February?

A—About Feb. 21, 1967.

Q—Do you recall what date you mailed the letter?

A—Approximately two days later. I was going to school at the time and involved in a lot of activities and didn't get around to mailing the letter until about two days later.

Q—Did you have occasion to have a conversation with Assistant DA Andrew Sciambra as a result of this letter?

A—Yes.

Q—Do you recall when that was?

A—Feb. 25, he came up to Baton Rouge.

Q—Without saying what he said, what did you do as a result of your conversation?

A—I identified some photographs he showed me. I told him how and where I knew these people in the photographs.

Q—What photos did you identify?

A—I identified pictures of Ferrie, Oswald, Bertrand, Sergio Arcacha (Smith), Emilio Santana.

Q—What did you tell Sciam-

bra about where you knew Shaw from?

A—The first time I met Shaw or Bertrand at the Nashville ave. wharf, the gas station and finally at Ferrie's apartment.

Q—Did you relate to him what you related to the jury about the meeting in the apartment?

A—Not in great detail; but just a gist.

Q—Did you identify pictures of Clay Shaw?

A—I had never heard the name of Shaw before and I identified him as Bertrand. He asked me what was Bertrand's first name and I said Clem.

Q—You said Clem . . . C-L-E-M?

A—Right, C-L-E-M.

MOVING ON to another line of questioning, Alcock asked Russo:

Q—Perry, directing your attention to the prior March 21, 1967, did you ever have occasion on that date to have a conversation with a man named James Phelan?

A—Right.

Q—Did you ever tell this man, Phelan . . .

AT THIS POINT he was interrupted by Dymond who objected to this line of questioning on the ground that it constituted a "self-serving declaration."

Alcock said the witness could testify what he told Phelan because "that is not hearsay."

Dymond can cross-examine Russo if he objects on these grounds, Alcock maintained.

DYMOND WAS overruled again and again Dymond reserved a bill of exceptions.

Alcock began the questioning again:

Q—Did you tell Mr. Phelan . . .

Now, the judge interrupted.

saying Alcock was "leading the witness."

Alcock rephrased the question:

Q—Can you recall what you told Mr. Phelan regarding your testimony before the three-judge panel hearing.

Dymond objected, was overruled and reserved another bill of exceptions.

Russo said: "I was shown a memorandum of the inter-

view I had with Mr. Sciambra and Mr. Phelan pointed out discrepancies between this interview and my testimony at the trial."

AGAIN DYMOND objected and Alcock told the court that he had copies of the memorandum and said he would send someone to his office for "more legible copies."

Assistant DA Harry Hull was sent for the copies.

Q—Where did this conversation with Mr. Phelan take place?

A—At 311 E. State st. in Baton Rouge, my home at that time; I was going to school.

Q—When did the meeting take place?

A—In the evening.

Q—What do you mean by that?

A—Some time between 6 and midnight.

Q—Who else was present?

A—Matt Herron. He came up with Mr. Phelan. He was a photographer. Also my neighbors, Mr. and Mrs. Kenneth Fisher, who came in for a few moments and left.

Alcock asked Russo:

Q—Was anyone else there?

A—Steve Derby was there for a little while.

Q—Was anyone else there?

A—Phil Neal, for one. And several other friends.

Q—Anyone present for the entire length of time?

A—Matt Herron was taking photographs.

Q—Anyone there for the entire time that Phelan was there?

A—No.

Q—Approximately how long was Phelan there?

A—Approximately three hours.

Q—Perry, did you know that Phelan was coming?

A—I supposed he was going to be there the day before. When he didn't come, I called the DA's office and found that he was coming. He never showed up that day, but he came the next day.

Q—Perry, when you contacted the DA's office, did you talk to any individual?

A—Andrew Sciambra.

At this point Alcock told the judge that without the original memorandum which Phelan had taken to show to Perry, covering what he had

testified to in the preliminary hearing, he couldn't proceed "as I would like."

JUDGE HAGGERTY asked Alcock how long it would take to get the memorandum from his office. Alcock had sent an assistant DA to his office to pick it up.

WHEN THE assistant returned with copies of a memorandum, Judge Haggerty declared a brief recess to give defense attorney Dymond time to read the document.

The judge directed Dymond to let him know when he was ready for the court to resume. The memorandum, Dymond indicated to the court, was six pages long. *end*