

Shaw's Defense Asks Acquittal After Garrison Rests His Case



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Clay L. Shaw leaving courthouse in New Orleans yesterday

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NEW ORLEANS, Feb. 20—District Attorney Jim Garrison today rested his case that a conspiracy had been involved in the murder of President Kennedy.

Criminal District Judge Edward A. Haggerty Jr. said he would study the testimony before deciding if the state had made a prima facie case.

The judge ruled in effect last week that a legal case had been made, but today he appeared to be uncertain.

He said he would read the entire testimony of Perry Raymond Russo, the state's chief witness, before ruling on the motion for a directed verdict of acquittal.

In the meantime, he said, attorneys for Clay L. Shaw, the defendant, should begin lining up witnesses for possible testimony.

Mr. Shaw, a retired 57-year-old New Orleans businessman and playwright, is charged with

conspiring with Lee Harvey Oswald and David W. Ferrie, a pilot, to murder Mr. Kennedy. Both Oswald and Mr. Ferrie are now dead.

Mistrial Plea Rejected

Mr. Garrison's decision to rest his case came after the Louisiana Supreme Court had refused to order Judge Haggerty to grant the mistrial demanded last night by the state after Judge Haggerty had said he did not believe a state witness, A. W. Habighorst, a police officer, was lying.

The District Attorney's office had filed a writ with the appeals court, asking the judges to hear arguments on the mistrial demand and to stop the trial until there was a ruling.

Judge Haggerty said that six of the seven state justices had signed an order denying Mr. Garrison's application.

Mr. Garrison sat glowering at the prosecution table in the courtroom this morning as

Judge Haggerty said he needed to read over much of the testimony before deciding if the state had proved a semblance of a case with the 43 witnesses who were heard by the jury.

In asking for a directed verdict, F. Irvin Dymond, chief counsel for Mr. Shaw, said that Mr. Russo, a 27-year-old encyclopedia salesman, was the only witness who had even suggested that he had heard about a conspiracy.

"And he denied it," said Mr. Dymond.

The lawyer read from a transcript two statements that Mr. Russo gave about a meeting in September, 1963, at Mr. Ferrie's apartment where the state contends that the plan to kill Mr. Kennedy was formulated.

"I never said anything about conspiracy," Mr. Russo testified last week. "I never sat in on any conspiracy."

Mr. Dymond called the charge against Mr. Shaw "complete nonsense" and said it had been "fabricated."

Finds No Overt Acts

In addition to never proving a conspiracy, Mr. Dymond said the state "absolutely failed" to prove any overt acts in furtherance of the conspiracy.

Assistant District Attorney James L. Alcock argued only briefly against the motion for a directed verdict. The judge had already ruled "inferentially" that the state had made a prima facie case with the testimony of Mr. Russo.

If this were not so, Mr. Alcock said, the judge could not have allowed evidence about

conversations held outside the presence of the defendant.

After a 20-minute conference with attorneys in his office Judge Haggerty said he wanted to read Mr. Russo's "verbatim testimony" before deciding. He promised a ruling for 9 A.M. tomorrow.

In anticipation that the judge would deny the motion, defense attorneys began lining up their witnesses.

Former Gov. John B. Connally Jr. of Texas, was subpoenaed by the defense today. Mr. Garrison had also subpoenaed Mr. Connally and Mrs. Connally, but he did not call either to testify.

The Connallys were riding on jump-seats in the limousine with President and Mrs. Kennedy in Dallas on Nov. 22, 1963, when the attack was made on the President.

Mr. Connally was seriously wounded by at least one rifle slug.

Another defense witness is expected to be Mrs. Marina

Oswald Porter, the widow of Lee Harvey Oswald. She is now married to Kenneth Porter, a Dallas tavern owner.

A preponderance of the evidence produced by the state during 11 days of testimony dealt with the actual assassination of President Kennedy.

Warren Report Disputed

For days, the name of Mr. Shaw was not even mentioned, as dissidents to the Warren Commission report came forward to give their versions of the events in Dealey Plaza.

The Warren Commission concluded that Mr. Kennedy had been slain by a rifle shot fired from the Texas Schoolbook Depository by Oswald.

The commission said it had found no evidence to support any contention that the President had been the victim of a plot.

Mr. Garrison first announced in February, 1967, that he had examined the Warren Commission report, had investigated the Presidential assassination and had solved the murder.

Oswald, Mr. Garrison said, was a "patsy, a scapegoat" and did not fire any shots at the President.

In the months that followed, the 6-foot 6-inch District Attorney expanded on his theory in magazine and television interviews.

He said that Mr. Kennedy had been murdered by Cubans who were opposed to the regime of Cuban Premier Fidel Castro and who were resentful of Mr. Kennedy's move toward coexistence with the Castro Government.

Later, Mr. Garrison said there were as many as 14 assassins in Dallas on the day President Kennedy was "executed." He said the "execution" had been carried out by agents or former agents of the United States Central Intelligence Agency.

Not a word was introduced during the state's presentation of its case to support any of these contentions.

In an attempt to convict Mr. Shaw, the District Attorney's office alleged that one of the "overt acts" it said furthered the conspiracy to kill Mr. Kennedy was that Oswald had taken a rifle into the Texas Schoolbook Depository.

But the state did not prove this. The witness called to testify about this, Buell Wesley Frazier, said that Oswald had told him that the package he carried into the Schoolbook Depository on the morning Mr. Kennedy was killed contained curtain rods.