

New Sirhan Mistrial Move Follows Story

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Sirhan Bishara Sirhan's defense made a second motion for a mistrial Thursday on grounds their client's defense was prejudiced by a page 1 story in The Times.

Superior Judge Herbert V. Walker denied the motion in an in-chambers session highlighted by a prosecution request that such closed proceedings, both past and future, be made public.

Chief Dep. Dist. Atty. Lynn D. Compton said, "We think one of the vices of the whole situation . . . and what creates a problem, is the idea of sealing (transcripts) and secret sessions.

"We just feel that everything has got to be on the record and public and that there should be no secret

negotiations, conferences or matters which are in that category . . .

"I would oppose any further . . . proceedings which are sealed, secret, or otherwise handled in that fashion."

Defense attorney Grant B. Cooper answered: "In connection with plea bargaining, it is always a secret matter."

Cooper protested release of the transcript of Thursday's chamber session, saying, "If this entire thing is released, now that we have it only with the Los Angeles Times, but, if this is released, this is going to make front page news, this is real hard, good news."

Plea bargaining was the subject of the story in The Times Thursday in an explanation of why Sirhan did not plead guilty to first-degree

murder, as was expected the week before.

On Feb. 12, The Times said a guilty plea appeared probable after negotiations between the defense and the prosecution had resulted in an agreement that Sirhan would be assured of life imprisonment for the slaying of Sen. Robert F. Kennedy last June.

Judge Walker was reported willing to accept a guilty plea, but not an agreed-upon life sentence. The penalty, he held, must be submitted to a jury, which could decree life imprisonment or death.

At that, Sirhan refused to change his plea.

The transcript of Thursday's closed session corroborated The Times' account last week.

Cooper, in moving for the mistrial, said Thursday's story "re-Col. 3

reflects quite accurately everything that . . . was said in chambers with respect to the possibility of the entry of a plea of guilty to murder in the first degree."

At another point, Cooper stressed that Sirhan "did want to enter a plea."

Judge Walker answered, "He did want to enter a plea to first-degree murder with life, but he didn't want to enter a plea with the suggestion I made as the record indicates" that is, a guilty plea with the jury setting the penalty. After Sirhan's exit from the negotiations last week, one source quoted him as saying, "I'd rather die than spend my life in prison."

Judge Walker pointed out that it was he who told some details of the closed meetings which later appeared in print, and Cooper said, "I assign your honor doing that as misconduct."

Compton said some points similar to those covered in The Times' stories had been raised by reporters for some Eastern newspapers. He then pointed to what he felt were the "vices" of closed

sessions.

Dilation Tested

Meanwhile, the prosecution continued laying out its case against Sirhan in open court, with police officer Travis R. White testifying that he examined Sirhan's eyes to test pupil dilation minutes after Sirhan was arrested.

White said he concluded from this single test that Sirhan was not under the influence of any drugs or liquor.

Other witnesses Thursday were fingerprint experts James E. Claboine and Riley W. Maxwell of the Los Angeles Police Department, and Judy Royer, a secretary for former Gov. Edmund G. Brown, who worked for the Kennedy campaign and witnessed the slaying.

Mrs. Elizabeth Evans and Ira Goldstein, two of five persons injured in the hail of bullets that killed Kennedy, also testified.