

SENATOR ASKS MERCY FOR ASSASSIN

Sirhan Gets Death Despite Kennedy Plea

BY DAVE SMITH
Times Staff Writer

Sirhan Bishara Sirhan Wednesday was formally sentenced to death in San Quentin's gas chamber despite a last-minute plea by Sen. Edward M. Kennedy that the life of his brother's assassin be spared.

Superior Judge Herbert V. Walker, brushing aside both the dramatic letter and an impassioned entreaty by defense attorney Grant B. Cooper, read solemnly from a previously prepared summary of the case:

"This is the time for judgment and sentence . . . It is the judgment and sentence of this court that for the crime of murder in the first degree . . . you should suffer the penalty of death within the walls of San Quentin Prison in the manner prescribed by law."

He ordered the diminutive assassin taken to San Quentin's Death Row within 10 days.

Sirhan, standing with his hands on his hips and staring without visible emotion as the judge sternly pronounced sentence, turned and smiled at defense investigator Michael McCowan. "Well, now the real battle begins," he murmured to McCowan.

Mrs. Mary Sirhan, seated in the second row of the small courtroom, cried softly and dabbed at her eyes as she waited for court to adjourn, signaling the moment when she could visit her condemned son in his 13th-floor cell.

She also had written to Judge Walker, citing Biblical references in her plea for mercy for Sirhan. Her letter, delivered to the 69-year-old

jurist Wednesday morning, was not mentioned in open court.

Sen. Kennedy, in a letter to Dist. Atty. Evelle J. Younger, invoked Robert F. Kennedy's own plea for "love and wisdom and compassion towards one another" in the sentencing of Sirhan.

Kennedy wrote:

" . . . if the kind of man my brother was is pertinent, we believe it should be weighed in the balance on the side of compassion, mercy and God's gift of life itself."

The letter, dated May 18, was introduced by Younger as defense motions for a new trial were being heard by Judge Walker.

Younger revealed that the prosecution had twice during the trial sought the Kennedy family's recoun-

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mendations on conduct of the prosecution.

The family declined to express any opinion while the trial was in progress, Younger said, but contacted him through their attorney last week.

In his subsequent letter to Younger, the Massachusetts senator said he now understood "that the trial judge will be called upon to exercise his discretion concerning the penalty. Since this is now a question of clemency and the trial proceedings have been concluded, I feel I can appropriately convey to you, for whatever consideration you believe to be proper, how we feel."

Brother a 'Man of Love'

Thus, evidently speaking for other members of the murdered senator's family, Sen. Kennedy continued:

"My brother was a man of love and sentiment and compassion. He would not have wanted his death to be a cause for the taking of another life. You may recall his pleas when he learned of the death of Martin Luther King.

"He said that 'what we need in the United States is not division; what we need in the United States is not hatred; what we need in the United States is not violence or lawlessness, but love and wisdom and compassion towards one another.'

"Moreover he was a young man

totally committed to life and living. He stood against injustice, poverty and discrimination for those evils lessened life. He grew to despise war for war denies the sacredness of life. And he had a special affection for children for they held the promise of life."

Arguments for New Trial

Cooper cited 13 grounds for his motion for a new trial for Sirhan, arguing at length on two points.

He devoted his major effort to a contention that the defense had been misled by the prosecution last February, when the possibility of a change of pleas was being discussed.

At that time, Cooper said, both defense and prosecution agreed that Sirhan could plead guilty to first-degree murder with an understanding that he would be sentenced to life imprisonment.

But Judge Walker rejected this deal, insisting that if Sirhan did change his plea, the question of

penalty must still be left up to the jury.

Cooper said the prosecution then offered, if Sirhan would plead guilty, to recommend that the jury hand down a life sentence.

Asked what the prosecution would do if Sirhan decided against the plea change and went ahead with the trial, Cooper said, the prosecution

stated it would make no recommendation, either for a death penalty or a life sentence.

At that time, Cooper, said, Younger told the defense that the prosecution was "in a position where we can't conscientiously urge the death penalty."

Says Defense Was Misled

It was on this understanding, Cooper said, that the defense finally advised Sirhan to go ahead with the trial and not risk a jury decision for death despite the prosecution's reported willingness not to press for it.

It was here, Cooper said, that they were misled because the prosecution "didn't keep its word" when Dep. Dist. Atty. John H. Howard made his final argument to the jury in the penalty phase of the trial, after Sirhan had already been convicted of first-degree murder.

Although Howard never specifically mentioned the death penalty, he did urge the jury to return "the only proper penalty for political assassination in the United States of America."

Cooper, in addition to claiming the defense was misled, also charged Judge Walker with judicial error in not accepting the plea change.

He further charged the jurist with error in his refusal to bar from evidence the controversial notebooks in which Sirhan wrote of his intention to kill Kennedy.

Although Sirhan's writings later became a major bulwark of his defense of diminished mental capacity, Cooper contended that the notebooks were illegally seized to begin with.

Cooper's final plea for a reduction of Sirhan's death penalty hinged principally on Younger's earlier willingness to accept a life sentence because of psychiatric reports indicating that Sirhan was mentally ill.

Cooper's motion was supported by a friend-of-the-court brief offered by attorneys A. L. Wirin and Fred Okrand of the American Civil Liberties Union.



HER SON SENTENCED—Mrs. Mary Sirhan meets newsmen outside the hearing room where her son,

Sirhan Bishara Sirhan, was sentenced to death. At the left, in dark glasses, is another son, Munir. Times photo by John Malmin

SIRHAN'S YOUNGER BROTHER WRITES KENNEDY LETTER

Munir Sirhan, 21, younger brother of Sirhan Bishara Sirhan, released a letter Wednesday addressed to Sen. Edward M. Kennedy. The letter read in part:

"Dear Sen. Kennedy:

"How can words tell you what we feel? Your letter was good and full of the compassion our Lord tried so desperately to teach us.

"The terrible circumstances that created this tragedy must be examined by the conscience of the world."

Sirhan continued the letter by drawing comparisons between his brother and Sen. Kennedy's.

Before closing the letter with a Bible quotation, he wrote:

"This is a terrible double tragedy for your family and for mine. Our family grieves as much for Sen. Kennedy as for Sirhan. Both had dreams of a better world. What a cruel paradox. I want the world to ask, as we do: why?"