

# Kennedy 'Plot' Trial Ordered by Judges

By GENE ROBERTS

Special to The New York Times

NEW ORLEANS, March 17.

A panel of three judges ruled today that there was sufficient evidence to try Clay L. Shaw, a retired New Orleans business executive, on charges of conspiring to assassinate President Kennedy.

District Attorney Jim Garrison said he would soon file formal charges and a bill of information against Mr. Shaw, the legal steps needed to set the trial procedure in motion.

The decision of the Orleans Parish (county) Criminal Court came after a four-day hearing. A former narcotics addict, who first denied, then asserted that he had known Mr. Shaw and Lee Harvey Oswald, gave the chief testimony today.

Mr. Garrison contends that Mr. Shaw, Oswald and the late

Continued on Page 18, Column 2

NYT 3-18-67

Continued From Page 1, Col. 8

David W. Ferrie, an airline pilot, conspired at a meeting in September of 1963 to kill the President.

The judges handed down their decision minutes after the former narcotics addict, Vernon Bundy, 29 years old, testified that he saw Mr. Shaw and Oswald talking together in the summer of 1963 on the shores of Lake Pontchartrain.

Judges Malcolm V. O'Hara, Bernard J. Bagert and Mathew S. Braniff ruled that Mr. Shaw may remain free on \$10,000 bond pending the conclusion of his trial.

Although pretrial hearings, rather than indictments by a grand jury, are often held in Louisiana to determine whether there is enough evidence to bring a defendant to trial, this one was unusual because it was requested by the district attorney.

Usually, the district attorney files formal charges and a bill of indictment against a defendant and then if the defense wishes, it can ask for a pretrial hearing to challenge the charges.

Mr. Garrison said that he would file the bill of information within the next few days but gave no indication as to when he might bring Mr. Shaw

to trial.

## Lawyer 'Surprised'

Salvatore Panzeca, one of Mr. Shaw's defense attorneys, said:

"I was surprised that the judges found enough 'probable cause' to bring Mr. Shaw to trial, even though we all realize that it takes inconclusive evidence to bring a person to trial under Louisiana law.

"But I would be even more surprised if the district attorney ever sets the case for trial. I'm satisfied that the facts in no way would result in a conviction by a jury."

William J. Wegmann, another defense attorney, said:

"We are aware that the degree of proof required in a hearing is not the same as it would be in a court trial."

Mr. Garrison declined to comment on the judges' ruling.

The defense also lost an effort to have the Warren Commission report placed into the hearing record under a Louisiana law that says Government documents shall be admissible into hearings and trials in the state.

"If we are going to accept the Warren report as factual, then we've wasted a week of time," Judge Bagert said.

Judge Braniff said, "It is fraught with hearsay and contradictions."

Judge O'Hara, who dissented from the ruling on the report's admissibility as evidence, argued that admitting the report "does not mean we cannot reach a conclusion that is different" from the Warren Commission's.

When he was arrested on March 1, Mr. Shaw was accused of having participated in the conspiracy, but no formal charges were brought against him.

As one of Mr. Garrison's two chief witnesses, Bundy testified that in June or July of 1963 he was preparing to inject the contents of two capsules of heroin in his arm at Lake Pontchartrain when he saw Mr. Shaw step from a car and walk toward him.

## Met By 'a Junkie'

Mr. Shaw walked past him, he went on, waited a few moments and then was met by a "junkie or beatnik type of guy, he was in pretty nasty shape, needed a shave." That man, Bundy said, was Oswald, who killed President Kennedy.

Bundy said he had heard Oswald say, "What am I going to tell her [his wife]?"

Bundy continued:

"This older fellow [who Bundy said was Mr. Shaw] said, 'Don't worry about that, I'll take care of it.'"

At this point, Bundy continued, Mr. Shaw handed Oswald some money and when Oswald attempted to stuff the money in his pocket he dropped some "Cuba leaflets" on the ground.

Under cross-examination, Bundy said that he used narcotics for 12 years before the

summer of 1963 and had since received a sentence of five years on probation for "simple burglary" of a vending machine.

At the time of the alleged conversation between Oswald and Mr. Shaw, he testified, he had been using three or four capsules of heroin on a daily basis for two years. The day before the conversation, he said, he took five capsules of heroin.

Bundy came into the courtroom from the Orleans Parish Jail, which he entered voluntarily nine days ago because he "felt the urge" to take more narcotics.

He said he had recognized Oswald from pictures taken at the time of the assassination as the man he had seen with Mr. Shaw but he never told anyone his story until yesterday when he was questioned by the district attorney's office. He pointed Mr. Shaw out in the courtroom as the older man he saw that day.

When asked how he was sure the alleged conversation took place in June or July, he said, "Those are my two worst months."

"Something," he said, "always happens to me between June and July."

The other witness against Mr. Shaw was Perry Raymond Russo, a 25-year-old life insurance salesman from Baton Rouge.

In nearly three days of testimony, Mr. Russo said repeatedly that he had heard Mr. Shaw, Mr. Ferrie and Oswald discussing ways of killing President Kennedy. The discussions took place, he said, in a meeting in Mr. Ferrie's apartment on Louisiana Avenue Parkway here in mid-September of 1963.

In asking the three-judge panel to dismiss the accusations against Mr. Shaw, the defense argued that Mr. Russo had contradicted himself at several points in his testimony.

Mr. Russo told Baton Rouge reporters in a tape recorded interview on Feb. 24 that he had never heard of Oswald before the assassination. He said in another recorded interview on March 1 that he did not know Mr. Shaw.

At the hearing he said that Mr. Shaw had been using another name, Clem Bertrand, when he had known him.

## Pictures Studied

He had also testified that he had not recognized Oswald from pictures taken at the time of the assassination because Oswald had been wearing "a three or four days' growth of beard" when he attended the alleged conspiracy meeting.

But under cross-examination he conceded that he had seen Oswald clean-shaven and neatly dressed less than seven weeks before the assassination.

When the defense demanded

to know why he still had not recognized Oswald from his photographs, he replied that he had seen him for "only eight or 10 minutes" when he was clean shaven.

Mr. Russo's testimony conflicted sharply with the findings of the Warren Commission, which concluded that Oswald had killed President Kennedy alone, without being part of any conspiracy.

Mr. Russo said, for example, that Oswald was rooming with Mr. Ferrie in September of 1963 and that he was in New Orleans as late as October of that year.

The commission said it had determined that Oswald was living with his wife, Marina, in New Orleans from May 11, 1963 until Sept. 23, 1963, and then left the city two days later.

"He left New Orleans by bus, probably on Continental Trailways bus No. 5121, departing New Orleans at 12:20 P.M. on Sept. 25 and scheduled to arrive in Houston at 10:50 P.M.," the Warren report said.

#### 'Legal Sanity'

In testimony this morning, Dr. Nicholas Chetta, the Orleans Parish coroner, said that Mr. Russo met the definition of "legal sanity."

"That is," he said, "he fulfills the requirements of the M-Naghten rule—knowing the difference between right and wrong."

He called Mr. Russo a "well-controlled, rational individual."

Dr. Esmond A. Fatter, a gen-