Haggerty to Rule Monday on Motions in Shaw Case

T-P 9/13/67

To Decide on Two Pleas to Quash Indictment

By PAUL ATKINSON

Criminal District Court Judge Edward A. Haggerty Jr. said early Tuesday afternoon that he will rule simultaneously Monday on two defense motions to quash the Orleans Parish Grand Jury indictment of Clay L. Shaw, accused of conspiracy in the death of President John F. Kennedy.

Shaw's defense attorneys, F. Irvin Dymond, Edward F. and William Wegmann and Salvadore Panzeca, interjected a supplemental motion to quash the indictment Tuesday morning and the state will answer it by Friday. Haggerty said he will give his decision Monday, possibly clearing the deck for the district attorney's office to set the trial date whenever it wishes.

Haggerty said he had heard what he called "rumblings" around the courthouse that the defense plans to file for a change of venue. But he added he had not been informed of this as a fact.

If there is a request for a change of venue, said Haggerty, it would be incumbent on the defense to prove it could not get a fair trial here. "It simply can't allege this," said Haggerty.

Should the defense take this route, though, it would mean the Shaw trial will not come up in October as Haggerty would be forced to set a hearing on the venue request.

There were over three hours of testimony Tuesday with District Atty. Jim Garrison, his executive assistant, James L. Alcock, Truth and Consequences founders Willard E. Robertson, Joseph M. Rault Jr. and Cecil M. Shilstone, and former district attorney special investigator William H. Gurvich testifying.

When it was all over, Dymond was asked if he was satisfied. "No, we weren't satisfied with the court's response," admitted Dymond, who more than once engaged in verbal battles with Alcock and Judge Haggerty.

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"Is this what you expected?" Dymond was asked.

"We expected more," said Dymond. "Or I should say, we hoped for more."

FEW SPECTATORS

Haggerty and Alcock, on more than one occasion, concurred in the opinion that Dymond was using the attempt to quash the indictment against Shaw hearing as nothing more than a "fishing expedition" for material which he couldn't obtain in the request for Prayer for Oyer and a bill of particulars.

The hearing didn't draw the crowds of earlier days, and only when the lanky Garrison showed up to testify about 12:30 p. m. did a sprinkling of spectators come into the courtroom. Mostly, the spectators were disappointed, for Alcock and Haggerty were quick to remind Garrison that he need not answer questions until the state had time to protest. And protest it did.

Garrison seemed bored by it all and yawned two or three times. Mostly, he was tight-lipped and smiled only when Dymond told Alcock and Haggerty, "Mr. Garrison is cool, calm and collected and well able to take care of himself."

ANSWERS QUICKLY

Actually, Garrison at times was anxious to testify. He answered three questions before Alcock could protest.

One question was whether the district attorney's office has received financial aid from an organization known as Truth and Consequences. Garrison replied, "yes."

Immediately, Haggerty instructed Garrison to wait to give the state "reasonable time" to protest since he (Haggerty) had ruled so much of the questioning immaterial.

Asked if star state witness against Shaw, Perry R. Russo, had failed lie detector tests, Garrison boomed out, "He certainly did not."

Garrison also identified as a

"faithful reproduction" a letter he wrote the Federal Communications Commission protesting the National Broadcasting Company's special that was critical of the Garrison probe.

QUESTIONS BARRED

After continuous questioning by Dymond about Russo, Haggerty ruled Dymond could not ask any questions about Russo. He also made the same stipulation in regard to Mrs. Sandra Moffett McMaines, whom Russo testified earlier accompanied him to a party at David W. Ferrie's home where the conspiracy allegedly unfolded.

Among questions asked Garrison, but which he did not answer because of the state's objection, were these:

—Did your office prepare a master file on the Shaw case?

—Was Life Magazine given a copy of this master file?

—Isn't it a fact Russo gave your office three different dates on the conspiracy party?

—Has any accounting been rendered to Truth and Consequences of funds spent by your office?

Alcock's stay was very brief, and he objected to one question himself.

FEW ANSWERED

Alcock was asked if it weren't a fact he protested the use of Vernon Bundy as a witness in the Shaw hearing. Assistant District Atty. Richard Burnes protested.

Gurvich also was not permitted to answer many questions.

Questions posed to Gurvich—but vetoed by the state—were these:

—Has property belonging to Clay Shaw been displayed to representatives of Life Magazine?

—Is there a two-way mirror in the district attorney's office?

—Were representatives of Life Magazine permitted to use this two-way mirror in photographing Shaw as he was being questioned by district attorney's personnel?

—Were lie detector tests given to Russo, Bundy and the Rev. Clyde Johnson and what were the results of these tests?

—Have code names ever been used by the DA's office, and if so, has Life Magazine been given a key to this code?

—Is it a fact that Life Magazine was given a copy of a master file on the Shaw case?

It was at this point that Dymond, Edward Wegmann, Haggerty and Burnes became embroiled over a dispute about whether Life was entitled to something—if indeed it had the master file—while the defense was not. Finally, Haggerty informed Dymond he could not ask any more questions about Life Magazine as they were "immaterial."

CONTRIBUTORS LIST

"Regardless of what questions might be asked?" questioned Dymond.

"Regardless," said Haggerty.

Gurvich appeared to be completely bored and at one time looked as if he might be going to sleep.

Shilstone testified he never had a complete list of contributors to Truth and Consequences. He said he understood a list of contributors was made up and was turned over to the courts.

"Some months ago I was sent a partial list at the inception of the organization," continued Shilstone, "but I looked at the contributors from out of state and then discarded the list."

Shilstone also said he did not know Judge Bernard J. Bagert, who made up the grand jury which indicted Shaw.

STATE OBJECTIONS

Among questions which weren't answered by Shilstone because of state objections were these:

—Who keeps the books for Truth and Consequences?

—In what bank or banks is the money kept?

—Who has authority to sign the checks?

—Is there any accounting required of the district attorney's office for the money he spends?

—What are the qualifications to become a member of the organization?

—Is it specified the money must be spent in prosecuting Clay L. Shaw?

—Was Police Supt. Joseph I. Giarrusso present at the first or subsequent meetings? Was Garrison there? Was Bagert there?

ONLY THREE MEMBERS

Rault said there are only three members of Truth and Consequences—Robertson, Shilstone and himself—while other people are considered contributors.

Dymond read off a list of the names of grand jury members who returned the indictment against Shaw and asked Rault if they were members or had contributed to Truth and Consequences. He said "no" in every case.

Robertson, first up on the witness stand, also testified that none of the grand jury members had contributed to Truth and Consequences.

Dymond won one of his few verbal tiffs with Haggerty in his questioning of Robertson.

At the outset of the Robertson questioning, Dymond read off the list of names of grand jurors and Alcock protested—with Haggerty upholding the objection.

But Dymond explained to Haggerty that one of his points in his supplemental motion to quash centered on whether members of the indicting grand jury were members of Truth and Consequences.

"Mr. Robertson, for one, knows whether those grand jurors were telling the truth Monday," said Dymond.

CHANGES MIND

Haggerty changed his mind and allowed Dymond to reread the names of the grand jurors. Robertson denied any were contributors to Truth and Consequences.

The defense's supplemental motion to quash also mentions provisions in the state's new code of criminal procedure which Dymond said provides that 750 names must be in the jury wheel at all times. A count of it Monday afternoon revealed only 739 names in the wheel, and four jury commissioners admitted they didn't know how many names were actually in the wheel.

The face-to-face confrontation of Shaw and Garrison never really came about. Garrison stood off to the side of the state's table, waiting to go on the stand. Shaw sat with his attorneys, smoking continuously and hardly moving.

While on the witness stand, Garrison wasn't seen to glance at the defense's bench. His eyes were either cast up to the ceiling, looking at Dymond or Haggerty.