

Shaw Trial Order

# DA Expected To Outline Case Basis

Dist. Atty. Jim Garrison is expected to file a bill of information early next week outlining the basis of conspiracy charges against Clay L. Shaw.

Shaw, accused of conspiring to murder President John F. Kennedy, was ordered held for jury trial yesterday by a three-judge Criminal District Court panel.

AFTER hearing testimony for four tension-packed days, the judges found that Garrison's office presented enough evidence to "establish probable cause that a crime has been committed."

Garrison disclosed shortly after the hearing ended, that he would file the bill of information. It was learned today that the filing may come as early as Monday.

There was a report that the DA intended to hold a press conference today, possibly to drop another hint about the next move in his assassination probe. The report proved false.

The stoic, silver-haired Shaw, former managing director of the International Trade Mart, showed little sign of emotion as Judge Bernard J. Bagert read the findings just after 5:40 p. m. The crowd in the courtroom was still as he read.

The unanimous decision of the three judges came on the heels of testimony by an admitted narcotics addict that he saw Shaw and Lee Harvey Oswald together on the lakefront in June or July of 1963.



**CLAY SHAW**, who has been booked with conspiracy in the Kennedy assassination, leaves Parish Prison in his car after he was ordered held for "further steps of the criminal court" following a preliminary hearing.

**VERNON Bundy**, the 29-year-old Negro witness, testified he saw Shaw give Oswald what looked like a roll of bills and that the man he identified as Oswald had what apparently were leaflets with the word "Cuba" written on them.

Garrison contends Shaw, Oswald and David Ferrie, who died Feb. 22, hatched a plot to kill President Kennedy.

The findings of the hearing were signed by Bagert, the presiding judge, and by Judges Matthew S. Braniff and Malcolm V. O'Hara.

"The court finds that sufficient evidence has been presented to establish probable cause that a crime has been committed and;

"Further, that sufficient evidence has been presented to justify the bringing into play

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the further steps of the criminal process against the arrestee, Clay L. Shaw. The defendant is released on his present bond.

GARRISON was not in the courtroom when the statement was read to the hushed crowd of newsmen and spectators.

He had conducted the state's questioning of Bundy, but left immediately afterward.

The preliminary hearing was not necessary in order that the district attorney could proceed legally against Shaw. He could have taken his case to the grand jury or simply filed a bill of information.

He could still have done so had the three judges ruled against him yesterday.

An assistant district attorney hinted after the hearing that Garrison may start the mechanics of a trial Monday.

"I am sure that before we get through, there will be numerous witnesses," he added. "We just wanted to make sure the judges had enough to rule on."

FOLLOWING the decision, Shaw stood at the front of the courtroom with his attorneys waiting for a copy of the findings.

The judges were out of the courtroom for 35 minutes before bringing in their decision.

In a closing argument on behalf of Shaw, attorney William Wegmann contended the prosecution had produced no evidence of a conspiracy, and he questioned the reliability of the two main witnesses in the case.

"We're going to base this serious charge on a junkie and on a young man who waited three years to come forward to say, 'I know something about the assassination of the President of the United States.'"

THE REFERENCE was to Bundy and to an earlier witness, Perry R. Russo.

Assistant Dist. Atty. James Alcock contended the witnesses had proven themselves, and "the state of Louisiana will stand on their

testimony."

He asked that the three judges find "that Clay L. Shaw should be tried by a jury of his peers for a conspiracy to kill John F. Kennedy."

Under the law, said Wegmann, conspiracy requires proof of an agreement between two or more persons to act.

AS AN alternative, he said, the prosecution must show proof of an "overt act."

"If one is lacking, I don't believe the court is justified in holding this man under arrest."

"You can have no convictions without some corroborating evidence," said Wegmann. "I submit that the uncorroborated testimony does not warrant holding this man."

He said the only testimony pointing to a conspiracy was that of Russo. But he claimed that Russo's testimony was "unbelievable."

WEGMANN said Russo "failed to recognize a picture of Oswald as a clean-shaven man. Only after some time and only with a retouched photograph was he able to make the identification."

"Yet later in his testimony, he said he had seen Oswald clean shaven."

Since Russo testified he saw Oswald only four times, said Wegmann, Oswald was clean shaven "25 per cent of the times he saw him . . ."

Wegmann also said Dr. Esmond A. Fatter, who hypnotized Russo three times under supervision of the district attorney's office, "leaves no doubt that he left this man with a post-hypnotic suggestion."

"THE MOST significant thing that renders Russo's story unbelievable is the fact that less than 60 days before . . . going to murder the President of the United States, they sat down before a total stranger to discuss the plan.

"This, to me, is unbelievable.

"Here was a man who said he lived under the spell of Ferrie . . . a man who sits down and hears them say they are going to kill the President. Seven weeks later the President is murdered.

"This man wants this court to believe that despite the fact that he heard three people plot to murder the President, and the President was

murdered, he did not place any significance . . .

"IT'S THE crime of the century . . . and no crime has ever had any better coverage.

"Yet this man keeps quiet three years. Why? What triggers him then to come forward. What kind of man is this?

"Here is a man who is a witness to the crime of the century and doesn't come forward. When does he come forward. He comes forward when his old friend Dave Ferrie dies."

Earlier, in cross examination, the defense contended that Russo, a Baton Rouge insurance salesman, was willing to testify only when he knew Ferrie was dead and could not contradict him.

GARRISON called Bundy to the stand immediately after the noon recess.

The climax of Bundy's testimony came when, at the request of Garrison, he left the witness chair, walked over to stand at Shaw's back, and placed his hand over the defendant's head to identify him as the man he saw with Oswald on the lakefront.

Bundy testified he had taken his "kit" for the injection of heroin to the lakefront on a Monday sometime in June or July.

Bundy said he was a narcotics addict and went to the lakefront to give himself a "fix."

HE SAID he arrived at the seawall at approximately 8:45 a. m.

"I was looking all 'round

cause I'm skeptical," Bundy testified. At this moment there is a black four-door sedan approaching and it parks.

"A fellow then gets out of the automobile and walks toward me. I am skeptical. I don't know whether he is police or what.

"The guy passed in back of me . . . and he tells me it's a hot day."

Bundy said the man he identified as Shaw walked about 15 or 20 feet away from him and "after five or seven minutes, a young man approached." He said the two talked for about 15 minutes.

BUNDY said the man, whom he later identified from pictures as Oswald, "was a beatnik type of guy." According to Bundy "he was in pretty nasty shape to tell you the truth. He needed a shave . . . he needed a haircut."

At the end of the conversation between the two men, said Bundy, Oswald said loudly, "Well what am I going to tell her."

"The oldest guy told him, don't worry about it, I told you I'd take care of it.

"The older fellow gave the young guy what I'm not sure, but looked like a roll of money. The young guy stuck it in his back pocket."

BUNDY then identified pictures of Lee Harvey Oswald as the younger of the two men he saw on the seawall.

He identified a picture of Shaw as the man who met Oswald.

After the meeting, said Bundy, the man identified as Shaw "got back into his automobile and drove back toward the colored section of the lakefront.

"The young man watched

him drive off and turned and walked toward the white section. . . . After they left I shot the dope."

BUNDY testified that he wrapped up his narcotics instruments with one of the yellow leaflets he said Oswald had dropped in the area.

Bundy also testified that he had once been arrested for simple burglary of a cigarette machine. Judge Bagert confirmed he had been on the bench in the case and had sent Bundy to a federal hospital in Fort Worth, Texas.

"Are you in Parish Prison?" Garrison asked.

"Yes."

"Why."

"I caught myself going back on the stuff (dope) and surrendered myself to Mr. Giarrusso (head of the narcotics bureau).

Has my office promised you anything for giving this testimony?"

"No."

THIS WAS the second time Garrison had instructed a witness to place his hand over Shaw's head as a method of identification.

Russo also identified Shaw in this manner to climax testimony that Shaw, Oswald and Ferrie met in Ferrie's apartment to plan the assassination of Kennedy.

F. Irvin Dymond handled the cross examination of Bundy. He questioned the witness closely on the time he said he saw Shaw and Oswald together on the lakefront and about his habits as an addict.

Attempting to pin Bundy down on the time he saw Shaw, Dymond asked:

"COULD IT have been the last week in July?"

I'm not sure, but I don't believe it was the last week."

"Could have been the second to last week of July?"

"It could have been."

"Could it have been the last week in June?"

"It might have been."

"Could it have been the first week in June?"

"NO, I don't think it could have been the first week in June."

Earlier in the day, the court heard testimony from Dr. Esmond A. Fatter, a private practitioner who was qualified by the state as an expert on hypnosis.

He read from notes as to what he had told Russo when he hypnotized the witness.

"I said, 'Relax, you will be calm, cool and collected. You can do anything you wish and do the task well. Things will pop into your mind. You will speak. You will have no fear, because you will be telling the truth. . . .'"

WEGMANN, on cross examination, pressed Dr. Fatter as to whether he felt Russo testified under post hypnotic suggestion.

"He could have if he acted the suggestion," said Dr. Fatter, "but I have no way of knowing if he did."

At the end of the hearing, defense attorneys again fought to have the Warren report accepted as evidence in the hearing.

Braniff said he felt that the report was "fraught with hearsay and conversation."

Judge Bagert added that the report contained "hearsay five and six times removed."