

# Times-Picayune

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## DA'S OFFICE ASKS DELAY IN TRIAL OF CLAY SHAW

### Release of Endorsement of Autopsy Report Hit

District Attorney Jim Garrison's office Friday asked a Criminal District Court judge for an indefinite delay in the Clay Shaw conspiracy trial scheduled to begin Tuesday.

Assistant DA James L. Alcock asked for the indefinite continuance shortly after a federal judge demanded additional evidence before he would order the release of autopsy photographs and X-rays of President John F. Kennedy.

Just last month Alcock, in a television interview, said that the district attorney's office could and would try Shaw for conspiring to kill Kennedy without the autopsy report and X-rays.

The quote which was cited in an attempt by Shaw's attorneys to get a change of venue follows:

"We can and will try him without the autopsy report and X-rays."

Chief defense counsel F. Irvin Dymond said the defense will oppose the delay at the hearing set by Judge Edward A. Haggerty Jr. for 10 a.m. Monday. Judge Haggerty, who will preside over the trial if it does take place, said he will rule on the issue after the hearing.

Among the delays since

Shaw's arrest on March 1, 1967, has been a six-month continuance on the basis of prejudicial publicity at the defense's request.

### SURPRISE MOVE

The 11th-hour bombshell took all but Garrison's most skeptical detractors off guard.

Just several weeks ago Garrison, a persuasive speaker, set the trial date and announced that nothing would stop him from going through with the case.

He said he would have to be killed to be stopped.

Alcock, Garrison's most active assistant in court matters involving Shaw, filed the motion for the continuance with Judge Haggerty.

BY JIM MONTGOMERY

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present when Alcock filed the motion, and he received a copy.

Garrison apparently was out of town, but Alcock sat in his chair and announced the delay request during a news conference in Garrison's office.

Reading a brief, but hard-hitting statement, Alcock accused Clark of releasing only the autopsy evidence that favored the defense and the Warren Commission report.

He said the DA's office cannot bring Shaw to trial until it has all the evidence it desires.

Garrison is demanding photographs and X-rays from the autopsy on Kennedy's body.

#### RECORDS IN ARCHIVES

These records were sealed in the National Archives until 1971 at the request of the Kennedy family.

The clothes Kennedy wore during the assassination are also sought by the DA's office, Alcock said Friday.

Some time after the news conference, a federal judge in Washington, D.C., gave the DA's office two weeks to decide whether to present evidence to warrant his ordering the release of the records.

Judge Charles W. Halleck, in General Sessions Court of the District of Columbia after more than two hours of hearings, granted the Orleans Parish district attorney's office two weeks if it desires to prove that the photographs and X-rays taken before and during the autopsy of the late President Kennedy are "necessary and material" in the prosecution of the alleged conspiracy case.

Numa V. Bertel Jr., assistant district attorney of Orleans Parish, maintained in his arguments before Judge Halleck that the Orleans Parish district attorney's office has "substantial evidence indicating that the photographs and X-rays will reveal" that President Kennedy was struck by bullets fired from at least two directions.

#### REVIEW OF REPORT

The Justice Department Thursday night disclosed that an independent medical group had examined the photographs and X-rays of the autopsy of the late President. The department maintained that the photographs

and X-rays showed that President Kennedy was shot only from behind.

The disclosure by the Justice Department was in response to the demands for the exhibits by the Orleans Parish district attorney, who wants the documents for the prosecution of Shaw.

Bertel, in support of a statement filed by the Orleans Parish district attorney's office with the General Sessions Court in Washington, main-

tained that the fatal head wounds were the result of shots fired from the front of President Kennedy.

The Orleans Parish district attorney's written statement insists that the exhibits are necessary for the state of Louisiana for the purpose of proving the cause of the death of President Kennedy.

Prior to the ruling of Judge Halleck, the jurist overruled the Department of Justice, which argued that the General Sessions Court in the District of Columbia lacked jurisdiction in the Louisiana case.

#### ARGUMENTS HEARD

Bertel maintained that the court did have jurisdiction. After considerable arguments of legal technicalities, Judge Halleck affirmed Bertel's contention.

The case of the government was argued by Joseph Hannon, head of the Civil Division of the Department of Justice.

Judge Halleck said that he was not denying that the state of Louisiana was entitled to the X-rays and photographs, but he said he wanted proof that they are vital in the prosecution of the case.

Halleck said he wanted to give the Orleans Parish district attorney's office every opportunity to prove that the exhibits are material to the case.

#### NO WITNESSES PRESENT

He asked Bertel if he had any witnesses such as pathologists available to present testimony. The New Orleans attorney said he did not have any such witnesses immediately available.

Halleck said he wanted to give District Attorney Garrison every opportunity to support the "unsworn statement" that he has substantial evi-

dence that the late President was struck by bullets from two directions.

Dr. James B. Rhoads, archivist of the United States, who has official possession of the X-rays and photographs taken at Bethesda Naval Hospital in suburban Washington after President Kennedy's body was flown from Dallas, was in the courtroom during the hearing.

Rhoads has been directed to show cause why an order should not be entered requiring him to appear as a witness in the Criminal District Court of Orleans Parish.

Rhoads has custody of 45 photographs and 24 X-rays taken before and during the autopsy on Nov. 22, 1963, the day President Kennedy was assassinated.

#### OPPOSES APPEARANCE

Rhoads opposes issuance of summons requiring his appearance at New Orleans for any trial on the grounds that he has no personal knowledge of the facts relative to the assassination of President Kennedy.

In the Warren Commission's report, the medical testimony concluded that Lee Harvey Oswald was the lone assassin.

The Warren Commission concluded that Kennedy was hit by bullets fired from above and from the rear, while Garrison claims that the fatal wound was inflicted from the front and that shots were fired from several directions.

Departing from his prepared statement here Friday, Alcock announced his intention to subpoena the doctor who signed Kennedy's death certificate in Dallas on Nov. 22, 1963.

He identified the doctor as Robert McClelland. The certificate, which mentioned a gunshot wound of the left temple, will also be subpoenaed, Alcock said.

#### CAUSE OF DEATH

The certificate "lists the cause of death as massive head and brain damage due to a gunshot wound of the left temple. This point of evidence was apparently overlooked by Ramsey Clark's panel of experts," Alcock said.

The certificate was commission exhibit 392, he said. "We



are subpoenaing that particular exhibit along with Dr. McClelland," Alcock said.

Alcock interrupted the news conference once when First Assistant DA Charles R. Ward announced a phone call from Garrison.

"I'm sorry, Jim," Ward told Alcock, "I have to interrupt the news conference. Mr. Garrison wants you on the phone. He wants me to interrupt the news conference."

Alcock returned a few minutes later, telling newsmen, "Sorry to keep you waiting, Jim (Garrison) was on the phone, long distance."

Alcock concluded the news conference when Ward again entered and told him he was wanted on the phone.

#### ALCOCK'S STATEMENT

Alcock's statement follows:

"The release by Atty. Gen. Ramsey Clark of an opinion by a panel of so-called experts which purports to back the findings of the Warren Report on the eve of the trial of Clay Shaw makes it absolutely necessary for us to obtain the photographs and X-rays of the autopsy, as well as the clothing worn by President Kennedy on the day that he was assassinated. Prior to the release of this opinion it was our intention to proceed to trial with or without this material. However, since Ramsey Clark has released only a small portion of the evidence and only that which favors the defense and the Warren Report, it is absolutely necessary that we obtain that evidence upon which the panel based their opinion of the autopsy before proceeding to trial

(Before in the last sentence is underlined).

"This was another effort by the federal government to aid the defense and to stop the prosecution by the state of Louisiana of Clay Shaw. The obvious timing of this release indicates that Atty. Gen. Ramsey Clark was never fit to serve in so high an office of this country. Proof in our possession indicates that Kennedy was definitely struck by a bullet from both the front and rear. So-called experts for the defense have examined the reports. Now we would like to have experts who have the opposite opinion—that is, that there was a bullet entry from the front—have a like opportunity to examine the autopsy material.

"Therefore, I am today fil-

ing a motion requesting a continuance of this case to be reset only after receipt by this office of all (underlined) of the evidence called for in our subpoenas of the evidence used in the autopsy report and all other evidence secretly held by the federal government; in the event the federal government does not honor our subpoenas and blocks our attempt to present all of the evidence, this case cannot (underlined) be brought to trial. If the case cannot be tried, the people can only look to the efforts of the attorney general and the government of the United States and examine their motives in refusing to release all of the evidence.

"No one man—not even the attorney general—and no government, except in cases of national emergency, should seek to hide the truth or any evidence from the American people."

The motion for a continuance said Clark's release received widespread publicity, including a banner headline story on the front page of the Friday issue of The Times-Picayune.

The motion continued as follows:

"The unbelievable release of these findings on the eve of the trial of Clay L. Shaw makes it imperative that the state of Louisiana move this court to continue that trial to be reset by the state of Louisiana. The report issued by the attorney general of the United States at this time is highly prejudicial to the interests of the state of Louisiana in this prosecution. The timing of this release could not be any more inimical to the ends of justice."

#### HEARING ON PROGRAM

Before holding his news conference, Alcock participated in another hearing before Judge Haggerty which resulted in WWL-TV's withdrawal of a one-hour special on the Shaw case scheduled for 8 p. m. Saturday.

The defense had objected to the program, saying that prospective jurors would see it,

and asked Judge Haggerty to, in effect, enjoin the station from showing it.

Attorney Thomas Rayer, representing the station, argued that such an injunction would be an encroachment on the right of freedom of speech.

The show apparently was to

have been a recapitulation of the events leading up to the trial. Rayer told the judge the issue involved the "question of whether your honor has the right to control dissemination of news that has already been gathered."

He also argued that the judge was being asked to issue what amounted to a civil injunction.

#### EFFECT UNKNOWN

Rayer said he had not seen the program, and was not in a position to know what its effect might be on prospective jurors.

But he argued that if Judge Haggerty stopped WWL's program, he would also have to stop The Times-Picayune and other news media from carrying stories about the case.

Judge Haggerty said he was not trying to stop news media from gathering information outside the confines of the court.

But he maintained that the question of whether the information influences the minds of prospective jurors must be considered.

Judge Haggerty cited one murder case in which the judge and a newspaper were criticized for "making a circus" of the trial.

#### SELF-REGULATION

He said it is generally agreed among the legal profession that the press should impose voluntary regulations on itself in publicizing judicial matters.

News media do not have the equivalent of bar associations for discipline, he said.

Defense attorney Dymond said the matter was "simply a question of which is more important: the right of Channel 4 to make money, or the right of Clay Shaw to get a fair trial."

In connection with Rayer's statement that the program consisted of news that already had been gathered, Dymond said there is no way of knowing how many prospective jurors have seen some, all or none of it.

"Consequently, there is no way of saying this will not be new material to some," he said.

"There's no way in the world it cannot affect them," he said of jurors.

The television station was trying to force Shaw into a gamble, Dymond said.

"Mr. Rayer is asking the court to force Clay Shaw to gamble on what effect the show will have" on prospective jurors, Dymond said.

The upshot of the arguments was an announcement by Rayer that WWL agreed to withdraw the program, not because it violated any guidelines, but in deference to the court and prospective jurors.