

In George Lenox Murder Case—

Judge Rules Mississippi Can't Try Bobby Fabian

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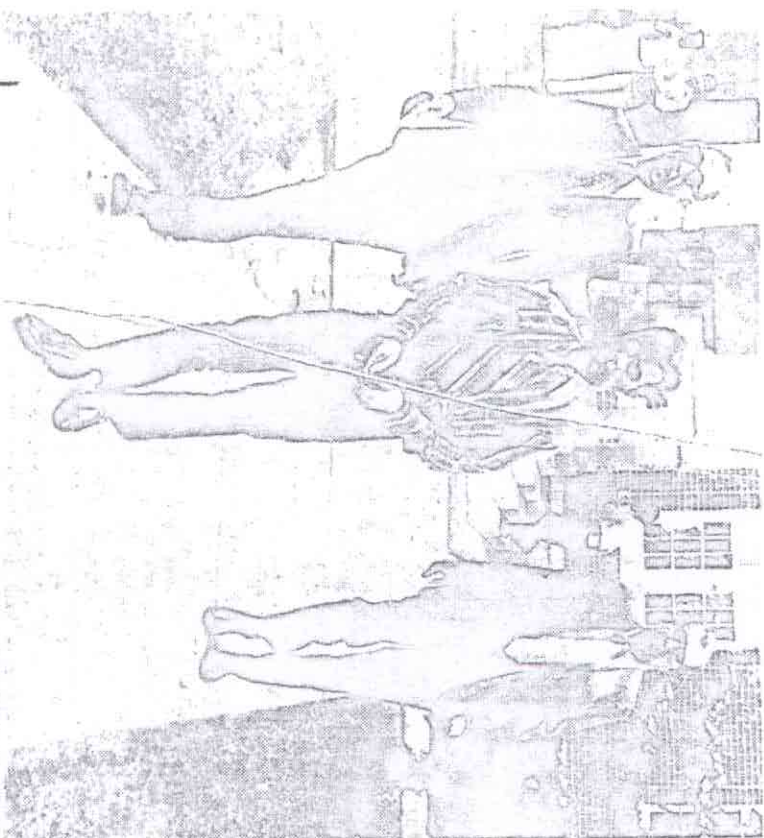
Press-Scimitar Staff Writer

Bobby Joe Fabian — the Louisiana convict who signed at least two confessions saying he murdered George Lenox, Memphis millionaire and Collierville horse fancier — must stand trial in Tennessee and not Mississippi.

This was the gist of a ruling handed down yesterday by Circuit Judge W. W. Brown, who said Dist. Atty. Talmadge Littlejohn failed to prove beyond a reasonable doubt that Lenox died in Mississippi.

"It would be a miscarriage of justice if I would permit this case to go to trial on its merits before a Mississippi jury," Judge Brown said. "If defense attorneys raised the jurisdictional question after all of the evidence had gone to the jury, and the state failed to discharge the burden of proving that the crime was consummated in Mississippi, then it would be possible for the defendant to walk out of the courtroom on a mere legal technicality."

Under double jeopardy rulings in recent U.S. Supreme Court decisions, Fabian



—Press Scimitar Staff Photos

FABIAN CLAIMS HE WAS DRIBBED
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Bobby Joe Fabian (center) leaves Marshall County Courthouse accompanied by Bert Duncan (left) and J. W. Warren, both Mississippi Highway Patrol investigators.

could not stand trial in Tennessee for the Lenox murder if he were acquitted by a Mississippi jury, or if his conviction was reversed on appeal, Judge Brown said.

Brown said he would be "delighted" if Littlejohn appealed his ruling to the Mississippi Supreme Court because of the judicial implications of the case. Littlejohn gave notice of appeal.

His ruling ended a long day of testimony by law enforcement officers, prosecutors and Fabian himself.

Fabian — clad in bright red trousers and a pink-striped shirt — climaxed the day's testimony when he took the stand. He accused Inspector Dan Jones of the Shelby County Sheriff's office of paying him \$2,000 of a promised \$5,000 in order for him to "frame" two other persons in the Lenox slaying.

The smooth, baby-faced son of a gun responded in an easy manner and with quick answers that belied his own introductory testimony that prison examinations showed that he had a low IQ and only the equivalent of a fifth grade education.

"I have trouble with reading, writing and dealing with figures," he answered when Littlejohn asked him if he could read and write.

Fabian repudiated both a Tennessee confession obtained by Jones, and a second confession elicited by Mississippi authorities. He said he signed the first one because of money payments by Jones. He signed the second one because both Mississippi and Louisiana law enforcement officials promised him leniency and commutation of sentence, he testified.

"You don't think I would sign my own ticket to the Mississippi gas chamber," he responded when Littlejohn asked him if he had not given the statement in a voluntary manner without influence of promises of reward, inducements or threats.

"Isn't it true, Bobby Joe, that you asked for the world, and we promised you absolutely nothing?" asked Littlejohn.

"Listen . . . you'll come

to me . . . I didn't go to you . . ."

Fabian testified further: "I don't know who killed George Lenox or who was involved in the killing . . . I didn't have anything to do with it . . . I have instructed my attorneys to file a motion

so I could take a truth serum test or a lie detector test . . ."

Judge Brown had earlier postponed a ruling on the jurisdiction question in order to hear testimony on a motion by Fabian's defense attorneys to suppress a confession that prosecutors were planning to introduce at the trial.

"This question of jurisdiction was so important," Judge Brown said, "that I decided to wait until I heard all of the evidence concerning the confession and see if there would be anything in the confession that would resolve the jurisdictional question."

First, defense attorneys argued that the confession obtained by Mississippi authorities could not be placed into evidence for Judge Brown's consideration because it was tainted by the confession obtained by Inspector Jones.

Fabian testified that Jones, accompanied by Rex Armistead, chief investigator for the Mississippi Highway Patrol first visited him when he was a prisoner in the Monroe County Jail in Monroe, La., either in late September, 1970, or early October. Fabian was under arrest on charges of assaulting two Louisiana law enforcement officers in a shoot-out.

"He (Jones) said he was under heavy pressure to solve the Lenox case and that if I helped get the monkey off his back, he would later help to get the monkey off of mine," Fabian said.

"He wanted me to sign a confession that would frame George Sammons and Nolan Fats Williamson (a Greenville, Miss., man who is awaiting a new trial after a conviction for burglary was reversed by the Mississippi Supreme Court) . . . I was supposed to have received



DAN JONES NAMED

Inspector Dan Jones of the Shelby County Sheriff's Office was named by Bobby Joe Fabian, self-confessed slayer of George T. Lenox, as paying the convict \$2,000 to confess. Jones had been at a hearing in the case earlier in the week, but was not on hand yesterday to answer Fabian's charges.

only \$15,000 of a \$40,000 that they were supposed to have offered me . . ."

Jones, Fabian said, took him to a room in back of the Monroe County Jail and then paid him \$1,000 in \$10s, \$50s, and \$100 bills. Armistead did not go to the back room, Fabian said, but was present when he signed the first confession.

Then, after he was transferred to another jail in Rayville, La., Fabian said, he received from Jones a West-

ern Union money order for a second \$1,000.

"The chief deputy went out and cashed it for me," Fabian told the court.

Then on Jan. 21, 1971, Armistead, accompanied by his secretary Jane Stone, an assistant investigator, Dan Davis, and a Mississippi assistant attorney general, Marshall Bennett, visited Fabian at the Angola State Prison near Baton Rouge, La.

Armistead testified he elicited a second confession but did not offer Fabian any inducements, make him any promises for immunity, nor subject him to any coercive influences.

Fabian named an assistant attorney general of Louisiana, Stacy Moak, as being present when he was urged to sign the second confession. Fabian said Moak promised him his Louisiana life sentence would be commuted if he would waive extradition as well as signing the confession.

Littlejohn said in February of this year, a month after Fabian signed the Mississippi confession, he went before the Marshall County Grand Jury and obtained a murder indictment against Fabian.

Upon ^{sup} examination by ^{sup} ~~at address~~

Carner, Littlejohn denied using the Tennessee confession as a model for the confession obtained by Mississippi investigators.

When asked if he had a copy of the Tennessee confession when he went to Louisiana, Littlejohn said he did have a copy, but that it was only part of a foot-high stack of evidence in the case.

Judge Brown finally ruled that the confession was admissible in evidence, but that this does not mean that he was ruling that it was a valid confession.

Judge Brown said he was hoping there would be something in the confession that would clarify the jurisdictional question, but instead, there was a passage that indicated the first shot was fired in Tennessee.

Without reading the confession aloud, Judge Brown said Fabian made a statement that the first shot was fired near a curve in the road near the intersection of Holmes Road with Byhalia Road.

"This would have been at a point in Tennessee," Judge Brown said.

Brown then cited Tennessee statutes which give jurisdiction of any homicide to any county wherein the fatal blow or stroke is administered, although the victim may later die in another county or state.

Littlejohn's key witness, Dr. Jerry Francisco, failed to prove that Lenox died in Mississippi, his "professional opinion to the contrary," Judge Brown said.

Judge Brown said there was not "one scintilla of evidence to suggest that Lenox died from the second shot rather than the first, but that a reasonable man might conclude that Lenox died from the first.

"It would be unreasonable to presume that a killer would remain on the scene of such a crime five minutes to an hour after firing the first shot to fire a second shot to insure his victim's death," Judge Brown said.

"Veneue must be proved," Judge Brown said, "not presumed."