



Percy Foreman's Lawyering Blasted

EARLY in the morning of June 4, 1972, two white men drove around Elizabeth, N.J., randomly firing at blacks on the street. One person was killed and four were wounded.

Dominick Caruso and an alleged accomplice were charged with murder and 22 other crimes, and Houston trial lawyer Percy Foreman was called to handle the defense.

Unsuccessfully asserting insanity, Mr. Caruso was convicted on all counts and sentenced to life in prison. But now he may get a reduced sentence because of Mr. Foreman's representation.

According to an opinion by U.S. District Judge Herbert J. Stern in Newark, N.J., Mr. Foreman apparently failed to tell his client about a purported plea bargain offer by then-prosecutor Karl Aesch. "The prejudice to petitioner is even clearer . . . particularly in view of the paucity of evidence that petitioner was insane at the time the acts were committed," Judge Stern wrote. *Caruso v. Zelinsky*, 79-3215.

Mr. Foreman retorted in a telephone interview, "There was absolutely no such offer made. It would be ridiculous for the prosecutor to make such an offer. They had an open-and-shut case with a complete videotaped confession."

He added that insanity was the best defense. "We had two reputable psychiatrists who testified," he said.

Now represented by Roseland, N.J., lawyer Stephen N. Dratch, Mr. Caruso wants the benefit of the purported plea bargain, which would expose him to a maximum sentence of 30 years.

Unless the prisoner gets the benefit of the plea bargain or an evidentiary hearing by Sept. 8, he must be freed, Judge Stern ordered.

A Trial Lawyer's Je Ne Sais Quoi

CONGRESSMEN are allowed to elaborate and amplify their spoken words before the Congressional Record goes to print. It's not that way with trial lawyers and case transcripts, but Los Angeles lawyer Patrick Lynch almost had his chance.

The occasion came June 26 at the nine-week-old Oakland Raiders antitrust trial in federal court in Los Angeles, when the lawyer abruptly ran out of words.

The Raiders football team wants to move to Los Angeles, and it has sued the National Football League, its teams and three individuals, charging they formed a conspiracy to prevent the move. (N.L.J., June 29.)

Mr. Lynch was arguing that NFL Commissioner Pete Rozelle should be dismissed as a defendant, saying that no one could complain that Mr. Rozelle was part of a secret conspiracy because his position on the issue of team transfers was always publicly known.

"Even if the complaints were made, it was like—I can't come up with an analogy," the lawyer stammered.

Judge Harry Pregerson came to the rescue, joking "we will leave a blank spot in the transcript for you to