

Times Picayune 3/18/67

Judges Set Guidelines for Newsmen at Hearing

Shaw Case Photographs Are Prohibited

The three Criminal District Court judges who will preside during a preliminary hearing Tuesday for **Clay L. Shaw**, accused by District Attorney Jim Garrison of participating in a plot to kill President John F. Kennedy, Thursday released a set of guidelines for newsmen to follow during the hearing.

Rules for news media were issued by Judge Bernard J. Bagert after he announced that Judge Malcolm V. O'Hara and Judge Matthew S. Braniff will preside with him during the hearing. The release bearing the rules for newsmen was signed by all three judges.

The text of the guidelines follows:

Rules governing conduct of news media, spectators, witnesses, interested parties, etc.:

Respectfully, your attention is invited to Canon XXIII of the Canons of Judicial Ethics adopted by the Supreme Court of the State of Louisiana, Oct. 13, 1960, which provides in part, viz:

"The taking of photographs in the courtroom during the progress of judicial proceedings or during any recess thereof and the transmitting or soundrecording of such proceedings for broadcasting by radio or television introduce extraneous influences which tend to have a detrimental psychological effect on the participants and to divert them from the proper objectives of the trial; they should not be permitted. The purpose of judicial proceedings is to ascertain the truth. Such proceedings should be conducted with fitting dignity and decorum, in a manner conducive to undisturbed deliberation, indicative of their importance to the people and to the litigants, and in an atmosphere that bespeaks the responsibilities of those who are charged with the administration of justice."

Also, Judicial Canon 35 of the Canons of Judicial Ethics of the American Bar Association,

which provides in part, viz:

"Proceedings in court should be conducted with fitting dignity and decorum. The taking of photographs in the court room, during sessions of the court or recesses between sessions, and the broadcasting or televising of court proceedings are calculated to detract from the essential dignity of the proceedings, distract the witness in giving his testimony, degrade the court and create misconceptions with respect thereto in the mind of the public and should not be permitted."

And, the pronouncements of the Supreme Court of the United States in numerous cases, e.g., Samuel H. Sheppard vs. E. L. Maxwell, Warden, 86 S.Ct. 1507, (decided June 6th, 1966), and the numerous decisions cited therein, including (but not limited to) Estes vs. Texas (1965), 381 U. S. 532, 85 S.Ct. 1628, 14 L.Ed. 543, Jack Ruby case, and also William Seymour vs. United States of American, No. 23528 in the United States Circuit Court of Appeals for the Fifth Circuit (decided March 6th, 1967), wherein Mr. Justice Harlan is quoted from opinion in Estes vs. Texas, supra, viz:

"Once beyond the confines of the courthouse, a newsgathering agency may publicize, within wide limits, what its representatives have heard and seen in the courtroom. But the line is drawn at the courthouse door; and within, a reporter's constitutional rights are no greater than those of any other member of the public. Within the courthouse the only relevant constitutional consideration is that the accused be afforded a fair trial. Id. at 589, 381 U. S.

at 1663, 14 L.Ed. 2d at . . . (concurring opinion); See Irvin vs. Dowd, 1961, 366 U. S. 717, 730, 81 S.Ct. 1639, 1946, 6 L.Ed. 2d 751, . . . (Frankfurter J., concurring); Tribune Review Publishing Co. vs. Thomas, supra, 254 F.ed at 885."

And, whereas the American public has supported "Freedom of the Press" commencing with the historic case of Peter Zenger, later reaffirmed in the United States Constitution, and in numerous judicial interpretations; and

Whereas all democratic peoples from the adoption of the Magna Charta at Runnymede in 1215 have detested secret trials and "Star Chamber" proceedings; and

Whereas a responsible press has been judicially recognized as a bulwark to the impartial administration of criminal justice but the press must not be allowed to divert a trial from the calmness and solemnity of courtroom decorum according to legal procedures and established rules of evidence.

ORDER

It is hereby ordered that:

I: Louis A. Heyd Jr., criminal sheriff for the Parish of Orleans, is hereby entrusted with the security of the courtroom and to take whatever steps are necessary to maintain maximum security, and to prevent any cameras, recording devices, registering devices or any other electric or mechanical equipment from being brought into the courtroom.

II. That the said Louis A. Heyd Jr., criminal sheriff for the Parish of Orleans, is ordered and directed to handle the courtroom seating.

III. All approaches to courtrooms, offices and other rooms in the courthouse premises, which are defined as the entire building housing the courts, shall be kept clear for the purpose of free access thereto by those employed therein, or transact in the courthouse.

IV. No cameras, recording devices or registering devices, or any other electronic or mechanical equipment shall be used within the courthouse premises by any person before or during the trial or related proceedings or at any recess or adjournment, expecting those necessary devices already in daily use in other trials or offices in the ordinary course

of their business.

V. No sketches or drawings shall be made within the courthouse premises of any persons attending or participating in the trial or related proceedings.

VI. No teletype machine shall be installed within the courthouse premises or no telephone lines or equipment (private, public, pay station or otherwise) not already in operation within the courthouse premises shall be installed.

VII. Witnesses, spectators and all lawyers participating in this case, their office associates, staff members and employees under their supervision and control; employees of this court and all other persons employed within the courthouse premises; and the coroner, clerk of court, sheriff, police officers and other law enforcement officers, their associates, deputies and assistants; staff members and person under their supervision and control, who have participated in or who are expected to participate in the handling or processing of this matter, are forbidden from making any extra-judicial statements of any kind concerning this case from this date and until such time as this case is concluded.

VIII. No release to any of the news media may be made of any leads, information or statements from police officers, witnesses or counsel for either side, and any extra-judicial statement or statements made

by any lawyer, party, witness or official is hereby prohibited. Nothing except that which occurs in open court, adduced only in evidence and argument in open court, will be disseminated.

The news media are placed upon notice as to the impropriety of publishing material not introduced in the proceedings. The news media must be content with the task of reporting the case as it unfolds in the courtroom—not pieced together from extra-judicial statements.

IX. The official court reporters reporting these proceedings are hereby prohibited from selling, giving, furnishing or disseminating any transcript of these proceedings to any person other than counsel for the defense and the state until such time as is determined by the Court.

X. Attendance in the courtroom during this hearing shall be limited to seating accommodations only. No one will be permitted to stand and unless a seat can be found, the criminal sheriff is directed to request that they forthwith leave the courtroom.

No one will be permitted to enter or leave the courtroom during the testimony of any witness or argument by counsel. Entry and exit from the courtroom may be made only during official recesses or between the testimony of witnesses, as authorized by the court and criminal sheriff.

No members of the news media will be admitted within the inner rail of the bar except, (inasmuch as this is a case which will be tried without a jury), seven representatives of the news media will be permitted to occupy tables within the bar rail, set aside for those purposes, in the most remote part of the inner rail from the witness stand. These seven seats will be reserved for one representative of the following: The Times-Picayune Publishing Corporation, The New Orleans States-Item, the Associated Press, the United Press International, and Channels 4, 6 and 12.

Credentials for news media

shall not be transferable and shall be used only by accredited representatives of the news media to which issued and any violation of this provision shall result in the forfeiture of the credentials.

XI. The bar of the court within the rail is reserved for counsel and such persons as counsel may desire to be within the bar for consultation purposes, members of the legal fraternity and personnel authorized by the court, except for

the seven seats referred to above.

XII. No exhibits will be handled by anyone except the attorneys and persons authorized by the Court.

(Signed:)

MALCOLM V. O'HARA,
Judge

MATTHEW S. BRANIFF,
Judge

BERNARD J. BAGERT,
Judge

Court Eases Rules on Newsmen in Shaw Hearing

Article IX of Guidelines Is Withdrawn

Rules governing the news media, spectators and witnesses attending the preliminary hear-

ing for Clay L. Shaw on Tuesday have been eased by the Criminal District Court.

On Monday, the court withdrew a provision which would have prevented news media from reporting anything except

that which happened in the courtroom.

Stricken from the guidelines was Article IX, which dealt with release by news media of any transcript of proceedings until

such time as determined by the court.

The full text of the revision order announced by Judge Bernard J. Bagert follows:

It has been brought to the attention of the court that our

LA., TUESDAY MORNING, MARCH 14, 1967

previous order, and particularly Article 8 thereof, may be open to construction as imposing unreasonable burdens on the news media, both mechanically (as in E. G.: the policing of network broadcasts by local stations), and constitutionally.

While we are determined that no proceeding in this court shall be characterized as a "Roman holiday" such as the trial described in Sheppard v. Maxwell, 86 S. Ct. 1507, 1519 (1966), we are satisfied that the requirements of justice do not extend as far as Article 8 may suggest. In particular, we realize that the Supreme Court's observation in Sheppard that "reporters who wrote or broadcasted prejudicial stories, could have been warned as to the impropriety of published material not introduced in the proceedings" (86 S. Ct. 1522) must be viewed in the context of a trial in progress, in which the jurors were exposed to all printed and broadcast stories about the case. Moreover, the quoted statement cannot be divorced from other pertinent comments in the same case:

"A responsible press has always been regarded as the handmaiden of effective judicial administration, especially in the criminal field. Its function in this regard is documented by an impressive record of service over several centuries. The press does not simply publish information about trials but guards against the miscarriage of justice by subjecting the po-

lice, prosecutors, and judicial processes to extensive public scrutiny and criticism. This court has, therefore, been unwilling to place any direct limitations on the freedom traditionally exercised by the news media . . ." (86 S. Ct. 1515-1516.

We are also influenced by other factors. We cannot isolate the community from reports by national and international news sources; we cannot undo what has already been said by parties to these proceedings, counsel, and others; the very nature of the proceedings makes it impossible to determine when — if ever — they will be brought to a conclusion; and we do not wish to eliminate the positive good that can flow from the actions of responsible reporters and their employers. The burden of preventing the dissemination of prejudicial material properly rests with those persons enumerated in the first sentence of Article 8 of our prior order, and not with the

news media themselves.

ACCORDINGLY, we hereby repeal all but the first sentence of Article 8 of our earlier order, with the admonition that the court will not hesitate to impose such further restraints and sanctions as may be appropriate to insure the orderly conduct of judicial proceedings. Our admonition to other parties remains in force. The foregoing

is prompted in no small measure upon our confidence in the integrity and responsibility of the local news media; should future events demonstrate that our confidence has been misplaced, our further orders will reflect that fact.

We are further persuaded that the provisions of Article 9 of our prior order make no contribution to the ends of the

ARTICLE ONE—PAGE SEVEN

orderly administration of justice, and accordingly repeal said article.