

Pershing Gervais' testimony in pinball trial

These are selected portions of Pershing Gervais' testimony yesterday in the pinball bribery trial of Dist. Atty. Jim Garrison and two others.

Gervais is questioned by Asst. U.S. Atlys. Michael Ellis and K. Eric Gisleason. Defense attorneys were Louis LaCour, Virgil M. Wheeler Jr. and Garrison.

The witness opened his testimony by outlining his educational and professional experience, as well as his duties as chief investigator for the D.A.'s office.

As an investigator, he said, he formulated plans to crack down on pinball operations but was stopped by Garrison. Questions by Ellis:

Q. Did he tell you why you could not pursue your plans against the pinball industry?
A. Yes, he did.

Q. What did he tell you?
A. He said that he had received a considerable contribution from the pinball industry.

Q. Did he tell you where the contribution had come, where did the money received—
THE COURT:
He said it came from the pinball industry.

Ellis: Who did the pinball industry give the money to, if you know?
A. The individual that they gave the money to, yes, he identified that individual.

Q. Who was that individual?
A. His former law partner, perhaps still law partner, Denis Barry.



Q. Is that the same Denis Barry that was in the District Attorney's office at that time as assistant district attorney?
A. Yes, it is.

Q. Now, what, if anything, did you do after Mr. Garrison told you that you could not go over the pinball industry?
A. Well, I raised — I just pointed out some things that when he told me the amount ten thousand dollars, I immediately commented that this



was equal to a ten dollars contribution from me, that so what, so they made a contribution for good government, we'll give them good government, you see.

By the court:
Q. Was that a political campaign contribution?
A. Yes, it was.

ELLIS: Perhaps we should clear the air on that, Your Honor.

Q. Mr. Garrison told you that this was a political campaign contribution that he re-



Pershing O. Gervais

meeting with anyone with you?
A. Yes, he did.

Q. Approximately how long was this after you had talked with him about your plans?
A. Oh, I don't know, it wasn't very long. It was some time later. I just have no way of relating to time, I just couldn't tell you.

Q. Was it within the first year that you were in office?
A. Oh, absolutely, unequivocally within the first year.

Q. What, if anything, did Mr.

Garrison tell you at that time?

A. He set up a meeting with me and a person who he identified as that representative of the pinball industry who had handled the political contribution.

Q. And did you subsequently meet with that individual?

A. Yes, I did.

Q. And who was that individual?

A. Mr. Aruns Callery.

Q. Do you see Mr. —

Wheeler objected to testimony about Callery since he had rested his case and the testimony was outside evidence produced by the co-defendant.

The judge overruled him saying rebuttal follows the defense resting.

Gervais then said he met with Callery at Dan's Chinese restaurant, Bourbon and Toulouse Sts.

Q. What, if anything, did you discuss at that meeting?

A. We discussed the amount of money to be paid, how it was to be paid, the mechanics under which it was to be paid, all the procedures for collecting the money that you would engage in for this kind of a meeting.

Q. Did Mr. Callery indicate to you whom he was representing at this meeting?

A. The pinball industry. He didn't go into personalities.

Q. You stated that you discussed sums of money; what were the sums of money to be for, Mr. Gervais?

A. It was to be — what were the sums of money for? For delivery to Mr. Garrison.

Q. For what purpose?

A. Well, strangely enough so that he would do nothing.

Q. Was that discussed at the meeting with Mr. Callery?

A. Well, yes, because in the discussion I raised the questions of, you know, what can the District Attorney's Office do, as opposed to the Police Department? He said, don't worry about the Police Department, that's covered. These were his words; we just don't want any waves to come out of the District Attorney's Office. He said, I know there won't be any. I am already sure of that.

Q. Did you discuss with Mr. Callery the plan that you had formulated?

A. Not in detail. But, I did indicate to him that it was very well that he did it because I was sure, in my own mind that I could have put him out of business in sixty days.

Q. You mentioned sums of money; were any sums of money ever arrived at at that particular meeting?

A. Yes, sir.

Q. How much?

A. Fifty dollars (\$50.00) a day.

Q. To go to whom?

A. To go to Mr. Garrison.

Q. To be paid by whom?

THE COURT: Wait just a minute.

Lacour again objected to the questioning as not being rebuttal and he was again overruled.

Q. This was to be 50 dollars a day to go to Mr. Garrison?

A. Yes, sir.

Q. After this meeting, did you get right back with Mr. Garrison and discuss with him what Mr. Callery had told you?

A. Well, of course.

Q. Do you have any commentary on the amount of money that was going to be forthcoming?

A. Yes, sir, I reported exactly that what the agreement what we finally agreed to and how often we would be paid and etc., etc.

Q. Did you also discuss with Mr. Garrison the fact that he was to do nothing for this money?

A. I don't recall that I went into those details, you know, the; the temperature, so to speak; or, the feelings wasn't necessary.

Let's say he already knew. I had a previous discussion about what I wanted to do to knock them out of business and since he said you can't do that, I knew what it was, you know, there would be no point in me going over the same, you know, as they say in the country where I now live; no point in licking the same cat twice.

Q. Did Mr. Garrison authorize you to accept the payments from Mr. Callery on his behalf?

A. He made that authorization before I met Mr. Callery.

Q. How much money were you to get out of this, Mr. Gervais?

A. Ten per cent.
Q. When was this discussed?

A. At that time when I came back and reported what the final agreement was.

Q. And who arrived at that particular percentage?

A. Mr. Garrison.

THE COURT:

Q. Was that 10 per cent of 50 dollars, or, was that 10 per cent on top of the 50 dollars?

A. No, sir, 10 per cent of the 50 dollars per day.

THE COURT:

I see.

ELLIS:

Q. Approximately how long after your meeting with Mr. Callery at Dan's International did the payments start coming?

A. Immediately.

Q. And who paid the money?

A. Mr. Callery to me.

Q. Where would these payments be made by Mr. Callery?

A. The only place that comes to my mind immediately in the beginning was the A&G Restaurant at Canal and Broad. There were many meetings there.

Q. You would meet with him there?

A. Yes, sir.

Q. How were the payments to come, did he pay you daily, or weekly, or how?

A. Originally it was monthly and somewhere down the road, it changed to every two months.

Q. You mentioned a figure of 50 dollars a day. How much did that total up to be a month?

A. At 50 dollars a day, it's pretty close to \$1,500.

THE COURT:

It depends on how many days in the month.

Q. Was the figure always the same, Mr. Gervais?

A. No, there were variations, because that would be some contributors to the lump sum would drop out down the line; there were variations and explanations that I just don't recall. But, they were never of a serious nature. When I say serious nature, it wasn't a great deal of difference in the amount.

Q. Now, did Callery give you any money, personally?

A. To me, personally, from him, personally, yes, sir.

Q. And how would you get the money to Mr. Garrison?

A. Bring it to him personally.

Q. Were you driving Mr. Garrison during this period?

A. Driving him, certainly, sure. I picked him up in the morning, bring him to work and bring him home in the evening.

Q. Where would you give him the money, at his home, or in the office, or where?

A. No, in the beginning, it was always at the office.

Q. Did you have discussions with the defendant, Mr. Garrison, from time to time, when you would give him the money?

A. Discussions, whatever you say, I just don't know. Certainly I would be immune, I would just walk in, make some comment, and give him the money.

Q. Was there any doubt in your mind he knew where the money was coming from?

A. Absolutely no doubt.

Q. Did the defendant ever tell you that he had talked with Mr. Callery from time to time?

A. Through the years he has indicated that Mr. Callery had been to his home, and Mr. Callery also indicated this to me.

Q. Now, what would occur if either you or Mr. Callery were out of town when one of these bribery payments was supposed to be made?

A. Well, of course, if I were going to be out of town, it wasn't very often I was, except for short durations, it didn't matter. I would just simply call him back.

But, what I am saying is, his credit was good in that time so it wasn't a big problem, you know, I knew that

the moment I came back if it was past due, all I had to do was call him and he would bring it, there wasn't a doubt in my mind about that.

Q. Would Mr. Callery call you at the district attorney's office?

A. Yes, I am sure he would have to, sure.

Q. Did you have any code names?

A. Yes, sir, we did.

Q. What did you call each other?

A. We arrived at the name of Knickerbocker; since it was, you know, a most unusual name.

Q. Did you call him Knickerbocker, or what?

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A. We called each other Knickerbocker. This was his idea at that particular name, he chose the name.

Q. Did these bribery payments continue on a regular basis throughout the time that you worked as chief investigator for District Attorney Jim Garrison?

A. Without fail.

Q. Did you always give the defendant, Jim Garrison, the money which you were supposed to give him, that Mr. Callery gave to you?

A. I am not quite clear on the question.

Q. Did you always continue giving Mr. Garrison the money when you received a payment from Mr. Callery?

A. As opposed to maybe not giving it to him?

Q. Right.

A. No, I wouldn't make that error. I always gave it to him.

THE COURT:

Q. Let me ask you, would you withhold your ten per cent before you gave it to him, or would he give you back ten per cent?

A. No, sir, I would withhold it.

Q. You would withhold it?

A. Yes, sir.

With one exception, when Mr. Garrison was unavailable for too long a time, and I used about seven, or eight hundred dollars of his money, I made that explanation to him, and said I owe you this.

ELLIS:

Q. Was this at a time when you were his chief investigator or, later?

A. It was later.

Q. Did you ever repay it?

A. No, sir, he never asked for it.

THE COURT:

All right.

Q. Now, while you were chief investigator for District Attorney Jim Garrison, did he take any action against the pinball operators in the City of New Orleans?

A. No, sir.

Gervais was then asked if Garrison had made any allegations against him prior to Gervais' leaving the district attorney's office.

He denied there were ever any charges or that he was fired by Garrison. He also claimed he was never confronted with an affidavit from an attorney charging that he had tried to shake him down.

Gervais said testimony by Louis Ivon, an investigator for the DA's office, that he had shaken down a lawyer for \$3,000 was an "absolute lie."

The government then introduced a plaque presented to Gervais two months after he left Garrison's employ which bore the inscription, "To Pershing O. Gervais, the best chief investigator that the New Orleans District Attorney's Office ever had." It bore Garrison's name.

Gervais also said he was given \$2,500 from the Garrison campaign fund to tide him over rough times.

Q. After you left the District Attorney's Office, as chief investigator, did you continue to receive pinball bribery money from Mr. Callery?

A. Yes, I did.

Q. On a regular basis?

A. Without any, interruption, without interruption.

Q. Did Mr. Callery express surprise to you the fact that you had left the District Attorney's Office?

A. Oh, I am sure there was conversation about it, but I don't recall what was said.

Q. What, if anything, did you do with the money that Callery gave to you?

A. I delivered it to Mr. Garrison.

Q. And where would Mr. Callery make the deliveries of this bribery money after you left the District Attorney's Office?

A. In all cases, at the Fontainebleau Motel.

Q. Why at the Fontainebleau?

A. Well, you see, I think it was the same night; or, a day later, at the most, two days, after I resigned the hurricane hit New Orleans and destroyed my home. I took myself and my family and we moved into the Fontainebleau. I remained there for about sixty days, perhaps a little better, before I found another residence.

Of course, naturally, everything I did was at the Fontainebleau; it became so convenient, and I became so well entrenched, I just never moved away from there.

Q. Where would you make the deliveries of money to Mr. Garrison?

A. At his residence, simply because again, as I stated, I

did not want to go around the office.

Q. Now, during the times that you left the District Attorney's Office, did Mr. Garrison—Mr. Callery, rather, indicate to you who else of the pinball operators was contributing money?

A. Well, from time to time by omission, etc., you know, he said certain people that weren't, it wasn't as though he just made a report to me, but he did indicate it from time to time, at different times who was contributing, and who was not. I made no particular mental note about it, and of course, no written notes because I really had no particular interest.

Q. Did you know if Mr. Callery was associated with any company?

A. Any company?

Q. Any pinball company?

A. Oh, oh, sure he was. He had an interest, as I understood it, an ownership interest in the New Orleans Novelty Company.

Q. Is that Mr. Boasberg's company?

A. Yes.

Q. Mr. Gervais, were you receiving money from individuals for any illegal purposes after you left the District Attorney's Office?

A. Yes, I was.

Q. Explain that, if you will, what you mean by that?

A. Well, there are many facets to it, how it grew. But, in any case, to capsule it, Captain Soule approached me—I have a little problem here, I am a little rusty on hearsay.

THE COURT: That's all if there is any objection to it, somebody will make it.

ELLIS:

Q. Tell us.

A. Captain Soule approached me and he indicated to me that we had a mutual friend.

Q. Did he indicate to you who the mutual friend was?

A. I kind of drug it out of him, yes, he did.

Q. Who was that mutual friend?

A. Aruns Callery. So, of course, at that moment, we became pals, see. And he suggested to me that people were constantly approaching him, offering him money, you

know, for protection, and he thought it would be a good idea, since he—

LACOUR: Your Honor, I object to what Mr. Soule told this witness.

THE COURT: Well, he is a co-conspirator, isn't he? This is a statement in furtherance of the conspiracy. It's not objectionable.

ELLIS:

Q. Please continue, Mr. Gervais.

A. He said this was such a good idea, since he could control the situation in the Police Department, and apparently I had maximum control in the District Attorney's Office, in his mind, that we would collect this money without fear, see. And of course, that was true. We could collect it without fear. He asked me if he sent these people to me, would I handle it? I said, of course, send them.

THE COURT: Can you fix a time a little closer?

THE WITNESS: It was shortly after I left the District Attorney's Office.

ELLIS:

Q. What was Mr. Soule's position at that time?

A. He was in command of the Vice Squad of the New Orleans Police Department.

Gervais cited a magazine article that appeared about that time.

A. As a result of the article that appeared in the magazine, people began to descend upon me looking, asking for permission to operate various—and that's exactly what they asked, permission to operate various things, handbooks, etc.

Q. And they would give you money from time to time?

A. What is that?

Q. They would give you money from time to time?

A. Yes, they would ask for permission and of course, I said you have permission.

Q. What type of contact did you have with the District Attorney's Office, other than the delivery of the bribe payments to Mr. Garrison during that time?

A. The only real contact I would have had, you know, real contact that I could call upon, if I wanted to find out some information out of a record, or whatever, would have been Louie Ivon.

Q. And that would have been Mr. Garrison's chief investigator?

A. Correct, sir.

Q. Would he supply information to you?

A. Oh, absolutely, sure.

Q. Now, directing your attention to the years 1966, '67, and '68, that would have been the three years after you left the District Attorney's Office, did you receive money on a regular basis from Mr. Callery?

A. You know when you say years, you are talking about—let me put it in my own framework, can I do that, with reference to time?

Q. Yes, sir, certainly.

A. The money continued from its inception without a break all the way up until that particular time when the government made wholesale raids and picked up all of the pinball machines; or, the majority. They missed some or, there was some reason they couldn't pick up a few. But, the bulk of them were picked up.

Q. That would have been some time in November, of 1970?

A. Whatever the record reflects, I can't—I just can't comment. I am blind when it comes to dates. That moment, of course, the payoff stopped, because there was nothing that required coverage, so to speak.

Q. Now, from the time that Mr. Callery made his first payment, to the time of the raids by the federal government, did Mr. Callery miss any payments?

A. Never.

Q. Did he always pay the money, himself?

A. Every time.

Q. And did you always give Mr. Garrison that money?

A. Every time with the one exception of seven, or eight hundred dollars.

Q. And minus your ten per cent?

A. Well, of course.

Q. Would you continue to take your ten per cent?

A. Of course.

Gervais then went into detail about his tax troubles with the federal government, the forerunner of his making the taped conversations that led to the charges.

Q. Directing your attention to April and May of 1970, there has been testimony by both Mr. Ivon and Mr. Loisel that you were shaking down people in the name of the District Attorney's Office.

Did you in fact shake down people in the name of the District Attorney's Office?

A. No, sir, I did not. People wouldn't have paid for that.

The District Attorney's Office was not conducting raids or doing police work or doing anything. They—people out in that area would not need the District Attorney's Office until they had been arrested and charged. That's the only time the District Attorney's Office would have had—been in the position to do anything for them.

Q. If Mr. Ivon testified in this court that you had told him that Capt. Fred Soule and Sgt. Bob Frey were shaking down bonding companies, would that be a correct statement?

A. Absolute lie.

Q. If he testified that you told him that Capt. Soule and Sgt. Frey were shaking down handbook operators, would that be a correct statement?

A. Absolute lie.

Q. If he so testified that you told him that Capt. Soule and Sgt. Frey were shaking down pinball operators, would that be—

A. Absolute lie.

Gervais then began testifying about the conversations that he helped to tape and especially one with Callery. He said he later heard the tape and insisted it was an accurate reproduction of the conversation.

Gervais then said he had a meeting with Boasberg.

Q. What was discussed at that meeting?

A. Mr. Boasberg was interested in keeping all avenues, all doors open. He was trying to preserve a limited amount of pinball business that was then current, with a view in mind that with a little luck, maybe down the road, you know, it could come back to what it used to be.

Of course, he indicated that they would no longer be able to pay the amount of money that they were used to paying, and this is readily understandable.

Q. You said they could not longer pay? Who do you understand that to mean?

A. Well, I don't know if it was at that moment or whether it was—you know, that later in that conversation or in an ensuing conversation,

but they meant he, TAC Amusement, and Bob Nims.

Q. Was that Mr. Robert Nims—seated over here to my right?

A. Yes. Yes, that's he.

Gervais said he also met with Robert Nims and Soule after the federal agents had seized most of the pinball machines.

Q. After these meetings that you had with these various individuals, was any plan arrived at as to the pinball protection and the payment of monies?

A. Yes, we reached an understanding.

Q. And in that connection, did you have occasion to receive any money from Mr. Soule?

A. Under the — want of a better description, the resurrected pinball business, I came into the Fontainebleau one morning and Mr. Soule was waiting there for me.

Q. What, if anything, happened?

A. Why he told me that I should come with him to the toilet located in the — the hotel side of the Fontainebleau, the hotel side being that side which is the highest. And there is a little toilet back there.

And I went back there with him and he gave me one thousand dollars that he had received, according to him from a Mr. Marks who worked for Mr. Boasberg.

This money was to be delivered to Mr. Garrison which I, of course, subsequently did.

Q. How did he give you this money?

A. He handed it to me.

Q. Do you recall?

I show you what has been marked for purposes of Identification Government Exhibit 39.

Did the money come to you in something similar to that, as you can recall?

A. You mean the package?

Q. The package.

A. Yes, sir.

Q. What, if anything, did you do with that money after Soule gave it to you?

A. Well, when he left, I immediately went upstairs and there was a problem since we weren't expecting Capt. Soule and we were not able to monitor the situation at all.

And I reported it to Mr. Puckett, and I — we came down and I didn't remove the

money because the thought occurred to me that perhaps there were fingerprints inside and I would preserve the prints.

I didn't touch it, and I turned it over, in its entirety, in front of — to Puckett and/or other agents.

Q. Did Mr. Soule tell you where he had received that money?

THE COURT:

He already said, from Mr. Marks.

By MR. ELLIS:

Q. And did he tell you what he wanted you to do with it?

A. Well, no, he didn't tell me what he wanted me to do with it. You know, he knew what I was supposed to do with it.

Q. Did you have occasion to go to Mr. Garrison's house with relation to that money?

A. Yes, I did.

Q. Prior to going to his home, were you at the Fontainebleau Motor Hotel?

A. Yes, I was.

Q. What, if anything, happened at the Fontainebleau prior to your going out to Mr. Garrison's residence?

A. You mean immediately prior?

Q. Immediately prior?

A. Okay, I was wired for sound, being that a transmitter was placed on my person.

The money to be delivered to Mr. Garrison was documented, serial numbers, you know, had already been documented and was read off in my presence.

I then was instructed to empty everything that I had on me onto the bed. These things were documented and listed, what I had on my person, while they were on the bed. I was frisked, you know, searched, and then my property returned to me, the money given to me, and we drove out to Mr. Garrison's house, and that under that condition.

Gervais then described the transmitter he was wearing when he went to Garrison's house.

He said he drove out to Garrison's home with one of the federal agents and was followed by another one.

Gervais said Garrison took him to a bedroom where he gave him the package of money—\$1,000 mostly in \$50 bills.

When he returned to the hotel, Gervais said he was searched by government agents, but did not remove his shoes. He said that at no time did he put \$1,000 in his shoes.

Q. Did you at any time, during your conversation with Mr. Garrison that evening, attempt to cover the microphone or to impede the flow of conversation between yourself and Mr. Garrison?

A. I did not.

Q. Did you in any way attempt to manipulate the conversation that was going on between you and Mr. Garrison?

A. What do you mean by manipulate? Of course I tried to elicit what I thought was pertinent. You know, I always did that. I was always conscious of the fact I was being wired, and I wanted to say and have said the proper things for the record.

But, you know, I don't know if that is what you mean by manipulate.

Q. Did you do anything out of the ordinary to try to cover the microphone or do anything that would phase out Mr. Garrison's voice or your voice?

A. No. To my way of thinking that would have defeated the entire purpose of wiring me.

Q. Was that tape recording played back in your presence?

A. Yes, it was, and we were a group of disappointed people.

Q. The portion of the tape that was played back, was that the conversation that you had with Mr. Garrison that evening?

A. Yes, it was.

Gervais said he later heard the tape and did not detect that anything had been added to it.