

LAWYER: GERVAIS TRIED TO AUCTION TESTIMONY

Johnson Slams Character of Prime Witness

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Star prosecution witness Pershing O. Gervais once offered during a 1972 meeting of attorneys to testify in favor of the highest bidder in the bribery trial of Dist. Atty. Jim Garrison and others, an attorney testified Friday in Federal District Court here.

Guy Johnson, taking the stand on the final day of testimony in the trial which began Aug. 20, said that during a meeting prior to September of 1972 in the office of attorney Russell Schonekas, Gervais said he "would follow any script" depending on who paid him to testify in his behalf.

Gervais, the 53-year-old former chief investigator for Garrison, was the government's top witness in its pinball bribery conspiracy case in Judge Herbert W. Christenberry's court against Garrison; John Aruns Callery, a former partner in New Orleans Novelty Co.; and Robert Eugene Nims, owner of REN Enterprises.

With the conclusion of testimony Friday, the only remaining action before the case goes to the nine-man, three-woman jury is final arguments by both sides and Judge Christenberry's charge to the jury. Final statements begin at 10 a.m. Monday.

Schonekas, who took the stand himself, faced a possible contempt of court charge for refusing to testify and was only saved from it when Garrison and U.S. Atty. Gerald J. Gallinghouse agreed not to question him.

Schonekas cited his attorney-client relationship with Gervais as grounds for not testifying but Judge Christenberry said that argument was invalid.

Gervais testified Schonekas was hired for him by Garrison after Gervais returned from Canada disenchanted with the federal government.

MADE OVERTURES

Gervais — who went to Canada to avoid reaction to his participation in the case as an undercover investigator for the government — said Schonekas "made overtures" to defense lawyers at the meeting to have

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them pay him and Gervais \$50,000.

This would give the defense lawyers the right, Gervais said, "to write their own script."

During his second day on the witness stand Thursday, Gervais said Johnson, a former Orleans Parish assistant DA, offered him \$10,000 at that 1972 meeting for the tape recordings which he made while discussing with government agents the making of a case against Garrison and others.

Gervais said Johnson made the \$10,000 offer in the name of Virgil Wheeler, attorney for Callery.

However, Johnson's testimony Friday about that meeting directly conflicted with Gervais' account. Johnson said no one offered Gervais any money for the tapes, and that it

was Gervais himself who said he had some tapes he wanted to sell.

Johnson said Gervais played "a selection of tapes" at the meeting, claiming that he had others that would clear all defendants in the case.

Gervais also "named the two most prosperous of the defendants," Johnson continued, and suggested that they should be able to put up \$50,000 each to buy his favorable testimony.

"DANCE FOR ANYBODY"

"He would dance for anybody who paid," Johnson said of Gervais. "He was anybody's witness who paid," he commented, adding that Norborn Perry, then head of the Intelligence Division of the Internal Revenue Service here, was seated nearby in an outer office during that meeting.

Further hammering at Gervais' character, Johnson testified that at that same meeting Gervais had asked him to collect \$200 a head from every person attending. No one paid, he said.

"In reply to a question from Garrison, who is defending himself in the trial, Johnson said Garrison never asked him to bribe Gervais for favorable testimony, and no one at the 1972 meeting had offered Gervais any money.

"He (Gervais) was the only one who talked money," said Johnson.

Gervais said at that gathering the government "had run out on him completely," Johnson said under cross-examination by Michael J. Ellis, assistant U.S. attorney, and that he would clear everyone in the case for the right amount of money.

'SELLING HIS SOUL'

"In other words, he was selling his soul for a price?" asked Ellis.

"I don't care to discuss Mr. Gervais' soul," Johnson replied.

The witness quoted Schonekas as asking Gervais at the time, "My God, how can you do something like this? How can you perjure yourself?"

"I don't believe in God," he quoted Gervais as answering. Gervais then pointed upward, Johnson added, and said:

"... you, God. If you're up there, strike me dead."

Johnson said tapes played there by Gervais were not played in court, citing there was one he played with a conversation between himself and John Wall, then chief of the Organized Crime Strike Force in New Orleans.

FINAL BLOW

Adding a final blow to Gervais' character before being questioned by Wheeler, Johnson said he had known Gervais for 25 years and that he has never and does not now trust him.

Johnson denied he had offered Gervais any money in Wheeler's name or that he had ever discussed money with Wheeler in connection with this case.

Wheeler asked what he had once told Johnson in regards to having to deal with Gervais.

"Something profane," Johnson replied.

The three defendants are charged with conspiring to obstruct justice by means of paying or accepting bribes to protect illegal pinball gambling in New Orleans.

They were arrested on June 30, 1971 — along with seven others — all of whom have either pleaded guilty or had their cases severed from the current trial.

OTHERS IN CASE

The others include two former police officers, Frederick Soule Sr. and Robert Frey; Lawrence Lagarde Sr. and John Elms Jr., both partners in TAC Amuse-

ment Co.; Louis Boasberg and Harby Marks Jr., both of New Orleans Novelty Co., and John Elmo Pierce, owner of Pierce Amusement Co.

Following Johnson's testimony Friday morning, Schonekas, a former unsuccessful candidate for DA in Jefferson Parish, was called.

Schonekas, called as a witness by Garrison, said upon taking the stand, "I refuse to testify under the attorney-client relationship." He said his oath as an attorney would not permit his testifying.

Schonekas said immediately upon learning that Gervais had made statements about him Thursday, he contacted Judge Christenberry.

He said he then asked Gallinghouse to set up a meeting with Gervais in order for him to ask Gervais to waive his attorney-client privilege.

Schonekas said he asked Gallinghouse to be present at the meeting and also that Floyd D. Moore, chief of the IRS intelligence division, be present because Gervais "always said Mr. Moore was the only person he ever trusted."

NO WAIVING

The meeting was arranged Thursday evening. Schonekas said: "I asked Mr. Gervais if he wanted the attorney-client privileges waived and he said 'no.'"

Gallinghouse argued the attorney-client situation was not enforceable where statements were made before third parties and did not concern private conversations and arrangements between a lawyer and the person he represents.

Wheeler objected to Gallinghouse's argument, saying that it is not what the U.S. attorney said during a conference in the judge's chambers.

Gallinghouse, who showed amusement at Wheeler's remark, said he would be pleased to have the judge state what his position was during the conference "because Mr. Wheeler

can't seem to understand the English language."

Wheeler withdrew his objection.

Schonekas was once again asked to relate what occurred during the meeting in question and he said: "I am not going to risk my license" by testifying.

He said Gervais would take him before the ethics committee of the State Bar Association if he violated the attorney-client privilege.

Judge Christenberry told him, "I can't see how any reasonable body of men could revoke your license for abiding by an order of the court. This (meeting) wasn't just in

the presence of your client.

"It was in the presence of third parties and the privilege was lost."

NO PRIVILEGE

The judge said, "No one can ask about your fee, or what you told him or he told you, but privilege does not exist in front of third parties."

Schonekas replied, "With all due respect to your honor, I refuse to testify on the grounds of my attorney-client privilege."

Judge Christenberry said, "I dislike very much to order you to testify. We've been friends a long time, but I'm afraid I'm afraid I'm going to have to."

But the judge said that before he did, he thought Schonekas should reconsider his position during a short recess.

Following the recess both defense and prosecution attorneys said they had decided not to question Schonekas, and Judge Christenberry said, "I think that will be a happy conclusion to an unpleasant situation."

However, Gallinghouse was permitted one question, and it was brought out that Schonekas was on the payroll of the district attorney at \$800 a month to give advice on federal writs.

Following testimony Friday and after the jury looked at evidence presented by the defense, Garrison and attorneys for the other defendants made the standard motions for verdicts of acquittal.

The judge denied the motions on the grounds "that there is sufficient evidence to go to the jury."

That is what the case will do

after both the defense and prosecution attorneys make final arguments Monday and the judge charges the jury with its obligations and gives it the law to apply in considering the evidence presented.