

# Motion to Acquit Garrison, Two Defendants, Is Denied

4-12-73  
FBI Agent's Testimony  
Asked Stricken

Ruling that "there is abundant evidence to establish the guilt of all the defendants if the jury believes it," U.S. District Judge Herbert W. Christenberry denied the motions of acquittal for Dist. Atty. Jim Garrison and his two fellow defendants in the pinball bribery trial Tuesday.

There was no action in the case Tuesday except for the motions of acquittal by attorneys for Garrison, Robert E. Nims, the owner of REN Enterprises, and John Aruns Callery, a former partner in New Orleans Novelty Co. Besides asking for acquittal, Callery's attorney Virgil Wheeler, who was threatened with a contempt of court citation

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by Judge Christenberry Monday, asked that the testimony of FBI Agent Jerry Brents, who qualified as an expert in accounting, be stricken.

It was argument on that testimony Monday which brought Wheeler the contempt warning. Tuesday Wheeler again pressed his argument that Brents did not examine a general ledger book of Callery's present firm, Business Research Counselors Inc.

Judge Christenberry told Wheeler that no ledger was produced by Callery in answer to a subpoena, that Wheeler had admitted he didn't even know whether a ledger existed and neither did Callery himself. "I'm going to settle this thing once and for all," the judge said. He denied the motion to strike Brents' testimony.

Fred J. Barnett, representing Garrison, argued that the judge should grant a motion for acquittal because "I have heard no evidence that Mr. Garrison did anything in furtherance of gambling, nor have I heard he's done anything."

The judge stopped Barnett and remarked that evidence showed when Garrison was told that police officers were receiving bribe money he replied, "Oh, that's all right."

Barnett said that Garrison's reaction was one of surprise. And he said that the government has failed to show that Garrison got any bribe money. "None of the money was traced," he said.

"What about the money at the hotel?" Judge Christenberry asked, referring to testimony that marked money accepted by the DA was used to pay his bill at the Fontainebleau Motor Hotel.

Barnett said the government had only the word of undercover informer Pershing Gervais that he recovered the money from the hotel.

Barnett, who had asked that his motion be heard outside the presence of the news media but was denied, said the money found at Garrison's home the morning of his arrest on June 30, 1971, was not proof of a pinball bribe payment.

Judge Christenberry replied that Barnett had made "a jury argument and I expect you'll make it again to the jury. I don't agree that there is no evidence."

U.S. Atty. Gerald J. Gallinghouse argued that there is evidence which has been established beyond a reasonable doubt that Garrison received \$1,000 in bribe money on four separate occasions.

Gallinghouse said that a taped recorded conversation between Gervais and Garrison on Feb. 25, 1971, indicated the DA was obstructing justice. He said Garrison said on the tape, "Our move is no move." He said, "This meant Mr. Garrison was not going to move to enforce the state anti-gambling statutes and that's exactly what he did—nothing."

**EVIDENCE 'STRAIGHT'**

Gallinghouse argued that "the

evidence is so strong as to not only establish but to compel a verdict of guilty."

Louis LaCour, who represents Nims, argued that there was no evidence to establish that his client was part of any conspiracy after Oct. 15, 1970, the date of the enactment of the Organized Crime Control Act under which the defendants are charged.

Besides that, LaCour argued, there was only tenuous evidence that Nims had been part of any conspiracy prior to the act.

LaCour referred to the evidence of an alleged conspiracy after Oct. 15, 1970, as the "Boasberg conspiracy." Louis Boasberg, one of 10 original defendants in the case, has pleaded guilty.

Boasberg, the owner of New Orleans Novelty, initiated a new deal with another defendant, former Police Capt. Frederick Soule Sr., who also has pleaded guilty, after Oct. 15, LaCour argued.

He said that Boasberg had testified that Nims had no part in the conspiracy. LaCour said that Nims was completely out of the pinball business in November of 1970 and that evidence presented by the government showed that Nims planned to remain out of the pinball business even if the machines were legalized.

LaCour said that the conspiracy — if it existed — between Boasberg, Soule, Gervais and Garrison "was new and separate and apart from any conspiracy which might have existed previously."

The judge apparently was not convinced. He denied the motion.

The trial resumes at 10 a.m. Wednesday in the presence of the jury which had the day off Tuesday. The defense is expected to begin presenting its case.