

O'Hara Didn't Try to Get Testimony Altered, Claim

T.P. 5-7-68

No Grounds for Removal from Office—Brief

Acknowledging that Judge Malcolm V. O'Hara's relationship with Zachary A. Strate may have prompted minor indiscretions, a brief filed in the Supreme Court of Louisiana Tuesday for O'Hara denied the judge sought to have a Baton Rouge Teamsters Union official change his testimony.

The Criminal District Court judge is defendant in a suit by the state to remove him from office for allegedly improper attempts to gather evidence that would overturn federal court convictions of Strate, a former New Orleans contractor, and Teamsters Union President James R. Hoffa.

The O'Hara brief, written by attorneys Russell J. Schonekas and Edward A. Wallace, said that the five hours O'Hara devoted to assisting his friend did not amount to sufficient ground to remove him from office.

BATON ROUGE MEETING

Four of those hours, it said, were spent for a meeting in Baton Rouge between Edward Grady Partin, James H. "Buddy" Gill and the judge.

The brief said O'Hara gave Partin, the union official who was instrumental in obtaining convictions for Strate and Hoffa in the federal court in Chattanooga through his testimony, a document to sign but advised him not to sign if it was not true.

Concerning that document, the brief said, "It was a written instrument and it contained information about the federal government employing wire tapping devices for the securing of evidence."

The information which undoubtedly was contained in the document "in no way contradicts or contravenes or changes any testimony given by the witness, Edward Grady Partin, in the trial of the case in Chattanooga," the brief said.

CLOSED HEARING

It added that part of Partin's

testimony in a closed hearing by a Supreme Court-appointed commissioner, Michael M. Irwin, pertained to a conversation between Partin and Gill about \$1 million at the Baton Rouge meeting.

This can be given no credence as the judge was off to the side, according to the brief. In addition, it said if Gill attempted a bribe and acted as agent or co-conspirator of O'Hara, the state should have based its removal suit on the "high crimes" section of the Louisiana Constitution.

Referring to the extra hour given to help Strate by O'Hara, the brief referred to a meeting in the Bourbon Orleans Hotel arranged by the judge for Strate to meet Walter Sheridan. Sheridan was collecting information for the National Broadcasting Company for a program to discredit District Attorney Jim Garrison's Kennedy assassination investigation, the brief said.

It said that when it is considered what little testimony O'Hara was able to give with respect to that meeting, it seems "totally ridiculous to speculate that he was illegally concocting or assisting in concocting evidence to assist in such a vast and complex piece of litigation."

EXTENSIVE TESTIMONY

The brief added the judge testified extensively about his relationship with Strate and all matters in these proceedings.

It pointed out that the judge was responsible for Strate's appearance before the commission. It described Strate as a successful 48-year-old contractor who is building a large apartment complex in Miami.

The brief said O'Hara on three or four occasions accompanied Strate on out-of-town trips, mostly at times when O'Hara was unable to work because of physical disability.

"In connection with their association on these trips and in New Orleans, O'Hara on occasions absorbed the expense of

the social activity of both parties."

It labeled as "utterly ridiculous" the idea that O'Hara's association with Strate constituted gross misconduct sufficient to remove him from office.

CHOICE OF ASSOCIATES

About admonitions pertaining to the association, the brief said counsel knew of no jurisdiction where a duly elected public official can be removed because of his "possibly indiscreet choice of associates."

It said the record is devoid of evidence that O'Hara ever gave counsel or advice to Strate, that the judge never advocated anything for or against Strate.

"In sum and in substance, this court is asked to remove from office a competent, enthusiastic, hardworking, knowledgeable, efficient, fair and impartial jurist.

"Never in Louisiana, and, as far as counsel has been able to determine, in the United States has such a set of circumstances ever been before a court with this type jurisdiction."

The brief said the trial was nothing more than that of a person and his individual conduct.

"Whatever minor indiscretions this defendant may be guilty of, are those of this individual in his private life and they have no bearing, nor do they blemish his outstanding record as a judge of the Criminal District Court for the Parish of Orleans.

"They have no bearing nor would they blemish the judiciary as a whole."

The case is set for argument before the Supreme Court on Friday.