

SHAW CASE GUIDELINES NOT ISSUE, SAYS JUDGE

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Fair Trial Prime Point in Hearing--Haggerty

By CLARENCE DOUCET

Judge Edward A. Haggerty ruled Tuesday that even if District Attorney Jim Garrison violated guidelines regarding the trial of Clay L. Shaw, the violation is irrelevant to Shaw's hearing for a change of venue.

Haggerty's ruling came after attorneys for Shaw claimed Garrison has "engaged in a program to deny due process" to Shaw who is charged with participating in a conspiracy to assassinate President Kennedy.

The hearing on the request for a change of venue will resume at 10 a. m. Wednesday. It was recessed shortly before 5 p. m., ending some three and a half hours of testimony by Garrison that was punctuated by frequent objections by attorneys for the state, most of which were sustained by Haggerty.

DEFINES ISSUE

Haggerty told the defense attorneys that the important issue before the change of venue hearing was not whether Garrison and others have taken part in a conspiracy to prove that President Kennedy was murdered as the result of a conspiracy, but instead "can we still give Mr. Shaw a fair trial before a jury."

Haggerty told the court: "You could have had 50 conspiracies throughout the United States that had nothing to do with what happened in Dallas."

"FISHING" CLAIMED

His ruling brought up one of the many exchanges between two of Shaw's attorneys, namely F. Irvin Dymond and William Wegmann, Asst. Dist. Atty. James L. Alcock, and Haggerty.

Shaw's attorneys attempted to get Garrison to answer if the case against Shaw has any relation to the actual assassination in Dallas, but Alcock objected claiming defense was "fishing" and attempting to obtain information



—Photo by Associated Press.
JUDGE

EDWARD A. HAGGERTY

to which it was not entitled.

Defense had also argued that whenever Garrison talks about a conspiracy to kill President Kennedy he is strengthening his case against Shaw.

PROOF NOT NEEDED

Haggerty again referred to his earlier statement that there could have been 50 conspiracies in the United States, and as long as there was an overt act in connection with them, they are liable for prosecution.

Whether the conspiracy culminated with the actual assassination does not have to be proved he said, asking the defense: "Why ask the district attorney something which in court he does not have to prove."

The exchanges about whether the charge against Shaw had any connection with Garrison's statements about the actual assassination came after several questions were asked by defense, objected to by Alcock and sustained by Haggerty.

Afternoon Session Lively and Sharp

The afternoon session, with Garrison on the witness stand, was lively and in sharp contrast to the morning session which was devoted to putting the hearing into motion and the

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taking of testimony from engineers for television stations about the distance their stations are able to transmit.

Shaw's lawyers are asking that the trial be held at some point 100 miles from New Orleans, claiming their client can not receive a fair trial in New Orleans.

Witnesses who will appear Wednesday include George W. Healy Jr., executive editor of The Times-Picayune and New Orleans States-Item; Rosemary James, reporter for the States-Item; William Reed, news director for WWL-TV; Ed Planer, news director of WDSU-TV; and Alec Gifford, WVUE-TV news director.

DATA GIVEN

Healy appeared Tuesday to turn over all copies of the Shaw case stories appearing in the two newspapers since March 1, 1967. Planer, Gifford and Reed turned over an assortment of film clips and recording tapes used by their respective stations in covering the case.

Garrison, yawning once or twice, sometimes tapping his fingers on the witness chair or resting his chin in his hand, sometimes appeared bored with the questioning.

He was questioned specifically about numerous interviews, for newspapers, magazines and television, and these interviews were either entered as exhibits or considered for possible introduction.

These included an article in National Observer on Jan. 22, 1968; an article in the January issue of Ramparts magazine; an interview in the October, 1967 Playboy magazine; a speech before radio and television newsmen in Los Angeles, the text of which appeared in the Los Angeles Free Press, and several television interviews by New Orleans stations.

GARRISON EMPHASIZES

An interview in the Jan. 28, 1968, National Enquirer weekly publication was also entered as an exhibit, but Garrison said he remembered reading the article although it was not based

on an interview with him.

Frequently, as the various news articles were shown to him or when he was shown the transcript of a television interview, Garrison would emphasize he had not commented on the Shaw case.

"Yes," he would say acknowledging an interview, "and if you read it you'll see I refused to comment on Clay Shaw," or "Still nothing about Mr. Shaw, like the rest," or "Yes, like all this other stuff, it doesn't have anything to do with Mr. Shaw."

As the numerous state objections were sustained by Haggerty, Dymond announced that the defense was reserving bills of information in each instance.

STATE OBJECTS

During one line of questions regarding Sandra Moffett McMaines, a witness sought by Garrison during his investigation, the defense attempted to prove that she was too frightened to return to New Orleans to answer questions.

As Garrison was asked each question, the state objected on the grounds that the question was immaterial and irrelevant and Haggerty would sustain the objection.

Finally the state objected to the entire line of question-

ing and Haggerty again sustained the objection. Dymond inquired if this meant he could not ask questions in a series that in an appeal would indicate what he was attempting to prove, and Haggerty replied, "If I've committed reversible error, I've done it already, and I don't have to do it 50 times."

Issue May Come Up at Later Time--Judge

Haggerty indicated that in those areas where guidelines of the Shaw trial have been violated they "will come up at a later time."

On one other occasion, on the same subject, he said "that matter will be taken up if and when the case is ever completed."

Haggerty instructed the defense attorneys that they would have to "separate the chaff from the wheat" in the hearing for a change of venue, referring to statements criti-

cal of the Warren Report as opposed to the case of Louisiana versus Shaw.

Denied admission as evidence were several personal conversations in which Garrison was involved and an incident involving the allowing of a photographer for Life magazine to take pictures of some of the items taken from Shaw's apartment following his arrest last March 1.

DEGREE OF EXPOSURE

Regarding the photographs, Haggerty said that if the photographs were not published they could not affect any prospective jurors.

Regarding many interviews although they were admitted, there were reservations by the state as to how much weight they should carry. This centered on how much exposure a news article or television or radio interview had received in New Orleans.

Once, when the arguing concerned whether the Shaw charges had any connection with the actual assassination, and Haggerty ruled Garrison did not have to answer the question, Dymond said: "I'd think the court would be interested in that."

Haggerty snapped: "I'm handling this legally, not personally. I sustain the objection to which you may take exception."

Garrison's early testimony centered around the effect of statements he has made about the Warren Report and Mark Lane's book "Rush to Judgment" and of press releases issued by his office concerning an alleged conspiracy.

RELEASE IS EYED

The morning session of the hearing dealt with the circulation or coverage area of various local news media.

Wegmann and Dymond attempted to prove that Garrison has made public statements which would affect the conducting of a fair trial and that he had created an atmosphere of fear in New Orleans which made it difficult for the defense to secure witnesses.

Of particular interest on the part of the defense attorneys was a release issued by Garrison Tuesday morning in which he accused the defense of launching a publicity attack to confuse the public and of

breaking the guidelines of which he was accused of breaking.

Garrison specifically mentioned a cocktail party-press conference held some months ago by the defense attorneys which he said was labeled by many at the time a "get acquainted with Clay Shaw party, for newsmen."

LETTER TO EDITOR

In the release Garrison said, "These lawyers (the defense attorneys) know that I have never held a press cocktail party to indicate that Shaw was guilty although they did not hesitate to hold one to indicate that he was innocent and that the prosecution was unfounded."

Question Involves Speech at Party

(Near the close of the session Tuesday, Dymond asked Garrison if he had attended a cocktail party at the home of Mark Lane at which comedian Mort Sahl made a speech about the case, adding that a member of the grand jury was present. The

state objected that the question was irrelevant because there were no prospective jurors present. The objection was sustained.)

Attached to the release was a letter to the editor of National Observer, dated Jan. 22, 1968, in which he criticized Jerrold K. Footlick of printing off-the-record statements about Shaw made by him and indicating they were statements obtained by way of a formal interview.

When the hearing started at 10 a. m., an hour was spent collecting data from the local news media which was subpoenaed by the defense counsel.

Perry Raymond Russo, a key state witness, was subpoenaed to bring in copies of speeches and interviews he had made about the case. He explained to Haggerty that he had no such copies and was excused after the defense accepted his explanation.

TWO ABSENT

At 11 a. m. the first of the witnesses were called. Two of the 23 persons subpoenaed did not show. They were Sahl and former WVUE-TV news director Harold Lidin.

Sahl, now an investigator

for Garrison, was reported to be in San Francisco and Lidin in Puerto Rico.

Another witness, Mark Lane, said Sahl would be available if needed. WVUE sources said Lidin was reassigned to Puerto Rico by his employer Screen Gems.

First to take the stand was Francis Jacobs, WWL-TV chief engineer. And following him were chief engineers Lindsey G. Riddle of WDSU-TV and Allan Gunderson of WVUE-TV.

All gave testimony concerning the effective range of the signals transmitted by their stations and approximately how many available persons make up their respective audiences.

VIEWING IMPACT

Dymond questioned the three engineers about the stations, effective coverage and the possible viewing impact their stations had on their audiences.

Alcock objected on grounds that Dymond's questions had entered the field of sales promotion and marketing, and Dymond countered by asking the three stations' sales managers be subpoenaed.

Haggerty agreed to the subpoenas and after the lunch break a survey indicating the number of news program viewers in the area and sales managers' testimony was admitted as evidence.

John Dolan, sales manager of WDSU-TV, and Jack Long, sales manager of WVUE-TV were questioned about audience ratings and survey taking methods.

Stay Ordered Issued for Novel in Ohio

Meanwhile during a hearing in Columbus, Ohio, former New Orleans lounge operator Gordon Novel was granted a stay order suspending a Common Pleas Court order that he must return to New Orleans to testify in Garrison's probe.

During another hearing Monday, Common Pleas Court Judge Henry Holden ordered Novel held by the Franklin County sheriff until he could be turned over to Orleans Parish authorities.

The stay was granted by Franklin County Court of Ap-



—Photo by The Times-Picayune.
PERRY R. RUSSO



—Photo by The Times-Picayune.
MARK LANE

peals Judge John J. Duffey. Novel was free on \$500 bond from Judge Holden's order. Judge Duffey set his bond at one dollar.

Novel's attorney, Jerry Weiner, filed a writ of habeas corpus protesting the holding of his client. Tuesday's hearing was delayed when it was found that the order to hold Novel was not entered into the court journal.

Judge Duffey then recessed until a journal entry could be made, following which Weiner withdrew his writ and filed a notice of appeal from Holden's decision to hold Novel.

Weiner contends that although

Garrison's subpoena grants Novel immunity from arrest in New Orleans prior to the time he testifies, he may be arrested for his testimony.

"If he testifies he knows anything about Kennedy's assassination, he will be charged with conspiracy to assassinate the president," Weiner said. "If he says he knows nothing, he will be charged with perjury."

When Judge Holden made his decision to hold Monday, he said there was no evidence to show Novel would suffer undue hardship if returned to New Orleans.

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