

Haggerty to Rule Monday on Shaw Change of Venue

T.P. 1-11-69
Hearing Held on Request,
Three Other Motions

Criminal District Judge Edward A. Haggerty Jr. will rule Monday at 10 a.m. on the most recent bid by Clay L. Shaw to have his presidential assassination conspiracy trial moved outside of New Orleans.

A 45-minute hearing was held in Judge Haggerty's court Friday on the change of venue request and three other motions filed by Shaw's attorneys. The judge said he would rule on all four matters Monday.

Shaw's chief counsel, F. Irvin Dymond, asked the court to quash the indictment against Shaw or else move the trial 100 miles or more from New Orleans.

Shaw, a retired New Orleans businessman, is scheduled to stand trial Jan. 21 on charges of conspiring to murder President John F. Kennedy.

LAW IS CHALLENGED

Dymond also challenged the constitutionality of the state conspiracy statute under which Shaw is charged and the validity of a state law saying only nine of 12 jurors must vote guilty to convict a defendant. A unanimous verdict is sought by Dymond.

Those testifying at Friday's hearing were James L. Alcock, assistant district attorney, and two television newsmen involved in a DA Jim Garrison-Alcock interview last December.

Dymond said a change of venue was necessary because potential jurors have been influenced by the continuing publicity over the case, making it impossible for Shaw to receive a fair trial in the city.

ARGUMENTS FILED

The motions by Shaw's attorneys were not argued on their merits at the Friday hearing. Both defense and state have filed arguments which Judge Haggerty will study

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over the weekend before the Monday ruling.

Present at the hearing Friday was Shaw, who was arrested in March, 1967, and has been free ever since on a \$10,000 bond.

Garrison was not present although he had been scheduled to appear as a witness. Alcock told the court Garrison was ill, and Alcock's testimony was accepted instead by the defense.

Alcock filed written answers to the application for the change of venue and motion to quash after the hearing began shortly before 11 a. m. Alcock said he supplied the defense attorneys with copies of his answers.

In the answers, Alcock said the state denied the existence of prejudice in the minds of prospective jurors which would deny Shaw a fair trial. He said "any public print concerning this case since the denial of the defendant's previous motions for a change of venue have been the result of his dilatory flight to the federal forum."

OBJECTION OVERRULED

Judge Haggerty overruled a state objection that the defense had the right to incorporate in this pleading allegations contained in previous motions for a change of venue. (Previous requests for a change of venue have been denied by Judge Haggerty.)

Alcock was the first witness to testify at Friday's hearing and was questioned by Dymond.

Dymond asked Alcock first about a statement he allegedly made Dec. 9, the day after the U.S. Supreme Court refused to assume jurisdiction in the case.

Questioned if he recalled making a statement about the Supreme Court decision, Alcock replied that he "probably did."

"As I recall," Alcock said, "I expressed gratification at the Supreme Court decision in our favor. This is still my feeling, that the federal court has no business interfering with the state courts."

NEWS CONFERENCE

Alcock said he was present at a Dec. 11 news conference call-

ed by Garrison. He said the meeting was in Garrison's office, and that newsmen filled the room.

The DA's aide was also asked about a Dec. 31 telecast in which he was interviewed by WVUE - TV newsmen Andy Kruetz. Alcock said Kruetz called and asked him to say on television what was in the subpoena that day for the autopsy reports on President Kennedy.

Dymond then asked, "Why did you see fit to go on television and repeat this on the air?"

Alcock said he objected to the question and he was upheld by Judge Haggerty.

Ed Planer, news director of WDSU-TV, was called to testify, at which time the judge asked Dymond if he had a transcript of the Garrison news conference. Dymond said he did not.

TAPE RECORDING

Planer said he was not present at the news conference, although one of his reporters was. He introduced a tape recording of the interview.

Asked if the recording was of the entire conference, Planer said it was not "but it's as much as we took."

Dymond requested that the tape be played in the courtroom, but this was denied by Judge Haggerty.

Robert Shafer, the WDSU reporter at the news conference, was then called to the stand by Alcock. Shafer said 10 minutes of the 25-minute news conference was taped, with about four minutes being telecast.

Asked by Dymond about how many reporters were present at the news conference, Shafer said approximately eight.

WRITTEN TRANSCRIPT

WDSU agreed to supply a written transcript of the part aired after Judge Haggerty said he would limit the exhibit to the four minutes actually telecast.

Also called to testify was Kruetz, who said 1½ minutes of his interview with Alcock was put on the air over WVUE.

Judge Haggerty turned down a request by Dymond to have the taped film played back in the court. Kruetz, however, agreed to give the

court a typewritten transcript.

Dymond asked that previous requests for a change of venue be made a part of the record. Alcock objected, but he was overruled by the judge.

WILL RULE MONDAY ...

Following a five-minute recess, Judge Haggerty returned and announced he would study the transcripts and pleadings over the weekend, and disclose his ruling at 10 a. m. Monday.

In a related development

in Washington, D.C., Dr. James B. Rhoads, the archivist of the United States, was ordered to appear in court Friday to explain why photographs taken at President Kennedy's autopsy should not be made available to Garrison.

The order to appear was issued by Judge Charles W. Halleck of the Court of General Sessions and served on Rhoads. Rhoads is to appear before Judge Halleck to show cause why he should not be required to testify at the Shaw trial.

The petition by Garrison claims the photos will show the shots that caused Kennedy's death in Dallas, Tex., came from the front rather than the rear and from two directions. These claims are contradictory to the Warren Report, the official report on Kennedy's assassination on Nov. 22, 1963.

SHOW-CAUSE ORDER

Judge Halleck's show-cause order was issued after an order from Judge Haggerty was received, calling the photos "necessary and material" evidence for Shaw's trial.

The pictures were given to the archives by the family of President Kennedy with the stipulation they be shown only to federal investigators until 1971.

The Warren Commission reported that Kennedy was shot

from the rear by Lee Harvey Oswald and said it could find no credible evidence of a conspiracy.

But Garrison claims that shots came from more than one direction and that Shaw plotted the Kennedy assassination in New Orleans with Oswald and others in September, 1963.

On another matter, assistant district attorney Anthony Sciambra confirmed a report that a state police lieutenant, Lt. Francis L. Fruge of Eunice, spent three days this week working for Garrison.

WENT THROUGH RECORDS

Fruge, criticized nine months ago in an audit of his expense account, went through records in the East Feliciana Parish Courthouse on an undisclosed mission.

Sciambra said the information Fruge was seeking is not a "rehash of anything old." He declined to give any further details, but said Fruge was doing "good work." He said Fruge was assigned by Public Safety Director Thomas Burbank.

It was not clear whether Fruge's assignment is related to the Shaw case.

Fruge was criticized in an April 25, 1968, report by legislative auditor J. B. Lancaster for certain expense account items Fruge filed while assigned to assist Garrison's office.