

CAYUNE, NEW ORLEANS.

ACTION AWAITS DA'S TESTIMONY

Garrison Illness Delays Shaw Motion Ruling

The question of whether or not to throw out a perjury charge against Clay L. Shaw will remain unresolved until District Attorney Jim Garrison is available as a witness for the defense, a Criminal District Court judge decided Tuesday.

Garrison cannot bring Shaw to trial on the perjury charge unless Judge Malcolm V. O'Hara denies Shaw's motion to quash the charge.

First Assistant District Attorney James L. Alcock said he is certain that Garrison, who has had a back ailment for about one year, will be able to testify soon.

Shaw is charged with having lied when he said under oath on Feb. 16, 1969, that he did not know Lee Harvey Oswald and David W. Ferrie, two of the men with whom he was accused of having conspired to murder President John F. Kennedy.

Shaw made the denials when he took the witness stand in his own defense while being tried on the conspiracy trial. A 12-man jury acquitted him of the charge on March 1, 1969.

TO REMAIN OPEN

Judge O'Hara said the matter will remain open until Garrison and another witness are able to testify.

He made the commitment after ordering that a hearing on a motion to quash the perjury charge proceed despite the absence of Garrison and the other witness subpoenaed by the defense.

F. Irvin Dymond, one of Shaw's attorneys, asked twice that the hearing be continued because Garrison and Helen Dietrich, a court reporter, were not available to testify Tuesday.

Each time, the judge denied the request, but after the sec-

ond request, he added the assurance.

ALCOCK CALLED

James L. Alcock, Garrison's first assistant, was the only witness called to the stand by Dymond.

The hearing turned into a polite sparring match between Dymond and Alcock over what the first assistant DA tried to prove to the jury pertaining to Shaw's alleged acquaintance with Oswald and Ferrie during the conspiracy trial.

The defense contends that the jury which acquitted Shaw has already passed on his testimony, and that the matter has already been adjudicated.

To subject Shaw to another trial would be a denial of his rights, defense attorneys claim.

Dymond cited a series of meetings alleged to have occurred by Garrison in an opening statement at Shaw's conspiracy trial.

After each, Dymond asked Alcock if it would not be necessary for Shaw to have known or at least to have seen Oswald or Ferrie for the allegations to be true.

In each instance, Shaw was placed with Oswald, Ferrie, or both.

MEETING IS CLAIMED

One allegation was that Shaw, Ferrie and Oswald met in Ferrie's apartment at 3330 Louisiana Ave. Pkwy. in September, 1963, to discuss means and methods of executing a conspiracy with regard to the assassination of John F. Kennedy.

Perry Raymond Russo, who testified that he witnessed such a meeting, was called to the stand briefly. Dymond entered a transcript of his testimony into evidence.

"According to the theory of the conspiracy, would your theory have been possible if the defendant had not been acquainted with or seen Oswald or Ferrie?" Dymond asked Alcock.

Judge O'Hara said he was recognizing Alcock as an expert witness and ordered him to answer the question.

Alcock said he really did not understand what Dymond meant by the theory of the conspiracy.

CONTENTION QUERIED

"Assuming that Mr. Shaw had never seen nor even been acquainted with Ferrie or Oswald, would there have been any way that your contention of how the conspiracy took place

could be true?" Dymond asked.

Under those circumstances, there was no way it could be true, Alcock said.

Later, Dymond asked Alcock if he tried to convince the jury that the conspiratorial meeting took place in Ferrie's apartment with Ferrie, Oswald and Shaw present.

Alcock said that he was not prepared to say that this was "the" (placing emphasis on "the") conspiratorial meeting.

He said the meeting may have been preceded by other meetings which his office was unable to show to the jury.

However, he said that his office had showed other activities which, in view of the meet-

ing, would indicate a meeting of the minds.

Other meetings were cited in the Garrison statement.

Shaw was allegedly present at a party in a French Quarter apartment attended by Ferrie in June, 1963. Charles Speisel, of New York, N.Y., testified about this meeting.

CONVERSATION ALLEGED

Later in June, 1963, Shaw, after arriving in a large, black sedan, was seen speaking to Oswald on the lakefront. It was alleged Vernon Bundy, a narcotics addict, testified about this meeting.

In late August or early September, 1963, Shaw, Oswald and Ferrie drove into Clinton, La., in a black Cadillac, the statement said. Several witnesses testified about seeing them.

Dymond made the point that the jury has the privilege to disregard a witness's entire testimony if he testified falsely.

Therefore, Dymond argued,

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"would it not be necessary for a jury to pass on every statement a witness makes about a material fact?"

Alcock said the jury must decide if the false testimony is about a material fact. The jury also has the right to ignore the false testimony, he said.

Alcock conceded that he would not deny the materiality of Shaw's testimony that he did not know Oswald or Ferrie.

BASIC DUTY

Dymond then said it was

the basic duty of the jury to pass on the veracity of every witness who testified as to whether Shaw knew or had seen Oswald or Ferrie.

Andrew J. Sciambra, another Garrison assistant, objected to the statement, and the judge sustained the objection. The hearing was continued a short time later.

Dymond also entered into evidence copies of Garrison's opening and closing statements

at the conspiracy trial and the



—Staff Photo by Ralph Urbe.

CLAY SHAW (right) arrives Tuesday with his attorney, F. Irvin Dymond, for a hearing on a motion to drop perjury charges against Shaw in the Criminal District Court section of Judge Malcolm V. O'Hara.

charge to the jury by Judge Edward A. Haggerty Jr.

Judge O'Hara declined to order a transcript of Alcock's statements in the conspiracy trial at the state's expense, but said the material is available if Shaw wishes to pay.

Dymond said that while Shaw is not a pauper, he is not financially able to have the transcript made.

Judge O'Hara several months ago refused to furnish Shaw with a transcript of all

testimony in the trial. Shaw's attorneys claimed that the complete transcript would cost about \$15,000.