



JUDGE EDWARD A. HAGGERTY JR. ponders a point brought out during testimony in the Clay Shaw trial.

5-2
2/12/69

TWENTIETH DAY

Shaw Conspiracy Trial Testimony

Court proceedings for the 20th day in the conspiracy trial of Clay L. Shaw follow:

Attorney William Wegmann argued for the defense against admission of Dr. Nicholas J. Chetta's testimony concerning an interview with Perry Raymond Russo while Russo was under the influence of sodium pentathol. Dr. Chetta died in 1968. His testimony was given at the preliminary hearing.

Wegmann cited a case, Lindsay vs. the United States of America, in which he said the court of appeals reversed the trial judge.

HE SAID WHAT the state is trying to do through the Chetta testimony is "to rehabilitate Perry Russo's testimony."

"The court has not recognized the reliability of the drug," Wegmann maintained. "It allows a person to talk freely but there are indications that the person does not always tell the truth."

He said, "Our point is that they have rehabilitated this witness when nobody from the defense was present."

Wegmann contended that only representatives of the district attorney's office submitted questions to the witness.

WEGMANN TOLD the court

that when the Chetta testimony was admitted during the preliminary hearing, "we argued vociferously that they (the state attorneys) were

Turn to Page 6, Column 6



ARTIST CAPTURES FIRST STEP DAILY of Clay L. Shaw in courtroom as the defendant opens briefcase containing large pad used for taking notes during the trial.



PERRY RAYMOND RUSSO inspects a rifle during cross examination by Defense Attorney **F. IRVIN DYMOND**.

Continued from Front Page

making a record that could be used in the trial."

He said the question of hearsay in the presentation by Dr. Chetta also came up at the preliminary hearing.

The defense attorney said that what Chetta found out in his interview with Russo in 1967 has no bearing on the present.

"The question is not whether Russo was sane in 1967," said Wegmann. "The question is whether he is sane in 1969."

ASSISTANT DISTRICT attorney Alvin V. Oser, who questioned Chetta for the state in the 1967 preliminary hearing, cited the case of the state vs. Esposito as grounds for admission of the Chetta testimony.

In that case, he said, the court allowed testimony obtained while the individual was under the influence of sodium pentathol.

At this point, Wegmann said

the state is doing what the defense predicted it would do at the time of the preliminary hearing — specifically, introducing testimony from that hearing into the record of the trial.

"IF THEY WANT to know the sanity of Russo today, he should be examined by a psychiatrist today. The testimony of Russo in 1967 is not relevant in 1969."

James L. Alcock, chief prosecutor for the trial, told the court that defense attorney F. Irvin Dymond had raised questions about Russo's fitness as a witness by asking him such questions as if he knew the difference between right and wrong and if he had ever tried to commit suicide.

"We wish to show by the testimony of Dr. Chetta the stability of the witness," said Alcock.

WEGMANN MAINTAINED that "if Dr. Chetta were here today, we would make the same objection to the testimony as I'm making now. If they want to rehabilitate this witness, they must do it by a psychiatric examination in 1969."

Wegmann also challenged the validity of the three-judge court that sat for the preliminary hearing. He said again that at the hearing it was established that testimony from that hearing would not become a part of the trial.

"The court is now going to reverse its position and say 'Yes, we will make the preliminary hearing part of the record,'" he said.

He contended he could show the court in the record of the hearing where it was specifically stated that testimony of that hearing would not become a part of the record of the trial.

"IT IS OUR POSITION that the state took that position and made a representation that the preliminary hearing was not for the purpose of perpetuating evidence.

"All during the hearing, Judge (Bernard J.) Bagert likened the preliminary hearing to a discovery process."

Judge Haggerty disagreed with the defense and allowed the transcript of the hearing to be read to the jury.

The defense took a bill of exception, giving four different reasons. It was contended by Dymond that a "proper predicate has not been laid for introduction of the testimony." The reference was to the state's not establishing for the court that Dr. Chetta had died since the testimony was taken.

THE DEFENSE ALSO objected on grounds the court had ruled no objections would be permitted to the Chetta testimony, that the preliminary hearing was before an illegal three-judge court and that the testimony of Dr. Chetta—two years old—is not relevant.

Oser then began reading the 67 pages of the transcript. The first part dealt with establishing Dr. Chetta as an expert in medicine, psychiatry and forensic medicine.

The coroner said he was a member of the state lunacy commission and had testified as an expert in psychiatry on an average of six of seven times a month in the course of his duties as a coroner.

Following a number of questions, Judge Bagert announced he found the doctor qualified to testify.

CHETTA THEN WENT into an explanation of narcoanalysis. He said sodium pentathol is used in this type of examination. The drug, he said, induces a state of hypnosis, puts the individual into a semiconscious condition and "helps the person remember things he may have forgotten."

He testified that the drug also makes the "person reveal things he might not want to reveal." He said the drug has certain limitations, one of them being that "you have to know the patient."

Dr. Chetta explained in his testimony that sodium pentathol removes inhibitions and that one who questions a person under its influence can detect fallacies in the person's

statements.

He went on to explain how it is administered, explaining that it is dangerous if given to a person with asthma or with "some diseases."

DR. CHETTA NAMED those present when Russo was given the sodium pentathol on Feb. 27 and described how Russo was prepared for administration of the drug.

Dr. Chetta, according to the transcript, said that Russo came to his private office about 2:30 p. m. with Asst. DA Andrew Sciambra.

Chetta accompanied them to a second-floor operating room at Mercy Hospital. Present were Sciambra, Asst. DA Alvin Oser, two medical doctors and a nun on the Mercy staff, himself and Russo.

He said that Russo was ex-

amined, doctors checked his heart, respiratory system and blood pressure.

Dr. Chetta testified that Russo signed a hospital consent form agreeing to undergo administration of the sodium pentathol.

He was then injected with a drip system into his arm. First he was given a saline solution until he was used to the drip. Then the sodium pentathol was introduced for a period of about 40 minutes.

Dr. Chetta stated that he had seen Russo only once before and six times after administering the drug.

Dr. Chetta had testified he had been present on three occasions when Russo had been placed under hypnosis by Dr. Esmond Fatter. Once the hypnosis took place in the district attorney's office and twice in the coroner's office.

He also said he was present at Mercy Hospital when sodium pentathol was administered to Russo.

Asked about his opinion of Russo's sanity, Dr. Chetta replied, "I feel that Perry Russo fills all requirements of legal sanity."

DR. CHETTA SAID he had determined this by talking with Russo, by listening to him and by having watched his actions, all of which were well coordinated and well oriented.

Asked if he felt that Russo

had faked any portion of the sodium pentathol test, Dr. Chetta had testified that it definitely was not a fake and that after he had fully recovered from the test he made an exact statement as he had made under the effects of the drug.

Dr. Chetta testified that sodium pentathol and hypnotic trances were considered useful "diagnostic tools."

The coroner said the drug removed mental blocks and aided in the patient's recall of events.

And he said narcoanalysis and hypnotism were related, in that they induced the patient to recall.

OSER ASKED the doctor if a young college student were present during an alleged conspiracy discussion, could he give more specific data about the incident under hypnosis and drugs. Chetta said "Yes."

Dr. Chetta said the patient's sanity would not be affected by the drugs or hypnosis.

The doctor said total recall might come within two weeks or a month after the hypnotic trance had been induced.

The doctor said the drugs were administered to Russo on three occasions—on Feb. 28, 1967, and two other times in the next two weeks. Once the drugs were given to Russo in Ward's office, and once in the coroner's office.

Alcock began questioning Andrew J. Sciambra, assistant district attorney.

Q—Did you have an occasion to be in Baton Rouge, Feb. 27, 1967?

A—Feb. 25, I think it was.

Q—What was the purpose of your visit?

A—To interview Perry Raymond Russo.

Q—Did you go up with anyone?

A—No. I was alone.

Q—Have you ever seen a letter allegedly addressed to District Attorney Jim Garrison by Russo?

A—No. I never have.

Q—WHO WAS PRESENT in Russo's apartment at the time of the interview?

A—During the course of the interview many persons were present at various times.

They were coming in and out, and Perry had two roommates.

Q—How long was this interview?

A—Two or two-and-a-half hours.

Q—Did you take notes?

A—Very few. During the interview I put down names, some telephone numbers. I used two-and-a-half, maybe three, pages in all on a regular legal-sized pad.

Q—Did you have a tape recorder?

A—No.

Q—Did anyone else take down anything Russo said?

A—No.

Q—Did you leave the room during the interview?

A—No.

Q—Did he (Russo)?

A—He may have. I'm not sure.

Q—Did you have any pictures with you?

A—I had many—about 44—and I showed them all to him. And he identified one as Leon . . .

At this point Dymond objected, claiming that in order to identify a picture the witness must say who it is and Sciambra could not repeat what Russo said without introducing hearsay testimony.

WILLIAM WEGMANN, another defense attorney joined the shouting match here and asked Judge Haggerty to ask the state to produce all of the pictures shown Russo. Alcock then asked Russo:

Q—Do you have them?

A—No, the pictures were constantly changing in the course of the investigation. I believe I have most of them.

Haggerty—Say yes or no.

A—Let me explain . . .

Haggerty—You should have answered no if you need to explain.

Dymond again objected: "If particular photographs were separated from a number of photographs, the jury is entitled to know and see the other photographs."

At this point Judge Haggerty ruled that Sciambra could identify the pictures that Russo identified in Baton Rouge. Dymond immediately filed a bill of exceptions. Then Alcock resumed ques-

tioning:

Q—Were S-1 and S-3 among the pictures you showed Russo and would you identify them?

A—Yes, they were. S-1 is a photograph of Lee Harvey Oswald. And S-3 is a photograph of David Ferrie.

Q—After this interview, where did you go?

A—Directly to District Attorney Jim Garrison's house. I told the DA that Russo told me he attended a meeting . . .

DYMOND IMMEDIATELY objected, saying Sciambra was trying to insert hearsay evidence again. Judge Haggerty asked Alcock to resume questioning.

Q—Did you have an occasion to see Russo again?

A—Yes. Feb. 27. Monday morning.

Q—Where?

A—In the DA's office.

Q—Who was present?

A—At that time I can't remember.

Q—Did you have any further contact with Russo?

A—Yes, later that day. Al-

vin Oser and myself took Russo to Dr. Nicholas Chetta. From there to Mercy Hospital where Russo was administered sodium pentathol.

Q—Were you present?

A—Yes, I was.

Q—Was a stenographer present?

A—No. But Al Oser served as a stenographer.

Q—How did you commit the notes to writing?

A—First we contacted the DA's secretary and dictated it.

Alcock continued questioning Sciambra, asking:

Q—At any time did you commit your interview with Perry Russo to writing?

A—The first thing I did the following morning after the interview was contact Perry Russo's place of employment. His boss was not in and I left a message. Then I got a secretary from the district attorney's office and began to dictate a memorandum.

I DICTATED ONE paragraph and then the phone rang. It was Perry Russo and I told him that Garrison want-

ed to talk to him and that he should come to New Orleans immediately.

Q—Can you identify this memorandum (showing Sciambra a memo)?

A—Yes. This is the memorandum I began Feb. 27 and completed seven to 10 days later.

Q—Which memo was completed first—your memorandum or the one you and Mr. Oser dictated after the session at Mercy Hospital?

A—The first memo completed was the one Mr. Oser and I dictated after the sodium pentathol session.

"The memorandum Mr. Dymond has labeled the Sciambra memorandum was not completed until seven to 10 days after my interview."

Q—How many sessions did it take to complete your memorandum?

A—Four or five. Let me explain. There were so many things going on that I dictated that memorandum when I had an opportunity and when the secretary had an opportunity.

Q—DOES THE FIRST memorandum accurately reflect your interview with Perry Russo in Baton Rouge?

A—It was incomplete, hastily done and does not reflect what Russo told me in Baton Rouge.

Q—Of the two memorandums, which most accurately reflects your interview with Perry Russo?

A—The sodium pentathol memorandum includes the most important thing Mr. Russo told me . . .

At this point, William Wegmann vehemently objected to Sciambra's "once again attempting to introduce hearsay evidence."

WEGMANN ASKED Judge Haggerty to instruct Sciambra in the rules of evidence to prevent him from introducing more hearsay evidence.

Shortly after this exchange Judge Haggerty recessed court for the luncheon break.