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Evidence Seized Illegally?

Defense Lawyer Outlines Strategy for Sirhan Trial

LOS ANGELES.

The lawyer for Sirhan Bishara Sirhan disclosed last week the outlines of the strategy that could save the life of the accused assassin of Robert F. Kennedy.

"I've been successful in the past in winning cases by attacking the way evidence was seized," Russell E. Parsons, the lawyer, said as he reviewed his preparations at a Thanksgiving Day retreat at his desert home in Palm Springs, Calif. "We intend to ask not 'do you have the evidence?' but 'how did you get the evidence?'"

Mr. Parsons speaks of "we" because he will soon be joined by a second lawyer, whom he will describe now only as "one of the most prominent trial lawyers in California." The associate is still at work on another case, Mr. Parsons said, and to disclose his name now might, by the mere association with the Sirhan case, prejudice the jury against his client.

That's why he wants the Sirhan trial postponed, probably until the first week in January, and Los Angeles County Superior Court Judge Herbert V. Walker will decide whether to postpone the trial again.

Losing a Round in October

The evidence Mr. Parsons will attack was taken from Sirhan's home in suburban Pasadena last June 5, within hours after Senator Kennedy was shot in the head. Sirhan's lawyer lost one round challenging this evidence in October, when he asked Judge Walker to suppress it—that is, to forbid the state's attorneys to produce it or even mention it. In declining to suppress the evidence, Judge Walker said he would not say then whether this evidence could, in fact, be introduced at the trial.

This evidence, which Los Angeles police officers say they seized from Sirhan's bedroom, includes three notebooks, an envelope labeled "U.S. Treasury Department"; a film strip in which Sirhan appears; a torn piece of cardboard containing a penciled notation; an honorable dis-

charge from the "California Cadet Corps"; an envelope containing a .22-caliber bullet; an envelope containing the business cards of two doctors; and another large envelope containing boxes labeled "Hoppe's Guncleaning Patches" and "Nitro Powder Salt No. 9."

The State of California, represented by Los Angeles County District Attorney Evelle J. Younger, contends the search of the Sirhan home and the seizure of the evidence was legal because two Sirhan brothers told police they had no objection. The defense argues that the house belonged to Sirhan's mother and that only she could give the proper permission but she didn't.

Neither the district attorney nor the defense will talk outside the courtroom about the evidence or their theories about the murder that occurred last June 5 at a rally at the Ambassador Hotel here in Los Angeles, celebrating the Kennedy victory in the California Democratic Presidential primary.

Mum as in the Ray Case

The principals here, like the principals in the James Earl Ray case in Memphis, are under strict court orders not to discuss the evidence or to deliver an opinion about Sirhan's guilt or innocence. The district attorney is attempting to get the order modified, but he has lost his appeals so far to the state courts.

From what is already known of the slaying, Sirhan's lawyer has little choice but to argue the law, hoping to win on points. As murder trials go, this one won't titillate the tabloids. But it might be fascinating for the new legal ground it breaks.

Mr. Parsons said last week he might seek chromosome tests for Sirhan, to determine whether, in the view of psychiatrists, he might have been born with criminal tendencies. The make-up of the chromosomes, which determine various characteristics, is written "X-Y" for most men; some genetics experts contend that men whose chromosomes are arranged in

a "X-Y-Y" configuration, with that extra "Y" are "super males" and often become violent criminals.

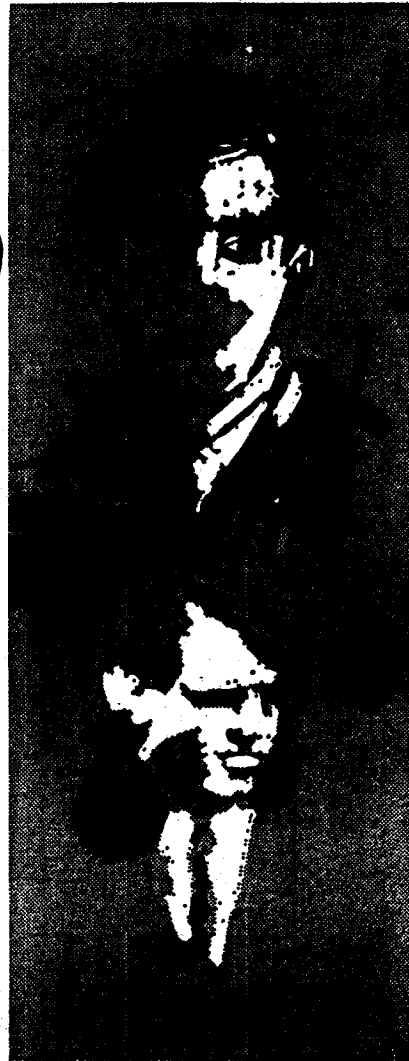
This genetic abnormality has figured in cases in France and Australia as well as in California, where a man convicted in a rape case is waiting for a chromosome report now. If Mr. Parsons wants Sirhan's chromosomes tested, he must file with the court a motion for the test; this could mean a further delay in getting started. At week's end, Mr. Parsons said he hadn't decided.

The district attorney obviously expects Sirhan's mental make-up, if not his chromosome make-up, to be the pivotal issue in the trial.

"Sirhan's attorney has not entered a plea of insanity for his client," Lynn Compton, the deputy prosecutor who will lead a three-man prosecutor team, remarked the other day, "but the issue can still be raised. He might say the defendant lacks the capacity to premeditate murder, leading to what we call diminished capacity."

The district attorney has hired a psychiatrist to observe Sirhan during the trial, but he can only observe. Under California law, the state's psychiatrist can examine a defendant only with permission of the defense lawyer. The court has, in fact, appointed a psychiatrist to examine Sirhan, but, again by state law, the psychiatrist's reports are made only to the defense. The state has no access to them.

Nobody but his family, his jailers, and his lawyer has visited Sirhan's cell in a mini-fortress built deep within the Los Angeles Hall of Justice on Temple Street at the edge of the central city. Mr. Parsons last week described Sirhan as "getting



quite nervous after a long, hard wait.

"He has been very co-operative with me, and I'd say he shows considerable confidence. When he looks at me, I see the trusting eyes of a baby."

Russell Parsons is Sirhan's second attorney; the first, for only a few weeks, was a lawyer assigned to him by the Los Angeles County public defender's office. Mr. Parsons was picked by Sirhan himself, the lawyer recalled last week, "after a prominent lawyer here gave him a list of five names, and Sirhan picked two of us. That's me, and the other man, whose name we'll let out later."

Both lawyers are working free, Mr. Parsons says.

"I thought this man needed a defense, and that's why I got into it. These people have no money and apparently no way of

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getting any. So we don't even expect a fee.

"A lot of people have asked me whether we were getting paid from Middle Eastern sources—the Arabs. So far we haven't got a nickel from there, though I have gotten a lot of mail and a few contributions. I got \$5 from a man in Perth, Australia, not long ago. And not long ago a Lebanese journalist told me, when he came to see me for an interview, that he was amazed that we hadn't gotten money from overseas, but we haven't."

Mr. Parsons has, tried hundreds of cases in Los Angeles since he came to California from Utah years ago. He has won several appeals, citing illegal searches, and he once successfully sued the FBI for an illegal search.

He and his partner, still the mystery man in the case, will be opposed by three lawyers from the district attorney's office: Mr. Compton, deputy prosecutor John E. Howard, who is chief of the special-investigation division, and David N. Fitts.

During their investigation, Mr. Compton and his deputies had an additional eight men from the district attorney's investigation branch and 15 men from the Los Angeles Police Department interviewing nearly 2,000 persons, some witnesses, some not.

Many were in the ballroom of the Ambassador Hotel early on the morning of June 5 when a man stepped from behind a table and shot Mr. Kennedy as he walked through a kitchen on his way to an elevator. Five other persons were hurt, but none badly. Sirhan was arrested a few minutes later, and Senator Kennedy died 25 hours later.

There is little talk and no excitement here about the trial. California, of course, is the land of something new and bizarre every day, and the assassination is, after all, nearly six months old.

The newspaper and television treatment of the Sirhan trial is proper and sometimes restrained to the point of not even reporting the routine developments.

In the superheated atmosphere of Southern California, it is perhaps just as well.

So far there has been almost no effort to make political capital of the proceedings, though that of course could come later when the trial begins and Sirhan's face is emblazoned across the newsstands and the evening television screens.

There have been a few minor hubbubs. There was a report, denied by his lawyer, that Sirhan B. Sirhan would tell all if his trial were nationally televised and a huge national audience assured. Neither Mr. Parsons nor the district attorney's office, in fact, professes belief in the conspiracy theory here.

They agree that Sirhan is what he seems to be: a poor immigrant from Jordan, whose family arrived in two sections with tickets purchased by Nazarene and Baptist congregations in Pasadena, and that he, like most Arabs, had gotten worked up over the Arab-Israeli War of 1967. Senator Kennedy, of course, was a champion of the victorious Israelis.

The trial might last as long as two months; merely selecting a jury might consume a full month.

Thought it isn't mandatory, the jury most likely will be locked up once the testimony begins, to prevent attempts to persuade the jury after hours.

There's a good chance the trial will be televised—after a fashion. So heavy has been the demand for press credentials that the sheriff, who handles the courtroom arrangements, wants to hide a tiny television camera inside the courtroom and beam the picture to an adjacent overflow press chamber. Both sides indicate they won't oppose it. The courtroom seats only 35 reporters, and these seats have been assigned mostly to California newsmen. The overflow press room would accommodate another 60 or so.

Though the outlines of a defense can be guessed at, nobody knows the answer to the most tantalizing question at any murder trial—whether the defendant himself will go on the stand and plead in his own behalf.

—WESLEY PRUDEN, JR.