

Motion by Surgeon for Dismissal Of Murder Indictment Is Denied

By M. A. FARBER

The administrative judge of Superior Court in Bergen County has denied a motion by Dr. Mario E. Jascavevich that a five-count murder indictment against the surgeon be dismissed on the ground that too much time has elapsed since the deaths a decade ago.

After rejecting a technical argument by Dr. Jascavevich's attorneys relating to the statute of limitations in New Jersey, Judge Theodore W. Trautwein also denied a motion for a change in location of the trial from Bergen County to Mercer County, in the central part of the state.

The defense attorneys argued that "pervasive adverse publicity" made it "inconceivable" that Dr. Jascavevich could receive a fair trial in Bergen County.

But Judge Trautwein held that over-all coverage of the case to date "has been neither so vitriolic nor so adverse as to have created an overly inflammatory or inherently prejudicial atmosphere" in Bergen County. "The news media," he said, "although not always as circumspect as it might have been, has not convicted this defendant in the court of public opinion."

Dr. Jascavevich, who was initially referred to as Dr. X in news reports earlier this year, was indicted last May on charges of murdering five patients at Riverdell Hospital in Oradell, N.J., in 1965 and 1966.

Background of the Case

The prosecution, led by Sybil R. Moses, an assistant Bergen County prosecutor, will contend at the trial that Dr. Jascavevich willfully murdered the five persons, including a 4-year-old girl, with injections of curare, a powerful muscle relaxant that can be lethal if improperly used.

Curare was reportedly found in the tissues of the five patients after their bodies were exhumed last winter. The exhumations were requested by the Bergen County Prosecutor, Joseph C. Woodcock Jr. after an extensive inquiry by The New York Times last fall into 13 "unusual or unexplained" deaths at Riverdell a decade ago.

None of the 13 patients, including the five whose deaths Dr. Jascavevich has

now been charged with causing, was operated on by the 49-year-old surgeon. All but one of the patients were recovering in their rooms from operations by other surgeons when they suddenly died.

Dr. Jascavevich was the chief at Riverdell from 1963 to early 1967, when he resigned.

Eighteen vials of curare, most of them empty or nearly so, were found in Dr. Jascavevich's locker at Riverdell in November 1966 and that, along with the seemingly inexplicable nature of deaths at the hospital, touched off an investigation at that time by Guy W. Calissi, then the Bergen County Prosecutor.

But that investigation, in which no bodies were exhumed, was dropped after weeks without presentation to a grand jury. The basis for Mr. Calissi's closing of the matter is still in dispute. Dr. Jascavevich had told Mr. Calissi that he was using the curare in experiments on dying dogs at Seton Hall Medical School in Jersey City.

Charged With Malpractice

A week after his indictment last May, Dr. Jascavevich was charged by the New Jersey Board of Medical Examiners with 12 counts of malpractice—six relating to the deaths at Riverdell and six stemming from his behavior as a surgeon in a case in Jersey City in 1974 and 1975.

In the latter case, the board accused Dr. Jascavevich of fraud in the practice of medicine, professional incompetence and gross neglect that endangered the health or life of a patient at Christ Hospital in Jersey City. The patient was identified by the board only by his initials, J.E. In sum, the board said that Dr. Jascavevich had falsely represented that the patient had cancer.

A decision on a motion by Mr. Brown to exhume 13 bodies, including re-exhumation of the bodies of the five persons mentioned in the indictment was postponed by Judge Trautwein. The bodies of some of the persons whom Mr. Brown wanted exhumed were cremated a decade ago; some others did not figure in the original investigation.

The trial is not expected to be held until next spring.