

Excerpts From Sirhan Lawyer's

Special to The New York Times.

LOS ANGELES, Feb. 14 —Following are excerpts from an unofficial transcript of the opening statement made to the jury today by Emile Uola Berman of New York, defense counsel for Sirhan Bishara Sirhan:

Now one thing I'd like to fasten down with you. The evidence in this case will disclose that the defendant, Sirhan Sirhan, is an immature, emotionally disturbed and mentally ill youth.

To start, then, at the beginning, Sirhan was 3 years old when war broke out between Palestinian Arabs and Zionists in Palestine in 1947. It was then that shooting took place on the very street where he lived in Jerusalem.

On the Saturday before Easter of 1948, Sirhan and his mother, father, brothers and sister crawled out of their home in the early dawn with gunshots echoing all about them to a temporary safety in an Orthodox Christian convent in another part of the city.

They never went back. They lived with other uprooted and evicted Arabs in a hungry, war-torn, violent existence. Sirhan, this young boy at the time, was exposed to the most severe, repeated scenes of war with such effects upon him to leave their mark upon his personality all during his life.

Sirhan saw a little girl's leg blown off by a bomb and the blood spurting from below her knee, as though from a faucet. He went into a spell, he stiffened, his face contorted, he was out of contact with reality, and lost all sense of where he was or what was happening to him.

'In a Trance for 4 Days'

These severe reaction spells from the horrors of war occurred again and again. For example, a bomb exploded when he was playing near the Damascus Gate. Sirhan went into a spell, someone called his mother, who took him home, where he remained in a trance for four days.

Through ten years of the hot and cold war, the Sirhan family, under great hardships, tried to make things work out.

Sirhan went to the Lutheran church school run by Arab Christians, and at his age of 12 the family came to America, to this country, and that was in 1957. Some seven months later, the father left their home alone, and abandoned his family and returned to Jordan, did nothing for them financially or otherwise, up to and including the present moment — and in fact divorced his mother.

While here, Sirhan went to Muir High School, where he always felt and always reacted as an outsider — it was a fact. He just didn't belong. He was someone who didn't belong. He graduated Muir High School and was accepted at Pasadena City College.

It was his ambition to be-

Advocate for Sirhan

Emile Zola Berman

By LACEY FOSBURGH

Special to The New York Times

LOS ANGELES, Feb. 14—In May of 1964, Emile Zola Berman, carrying a briefcase and a pair of small, white sneakers, headed south for Alexandria, La.

Waiting for him was a 14-year old Negro boy, barefoot and alone in a stuffy dark cell, charged with raping a

67-year-old spinster, a member of the town's leading family. "They

wanted the death penalty," Mr. Ber-

man, a gaunt, baldish lawyer, recalled recently. "I was the Jew from New York and he was a Negro kid. It was tough, I can tell you. We were up against the most prestigious family in the area and an all-white jury."

Several weeks later, Mr. Berman went back to New York, and the boy, wearing his new sneakers, started a two-year jail sentence.

The Greatest Challenge

Today Mr. Berman faced perhaps the greatest challenge of his long, distinguished career. In the eighth-floor courtroom in the Hall of Justice here, in the opening statement for the defense, he began trying to persuade a jury that there was "a real and valid defense" for Sirhan Bishara Sirhan, charged with the murder of Senator Robert F. Kennedy last June.

"It's tough, it's real tough, but that's why I'm here," Mr. Berman said recently.

"The worst cases and the worst crimes make the best law and this one represents everything I've been working for all my life. Sirhan is a symbol of every man's right to a fair trial and this right needs constant reinforcement by people qualified to do it."

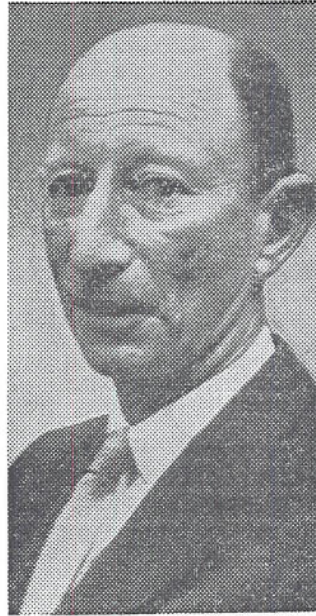
Mr. Berman, 66 years old, is defending Sirhan without payment as a member of the defense team.

In 1956 he waged a fierce defense battle in Parris Island, S. C., to have S. Sgt. Matthew C. McKeon found guilty of drinking on duty and simple negligence. The defendant had originally been charged with culpable negligence leading to the death of six marines in a swamp.

Although he frequently makes such journeys to far-away places to defend individuals from the death penalty. Mr. Berman's regular work is defending corporations against liability suits. For each courtroom appearance for the New York firm of Berman & Frost, he reportedly receives \$4,000.

Whether in his favorite restaurants, Toots Shor and "21", or at any of his three homes in New York City,

come a diplomat. He didn't make the grade and was dismissed from college after 1½ years, in March, 1965, because of failing marks in four subjects. And once again, another defeat.



The New York Times

"It's real tough, but that's why I'm here."

Roslyn Heights, N.Y., and Westhampton, L.I., Mr. Berman is frequently engaged in a choice pastime—telling stories to friends.

Among his favorites is the one about the time he jumped ship in California one summer long ago and hitchhiked East. He was then a student at New York University. He was graduated from the N.Y.U. Law School in 1925.

History of a Name

Another is the history of his name. In the late eighteenth-nineties, his parents, refugees from Russia, were among a group of students living in Paris whom Emile Zola took under his wing.

Later when her first son was born in America, on the Lower East Side Nov. 3, 1902, the young mother named him after the French author who defended Capt. Alfred Dreyfus after he was convicted of treason.

Virtually everyone, Mr. Berman says, calls him "Zuke."

As a child playing in the streets, he would hear his mother call, "Zola, come up for your milk."

"That wouldn't do," he said, "Somebody thought of Zuke as a remedy."

The only person who has ever called him Emile is his second wife, Virginia.

Mr. Berman's two children, both from his first marriage, are named Eliza and Eli.

To Sirhan and his family, he is Mr. Berman. Almost every day after he emerges from the courtroom, Mr. Berman finds the defendant's mother, Mary, and gives her an enthusiastic embrace.

"I have to show her I'm with her," Mr. Berman explains. "I'm here fighting for her son's life, and I want her to know we have a chance."

He got a job working nights at a gas station and with his earnings he bet on the horses—hoping to make a fortune — and that would show them all that he was a somebody, that he belonged.

Once again, defeat, because, like many horse players, he lost.

He then got a job as an exercise boy at a thoroughbred ranch near Corona. He was hoping and ambitious to become a jockey — and a great one. Well, one foggy morning at the ranch he was thrown by a horse right into a rail, knocked unconscious and taken to an emergency hospital. He couldn't do much with horses after that. Another failure.

Wrote a 'Declaration'

He complained about headaches, became more and more irritable, brooding, quick to anger, and preoccupied with fanatical obsessions of hatred suspicion and distrust. He too to long hours of reading on the power of the mind.

In fact, on the 2d of June, 1967, an you will bear in mind that Arab-Israeli hostilities were occurring in the Middle East and war broke out on the 5th of June, 1967. But to repeat, on June 2, 1967, he wrote a — and I quote now, so you will have some concept of what kind of mind we and you the jury will be dealing with — "Declaration of War Against American Humanity," in which the following appears:

"The victims of this party in favor of this declaration (now mind you, this is back in '67, not '68) will be or are now the President, Vice President, etc., down the ladder."

In this declaration he also wrote:

"The author of this memorandum expresses his wishes very bluntly that he wants to be recorded by history as the man who triggered off the last world war."

Three days later the six-day Arab-Israeli war broke out in the Middle East. He saw on television, heard on radio and read in the newspapers and the events of those days and the defeat of the Arabs by the Israelis.

All of this triggered his spells. In his fantasies he was often a hero and savior of his people. In the realities of life, as our doctors will tell you, however, he was small, helpless, isolated, confused and bewildered by emotions over which he had absolutely no control.

He became concerned with mystical thoughts and searched for supernatural powers of the mind over matter. He started mystical experiments in his room. For example, he would concentrate on a hanging lead fishing sinker and make it swing back and forth by the power of his mind and concentration.

Bought a Revolver

In January of 1968, six months before the death of Senator Kennedy, he and his brother bought a .22-caliber Ivor Johnson revolver to use for sport, and Sirhan spent time shooting at various ranges. The shooting gave him, as doctors will tell you, a strange sense of release, but the mystical experiments gave him no peace of mind — only further bewilderment and emotional confusion.

Then came another heavy

Statement at Trial

shock. In late May and early June of 1968, Senator Kennedy, who he himself will tell you he admired and loved, said during the campaign both in Oregon and California, in essence, that if he were President he would send 50 Phantom jets to Israel.

That did it, because from that point on back to mysticism went Sirhan. He concentrated in front of a mirror in his own room and thought about Senator Kennedy until at last he saw his own face no longer, but that of Senator Kennedy, in that mirror.

Sirhan will tell you himself from the witness stand that he never thought and never had a thought to kill Kennedy, but through his mystic mind power, the doctors will say, he could fantasize about it and relieve that feeling of emptiness within him.

Through a weird chain of circumstances, and while in a disturbed mental state, intoxicated and confused, he had the same spells that he had in Palestine. There is no doubt, and we have told you this from the beginning, that he did in fact fire the shot that killed Senator Kennedy.

That killing was unplanned, undeliberate, impulsive and without premeditation or malice, totally the product of a sick and obsessed mind and warped personality.

At the actual moment of shooting—now this isn't Berman talking, it is mental science talking—he was out of contact with reality, in a trance—that same kind of trance—in which he had no voluntary control over his will, his judgment, his feelings or his actions.

I do not expect, nor is it my desire, that you accept my statement as evidence. I tell you these matters because we will prove them through great men in the field of psychiatry and psychology—by tests that run the gamut of hypnosis, interviews and known and acceptable psychological tests and testing procedures.

You will be told in detail by these scientists how they perform these tests and that the tests conclusively show that because of mental illness and emotional disorder, Sirhan did not have the mental capacity, nor the mental state that is the essential element—an essential — of murder; namely maturely and meaningfully premeditate, deliberate or reflect upon the gravity of his act, nor form an intent to kill, nor harbor malice aforethought, as we believe these are defined by the laws of California.