

Judge's Doubts on U.S. Attorney's Prosecution

of Roncallo Are Focus of Inquiry on Drugging of Aide

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A Federal judge's recurring chastisement of the United States Attorney's office here on the grounds of faulty preparation and mishandling of the extortion case against Representative Angelo D. Roncallo last May has provided a focus for the three-way investigation into the drugging of Assistant States Attorney Peter R. Schlam, the Government prosecutor in the case.

The investigation, by the Justice Department, the Federal Bureau of Investigation and the House Judiciary Committee, is reported to be looking into the possibility that the prosecution panicked at the prospect of losing the case or having it thrown out of court, and thus seized upon the drugging of Mr. Schlam during the trial to charge that he had been the victim of foul play.

Representative Roncallo, an Oyster Bay Republican, was eventually acquitted of the extortion charges and demanded a Federal investigation of what he said was a political vendetta against him by the United States Attorney's office for its Eastern District and by its former acting chief, Edward J. Boyd 5th.

Foul Play Suspected

The Justice Department was called in to investigate the drugging of Mr. Schlam, who failed to appear in court on May 9 in the Roncallo trial. In his place, Assistant United States Attorney Thomas P. Puccio told Federal District Judge Edward R. Neaher that investigation had shown that, "as we all suspected," Mr. Schlam "never has taken any drugs." He also said that "the F.B.I. is now convinced, and we are all convinced, that the —his sickness—was the result of foul play."

However, there was a demurrer from the F.B.I. that speculated, according to sources in the Justice Department, that the drugs either were self-administered or had been administered by Mr. Schlam's father, Dr. Isaac Schlam, a Lindenhurst, L.I., physician. This was denied by Dr. Schlam.

Inconsistencies regarding the events of May 9 and 10—when Mr. Schlam was examined by his father and admitted to a Long Island hospital first as a drug-overdose case and then as an exhaustion case—arose and three investigations were begun. The House Judiciary Committee says its inquiry into the preindictment phase of the Roncallo matter is continuing.

F.B.I. Enters Case

The new United States Attorney for the Eastern District, David G. Trager, asked the Justice Department to investigate not only that aspect of the case, but also events leading to the drugging of Mr. Schlam. Then the F.B.I. said it had at

last been asked to participate in the investigation. The F.B.I. had maintained all along, contrary to what Mr. Puccio said in court, that it had not conducted an investigation but had merely done some blood sampling of Mr. Schlam.

Spokesmen for all the agencies say it will be some weeks before their inquiries are finished and their findings are released. In the meantime, Mr. Schlam has declined to respond to queries, as has Mr. Trager, who releases statements through his secretary.

Transcripts of sessions of the trial, which took place in Judge Neaher's chambers, show that the judge was highly critical of the Government's handling of the case.

On May 10 he said he had

doubts about the Government's ability to put forth a convincing enough case on the question of extortion, saying: "There really may not be enough to enable a court to rule on the question."

Judge Is "Astounded"

On the same day, one day after Mr. Schlam had reportedly been drugged by foul play, Mr. Puccio suggested that Mr. Schlam's assistant, Robert Katzberg, who "spent quite a bit of time with Mr. Schlam," be "examined today and that tests be taken as far as he is concerned."

Judge Neaher exploded. "Wait a minute," he said. "They ought to at least consult with the court. . . . I am a judge of the judicial branch and we have judicial business to conduct. I

must say I am astounded by what you say."

Later he added: "I must say I have never seen a case so plagued with problems as this one."

Still later, Judge Neaher said: "I feel this case has been terribly mishandled by the U.S. Attorney's office." After Mr. Puccio argued with him, he said, "This case is either a case or it isn't a case," and added: "I just think it an incredible performance."

Continued arguments by Mr. Puccio brought this from Judge Neaher: "I tell you, this case will certainly go down in history as the most unusually conducted trial of a so-called 'important case' that anyone has ever seen or heard of."

Before the case even went

to trial, Judge Neaher told the Government attorneys in April that the Government's subpoena was "badly worded" and that the Government had failed to provide any justification for the subpoena.

Other Theories Investigated

As the inquiries focus on what the judge deemed a poor case, reports from investigative sources are that the former Acting United States Attorney, Mr. Boyd, now an assistant to Mr. Trager, has been questioned by Justice Department investigators, as have Mr. Schlam and Mr. Puccio.

Judge Neaher's comments have increased in significance, investigative sources say, particularly in light of Representative Roncallo's charge that Mr.

Boyd indicted him in a "web of deceit" because Nassau County Republicans refused to nominate Mr. Boyd for permanent appointment as the United States Attorney.

One theory advanced and being looked into, F.B.I. sources say, is whether the Schlam drugging was designed to take the heat off the Government's badly drawn-up case.

Questions Remain

The questions still be be answered are: Was Mr. Schlam's collapse a result of drugs—which were known to be in his apartment—or of exhaustion after taking of the drugs? Did he take them himself, or did his father administer them? Or was he drugged by some unnamed conspirator?

If the drugs were self-administered, why did the United States Attorney say in court that foul play was involved? If no foul play was involved, did the United States Attorney's office knowingly lie to Judge Neaher in open court?

A source in the Justice Department estimates that it will

be another month before there will be answers. The House Judiciary Committee, already burdened with the Watergate investigation, has had to give the Roncallo inquiry to one staff member. A committee spokesman said it would be "some time" before it had conclusions on the case.