

THE NEW YORK TIMES, TUESDAY, FEBRUARY 11, 1969

Jury Told of Kennedy Death Plot

Judge Rejects Move of Shaw Defense to Curb Testimony

By MARTIN WALDRON

Special to The New York Times

NEW ORLEANS, Feb. 10 —

Perry Raymond Russo testified today that in 1963 he heard Clay L. Shaw and others discussing a plan to murder President Kennedy.

Mr. Russo said the discussion could be considered as having "all the characteristics of a bull session," or not serious. However, Criminal District Judge Edward A. Haggerty Jr. appeared to consider the testimony sufficient to make out a prima facie case of conspiracy — that is, that the evidence was sufficient to give the case to the jury for decision.

Mr. Shaw, a retired New Orleans businessman, is being tried on a charge of conspiring with Lee Harvey Oswald and David W. Ferrie to murder Mr. Kennedy.

There was no official announcement by the judge that a prima facie case had been met by the prosecution. But the judge allowed testimony concerning Oswald's activities after the alleged conspiracy meeting, overruling a motion by defense attorneys that such testimony could not be admitted because the state had not presented sufficient legal evidence of the conspiracy.

Judge Haggerty said it was the duty of the jurors to interpret the evidence.

Mr. Russo's testimony was, in several specifics, contradictory to that which he gave in March, 1967, at a preliminary hearing on the conspiracy charge.

At that time he said he had been accompanied to the party where he overheard the assassination plot by a girl friend, Sandra Moffett. The young woman, now married to a part-time minister in Iowa, had said she did not attend any such gathering.

Mr. Russo said today that he had gone to the party alone.

The 27-year-old witness, an encyclopedia salesman, also challenged a memorandum of a meeting between himself and an assistant to District Attorney Jim Garrison, who is prosecuting Mr. Shaw. The memorandum was introduced into evidence.

In the memorandum, Mr. Garrison's assistant did not mention Mr. Russo's telling him about having overheard a conspiracy discussion. But, Mr. Russo said that he did tell the assistant, and that the assistant



Associated Press

Perry Raymond Russo, prosecution witness, arriving at the courthouse yesterday.

apparently had not heard him or had not placed any significance on it.

Mr. Russo said he himself did not have any firm opinion that the discussion he said he had overheard was serious.

In its general outline, Mr. Russo's testimony today followed the testimony he gave at the hearing in 1967.

Mr. Russo, wearing a tan suit, a blue shirt and a blue tie, spoke slowly and cautiously. He qualified many of his statements with "I think" or "As I remember" or "I'm not sure but" until he came to that part of his story in which he related that he had heard Mr. Shaw, Mr. Ferrie and Oswald planning to assassinate President Kennedy.

Then his testimony came in a rush, the words tumbling out so fast that at times it was hard to understand him.

He said he met Oswald in mid-September, 1963. He said he went to Mr. Ferrie's apartment, where the former pilot performed experiments on mice trying to find a cancer cure and where he held meetings of a Civil Air Patrol squadron.

Mr. Ferrie introduced him to a "Leon Oswald," Mr. Ferrie said.

"He was generally dirty, and his hair was ruffled and he had light whiskers, perhaps a three or four days' growth of beard. It wasn't really a beard. It was just whiskers. It wasn't dark," the witness said.

In the 1967 hearing, Mr. Russo testified that he had not recognized pictures of Lee Harvey Oswald the first few times they had been shown him because the man he had met at

But Salesman Is Not Sure if Discussion Was Serious

Mr. Ferrie's had had a dark beard. It was not until a member of District Attorney Garrison's staff had drawn a beard on a drawing of Oswald that Mr. Russo was able to equate Lee Harvey Oswald with Leon Oswald.

In the first meeting in Mr. Ferrie's apartment, Mr. Russo testified, Leon Oswald was fondling a rifle when Mr. Russo met him.

"He was cleaning it or polishing it," he said.

The rifle had a telescopic sight on it, he said.

Assistant District Attorney James L. Alcock brought forth from a long black case a small rifle and asked Mr. Russo if that was the rifle he had seen Oswald with.

"I'm not sure if it was the same gun," Mr. Russo said after turning the rifle over several times. "The stock is similar, as well as the barrel and the scope."

The rifle was not the one that was found in the Texas School Book Depository in Dallas after President Kennedy was killed on Nov. 22, 1963. That rifle, still in the possession of the National Archives, has been subpoenaed but not delivered.

The Warren Commission said that Oswald, acting alone, killed the President.

Mr. Russo said that the second time he saw Oswald was when Mr. Shaw was at Mr. Ferrie's apartment.

"I came in from Tulane, probably from playing basketball," he said. "There were three or four Latins or Cubans. There were a couple of young guys and there was one well-dressed man. He had on a deep maroon jacket, white shirt, I guess. I'm not real sure about the pants."

"Did he have on a tie?" he was asked.

"Not as I remember. He was

big, six feet four or six feet five, with wide shoulders. Distinguished looking. White hair."

He pointed toward the defendant as the man he had seen. Mr. Shaw stared steadily at Mr. Russo during the testimony.

Mr. Russo said Mr. Shaw had been introduced to him as Clem Bertrand.

After three or four hours, he said, everyone at the Ferrie apartment had departed except himself, Mr. Shaw, Mr. Ferrie and Oswald.

"What was the conversation?"

"Well, it was just Ferrie, generally monopolizing the conversation. I think I recall some records being played, some speeches in Cuban, in Spanish.

"Ferrie said we are going to kill the President. But he had said that before. During the summer, he had become obsessed with Kennedy and the Cuban thing.

"Ferrie carried around a bunch of clippings. I saw one or two of them with Kennedy's name on them. Well, he paced back and forth on the floor. He carried the clippings. There was some Spanish speech going on. He was muttering about Kennedy.

"Ferrie told them about the triangulation of gunfire, holding his hands like this. One of these three people, in order for two of them to escape, one would have to be a scapegoat and a patsy, he said.

"He mentioned that there might be a diversionary shot fired to draw police attention and the other two would shoot to kill. The fatal shots were to be fired almost simultaneously after the diversionary shot.

"He said escape would be by flight. They could either go to Brazil or to Cuba. If they went to Brazil they would have to stop in Mexico to get gas.

"At this time, the defendant said this was not possible, to go to Brazil. It would need cooperation in Brazil.

"Oswald said to Bertrand, 'Shut up. Ferrie knows what he is doing. He is a pilot.'"

Mr. Russo said Mr. Shaw and Mr. Ferrie then began discussing possible alibis.

"The defendant said he could go on business for his company," Mr. Russo testified. "He said he could go to the coast. Ferrie said he would go to southeast Louisiana or to Hammond and make a speech.

"Oswald didn't say anything."