

CRIMINAL DISTRICT COURT

PARISH OF ORLEANS

STATE OF LOUISIANA

.....	.	
STATE OF LOUISIANA	.	198-059
vs.	.	14:26 (30)
CLAY L. SHAW	.	SECTION "C"
.....	.	

PROCEEDINGS IN OPEN COURT OF
February 26, 1969

Testimony of Lt. Edward O'Donnell

B E F O R E :

THE HONORABLE EDWARD A. HAGGERTY, JR.,
JUDGE, SECTION "C"

Dietrich & Pickett, Inc.
Stenotypists

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I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
LT. EDWARD O'DONNELL	4	8	--	--

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AFTERNOON PROCEEDINGS

MR. DYMOND:

We call Lieutenant Edward O'Donnell.

MR. ALCOCK:

In connection with the testimony of the next witness, Your Honor, I would respectfully request the Court, since it only encompasses ten pages, to read the testimony of Perry Russo relating to this testimony, and perhaps we can do away with this stop, stop, stop and start.

THE COURT:

Let me understand what the situation is. You may understand what it is, but I don't.

MR. ALCOCK:

As I appreciate the testimony of this witness, Your Honor, is to be for impeachment purposes relative to certain statements Perry Russo allegedly made to him, which questions were asked of Perry Russo when he was on the witness stand and he responded to -- the State feels that he respond-

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ed affirmatively to every one of
them. Now, it only encompasses ten
pages of the transcript and I would
respectfully request of the Court to
read that over before this witness
takes the stand so we would not have
to stop after each question and allow
the Court to read the question pro-
pounded to Mr. Russo and his reply,
and I have the pages marked.

MR. DYMOND:

We certainly have no objection.

THE COURT:

From 447 --

MR. DYMOND:

447 through about 457.

THE COURT:

If some persons want to leave now, Sheriff,
you can let them leave now.

Let's see if Lieutenant O'Donnell is
available.

THE SHERIFF:

He is outside.

THE COURT:

All right.

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1 MR. ALCOCK:

2 I submit to the Court having read those
3 pages, that the witness did distinctly
4 admit making the statement.

5 MR. DYMOND:

6 I don't really believe we can generalize
7 on questions like that.

8 THE COURT:

9 Why don't you two gentlemen come into my
10 chambers and I will show you what I
11 am reading and let the Jury remain
12 here.

13 (Whereupon, a recess was taken.)

14 AFTER THE RECESS:

15 THE COURT:

16 Call your witness, please.

17 LT. EDWARD O'DONNELL,

18 having been first duly sworn by the Minute Clerk,
19 was examined and testified as follows:

20 DIRECT EXAMINATION

21 BY MR. DYMOND:

22 Q Lieutenant, if you will bend the microphone up
23 towards your face a little, then you will
24 be able to speak right into the end of it.
25 For the record, Lieutenant O'Donnell, would

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1 you please state your full name.

2 A My name is Edward Mark O'Donnell.

3 Q What is your occupation, sir?

4 A Police Officer, Lieutenant, Assistant Command-
5 ing Officer, Homicide Division, New
6 Orleans Police Department.

7 Q How long have you been affiliated with the New
8 Orleans Police Department?

9 A Seventeen years.

10 Q Lieutenant O'Donnell, on or about June 19,
11 1967, did you have occasion to have a
12 conversation with Perry Raymond Russo?

13 A Yes, I did.

14 Q During the course of your conversation, did
15 you ask him why he had testified as he
16 did at the preliminary hearing which was
17 conducted in this proceeding?

18 A Yes, I did.

19 MR. ALCOCK:

20 What page are you on, Mr. Dymond?

21 MR. DYMOND:

22 Page 449.

23 BY MR. DYMOND:

24 Q Did he give you an answer to that question,
25 Lieutenant?

1 A Yes, he did.

2 Q What explanation did he give you?

3 A He stated that he had all intentions that when
4 he came into the court for the preliminary
5 hearing he was going to tell the truth,
6 that when he got here and you started talk-
7 ing to him and asked him questions, you
8 turned him on, particularly when you got
9 to the point when you asked him about did
10 he believe in God, and he explained that
11 this was a sensitive area with him, and to
12 quote his own words, you turned him on,
13 and he had at this time decided that he
14 was going to bury you.

15 Q Bury me?

16 A Bury you.

17 Q During that same conversation, Lieutenant
18 O'Donnell, did Perry Russo express any de-
19 sire to know the entirety of Mr. Garrison's
20 case against Mr. Shaw?

21 A Yes, he did.

22 Q Did he give you any reason for wanting to know
23 the rest of the case?

24 A Yes.

25 Q What was that, sir?

7

1 **A** He asked me if I could let him see the case
2 which Mr. Garrison had against Mr. Shaw,
3 and I asked him for what reason, and he
4 said if he could see what kind of case
5 Mr. Garrison had, it would help him to
6 arrive at a decision to determine whether
7 or not Mr. Shaw was involved in this
8 particular matter, and I told Perry Russo
9 that the only way he should arrive at this
10 decision is to examine his own conscience
11 and determine what the truth is, and then
12 arrive at a decision, that he should not
13 have to lean on the investigation, what
14 Mr. Garrison has or does not have.

15 **Q** Now, did you make these facts known to the
16 District Attorney's Office?

17 **A** Immediately after this interview with Perry
18 Russo, I went upstairs and I spoke with
19 Mr. Garrison and Mr. Alcock and I made this
20 information pertaining to this interview
21 to them available, to them, in fact I told
22 them what happened, and the following day
23 I made a typewritten report and I brought
24 this upstairs to Mr. Garrison and gave him
25 a copy of it.

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1 MR. DYMOND:

2 We tender the witness.

3 CROSS-EXAMINATION

4 BY MR. ALCOCK:

5 Q Lieutenant O'Donnell, did you make a tape
6 recording of this interview with Perry
7 Russo?

8 A No.

9 THE COURT:

10 You may proceed.

11 BY MR. ALCOCK:

12 Q Did you make a tape recording of this interview
13 with Perry Russo?

14 A No.

15 Q When you were in the District Attorney's office
16 in the presence of Mr. Barnes, Mr. Russo
17 and Jim Garrison and Mr. Sciambra, did
18 you repeatedly tell Perry Russo that you
19 had made a tape of it?

20 A I asked him if he would like to hear a tape
21 play-back of our conversation because at
22 that time Perry Russo had denied that he
23 ever told me that Clay Shaw was not at
24 Dave Ferrie's apartment, and I told Perry
25 Russo at that time "Would you like to hear

7
1 a tape of our conversation" in an effort
2 to reenforce Perry Russo into admitting
3 the truth, not admitting the truth, but
4 admitting to what he told me when I inter-
5 viewed him, and hen I was in your office
6 on that occasion Perry Russo had done a
7 doubletake and denied that he ever told
8 me this.

9 Q Did you repeatedly say that you had a tape re-
10 cording of this conversation and he asked
11 you "Let me hear the tape"?

12 A I asked him if he would like to hear the tape,
13 and I don't have any tape. In fact, Mr.
14 Sciambra asked me the same question --
15 excuse me, before I left your office that
16 afternoon, I told Mr. Sciambra I did not
17 have any tapes.

18 Q Why did you keep asking Mr. Russo if he wanted
19 to hear the tapes?

20 A I don't know how many times I asked him.

21 Q Why did you keep asking him that if you didn't
22 have any tape?

23 A I just explained why.

24 Q But you had no tape. Is that correct?

25 A That is correct.

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1 Q How many reports did you make up of this con-
2 versation?

3 A Oh, how many reports or how many copies of a
4 report?

5 Q Well, how many copies?

6 A Four, five.

7 Q Four or five copies?

8 A Yes.

9 Q How many copies did you give to the District
10 Attorney's office?

11 A I believe I gave them one copy.

12 Q Where is the original, where is the original
13 now?

14 A The Chief of Police should have it.

15 Q And how many copies do you have?

16 A I have one copy.

17 Q One copy?

18 A Yes.

19 Q Where are the other copies?

20 A The Chief of Detectives should have one also.

21 Q Where are the rest of them?

22 A Excuse me?

23 Q Where are the rest of the copies?

24 A If that is four, I don't have any other copies.

25 Q Well, do you have a copy or not, Lieutenant?

1 A Do I have one? Yes, I have one.

2 Q You have one copy?

3 A Yes.

4 Q And you gave one to the District Attorney's
5 office?

6 A Yes.

7 Q And Chief Giarusso has a copy or the original?

8 A I don't know if you got the original or whether
9 the Superintendent got the original.

10 Q Now, ho else did you give a copy to?

11 A The Chief of Detectives.

12 Q Who is that, Morris?

13 A Yes.

14 Q Now, to whom else did you give a copy?

15 A No one else.

16 Q No one else?

17 A No.

18 Q Did you give a copy to anyone else?

19 A No one else.

20 Q You gave one copy to Chief Giarusso, one copy
21 to Major Morris, and you have a copy. Is
22 that correct?

23 A That is correct. Now, you have a copy.

24 Q And we have a copy.

25 A Correct.

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1 Q And you don't know where the original is?

2 A Either I gave you the original or the
3 Superintendent has the original.

4 Q Now, you stated on direct examination that
5 Perry Russo said he was going to tell
6 the truth until, as you termed it, Mr.
7 Dymond turned him on. Is that correct?

8 A This is what Perry Russo told me, yes.

9 Q He said the truth?

10 A Yes.

11 Q Is that in your memorandum?

12 A Oh, I can check my memo, I have a copy in my
13 pocket.

14 Q Take a look at it, about the middle of page 2.

15 A You want me to read that part?

16 Q No, is the word "truth" in there as you testi-
17 fied to?

18 A No, it is not.

19 MR. DYMOND:

20 If the Court please, we will ask that
21 portion of it be read. I think if
22 there is a synonym for "truth" in
23 there, this Jury is entitled to know
24 about it.

25 THE COURT:

1 But I can't tell him how to conduct his
2 examination. He asked him for a
3 very specific wording, not for a
4 synonym. I overrule the objection.

5 BY MR. ALCOCK:

6 Q Is it a fact that during your conversation
7 with Perry Russo he told you about being
8 bombarded by newsmen such as Mr. Phelan,
9 Mr. Sheridan, Mr. Townley and others?

10 A Oh, yes, during this conversation with Mr.
11 Russo he stated he was under extreme
12 pressure from the news media and from
13 Jim Garrison.

14 Q He said Jim Garrison?

15 A Yes.

16 Q Is that in your report?

17 A No, it is not.

18 Q Why not?

19 A It is not in there.

20 Q Is there any reason why it is not in there?

21 A Oh, in the report it states that he is under
22 pressure, but I did -- what he explained
23 to me, well, I asked him for an explana-
24 tion of what pressures and he explained
25 that he was under pressure from the news-

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papers, the magazines, television and
from Garrison's office.

Q But you did not put that in your report?

A It merely states that he stated he was under
pressure.

Q This isn't a complete, then, account of what
was said on that occasion, is it?

A Oh, word for word, no, it is not.

Q Just the essence of what was said or the high-
lights of what was said?

A This is the essence of what was said, that is
correct.

Q Do you recall making this statement during
the interview in Mr. Garrison's office,
or whatever office it took place in,
"If necessary I will produce a tape of
his conversation," can you recall that?

A Oh, it is possible I said that.

Q How could you say that if you had no tape?

A I explained my reason for that.

Q Well, I would like to hear your reason.

A Explain it again?

Q Yes.

A Because at that time Perry Russo had done a
retake on what he had told me in my office

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1 on June 19, while he was in my office on
2 June 19 he told me Clay Shaw was not at
3 Dave Ferrie's apartment.

4 Q Without qualification?

5 MR. DYMOND:

6 We are going to ask that the witness be
7 permitted to finish.

8 THE COURT:

9 You have a right to give your explanation.

10 THE WITNESS:

11 The day that you, not you, but Mr. Sciambra
12 falsely led me to come to the District
13 Attorney's office under the pretense
14 that I was to give a test to Perry
15 Russo, when I got there this was not
16 the motive for this meeting whatso-
17 ever. I waited approximately one
18 hour, finally Mr. Garrison and the
19 other people who worked for him came
20 into the office with Perry Russo, I
21 was invited into this office, Mr.
22 Garrison had his secretary taking
23 notes of the conversation, everything
24 that was said, and at this time Mr.
25 Garrison asked me do I have a copy of

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1 the report which I gave to him, and I
2 said "Not on me," and he said "Well,
3 I don't have my copy, one of my
4 assistants has it, he is out of town,
5 can you get me a copy," which I did,
6 I went downstairs to the Chief of
7 Detectives' office and got a copy and
8 brought it back upstairs, and Garrison
9 asked me if I would let Perry Russo
10 read my report, and I gave it to Perry
11 Russo, and after Russo read the report
12 he was asked is there anything in this
13 report that is not true, and Perry
14 Russo said "Most all of it is true,
15 except I did not tell O'Donnell that
16 Clay Shaw was not at this apartment,"
17 this was in direct conflict with what
18 Perry Russo had originally told me on
19 June 19. In an attempt to reenforce
20 Russo into telling the same thing which
21 he told me when he and I were talking
22 by ourselves, because he had already
23 expressed a fear to me of being charged
24 with perjury by Garrison, I made that
25 statement relative to I had a tape, I

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do not have any tapes, there was no tape going in my office during the conversation I had with Russo.

BY MR. ALCOCK:

Q In other words, you were lying, you were lying at the time about a tape?

A Well, you have the notes of the conversation. I don't know whether I said I have a tape or I asked him would you like to hear a tape, Mr. Garrison's secretary was there taking these notes down.

Q I am going to -- I will let you read this particular statement attributed to you. Now, Lieutenant O'Donnell, I am going to show you a document which I will ask you to peruse and see if you recognize that document or what is depicted in the document, rather.

A What is the letter "R," what does it denote here, you have "G" and "R"?

Q Probably Russo, O for O'Donnell, S for Sciambra.

A All right (witness reading statement).

THE COURT:

The witness has apparently refreshed his

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memory.

(The last question and answer was
read by the Reporter.)

BY MR. ALCOCK:

Q Have you had an opportunity, Lieutenant, to
read the memorandum?

A Yes, I did.

Q Does it refresh your memory or does it accurately
reflect what you recall?

A Oh, it is pretty close to what occurred, yes.

Q Do you recall having made the statement that
you did in fact have a tape?

A According to these notes which Mr. Garrison's
secretary took, if that is a transcript
of her notes, the notes state that I said
"Would you like me to produce or I could
produce a tape," and, as I said, I don't
have a tape.

Q Do you recall reading on the first page, quoting
you, "I taped the conversation with you,"
do you recall making that statement?

A There was something said similar to this.

Q But that is not saying "I will produce a tape,"
that is saying you actually had a tape and
taped the conversation, isn't it?

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1 A I might have said this, I have no argument
2 with that.

3 Q Now, Lieutenant O'Donnell --

4 THE COURT:

5 Let me interrupt you just a second. Now
6 that we have covered that particular
7 single legal item, I suspect after
8 you finish your cross-examination,
9 I suspect there may be redirect and
10 recross, so I think this is a good
11 time to take a recess.

12 It is about 22 or -- 22 minutes or so to
13 6:00.

14 Let everybody have a seat, Gentlemen.

15 Gentlemen of the Jury, we are going to re-
16 cess for the evening. Again I must
17 instruct you and admonish you do not
18 discuss the case amongst yourselves
19 or with anyone else until it is
20 finally turned over to you for your
21 decision.

22 Let everybody have a seat, Sheriff.

23 Take charge of the Jury, if you will,

24 please, and let them be safely es-

25 corted and have them back here tomorrow

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morning at 9:00 o'clock.

(Whereupon, the Jury was removed.)

THE COURT:

I wish to make a statement, I want to make it out of the presence of the Jury.

First of all, you are excused, sir, and I ask you to come back tomorrow at 9:00. Do not discuss your testimony with any witness who has testified or any witness who is to testify. You may consult with your own attorney if you care to, and you are excused.

THE WITNESS:

Yes, Your Honor.

THE COURT:

Gentlemen of the news media, I was requested by Bill Reed and Bob Jones that after the afternoon session was over with, as it is now, and after the spectators have left, to place one of the exhibits up so that you could take a photograph of it. I told them I would do so when we take a recess. Will you get your photographers here as soon as possible and I will let you

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take a picture. I think they want a
picture of the blown-up signature card.
Mr. Shaw, you are released under your same
bond.
9:00 o'clock tomorrow, Gentlemen.

...o0o...

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