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HISTORICAL VALUE  
NATIONAL ARCHIVES

200-#1000

CRIM. NO. 14026

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA, )  
 )  
Plaintiff and Respondent, )  
 )  
v. )  
 )  
SIRHAN BISHARA SIRHAN, )  
 )  
Defendant and Appellant. )  
\_\_\_\_\_ )

APPEAL FROM THE SUPERIOR COURT OF LOS ANGELES COUNTY

HONORABLE HERBERT V. WALKER, JUDGE

RESPONDENT'S BRIEF

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IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

THE PEOPLE OF THE STATE OF CALIFORNIA,	)	
	)	
Plaintiff and Respondent,	)	CRIM. NO. 14026
	)	
v.	)	
	)	
SIRHAN BISHARA SIRHAN,	)	
	)	
Defendant and Appellant.	)	

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RESPONDENT'S BRIEF

---

STATEMENT OF THE CASE

In an indictment returned by the Grand Jury of Los Angeles County, appellant was charged in Count I with the murder of Robert Francis Kennedy in violation of Penal Code section 187. (Cl. Tr. p. 1.) In Counts II - VI appellant was charged with assault with a deadly weapon with intent to commit murder upon Paul Schrade, Irwin Stroll, William Weisel, Elizabeth Evans, and Ira Goldstein, respectively, in violation of Penal Code section 217. (Cl. Tr. pp. 2-6.)

At the arraignment of appellant, the court appointed doctors pursuant to Evidence Code sections 730 and 951-53 to examine appellant as to his mental

and physical condition and to advise appellant's counsel as to a possible plea or pleas and as to possible defenses. (Cl. Tr. pp. 9, 13.)

Appellant pleaded not guilty. (Cl. Tr. p. 49.) Appellant's motions for pretrial discovery were granted in part. (Cl. Tr. pp. 73, 98.) The court denied appellant's motion to suppress certain physical evidence obtained from his residence by means of a search and seizure. (Cl. Tr. p. 82.) Appellant's motion for separate juries on the issue of guilt and the possible issue of penalty was denied. (Cl. Tr. p. 143.) Appellant's motion to quash and set aside the petit jury list was denied (Cl. Tr. p. 148), as was his motion to quash the indictment. (Cl. Tr. p. 181.)

After a jury trial appellant was found guilty as charged on all counts, the jury fixing the degree of the offense charged in Count I at murder in the first degree. (Cl. Tr. pp. 322-23.) After further proceedings on the issue of penalty, the jury fixed the punishment on Count I at death. (Cl. Tr. p. 345.) Appellant's motion for new trial was denied, and probation was denied. Appellant was sentenced to death on Count I and to state prison on Counts II - VI for the term

prescribed by law, the sentences as to the latter counts to run concurrently with each other. (Cl. Tr. pp. 566-68.) Appellant filed notice of appeal from the judgment of conviction. (Cl. Tr. p. 570.) The appeal to this Court is automatic. Pen. Code § 1239(b). Upon motion of appellant, the trial court ordered the preparation of additional record on appeal. (Cl. Tr. pp. 572, 574.)

#### STATEMENT OF FACTS

##### A. Evidence Received on the Issue of Guilt

On August 10, 1965, James Pineda, an employee of the Pasadena Gun Shop, Inc., sold a .22 caliber Iver Johnson revolver, serial number H53725, to one Albert Hertz. (Rep. Tr. pp. 3682-87, 3690-92, 3740.) Sometime later that year, or in 1966, Hertz's wife came across the revolver in the course of moving the Hertzes' effects to a new apartment and asked her daughter, Dana Westlake, to dispose of it. -(Rep. Tr. pp. 3739-41.) Instead Mrs. Westlake stored it in her attic and thereafter, sometime between October 1967 and January of 1968, gave it to George Erhard, a boy who lived next door and worked at Nash's

Department Store. (Rep. Tr. pp. 3743-48.)

During the latter part of January of 1968, Erhard spoke to a fellow employee, Munir Sirhan, about selling the weapon. Erhard and a friend, William Price, later met Munir and appellant, Munir's brother, on a street corner in Pasadena. Appellant asked to inspect the weapon. There was some dickering over the price, and eventually Munir obtained \$6 from appellant and paid Erhard \$25 for the weapon. The weapon was handed over to appellant. (Rep. Tr. pp. 3749-54, 3758-60.)

Thereafter appellant had a conversation with Alvin Clark, a trash collector employed by the City of Pasadena, in which appellant expressed his concern over the assassination of Martin Luther King, Jr., asked Mr. Clark "how the Negro people felt about it," and asked his opinion about the forthcoming elections. When Clark stated that he was going to vote for Senator Kennedy, appellant responded, "'What do you want to vote for that son-of-a-b for? Because I'm planning on shooting him.'" Clark told appellant that Senator Kennedy had paid the expenses of bringing Reverend King's body back from Tennessee and that "'You will be killing one of the best men in the country.'" Appellant replied that Senator Kennedy

had done so merely for the publicity involved. This conversation occurred about April of 1968.<sup>1/</sup> (Rep. Tr. pp. 4010-15.)

On June 1, 1968, appellant signed in on the roster at the Corona Police Pistol Range. (Rep. Tr. pp. 4261-65, 4346.)

On the evening of June 2, 1968, United States Senator Robert F. Kennedy made a speech at the Palm Terrace of the Ambassador Hotel in Los Angeles. (Rep. Tr. pp. 4032-34, 4043-44.) He had campaigned in the Los Angeles area during the month of April 1968 and portions of May, spending May 21-27 in Oregon and returning to the Los Angeles area the evening of May 27th. (Rep. Tr. pp. 8239-40.) Prior to the Senator's speech on the evening of June 2d, William Blume, who worked as a stock boy in a liquor store located next door to an organic health food store where appellant worked, observed appellant in the lobby area adjacent to the Palm Terrace. (Rep. Tr. pp. 4031-37.) Mrs. Miriam

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<sup>1/</sup> The witness Clark was unable to specify the date of the conversation other than to indicate that he spoke with appellant "shortly after" and "n[o]t very long after" the assassination of Reverend King. (Rep. Tr. p. 4013.) This Court may take judicial notice of the fact that Reverend King's assassination occurred on April 4, 1968. Evid. Code §§ 451(f), 459. See World Almanac 74 (N.Y. ed. 1969).

Davis, a hostess for the event, was walking around the hotel with members of her family twenty or thirty minutes after the speech when she observed appellant seated in the kitchen area. (Rep. Tr. pp. 4042-49.) After his speech that night Senator Kennedy had passed through the kitchen area. (Rep. Tr. p. 4025.)

On the morning of June 4, 1968, election day, appellant signed in at the San Gabriel Valley Gun Club located on Fish Canyon Road in Duarte. He wrote the name "Sirhan Sirhan" and the address "696 East Howard Street, Pasadena" on the roster. (Rep. Tr. pp. 3567-70, 3574.) After appellant had fired a while on the shooting range, he told the range-master, Edward Buckner, "'I want the best box of shells you have, and I want some that will not misfire. I got to have some that will not misfire.'" Buckner sold appellant a box of shells, and appellant resumed shooting. Appellant engaged in rapid fire shooting, employing a .22 revolver and remaining two to two and a half hours at the range. (Rep. Tr. pp. 3567, 3571.)

Five other witnesses testified that they observed appellant engaged in rapid fire at the range that morning. Henry Carreon asked appellant what kind of weapon he was using, and appellant described his .22 revolver as an Iver Johnson. (Rep. Tr. pp.



3592-96.) Carreon noticed 300 or 400 empty casings on the stand where appellant was shooting. (Rep. Tr. pp. 3597-98.) David Montellano was told by appellant that the Mini-Mag ammunition being used by appellant would spread on impact. (Rep. Tr. p. 3628.) Mr. and Mrs. Ronald Williams conversed with appellant at the range. Appellant told Mrs. Williams that his Mini-Mag bullets were superior to the bullets she was using, and he instructed her in the firing of her weapon. (Rep. Tr. pp. 3644-45, 3656-59.) Michael Saccoman asked appellant why he was using Mini-Mag ammunition for target practice when that type was designed for hunting. Appellant replied that he did not know much about weapons and that he had been sold that ammunition at the Lock, Stock & Barrel gun shop (which is located in San Gabriel). (Rep. Tr. pp. 3667-70, 3762.) Appellant stated that he had purchased the weapon a few months earlier for \$20 from a "friend . . . up north." Appellant further stated that he was going on a hunting trip with his gun. Saccoman said that "that was against the law because you are not allowed to use pistols for hunting"; appellant inquired why that was, and Saccoman replied that he believed "it is because of the accuracy." Appellant

responded, "'Well, I don't know about that. It could kill a dog.'" (Rep. Tr. pp. 3675-76.)

Later that day; it was decided by Senator Kennedy and his staff that after the Senator observed the election returns at his suite in the Ambassador Hotel, he would descend to the Embassy Ballroom to address the crowd assembled there. (Rep. Tr. pp. 3439-41.) An hour or two prior to Senator Kennedy's speech, Judy Royer, a member of his staff, observed appellant in the area to the rear of the Embassy Ballroom stage. Because appellant was not wearing a press badge or staff badge he was asked to leave, and he turned and walked toward the doors leading out to the Embassy Ballroom. (Rep. Tr. pp. 3912-18.)

Shortly before midnight the Senator took the service elevator down to the second floor kitchen area from which he walked to a pantry area located to the rear of the Embassy Ballroom. From there the Senator proceeded to the platform in the Embassy Ballroom where he delivered his victory address. (Rep. Tr. pp. 3439-42, 3905.)

Jesus Perez, a kitchen helper at the Ambassador Hotel, and Martin Petrusky, a waiter, observed Senator Kennedy as he passed through the pantry on the way to

the Embassy Ballroom where 1200-1500 persons awaited his speech. (Rep. Tr. pp. 3137, 3371, 3376, 3381-83.) The kitchen personnel observed appellant in the pantry. Appellant inquired whether Senator Kennedy would be "coming back through this way." The two hotel employees replied that they did not know. Appellant remained in the area of the pantry close to Perez at the corner of a serving table. (Rep. Tr. pp. 3374-75, 3384-85.)

Upon concluding his address at approximately 12:15 a.m. (June 5th), Senator Kennedy was escorted off the platform and toward the Colonial Room where he was to meet the press. Karl Uecker, assistant maitre d' at the Ambassador Hotel, led the Senator through the pantry area behind the Embassy Ballroom. (Rep. Tr. pp. 3076, 3087-90, 3448-49, 3916.)

In the pantry area Senator Kennedy stopped and shook hands with some of the kitchen help, including Perez and Petrusky. At that time appellant appeared, smirking, and began to fire the aforementioned .22 caliber revolver at the Senator. Several shots were fired in rapid succession as appellant's fire emptied the weapon. Uecker attempted to wrest the weapon from appellant, and Senator Kennedy fell to the floor of the pantry. (Rep. Tr. pp. 3093-3100, 3104, 3155-56,

3197, 3215, 3377-79, 3386-88, 3399.)

A struggle ensued as those present attempted to immobilize and disarm appellant. Roosevelt Grier, Rafer Johnson, George Plimpton, Jesse Unruh, and other members of Senator Kennedy's entourage arrived seconds later. (Rep. Tr. pp. 3101-03, 3105-09, 3121-24.) Mr. Grier, a former defense tackle for the Los Angeles Rams, kept appellant immobile on top of a serving table, took the revolver from appellant's hand, and handed the weapon to Mr. Johnson. (Rep. Tr. pp. 3311-16.) Later that night Mr. Johnson turned the weapon over to the police, and it was booked into the property division. (Rep. Tr. pp. 3478-80, 3695-96.)

Someone placed a coat beneath Senator Kennedy's head, from which he was bleeding. (Rep. Tr. pp. 3191-92.)

While appellant was being held, Mr. Johnson asked him repeatedly, "'Why did you do it?'" Appellant replied, "'Let me explain'" or "'I can explain.'" Apparently at this time appellant also remarked, "'I did it for my country,'" and -- in response to Mr. Unruh's question "'Why him?'" -- responded, "'It is too late.'" (Rep. Tr. pp. 3165, 3280-84, 3290-92.)

Some of the persons present were attempting

to injure or kill appellant. (Rep. Tr. p. 3218.) Mr. Unruh, having in mind the murder of President Kennedy's assassin, got up on a table and told those present, "'Don't kill him, don't kill him, we have got to keep him alive.'" (Rep. Tr. pp. 3274-75.)

As a result of the shots fired by appellant, several other individuals were wounded: Paul Schrade (Rep. Tr. pp. 3711-15), Irwin Stroll (Rep. Tr. pp. 3984-87), William Weisel (Rep. Tr. pp. 4003-07), Elizabeth Evans (Rep. Tr. pp. 3932-35), and Ira Goldstein (Rep. Tr. pp. 3940-43). (These incidents form the basis, respectively, for Counts II-VI of the indictment, each of which charged appellant with assault with a deadly weapon with intent to commit murder. (Cl. Tr. pp. 2-6.))

Dr. Stanley Abo, a physician summoned from the crowd at the Embassy Ballroom, examined Senator Kennedy. The Senator was lying very still, his left eye closed and his right eye open and staring aimlessly. His pulse was strong but slow. Dr. Abo's examination revealed a small but penetrating wound behind the Senator's right ear. Mrs. Kennedy also arrived at the scene and tended to the Senator. (Rep. Tr. pp. 4091-93, 4097-99.) Dr. Abo remained with him until

an ambulance arrived 15-20 minutes later. The doctor then tended to some of the other victims. (Rep. Tr. pp. 4101-03.)

Two Los Angeles police officers on patrol duty, Arthur Placentia and Travis White, answered the 12:20 a.m. all-units call, "Ambulance shooting, 3400 Wilshire." (Rep. Tr. pp. 3482-84, 3533.) The officers took appellant off the serving table, where he was being restrained, placed him in custody, and handcuffed him. Appellant was transported through a hostile crowd, which was chanting "'Kill him, kill him,'" to the officers' police car. (Rep. Tr. pp. 3491-95, 3534-35.) Mr. Unruh also entered the vehicle, and the officers drove toward the Rampart station. (Rep. Tr. pp. 3277-80, 3495-98.) Officer Placentia several times asked appellant his name, but he did not reply. Appellant was advised of his constitutional rights. (Rep. Tr. pp. 3497, 3499-3501.) Appellant replied that he understood his rights. (Rep. Tr. pp. 3500, 3535.)

The officers did not address any further questions to appellant during the trip to the station. (Rep. Tr. pp. 3501-02.) Mr. Unruh asked appellant "'Why did you shoot him?'" , and appellant replied, "'Do you think I'm crazy, so you can use it in evidence



against me.'" (Rep. Tr. pp. 3502-03, 3561.)

It was only during the course of the five-minute drive to the station that the officers learned that one of the victims was Senator Kennedy and that the other person in the police vehicle was Mr. Unruh. (Rep. Tr. pp. 3497-98, 3503-04, 3817, 3834.) Officer Placentia attempted to examine appellant's eyes but did not form an opinion whether appellant was under the influence of alcohol or drugs. (Rep. Tr. pp. 3541, 3554, 3557-58.) He did not smell any odor of alcohol on appellant. (Rep. Tr. pp. 3555-56.) Nor did appellant appear to Mr. Unruh to be under the influence of intoxicating liquor. (Rep. Tr. pp. 3296-97.)

Upon their arrival at the Rampart station, the officers placed appellant in an interrogation room. (Rep. Tr. pp. 3284, 3293, 3504-05.) Within three or four minutes after their arrival, appellant's eyes were subjected to a light test. On the basis of the test, as well as appellant's appearance and movements, Officer White formed the opinion that appellant was not under the influence of alcohol or drugs. (Rep. Tr. pp. 3821-25.)

Appellant's pockets were emptied and the

following items taken from his possession: an automobile key, two live .22 caliber bullets and an expended bullet, two newspaper clippings, a printed verse, and \$410.66 in cash (including four \$100 bills). (Rep. Tr. pp. 3506, 3508-11, 3516-22.) No wallet, identification, or information indicating appellant's identity was obtained from the examination of appellant's person. (Rep. Tr. pp. 3522-23.)

One of the newspaper articles, clipped from the Pasadena Independent Star News and dated May 26, 1968, was a story by columnist David Lawrence (Rep. Tr. pp. 3526-30, 8039) which in part noted that in a recent speech Senator Kennedy had "'favored aid to Israel 'with arms if necessary.'" (Rep. Tr. p. 3529.) The other newspaper clipping was an advertisement from an unidentified newspaper inviting the public "'to come to see and hear Senator Robert Kennedy on Sunday, June 2, 1968, at 8:00 p.m., Cocoanut Grove, Ambassador Hotel, Los Angeles.'" (Rep. Tr. p. 3531.) The printed verse was a Senator Kennedy campaign song entitled, "'This Man is Your Man, This Man is My Man.'" (Rep. Tr. p. 3530.)

Sergeant William Jordan, who was Watch Commander at Rampart Detectives that night, assumed custody over

appellant at approximately 12:45 a.m. in one of the interrogation rooms of the station. (Rep. Tr. pp. 4407-08, 4415-17.) Sergeant Jordan introduced himself, told appellant where he was, and asked him his name. Receiving no response, the officer informed appellant of his constitutional rights. Appellant asked some questions about his rights and requested that the admonition be repeated, which was done. At this point appellant indicated that he wished to remain silent. This terminated the conversation. (Rep. Tr. pp. 4417-20.)

The property previously removed from appellant's pockets was then inventoried in his presence, and appellant's person was searched more thoroughly. (Rep. Tr. pp. 4422-25.) At this time appellant was able to identify an absent officer to Sergeant Jordan by the officer's badge number, 3949. (Rep. Tr. p. 5951.) Sergeant Jordan formed the opinion at this time that appellant was not under the influence of either alcohol or drugs. (Rep. Tr. pp. 4425-27.) Appellant was not given an intoxication test because Sergeant Jordan concluded there were no objective symptoms of intoxication and no reason to administer such a test. (Rep. Tr. p. 4472.) Sergeant Jordan ascertained that

appellant's left ankle had been injured. (Rep. Tr. pp. 4423-24.) When Sergeant Jordan offered appellant a cup of coffee, appellant asked the officer to drink from the cup first, and the officer did so. (Rep. Tr. pp. 4430-31.)

For security reasons appellant was transported to police headquarters at Parker Center, arriving at the homicide squad room there at 1:35 or 1:40 a.m. (Rep. Tr. pp. 4429-33.) Appellant requested some water and, again at his request, Sergeant Jordan tasted it before passing the cup to him. (Rep. Tr. pp. 4434-35.) Shortly before 2:00 a.m. a Dr. Lanz examined appellant in those areas where appellant complained of pain. Appellant refused to tell the physician his name. The physician informed the officers present that appellant was not in need of any immediate medical treatment but that appellant should keep as much weight as possible off his left ankle since it was probably sprained. (Rep. Tr. pp. 4435-38.)

About this time Mr. Compton and Mr. Howard of the district attorney's legal staff arrived, as did members of the district attorney's investigative staff. (Rep. Tr. p. 4438.) Appellant was moved to an interrogation room, where Mr. Howard asked him his

name. Appellant did not answer and was then advised by Mr. Howard of his constitutional rights. Appellant nodded in the direction of Sergeant Jordan and stated, "'I will stand by my original decision to remain silent.'" Mr. Howard then gave appellant a card on which was written Mr. Howard's name, and that of Sergeant Jordan and a Sergeant Melendrez, with telephone numbers where they could be reached in the event appellant chose to speak to any of them at any time. (Rep. Tr. pp. 4439-40.) Appellant was then booked at approximately 2:15 a.m. (Rep. Tr. p. 4441.)

At 3:15 a.m. appellant was brought to an interrogation room in the jail section of Parker Center. (Rep. Tr. pp. 4441-42.) Asked whether he wished something to eat or drink, appellant requested a cup of coffee, again succeeding in having Sergeant Jordan first taste the coffee. (Rep. Tr. p. 4443.) Appellant was interviewed from 3:15 to 3:45 a.m. by Mr. Howard, Sergeant Jordan, and Sergeant Melendrez, and from 4:00 a.m. to approximately 5:15 a.m. by Sergeant Jordan and George Murphy, an investigator from the district attorney's office. (Rep. Tr. pp. 4444-46.)

During Sergeant Jordan's various contacts with appellant, including the four to five hours he

spent with him at the arraignment and immediately prior and subsequent thereto, appellant never appeared irrational. While refusing to identify himself by name or place of origin, appellant engaged in banter regarding the officer's name, "Jordan." Sergeant Jordan formed the opinion that appellant had a "very quick mind" and that appellant was "one of the most alert and intelligent" persons the officer had ever interrogated or attempted to interrogate during his fifteen years' experience on the police force. (Rep. Tr. pp. 4446-48, 6104, 6108-09.)

Upon his arrival at Central Receiving Hospital that night, Senator Kennedy had been totally inert and was not breathing, although he did have an oxygen mask over his face. Dr. V. Faustin Bazilauskas, the attending physician, felt no heartbeat and administered an external cardiac massage. (Rep. Tr. pp. 4483, 4486-87, 4490.) Senator Kennedy's breathing, pulse, and heartbeat resumed within a few minutes. (Rep. Tr. pp. 4492-93.) After an adrenalin injection the Senator's condition rapidly improved. (Rep. Tr. p. 4495.) The medical staff then began to attend also to the five other victims. (Rep. Tr. pp. 4497-98.) Half an hour after Senator Kennedy's arrival at the emergency hospital, his condition had

stabilized sufficiently to permit his transportation to Good Samaritan Hospital, two blocks away, where he could be examined by a neurosurgeon and chest surgeon. (Rep. Tr. pp. 4483, 4499-4503.)

Upon his arrival at Good Samaritan Hospital, Senator Kennedy was still in "extremely critical condition" and was placed in the intensive care unit, where a tracheotomy was performed. (Rep. Tr. pp. 4231, 4234-36.) Surgery was performed between 3:10 a.m. and 6:20 a.m. "because there was still evidence of bleeding intercranially; there was blood oozing from the wound in the mastoid region of the skull; there was blood mingled with spinal fluid leaking out of the right ear." (Rep. Tr. p. 4238.) The concern of the head of the surgical team, Dr. Henry Cuneo, was "that it might be a blood clot or some large vessel might have macerated." (Rep. Tr. pp. 4236, 4238.) The surgery stopped all the bleeding and removed bone and metallic fragments and a blood clot. Thereafter Senator Kennedy began to breathe on his own without any assistance. (Rep. Tr. pp. 4238-39.)

Dr. Cuneo remained with Senator Kennedy thereafter, until the Senator's death at 1:44 a.m. on the following day, June 6, 1968. (Rep. Tr. p.

4239.)

An autopsy was performed on Senator Kennedy's body by Thomas Noguchi, Coroner and Chief Medical Examiner of Los Angeles County, and two deputy medical examiners between 3:00 a.m. and 9:15 a.m. on June 6th. It disclosed that the gunshot wound to the head, in the right mastoid, had penetrated the brain and was the cause of death. (Rep. Tr. pp. 4507-09, 4517, 4524.) The bullet had fractured the skull and had then itself shattered. (Rep. Tr. p. 4525.) Powder burns on the right ear indicated that the muzzle distance between the weapon and the ear at the time of the firing was one to one and a half inches. (Rep. Tr. pp. 4518-20.) The only other two gunshot wounds were in the area of the right armpit and the right side. These shots were fired at very close range, between contact and one half to one inch. (Rep. Tr. pp. 4521, 4523-24.) The location, alignment, and direction of the three wounds, in conjunction with the clothing worn, indicated to Dr. Noguchi that the three shots in question were fired in "rapid succession." (Rep. Tr. pp. 4531-33.)

At approximately 9:30 a.m. on June 5th (after the shooting of Senator Kennedy but before his death),



Sergeant William Brandt of the Los Angeles Police Department met with Adel Sirhan, one of appellant's brothers, at the Pasadena Police Station. At the conclusion of the conversation between Sergeant Brandt and Adel concerning appellant and the shooting of Senator Kennedy, Adel stated that he lived with his two younger brothers, Munir and appellant, and their mother at 696 Howard Street in Pasadena. (Rep. Tr. pp. 4268-72.) Thereafter Adel and Sergeant Brandt proceeded to the Sirhan residence accompanied by Sergeant James Evans of the Homicide Division, Los Angeles Police Department, and an Agent Sullivan of the F.B.I. (Rep. Tr. p. 4272.)

Adel admitted the officers to the house upon arriving with them at approximately 10:30 a.m. (Rep. Tr. p. 4273.) No one else was home at the time. (Rep. Tr. p. 4309.) The officers did not have a search warrant and had not made an attempt to secure the consent of appellant to enter and search. Their purpose in going to the Sirhan residence was "[t]o determine whether or not there was anyone else involved" in the shooting and also "to determine whether or not there were any other things that would be relative to the crime." (Rep. Tr. pp. 4274-75.) Sergeant Brandt knew "that there was a continuing investigation to

determine if there were other suspects." (Rep. Tr. p. 4313.)

Adel, whom the officers knew to be the oldest male resident of the household, gave them permission to search appellant's bedroom. (Rep. Tr. pp. 4313-14.) He showed them where the bedroom was located, at the rear of the residence. Sergeant Brandt then searched the bedroom in the presence of the other officers and Adel. (Rep. Tr. pp. 4273, 4278, 4309.)

Three notebooks were recovered from this bedroom. One was observed on a corner of the dressing table in plain view from the entrance to the room. (Rep. Tr. pp. 4281-83, 4300-03.) A second notebook was observed by Sergeant Evans in plain view on the floor at the foot of the bed next to a cardboard box filled with clothes. (Rep. Tr. pp. 4282, 4320.) Sergeant Brandt obtained a third notebook and an envelope on which there was writing, as well as the return address "U.S. Treasury, Internal Revenue," from the drawer of the dressing table. This third notebook was never put in evidence by either party. (Rep. Tr. pp. 4303-05, 4310, 4349.)

That evening Lieutenant Alvin Hegge of the Los Angeles Police Department employed the automobile

key, which had been taken from appellant's pocket at the Rampart station, in a successful attempt to operate the lock on a door of a 1956 DeSoto parked in the vicinity of the Ambassador Hotel. (Rep. Tr. pp. 4060-62.)

On the basis of this successful attempt Lieutenant Hegge applied for and obtained the issuance of a warrant to search the vehicle in question. (Rep. Tr. pp. 4062-64.) Lieutenant Hegge returned to the location of the vehicle at approximately 12:30 a.m. (June 6th) and conducted a search. (Rep. Tr. pp. 4069-70.) The following items were recovered: (1) from inside the glove compartment, a wallet containing among other items a current membership card in appellant's name in the Ancient Mystical Order of Rosae Crucis, as well as other cards identifying appellant by name and address (Rep. Tr. pp. 4070-76); (2) from inside the glove compartment, a business card from the Lock Stock & Barrel gun shop (located in San Gabriel) and a receipt dated June 1, 1968, from that establishment for the purchase of two boxes of Mini-Mag hollow point .22 caliber ammunition and two boxes of Super X .22 caliber ammunition (a total of 200 bullets) (Rep. Tr. pp. 3762-65, 4070, 4076-77, 4080); (3) from inside

the glove compartment one live round of .22 caliber ammunition and an empty carton labeled .22 caliber Mini-Mag, and on the right front seat two spent bullets (Rep. Tr. pp. 4070, 4077-81); and (4) a Canadian dollar bill and an envelope containing a ring with six keys. (Rep. Tr. pp. 4088-90.)

Police fingerprint specialists obtained latent fingerprints that night from the glove compartment and from the Lock Stock & Barrel ammunition receipt and determined that the fingerprints were made by appellant. (Rep. Tr. pp. 3869-70, 3874, 3876-77, 3881, 3888, 3896-97.)

At 8:00 a.m. on the morning of June 6th, Officer Thomas Young of the Pasadena Police Department arrived at the Sirhan residence, having been "assigned to security at the rear of the residence." His duty was to guard the premises from unauthorized persons. At approximately 11:00 a.m., upon discarding a paper cup of coffee into the trash which lay inside several boxes and cans of trash and garbage in a "rear yard to the rear of the residence," he observed an envelope which bore on its face the return address of the Argonaut Insurance Company. The trash area was located on the Sirhan property. Officer Young retained

possession of the envelope and brought it to the police station. (Rep. Tr. pp. 4326-29, 4332-34.)

Mr. Laurence Sloan, employed by the district attorney's office as a specialist in handwriting and questioned documents, determined that it was appellant who had placed the signature "Sirhan Sirhan" on the June 1, 1968, roster at the Corona Pistol Range (Rep. Tr. pp. 4261-65, 6346), and that it was appellant who had placed the same signature and appellant's address on the June 4, 1968, roster of the San Gabriel Valley Gun Club range. (Rep. Tr. pp. 4347-48.)

Mr. Sloan also determined that it was appellant who had placed the following words (repeated several times) on the reverse side of the envelope, put in evidence by the prosecution, which was recovered from the trash area at the rear of the Sirhan residence (Rep. Tr. pp. 4350, 4404): "RFK must be . . . disposed of properly. Robert Fitzgerald Kennedy must soon die." (See Exh. 75, received in evidence at Rep. Tr. p. 4359.) The following handwriting on the envelope, put in evidence by the prosecution and recovered from appellant's dresser drawer, was also determined by Mr. Sloan to be appellant's (Rep. Tr. pp. 4349-50, 4404): "RFK must be disposed of like his brother was"

-- and the word "reactionary." (See Exh. 74, received in evidence at Rep. Tr. p. 4360.)

The prosecution put in evidence (at Reporter's Transcript page 4363) eight pages (four sheets) of the diary found on top of appellant's dresser, which pages Mr. Sloan identified as having been written by appellant. (Rep. Tr. pp. 4353-54, 4363, 4380.)

These pages read in part as follows:

"May 18 9:45 AM--68 / My determination to eliminate R.F.K. is becoming more the more [sic] of an unshakable obsession . . . RFK must die RFK must be killed . . . Robert F Kennedy must be assassinated before 5 June 68 . . ." (see Exh. 71-15 & 16);

"The socalled [sic] president of the United States of America must be advised of their punishments for their treasonable crimes against the the [sic] State more over [sic] we believe that the glorious United States of America will eventually be felled by a blow of an assassins [sic] bullet . . ."

"[L]ong live Socialism" (see Exh. 71-35 & 36);

"Ambassador Goldberg must die . . . Ambassador Goldberg must be eliminated . . . Sirhan is an

Arab " (see Exh. 71-39 & 40);

"Kennedy must fall Kennedy must fall . . .

Senator R. Kennedy must be disposed of We believe that Robert F. Kenedy [sic] must be sacrificed for the cause of the poor exploited people We believe that we can effect such action and produce such results -- the hand that is writing doing this writing is going to do the slaying of the above mentioned victim One wonders what it feels like to do any assassination that might be some illegal work -- . . . ." (Emphasis in the original.) (See Exh. 71-47 & 48.)

Also put in evidence (at Reporter's Transcript page 4373) were two pages (one sheet) of the diary found on the floor at the foot of appellant's bed, which pages Mr. Sloan identified as having been written by appellant. (Rep. Tr. pp. 4353-54, 4371-73.) These pages read in part as follows:

"Well, my solution to this type of government that is to do away with its leaders -- and declare anarchy, the best form of govt [sic] -- or no govt [sic]. ~~I intend that what is more democratic than to shoot a president~~ The President elect is your best

friend until he gets in power they [sic] he is  
your-mest-expleing [sic] fueker suck every en  
drop of blood out of you -- just and if he  
doesn't like you -- you're dead --" (Words  
stricken out in the original.) (See Exh. 72-  
125 & 126.)

Documents obtained from the California  
Department of Motor Vehicles established that appel-  
lant was the registered owner of the DeSoto searched  
in the vicinity of the Ambassador Hotel. (Rep. Tr.  
p. 4406.)

De Wayne Wolfer, a criminalist and ballistics  
expert assigned to the crime laboratory of the  
Los Angeles Police Department's Scientific Investigation  
Division, examined various bullets and bullet fragments.  
He found some to be so distorted as to preclude comparison  
but was able to conclude that bullets removed from  
Senator Kennedy, Ira Goldstein, and William Weisel  
were all Mini-Mag ammunition fired from the .22 caliber  
revolver previously identified as belonging to appellant.  
(Rep. Tr. pp. 4128-29, 4160-65.) These Mini-Mag bullets  
were hollow-point ammunition, and the purpose of using  
such ammunition is to "make a bigger hole." (Rep.  
Tr. pp. 4182-83.) Ballistics tests established that



the revolver was fired one inch from Senator Kennedy's right ear and that the remaining shots which entered Senator Kennedy's body were fired at a distance of one inch to six inches. (Rep. Tr. pp. 4180, 4193-94.)

B. Evidence Received at the Hearing Under Penal Code Section 1538.5 on the Motion to Suppress Evidence Obtained During the Search of the Sirhan Residence

In addition to the foregoing evidence received in the jury's presence relative to the search of the Sirhan residence, other testimony on this matter was received prior to the commencement of the trial at the hearing on the motion to suppress evidence under Penal Code section 1538.5.

Sergeant William Brandt and Officer Dante Lodolo, both of the Los Angeles Police Department, testified that they arrived at the Pasadena Police Station at approximately 9:15 - 9:30 a.m. on June 5, 1968, "to interview a person [who] possibly could name the identity of the person who shot Senator Kennedy," who was still alive at the time. They had a conversation with Adel Sirhan. Also present was F.B.I. Agent Sullivan. (Rep. Tr. pp. 54-56, 59, 90-91.) The officers