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Judge Overrules Plaintiff That True Bill Is Faulty In Charge Against Cleric

The many legal ramifications in the Moscowitz case, heard yesterday in U. S. District Court, Covington, consumed most of the time in the day-long trial. Charles E. Lester Jr., attorney for the defendant, provided most of the arguments.

The Rev. Reuben Thomas Moscowitz, 43, had been charged with enticing a girl under 18 for immoral purposes to go from the Boone County Airport to the Washington, D. C., airport.

Mr. Lester contended throughout the trial that the indictment was faulty and that the court should give a directed verdict of acquittal.

The attorney said that there was a geographical discrepancy in the indictment. He said there was a fatal variance between the allegations in the indictment and the proof offered by the United States.

The attorney quoted from a case in 1934 which brought a Supreme Court decision.

"The court ruled that when an essential word or clause is omitted from an indictment it is fatal, even though the court may know what was intended in the indictment," he said.

The attorney asserted that the indictment said that the girl was transported from Boone County to Washington, D. C., in a common carrier. He said that the proof showed that she went to the Washington National Airport in Virginia outside the city limits of Washington. She then went to Washington proper in an automobile, he said.

"If this indictment was permitted to stand, a girl could be transported anywhere from Boone County to Seattle, Detroit or New Orleans without it being set down correctly in the indictment," he charged.

Mr. Lester said the indictment did not come under the purview of the Mann act and that the court should strike out all testimony in the case relating to Washington.

Judge Mac Swinford overruled Mr. Lester's motion in this phase of the case, as he had throughout the conduct of the trial.

"The indictment could not say Washington, Va., but had to read Washington, D. C. There are many Washingtons in the United States, and the indictment identified this one," the judge said.

"The defendant knows what he is charged with. He is not being prejudiced by this indictment. The girl has been transported over a state line, and that is sufficient."

"The evidence is that the girl went to the Boone County Airport in the Eastern District of Kentucky to the District of Columbia. When you buy a ticket to Cincinnati from Washington, you don't buy a ticket to Boone County."

In another legal tussle, the United States attempted to have Dr. Ross M. Blake, psychiatrist at the Chillicothe,

Ohio, Reformatory, give testimony as to the priest's sanity.

Mr. Lester moved to prevent the doctor from testifying. He said that under the federal statutes, the psychiatrist was incompetent to give testimony. The judge sustained his motion after checking with the statutes. Mr. Lester did not elaborate as to the reasons behind his move. The priest previously had been declared sane by government doctors.

Earlier the district attorney had objected to Mr. Lester having his witnesses give evidence as to the defendant's mental condition.

The Rev. Robert L. Vater, 841 Isabella St., Newport, testified that Father Moscowitz had many peculiar habits. He said the defendant thought people were following him and dogs were barking at him and also thought he heard noises in the rectory where he stayed.

The district attorney asked if Father Vater had known of the other priest's meetings with the girl in the rectory. He said he had not known of them.

The court restricted nearly all of the testimony of Herman A. Humphrey, pharmacist at St. Elizabeth Hospital. Judge Swinford ruled he was incompetent as a layman to testify as to the defendant's mental condition.

One FBI agent said that Father Moscowitz was active and alert when he talked with him after the Washington trip. He said the defendant talked clearly and audibly and answered all questions logically.

The agent did say that the priest "broke down and cried." He said that he mentioned he regretted having brought disgrace to himself and the girl.

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