

# Defense Loses Motion In Kemper Trial

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The defense has lost another round in its attempt to suppress certain evidence against defendant Edmund Kemper.

Superior Court Judge Harry Brauer ruled this morning against a defense motion which claimed that Kemper was returned to California at an unreasonably slow rate following his arrest in Colorado.

It was the second such defeat

for defense attorney Jim Jackson. Before the trial began, he attempted to have evidence suppressed because Kemper was denied the right to an attorney. His request was rejected by Brauer, who said that Kemper was adequately informed of his right to an attorney, but he didn't actually ask to see one.

Today, Jackson said Kemper was returned so slowly to California that five days had elapsed from his extradition hearing in Colorado until he appeared for arraignment in California.

Dist. Atty. Peter Chang called an inspector from the DA's office to the witness stand to explain the delay.

Dick Verbrugge, who along with two police officers drove from Pueblo, Colo., to Santa Cruz with the defendant, explained that Kemper originally was to be returned by airplane. Because the airplane flying out of Pueblo was small, and because the weather was bad, Verbrugge said, it was decided to drive back.

"How many deaths were there on the roads," Jackson interjected.

"Is that an objection, Mr. Jackson?" asked the judge.

"That's an objection," he replied.

"Overruled," said Brauer.

Verbrugge added that most airlines do not allow manacled passengers and also prefer not to have prisoners aboard.

During cross-examination, Jackson asked Verbrugge if a warrant for his client's arrest existed at that time. Verbrugge said it did not.

"Then why was there an extradition hearing in Pueblo?" Jackson asked.

"We felt there was no reason for it, but the Pueblo district attorney felt ... he (Kemper) should go before a magistrate."

## Freeway Crash Kills 11

KEARNY, N.J. (AP) — At least 11 persons were killed and more than 40 injured today in three major pile-ups and scores of minor accidents on the fog-shrouded New Jersey Turnpike, police said.

Officials expressed fear the death toll could go higher as more bodies were recovered from the twisted wreckages of trucks and cars. "We really can't say how many are dead at this time," said state police Sgt. Joseph Kobus.

One truck driver, who became coated with hot asphalt from another truck, ran into swamps alongside the highway and was reported missing.

According to state police, at least seven persons died in the largest crash, which involved some 22 vehicles just north of the Kearny Interchange in Rutherford, where the roadway passes between Newark and New York.

Four other persons were killed in two separate accidents in the

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Jackson then asked under what authority Kemper was being returned to California.

"He wanted to go," said Verbrugge.

"Ordinarily, a prisoner doesn't get to do what he wants," said Jackson. "I can't walk into the Pueblo police department and say 'I'd like to go to California.'"

During Chang's re-direct questioning, Verbrugge said quite a bit of physical evidence had to be transported to California along with the defendant.

In making his ruling against the motion, Brauer said "there is no question Mr. Kemper was detained more than the period of time specified in the penal code. However, California law makes it clear that

(such a delay) does not automatically invalidate statements of the defendant."

The only relevance a delay has with the admissibility of evidence, the judge said, was if confessions and other statements were not made voluntarily. Since there is no evidence of involuntary statements by Kemper, the judge overruled the motion.

A tape which included recordings of three telephone conversations between Kemper and Santa Cruz police during the early morning hours preceding Kemper's arrest was also played in court today.

"I'll give you all the statements you want and I'll cooperate, but I've got to get off the G— D— street," Kemper's recorded voice said. "I think

I'm going out of my G— D— head — I've never done that before," he added. Soon Kemper said, "The man's here — he's got a gun on me." Jurors then heard the sound of the phone being dropped.

Before Chang could call witnesses and introduce evidence which would possibly establish Kemper's guilt, he had to establish the corpus delicti — evidence that a crime has actually been committed.

Tuesday afternoon, Judge Brauer ruled that Chang had introduced enough evidence to establish the corpus delicti. "It is my view all eight (victims whom Kemper is accused of killing) are dead and (died) in a criminal way," he said.

There is no corpus delicti, question about five of the victims, he said. With regard to Anita Luchessa, Aiko Koo and Cynthia Schall, however, there is a question about whether or not their bodies have been recovered.

As for Miss Luchessa, the judge said the evidence indicates that on May 7, 1972 "she was on an excursion with Miss Pesce, happy and full of joie de vivre, but was never heard from again." More than a year has elapsed, the judge said, and "the inference can be drawn that she is dead (due to) a criminal agency." He added that if somebody dies accidentally or commits suicide,

"there will be evidence of their deaths. Regarding Miss Koo and Miss Schall, the judge similarly ruled that enough evidence exists to establish a corpus delicti.

Only a part of a pelvis said to belong to Miss Luchessa has been recovered. Similarly, only various ribs and vertebrae of Miss Koo have been found. Also, according to the judge, conclusive findings regarding Miss Schall's body have not been presented to the court.

The judge's ruling was made late Tuesday following the testimony of several doctors and lawmen who detailed to the court how the bodies were discovered and their locations.

Also testifying was Det. Wayne Gull of the Alameda County sheriff's department. He said authorities there jailed Kemper under an assumed name for one night while he was on his way back to Santa Cruz from Pueblo. The reason for such an action, Gull said, was because Kemper was scheduled to point out sites where he disposed of the body, "and we didn't want the press there."

Jackson asked if a judge was "on call" in Alameda about the time Kemper arrived there. Gull answered affirmatively.

Later in the trial, Judge

Brauer will make a decision regarding a charge by Jackson that Kemper was denied his rights upon his return to California. Jackson, in a motion filed with the court, has claimed that Kemper should have been arraigned in court shortly after he came back to California, instead of some three days later.

Kemper was booked at Alameda County jail on a Friday afternoon and was not arraigned in Santa Cruz until Monday. Between Friday and Monday, the defendant led authorities to several burial sites where Kemper said he disposed of his victims' bodies. Jackson suggests that Kemper should have had the services of an attorney before authorities requested him to lead them to burial sites.

## Nixon Cancels Television Talk

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"Obviously, that was a miscalculation," he said.

White House Chief of Staff Alexander M. Haig Jr. denied that fear of impeachment played a part in the decision to surrender the tapes.

Haig said he was "very confident" that Nixon would have escaped impeachment even if he had not agreed to supply the tapes and said there is no chance at all of impeachment now.

Meanwhile, today the House of Representatives continued a preliminary impeachment inquiry, begun just before Nixon's lawyers announced that the tapes would be given to a federal judge.

House leaders said the probe would continue at least until the effects of Nixon's action become known.

It was clear, however, that initial reaction to the President's reversal was favorable.

"Thank God," said Sen. Barry Goldwater, R-Ariz. "I'm glad it came to pass," said Democratic Chairman Robert Strauss.

Sirica was scheduled soon to begin reviewing the nine tapes of Nixon's private conversations about the Watergate scandal. These are tapes that special prosecutor Archibald Cox had sought before he was fired.

Sirica will listen to them in private and decide what, if any, parts of them should be presented to a grand jury. They likely will become public this way only if presented as evidence at a trial.

—The Senate Watergate committee was back in court fighting its own separate, uphill battle for the tapes. Sirica had ruled that the committee, unlike Cox, had no legal authority to use the courts to get the tapes.

Previously, it appeared that the committee had struck a deal with the White House and would settle for an edited transcript of the tapes, authenticated by Sen. John C. Stennis, D-Miss.

But the panel appealed to the U.S. Circuit Court for full access, denied that it had made

## Cape Canaveral Launchings Set

CAPE CANAVERAL, Fla. (AP) — Three major launchings are scheduled here in 16 days, beginning Thursday with the

