"Boots" Loses Fight to Direct Acquittal

Continued from Page One

Peirce," said her attorney. "Second degree murder was the best the commonwealth could get in the case of Peter D. Treadway. My client here was not in the room when Peirce was murdered.

Doesn't See Argument's Drift

"I do not see the drift of your argument," said Judge Audenried.

"It is in the direction of having an acquittal ordered on the murder indictment," said her counsel. "I move that this indictment be submitted."

Judge Audenried then turned to Mr. Speiser. "Is it true," he asked, "that the girl cannot be connected with the actual murder?"

Mr. Speiser answered that this was so. Judge Audenried then suggested that the murder indictment be withdrawn by agreement, which was done.

"I now wish to move," said the girl's attorney, "that the bill charging the defendant with being an accessory after the fact be submitted, similarly."

Mr. Speiser would not agree to this, nor would Judge Audenried.

"Why do you ask that the accessory indictment be withdrawn?" the judge asked.

"Because she is in no way connected with the homicide," replied her counsel.

"Well, I understand that," said the judge, "but on the other hand she was acquainted with all the other three principals. She was present when the attack was made on Mr. Peirce, and she was Treadway's mistress."

"Boots" Winces

"Boots" winced at the judge's words.

"There is no evidence to show it was not proper for her to be in Peirce's room," urged her attorney, "and her reason for wishing to get away and go home because the men were so loose and drunk was a perfectly proper one."

"Her reason of wishing to get away from the drunks is excellent," interjected Mr. Speiser, "if it is true. Yet she turned around and joined them again. I can recollect no testimony that shows the defendant went to Peirce's apartment with a sinister purpose in mind. I don't want to be captious, but I think the jury can draw its own inference."

Judge Audenried said: "No, there is nothing to indicate that the girl came to Peirce's room to take part in the killing or robbing. But she was in bad company."

"There is absolutely no reason for this case to go to the jury," insisted the girl's attorney. At this point Judge Quigley came in and sat down beside Judge Audenried, remaining while the attorney for the defense was pleading.

Mr. Speiser leaned across the bar and spoke to the rival attorney in a friendly way, saying "You should have pleaded guilty to accessory." The attorney for the girl shook his head and smiled.

Interrupted By Court

After Judge Audenried had instructed the assistant district attorney to abandon the manslaughter or murder bill, counsel for "Boots" argued that there was not sufficient evidence to support the bill charging being an accessory after the fact to allow the charge to go to the jury.

"Knowledge that there had been a crime committed," he said, "is not sufficient to convict. The girl must have helped in some way or given aid or comfort to a felon to warrant her conviction. The commonwealth has not proved that she did this.

"In Baltimore she allowed herself to be introduced as Mrs. Peirce. She never used that name herself. In Wheeling she was already under arrest when she gave the name of Mrs. Norman D. Williams. Other stories that she did she related in fear of Treadway. She was constantly under the domination and fear of Treadway."

Judge Audenried interrupted to say that she said Treadway was her husband, and said his name was Norman D. Williams.

"That was a lie," replied "Boots's" attorney; "one of the many lies she told. None of these lies aided him, nor under the law it must be proven that they did. All the time that she was under Treadway's domination she did tell lies. As soon as she was free from this she gladly told her story."

Judge Audenried observed that if she was under the coercion and domination of Treadway all she needed to do was to spread an alarm. Her attorney replied that there were no cases that had been tried in Pennsylvania that had established a precedent on this point.

"The cases on record," he said, "covering this point are few and far between."

The court again interrupted:

"The trouble with the defendant is that she went away from the scene of the crime and posed as Treadway's wife. She declared that she had never been in Philadelphia and also stated that she came from Lorrain, O."

Blames It on Treadway

Her attorney replied that it was purely a lie engendered by fear of Treadway, to which the judge replied that that was a point for the jury to determine.

"I question very much if she was actually under coercion or intimidation at any time," he said. "I think what really took place must be left for the jury's determination." The court then asked the prosecutor if he wished to reply to the remarks of the attorney for the defense.

Mr. Speiser cited opinions covering cases of this kind and the court said, "It simply comes down to a question of the lies she told in Wheeling and elsewhere, especially the falsehood she told when she declared that it was Treadway who took her from Peirce's room, when as a matter of fact it was Moss."

The judge then instructed the district attorney to abandon the manslaughter bill and go to the jury with the bill charging being accessory after the fact.

There being no testimony in defense, Mr. Speiser immediately began his final address to the jury.

Speiser Addresses Jury

He said: "The law says that any person who helps in any way any one guilty of crime is guilty as an accessory after the fact. People who do this must be punished, as they are aiding and abetting a felon to escape justice. In so doing they are placing the safety of the public at stake. If the defendant here helped Treadway, who has been convicted of the murder and robbery of Henry T. Peirce, to escape and evade the law, she must be found guilty as charged.

"You have the indisputable proof that the defendant was present when one and possibly two blows were struck in Peirce's room. The only question you have to decide is: Did Marie Rogers, knowing the murder had been committed, aid and abet Treadway in his desire to escape? The commonwealth says she did, and we have produced sufficient evidence to prove that, I think. The talk of fear and intimidation that she was supposed to have labored under is utter rot. She admits in her statements and in her testimony that she talk Treadway and the others had with her was made in a jocular way and that she knew they were fooling.

"Why did she assume the name of Mrs. Peirce if it wasn't for the purpose of evasion? Her counsel no doubt will contend at great length that she was under coercion, fear, and was intimidated. I must tell you that the men who were tried in connection with this crime were gallant in their testimony against her, and she was, I presume, the same. We do not contend that she was responsible for the murder, but as to the charge of being an accessory after the fact we contend that she is guilty. Did not she assume a number of false names when she told the police in Wheeling that her name was Mrs. Norman D. Williams, and that Williams was her husband. Wasn't that for the purpose of aiding Treadway? On the automobile trip to Camden was there any fear she felt?

Had Chance to Get Away

"She had plenty of chance to get away. When Moss and Treadway went into the Robins house to get Moss' effects she was in custody of that car. She knew whom that car belonged to; she had ridden in that car; she saw the owner brutally assaulted, and Treadway had told her that they had killed him and turned on the gas. Yet she made no effort to escape when she was alone in that car, the car that belonged to the man that Treadway admitted had been slain. She says that night is the same room with Treadway, in the home of Mrs. Benjamin in Baltimore, using the name of the man who had been murdered, solely for the purpose of throwing the authorities off the track.

"In Wheeling again she aided and abetted when she said she was Marie Williams. She told these falsehoods only to protect Treadway and herself. There isn't a single line of evidence to show that this woman was in fear, or that she was intimidated. She was using the name of Williams because she was protecting the man she loved.

"We cannot have men stricken down in the flower of their youth and allow those who help those responsible for the crime to escape. Not only does she help him from being apprehended, but she goes further; she makes statements and in them she signs herself as Mrs. Treadway, and she calls herself Mrs. Treadway all through them. She knew she wasn't Mrs. Treadway. Under the law of God she knew she was the wife of Ross Rogers. She knew she had no right to take any name other than that of Rogers.

Blamed Innocent Man

"She blamed the crime on Moss. She said it was he who struck the blow; but it was Treadway who took her home from Peirce's apartments; that it was Moss and Elliott who came to their apartments later and said they had killed him. In other words, she placed the crime on the head of an innocent man. She was willing to sacrifice Moss to save her lover. This talk of fear and intimidation—where was she when she wrote her statements? She was in a room all by herself. Treadway was not anywhere near her and then she told a lie that might have sent Moss, an innocent man, to his death.

"There was no fear there. She was there and lied to save Treadway. And she did not stop there. She knew how to connive. She had the mind to concoct further lies. I don't mean a profound intellectual mind, with an appreciation of ethics of right and wrong, but a shrewd, cunning mind, and it was this mind that concocted the scheme to warn Treadway in the cellroom, via the magazine in which she said, 'Stick to your story' and 'Dead men tell no tales.' That was to help Treadway.

"Not satisfied with her repeated lies and writing of false statements, she warned her lover to stick to his story. Do you believe a girl who is in fear or intimidation could write or do things like that?

"She knew it was not Treadway who left the room in company with her. She knew if Moss was accused the burden would rest on him and not on Treadway. It was not in fear of the consequence of it on her that made her accuse Moss, an innocent man, but rather the bold bravado with a desire to protect a man she so passionately loved.

Note About Dead Men

"The note she wrote 'dead men tell no tales—stick to your story,' with a cosmetic pencil which she used to beautify herself, was done to protect her sweetheart. This terrible crime was committed by some one who had wickedness in their blood and some one who had wickedness in their brains. The persons connected with this crime have reached the depths of degeneracy. She was one of that band who committed this low and dastardly act which destroyed the poor drunken tool Peirce.

"It was she who heard the conversation in the car. 'He was the hardest ——— to kill I ever saw.' It was she who saw Treadway put on the clothing of the dead man and walk about jauntily. It was she who knew every act of this crime, knew that Elliott and Moss were going to make a getaway, and saw in the newspapers the whole story of the crime.

"Gentlemen of the jury, be fair-minded; be clean men; the commonwealth of Pennsylvania does not intend that persons be murdered and that the perpetrators not be vigorously prosecuted. Most of you men are, no doubt, married, are clean-living men. I want you to find this woman guilty if the testimony in your minds warrants it.

"Men, this will be my last chance to talk to you because the defendant has not gone on the stand, and counsel for the defense will have the last say. But I don't want you to decide the case by either the oratorical ability of my opponent or myself. I want your decision based on the testimony which you have heard. If you find that this testimony is such that she is guilty I want you to find her guilty as accessory after the fact."

Case Hangs on "Slender Thread"

As soon as Mr. Speiser had concluded, the defendant's counsel began his closing argument.

"The guilt or innocence of this defendant," he said, "hangs on a slender thread. I caution you to bring no prejudice with you. Do not condemn her because she does not measure up to your ideal of a woman. Throw out of the case all her immorality; that has nothing to do with it. This young woman may have been led astray or fallen even as Mary Magdalen, but you have to consider only whether or not she is guilty of this charge.

"Did Treadway receive comfort from her? Did she relieve him, comfort him and protect him? If she did, then she is guilty. Did she help him in any way from the beginning to the end? What does the evidence show? She said that she sat in the car with him. There is no evidence to show that she knew how to run the car. There is evidence that Treadway was out of the car very long at a time.

"She says that she thought he was watching her even when he was out of the car. The district attorney refers to their stop in Baltimore. The three of them had made her go along with them. 'We have got to have a woman along,' they said, 'so we won't be arrested.' Of course she had to keep up her relation with Treadway as his wife.

Finally Told True Story

"She must have known of the murder, but mere knowledge of it is not enough to convict her. After Treadway had been picked up on the streets of Wheeling by detectives and questioned in the room adjoining the one this girl was in, she heard what was said; then the detectives questioned her. Of course she told the identical story. Then Treadway later told other stories. She couldn't keep up with him. She writes this note with a lip stick to Treadway in a magazine, telling him to stick to his story. Then later when she was freed from his contaminating influence, she told the true story. The commonwealth was so glad to get it they used her true story to convict two others. One friend (referring to the district attorney) assured her that she had nothing to fear. No, she had nothing to fear, yet she was accused with Treadway of murder! She, too, was in the shadow of the electric chair.

"She may have known that they stole a car or a bag, but she didn't know they had killed a man. When the men came back to the apartment, that is 2049 Walnut street, Moss testified that he asked Treadway if they 'had killed him?' She tells you she never heard the statement. Moss may have forgotten that he made that statement. He forgot many things. He forgot that he went to Camden.

"Just a Nineteen-Year-Old Kid"

"The girl was never out of sight of any man until they were picked up in Wheeling. My friend (referring to Mr. Speiser) said she must have known that Pierce had been killed. They joked about it, and kidded her; how ridiculous! How could she know if they persisted in joking about such a matter? She did not know anything about the murder until she got into Wheeling, when Treadway read it to her from the newspapers.

"Treadway said, 'You stick to my story, because if you don't—' There it showed that Treadway had a threat in mind, and the threat was that the blame would be put on her. She was with the fellow who committed the crime. She did not know what the penalty would be. This girl is not a lawyer like my friend. She's just a nineteen-year-old kid."

A murmur here arose in the courtroom and court attendants had to call for order.

"She did not know," the counsel for defense continued, "how far she could be blamed. She only stuck to him to save herself, that's all.

"When detectives came back and told her that Treadway had made a statement it was natural that she wrote him to stick to his story.

"The commonwealth can't blow hot and then cold. They can't use her statement to convict one and then use it against her.

"That's all, gentlemen of the jury, in this case. What are you going to do with it?

Lied to Protect Herself

"Was she following his story in Wheeling to save herself? Did anything she said help her? She didn't help Treadway; how can she be an accessory? No! She only lied to help herself, and that's not a crime, but a sin. Don't forget, gentleman of the jury, you have heard her story, and it is not against her because she does not go on the stand. There is a reason for that which we judge to be good. We want the last say.

"Everything of her adventure has been heard and that is the story the commonwealth used.

"I don't want to tire you; but the facts I want you to bear in mind are: Did she help Treadway? Did anything she said help him to get free? I leave it with you.

"You have to approach this case forgetting her immorality. Remember she is innocent in the eyes of the law until she is proven guilty. You have to take it up piece by piece and see for yourselves whether she helped Treadway. If there is any reasonable doubt in your minds you must acquit her. The Peirce murder is one of the most damnable things pulled off, and I do not countenance those people who are connected with its perpetration.

"I ask you twelve men to consider this young fool—yes, I said young fool—who tied herself up with a man of Treadway's character. I ask you to send her home and acquit her of all connection with the crime."

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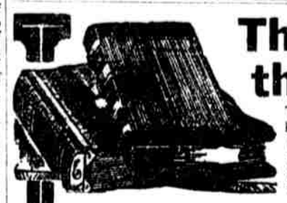

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