

MR. CORRIGAN: That is all, Mr. Bird.

MR. DANACEAU: That is all.

(Witness excused.)

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MR. CORRIGAN: May we have the letter, your Honor, that this witness --

THE COURT: I don't know just where it would be, whatever it was, at the moment.

MR. GARMONE: Would you want time?

MR. CORRIGAN: I'd like to put the letter in evidence, and then beyond that, your Honor, I don't have anything else that I want to present on the motion for a new trial, and if I get that, then I will be through with my evidence on this motion.

THE COURT: Then you want to present it orally, do you?

MR. CORRIGAN: No, I don't think I care to present it orally.

MR. GARMONE: No oral argument.

THE COURT: This is all that you have?

MR. GARMONE: That's right.

THE COURT: We will have a recess for a few minutes, and we will see if we have that --

MR. CORRIGAN: We have a motion, your Honor, as part of our motion for a new trial, we have filed as one of the elements of error -- one of the elements for the granting of a motion for a new trial a ground saying newly discovered evidence. The newly discovered evidence must be supported either by oral testimony or by affidavit. We have a certain number of days in which to present that. In fact, newly discovered evidence can be presented at any time.

MR. GARMONE: Within 120 days.

MR. CORRIGAN: We have that motion in there, but we don't intend at this time, your Honor, to bring forward any new evidence on the ground of newly discovered evidence. We may in the future, but not right today.

THE COURT: Do you have the thought in mind that you want to defer decision on the motion for new trial until you determine something as to that?

MR. CORRIGAN: I'd like to have a little consultation on that.

THE COURT: Well, we will have a few minutes recess and the Court will see what he can find about the letter.

MR. CORRIGAN: I have talked to my associate counsel, your Honor, on this matter, and they

would like the matter continued to a week from Saturday, if that is agreeable to your Honor.

THE COURT: Sure.

MR. CORRIGAN: And at that time, if there is anything additional that we consider that is worthy of the Court's notice, we will produce it at that time.

THE COURT: I know, but Mr. Corrigan, we are going to end this chapter. Now, we have had 10 days since the close of the trial, and here we are going over it again. A week from Saturday, that will be another 10 days, and the next thing you know, we will be prolonging this case as long on this matter as we --

MR. GARMONE: That will be the final -- that is the final date we are asking for. That is not too much, when it comes to the question of newly discovered evidence. We are not saying that we are going to come in on that day and ask for more time. That will be it.

THE COURT: All right. 9:15 on Saturday morning, January the --

MR. GARMONE: That will be the 8th, your Honor.

MR. DANACEAU: Has that letter been found?

THE COURT: Oh, yes. Mr. Corrigan has it.

MR. DANACEAU: Well, we haven't seen anything of it. We certainly would like to see it before we adjourn this morning.

THE COURT: Sure, but we will have the witness come in, please.

MR. DANACEAU: May I see it?

MR. GARMONE: Yes, you can see it. I was just going to have it marked for identification, that's all.

MR. DANACEAU: If you want it that way.

MR. GARMONE: You go ahead. I don't care to spar with you. Are you through with it?

Mark this 3-A and 3-B.

(Defendant's Exhibits 3-A and 3-B on motion for new trial, being a letter, was marked for identification.)

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