

(Mount Clipping in Space Below)

# Bagert Rules FBI Agent Must Testify

Criminal District Court Judge Bernard J. Bagert today ordered Federal Bureau of Investigation agent Regis Kennedy to testify before the Orleans Parish Grand Jury this afternoon.

In a ruling which cited the historical separation of governmental power, Judge Bagert denied the federal government's motion to keep Kennedy out of the grand jury room.

THE AGENT, who questioned a key figure in Dist. Atty. Jim Garrison's presidential death plot investigation, was subpoenaed last week by the DA.

U.S. Atty. Louis C. LeClerc said Kennedy had been ordered not to testify by U.S. Atty. Gen. Ramsey Clark.

Federal lawyers took the position that Kennedy was cloaked with immunity from testimony because of his official position with the FBI.

BAGERT'S RULING tore through that contention this morning.

The judge said the "serious question presented herein is whether the executive branch of our government has the general and unlimited authority to instruct its many employees and subordinates not to give testimony in cases pending in court."

Bagert said that this position would present an "anomalous situation" in which the federal government would be "the party litigant, the judge and the jury."

HE DECLARED that the federal position and Clark's order to Kennedy "contravenes the fundamental conception of our founding fathers that the posterity of our country rested upon a system of checks and balances."

Bagert noted the historical separation of executive, legislative and judicial branches of government in the United States and asserted that "none has the constitutional authority to encroach on the authority of the other."

The judge noted that the agent in charge of the FBI office at Chicago was held in criminal contempt for refusing to testify in 1964, and added that the contempt citation was upheld.

Judge Bagert looked squarely at Kennedy, who was seated before the bar, and ordered him to appear before the grand jury at 2 p.m.

Asst. U.S. Atty. John Ciolino immediately took legal exceptions to the ruling, laying the groundwork for appeal.

KENNEDY WOULD not comment after the hearing, but U.S. attorneys have indicated he will appear before the grand jury.

Kennedy was assigned to question the late David W. Ferrie in 1963 when the one-time airline pilot was arrested by Garrison's aides following the assassination of President John F. Kennedy at Dallas.

Ferrie, accused assassin Lee Harvey Oswald and 54-year-old Clay L. Shaw have been linked by Garrison in what the DA charges was a New Orleans-hatched plot to murder the President.

Before he read his ruling this morning, Judge Bagert verbally ripped into an assistant district attorney whom he accused of making improper remarks to television newsmen.

Addressing himself to James L. Alcock, Bagert charged that the assistant DA made "reprehensible" comments on the pending motion before TV cameras.

ALCOCK LEAPED to his feet and challenged the judge's remark. He said he did not recall commenting on the motion.

"I don't suppose you saw the same TV shows I did," the judge shot back.

"I don't guess I did," Alcock replied.

THE JURY is expected to receive a return today on a subpoena for a Central Intelligence Agency photograph and to interrogate at least one witness in the investigation.

(Indicate page, name of newspaper, city and state.)

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Being Investigated

ENCLOSURE

Garrison issued a subpoena ~~last week~~ ordering CIA Director Richard Helms to send to the jury a photograph taken in Mexico during the summer of 1963.

Garrison contends the picture shows accused presidential assassin Lee Harvey Oswald walking out of the Cuban embassy in Mexico with an unidentified Cuban.

THE CUBAN, he alleges, is a powerfully built man whose identification is important to the probe.

The witness scheduled to appear today is Carlos Quiroga, a slight, handsome Cuban refugee who belonged to several anti-Castro groups in New Orleans during the early 1960's.

Quiroga was listed as a member of the Cuban Revolutionary Council, headed by Sergio Arcacha Smith, and as chairman for youth of the Friends of Democratic Cuba, of which Arcacha was a leader.

ARCACHA, LIVING in Dallas, is sought as a fugitive material witness by Garrison in the investigation. His extradition papers have been tied up on technical matters.

Quiroga was scheduled to appear before the grand jury last week, but was sent home when it was discovered the jurors would be tied up ~~questioning~~ other witnesses. He was told to report back today.