

Clay Shaw's Lost Cause

The Supreme Court has ruled that the death in 1974 of Clay Shaw, a New Orleans businessman who once faced preposterous charges of conspiring to assassinate President Kennedy, also meant the death of his civil lawsuit against former District Attorney Jim Garrison. The sad result is that Mr. Garrison will not be brought to judgment for prosecutorial abuses that injured the reputation of an innocent man for a petty purpose: to build a conspiracy theory and discredit the Warren Commission.

Mr. Shaw was acquitted in 1969 after a bizarre trial at which the prosecutor produced a series of unbelievable witnesses who attempted to link the accused man to Lee Harvey Oswald. Not chastened by the verdict, District Attorney Garrison brought perjury charges against Mr. Shaw — for denying guilt on the witness stand at his trial.

At that point even the Federal courts — which had given the district attorney the benefit of assuming good faith — found bad faith and blocked the prosecution.

What has now killed the Shaw suit is a quirk in the Federal law designed to redress official infringement of individual rights. The statute is silent on whether such suits survive the death of the plaintiff. Louisiana state law, which the Supreme Court says must apply, allows such suits to proceed only on behalf of surviving relatives. Mr. Shaw, a homosexual who many think was selected for prosecution because of his vulnerability, left no survivors.

Justice Blackmun, writing for the dissenters in the 6-to-3 decision, argued for a broader reading of the Federal law, an interpretation that would better serve "the great purpose" of civil rights laws. He called for Congressional action to restore the deterrent effect of potential damage suits in such situations. He is right; cases like this, and officials like Jim Garrison, should be judged on their merits regardless of the idiosyncrasies of state laws. A judgment of sorts has come from the New Orleans voters: they have just elected Mr. Garrison to the Louisiana Court of Appeals.