

NO 9-T
6-7-67

Witness Would

Novel Must

Be Subject to Arrest

Return for DA

Suit Deny Plea For Ohio Deposition

Federal District Judge James A. Comiskey today refused to permit Gordon Novel to make a deposition in Columbus, Ohio, in his \$50 million suit against District Attorney Jim Garrison and his supporters.

In effect, the ruling means that Novel will have to return

to New Orleans to testify in order to press the suit. This could put him in jeopardy of arrest, since he is wanted on an Orleans Parish warrant for conspiracy to commit burglary.

Judge Comiskey ruled today on a motion by Novel's attorney Steve Plotkin to quash a move by Garrison's attorneys to require that Novel do his testifying in New Orleans.

THE JUDGE RULED that his liability to prosecution on other charges was no reason to permit him to give his deposition elsewhere.

Novel, the elusive witness in Garrison's probe of the death of President John F. Kennedy, is suing Garrison and members of Truth and Consequences, claiming a loss of civil rights and character assassination.

Plotkin told Federal District Judge James A. Comiskey that under the law the court has unlimited discretion to take Novel's deposition else-

where, "namely in Columbus, Ohio," or to proceed by submitting written questions for Novel to answer.

THE ATTORNEY POINTED out that there are criminal charges brought by Garrison pending against Novel.

Plotkin asked Judge Comiskey to consider issuing an order protecting Novel from arrest and incarceration should the court rule that Novel's deposition should be taken here Friday before U.S. Commissioner Fritz Windhorst.

Otherwise, Plotkin said, Garrison will have accomplished in a civil action what he has not been able to do otherwise—get Novel back to New Orleans for questioning as a material witness in the probe.

MALCOLM W. MONROE, representing Garrison, argued that the law already provides

See PROBE— Page 30

Probe--

Continued from Page 1

Novel protection against arrest and incarceration. He said Novel chose to file his civil action in this district and that, therefore, Novel's deposition should be taken in this district. Monroe said he does not see why the defense should have to bear the expense of traveling elsewhere to take the deposition.

He asked Judge Comiskey to issue an order obligating Novel to pay for expenses incurred by the defense if the court rules the deposition will be taken outside Louisiana.

Waiting to present his argument was Claude W. Duke, attorney for Willard E. Robertson, one of the group of businessmen who are bankrolling Garrison's probe and are now being sued by Novel.

Plotkin replied to what he called a "fallacious, illogical and erroneous" contention that Novel would be protected from arrest and prosecution under the Louisiana Code of Criminal Procedure should he be ordered to give testimony here.

All four articles cited, he said, referred to "witnesses." Novel is charged with a felony, therefore these articles could not apply to him, Plotkin argued.

Plotkin said the defendants in the civil suit Novel filed "refuse to say they are speaking for a public official who is a defendant in the lawsuit."

MONROE OBJECTED TO Plotkin's request for a month's continuance of the deposition hearing.

"I suggest there is no valid reason for a continuance," said Monroe. He told the court that where there are serious charges brought against citizens in a civil case, the case should be heard promptly.

"We'd like the hearing in 10 days or two weeks at the most," said Monroe.

HE DISAGREED WITH Plotkin concerning the use of the word "witness" in the immunity statute and said it refers to "a person."

Judge Comiskey asked

Monroe whether the immunity he spoke of was also the construction placed on the statute by Garrison.

"It is our view as attorneys," Monroe replied. "I have not had the opportunity to discuss the question of the interpretation of the statute with the district attorney and cannot say if, in his official capacity, he would concur."

THOMAS RAYER, counsel for Cecil Shilstone, also a defendant in the Novel suit, told the court it is possible that his client's defense to the suit may be different from Garrison's: that Shilstone had no authority to arrest Novel and Shilstone's attorney should not be put to the expense of going to Columbus to take testimony.

On another front of Garrison's controversial probe, attorneys for Clay L. Shaw have indicated they may call Lee Odom, whose name appears in Shaw's notebook, to testify at a hearing here Monday.

The Monday session before Criminal District Court Judge Edward A. Haggerty Jr. will open what may be a long series of pre-trial battles in Dist. Atty. Jim Garrison's Kennedy death plot investigation.

SHAW'S LAWYERS yesterday asked the court to subpoena 32 witnesses, including the DA, seven criminal court judges and the entire Orleans Parish Grand Jury, to appear.

The hearing's main action will revolve around Shaw's plea to quash the indictment which charges him with complicity in

the murder of President John F. Kennedy.

Odom is the Irving, Tex., man whose name appears in Shaw's address book above the notation "P.O. Box 19106," which Garrison contends is the enciphered version of Jack Ruby's 1963 unlisted telephone number at Dallas.

The DA said he found identical references to the post office box number in the notebooks of Shaw and accused presidential assassin Lee Harvey Oswald.

Both numbers decode, Garrison has said, to the telephone number of Ruby, who gunned down Oswald in the Dallas police station two days after Kennedy's slaying.

MONDAY, Garrison charged that Shaw met with Ruby and Oswald at Baton Rouge in the fall of 1963 to make further plans for the President's assassination. He said Shaw gave both men money.

Shaw has said the presence of the post office box numbers in the two books is a coincidence. He said Odom is a friend who gave him the box number in 1966. Odom, who said he met Shaw while he was trying to find someone to promote a bull fight, has confirmed the Shaw statement.