

Appeal Filed for Retrial of Rubin Carter

By SELWYN RAAB

Charging that the Passaic County Prosecutor's Office "engaged in massive suppression" of evidence, lawyers for Rubin (Hurricane) Carter and John Artis yesterday asked the Appellate Division of the New Jersey Superior Court to grant a new trial in the 1966 triple-murder case.

Motions for a second trial were denied last December and January by former Superior Court Judge Samnel A. Lerner, who presided at the original trial in 1967 and sentenced Mr. Carter, a middleweight boxer, and Mr. Artis, who was about to join the Army, to life in prison.

In a sharp attack on Judge Lerner, who was recently promoted to the Appellate Division, the defense lawyers also asserted that the judge "analyzed the facts with a closed mind" and "distorted the issues and law" in reaching his decision to deny a new trial.

Mr. Carter, who is 38 years old, and Mr. Artis, 28, appealed for another trial last fall after the only two witnesses who placed them near the scene of the triple homicide at a Paterson tavern recanted their testimony.

These witnesses, both former convicts, said they had been pressed by the police into perjuring themselves in return for leniency in unrelated cases and a \$10,500 reward.

Suppression Charged

During hearings last fall and winter, defense lawyers also said they had uncovered police records and statements from witnesses that could have been beneficial to the defense at the 1967 trial but that were allegedly suppressed by the police and prosecution officials.

John P. Goceljak, an assistant Passaic County prosecutor, said the request for a new trial would be opposed by his office. Denying the misconduct and suppression of evidence accusations, Mr. Goceljak said: "Judge

Lerner did consider all of these points and we believe he ruled correctly in denying a new trial."

In a 125-page brief filed with the appeals court in Trenton, Myron Beldock and Lewis Steel, the defense lawyers, raised these major points: that Judge Lerner should have disqualified himself at the hearing for a new trial because of his earlier involvement in the case; that the judge disregarded in his opinion, evidence favorable to the defense; that the prosecutor failed to reveal at the 1967 trial that promises of "favorable treatment" had been made to the two witnesses, Alfred Bello and Arthur Bradley, and that the prosecutor at the 1967 trial, Vincent E. Hull Jr., had "compounded" lies and misrepresentations made by prosecution witnesses at the trial in Paterson.

The defense lawyers indicated that they would expect Judge Lerner to disqualify himself if the appeal came before his section of the Appellate Division.