

Court Upholds Life Newsman

Chandler Not Required to Testify on Crime

Federal District Judge James A. Comiskey ruled Monday that District Attorney Jim Garrison cannot force newsman David L. Chandler to testify before the Orleans Parish Grand Jury in connection with an allegation in Life Magazine that organized crime is rampant in the New Orleans area.

Judge Comiskey ordered an injunction issued against Garrison, Charles R. Ward, his first assistant, and James O. Sanders, foreman of the jury at the time the petition was filed.

The district judge's action was taken simultaneously with a decision of a special three-judge federal court which heard the case Chandler filed against the defendants in which the special court held that constitutional questions raised by Chandler need not be decided. The case was handed back to Judge Comiskey for decision.

Chandler's case was heard by the special court composed of Judge Robert A. Ainsworth Jr., of the United States Fifth Circuit Court of Appeals, and District Judges Edward J. Boyle Sr., and Comiskey.

CLAIMS HARASSMENT

His suit attacked the constitutionality of the Louisiana laws relating to the operations of the grand jury and asked that his subpoena be quashed and an injunction issued restraining compliance. In an alternative plea the newsman asked that he be allowed to have an attorney present if he is questioned.

Chandler's subpoena grew out of articles published Sept. 1, 8, and 29, 1967. He claimed that he is being harassed by Garrison and that the grand jury is being used as a vehicle to charge him with perjury or false swearing.

He also claims that the DA and his staff are anxious to charge him with some kind of crime to discredit him in connection with the articles about organized crime.

Following a review of the Louisiana law governing grand jury investigations, the three-judge court said that it could not understand how Garrison and his assistants could give

Chandler any assurance that they would not question him.

Both Garrison and his aids have said that if Chandler were to go before the jury they would not question him but would leave that up to the grand jury members.

The court also commented that in view of the duties imposed by law on the grand jury "it is difficult to understand how Garrison and Ward could properly and effectively give assurances that Chandler, in his appearance before the jury, would be questioned only concerning organized crime in New Orleans and would not be asked to disclose the names of his informants. . . ."

The opinion pointed out that Ward has acknowledged that he has personal animosity and hostility towards the newsman and Garrison has stated his lack of regard for Chandler's truthfulness.

"Therefore, we believe the climate is such under the facts of this case that Chandler's fear of prospective prosecution for perjury or false swearing as a consequence of his appearance before the grand jury is well founded," the court held.

Attention was called to a recent decision here in a case involving newsman Walter Sheridan in which the district court enjoined Garrison from enforcing a subpoena.

EXPRESS CONCERN

In that decision it was brought out that for many years federal courts expressed concern about the propriety of the district attorney's calling before a grand jury as a witness a person who was the subject of an investigation but had not yet been charged formally with an offense.

The court stated that the recent Supreme Court cases "announce in forceful terms the right of a person charged with a crime to the presence of his counsel at any time he is questioned and his right to speak or remain silent at any time that he is questioned."

But the court ruled that it need not decide the constitutional questions raised.

"The unusual and exceptional circumstances here warrant an

exercise of our equity powers to prevent oppression to Chandler and to further the ends of justice by protecting Chandler's basic federal constitutional rights.

'NO USEFUL PURPOSE'

"It is clear that no useful public purpose is to be served by requiring plaintiff to respond to the grand jury subpoena. Louisiana law does not permit the presence of counsel with the witness in an appearance be-

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fore the grand jury.

"Facts disclose quite clearly that the prosecutor has no faith in the truthfulness of the witness, having so declared publicly and in writing. It is also plain that the prosecutor is satisfied, as a result of his intensive investigation, that there is no organized crime in New Orleans such as the Life magazine articles charge. It would be expected that Chandler's testimony under oath would be at variance with that conclusion," the three judges ruled.

They also held that Chandler's appearance would expose him

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as "a very real potential defendant" and that he has the right to remain silent under these conditions and should not be obliged to place himself in the perilous position of possible incrimination.