

KOHN

CONTEMPT

SENTENCE

IS

THROWN OUT

NEW ORLEANS
STATES - ITEM

Braniff's Decision Overturned

The Louisiana Supreme Court today reversed a contempt of court judgment and Parish Prison sentence against Aaron M. Kohn, managing director of the Metropolitan Crime Commission.

Kohn was cited for refusing to give information to the Orleans Parish Grand Jury in its probe of organized crime. He spent the night of last Dec. 14 in jail until the high court stayed the action pending a hearing.

THE DISTRICT attorney's office argued that the matter is moot because the grand jury had gone out of office and all matters before it are legally dead.

Attorneys for Kohn argued that the court should reverse the contempt citation on grounds that Kohn did nothing which violated the state law.

When Kohn was jailed he declared that he would protect his informants even though he had "in effect been sentenced to prison for the rest of my life."

KOHN WAS sentenced by Criminal District Court Judge Matthew S. Braniff.

Associate Justice Joe W. Sanders, who wrote today's majority opinion, said the court declined to accept a proposed technical distinction between proceedings.

In the proceedings the grand jury first tried to get the confidential records of the Metropolitan Crime Commission, and then tried to force Kohn to reveal names of informants, he said.

"**AT THE TIME** of his present sentence for contempt, his attorneys were still before this court urging that the state and federal constitutions barred the compulsory

disclosure of such names," said Sanders.

"It is true," he added, "that the grand jury in the former case sought the names in writings in Kohn's possession and in this case from his memory. But this circumstance did not alter the real thrust of the proceedings. The objective remained the same: to compel the disclosure of the names of the confidential informers."

Justice Sanders said the court concluded the stay order in the first case barred the grand jury proceedings against Kohn in the second case to compel disclosure of the name of the confidential informer.

He said that since this conclusion requires a reversal of the contempt judgment, "we

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do not reach the substantial constitutional question posed by this case."

Associated Justices Mack E. Barham and Frank W. Summers were the only dissenters.

Only Justice Barham gave reasons for dissenting in the vote to reverse the contempt of court judgment. The vote was 4 to 2.

He said "the majority is viewing with too much concern the record rather than the law for the answer to the question of whether this case is moot.

"**IT HAS BEEN** repeatedly held that this type of proceeding is a civil contempt proceeding, and that the sentence is prospective and is imposed on coercion to act, as opposed to punishment for wrongful act or omission."

He said the subpoena for Kohn has no validity now; the order to answer the question is no longer effective; Kohn cannot purge himself of contempt and the sentence for contempt cannot be executed.

In prison, Kohn stated that "I have been sentenced to the rest of my life in prison unless I expose an informant to a vicious prosecutor with a clear record of trying to hurt anyone who helps prove organized crime—which Garri-

son denies—exists."

THE DIRECTOR accused District Atty. Jim Garrison of coddling Jefferson Parish trackets figure Carlos Marcello when he appeared before the Orleans Grand Jury.

The contempt of court conviction was appealed and the high court ordered Kohn's release pending a hearing. Meanwhile, Braniff, who was in charge of the grand jury, was ordered to answer two questions:

1. Were the district attorney and the trial judge lawfully entitled to compel Kohn to testify in view of the fact that the Supreme Court's order of Dec. 11 in the same controversy had not become final?

2. Are the claims of Kohn that he is protected by the Fifth Amendment of the U.S. Constitution and pertinent revisions of the state constitution without merit?

Braniff contended in his return that the Dec. 11 order of the Supreme Court covered only documents and records which would disclose or reveal the name and address of any informer of the commission.

The judge said, however, that the order in no way prevented the district attorney and himself from seeking compulsory verbal testimony from Kohn concerning confidential informers.

The judge had attacked a contention by Kohn that he would have incriminated himself by telling the Grand Jury the name of an informer who provided the information that Eugene Nolan was allegedly conducting illegal gambling activities in New Orleans.

BRANIFF SAID that "any witness who wishes to withhold information from a grand jury or a trial court could make the same sort of nebulous contentions."

"I am of the opinion that Mr. Kohn will run absolutely no danger of incriminating himself if he speaks the truth and tells the grand jury the name of his informer in regard to Eugene Nolan.

"For this reason I held him to be in contempt of court for refusing to give the grand jury the information," Braniff concluded.