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CAYUNE, NEW ORLEANS,

JUDGE RULES FOR SHERIDAN

Investigator Need Not Answer Subpena

Federal District Judge Alvin B. Rubin ruled Monday that network investigator Walter Sheridan does not have to answer a subpoena commanding his appearance before the Orleans Parish grand jury.

However, the judge ruled against Sheridan and newscaster Richard Townley on their request that District Attorney Jim Garrison be enjoined from prosecuting them on charges of public bribery. Townley is also charged with intimidation of a state witness.

Sheridan and Townley alleged in their suit against Garrison and Albert LaBiche, foreman of the parish grand jury, that the district attorney has exploited the legal purposes of the grand jury and his position as its legal advisor.

They also claimed that Garrison has sublimated the criminal laws of the state to his own use.

HARASSING THEM

Sheridan and Townley charge that Garrison is harassing them because they have been critical of his investigation of the assassination of President Kennedy.

In connection with the question of Sheridan's appearance before the jury, Judge Rubin held that the investigator would be forced to match legal wits with the district attorney without benefit of an attorney.

"Charged as a criminal, he will sit before a grand jury, forced to undergo interrogation outside the presence of his lawyer, required to decide at his peril and without the benefit of counsel present at the time whether any particular question relates to public bribery or does not relate to public bribery and, if it does not, whether his answer may incriminate him in

any way," Judge Rubin held.

The court said that this is a far cry from the right to speak or remain silent and the right to the assistance of counsel spelled out in recent decision of the United States Supreme Court.

Judge Rubin pointed out that the district attorney has contended that Sheridan's lawyer may wait outside the grand jury room and that Sheridan may call upon him from time to time if he sees the need.

"But there is no way for Sheridan or his lawyer to know whether the grand jury investigation is against public bribery and hence is no threat to Sheridan, or is against some other offense, leaving Sheridan naked to those whom he conceives to be his enemies," the judge wrote in a 33-page opinion.

COURT ORDER

The court ordered a preliminary injunction against the enforcement of the subpoena issued on July 18 and said that a permanent injunction will also be granted.

With regard to the requested injunction against prosecution of Sheridan and Townley the court held that adequate procedures are available in the state courts for their protection.

The judge commented on the great number of habeas corpus proceedings now brought in federal courts after state convictions and said that this gives at least a hint of the number of injunction suits that might be brought before trial "especially if, apart from the chances of success at getting an injunction, this provided a way to see a few of the state's hole cards."

Judge Rubin cited state procedures providing for preliminary examinations in criminal cases through which the state court can decide whether there is probable cause for prosecution.

"This, then, under all the circumstances, is not a case in which 'irreparable injury, clear and imminent, is threatened,'" he concluded.

The court granted Garrison's motion for summary judgment dismissing the Sheridan-Townley suit in this respect.