

Supreme Court Jurisdiction Asked for Clay Shaw Trial

T-P 9-28-68
Statement Calls Garrison
Probe 'Fraudulent'

By EDGAR A. POE

WASHINGTON — District Attorney Jim Garrison of New Orleans Friday was charged before the United States Supreme Court with conducting a "fraudulent and useless probe" of the assassination of President John F. Kennedy.

In a 173-page statement on behalf of Clay L. Shaw, who is under indictment in the Criminal District Court of Orleans Parish, La., for having "willfully and unlawfully conspired" to murder President Kennedy, the court was urged to take jurisdiction in the pending state court case.

Edward F. Wegmann, one of Shaw's New Orleans attorneys, submitted the statement to the clerk's office of the court in the white marble edifice on Capitol Hill.

The brief asks the tribunal to take jurisdiction on grounds federal questions are involved.

Clay, former managing director of International Trade Mart, is free under \$10,000 bail pending trial.

There was no immediate indication, as is customary, whether the court would accept or deny jurisdiction in the world-famous case, or whether it would be remanded back to a three-judge federal panel at New Orleans.

In a unanimous decision on July 23, the three-judge federal tribunal, composed of Circuit Judge Robert A. Ainsworth Jr., and District Judges Frederick J. R. Heebe and James A. Comiskey, ruled that there was no federal jurisdiction. However, they said Shaw was entitled to appeal to the U.S. Supreme Court to resolve the issue.

REPORT MAY NOT BIND

The lower court panel also said it would not be judicially right for it to grant "a declaratory judgment decreeing that the Warren Report is binding upon all the courts of the U.S., including the Louisiana state court" where Shaw's prosecution is pending.

The Supreme Court, after the traditional summer recess, will reconvene on Monday, Oct. 7. However, the court

could accept or deny jurisdiction in the case while in recess if it so desired. There is also a question of whether Chief Justice Earl Warren would recuse himself because he headed the far-reaching Warren Commission inquiry into President Kennedy's murder.

The Warren Commission concluded that New Orleans-born Lee Harvey Oswald, acting alone, assassinated the late President at Dallas on Nov. 22, 1963. Oswald was subsequently murdered by Jack Ruby, now deceased.

The statement filed with the court by Wegmann in behalf of Shaw was also presented in the names of New Orleans attorneys F. Irvin Dymond, Herve Racivitch, William J. Wegmann, and Salvatore Panzeca.

It urges federal intervention in the case because it alleges that the investigation by Garrison is a "misuse and abuse" of the powers invested in the tall Iowa-born New Orleans prosecutor.

SHAW BEING USED

Said the statement: "... as Cont. in Sec. 1, Page 14, Col. 5

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a result of a fraudulent, illegal and useless probe conducted by the district attorney for the Parish of Orleans, using improper and illegal methods, seeking and obtaining in-depth national and international publicity of all of his activities in connection with this probe, plaintiff (Shaw) has been charged and indicted with conspiracy to murder John F. Kennedy and asserts that he is being used as a vehicle by the defendant Garrison to the judicial forum which he seeks for his irresponsible and oftentimes irrational criticisms of the Warren Report.

"It is submitted that under no circumstances, under no reasoning, under no hypothesis, can this case be said to constitute 'any ordinary criminal proceeding.' Plaintiff, who avows his innocence to such an extent that he cannot assist his counsel in the defense of the charges filed against him for the simple reason that he did nothing, and defendants refuse to tell him what he did, is the only person ever

accused and charged in a court of law in connection with the assassination of President Kennedy."

Shaw was arrested on March 1, 1967, at the direction of District Attorney Garrison, and booked with participating in a conspiracy to murder President Kennedy.

Shaw at the time of his arrest was charged as having used the alias of "Clay Bertrand." A onetime airplane pilot and onetime private investigator, David Ferrie, said publicly on Feb. 19, 1967, that Garrison had him "pegged as a get-away pilot" in the assassination.

On Feb. 22, Ferrie was found dead in his New Orleans apartment. Subsequently, the Orleans Parish coroner ruled that Ferrie's death resulted from natural causes and not suicide.