

Attorneys Seeking Order to Halt Shaw Prosecution

T-P 5-28-68
Want Warren Report Declared Binding

Lawyers for Clay L. Shaw asked a federal court Monday to decree that the Warren Commission Report on President John F. Kennedy's assassination is "valid and binding" and that prosecution of Shaw be stopped.

The attorneys said Shaw, a 55-year-old businessman, will be deprived of his constitutional rights if Dist. Atty. Jim Garrison is not restrained from prosecuting him on charges of conspiring to murder the President.

In a 47-page petition filed in U.S. District Court here, Shaw's lawyers asked for a temporary restraining order against Garrison and his two top aides, Charles Ray Ward and James L. Alcock.

INJUNCTION SOUGHT

The petition also requested a permanent injunction. If this is to be denied, they asked the court to force Garrison to disclose much of his evidence against Shaw.

Whether the injunction is granted or not, the defense attorneys want the court to rule that the Warren Commission Report is "valid, accurate, binding and controlling upon all courts in the United States."

The report holds there is "no credible evidence" that anyone other than Lee Harvey Oswald had anything to do with the assassination of Kennedy in Dallas, Tex., on Nov. 22, 1963. The Warren Commission said Oswald was the lone assassin.

The report was ruled inadmissible during a preliminary hearing for Shaw in Criminal District Court.

The petition urged that the report be made admissible and binding on Section C of Criminal District Court. This is the section of Judge Edward A.

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Haggerty Jr., who is scheduled to try Shaw.

TRIAL DELAY POSSIBLE

The petition asked that a three-judge federal panel be convened immediately to rule on the temporary restraining order. If granted, the hearing could delay Shaw's trial, which is scheduled for June 11.

The case was allotted to U.S. District Court Judge Frederick J. R. Heebe, who was to confer with the attorneys Monday on the petition.

The main thrust of the petition is that Shaw must seek sanctuary in the federal courts to preserve his constitutional rights. The petition was signed by all four attorneys for Shaw — F. Irvin Dymond, Edward Wegmann, William Wegmann and Salvador Panzeca.

The petition contained 116 points and a prayer for relief.

It contended that the federal court has jurisdiction under several statutes, especially under the U.S. Constitution and amendments 1, 4, 5, 6 and 14.

'HARM' CLAIMED

The petition asks "sanctuary" to grant relief from "the irreparable harm" it claims he has suffered at the hands of Garrison since his arrest on March 1, 1967.

It charged that Shaw was arrested without cause and that his rights under the Fourth and Fifth Amendments were violated by the issuance of a search warrant on his residence.

The petition said his property was seized as a result of the warrant. It contended the warrant was issued after his arrest and without probable cause.

The petition revived a number of questions that were raised earlier in state courts by Shaw's

attorneys and rejected by the courts.

These included a motion to quash the preliminary hearing held for Shaw on March 14 and a motion for a bill of particulars "to ascertain the essential facts of the charge against Shaw."

It charged that the three-judge panel conducting this hearing was illegally constituted and that the grand jury which indicted Shaw was illegally chosen.

PRINCIPAL WITNESSES

At the hearing, the petition said, the principal witnesses introduced in support of the charges against Shaw were Perry Raymond Russo, Vernon Bundy Jr., Dr. Esmond Fatter and the late Dr. Nicholas J. Chetka, the Orleans Parish coroner who died Saturday.

The petition said cross examination revealed that Russo gave his testimony after being subjected to hallucinatory drugs and hypnosis, and that Bundy was "a dope addict and confirmed thief."

Russo testified that Shaw conspired with Oswald, David William Ferrie and others to kill the President. Bundy testified that he saw Oswald and Shaw together.

The petition alleged that Shaw's subsequent indictment by the grand jury was returned "solely and only on the hallucinatory drug-induced and hypnotically induced testimony" of Russo.

The defense attorneys said their repeated attempts to get details of the "vague and indefinite" charges against Shaw have failed.

GARRISON ATTACKED

They charged that Garrison has misused the legal processes "to such an extent that the fundamental civil and constitutional rights of all citizens are affected" and that the conduct of his office has "imperiled the civil and constitutional rights of all citizens of this country, including its highest and most esteemed public officials and perhaps even imperil the security of the country itself."

As it did in its unsuccessful bid to have the trial moved outside New Orleans, the defense charged that the DA and his staff have waged a "concerted campaign . . . to convince the public at large that the President was not killed by Lee Harvey Oswald

or any other lone assassin, but as a result of a well-planned conspiracy involving

many individuals and organizations.

"The number of alleged conspirators and the number of organizations involved in the conspiracy increased with each public utterance . . ."

The petition cites two other cases in which it contends a federal court has given sanctuary to persons who have incurred the "wrath and displeasure" of Garrison. The cases cited were those of Life magazine reporter David L. Chandler and the combined case of television newsmen Walter Sheridan and Richard Townley.

SELECTION PROCEDURE

It attacked the grand jury selection procedure followed by Criminal District Court Judge Bernard J. Bagert, who picked the jury which indicted Shaw. It claimed women and members of other groups were systematically excluded.

On this basis, it asked that the indictment be quashed.

The petition holds that Shaw is entitled to injunctive relief from further prosecution.

Should this be denied, it demanded that Shaw be furnished with a transcript of testimony by all witnesses before the grand jury, copies of all written statements by witnesses questioned by Garrison and his staff, the names of all individuals interviewed and questioned, the names and addresses of all state witnesses and a descriptive list of all physical evidence to be used by the state.

It asked for a transcript of all grand jury testimony by such individuals as Mrs. Morina Oswald, Mrs. Ruth Paine, Dean Andrews, Loren Hall, Kerry Thornley, Mrs. Barbara Reid, Mrs. Josephine Jo Hug "and others not known to your plaintiff."

The petition charged that Judge Haggerty has stated in open court that the Warren Report would not be admissible in evidence if and when offered as such in Shaw's trial.

In the preliminary hearing, the three-judge panel ruled it inadmissible as "hearsay." The panel consisted of Judges Bagert, Matthew S. Braniff and Malcolm V. O'Hara.