

Ruling favors Shaw

S-1
3/2/75

A federal judge has refused to dismiss the \$5 million damage suit filed by the late Clay Shaw against a group of businessmen and former Dist. Atty. Jim Garrison who prosecuted Shaw in the assassination of President John Kennedy.

Attorney Edward F. Wegmann, executor of Shaw's estate, filed a motion to proceed with the case in place of Shaw, and U.S. Dist. Judge Frederick Heebe granted that request last Oct. 3.

However, the defendants — including Garrison and a group known as "Truth and Consequences" which helped finance his investigation of the Kennedy assassination — contended the suit died with the death of Shaw last Aug. 15.

Shaw was acquitted in March 1969 on charges he conspired to assassinate Kennedy in November 1963. The damage suit alleges that Shaw's constitutional rights were violated as a result of a conspiracy between Garrison and the other defendants.

Judge Heebe ruled Tuesday that the suit would die with the death of the plaintiff under state law, but the federal court is not bound by state law.

He said it is "the conclusion of this court that federal common law requires that a pending action survive in favor of the executor of the decedent's last will."

The judge noted that Shaw was forced to defend himself for almost five years against the conspiracy charge, and may not be able to prove his allegations in the damage suit.

"However," Heebe said, "Shaw surely deserves an opportunity to have his day in court and attempt to clear his name, if only posthumously."

"Since Louisiana law would deny him this opportunity, we hold that it is inconsistent with federal law and should not be applied."

No date has been set for trial of the suit.