

3RD STORY of Level 1 printed in FULL format.

The Associated Press

The materials in the AP file were compiled by The Associated Press. These materials may not be republished without the express written consent of The Associated Press.

May 31, 1978, PM cycle

LENGTH: 480 words

BYLINE: By JAMES H. RUBIN, Associated Press Writer

DATELINE: WASHINGTON

KEYWORD: Scotus-Shaw

BODY:

State law bars the late Clay Shaw's estate from suing former New Orleans District Attorney Jim Garrison for allegedly violating Shaw's civil rights by charging him in the assassination of President John F. Kennedy, the Supreme Court ruled today.

In a 6-3 decision, the court overturned a U.S. Circuit Court ruling in favor of Shaw's estate.

The majority ruled that Louisiana law prohibits the civil rights suit because none of Shaw's relatives survived him.

Justice Thurgood Marshall, who wrote the majority opinion, said: "the goal of compensating those injured by a deprivation of rights provides no basis for requiring compensation of one who is merely suing as the executor of the deceased's estate."

Garrison prosecuted Shaw in the late 1960s on charges he conspired with Lee Harvey Oswald in Kennedy's death in 1963. After 40 days of testimony, the jury took less than one hour to find Shaw innocent.

Garrison then tried to prosecute Shaw for perjury. But a state court threw out the case and found Garrison was acting in bad faith.

Shaw filed a civil rights suit seeking damages from Garrison and others involved in the prosecution on grounds they were harassing him and prosecuting him in bad faith to gain publicity for themselves.

Shaw died in August 1974, three months before the trial was set to begin. The trial court allowed the executor of the estate, Edward F. Wegmann, to pursue the suit.

Garrison did not appeal, but another defendant, Willard E. Robertson, appealed to the Supreme Court.

The Shaw suit charged that Robertson was instrumental in raising \$70,000 through a group called "Truth And Consequences" to finance the prosecution.

**LEXIS® NEXIS® LEXIS® NEXIS®**

The Associated Press, May 31, 1978

Under Louisiana law, an action like Shaw's is permitted only if the deceased plaintiff is survived by a spouse, children, parents or siblings.

Justice Marshall said there was no reason to ignore the Louisiana law and permit the suit, as the lower courts did, on grounds the state law is inconsistent with federal statutes.

In a dissenting opinion joined by Justices William J. Brennan Jr. and Byron R. White, Justice Harry A. Blackmun said the majority opinion "places the cart before the horse."

Blackmun said: "The federal law and the underlying federal policy stand bright and clear. And in the light of that brightness and that clarity. I see no need to resort to the myriad of state rules governing the survival of state actions."

Blackmun said the majority ruling interferes with compensation of victims of unconstitutional action and with deterring official misconduct in the future.

"One can imagine the relief occasioned when the realization dawned that Shaw's death might - just might - abate the action," Blackmun said.

"To that extent, the deterrent against behavior such as that attributed to the defendants in this case surely has been lessened."