

# Shaw Case Revival Eyed

A three-judge federal appeals panel today took under advisement Dist. Atty. Jim Garrison's attempt to resurrect perjury charges against Clay L. Shaw.

Attorneys for both sides spent the morning presenting arguments to the Fifth Circuit Court of Appeals panel, consisting of Judges John Minor Wisdom, John C. Godbold and Paul H. Roney.

Eberhard P. Deutsch, representing Garrison, charged that U.S. Dist. Court Judge Herbert W. Christenberry, who enjoined Garrison from further prosecution of Shaw, showed bias against Garrison in statements and questions he uttered during the lower court hearing.

EDWARD WEGMANN, representing

Shaw, said Judge Christenberry's record for impartiality speaks for itself and charged bad faith on the part of Garrison in prosecuting Shaw.

The arguments generally followed those presented in last year's lower court hearing.

Garrison unsuccessfully prosecuted Shaw for allegedly conspiring to kill President John F. Kennedy.

Two days after that conspiracy trial ended in 1969, Garrison charged Shaw with lying to the jury when he denied knowing David W. Ferrie, a local pilot who died in 1967, and Lee Harvey Oswald, identified by the Warren Report as the lone assassin of the President.

However, in an order handed down last May, Judge Christenberry issued a permanent injunction blocking prosecution of the perjury charge.

**THE JUDGE SAID** the charge was "brought in bad faith and that such bad faith constitutes irreparable injury, which is great and immediate."

Garrison's attorneys are asking the appeal court to lift the injunction.

In written arguments filed with the appeals court prior to today's oral hearing, Garrison's lawyers based much of their case on contentions that Christenberry was biased and prejudiced against Garrison.

"Moreover, the district judge indulged in unwarranted assumptions, and in prejudgment of issues, and went outside the scope of the evidence before him, in one instance relying instead on his memory of what he had seen on television almost four years

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GARRISON'S lawyers said if for no other reason the case should be "re-manded for retrial before another judge" because of Christenberry's alleged bias.

"Throughout (the hearing), the judge repeatedly took over the questioning of the witnesses, at times at considerable length, and the nature of questions posed, and the judge's attitude in putting them or his interspersed remarks to the witnesses, indicated that the questions were often pitched with the view of assisting (Shaw) in proof of his case," said the brief.

Garrison's attorneys also questioned whether a federal court may enjoin a state criminal prosecution for perjury when the state law allowing such prosecution is not "patently unconstitutional on its face"; whether prosecution of Shaw would constitute irreparable injury; and whether the broad mandate against federal courts interfering in state matters could be avoided in this case.

Shaw's lawyers, meanwhile, said they did not find Christenberry biased at all and said, "This charge is based on nothing more than Garrison's disagreement with (Christenberry's) find-

ings of fact and conclusions of law."

"DURING THE course and conduct of his baseless and fraudulent Kennedy assassination probe, Garrison has vilified, defamed, disparaged and besmirched the name and reputation of many high public officials of integrity and esteem, including but not exclusive of" former President Lyndon B. Johnson, former U.S. Chief Justice Earl Warren, The Warren Commission, plus the heads of the FBI, CIA and various other federal agencies.

"Judge Christenberry now joins that select circle as the latest victim of Garrison's wrath and his vituperative tongue," said the Shaw brief.

Shaw's lawyers said Garrison's "belated protestations of good faith and concern for the welfare of Shaw's constitutional rights will avail him nothing. His actions belie his words."

In another place in the brief, Shaw was described by his lawyers as "the prime victim of Garrison's charades, the patsy whom he used as a conduit to a judicial forum for his criticisms of the Warren Report."

The American Civil Liberties Union of Louisiana filed a brief on behalf of Shaw. It states that the sole issue to be decided was whether Garrison brought the perjury charge in bad faith and concludes that Christenberry was correct in finding that he had.