

FRIDAY, MARCH 12, 1971

Federal Court Can Act, Shaw's Lawyers Declare

Recent U.S. Supreme Court decisions make it clear that a federal court here has the right to throw out perjury charges against Clay L. Shaw, attorneys for the one-time Kennedy assassination plot defendant asserted today.

In briefs filed before U.S. District Judge Herbert W. Christenberry, Shaw's attorneys cited a set of decisions rendered by the high court Feb. 23 pertaining to federal court intervention in state prosecutions.

THE DECISIONS in fact tighten guidelines for lower U.S. courts in deciding whether to step into state criminal matters but Shaw's attorneys contend the language clearly leaves the door open for Judge Christenberry to throw out the charges placed against Shaw by District Attorney Jim Garrison.

Shaw is charged with perjury on the basis of his testimony in his 1969 trial on charges

of conspiring to kill President John F. Kennedy.

Garrison contends Shaw lied when he testified he never knew accused presidential assassin Lee Harvey Oswald or the late David W. Ferrie, who Garrison says also participated in the alleged slaying plot.

SHAW WAS acquitted of the conspiracy charge March 1, 1969, but Garrison charged him with perjury soon after. He is seeking to have Judge Christenberry halt the perjury prosecution and a hearing was held on the motion in January. The judge has since had the matter under advisement pending filing of briefs.

Garrison's office now has two weeks to file answers to the briefs filed today. Judge Christenberry is expected to rule shortly thereafter. Any ruling he may make can be appealed by either side.

DISCUSSING the Supreme Court decision, Shaw's attorneys wrote:

Defendant Jim Garrison will find no comfort or solace in any of these decisions. Quite the contrary (they) make it quite clear that this court does have the right, the power and the authority to grant Shaw the in-

junction he seeks. Such action is permissible the brief argues, when bad faith, harassment and selective law enforcement on the part of the prosecutor is shown.

2 New Briefs

Are Filed by Shaw, Garrison

A federal judge here today took under advisement two new briefs in the continuing legal battle between District Attorney Jim Garrison and Clay L. Shaw, but gave no indication when he may rule if Garrison can try Shaw for perjury.

Shaw has asked U.S. District Judge Herbert W. Christenberry to enjoin Garrison from prosecuting him on a perjury charge in connection with the assassination of John F. Kennedy.

Shaw was acquitted in 1969 of conspiracy to kill Kennedy. The perjury charge grew out of Shaw's testimony in that trial when he denied knowing accused presidential assassin Lee Harvey Oswald or David Ferrie. Garrison had charged that Shaw conspired with Oswald and Ferrie to kill Kennedy.

THE LATEST briefs, one by each side, offer no new developments. Garrison continues to deny malice toward Shaw and Shaw renews his charge that Garrison is persecuting him.

Judge Christenberry issued a temporary injunction Jan. 18 blocking prosecution of Shaw on the perjury charge. On Jan. 27, after hearing three days of testimony, he continued the ban for 45 days, allowing attorneys for both sides that long to file briefs.

Garrison's latest brief says Shaw has failed to show "malice or bad faith" by the district attorney. "To the contrary," Garrison said, "defendant (Garrison)

categorically and forthrightly stated under oath as a witness called by the plaintiff (Shaw), that he would 'rather the plaintiff be acquitted than for any of his constitutional rights to be violated' and denied any malice toward plaintiff."

GARRISON SAID Shaw charges there was a conspiracy among the DA and his prime contributors to his investigative fund, "yet no such situation was even remotely established by the plaintiff."

In his reply to the Garrison brief, Shaw said the memorandum "is quite perfunctory, is couched in very general conclusory terms and, except for an avowal of good faith on the part of the defendant, fails to respond to any of the issues of fact which have been submitted for the court's determination."

Shaw's brief says he fears further prosecution, even if he were tried and acquitted of the perjury charge.

"It is asserted by the defendant," Shaw charged, "that if plaintiff were acquitted by the jury plaintiff could not and would not be subject to another charge of perjury. No mention is made of the possibility the defendant in his continuing harassment of the plaintiff . . . will probably file other charges, not necessarily a charge of perjury, against the plaintiff."