

Judge Defends Contempt Rule In Kohn Case

Judge Matthew S. Braniff today defended his finding that Metropolitan Crime Commission Director Aaron M. Kohn was in contempt of court for failing to supply the name of an informant to the Orleans Parish Grand Jury.

The Criminal District Court Judge argued the validity of his ruling in a return of information to the Supreme Court of Louisiana today.

KOHN WAS JAILED overnight on Dec. 14 after he refused to give the Grand Jury the name of a crime commission informant.

The Supreme Court ordered Kohn's release pending a hearing. Meanwhile, Braniff, who was in charge of the Grand Jury, was ordered to answer two questions:

1. Were the District Attorney and the trial judge lawfully entitled to compel Kohn to testify in view of the fact that the Supreme Court's order of Dec. 11 in the same

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controversy had not become final?

2. Are the claims of Kohn that he is protected by the Fifth Amendment of the U.S. Constitution and pertinent revisions of the state Constitution without merit?

Braniff contended in his return that the Dec. 11 order of the Supreme Court covered only documents and records which would disclose or reveal the name and address of any informer of the commission.

The judge said, however, that the order in no way prevented the district attorney and himself from seeking compulsory verbal testimony from Kohn concerning confidential informers.

COMMENTING ON THE Fifth Amendment question, Braniff said:

"It is also my belief that Aaron Kohn's claim of privilege under the Fifth Amendment and pertinent provisions of the Louisiana Constitution is patently without merit, and that his fear of prosecution by the district attorney for the parish of Orleans as a result of his answer to the question posed by the Grand Jury on Dec. 14, 1967, is patently unfounded, provided he tells the truth."

The judge also attacked a contention by Kohn that he would have incriminated himself by telling the Grand Jury the name of an informer who provided the information that Eugene Nolan was allegedly conducting illegal gambling in New Orleans.

Braniff said that "any witness who wishes to withhold information from a Grand Jury or a trial court could make the same sort of nebulous contentions.

"SURELY THE courts will not allow the privilege against self incrimination guaranteed by our Louisiana and federal constitutions to become an impregnable barrier behind which anyone who chooses to withhold essential information can take refuge with impunity.

"I am of the opinion that Mr. Kohn will run absolutely no danger of incriminating himself if he speaks the truth and tells the Grand Jury the name of his informer in regard to Eugene Nolan.

"For this reason I held him to be in contempt of court for refusing to give the Grand Jury the information," Braniff concluded.