

Rule Appealed on Magee Jurors

By Harold V. Streeter

A move was made today to halt the Ruchell Magee murder trial, now in the jury selection phase, pending a decision on the constitutionality of the judge's decision to keep the jury sequestered.

Robert Carrow, defense attorney for Magee against the charge he kidnaped and murdered Judge Harold Haley in the Aug. 7, 1970 Marin Civic Center shootout, asked the State Court of Appeals to reverse the decision.

Issue of Rights

Carrow contended that the ruling by Magee's trial judge, Superior Judge Morton Colvin, to sequester the jury was opposed both by defense and prosecution and violated Magee's constitutional rights to a fair trial.

Judge Colvin ruled that because of pre-trial publicity and "the publicity that will be given this case during the course of this trial," the jury must be kept in a hotel at night from the start of testimony until the trial ends. The trial is expected to last up to 11 weeks.

At the trial itself, the 33-year old San Quentin convict, already serving a life term for kidnap - robbery, was ejected for the fourth straight day from the Hall of Justice courtroom for creating a disturbance.

Judge Cautions

But Judge Colvin went further today, after hearing Magee shouting in the holding cell.

"If he persists in making a noise in the holding cell, he will be removed to the seventh floor" — the County Jail — the judge said.

Resumption of jury selec-

tion was put off for 30 minutes today while Judge Colvin repeatedly asked Magee to promise that he would stop interrupting and would speak only through his attorney.

Flood of Motions

Magee, who wants to act as his own attorney, at first said he would providing the judge would not allow his attorney "misrepresent me."

But a little later Magee sent up another in his flood of penciled motions; the judge said it contained nothing new; Magee began arguing; the judge told him to be

quiet; Magee began shouting.

And he was led out.

Magee is charged with kidnaping and murdering Judge Harold Haley during the Aug. 7, 1970, shootout in Marin Civic Center.

Magee sat out the afternoon yesterday as two more prospective jurors were excused by the court.

Pay for Jurors

One, a young woman named Janet Johnson who works for an insurance company, told Superior Judge Morton R. Colvin that her firm would give her a leave for the duration of the trial, but would not pay her and she could not afford to serve.

She was excused, but this led defense attorney Robert Carrow to move that no juror be excused by virtue of being unable to afford to serve and that the state arrange to pay them.

Judge Colvin indicated he would not be averse to the move, but said he knew of no law that would provide such payment.