

Magee Granted Change of Venue

One of Ruchell Magee's innumerable hand-written motions was suddenly granted yesterday, and it appears likely the San Quentin convict will not be re-tried in San Francisco.

A smile flitted across Magee's usually brooding face when Superior Court Judge John A. Ertola quickly ruled in favor of Magee's surprise motion for a change of venue for his second trial, this time on a charge of aggravated kidnaping.

His first trial on kidnap and murder charges — one of the most expensive in California history — ended in a hung jury April 3 after 11 weeks.

The jury voted 11 to 1 to acquit Magee on a charge of murdering Superior Court Judge Harold Haley during a bloody escape attempt and shooting at the Marin county Hall of Justice in August, 1970, and 11 to 1 for conviction on a charge of kidnaping.

When the motion for venue change was ruled on yesterday, Magee's court-appointed attorney, Robert

Carrow, protested he was unaware of it, that it was "filed without my knowledge."

But Ertola, currently the Superior Court's master calendar judge here, speedily granted the motion — in less than 30 seconds.

So the legal surprise by Magee — a self-taught convict-attorney of considerable experience — will now go to the state Judicial Council for review and presumably for re-assignment.

Assistant Attorney General Albert Harris Jr., who prosecuted Magee in the first trial, said he has "no objections" to the change of venue if the state feels it is in "the interest of justice."

Magee now "wants to go to Los Angeles," Carrow said later.

Before the ruling, a motion by Carrow that the kidnap charge against Magee be dismissed on the grounds of double jeopardy was denied by Superior Court Judge Morton R. Colvin, who presided over the first trial.

A dismissal is "not in the further interest of justice," he said.