

LOUISIANA TRIAL OF SHAW ASSURED

High Court Refuses to Block Action in Kennedy's Death

Special to The New York Times

WASHINGTON, Dec. 9—The Supreme Court refused today to bar Jim Garrison, New Orleans District Attorney, from prosecuting Clay L. Shaw on charges of conspiring to assassinate President Kennedy.

In an unsigned order the Court affirmed a decision by a three-judge Federal District Court that declined to block Mr. Garrison and his assistants from proceeding with the trial.

Today's action thus removes the legal barrier that had delayed for six months the trial in which Mr. Garrison has vowed to prove that the Warren report was wrong in concluding that Lee Harvey Oswald acted alone in killing President Kennedy in Dallas on Nov. 22, 1963.

Chief Justice Earl Warren, chairman of the Presidential commission that reached that conclusion, did not participate in today's decision.

Mr. Shaw, a 55-year-old retired businessman, was arrested on March 1, 1967, on charges of having conspired with David W. Ferrie, Oswald and others to murder President Kennedy. A week before the arrest, Ferrie died of what the city coroner said were natural causes. Mr. Garrison called the death a suicide.

Named by a Witness

At a pretrial hearing a witness, Perry R. Russo, said he had heard Mr. Shaw, using the name Clem Bertrand, discuss the assassination of President Kennedy with Ferrie and a Leon Oswald, whom he identified as Lee Harvey Oswald. This discussion was said to have occurred at Ferrie's apartment about two months before the assassination.

On May 27, 1968, two weeks before the trial was scheduled to begin, Mr. Shaw filed suit in Federal District Court in New Orleans. He accused Mr. Garrison of prosecuting him merely to obtain a judicial forum "to discredit the Warren report and its findings."

A three-judge Federal District Court ruled on Aug. 13 that if Mr. Shaw's Federal constitutional rights were violated at his trial, he could obtain relief by appealing the conviction. It refused to bar the trial.

In his appeal to the Supreme Court, Mr. Shaw accused Mr. Garrison and his assistants of "conducting a reign of terror by the misuse and abuse of the public offices which they hold."

The appeal also called upon the Supreme Court to order the Attorney General to intervene in any case in which the Warren report is being impugned by a public prosecutor.

January Trial Planned

Special to The New York Times

NEW ORLEANS, Dec. 9—James L. Alcock, Assistant District Attorney said today that he thought the trial of Mr. Shaw would last at least six weeks and would probably begin in January.

Mr. Alcock, commenting for Mr. Garrison, who referred all questions to his assistant, said: "We are happy and gratified at the ruling of the United States Supreme Court, but it was not really a surprise since the law was on our side all along. Three Federal judges found probable cause and so did the grand jury, so we are not surprised by today's ruling."

A spokesman for the Criminal Court said that selection of the jury could start on Jan. 6, the first Monday of the month. He also said it was up to the District Attorney's office to set the date for trial.

Mr. Shaw's attorneys, the spokesman went on could still ask for a continuance to delay the case's start in January if they could convince the court they had a legal reason for the delay.

Mr. Alcock said he did not know whether Mr. Shaw's attorneys would ask for a rehearing of the Supreme Court ruling. Edward Wegmann, one of Mr. Shaw's attorneys, said he would not comment on the ruling until he had had a chance to study it.

Mr. Alcock also declined a comment when asked how many witnesses he would call.

Supreme Court's Actions

Special to The New York Times

WASHINGTON, Dec. 9—The Supreme Court took the following actions today:

CIVIL RIGHTS

Agreed to rule on the duty of an outdoor recreation area organized as a club to comply with the public accommodations section of the Civil Rights Act of 1964 and admit Negroes to "membership" (No. 488, Daniel v. Paul).

Affirmed a lower court ruling that declared unconstitutional a South Carolina law of 1963 that provided students financial aid for tuition to attend private, segregated schools (No. 553, South Carolina State Board of Education v. Brown; No. 563, Cribb v. Brown).

CRIMINAL LAW

Dismissed as improvidently granted the appeal of a convicted robber who had asked the Justices to extend to the states the controversial Malloy v. United States ruling of 1957, which excludes from evidence confessions taken by Federal officers during an unreasonable delay between arrest and arraignment of a suspect (No. 131, Palmieri v. Florida).

Affirmed a ruling by a three-judge Federal court that said Louisiana may proceed to try Clay L. Shaw of New Orleans, retired businessman, for conspiracy to assassinate President Kennedy (No. 579, Shaw v. Garrison).

LABOR

Agreed to review court holding men in

right of an inmate of a Federal prison to sue prison officials for damages in state court if he could show he had been tortured by prison doctors who were experimenting outside the scope of their official duties (No. 228, Wilingham v. Morgan).

SELECTIVE SERVICE

Agreed to review a lower court's decision that it could not consider a Negro draftee's argument that no Negroes had served on his draft board, because the registrant failed to appeal his reclassification within the 10-day period required by Selective Service regulations (No. 442, misc., Duvernay v. United States).

Dismissed as improvidently granted the appeal of a convicted draft evader who had not kept his draft board informed of his residence but had sent the board postcards as he drifted around the United States and Mexico, telling them that he would notify them when he got settled (No. 74, Stiles v. United States).

SPEECH

Agreed to consider the appeal by 10 Negro militancy that the prosecution them for violating New York criminal law of 1902 the

TUESDAY, DECEMBER 10, 1968

Actions in Supreme Court

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WASHINGTON, Dec. 9—In the Supreme Court of the United States the following proceedings were held today:

- 131—Carmine Vincent Palmieri, petr., v. Florida. On writ of cert. to the Supreme Court of Florida. Writ of cert. dismissed as improvidently granted. Opinion per curiam announced by Chief Justice Warren.
- 74—Philip Jerome Stiles, petr., v. United States. On writ of cert. to the United States Court of Appeals for the First Circuit. Writ of cert. dismissed as improvidently granted. Opinion per curiam announced by Chief Justice Warren.
- 553—South Carolina State Board of Education et al. v. Brown et al.; and
- 563—Cribb et al. v. Brown et al. Appeals from the U.S. Dist. Court for the Dist. of South Carolina. Per curiam. Motion to affirm granted and judgment affirmed.
- 579—Shaw v. Garrison et al. Appeal from the U.S. Dist. Court for the Eastern Dist. of Louisiana. Per curiam. Motion to affirm granted and judgment affirmed. The Chief Justice did not participate.
- 439—Landy v. Boyle, Chief Justice, et al. Appeal from the U.S. Dist. Court for the Northern Dist. of Illinois. Per curiam. Appeal dismissed for failure to comply with Rule 13(1).
- 423 Misc.—Moore v. Ohio Appeal from the Supreme Court of Ohio. Per curiam. Motion to dismiss granted and appeal dismissed for want of jurisdiction. Treatise writ of cert., cert. denied
- 747 Misc.—Cross v. the Supreme Court Appeal from the Supreme Court

- 577—Bilmo v. Commissioner of Internal Revenue.
- 581—Grossman v. United States.
- 583—Sanner v. Trustees of Sheppard & Enoch Pratt Hospital.
- 585—Trujillo-M v. Bank of Nova Scotia.
- 588—MLH Products v. N.L.R.B.
- 589—Marxvack v. United States.
- 590—Jayson v. United States.
- 556—Anderson v. Empire Seafoods, Inc. Justice Douglas of opinion cert. should be granted.
- 558—Penniston v. United Mine Workers of America. Justice Black of opinion cert. should be granted. Justice Fortas did not participate.
- 568—Quinn v. United States. Justice Marshall did not participate.
- 584—Ramos v. United States. Justice Marshall did not participate.
- 89 misc.—Dvorsky v. United States.
- 116 misc.—Small v. Cohen.
- 136 misc.—Shale v. United States.
- 178 misc.—Gruenwald v. Cohen.
- 207 misc.—Williams v. United States.
- 248 misc.—Frazier v. United States.
- 252 misc.—Reed v. United States.
- 304 misc.—Gallagher v. United States.
- 324 misc.—Gray v. United States.
- 335 misc.—Watson v. United States
- 343 misc.—Moore v. Coup.
- 413 misc.—Gilbert v. United States.
- 416 misc.—Alaway v. United States.
- 428 misc.—Hill
- 460 misc.—
- 466 misc.—