

U.S. COURT REFUSES
TO HALT SHAW TRIAL

No Ruling On Validity Of Report

A three-judge federal court today refused to stop the trial of Clay L. Shaw, under indictment for conspiring to assassinate President John F. Kennedy.

The court also denied a motion by Shaw's attorneys for a decree that the Warren Commission Report on Kennedy's death be "valid and binding on all courts."

SHAW'S ATTORNEYS indicated they may appeal to the U.S. Supreme Court.

Attorney Edward F. Wegmann said no decision on further action will be made until he confers with his colleagues, but added:

"It is unlikely that I'm going to accept this as a final decision."

FIRST ASSISTANT District Attorney James L. Alcock said he would have no comment.

The ruling today came in answer to a suit filed by Shaw seeking injunctive relief against prosecution by District Attorney Jim Garrison and his staff. Shaw has been scheduled for trial before Criminal District Judge Edward A. Haggerty Jr. No date has been set for the trial, pending further federal court appeals.

Two other Shaw motions were also denied, including a request that U.S. Attorney General Ramsey Clark be made a party to the suit.

The panel also denied a request that assistants of Garrison be required to answer

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questions put to them by Shaw's lawyers.

"NO AUTHORITY has been cited, nor have we found any that authorize this . . ." the panel said.

The Warren Commission concluded that Lee Harvey Oswald acted alone in killing the President. Garrison contends that Shaw conspired with Oswald, David William Ferrie and others in New Orleans to plot the assassination.

Shaw's attorneys had sought to include the entire Warren Report as part of the evidence in the case.

AT THE END of a 26-page decision released by the Clerk of Court's office, Fifth Circuit Court of Appeals Judge Robert A. Ainsworth and District Judges James A. Comiskey Jr. and Frederick J. R. Heebe concluded:

"As a matter of law, plaintiff Shaw's request for relief in the Federal Court is premature, for under our system of Federalism in the circumstances presented here, he must first seek vindication of his rights in the state courts as to this pending prosecution."

In the unanimous decision, the federal judges ruled on a number of other points argued by the defense:

—**SHAW HAS** demonstrated no constitutional invalidity in the Louisiana conspiracy statute.

—No evidentiary hearing is required prior to the ruling, as requested by attorneys for Shaw.

—The court agreed that U.S. Attorney General Ramsey Clark should not be compelled to be made a part of the federal court action involving Shaw.

THE COURT disagreed with Shaw's contention that prosecution of the case in the state court has resulted in irreparable harm to him.

The judges concluded that stopping the trial would have serious effects on future law at the state court level.

" . . . We entertain serious doubts about the appropriateness of stopping a pending state court prosecution to consider a request of plaintiff (Shaw) for a declaratory judgement as to the constitutionality of . . . the conspiracy statute under which he is being prosecuted."

AT ANOTHER point, the court said, "Our doubt about the propriety of giving consideration to the request for declaratory relief in the circumstances of this case is based upon our concern that by permitting a defendant to interrupt a state court prosecution to challenge the statute under which he is being prosecuted, we would open the door to constant disruption of state court criminal proceedings."

The 55-year-old retired New Orleans businessman was arrested on the charge March 1, 1967, and a special three-judge state panel later ruled the state had sufficient evidence to bind Shaw over for trial following a preliminary hearing. Shaw was indicted on the conspiracy charge by the Orleans Parish Grand Jury March 22, 1967.

The federal court suit was filed following rulings denying Shaw's plea for a change of venue.

SHAW HAD charged in his suit that he was being prosecuted in bad faith by Garrison and that his constitutional rights were being violated because of the manner in which Garrison and his staff were conducting the investigation.

Shaw's attorneys had contended that the district attorney had Shaw indicted "solely and only for the purpose of using him as a vehicle to the forum which they (Garrison and his staff) sought for their attacks on the Warren Report."

Shaw's attorneys alleged that their client was being used as a pawn in a "false and fraudulent investigation of the Kennedy assassina-

tion."

But the court observed that Shaw's attorneys did not claim continuous harassment of their client, as was the case in other legal actions cited, where federal courts intervened to protect individual constitutional rights.

THE COURT noted that on the one hand, Shaw's attorneys say that Garrison is not motivated by any expectation of getting a valid conviction, and on the other hand that they fear their client may be convicted.