

Shaw Loses a Plea to Bar Trial As Plotter in Kennedy Slaying

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NEW ORLEANS, July 23—A three-judge Federal court here refused today to bar the scheduled trial of Clay L. Shaw, who is under indictment for conspiring to assassinate President Kennedy.

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

Edward F. Wegmann, an attorney for Mr. Shaw, said that an appeal to the United States Supreme Court would probably be taken.

Today's ruling came in answer to a suit filed by Mr. Shaw seeking injunctive relief against prosecution by District Attorney Jim Garrison and his staff. Mr. Shaw has been scheduled for trial before Criminal District Judge Edward A. Haggerty Jr. No trial date has been set.

At the end of the 26-page decision released by the Court of Appeals for the Fifth Circuit, the judges 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."

Two other Shaw motions were also denied. One was a request that United States Attorney General Ramsey Clark be made a party to the suit. The other was a request that assistants of Mr. Garrison be required to answer questions put to them by Mr. Shaw's lawyers.

Irreparable Harm Denied

The unanimous decision was made by Circuit Judge Robert A. Ainsworth and District Judges James A. Comiskey Jr. and Frederick J. R. Beebe, all of New Orleans.

The Warren Commission concluded that Lee Harvey Oswald acted alone in killing President Kennedy. Mr. Garrison contends that Mr. Shaw conspired with Oswald, David W. Ferrie and others in New Orleans to plot the assassination. Mr. Shaw's attorneys had sought to include the entire Warren Report as part of the evidence in the case.

The court disagreed with Mr. Shaw's contention that prosecution of the case in the state court had 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 for a declaratory judgment as to the constitutionality of . . . the conspiracy statute under which he is being prosecuted," the court said.

Mr. Shaw, a 55-year-old retired New Orleans businessman, was arrested March 1, 1967. A special three-judge state court later ruled that the state had sufficient evidence to bind him over for trial following a preliminary hearing.

Mr. 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 Mr. Shaw's plea for a change of venue.