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Shaw-Garrison lead 310

By GUY COATES

Associated Press Writer

NEW ORLEANS AP —A federal appeals court upheld on Monday a lower court ruling preventing Dist. Atty. Jim Garrison from further prosecution of businessman Clay Shaw on a perjury charge in connection with a probe of the assassination of President John F. Kennedy.

The 5th U.S. Circuit Court of Appeals, in a 21-page ruling, upheld a lower court judge who had blocked the New Orleans district attorney from prosecuting Shaw.

Shaw, a New Orleans businessman, was arrested by the New Orleans district attorney in 1967 and charged with conspiracy to assassinate Kennedy. He was acquitted.

Two days after the acquittal, Garrison filed the perjury charges, saying Shaw lied when he testified that he never knew Lee Harvey Oswald, the man the Warren Commission said had killed the president.

U.S. District Court Judge Herbert Christenberry blocked Garrison in 1971 from pursuing the Shaw case any further, accusing the district attorney of persecuting the defendant.

Christenberry said Garrison never even proved that he had any reason to arrest Shaw on the conspiracy charges.

In a 21-page ruling upholding Christenberry, the 5th U.S. Circuit Court of Appeals noted the delay between the assassination and Garrison's actions.

"It is strange indeed," the court said, "that, nearly three years after the assassination, Garrison would decide to undertake an investigation of such gravity merely because he disagreed with the findings of the Warren Commission and Oswald had spent some time in New Orleans."

Shaw had gone to Christenberry to block Garrison's further prosecution, saying that the district attorney's case was inflicting "irreparable injury" to him.

Key arguments: 7th graf a246-265

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NEW ORLEANS, LA. AP - The 5th U.S. Circuit Court of Appeals affirmed on Monday a lower court decision which blocked the perjury trial of New Orleans businessman Clay L. Shaw, accused of lying in the 1969 probe of the assassination of President Kennedy.

Dist. Atty. Jim Garrison had lodged the perjury charges against Shaw two days after Shaw and others were acquitted of conspiracy to kill the president.

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Shaw-Garrison Add

NEW ORLEANS, Shaw-Garrison add A246: president.-

Shaw was found innocent of the conspiracy charge after a 34-day trial in state Criminal District Court here in 1969.

Two days later, Garrison charged that Shaw had lied under oath when he testified that he never knew Lee Harvey Oswald, accused slayer of Kennedy, and David Ferrie, named as a coconspirator.

He then won a U.S. District Court injunction against further prosecution, with the judge ruling that Garrison had acted in bad faith in filing the perjury charge.

The 5th U.S. Circuit Court of Appeals took Garrison's plea for a reversal of the ruling under advisement after an hour-long hearing in which the district attorney's lawyer argued that Judge Herbert W. Christenberry hadn't given him a fair decision.

Key arguments were on whether the Garrison-Shaw controversy fit within legal precedents laid down by previous "bad faith" prosecution cases and whether Shaw's acquittal was based on the alleged perjury.

Garrison held that Shaw's denial that he knew either man was perjury, and that the trial jury's verdict of innocent did not mean that the jurors had accepted everything Shaw said as truth.

The plea also argued that Judge Christenberry displayed obvious bias against Garrison, and that no legal precedent upheld the ruling.

Shaw's lawyer said the legal precedent was clear, Judge Christenberry was not biased, and the trial jury, in finding Shaw innocent, had already ruled on the truth of his testimony and the issue could not be tried again.

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