

5-Day Contempt Sentence GERVAIS SUES TO AVOID JAIL

By DALE CURRY

Attorneys for Pershing O. Gervais today filed suit in federal court here to block a five-day contempt of court sentence imposed by a Gretna judge if he refuses to testify before a Jefferson Parish Grand Jury Friday.

A hearing was set on the suit late this afternoon by U.S. Dist. Judge Herbert W. Christenberry.

Gervais, the subject of a federal court hearing under way this week to determine whether he voluntarily cooperated with the government in the Jim Garrison pinball bribery case, has been given until Friday to testify before the Jefferson grand jury or face the jail term.

The Jefferson grand jury is probing allegations that rackets figure Carlos Marcello paid a \$5,000 bribe to former Criminal District Court Judge Malcolm V. O'Hara.

In his suit, Gervais seeks:

1. An injunction to halt his imprisonment.
2. An injunction to stop his appearance before the Jefferson grand jury.
3. A judgment declaring unconstitutional state laws governing immunity to witnesses and the impaneling of a three-judge court to decide the question.

Gervais was subpoenaed Sept. 1 to appear before the Jefferson Grand jury but refused to answer questions, invoking his Fifth Amendment rights under the U.S. Constitution.

Judge Floyd Newlin of the 24th Judicial District Court imposed the five-day sentence but later gave him until Friday to appear or face the jail term.

In his suit today Gervais said he fears federal prosecution as a result of his testimony to the grand jury since state laws on immunity do not guarantee him immunity from federal prosecution.

He said he is especially concerned about being prosecuted because of the testimony of John Wall, head of the Justice Department's Organized Crime Strike Force here, who has said that all deals with Gervais made during the Garrison probe are off.

Information supplied by Gervais, a one-time chief investigator for Garrison, has led to the indictment of the district attorney, two former police officials and seven pinball figures on

charges that Garrison was paid to protect illegal pinball operations.

The federal charges against Garrison and the others are still pending in federal court here.

In his suit, Gervais claims the state law governing immunity to witnesses is unconstitutional because it is too broad.

The charges involving the alleged payment by Marcello to O'Hara came to light during a report by federal agents to the Orleans Parish Grand Jury, which was considering Gervais' tapes of conversations.

O'Hara has since retired from the bench because of physical incapacities.