

Berkowitz, Seeking Impartial Jury, Asks for Trial in Sullivan County

By MAX H. SEIGEL

Lawyers for David R. Berkowitz, who is accused of being the .44-caliber killer, applied yesterday to have his coming trial moved from Brooklyn to Sullivan County or some other upstate area in order, they said, to get an impartial jury.

The 24-year-old former postal clerk, also known as "Son of Sam," is charged with murder, attempted murder, criminal possession of a weapon and assault in the slaying of 20-year-old Stacy Moskowitz last July 31.

In papers filed with the Appellate Division of State Supreme Court in Brooklyn, the defense lawyers, Leon Stern and Ira J. Jultak, contended that "a fair and impartial trial cannot be had in the County of Kings" because of "the existence of biased and prejudiced public opinion."

Some Other Objections

This resulted, they said, from the way newspapers, radio and television had covered the case. They cited articles about alleged "confessions" and "diaries of death." They also cited the extrajudicial statements and public interviews of Justice John R. Starkey, who subsequently removed himself from the case; the publication and sale of a book entitled, "Son of Sam the .44 Caliber Killer," and plans to sell a "Son of Sam" T-shirt.

The lawyers cited, in addition, demonstrations and calls for the execution of Mr. Berkowitz. All this, they asserted, has exerted severe pressures upon potential jurors and has made it extremely difficult, if not impossible, to try the case on its merits.

In expressing a preference for Sullivan County, they said they could hope for some measure of fairness there because the residents were not specifically threatened, had endorsed no vigilante groups and had been psychologically removed from the case.

While conceding that at some point or other the case has been publicized all over the state, the defense lawyers cited circulation figures of The New York Times and The Daily News showing that their Sullivan County circulation was a tiny fraction of that in New York City.

District Attorney Eugene Gold of Brooklyn, whose staff already has done a survey of upstate coverage of the case, is expected to oppose the motion for a change of venue on the ground that there has been widespread publicity throughout the state and that the chances of getting an unbiased story would be no greater there than in Brooklyn.