

2 Judges to Sentence Berkowitz June 12

By **MAX H. SEIGEL**

Barring an unforeseen development, David R. Berkowitz will be sentenced for the "Son of Sam," murders on June 12 no matter how he behaves in court or what his next psychiatric examination shows, Justice Joseph R. Corso of State Supreme Court said yesterday.

He emphasized that he had asked for a new examination of the .44-caliber killer "in aid of sentence" under Section 390.30 of the Criminal Procedure Law.

The purpose, according to specialists in criminal procedure, is to get a more up-to-date mental picture of the prisoner.

If he is found to be too mentally ill to be sentenced—that is, if he does not understand what is happening—then he will be sent to a state facility such as the Mid-Hudson Complex until he is found fit to be sentenced.

Another purpose, the specialists say, may be to try to get an explanation of his outbreak in court Monday, when he was scheduled to be sentenced, and possibly to determine whether he had planned to act that way, perhaps in an effort

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Two Judges Plan to Sentence Berkowitz in 'Son of Sam' Killings

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to cast doubt on earlier findings that he was competent.

Finally, the specialists say, a finding that Mr. Berkowitz is not fit to be sentenced may bring a motion from his lawyers to set aside his guilty plea.

But since both Justice Corso and Dr. Daniel Schwartz, the chief of forensic psychiatry at Kings County Psychiatric Center—who has examined Mr. Berkowitz more than any other psychiatrist—both are said to be convinced he is fit to be sentenced, any application to set aside the guilty plea would be expected to be speedily rejected.

If Mr. Berkowitz is sentenced June 12, as is expected, it is said he will be sent at once to the Ossining Correctional Facility, a holding center. Afterward, it is expected he will be sent to the Clinton Correctional Facility in Dannemora, where some mentally ill criminals are held. Authorities there, officials say, would test Mr. Berkowitz further to determine whether to keep him at Dannemora or send him elsewhere.

It was learned yesterday that Justice Nicholas Tsoucalas of Queens also planned to pronounce sentence on Mr. Berkowitz June 12. Justice William Kapelman of Bronx would not say anything.

The three judges are cooperating in the case to avoid the necessity of separate trials based on crimes in the three boroughs.

The possibility of repeated delays in sentencing resulting from challenges of psychiatric examinations was raised during Monday's tumultuous court session in Brooklyn by District Attorney Mario Merola of the Bronx. In asking Judge Kapelman to sentence Mr. Berkowitz then and there for three Bronx murders, Mr. Merola warned that any delay could set a precedent that might lead to other delays. "Where will it end?" he asked.

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