

Judge Allows Peltz to Withdraw As Legal Counsel for Berkowitz

By MARCIA CHAMBERS

Philip Peltz, the Brooklyn lawyer under investigation for allegedly attempting to sell the taped memoirs of David R. Berkowitz, his client was allowed yesterday to withdraw as counsel to Mr. Berkowitz, the man accused of being the .44-caliber killer.

A State Supreme Court justice, Leonard E. Yoswein, approved Mr. Peltz's motion to withdraw from the case three weeks after the Court Street lawyer filed it. Since that time, Mr. Peltz, for all practical purposes, has not been on the case.

Although Justice Yoswein had intended to hold a hearing, particularly, he said to examine the "entire attorney-client" relationship, he issued instead a brief order and decision from his chambers yesterday.

He changed his mind, he said, for a variety of reasons: The defense team now handling the case did not object to Mr. Peltz's withdrawal since it did not know him, and the tapes Mr. Peltz made with Mr. Berkowitz at Kings County Hospital, an issue three weeks ago, were no longer an issue since they had been impounded by the court.

Obtained Power of Attorney

Mr. Peltz had obtained a power of attorney from the 24-year-old former postal clerk giving the lawyer full title to literary and media rights arising from the "Son of Sam" case, in which Mr. Berkowitz is accused of killing six persons in a yearlong series of ambush shootings. But Justice Yoswein included in his five-paragraph written decision a sworn statement by Mr. Peltz that he would "relinquish all fees, earnings or commissions" derived from the case.

Mr. Peltz, convicted seven years ago of Federal securities violations, is now under investigation by the Appellate Division for the Second Department in Brooklyn for that case and for his alleged recent attempts to sell the Berkowitz tapes to The Daily News and The New York Post only a day after he first said he

had been asked to serve as one of Mr. Berkowitz's lawyers.

Mr. Berkowitz has never specifically been questioned by a Supreme Court justice on Mr. Peltz's decision to withdraw from the case, but Mr. Berkowitz no longer acknowledges Mr. Peltz as his attorney, stating when asked that he is represented by Leon Stern, Ira Jultak and Mark Heller, all of Mineola, L.I. Justice Yoswein said that in acting without a hearing he was attempting to "eliminate some of the complexity in the case," but the reasons he cited in his decision for avoiding a hearing existed three weeks ago.

Psychiatrists' Report Challenged

Mr. Berkowitz's father, Nathan, through Mr. Stern and Mr. Jultak, moved to be appointed conservator of his son's property, financial and otherwise, the day after two court-appointed psychiatrists found Mr. Berkowitz incompetent to stand trial at this time.

The psychiatrists' report, filed in court last week, has been challenged by the Brooklyn and Queens District Attorneys. A State Supreme Court justice in Brooklyn is expected to be the first to take psychiatric testimony at hearings this fall before ruling on Mr. Berkowitz's competency to stand trial. This decision will be a judicial, not a psychiatric one.

As part of the process of appointing a conservator for Mr. Berkowitz, Justice Carmine A. Ventiera of State Supreme Court in Brooklyn appointed Justice Harry Gittleson, a retired Appellate Division justice, to serve as Mr. Berkowitz's guardian.

Justice Gittleson visited Mr. Berkowitz at Kings County Hospital and has interviewed Dr. Daniel W. Schwartz, the head psychiatrist who made the initial findings of incompetency. Justice Gittleson will submit his findings to Justice Ventiera, stating whether he thinks Mr. Berkowitz should be appointed conservator for his son prior to a hearing scheduled for Sept. 19.