

Defense Lawyer to Fight Jolls Case Mistrial Rule

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The defense attorney for 18-year-old Chyrel Jolls, whose kidnap trial ended in a mistrial Tuesday, said he will contest today a psychiatric report that his client is incapable of standing trial.

Atty. L. Robert Leisner, found in contempt of court Tuesday by County Judge Charles J. Gaughan, will appear at a hearing on the mistrial order at 10 this morning in County Court.

The judge said he came to his decision on the mistrial on the basis of his observations of the defendant during 13 days of jury selection in the case and five days of testimony.

"The defendant has deteriorated both mentally and physically," Judge Gaughan said.

"It has become apparent that neither this defendant . . . nor the people can have a fair and impartial trial in this matter."

Before the jury was brought into court to be dismissed, Judge Gaughan asked Leisner several times whether he planned to controvert the psychiatric report.

The defense lawyer evaded an immediate direct answer to the question. He quoted the U.S. and state constitutions "that a defendant can be heard," and challenged the jurisdiction of the court.

"I will have no part in a confirmation of this report to send this girl away to Matteawan State

Hospital for the Criminally Insane, and I will dispute this report," Leisner told the judge.

When the defense lawyer interrupted the judge several times so that he could be heard on this matter," The judge threatened to hold him in contempt if he continued.

"Your honor," continued Leisner, "I respectfully ask to be heard on this question of what the court is doing with this jury. This girl is in jeopardy before a jury of her peers. . ."

At this juncture Judge Gaughan said: "Mr. Leisner, 'I hold you in contempt.'" When Leisner continued to take exception, the judge said, "Mr. Leisner, if you continue I will have you removed to the jail."

The judge held in abeyance any disposition on his contempt ruling.

The Jolls girl was on trial on a charge she kidnaped Richard Edgington, of 81 Saranac Ave., on June 22, 1961, when he was 5 years old. Another indictment, alleging she kidnaped and murdered Andrew T. Ashley, 3, on June 23, 1961, was held in abeyance.

If the psychiatric report on the defendant is confirmed, she would be returned to Matteawan State Hospital.

The Jolls girl was confined to the hospital at Beacon, N.Y., from Jan. 12, 1962, to April 1, 1964, when she was returned here as sufficiently recovered to stand trial.