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Yapp Fails In Bid For Dismissal

Superior Court Judge Gilbert Perry yesterday afternoon refused to dismiss a grand jury indictment charging Santa Cruz Attorney Lewis J. Yapp with felony theft.

Yapp's attorney, Richard Gladstein of San Francisco, told the court he was taking the matter to the district court of appeal for a further ruling before a plea would be entered. Judge Perry set January 28 at 10 a.m. for Yapp to enter a plea. Yapp, 44, remains free under \$1100 bail.

The indictment which was upheld yesterday is the second returned against Yapp accusing him of converting money to his own use while acting as escrow agent in the 1962 sale of the Del Mar club at 107 Soquel avenue.

District Attorney Richard Pease yesterday said Yapp is accused concerning approximately \$8000 of the \$18,000 amount turned over to his trust. On Yapp's side of the case, it is put forth that he was given permission to borrow the money by William Gamblin, one of the parties involved in the sale.

Gladstein argued that there was insufficient evidence to bring a charge against Yapp. Judge Perry said during proceedings: "I perceive that there is sufficient evidence to hold the defendant to trial."

Gladstein also argued that he considered the indictment to be vague and indefinite and that a portion of the grand jury proceedings were noted "off the record" and not included in the transcript.

Judge Perry disagreed on both points, which were included in a demurrer, and overruled the demurrer.

In the earlier indictment against Yapp, Superior Court Judge Charles Franich dismissed the charge after Gladstein's arguments included no indication in the grand jury transcript that the jurors saw any documents in the case. At that time the judge recommended the matter be re-submitted to the grand jury.