

Extension is granted for Mandel case rehearing

By SHERIDAN LYONS

The United States Court of Appeals for the Fourth Circuit, in Richmond, has granted federal prosecutors another 30 days—until February 24—to decide whether they will seek reinstatement of the conviction of Marvin Mandel.

The U.S. attorney's office had until today to ask for a new hearing of its argument before the full court, but it was notified yesterday that the extension had been granted.

A three-judge panel heard arguments in the appeal July 19 and reversed the convictions January 11 in a 2-to-1 decision that found fault with the trial judge's instructions to the jury and with the admission of some testimony.

The third judge, in a dissenting opinion, said that the August, 1977, convictions of Mr. Mandel and five co-defendants on mail fraud and racketeering charges should be upheld.

Daniel J. Hurson, an assistant U.S. attorney, said in the petition filed with the appeals court Monday that Department of Justice procedures will require more than 14 days.

The recommendation of the Baltimore office to seek a rehearing must be

reviewed by the appellate section of the department's Criminal Division, he said, and the division's recommendation must then be approved by the solicitor general.

"The completion of that process, together with the time necessary to prepare such a petition, will require more than the 14 days normally permitted," Mr. Hurson said in the petition.

One of the seven appeals court judges, Judge Harrison L. Winter of Baltimore, has disqualified himself in the case. Thus, if re-argument before the full court is granted, the prosecution would have to convince all three of the judges who did not hear the original arguments that the lone dissenter on the panel was correct.

Although extensions of filing deadlines generally are granted, the appellate court rules do not favor granting re-argument before the full court.

If the Justice Department decides to seek a rehearing and is turned down by the court, it still may decide to seek a new trial or a hearing in the U.S. Supreme Court.

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