

Chesimard defense team

By SUE EMMONS

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NEW BRUNSWICK — Defense attorneys for JoAnne Chesimard yesterday filed suit in U.S. District Court in Trenton seeking to move her murder trial to the federal court.

The action will result in the automatic stay of jury selection for Mrs. Chesimard's trial once both Superior Court Judge Theodore Appleby and First Assistant Prosecutor Edward J. Barone are served with copies of the litigation.

Evelyn Williams, a member of the defense team and Mrs. Chesimard's aunt, was expected to hand deliver the complaint today. The litigation contends the trial should be transferred to the federal court because Mrs. Chesimard is being denied equal civil rights.

She is accused of murdering State

Trooper Werner Foerster and attempting to murder Trooper James Harper in a shootout on the N.J. Turnpike in East Brunswick on May 2, 1973. The indictment also charges her with felony murder in the death of her companion, James Costan Jr.

The federal court action, which was not unanticipated, came as the initial phase of jury selection for Mrs. Chesimard's trial apparently was moving smoothly in closed door proceedings. Judge Appleby termed the progress "satisfactory."

A total of 22 jurors remain, and two more passed the initial questioning providing they will be paid for the duration of their service. A total of 61 were interrogated, with 37 excused either for hardship reasons or because they had formed an opinion as to Mrs. Chesimard's innocence or guilt.

Neither Barone nor Assistant Prosecutor Kenneth Benze, who is assisting in the state's case, would comment on the defense action. William Kunstler, chief defense counsel for Mrs. Chesimard, also refused comment because he said court rules bar him from discussing the case.

Lennox Hinds, executive director of the Black Lawyers Conference, scheduled a press conference for mid-morning, presumably to discuss the newest development.

U.S. District Court Judge George Barlow must first study the litigation to determine if it is defective. If not, he is expected to schedule an immediate hearing.

seek federal trial

perhaps as early as this afternoon.

A similar effort during jury selection for the trial of Mrs. Chesimard, who later was severed from the case, and Clark Squire in 1974 was unsuccessful. U.S. District Court Judge Herbert Stern, in a reported decision, turned down the defense request at that time. Jury selection at that time was interrupted for only a day.

The new federal action contends that Mrs. Chesimard's civil rights have been violated by Judge Appleby's refusal to step down as trial judge. The defense has claimed continually that he is biased against the defendant for refusing to recess court on Friday which is the Mus-

lim sabbath, for ordering a show cause hearing for Kunstler after the veteran defender of political defendants spoke at Rutgers University, and for directing that a record be kept of Mrs. Chesimard's refusal to rise when he enters the court room.

The litigation also contends her civil rights have been violated by her jail conditions, particularly since she is held in solitary confinement as the sole woman in the Middlesex County Jail. A civil suit is presently pending before Middlesex County Court Judge Joseph Bradshaw arising from her jailing.

He has reserved decision after hearing

argument by Hinds and Assistant Middlesex County Counsel James Convery. Convery filed suit to block implementation of an administrative hearing officer's decision that she should be moved from the jail cell to the general female population at the Middlesex County Workhouse.

If the move to federal court is denied, the jury selection will continue here. It is expected one or two more contingents of jurors will be questioned behind closed doors before the action moves back to the court room for the more traditional jury selection.

At that time, the defense attorneys will have 20 peremptory challenges and the state 12.