Court Refuses To Curb Access To U.S. Data

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The Justice Department has failed to persuade the Supreme Court to consider relaxing the ground rules for court battles under the Freedom of Information Act.

Without discussion or recorded dissent, the high court yesterday refused to review two decisions by the U.S. Court of Appeals here forcing the government to meet the burden of proving that secret documents should not be divulged.

The high court also:

• Let stand a Pennsylvania Supreme Court decision rejected a bid by the Philadelphia Inquirer for access to confidential public welfare rolls.

• Agreed to hear the case of a convicted Los Angeles auto thief with a reserve twist on the right to counsel—the claim that a defendant who is not a lawyer has the right to represent himself without having court-appointed counsel thrust upon him.

• Refused to review a ruling that a life sentence under West Virginia's habitual-offender law was unconstitutional "cruel and unusual punishment" when applied to a man whose most serious conviction was for passing bad checks.

The two information act decisions handed down by the District of Columbia Circuit Court of Appeals last summer called for an end to "governmental obfuscation and mischaractrization" in suits by citizens for access to civil service and defense contractor documents.

Circuit Judge Malcolm R. Wilkey said the government repeatedly used the "tactical ploy" in such suits of automatically claiming "the broadest possible grounds for exemption for the greatest amount of information" sought by outsiders.

The 1966 law gave citizens the right to take government agencies to court over document secrecy but spelled out several categories of information that are exempt from disclosure, such as investigative and national security data.

To put an end to blanket, unsupported claims that information is exempt, the lower court set guidelines for future cases. It said the government must specify in detail which parts of large documents must be kept confidential and explain how the government would suffer by selective disclosure.

"Courts will simply no longer accept conclusory and generalized allegations of exemptions," Judge Wilkey said.

Solicitor General Robert H. Bork petitioned for high court review. "The procedures of the court of appeals," he said, "attempt to control the way in which the government should conduct its litigation."

Yesterday's cases involved the attempts of American University law professor Robert G. Vaughn to see Civil Service Commission policy reports and of a Washington law firm to see a Defense Department contract policy manual. Those contests will now resume in U.S. District Court here under the new ground rules.

In other action:

Right to Counsel

Thousands of convicted men have argued that they were denied skilled legal counsel, but Anthony P. Faretta, now an inmate in California's Soledad Prison, is telling the high court that he has a constitutional right to handle his own case without a lawyer.

Faretta was representing himself by court permission when the judge stopped the trial, asked several questions about the rules of evidence and decided that the accused needed someone from the public defender's office.

Faretta's apparently self-prepared petition showed thorough familiarity with appellate procedure. Rulings against him in California courts, he said, are "considerably at variance with the dictum of this court" in a 1942 case and "there is considerable conflict regarding this among the United States courts."

Obscenity

The court called for argument next term in cases from Birmingham, Ala., and Lima, Ohio, on the power of federal courts to intervene when local prosecutors try to shut down a movie house as a public nuisance for showing allegedly obscene films.