

'Compromised,' Judge Gesell Quits CIA Case

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A federal judge has removed himself from hearing any more arguments in a case involving access to documents about the Glomar Explorer project, saying that attorneys for the CIA had been "playing games" with him when they forced him to hold secret hearings in the case last year.

"I think I am compromised in the case," U.S. District Court Judge Gerhard A. Gesell told a CIA lawyer in a hearing this week. "I certainly can't accept your representations any longer and I wouldn't be able to accept the representations of witnesses" who testified in the earlier secret proceedings, he added.

Gesell's ire was incurred by the lawyer when the CIA finally admitted publicly last week that it was "involved" in the secret Glomar attempt to raise a sunken Russian submarine from the Pacific floor.

The CIA had earlier claimed before Gesell that even to confirm or deny its involvement in the project would endanger national security, and won a U.S. Court of Appeals ruling on those grounds that forced Gesell to hold the unprecedented secret hearings.

After those hearings, Gesell said, he was forced to make decisions based on the secret

material. "Then as soon as you face the realities of an appellate court, you change your position and take a direct opposite position from what you have been constantly taking in front of me," Gesell told Justice Department attorney Jeffrey Axelrad, who is representing the CIA.

Axelrad said the government had not attempted to mislead Gesell, but merely that the secrecy of the agency's involvement in the project had been re-evaluated recently by the National Security Council.

"It turns out that it was all just a game that was played over a period of a year in front of me," Gesell interjected. "... I was just made fun of by the agency."

The Judge called the government's actions "irresponsible," saying it had refused to disclose some of the 128,000 documents to him in the earlier secret proceedings. "It is an outrageous chapter in the courtroom," Gesell declared.

Axelrad said in the hearing that many of the documents at issue still could not be made public, and won an order keeping all the material under seal until another judge is selected.

The suit involves an attempt by a nonprofit group called the Military Audit Project to gain access under the Freedom of Information Act to CIA materials concerning the financing of the Glomar project by the government through Howard Hughes' Summa Corp.

MAP attorney William Dobrovir said he plans to file a motion to make all the previous proceedings public.