Justice Denies Bugging In AF Sergeant's Case

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The Justice Department said yesterday that no "bugging" devices were used in the government's investigation of a 33-year-old Air Force sergeant charged with conspiracy to commit espionage.

In a strongly worded brief filed in Alexandria Federal Court, the government accused attorneys for S. Sgt. Herbert W. Boeckenhaupt of "not acting in good faith but engaging in a fishing expedition to see what the government might have in its possession."

The government's brief was filed in reply to a motion by the sergeant's attorneys, Plato and James C. Cacheris, brothers from Alexandria.

Their motion, in addition to querying the government about possible wire taps, charged that the FBI illegally searched the airman's California apartment and claimed that he was arrested without a warrant and illegally detained.

The brief filed in reply stated "the government utilized no wire taps or other electronic listening devices during the investigation of this case."

However, the Justice Department said it would not concede that the defendant would be entitled to recordings if wire taps had been used.

In addition to denying the illegal search charge, Justice Department lawyers said that because Boeckenhaupt was arrested originally under the Uniform Code of Military Justice he was not entitled to the same rights that a civilian would have.

They also said the defendant's request for "all evidence . . . favorable" to him is "an attempt to expand discovery rights available to defendants under rules of Federal Criminal Procedures and Statutes.

Now being held in lieu of $50,000 bond, the airman is scheduled to go on trial May 22 in Alexandria, where a three-count indictment returned in December charged that he met twice with a Russian diplomat and conspired to deliver code books and other information.

Boekenhaupt, formerly assigned to the Pentagon, was arrested in California in October. If convicted, he would face the death penalty.