

# Judge Won't Lift Ban on CIA Articles

By Paul G. Edwards

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U.S. District Judge Albert V. Bryan Jr. ruled tentatively yesterday in Alexandria that Victor L. Marchetti, former agent for the Central Intelligence Agency, signed away his constitutional right to write and talk about CIA activities and policies.

Bryan refused to dissolve a temporary restraining order that he imposed on Marchetti Tuesday. He also denied Marchetti's lawyers access to a CIA affidavit that explains why the agency believes Marchetti's past writings and public statements have violated national security.

Both rulings were appealed immediately. A hearing on the appeal is scheduled for 10:30 a.m. today in Baltimore before Judge Harrison Winter of the

U.S. Fourth Circuit Court of Appeals.

Whether or not the appeal succeeds, a hearing will be held before Bryan next Friday on the government's motion for a preliminary injunction that would bar Marchetti indefinitely from writing books and articles or making statements about the CIA that do not have the agency's approval.

The key issue in the case is the secrecy pact that all CIA agents sign in making his ruling from the bench, Bryan said. "My opinion tentatively is that this is not a First Amendment case. I am not convinced that there is not a difference between the government as an employer and the government as sovereign. It is my opinion that this is a traditional employer-employee case."

He added that it appears on the face of the government allegations that Marchetti may have violated his agreement with the CIA.

Since he left the CIA in 1969 after 14 years as an agent and administrator, Marchetti has written a spy novel, "The Rope Dancer," and had an article critical of the CIA published in "The Nation" magazine.

Melvin L. Wulf, legal director of the American Civil Liberties Union and one of Marchetti's lawyers, said during yesterday's hearing that Marchetti is working on a book about the CIA to be published in 1973 by Alfred A. Knopf, a subsidiary of Random House.

Wulf also said that the former CIA official did some work on an article for Esquire magazine, but has withdrawn from that project.

Wulf and ACLU general and Post" preventing the counsel Norman Dorsen argued that a secrecy pact that Marchetti signed when he went to work for the CIA in 1955 cannot be used to abridge his First Amendment right of free speech and press.

Wulf said Marchetti's case is "precisely like" last year's Pentagon papers case in which the government tried unsuccessfully to stop the New York Times and The Washington Post from printing classified Defense Department accounts of the origins of the Vietnam war.

Justice Department attorney Irwin Goldbloom argued that "this is not a First Amendment case" and that the "new York Times case has no application here."

"There was no allegation in that case," he said, "that there was an agreement between the government and the Times to

prevent the newspapers from publishing the information.

In making his ruling from the bench, Bryan said, "My opinion tentatively is that this is not a First Amendment case. I am not convinced that there is not a difference between the government as an employer and the government as sovereign."

"It is my opinion now that this is a traditional employer-employee case." He added that it appears on the face of the government allegations that Marchetti may have violated his agreement with the CIA.

Wulf agreed that Bryan's refusal to let Marchetti's lawyers see the secret CIA affidavit charging security violations by the former agent "emasculates our ability to prepare a defense." Bryan, however, refused him access to the document.