

Kelley Deposition Ordered in SWP Civil Suit

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FBI Director Clarence M. Kelley has been ordered to give a sworn deposition about the bureau's use of illegal burlagaries, break-ins, wiretapping, mail covers and electronic surveillance during its recently concluded 38-year investigation of the Socialist Workers party.

In ruling against a government motion seeking to quash Kelley's deposition, U.S. District Judge Thomas P. Griesa in New York City indicated that two years ago he would never have allowed the head of the FBI to undergo such an extraordinary examination.

But based on recent disclosures about FBI activities, the judge emphasized that, "I cannot presume that Mr. Kelley is without information relevant to this action."

DECLARED GRIESA, "I cannot conceive of not permitting a deposition of Mr. Kelley in this case." The judge rejected further pleas by the government that Kelley be allowed to respond to written questions rather than submit to an oral deposition.

He told the government's attorney, Asst. U.S. Atty. William S. Brandt at the hearing on Friday to appeal "to a higher authority" if he disagreed with the ruling.

The deposition will be taken as part of the SWP's \$40 million civil suit against

the bureau and other federal law enforcement agencies charging them with illegal harassment and intimidation.

In making available details of the hearing yesterday, SWP spokeswoman Cathy Perkus said that the party's attorney, Leonard Boudin, was to meet tomorrow in New York with Brandt to set the date for the taking of Kelley's deposition.

GRIESA ALSO ordered that the FBI make available the full texts of all of Kelley's communications to field offices regarding the Justice Department's decision to end the bureau's investigation of the party. Perkus said that Kelley would also be questioned about these field directives. She said that a number of questions have been raised as to whether the investigation is still continuing under a different guise.

Earlier this week, the party made public a message sent by Kelley to field offices on Sept. 13 ordering discontinuance of the investigation. However, the directive noted that investigations of individual party members should be continued in cases where a "member has engaged in activities which indicate he is likely to use force or violence in violation of a federal law."

But 10 days later Kelley sent another directive to clarify the earlier one. This directive said that any continued investigation must be based on Atty. Gen. Ed-

ward H. Levi's new guidelines on domestic intelligence investigations.

LEVI ORDERED the bureau's probe of the SWP ended on Sept. 13 after concluding the investigation did not conform with the new guidelines. These guidelines state in effect that the FBI cannot probe an organization solely for intelligence gathering purposes because it suspects that an illegal act might take place in the future.

Perkus said that the wording of Kelley's two directives has raised suspicions that the bureau is trying to get around the guidelines.

The SWP is also attempting to get the names from the bureau of 66 informants who are still active members. Kelley, in his two directives, ordered field offices to notify the informants "to discontinue active information gathering" but the informants were not advised to give up their membership in the party.

Peter Camejo, the SWP's candidate for president, said in a statement issued earlier this week that Kelley's instructions to subordinate "make it clear that the whole 'termination' of the FBI's harassment of the SWP was a publicity stunt without substance."

THE GOVERNMENT, in a document filed on Oct. 1 as part of the civil suit against it, indicated that it still felt the SWP was suspect, even the probe of its activities was officially ended.

"By the very nature of its political ideology," the document stated, "(SWP) remains committed to the overthrow of the government by force and violence."

During the entire 38-year probe of the party, the FBI has never been able to bring prosecution against any of its members.

At Friday's hearing, the government contended that the SWP was trying to "harass" the FBI by seeking to take Kelley's deposition. But Judge Griesa said, "I think that we're not dealing with that kind of thing here. During Mr. Kelley's tenure, we've had at least one prominent incident. I cannot presume that Mr. Kelley is without information relevant to this action...."

THE INCIDENT referred to by the judge involved the July burglary of documents from the SWP's Denver office. The action was carried out by Timothy J. Redfearn, who had been a paid FBI informant. Documents in the case revealed that, although Redfearn acted without authorization, the FBI's Denver field office was aware of his participation in the break-in.

The FBI concealed from the Denver police for eight days that the burglary was committed by an FBI operative.

Kelley has previously stated that he was unaware of any illegal break-ins or burglaries by agents as part of domestic intelligence investigations.