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Judge Griesa after his decision

Judge Threatens A Contempt Action For Bell Over Files

By ARNOLD H. LUBASCH

A Federal judge declared yesterday that Attorney General Griffin B. Bell would "automatically be in civil contempt of court" if he failed to release Government files on 18 informers by July 7.

The extraordinary decision, growing out of a \$40 million suit by the Socialist Workers Party, was issued by Judge Thomas P. Griesa in Federal District Court in Manhattan. The judge rejected a motion to order the imprisonment of Mr. Bell but said that the Socialist Workers Party could renew a motion later to imprison the Attorney General.

Mr. Bell was on his way to Georgia last evening and could not be reached for comment. But his chief spokesman, Terrence B. Adamson, said several times at a news conference that Mr. Bell was withholding material only to obtain appellate review of the case.

Judge Urges Compliance

"It is obvious," Judge Griesa said, "that the status of civil contempt would, in and of itself, be a severe sanction against the highest law enforcement officer in the United States."

"The court earnestly hopes that the Attorney General will now carry out the order," he continued, "and that contempt will be entirely avoided. If this does not occur, and if the Attorney General is in civil contempt and makes no effort to purge himself, the court will entertain

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a motion for more drastic sanctions."

Judge Griesa handed down his 68-page decision after the Government had refused repeatedly to obey his order to release the files on 18 unidentified informers who spied on the Socialist Workers for the Federal Bureau of Investigation. The judge ordered the release of the files as a representative sample of the 1,300 informers whom the F.B.I. had used against the small Trotskyist party, which claims only 2,500 active members.

Leonard B. Boudin, the chief attorney for the party, said in the long pretrial proceedings that the F.B.I. had investigated the party for 40 years without finding anything illegal. Mr. Boudin said the investigation was designed to destroy the party. Last year, while the court hearings continued, the Government announced that it had ended the investigation.

Defiance Is Denied

Robert B. Fiske Jr., the United States Attorney in Manhattan, said in a hearing on the contempt motion that the Attorney General was not defying the judge's order to release the 18 files. Mr. Fiske argued that the Government's refusal to obey was designed to obtain a "full appellate review" of the disputed order.

No Attorney General of the United States has ever been held in contempt of court for refusing to release information in a preliminary proceeding, according to Government lawyers. They said that Philip B. Perlman, an Acting Attorney General, was held in contempt at the end of a 1951 case and that he was not imprisoned.

Judge Griesa rejected the Government's arguments that he should not hold Mr. Bell in contempt of court, that he should certify his order on the informers so that it could be appealed to higher courts, and that he should consider alternate sanctions that could forfeit part of the suit in favor of the Socialist Workers Party instead of issuing a contempt citation.

"No one can deny," the Judge said in his decision, "that it is a grave step to

enforce a court order to the extent of holding the Attorney General of the United States in contempt. However, the issues in this case are grave in the extreme, involving charges of abuse of political power of the most serious nature. "Plaintiffs allege, among other things, that the F.B.I. used its very considerable power to conduct a systematic covert campaign to manipulate and disrupt the plaintiff organizations and interfere with their lawful activities."

Evidence for Plaintiffs

Judge Griesa added that it was "in the broad public interest that plaintiffs be afforded a fair opportunity to obtain and present the essential evidence about this alleged wrongdoing."

"The issues in this case," he said, "relate to the most fundamental constitutional rights, which lie at the very foundation of our system of government—the right to engage in political organization and to speak freely on political subjects without interference and harassment from governmental organs."

"Since the allegations relate to the highest levels of government, it is entirely appropriate for a court to enter an order against a Cabinet officer, if necessary, for the production of the essential evidence, and to adjudge that Cabinet officer in contempt if he refuses to obey the order."

The contempt issue was triggered by a difficult dispute in the suit that the Socialist Workers Party filed in 1973 against the F.B.I. and other Government agencies. The suit accused the agencies of having used informers, burglaries and other tactics to disrupt the party's political activities for many years.

In seeking evidence for the suit, which charged that the Government had illegally interfered with the party, the Socialist Workers demanded that the F.B.I. disclose its files on informers who were paid to spy on the party's members.

Government lawyers vigorously opposed the disclosure of the files, however, arguing that effective law enforcement required maintaining the confidentiality of informers.

Names of 7 Disclosed

The identity of seven informers became publicly known in various ways, including statements by some of the informers themselves, and the Government released files on these.

On May 31, Judge Griesa ordered the Government to give the files on 19 unidentified informers to lawyers for the Socialist Workers. The number was later reduced to 18. The judge said the files must be turned over to the party's lawyers, who would be prohibited from disclosing the material to anyone else.

The Government eventually said it was willing to turn over the files on four of the informers, with some material deleted, because these four had agreed to the disclosure of their identity. But the Government steadfastly refused to release the rest.

Lawyers Demand Files

Lawyers for the Socialist Workers, insisting that the files were indispensable to obtaining evidence in the suit, demanded that the Government give them the files. After efforts at compromise failed, Judge Griesa repeated his order for the release of the 18 files.

An attempt by the Government to appeal the order was rejected by the United States Court of Appeals for the Second Circuit, and the United States Supreme Court, on procedural grounds, because discovery orders of this kind cannot normally be appealed.

As the official with the final responsibility for the F.B.I. files, Mr. Bell told Judge Griesa on June 13 that he "respectfully declined" to release the 18 files. He stressed this was the Government's only way to obtain "full appellate review" of the disputed order.

The Socialist Workers formally asked the judge to hold the Attorney General in contempt of court and imprison him until he obeyed the order to release the files. Judge Griesa held a hearing on the motion last Monday, leading to his decision.

Judge in the Case Against Bell

Thomas P. Griesa

It seemed mind-boggling that a judge would have to decide whether the nation's highest law enforcement official would be held in contempt of court and sent to jail. But that was the extraordinary circumstance confronting Judge Thomas P. Griesa of the Federal District Court in Manhattan.

Man in the News Judge Griesa decided yesterday that Attorney General Griffin B. Bell would automatically be held in contempt of court on July 7 if the Government refused to release files on 18 informers to attorneys for the Socialist Workers Party.

The case put the boyish-looking, 47-year-old judge in the unusual position of castigating the Government for its treatment of the small Trotskyist party. He was appointed a judge in 1972 by President Nixon on the recommendation of the highly conservative Senator James L. Buckley. The judge, a registered Republican, had never met Senator Buckley before his appointment.

Stressing his strong belief in judicial impartiality, Judge Griesa has told his law clerks: "I think you should not under any circumstances use your judicial office to further any personal ideological cause."

A Painstaking Approach

The intense controversy in the Socialist Workers case, with its unprecedented contempt dispute, has focused attention on the judge, who is known for his painstaking approach.

Thomas Poole Griesa was born on Oct. 11, 1930, in Kansas City, Mo., where his father was vice president of a bank. His name is pronounced GRIH-SAY, and the judge becomes visibly annoyed when it is mispronounced.

After attending public schools in Kansas City, he majored in history at Harvard College, earning an A.B., cum laude, in 1952. He entered the Coast Guard after graduation and served two years as a lieutenant (j.g.) on a cutter assigned to search and rescue missions in the Gulf of Mexico.

His military service was followed by a year working for an aviation company to earn money to go to law school. He was graduated from Stanford Law School in 1958 and served as an editor of the Stanford Law Review.

An honors graduate program in law took him to Washington to work as a trial lawyer for two years in the admiralty and shipping section of the Justice Department. Then, in 1961, he joined the law firm of Symmers, Fish & Warner in New York City.

In late 1961, he moved to the large Wall Street firm of Davis, Polk & Wardwell, where he specialized in trial work on securities and antitrust cases. He became a partner in the firm in 1970. One of the many partners was Robert B. Fiske Jr., now the United States Attorney in Manhattan, who argued for the Attorney General in the contempt hearing last Monday.

Judge Griesa left the firm when President Nixon appointed him to the bench. On Sept. 22, 1972, a few weeks before his 42d birthday, he was sworn in as a judge of the United States District Court for the Southern District of New York.

"It is a privilege to have the opportunity to make decisions," Judge Griesa once remarked about his role as a judge. "That is the essence of it. You are supposed to exercise judgments and make decisions. I regard that as a great privilege in legal work."

'Wade Into an Argument'

"I like to wade into an argument," he added. "I like to have a pretty vigorous dialogue with the attorneys, instead of just sitting there and listening."

Judge Griesa lives in Manhattan, in an East Side apartment, where a good deal of the space is occupied by a piano and a harpsichord. He frequently plays chamber music, sometimes with two former law clerks who play the violin and the flute.

His wife, the former Christine P. Meyer of St. Louis, whom he married in 1963, is particularly fond of ballet. They often attend concerts as well as the ballet. They have no children.

There are critics who contend that he takes too much time, delaying decisions. He handles many complex cases, however, in the busy judicial district based in the United States Court House at Foley Square.

For exercise, the judge plays tennis regularly. He is six feet tall, weighs 165 pounds and wears conservative pin-striped suits. He reads extensively in a wide range of areas, including classical Greek and Hebrew, which he studied in college.

5-Year Battle for Trotskyist Party

The legal and constitutional battle that may lead to a contempt citation against Attorney General Griffin B. Bell began in 1973 when the Trotskyist Socialist Workers Party discovered that it had been spied on for 35 years by the Federal Bureau of Investigation.

After this disclosure, the Trotskyist party, the Young Socialist Alliance and several individual members filed suit against the Government, seeking an injunction against surveillance and \$40 million in damages for harassment, wiretapping, mail tampering and related offenses.

In pretrial actions, the Department of Justice surrendered more than 70,000 documents to the party. However, the significant legal battle began when the Justice Department refused to hand over files that would identify 19 Government informers (the number was

later reduced to 18) in the party.

In June 1977, the potential of the legal confrontation became apparent when Attorney General Bell served notice in court papers that he would refuse to comply with an order by Federal Judge Thomas P. Griesa of the Southern District of New York. This action by the Attorney General invited charges of contempt.

A year later, on June 13, the Supreme Court handed Mr. Bell a defeat when it declined to accept for review the ruling that the Department of Justice had no procedural right to challenge the trial judge's order to produce the files on the informants.

This technical ruling was crucial because, according to legal experts, it left Mr. Bell with little alternative but to produce the documents or be cited for contempt.