

TIMES REPORTER WINS JURY DELAY

U.S. Puts Off Indefinitely Call to Panther Inquiry

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By WALLACE TURNER

Special to The New York Times

SAN FRANCISCO, Feb. 10—The Department of Justice has indefinitely delayed its attempts to require Earl Caldwell, a New York Times correspondent, to appear before a grand jury investigating the Black Panthers, Mr. Caldwell's attorney said today.

Mr. Caldwell has taken the position that he declines to appear before the grand jury, according to the attorney, Anthony G. Amsterdam.

The New York Times supports Mr. Caldwell in that position, according to Mr. Amsterdam and counsel for The New York Times.

In concert with counsel for The Times, a legal argument supporting Mr. Caldwell's position has been worked out. It was conveyed to the Justice Department, which then postponed the scheduled call for testimony indefinitely.

Mr. Caldwell was served with a subpoena on Feb. 2 that required him to produce unpublished notes and tape recordings of interviews with Black Panther leaders, specifically with David Hilliard and Raymond ("Masai") Hewitt.

Three Postponements

He first was scheduled to appear before a Federal grand jury on Feb. 4. His appearance was delayed to Feb. 11 and then to Feb. 18 and now has been postponed indefinitely.

The Justice Department has been told by attorneys for The New York Times that if an attempt was made to force Mr. Caldwell to appear before the grand jury, The Times would move to quash the subpoena.

The Times would argue, the department's lawyers were told, that "the mere appearance" of Mr. Caldwell before the grand jury, under the terms of the subpoena issued, would infringe upon his rights and jeopardize his ability to function effectively professionally.

Mr. Amsterdam, a professor of law at Stanford University School of Law, read the following statement at a news conference in the United States Courthouse press room this morning:

"As is commonly known, a Federal grand jury subpoena was served on Earl Caldwell, a New York Times reporter, on Feb. 2, 1970. Neither Mr. Caldwell nor The New York Times has yet responded to that subpoena nor provided any of the information sought by it.

"Even following Attorney General Mitchell's statement of Feb. 5, the Government has continued to seek Earl Caldwell's appearance before the grand jury. It is Mr. Caldwell's position that he declines to appear before the grand jury, and that his legal rights will be infringed if he is compelled to appear.

Lawyers Cooperating

"I represent Mr. Caldwell personally for the purpose of assuring that his legal rights are respected. Mr. John B. Bates, who represents The New York Times in the matter, is working closely with us. Mr. Bates and The Times fully support Mr. Caldwell in the position he is taking.

"In recent days, we have clearly stated that position to the Government. The Government is now considering it for the present, the return date of the subpoena has been indefinitely continued and any question of Mr. Caldwell's appearance before the investigating jury has been postponed indefinitely."

Mr. Amsterdam would not discuss the details of the arguments made to the Justice Department in support of Mr. Caldwell.

Two black reporters for KQED, an education television station here, spoke at the same news conference. The reporters, Rush Greenlee and Walt Thompson, spoke as officers of the Bay Area Black Journalists, a professional association.

Mr. Greenlee said, "We are here today to put on the record that Earl Caldwell remains adamant in his resistance to the efforts of the Federal Government to turn him out as an informer against the black community."

The issuance of a subpoena to force Mr. Caldwell, a Negro, to testify against Black Panther leaders "clearly indicates that the web of repression directed against the Panthers is being stretched and expanded to envelope all sections of the black community," Mr. Greenlee said.

Mr. Thompson said that other associations of black news reporters would send representatives to a conference in Chicago this spring.

He also called for statements of support for Mr. Caldwell from Sigma Delta Chi, the journalism fraternity, and the American Newspaper Guild. "We are especially concerned about the conspicuous silence of these two groups," he said.

Mr. Caldwell did not attend the news conference.