

Real 9-29-72

Judge Rules Mitchell Must Testify

From News Dispatches

RICHMOND, Sept. 28—A federal court judge ruled here today that former U.S. Attorney General John N. Mitchell would have to testify in a gambling case in which the defendants charge evidence was developed by unauthorized wiretapping.

Assistant U.S. Attorney David G. Lowe argued it would be an "undue burden" for a former attorney general to be subjected to subpoenas on cases in which he might have been involved, and said the information Mitchell could give is already on file in affidavits.

U.S. District Court Judge Robert R. Merhige ruled that Mitchell is no different from any other citizen who might be subpoenaed because he had information relating to a criminal case.

The defense contended that the wiretap, made to trace telephone bets, was approved by an acting assistant attorney general. Lowe contended the affidavits showed the wiretap was personally approved by Mitchell as required by federal law.

Other courts have divided over whether Mitchell's failure to approve personally all applications for court wiretapping orders makes the wiretap invalid.