High Court Backs Secrecy Restraint On U.S. Workers

Ex-Agent's Earnings On Book Confiscated

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The Supreme Court ruled yesterday that the government may severely restrict release of information bearing on national security by employes and former employes, even if no secret material is involved.

In an unsigned opinion with three dissents, the court sanctioned the Central Intelligence Agency's secrecy agreement, under which all agency employes promise to submit anything they ever write for prepublication screening.

The court said that even in the absence of such an agreement, the government may impose restrictions that would otherwise violate the First Amendment's free-speech guarantee.

The case decided yesterday was prompted by former CIA agent Frank Snepp, who in 1978, without CIA screening or approval, published a book about the American evacuation of Saigon. Though the book, "Decent Interval," was said not to contain any classified information, the government sought to confiscate all of Snepp's earnings from it and obtain an order against any further unscreened writings by him.

U.S. District Court Judge Oren Lewis in Alexandria gave the government all it wanted. But the Court of Appeals rejected the trust placed on Snepp's earnings as too harsh a penalty.

The Supreme Court yesterday restored the entire punishment against Snepp, including confiscation of the $115,000 he has earned from the book.

Snepp signed a secrecy agreement that required screening of "any" information, the court said. "Snepp's breach of his explicit obligation to submit his material—classified or not—for prepublication clearance has irreparably harmed the United States government," the court said.

A punishment that does not include seizure of the earnings "may well leave the government with no reliable deterrent against similar breaches of security," the court said. "If the agent published unreviewed material in violation" of his trust, the court said, he should be required to "disgorge the benefits of his faithlessness."

The court carried its ruling well beyond the CIA in a footnote, the only place it discussed the First Amendment. Generally, the footnote said, "the government has a compelling interest in protecting both the secrecy of information important to our national security and the appearance of confidentiality so essential to the effective operation of our foreign intelligence service."

Snepp and his American Civil Liberties Union lawyer, Mark Lynch, said they were stunned by the decision. They wondered whether it could also be applied, for example, to Henry Kis-

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singer's recent memoirs or to other similar literary efforts by a wide variety of government employes and former employes.

Justices John Paul Stevens, William Brennan and Thurgood Marshall were equally upset in their joint dissent, written by Stevens. He said the court should not have issued such an opinion without hearing oral arguments on the case. None were heard.

The dissent called the majority's opinion an "uninhibited . . . exercise in lawmaking" that disregarded both precedents in law and the First Amendment. "The court seems unaware of the fact that its drastic new remedy has been fashioned to enforce a species of prior restraint on a citizen's right to criticize his government."

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