

Ex-CIA Agent's Defenses Of Viet Book Rebuffed

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By Fred Barbash
Washington Post Staff Writer

U.S. District Court Judge Oren R. Lewis yesterday swept aside most of the defenses of former CIA agent Frank Snepp, who is charged with breaching the agency's secrecy agreement with his recent book on the fall of Saigon.

Punctuating his rulings with strong personal criticism of unauthorized disclosures by former CIA agents, the judge said in federal court in Alexandria that Snepp was not entitled to a trial by jury, warned that "nobody has got a right to divulge classified information," and told Snepp's lawyer that the evidence "won't make any difference."

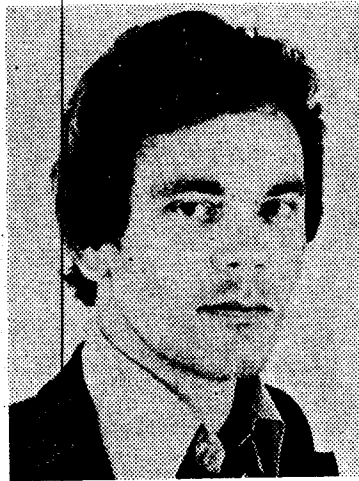
Snepp published the book, "Decent Interval," without allowing pre-publication screening by the CIA, as required by the secrecy agreement he signed when he joined the CIA. It prompted the agency to once again test its powers to censor former employes by filing a civil suit against Snepp, even though the government did not assert any classified information was revealed. The suit seeks an injunction against further revelations by Snepp, all the earnings from the book, and an unspecified amount of damages.

Judge Lewis, who has been previously noted for his sometimes opinionated and abrasive interjections in trials, rejected Snepp's request for a jury trial, saying there were no facts for a jury to decide, only legal questions for the judge.

Then, one by one, sometimes shouting his disapproval, he attacked Snepp's defense arguments, including the central one that the secrecy agreement applied only to revelations of a classified nature.

"I would have no difficulty speculating that the U.S. government and the people suffered a loss by giving away

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FRANK SNEPP
...loses request for jury trial



STANSFIELD TURNER
...cites effect on CIA sources

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SNEPP, From A1

this information (in the Snepp book)," he said at one point. "It doesn't have to be about the atomic bomb. . . ."

" . . . I don't think the government has to show that it lost \$2," Lewis said. "The real issue is whether they can enforce the written (secrecy) agreement. If they can't, then any employe of the CIA can go to work and get all the secrets and go into the novel business, isn't that right?"

Lewis then said he thought Snepp had a "fiduciary" responsibility to protect CIA information not unlike the responsibility of a banker in protecting the bank's money.

At one point when defense lawyer Mark Lynch commented that he wanted to get all the evidence into the record, Lewis replied almost inaudibly that "it won't make any difference." Earlier he had told Lynch that Snepp was "on the road to Richmond (the Fourth U.S. Circuit Court of Appeals) and I'll show you how to get there."

The Snepp case is the second major CIA effort to legally bolster the secrecy agreement signed by agency employes. In the case of former CIA official Victor Marchetti, the agency won assurance from the court of appeals that it could censor books under the secrecy agreement insofar as they contained classified information.

This case, however, did not involve official secrets. The agency is basing its suit simply on the grounds that Snepp breached his secrecy "contract" by failing to submit "Decent Interval" for agency screening.

"We must assure our sources that they will not be exposed, possibly to death," CIA Director Stansfield Turner testified. As a result of the Snepp book and other disclosures, he said, "Over the past six to nine months we have had a number of sources discontinue work for us and a number of sources who say they are nervous about continuing and foreign intelligence agencies who have questioned whether they can do business with us."

"If he is able to get away with this, it will prove to other people that we have no control," Turner said.

Judge Lewis would not permit Turner to be questioned about the statement, saying that there had already been "enough things come out to demoralize the agency." Turner himself did not raise an objection to cross-examination.

Throughout the day, Lewis repeat-

edly sustained objections from the Justice Department before they were even raised and when Snepp took the stand in his own defense he spoke to him in a lecturing tone.

He asked Snepp rhetorically, "You did not understand that 'position of trust' meant that you would not divulge secrets or information of this agency? . . . Is that your understanding, that you could be the judge of what could be released and what couldn't be released without the review of the agency."

Snepp replied: "I would never release information that is classified, sir."

"But you would decide what was classified," Lewis shot back.

Although Lewis had earlier ruled most of Snepp's defenses irrelevant, he nevertheless permitted arguments on them. Snepp and his lawyers said that the former agent had been led to believe by a CIA briefing officer at the time of his induction in 1968 that the agreement applied only to classified information. He said that numerous incidents — including authorized news briefings he held while in Saigon — only reinforced that belief.

He also argued that numerous former CIA officials as well as incumbent officials had breached the agreement in a variety of ways.

Lewis recessed the trial until this morning when he is expected to rule in the case.