

Court Says FBI Man Can Sue Agency

4/4/79 By Paul G. Edwards
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RICHMOND, April 3—The Fourth Circuit Court of Appeals ruled today that a veteran FBI intelligence officer can sue the Justice Department for describing the contents of a memo about him to The Washington Post.

However, the unanimous three-judge panel of the appeals court also said that the FBI official, David Ryan, does not have a right to inspect the memo.

The panel upheld a ruling by U.S. District Court Judge Albert V. Bryan Jr. of Alexandria that the memo is protected from disclosure under the Freedom of Information Act because it deals with a criminal investigation.

Ryan had also ruled that Ryan could not sue the Justice Department for "wrongful disclosure" of the memo, but the appeals court said he could sue because the department failed to exempt the document from

provisions of the Privacy Act. The further proceedings on Ryan's right to recover damages.

Ryan sued the Justice Department in 1977 for access to the memo written by J. Stanley Pottinger, former head of the department's civil rights division, to former FBI director Clarence M. Kelly.

Ryan charged in his suit that the memo improperly asked that he be "insulated" from FBI agents who were targets of a probe of suspected break-ins and illegal surveillance of civil rights activists.

The Post reported on Aug. 9, 1977, that Justice Department attorney Quinlan J. Shea Jr. characterized the Pottinger memo as saying "Ryan was 'getting in the way' of investigators" working on the cases of suspected break-ins and illegal surveillance by FBI agents.

That comment became the basis for Ryan's suit.