

Former FBI Agent's Case Faces Delay

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NEW YORK, Jan. 3 (AP) — A federal judge reserved decision today on a defense motion to dismiss three counts of an indictment accusing a former FBI agent of illegal surveillance of members of the Weather Underground.

Edward Bennett Williams argued before U.S. District Court Judge Kevin Thomas Duffy that the counts charging John J. Kearney with illegal wiretaps and opening mail during 1970-72 were improperly drawn. He said a number of alleged criminal acts were not listed separately.

The motion involved three substantive counts of the five-count indictment in the first prosecution of an FBI agent charged with a felony.

Kearney, 55, of Simsbury, Conn., was formerly supervisor of a special FBI unit on radicals. He now is assistant vice president of Wells Fargo Armored Service Corp. in Springfield, Mass.

Allen R. Bentley, who represented the Justice Department at the pretrial hearing, contended that the April 7 indictment documented a "central core" of illegal acts and therefore obviated their listing separately.

If the motion were granted, Kearney would face two conspiracy counts and his trial could be delayed. The prosecution could file a superseding indictment within a six-month limit, the judge said.