

## Ex-FBI Officials Felt, Miller Guilty in 'Black Bag' Cases

11/8/80  
By Laura A. Kiernan  
Washington Post Staff Writer

W. Mark Felt and Edward S. Miller, both career FBI men who climbed to the highest ranks of the bureau before their retirement, were convicted yesterday of conspiracy to violate the civil rights of friends and relatives of members of the radical Weather Underground by approving illegal searches at their homes in the early 1970s.

The jury of eight women and four men, sequestered for the duration of the two-month trial in U.S. District Court here, reached its verdict after eight hours of deliberation that began just before noon Wednesday.

Felt, 67, once the bureau's No. 2 man, and Miller, 56, formerly chief of the powerful domestic intelligence division, stood impassively as the jury foreman announced the decision, maintaining the out-

ward stoicism they had shown throughout the trial.

Outside the courthouse afterward, Felt, holding his wife Audrey's hand, said he was "very disappointed" with the verdict. "I spent my entire adult life working for the government and I always tried to do what I thought was right and what was in the best interest of this country and what would protect the safety of this country. Obviously the jury didn't agree with me," Felt said.

The case drew painful lines between the Justice Department, which said Felt and Miller had breached protections of the Bill of Rights, and the rank and file of the FBI, which rallied to the defendants' support following their indictment two years ago.

Earlier, as the two men checked in with the courthouse probation office to schedule presentence reports,

See FBI, A32, Col. 1

# Ex-FBI Aides Felt, Miller Convicted

## FBI, From Al

Miller said he was certain the bureau would continue to be "a very proud organization" despite the jury's decision.

"Its job is to work for the people of this country today, just as it was our job in 1972 and 1973 to serve the people, and we did it the way we thought was best. As a matter of fact, the only way we thought was possible," Miller said.

Felt and Miller both face up to 10 years in jail, a \$10,000 fine or both on the conspiracy conviction. Chief Judge William B. Bryant scheduled sentencing for both men for Dec. 15.

The government had charged that in 1972 and 1973, Felt and Miller approved nine surreptitious entries — known in FBI jargon as black bag jobs — at the New York and New Jersey homes of friends and acquaintances of members of the Weather Underground. The entries were part of a desperate search for clues to the whereabouts of fugitive members of that antiwar organization.

The government contended that the searches were illegal — and that Felt and Miller knew they were illegal — because they were done without warrants and directed at innocent citizens who had no significant connection to the Weathermen or their violent activities.

The government's case rested on the language of the Fourth Amendment to the Constitution — part of the Bill of Rights — which special prosecutor John W. Nields

Jr. recited repeatedly for the jurors: "The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures shall not be violated. . . ."

The defense team contended that Felt and Miller had approval from then acting FBI director L. Patrick Gray III to carry out the warrantless entries for national security reasons, to hunt down the fugitive radicals and to stop a series of bombings across the country for which the Weathermen had claimed credit. Gray, who was also indicted with Felt and Miller on the conspiracy charge, has denied that he ever gave approval for the break-ins. Bryant has agreed to a separate trial for Gray which has not yet been scheduled.

The government contended that even if the searches were justified for national security reasons — based on the defense argument that the Weathermen had significant connections to hostile foreign powers — the FBI needed approval on a case-by-case basis from the president or the attorney general before such entries could be carried out.

There was extensive testimony in the case about how the nation's courts — particularly the Supreme Court — and legal experts interpreted the law of search and seizure. Moreover, an array of former high-ranking government officials, including former president Nixon, were brought to the courtroom to give their view of the rules, regulations and laws that they believed gov-

erned the bureau's use of surreptitious entries. The result was that the trial became bogged down in conflicting opinions, which led courthouse observers to believe that the case would turn on Judge Bryant's instructions to the jury on the law that they should apply in reaching their verdict.

Defense lawyers said yesterday that they believed the guilty verdict hinged on Bryant's instruction that the FBI needed specific, case-by-case approval from either the president or the attorney general before any surreptitious entry could be carried out in national security cases.

There was no dispute from the defense that Felt and Miller had no such direct approval. Rather, they presented testimony that the president had delegated that authority in national security cases to the FBI director, an interpretation supported by testimony from Nixon, who was in the White House when the Weathermen break-ins occurred.

Bryant had told the jury they could acquit Felt and Miller if they determined the two men "reasonably and in good faith" believed the FBI director had received specific authority from the president or the attorney general to conduct surreptitious entries as he saw fit in national security cases. That had been the defense argument all along.

Thomas A. Kennelly, an attorney for Miller, and Frank W. Dunham Jr., a lawyer for Felt, both said yesterday that they will appeal.