

Gesell Takes Jurisdiction In FBI Case

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U.S. District Court Judge Gerhard A. Gesell yesterday took away from the Court of General Sessions a case involving the FBI's right to distribute arrest records.

The jurisdictional decision hinged on whether General Sessions is a state court, a subject of much argument over the years in the District of Columbia, which is ruled by Presidentially appointed officials and the U.S. Congress.

Gesell ruled that General Sessions "is the counterpart of a state court and has, by act of Congress, limited jurisdiction."

General Sessions Judge Harry T. Alexander had stopped the FBI from disseminating information about a Northeast Washington man arrested on the charge of assaulting a police officer and later freed when the charges were dropped.

Alexander's ban will stand until Gesell holds a hearing Dec. 15.

Joseph M. Hannon, chief of the civil division in the U.S. attorney's office, asked that the case be moved to District Court on grounds that it concerned a federal official doing his job.

Gesell agreed. "In cases involving federal officers, where defenses are available arising from their federal duties, the right of removal to the federal court is absolute," he ruled.

The case was brought by Roland E. Penney, 20, of 2310 14th St. NE, against whom the assault charges were brought and dropped.

His lawyer, Jon P. Axelrod of the Public Defender Service, seeks to have all record of the arrest, including Penney's fingerprint record at the FBI, expunged.

The case opens for court

scrutiny the question of what the FBI may do with its extensive arrest and identification records.

Attorney General John N. Mitchell earlier this year affirmed that the FBI should acquire, keep and exchange identification records with other agencies.

The court reorganization beginning Feb. 1 may lessen the importance of Gesell's ruling that General Sessions is a state court, not a federal one. The Superior Court that will replace General Sessions was envisioned by the Justice Department to be "like a state court," but its precise status is not yet clear.

In the past, General Sessions has been considered a federal court for purposes such as receiving funds under the Criminal Justice Act. The American Civil Liberties Union is challenging whether the Superior Court can be divorced from the federal system.