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Attorney General Bell Unlikely to Go to Jail For Contempt Citation

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Despite being held in civil contempt of court, it appears unlikely that Attorney General Griffin B. Bell faces the immediate prospect of a jail term for refusing a judge's order to surrender confidential FBI informant files.

Judge Thomas P. Griesa of U.S. District Court in Manhattan yesterday issued the extraordinary contempt citation after Bell declined again to release the files on 18 FBI informers who spied on the Socialist Workers Party.

While Bell could be given a jail sentence for failing to comply, such a sanction seems improbable because he has assured Griesa that he will turn over the files if the order is upheld on appeal.

"SHOULD THIS court's order, and its conclusion that the government has no lawful alternative to the release of the files, be upheld after full appellate review I will, of course, comply with my lawful obligations . . . Bell said in a six-page court affidavit yesterday.

Even if Griesa took the unprecedented step of jailing Bell, such an occurrence is not likely for several weeks. Bell plans to leave next week for visits to Australia and New Zealand. He will not return until the end of the month. Griesa was advised of this and did not object.

Moreover, government attorneys yesterday filed a motion for a stay of the contempt order. It was submitted to Judge Murray I. Gurfein of the Second Circuit U.S. Court of Appeals. A hearing was scheduled for today.

Griesa issued the contempt citation after Bell said in the affidavit that it was in the national interest for him to stand by his earlier refusals to comply with the order to release the confidential files.

The confidentiality of the informants program, Bell said, protects "one of the most valuable sources of information for use in criminal law enforcement and counterintelligence." To release the files now, he said, would seriously impair the "government's relationship with its law enforcement and foreign counterintelligence informants. . . ."

BELL FILED THE AFFIDAVIT in response to a ruling last week in which the judge said the attorney



JUDGE THOMAS GRIESA
Issued first order last year

general would automatically face contempt of court if he failed to release the files within a week.

At the time, Griesa denied a motion that Bell be jailed. He said that a contempt citation would "in and of itself be a severe sanction" against Bell, the nation's highest-ranking law enforcement official. But he apparently left the possibility open when he said he would entertain an SWP motion for more drastic sanctions if Bell failed to comply. SWP lawyers reportedly plan to renew their motion, possibly today.

Bell is the first attorney general to be cited for contempt before litigation was completed. In 1951, Acting Attorney General Philip Perlman was held in contempt at the conclusion of a trial for failure to obey a court order, according to Judge Griesa.

After reviewing the affidavit Griesa dictated the contempt order to his court clerk yesterday by telephone while vacationing in California. He said:

"Because the attorney general has announced (in the affidavit) he will not comply with the order . . . the attorney general is hereby adjudged

to be in civil contempt of court, and will remain in contempt of court until and unless he purges his contempt by compliance with the order."

GRIESA ALSO rejected Bell's arguments, stated in the affidavit, that the issue of whether he should turn over the files should be litigated in the appeals court.

"The attorney general now seeks to commence a new round of appellate review. In the considered judgment of this court . . . there is no legitimate ground for seeking further appellate review, and the attempt to do so constitutes a totally unjustified attempt to obstruct and delay." Griesa initially issued the order requiring Bell to turn over the files in May 1977, and previous efforts to appeal the decision were denied by the Court of Appeals and the Supreme Court on procedural grounds.

In his sworn statement, Bell had asked Griesa to stay the contempt citation pending another Justice Department appeal of the order to turn over the files. But he said he was willing to be placed in contempt because Solicitor General Wade McCree had advised him that such an action will permit appellate review on the issue of informants.

BELL HAD LITTLE comment when reporters saw him briefly in his fifth-floor Justice Department offices yesterday. "You know I can't say anything, much as I'd like to," he said.

Terrence B. Adamson, Bell's chief spokesman, said department lawyers had moved to stay the contempt citation because it was "unseemly" for the nation's top law enforcement official to be in such a situation.

The motion to stay the contempt order was filed with Judge Gurfein by U.S. Attorney Robert B. Fiske Jr. of New York. Fiske said government attorneys could not "comprehend" Judge Griesa's contention yesterday that the grounds for appeal were exhausted.

He said the "issues in this case involve fundamental constitutional questions concerning the propriety of holding a Cabinet officer in contempt without adequate exploration of alternative sanctions. . . ."

The SWP has been seeking access to the files on 18 confidential informants, in connection with a \$40-million

lawsuit it filed against the government in 1973. The case is still in the pre-trial stage known as discovery.

SWP attorneys are seeking evidence to show that FBI informers harassed party members since the 1930s by engaging in burglaries, wiretapping and mail tampering.