

Press-Broadcast Merging Barred By High Court

Bell Loses Stand On FBI Informants

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By Morton Mintz

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The Supreme Court yesterday declined to review a federal judge's pretrial order that the Justice Department disclose confidential information about FBI informants who infiltrated the Socialist Workers Party and an affiliated group.

Attorney General Griffin B. Bell has repeatedly refused to disclose the information, claiming it is "privileged," and has said that his refusal leaves him open to possible citation for contempt of court.

The justices voted 6 to 3 to deny a Justice Department petition for review of the order, issued by District Court Judge Thomas P. Griesa in New York City.

Griesa is presiding over a \$40 million damage suit brought in 1973 by the Socialist Workers Party (SWP) and the Young Socialist Alliance (YSA) against the attorney general and several other high government officials.

The suit, which has yet to go to trial, alleges that, starting in 1938, government officials and "unknown agents" committed wrongful acts against the SWP and the YSA, including assault, blacklisting, breaking and entering, disruption, harassment and wiretapping.

Bell's spokesman, Terrence B. Adamson, said yesterday that the attorney general stands by his position that he is "prepared" not to comply with the order. But Bell will make an official reply only to the court, Adamson said. The reply is due to Judge Griesa's court in 25 days.

A spokesman for a group that raises funds to publicize and finance the SWP/YSA litigation termed yesterday's action "a big victory for the right of the American people" to learn of FBI efforts to interfere with the exercise of the constitutional right to freedom of speech and assembly.

In the order at issue, Griesa ordered the FBI to produce its files on 18 informants for confidential inspection by four SWP/YSA lawyers. The lawyers and no one else could make the inspection, Griesa said. He said that they could reveal the information in the files — including the FBI's instructions to, and evaluation of, the informants—to no one.

Eventually, on the same restricted basis, more and possibly all of 1,300 files would be made available to the lawyers, the judge said.

If the government should be recalcitrant, he warned, "I will seriously consider contempt of defiant officials."

Bell Loses Stand On Nondisclosure

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But, he added, "I can't deal with that in advance. I will face it when and if it comes . . . We may not even have to reach that, and I hope we don't."

Naming Griesa as a respondent, the department asked the 2nd U.S. Circuit Court of Appeals to block his order. It refused, saying that it was a pretrial order and therefore not appealable.

On April 5, Solicitor General Wade H. McCree filed the petition or review. It won the votes of Chief Justice Warren E. Burger and Justices Byron R. White and Lewis F. Powell Jr., but a fourth vote was needed.

Six days later, Griesa held a hearing at which he told Assistant U.S. Attorney Thomas E. Moseley that the petition omitted "essential items" while containing inaccuracies that could "confuse or mislead the Supreme Court."

The department petition said that Bell "is prepared not to comply" Griesa's order "if that should be necessary to permit appellate review," that any contempt order run only against Bell personally because the files are in his control, and that it would be "unseemly" and "pointless" to precipitate a confrontation between the executive and judicial branches.

But in a reply brief for the SWP/YSA, lawyer Leonard B. Boudin said that Griesa not only never had suggested that Bell might be held in contempt, but also had said that contempt "would necessarily be a matter involving some person or persons at the FBI."