

Appellate Court Limits Immunity Of Hill Aides

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A Senate aide—and possibly also a senator—can be sued by the targets of a Senate committee's investigation, the U.S. Circuit Court of Appeals for the District of Columbia ruled here yesterday.

Five members of the appellate court ruled that the speech and debate clause of the Constitution does not provide absolute immunity for members of Congress or their aides against civil lawsuits by private citizens.

Other members of the court, including one senior judge, issued a minority ruling saying the suit was barred by the Constitution and that the majority opinion "eroded" the speech and debate clause.

The ruling came in a suit filed by left-wing political activists Alan and Margaret McSurely against Sen. John L. McClellan (D-Ark.) and various Senate aides.

The McSurelys were charged with sedition in Kentucky in 1967, but the state charges were ordered dismissed by a federal court there, and evidence against them was ordered kept secret.

However, a Senate aide then went to Kentucky and copied some of the same evidence and used it in a Senate subcommittee investigation of the McSurelys.

The McSurelys are claiming in their suit that the use of the illegally seized materials by the Senate committee violated their constitutional rights.

Yesterday's appeals court decision said a lower court should hold further hearings to determine if various specific acts by the senator or his aides violated the McSurelys' rights.

Government attorneys had argued that the speech and debate clause automatically barred any further inquiry into the actions of the senator or his aides. Four of the appellate judges issued a separate opinion saying the case should be dismissed altogether because of a total congressional immunity from suits such as that filed by the McSurelys.

The suit grows out of a Senate subcommittee investigation in the late 1960s of riots and antiwar activities in the United States.