

Nothing in the Bill of Rights says the Government should have shunned the use of an informer to prove that Teamster President James R. Hoffa was tampering with a Federal Jury, the Justice Department argued yesterday.

In a 150-page brief filed with the Supreme Court, Solicitor General Thurgood Marshall said, "No constitutional principal required the Government," tipped off about plans to fix Hoffa's 1962 trial, "to stand back and to permit the trial to degenerate into a hollow formality."

The Court will hear arguments in two weeks as Hoffa seeks to avoid his closest brush with jail since former Attorney General Robert F. Kennedy set out to put the Teamster president behind bars.

Hoffa contends that the Justice Department "planted" Teamster official Edward G. Partin in his defense camp during a trial on Taft-Harley Act charges and should not have been allowed to put Partin on the stand to deliver his devastating jury-tampering testimony.

Marshall argued that Partin, who volunteered his services to the Government, was invited by Hoffa into his Chattanooga hotel suite. But even if he was planted there he did not violate Hoff's rights to counsel and privacy or the privilege against self-incrimination, Marshall argued.

The "risk" of overhearing privileged communications must be weighed against the threat that the trial might have become a "mockery," Marshall argued.

Partin was only doing his legal duty to report crime, Marshall said. He added that even a defense lawyer has an obligation to report a criminal plot he hears about from his client.

Hoffa contends that Partin conducted a continuing "search" of his premises after gaining entry under false pretenses.

The Chattanooga trial ended in a hung jury, but Marshall refused to concede that Partin's presence in the defense camp would have required reversal if a conviction had resulted there. In any event, Marshall said, the evidence was used later at a trial in Nashville that resulted in Hoffa's 8-year prison sentence.

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