

Ex-Official Suing to Balk Move Barring Book on C.I.A. 'Failures'

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WASHINGTON, Dec. 22 — A former Central Intelligence Agency officer filed suit in Federal District Court here today to try to prevent the agency and the Justice Department from blocking publication of a partly completed book that would deal, in part, with alleged intelligence failures in Asia.

The former official, Ralph W. McGehee, asked the court to declare that the two oaths he had signed promising not to divulge information obtained in his work at the intelligence agency could not be enforced because to do so would violate his First Amendment right of free speech.

A Federal District Court in Alexandria, Va., has already upheld the validity of such contracts and ordered another former C.I.A. officer, Frank W. Snepp 3d, to pay for breach of a similar contract by forfeiting all the profits from "Decent Interval," a book critical of C.I.A. operations at the close of the Vietnam War.

Mr. McGehee is being represented in the case by the same lawyers who represent Mr. Snepp, and the suit, in part, seems intended to provide a hearing on the issue in Federal courts in the District of Columbia, which are generally considered to be more liberal than those across the Potomac River in Virginia.

Problem Involving U.S. Secrets

Until the case involving Mr. Snepp, the Government usually tried to prevent such disclosures through the use of criminal laws banning release of classified materials. Because these required that some of the classified materials be disclosed in court to sustain a prosecution, however, Attorney General Griffin B. Bell decided to use breach-of-contract suits instead. They are civil rather than criminal in nature.

By using such suits, the Government

had only to persuade a court that the contract itself had been valid to win its case, and was not required to introduce any classified documents, or debate whether the materials should have been classified in the first place.

In their suit on behalf of Mr. McGehee, Mark H. Lynch and John C. Sims make essentially the same argument they are using to appeal Mr. Snepp's case. They say the contracts violate the First Amendment and thus cannot be enforced.

They also contend that "neither the President of the United States nor the Congress have ever authorized the Director of Central Intelligence to impose such a burden on the First Amendment rights of C.I.A. employees as a condition of employment."

The lawyers, who are representing Mr. McGehee on behalf of the American Civil Liberties Union, say in legal papers filed today that Mr. McGehee has not yet violated any laws or regulations but is intent on heading off legal action the agency has indicated it would take if he tries to publish a book.

Other parties to the suit are Public Affairs Press and Michael Kinsley, an editor of The New Republic magazine. Both publications have expressed interest in the work.

As described in the court papers, the book would deal with Asian Communist movements and "the C.I.A.'s failure to understand such movements." It would be based, according to the court papers, on research Mr. McGehee conducted after leaving the agency in 1977, and also on information acquired during his 25 years with the agency, which included tours of duty in Vietnam and Thailand.

A Justice Department spokesman, Robert Havel, said the Government believed the validity of such contracts already had been upheld.