

Couple Seek F. B. I. Files On Raid of 12 Years Ago

BY BEN A. FRANKLIN
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WASHINGTON, July 22 — Twelve years after their home in eastern Kentucky was raided by a local prosecutor, who then turned over what he called "a Communist library" to Congressional investigators, Alan and Margaret McSurely were in court again last week trying to find the last dusty corners of bureaucracy to which their personal papers were illegally distributed.

In a motion to compel the Federal Bureau of Investigation to give them more than a heavily expurgated copy of its file on them, the McSurelys asked, Chief Judge William B. Bryant, who is hearing their \$1 million damage suit in Federal District Court here, to order the F. B. I. to produce all of its large dossier for the trial, which is expected to begin this fall. Judge Bryant is expected to rule on a similar motion filed by the McSurelys last month against the Internal Revenue Service, another agency, that the couple believe, holds copies of the documents.

The new motion lists the State Department, the Central Intelligence Agency "and possibly other" Federal and state agencies as probable recipients of their papers.

Requests Were Denied

Under the Freedom of Information Act, the McSurelys have already found out about the existence of 2,000 pages of F. B. I. files on them. But hundreds of the pages copied and given to them under the act's disclosure procedure have been heavily — some nearly totally — censored by the bureau, and requests for other documents have been denied.

The case of the 42-year-old former Appalachian anti-poverty worker and his wife, conducted largely by Mr. McSurely acting as his own lawyer, is already one of the longest-running damage claims against Government officials. Courtroom appearances for the couple have been made by Morton Stavis of Newark, a law-

yer for the Center for Constitutional Rights.

The damage claim against five officials includes as one defendant the estate of the late Senator John L. McClellan of Arkansas, the former chairman of the Senate Permanent Subcommittee on Investigations. The Arkansas Democrat died in 1977.

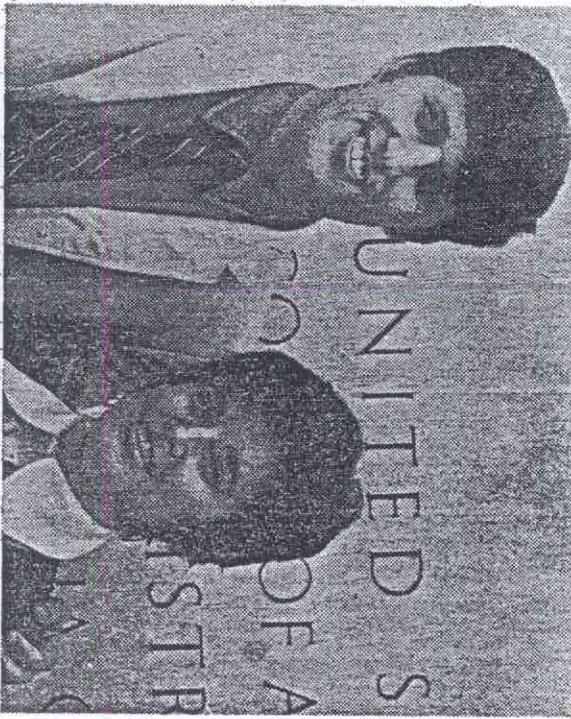
The case began in August 1967 when another defendant, Thomas Ratliff, a coal-mine operator who was then the district attorney of Pike County, Ky., and a Republican candidate for lieutenant governor, led a police raid on the McSurelys' rented house near Pikeville. Mr. McSurely was then a member of the Appalachian Volunteers, a group regarded as radical by some Kentuckians, and his wife was working with the Southern Conference Educational Fund, long a target of controversy over what many believed was its leftist activism.

Papers, Books and Letters

Mr. Ratliff's raiders carried off papers, books — including one by Tolstoy, who, the prosecutor told reporters, was "a Russian writer" — and a poster of Che Guevara, the Cuban revolutionary. The McSurelys discovered a year later that the raiders had also taken some intimate letters to Mrs. McSurely from the late columnist Drew Pearson, for whom she had worked as a secretary.

The couple were arrested and jailed by Mr. Ratliff under Kentucky's "sedition" law, but freed in weeks when a Federal Court ruled the state statute unconstitutional. Then their home was dynamited in the night.

Later they learned that although the items confiscated by raid had been under a protective court order directing Mr. Ratliff to retain custody, a staff member of the McClellan subcommittee, John Brick — another defendant in the suit who has since died — had taken copies of



Alan and Margaret McSurely outside courthouse in Washington at the beginning of their contempt trial in 1970. Associated Press

234 papers, including the Pearson letters and Mrs. McSurely's personal diary.

The copies were delivered to Senator McClellan, whom the columnist had charged in his articles with using his office for financial gain. Until he died two years later, Mr. McSurely said today, Mr. Pearson never wrote about Mr. McClellan again.

Rejected Senate Subpoena
For the McSurelys, however, exposures to official inquiries and public indignities were just beginning. The McClellan subcommittee subpoenaed from them the very documents it illegally and secretly held.

When they rejected the subpoena they were charged with contempt of Congress, charges they had to fight up through the United States Court of Appeals here before they were dropped. The appeals court also ordered the subcommittee to return the McSurelys' papers. It ruled that the couple could pro-

ceed with their \$1 million damage suit for the illegal copying and delivery to Mr. McClellan, but not for the subpoenas and contempt citation that resulted. These actions, the court held, fell under the blanket Constitutional protection of Congressmen against liability for official "speech or debate."

Last year, after a hearing before the Supreme Court in which the Justice Department, representing the McClellan-Ratliff defendants, tried to persuade the Court that Congressional investigators could legally commit burglary in pursuit of a legislative purpose, the High Court let the appeals court's disapproval stand. The F. B. I. files already obtained by the McSurelys show that the bureau had each of them under surveillance as early as 1965, two years before the Ratliff raid. Informants in the Student Nonviolent Coordinating Committee, where Margaret McSurely was then working. The F. B. I. said it would make no comment on the allegations in the McSurelys' court pleadings.