

U.S. Judge Refuses to Apply Wiretap Ruling Retroactively

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A federal judge here has refused to apply retroactively a ruling by the U.S. Court of Appeals that found it unconstitutional for FBI agents to wiretap certain types of domestic political groups without a court warrant.

U.S. District Judge John H. Pratt issued the ruling in dismissing a suit brought on behalf of the Jewish Defense League against the Justice Department for a tap on a JDL phone in New York. It was the second time Judge Pratt has dismissed the case.

Pratt originally ruled that the warrantless tap—at a time of JDL harassment of Soviet Union personnel in the New York area—was legal because it

was undertaken in the interest of the president to conduct and maintain peaceful relations with Russia. It fell therefore, under the president's national security powers, Pratt ruled.

However, the U.S. Court of Appeals overruled Pratt and said that a warrant was required when there was no indication the domestic group—in this case, the JDL—was acting under the control of a foreign country.

The appeals court sent the case back to Pratt for him to determine whether its ruling should be applied retroactively and whether the federal government should be held liable for damages in a civil suit growing out of the JDL incident.