

Judge Rules in Plea-Bargain Dispute

Court Will Convict Nine Scientologists

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U.S. District Judge Charles R. Richey said yesterday he will find nine members of the Church of Scientology guilty of directing and implementing a plot to burglarize government offices and plant spies in government agencies, and of then covering up their illegal activities.

Richey's ruling, a rare intervention into the delicate plea-bargaining process that accompanies most major criminal trials, enforces what he said was a pretrial agreement reached between defense attorneys and federal prosecutors. The ruling precludes any protracted public trial of the nine de-

fendants and instead calls for an unusual procedure of submitting written evidence about the defendants' alleged criminal conduct.

Under the agreement, the Scientologists can attempt to have the documents supporting the government's evidence against them filed secretly with the judge. Those documents—which reportedly detail the church's allegedly illegal spying campaign—are said to form the backbone of the government's case.

The government said it will immediately appeal Richey's ruling, saying it enforces an agreement that never was final between the government and defense. Scientology attorneys, meanwhile, reportedly were pleased with

the finding because it blocks a trial and leaves them free to appeal a separate major legal issue—the alleged illegality of the government's massive raids on two Scientology church offices in Los Angeles in July 1977.

Judge Richey's 12-page opinion enforcing the agreement was filed quietly on Columbus Day, a court holiday, after a week of secret hearings in his fourth-floor courtroom in the U.S. Courthouse here.

The judge set this Friday as the day he will issue his final order enforcing the agreement, which unequivocally states that the defendants "will be found guilty" once the evidence

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against them is formally presented by the government.

Seven of the nine Scientologists—including Mary Sue Hubbard, wife of Scientology founder L. Ron Hubbard—have agreed to be found guilty of conspiring to obstruct justice, Richey said. Each of them could be sentenced to up to five years in prison.

Another defendant will be found guilty of conspiracy to illegally obtain government documents, and could be sentenced to a five-year prison term, Richey said.

The ninth defendant, a Scientology member who reportedly spied upon Justice Department officials after getting a secretarial job at the agency, will be found guilty of one misdemeanor theft count, Richey said.

The government can ask specifically for prison terms for each defendant except Hubbard, Richey said, and she could be sentenced to a prison term even without a specific government request. Richey said the agreement also states that the government will not object if any prison terms imposed in the case are served in a minimum security prison.

A Church of Scientology spokesman said last night that "the church can't

speak for the defendants in this case and the particulars of the agreement in today's ruling are the decisions of the defendants and their attorneys."

The church spokesman said, however, that the religion considered that "the key to the case" was the authority of the government to search a church and said the "results of this appeal will determine the future" of the Fourth Amendment's ban against illegal searches.

Richey's opinion, a rare use of civil contract law to settle a disagreement in criminal plea negotiations, enforces an agreement the Scientologists said they reached with the government around 5 p.m. on Sept. 23.

Although the hearings in the case have been closed to the public, it is known that the Scientology attorneys hired an attorney, Jacob Stein, a well-known downtown lawyer, to represent them in their attempts to enforce the agreement. They testified in closed session, it is understood, about their belief that they had agreed to end the case on that date.

Assistant U.S. Attorney Raymond Banoun—the only government witness called—reportedly testified that the defense attorneys failed to meet the government's final deadline for

accepting the plea-bargain and therefore no deal was reached. The judge rejected that argument.

Although the defense attorneys argued that they accepted the Sept. 23 plan as the final offer, it is known that plea-bargaining continued for a week after that date. In those later sessions, at least six of the defendants agreed to nonappealable guilty pleas, according to sources on both sides.

Scientology attorney Philip J. Hirshkop said late yesterday afternoon that the defendants accepted the terms outlined in Richey's order yesterday as the final disposition of the criminal case at the trial level. In addition, he said they also acknowledged that the government should have no trouble offering enough evidence to convince the judge of the Scientologists' guilt.

He said if the defendants attempt to have the documents sealed until after any appeal, it will be solely to protect the privacy of persons involved.

Richey ruled on Sept. 13 that the search of the two Los Angeles offices on July 8, 1977, was legal and that evidence seized during those raids could be presented at trial. The trial was originally scheduled to start on Sept. 24, but was postponed as plea-bargaining continued.

Richey's order yesterday gave the government two days within which to file its evidence against the church members, and gave the church members one day to respond.

In addition, Richey's ruling blocks the government from making documents seized in the Scientology investigation available to the press or private individuals without giving the church 10 days' notice.

The church has said that any illegal acts its members may have committed against the government were done in an effort to defend itself against a long campaign of government harassment.

Besides Hubbard, the other defendants in the criminal case are Henning Heldt, Duke Snider, Greg Willardson, Richard Weigand, Mitchell Hermann, Cindy Raymond, Gerald Bennett Wolfe, and Sharon Thomas. Only Thomas lives in the Washington area; the other defendants are from the church's headquarters in Los Angeles.

Two other church leaders, Jane Kember and Mo Budlong, are headquartered in England. They face extradition there in connection with the same criminal charges. Yesterday's disposition of the case does not affect them.