

9 Scientologists Plead Innocent; New Judge Asked

By Ron Shaffer

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Nine members of the Church of Scientology pleaded innocent yesterday to charges of conspiring to steal from the government, and at the same time, lawyers for some of them asked the judge assigned to the case to withdraw.

Leonard B. Boudin, attorney for Church of Scientology matriarch Mary Sue Hubbard, accused the government of improper conduct in the judge selection process, and later attorney Philip J. Hirshkop, who represents two other officials of the church, said prosecutors had "shopped" around the court to get a judge sympathetic to the government.

Judge George L. Hart, who heard the Scientologists' pleas at their arraignment in U.S. District Court, referred their requests for a new judge to his colleagues responsible for such matters.

Hirshkop said he was "convinced" that prosecutors had manipulated the judge selection process by waiting to return an indictment and classifying it in such a way that Hart was bound to get it.

"The feeling of many, many lawyers is that Judge Hart is extremely pro-government," Hirshkop said in an interview after the hearing. "The possibility for abuse is so great it (the case) should go back" for reassignment.

Raymond Banoun, the chief prosecutor in the case, called Hirshkop's allegation "absurd."

"We are never aware of who is next in line to get a case," Banoun said. Such information "is kept in a highly secret manner in the court clerk's office. I do not believe that Hirshkop's allegation is worthy of any further comment."

James F. Davey, clerk of the court and the man responsible for administering the selection of judges, said yesterday that judges are assigned randomly to cases. "We've been extra cautious to be damn sure there is no judge-shopping," Davey said. "I'm satisfied we have enough controls."

Hirshkop and Boudin argued that

prosecutors erred in classifying the case as a general crime rather than a conspiracy. Carl Rauh, the acting U.S. attorney yesterday, said prosecutors normally describe indictments in this manner and allow judges to decide the category.

Boudin, a prominent constitutional lawyer, asked that the case be assigned to Chief Judge William B. Bryant because he is hearing a civil case brought by the church and is familiar with "the voluminous documents and complex legal issues which are the focal point of the criminal case."

Hart said he would refer that request to Bryant. Aides to Bryant said late yesterday that he had declined to take the criminal case.

Mary Sue Hubbard and 10 other officials and representatives of the church, including the highest ranking officials in this country, are accused in a 28-count indictment of conspiring to plant spies in government agencies, break into government offices, steal official documents and bug government meetings. This was done, the indictment alleges, in order to get information on "enemies," on the church's struggles to obtain tax-exempt status, and on any government scrutiny of church activities.

Church officials said in a news release yesterday that they welcome a trial because it will provide them with an opportunity to investigate the government and find out who is behind a "sordid 28-year attempt to annihilate our religion."

In his comments yesterday, however, Hart seemed to leave defense attorneys with little room for such probes.

"This case is alleged stealing," he said at one point to defense attorneys talking about government-church relations. "That's a simple charge, like going into a bank and stealing money." At another point Hart said, "The Church of Scientology is not on trial here and is not going to be. A group of individuals will be tried as defendants with no reference to religion."

Hart set Nov. 20 as the deadline for defense motions and said he planned to set a trial date at that time.