

Tapes could embarrass Nixon

EPost 11/9/77
WASHINGTON (AP) — Richard M. Nixon will suffer "mental anguish" and embarrassment if the public is allowed to hear 30 White House tape recordings used to convict his closest aides, Nixon's lawyers said Tuesday.

But attorney Edward Bennett Williams, arguing for the release of the Watergate tapes, told the Supreme Court: "I don't know of any common law right not to be embarrassed by one's inculpatory words."

At issue before the court's nine justices are the tapes played during the

1974 Watergate cover-up trial of Nixon's closest advisers.

A federal appeals court ruled more than a year ago that the tapes "are no longer confidential."

"A tape is different than a (trial) transcript. Tapes are susceptible to uses that are far more offensive to persons whose voices are on them," William H. Jeffress Jr. argued for Nixon.

Transcripts of the tapes were widely publicized during the trial of former Attorney General John N. Mitchell and ex-White House aides H.R. Haldeman and John D. Ehrlichman.

But except for the 12-member jury and those persons who sat through all or portions of the trial, the public has never heard the actual voices of Nixon and his aides discussing the scandal that forced him from office.

Williams told the court that "the best representation of oral conversations is not in a written document." Williams illustrated his point by changing the tone of his voice several times to give differing meanings to this recurring Nixon quote from the Watergate tape transcripts: "uh uh."

Nixon contends that releasing the tapes would invade his privacy and cause him embarrassment, but Justice Thurgood Marshall asked the ex-president's lawyer if Nixon had not lost all privacy claims when the tapes were played in open court.

"It's no longer private, is it?" Marshall asked.

Jeffress argued that Nixon had a right to have the tapes kept from "every disc jockey, every television informer ... to be played relentlessly."

Filing suit last year to have the 22 hours of recordings released were NBC, ABC and CBS, the Public Broadcasting Service, the Radio Television News Directors Association and Warner Communications.

The networks, public broadcasting and the news directors group want to air portions of the tapes while Warner wants to reproduce them for sale as records and tape cassettes.

Williams represented Warner, and lawyer Floyd Abrams argued for the others seeking public access.

Abrams said any privacy interest Nixon had in the tapes could be overcome by "the right of the public" to hear the tapes.

Jeffress argued that the courts lack the authority to release trial exhibits obtained through use of subpoenas. But Justice William H. Rehnquist said a constitutional problem of privacy could develop in a specific use of the tapes after they are made public, but not over the authority of a court to release the tapes.

Williams agreed that those who use the tapes after their release would have to "take full risk" of lawsuits stemming from that use.

The court will decide the case sometime before next June.