

Motion: 'In Excess of the Grand Jury's Jurisdiction'

Following is the text of the motion filed by lawyers for Vice President Spiro T. Agnew in U.S. District Court in Baltimore yesterday:

Applicant Spiro T. Agnew, the Vice President of the United States ("applicant"), hereby moves this Court, in exercise of its supervisory control over the grand jury impeached Dec. 5, 1972 ("the grand jury"), to enter a protective order prohibiting the grand jury from conducting any investigation looking to possible indictment of applicant and from issuing any indictment, presentment or other charge or statement pertaining to applicant. Applicant further moves this Court to enjoin the Attorney General of the United States, the United States Attorney for the District of Maryland and all officials of the United States Department of Justice from presenting to the grand jury any testimony, documents, or other materials looking to possible indictment of applicant and from discussing with or disclosing to any person any such testimony, documents or materials. Applicant's request for this relief is based upon the following grounds:

(1) By letter dated Aug. 1, 1973, the United States attorney for the District of Maryland, Hon. George Beall, notified applicant that Mr. Beall's office was conducting an investigation into alleged violations of various criminal statutes by applicant. Since Aug. 1, a constant stream of news reports, attributed to "sources close to the investigation" and the like, have indicated, first, that Mr. Beall was considering presenting evidence to the grand jury relating to applicant, and, second, that

the Attorney General has authorized such presentation.

The Constitution forbids that the Vice President be indicted or tried in any criminal court. In consequence, any investigation by the grand jury concerning applicant's activities will be in excess of the grand jury's jurisdiction and will constitute an abuse for which no remedy other than that specified above is sufficient. (2) Since this matter came to public attention on Aug.

6, 1973, officials of the prosecutorial arm have engaged in a steady campaign of statements to the press which could have no purpose and effect other than to prejudice any grand or petit jury hearing evidence relating to applicant and thus to deprive applicant of all hope of a fair hearing on the merits.

In the exercise of its supervisory authority over federal law enforcement officers, this Court should bar any grand jury action relating to applicant. If the Department of Justice asserts its innocence of wrongdoing, then this Court should forthwith hold a hearing at which the facts may be fully developed.

Wherefore, applicant asks this Court to enter an order granting the relief requested herein, or alternatively, to direct the United States attorney for the District of Maryland to show cause why this Court should not enter such an order.

Respectfully submitted,
Paul, Weiss, Rittling,
Wharton & Garrison.

9/29/73 W.B.S.