

Judge Eyes Dismissal of Bugging Suit

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U.S. District Court Judge Charles R. Richey said yesterday that he is seriously considering dismissing the Democratic Party's Watergate bugging suit because lawyers for the Democrats missed a filing deadline.

Although Harold Ungar, one of the Democrats' lawyers, argued in a hearing before Richey yesterday that missing the deadline was a minor matter in the civil suit, Richey said that he considered the issue "a very serious matter."

The focus of the discussion was a motion filed Aug. 31 by Henry Rothblatt, attorney for the five men charged in connection with the June 17 break-in at the Democratic National Committee headquarters in the Watergate office building.

Rothblatt's motion asked the suit to be dismissed on the grounds that Lawrence F. O'Brien, named as the principal plaintiff in the suit, no longer was chairman of the Democratic National Committee and had suffered no personal loss or damage as a result of the break-in.

The motion also challenged O'Brien's representation on behalf of all registered Democratic voters across the country.

Lawyers for the Democrats were given until Sept. 11 to respond to the motion. Rather than responding, Ungar attempted Monday to file an

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amended version of the suit, adding new defendants, additional details and attempting to meet some of the shortcomings of the original suit pointed out in Rothblatt's motion.

The U.S. District Court clerk refused to accept the amended version without an order from Richey permitting it. The amended version, along with the request for Richey's permission to file it was filed yesterday with the clerk—one day after the deadline.

During yesterday's hearing, Richey cited a rule of the District Court that if a party to a case fails to file an answer to a motion "within the prescribed time, the court may treat the motion as conceded." Rothblatt argued that since the Democrats failed to respond to his motion to dismiss, they had conceded.

Ungar said the amended version made it unnecessary to respond to Rothblatt's motion. Richey said that since the amended version was not filed on time, the Democrats were left without any response to Rothblatt's motion. "I've taken an oath to uphold the Constitution and laws of the United States and included among those are the rules of precedence which have the force and effect of statutes and laws of the United States," Richey said.

Richey ordered all taking of depositions by both sides in the suit to be stopped until he could decide the question of whether the suit was now dead. If the suit is dead, Richey indicated, the Democrats may be barred from filing it again since once an issue has been decided, either through a decision or a dismissal, it cannot be brought up again for new litigation.

In the meantime, Edward Bennett Williams, one of the Democrats' lawyers, took the ninth deposition in the suit yesterday from Hugh W. Sloan Jr., former treasurer of the Committee for the Re-election of the President.

Lawyers for both sides were given until Sept. 18 to file briefs with Richey on whether the suit should be dismissed or not. Richey promised a ruling by Sept. 20.