

Court Backs 'Mayday' Tapes Bid

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U.S. District Judge William B. Bryant has ordered the White House to turn over nine hours of former President Nixon's tape recordings to plaintiffs in a civil suit arising from arrests during antiwar demonstration here in May 1971.

The ruling is the first to order release of White House tapes in a civil suit, and President Nixon's attorneys said they would attempt to block the White House from turning over the materials.

The order was signed last week by Judge Bryant and reinforced yesterday by him at a brief hearing during which the White House asked for additional time to comply with the subpoena.

Raymond Larocca, attorney for Nixon, told the judge that the former president would move to block compliance with the subpoena "as soon as we are humanly able to do so."

Judge Bryant told Larocca: "I'll order the tapes to be produced a week from (yesterday). You can file what you want."

Nixon's attorneys are known to view the order as a serious precedent to the more than 28 other civil cases across the country in which the ex-President is involved.

They want a final determination of more complex legal issues of tape ownership and presidential privilege claims—pending before U.S. District Judge Charles R. Richey—before producing tapes under subpoenas in civil cases, legal sources said.

The tapes sought in the civil suit here are of White House conversations involving six designated persons during the May 4-5 period in 1971. Trial of the civil suit is scheduled Dec. 2 before Judge Richey.

Plaintiffs in the class-action suit are 1,200 persons who were attending a rally on the Capitol steps May 5, 1971 when they were arrested.

The suit was brought by Rep. Ronald Dellums (D-Calif.), a speaker at the rally who said the arrests interfered with his rights as a congressman and with those of several individuals arrested there.

The plaintiffs want access to White House conversations involving former Attorney General John N. Mitchell, former Attorney General Richard Kleindienst, former metropolitan police chief Jerry V. Wilson and former White House aides H.R. (Bob) Haldeman, John Ehrlichman and John W. Dean III to see if the demonstration or arrests were discussed at the White House during the "Mayday" time period.

Under an agreement between the White House and the General Services Administration, former President Nixon and his attorneys must be informed of subpoenas issued against White House tapes.

Larocca said yesterday that the attorneys were not informed of the subpoena in the "Mayday" case and had no opportunity to object to it until Judge Bryant had issued his order requiring compliance.

Justice Department attorney David Anderson, representing the White House, told Judge Bryant yesterday that the government is attempting to comply with his subpoena but needs more time.

The government appears to be proceeding under requirements in a proposed new tapes agreement, under which current White House aides and a representative of former President Nixon would search files jointly for subpoenaed materials. Justice Department attorneys said Nixon's attorneys had been too busy to assist in the search and therefore the government had been unable to find the material.

Attorney Warren Kaplan, representing the plaintiffs in the civil suit, said he did not consider White House attempts thus far to comply with the subpoena "a good faith compliance with the court's ordering." He suggested that Nixon's attorneys waive the right to assist in the search.