

Nixon Attorneys Fight Broadcasting of Tapes

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Attorneys for former President Richard M. Nixon have asked a federal judge to allow them to appeal the judge's ruling allowing the public broadcast of White House tapes that were played during the Watergate cover-up trial.

The motion was filed with U.S. District Court Judge Gerhard A. Gesell, who issued his ruling two weeks ago. Gesell must approve the request before an immediate appeal can be filed, since the case technically is still pending before him.

Mr. Nixon's attorneys maintained the appeal is necessary because the earlier ruling by Gesell would affect all future demands for White House tapes for use in criminal proceedings.

"Every such demand will now have to be evaluated not simply on the basis of the limited and carefully controlled disclosure that is necessary to permit justice to be served in a criminal case, but also on the basis that any recording produced for this purpose will likely be reproduced in the form of cassettes and phonograph records to be played at cocktail parties, to be used in comedy acts or dramatic productions, and otherwise to be exploited for every purpose and in every manner that may occur to the imaginative, the enterprising or the antagonistic recipients of copies," the attorneys wrote.

Although Gesell ruled in early December that there was no legal barrier to making the tapes public, the tapes have not actually been released until practical questions of reproduction are answered.

It was the first ruling ever allowing the release of tapes played as evidence at a criminal trial, although the court regularly allows the release of documents and photographs used as evidence.

The motion for an appeal was filed yesterday by Nixon attorneys Herbert J. Miller Jr., Raymond G. Larroca, William H. Jeffress Jr. and R. Stan Mortenson.

They said an appeal at this stage, instead of waiting until the details of distributing the tapes are worked out, "will clearly advance the final determination of this matter" and will alleviate the need for last minute delays pending appeal, which they would ask when the tapes are prepared for distribution.

Nixon's attorneys said they oppose the public distribution of the tapes on three grounds:

- Release would further intrude upon the presidential privilege.
- Release would invade Nixon's privacy.
- Release would be embarrassing not only to Nixon, but to others whose voices appear on the tapes "In candid conversations never intended to be publicly aired."