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New Wiretap Ruling by Supreme Court

Washington

The Supreme Court ruled yesterday that federal agents must specifically identify individuals when seeking court permission to wiretap, but inadvertent failure to do so will not bar use of wiretap evidence at trial.

The decision, written by Justice Lewis Powell, was criticized by three dissenters on the ground that it requires the government to strictly comply with sections of the 1968 Omnibus Crime Control Act but then allows the evidence to be used despite failure to comply.

Chief Justice Warren Burger dissented from another part of the ruling on the grounds that it went too far by requiring agents to identify all person they might overhear in criminal conversation when seeking a federal court wiretap warrant.

The decision arose after two lower federal courts ordered suppression of tapped conversations involving five Cleveland area men charged with violating federal gambling laws.

Federal investigators failed to name three of the defendants as targets when seeking wiretap authorization, although they had been heard in allegedly criminal conversation as the result of an earlier tap.

The other two men were not named in an inventory presented by agents to a judge for notification that they were overheard in tapped

conversations.

Powell said the 1968 act requires both that targets of taps be named in warrants and that names of those overheard and likely to be charged be presented to a federal judge for possible notification.

But he overruled the lower courts, holding the tap evidence could be used against all five defendants. He said the inadvertent

violations did not involve provisions that were central concerns of Congress in passing the act.

Justices Thurgood Marshall, William J. Brennan Jr. and John Paul Stevens dissented. Marshall said the naming and notice provisions were important parts of the 1968 law and violations call for suppression of resulting evidence.

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