

Nixon Attorney Moves to Block Prosecutor-First Access to Tapes

By Timothy S. Robinson
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Attorneys for former President Nixon yesterday moved to block the implementation of a new agreement that gives the Watergate special prosecutor first access to Mr. Nixon's White House tapes and documents.

The former President's attorney, Herbert J. Miller, termed the new proposed agreement a "flagrant intrusion on Mr. Nixon's rights both as a citizen and as former President," and said it would permit a "freewheeling rummage" through the former chief executive's personal files.

The new agreement between the White House and the special prosecutor's office announced earlier this week was an "incredible act," Miller said in court papers filed yesterday.

Mr. Nixon's lawyers asked U.S. District Court Judge Charles R. Richey to halt at least temporarily implementation of the new agreement pending his decisions in various law suits filed over ownership and control of the tapes.

The Nixon attorneys also are asking that the government implement the original White House-approved tapes agreement between the General Services Administration and Mr. Nixon. That first agreement, announced on the day Mr. Nixon was pardoned, gave the former President custody and control of the White House tapes and documents from his administration.

Richey is scheduled to hold a hearing today on the various suits, which will include legal arguments on the ownership of presidential documents, the question of whether a former president can invoke a presidential privilege when he is no longer in office, the validity of the original agreement, and the implementation of the new agreement.

The new agreement, announced Monday, allows the special prosecutor to search through Mr. Nixon's files, under specific time and subject-matter limitations, for matters relating to criminal investigations under the special prosecutor's jurisdiction.

The original agreement would not allow such a search without a subpoena and an op-

portunity for Mr. Nixon to raise any claims of executive privilege or national security that he might have.

"Under the circumstances, to permit the special prosecutor — a prosecuting agency of the federal government — to rummage through these personal materials would violate not only Mr. Nixon's rights as a former President but also his right against unreasonable searches and seizures of his property," Miller's attorneys said in legal papers filed yesterday opposing the new agreement, which must have court approval because of the pending law suits.

Mr. Nixon's attorneys argued that the special prosecutor must not be allowed access to the documents until the major legal issues in the case are decided, because permitting "a broad-scale incursion on that privilege would be forever regrettable . . ."

Miller also complained to the judge yesterday that the litigation over the tapes issue had gotten "completely unwieldy" with the consolidation of cases and interventions Richey has allowed so far.