

Wiretaps on Dr. King Made After Johnson Ban

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HOUSTON, June 6 — Testimony in Federal District Court has indicated that the Federal Bureau of Investigation continued to wiretap the telephones of the Rev. Dr. Martin Luther King Jr. and Elijah Muhammad after former President Johnson ordered an end to wiretaps except those authorized by the Attorney General for "national security" reasons.

The implication was that the F.B.I. either ignored the Presidential order or that Dr. King, the assassinated civil rights leader, and Mr. Muhammad, the Black Muslim leader, were being surveilled in connection with some security case.

The F.B.I. refused to comment. Aides of Mr. Johnson did not reply immediately to a request for clarification from him.

On June 30, 1965, President Johnson, in an "administratively confidential" memorandum to all Government departments, said that the "invasion of privacy of communications is a highly offensive practice which should be engaged in only where the national security is at stake."

No telephone tap, including those for national security reasons, could be maintained without prior approval of the Attorney General, the President said.

But Robert Nichols, special agent of the Atlanta F.B.I. office, testified this week at a hearing here that he had supervised a wiretap on the home telephone of Dr. King.

Responds to Question

"I wasn't on it except until May, 1965," Mr. Nichols said.

Charles Morgan Jr., Southern director of the American Civil Liberties Union, then asked, "And the wiretap on Martin King's calls continued until his death on April 4, 1968?" Mr. Nichols replied:

"It was my understanding that it went on."

C. Barry Pickett, a special agent in the F.B.I. office at Jacksonville, Fla., testified that he

had been a clerk in the Phoenix, Ariz., office of the F.B.I. from May, 1962, until May, 1966.

His assignment, he said, was to listen to the conversations of Black Muslim leaders.

The F.B.I. had a microphone in Mr. Muhammad's home as well as a wiretap on his telephone, Mr. Pickett said.

Neither Mr. Nichols, Mr. Pickett, nor Mr. Pickett's former superior, Frederick J. Brownell, a retired special agent, was required to testify as to the purpose of the wiretaps.

District Judge Joe Ingraham referred to the wiretaps as being illegal. But he said that if it were found that Cassius Clay had been convicted of draft dodging by the use of illegally gathered evidence it would not be necessary to decide the reasons for the wiretaps.

The wiretap testimony was presented as Judge Ingraham heard the appeal of Clay from his conviction in June, 1967. Clay alleges that the Government used "tainted" evidence.

Testimony in the appeal of the former heavyweight boxing champion from a five-year sentence was concluded yesterday. Judge Ingraham asked the two sides to submit briefs within two weeks. He said that he might ask for additional testimony after reading the briefs.

Mr. Pickett, who was one of a half dozen F.B.I. employees assigned to eavesdrop on Mr. Muhammad, said that he had been told to record all conversations at Mr. Muhammad's home but that he had to make a synopsis only of what he considered to be "pertinent facts."

Attorneys for the Department of Justice fought for two days in Judge Ingraham's court to try to bar public disclosure of their wiretaps or anything connected with them.

The existence of the wiretaps was disclosed in the Supreme Court in March when the Solicitor General's office acknowledged that the F.B.I. had monitored five conversations involving Clay. Only one, the Government said, had been approved by the Attorney General and

that one was involved in the gathering of "foreign intelligence information."

The Government lawyers argued that the four others should also be kept secret because "the unauthorized dissemination of the facts relating to these surveillances would prejudice the national interests and might prejudice the interest of third parties."

The Government attorneys, John S. Martin Jr. and Michael T. Epstein from the Justice Department, and United States Attorney Anthony J. P. Farris of Houston, said that their reasons for wanting the records kept secret could not even be advanced in open court.

After a closed session lasting 30 minutes, Judge Ingraham upheld the Government's position on the wiretap that involved "foreign intelligence," but he admitted the synopses of the four other wiretaps into evidence.

Attorney General John N. Mitchell has signed an affidavit stating that disclosure of the wiretap that involved foreign intelligence could prejudice the national interest. He did not mention the four other wiretaps.

None of the records of the four other wiretaps bore a date later than June 30, 1965, when

President Johnson's order on wiretaps was issued.

The record of the conversation between Clay, who is also known as Muhammad Ali, and Dr. King was dated Sept. 4, 1964. The dates on the records of the conversation between the former boxer and Mr. Muhammad were in 1964 and early 1965.

Not until Mr. Morgan cross-examined the F.B.I. agents was it uncovered that the wiretaps had probably extended beyond the June 30, 1965, date.

Judge Ingraham ruled that the F.B.I. agents did not have to testify when the wiretap surveillances began or ended, but he allowed Mr. Morgan to establish that the wiretaps had continued at least into 1966. The attorney said he was trying to find out if other conversations of Clay's had been monitored but not reported on by the Government.

Mr. Martin and Mr. Epstein declined to comment on the wiretaps or to give their reasons why the disclosure of them would not be in the national interest.

In Washington, the F.B.I. refused to acknowledge that the conversations of Dr. King and Mr. Muhammad had been monitored even though F.B.I. agents had already so testified.