

Ellsberg Sues on Wiretap

Washington

Daniel Ellsberg, Anthony J. Russo Jr. and 17 of their attorneys and consultants in the Pentagon Papers case sued ten top federal officials for damages yesterday, accusing the government of illegal wiretapping.

The suit is one of the first to be filed under a provision of the 1968 wiretap law that permits the government to use wiretapping with court orders, but authorizes damage suits against officials who wiretap illegally.

It stems from the Justice Department's declaration in U.S. District Court in Los Angeles last July that a defense lawyer or consultant in the trial of Ellsberg and Russo had been overheard over a "foreign intelligence" wiretap that was installed without a court order.

The trial of the two de-

fendants for allegedly making public the secret Pentagon papers was halted while they appeal to the Supreme Court their assertion that the warrantless wiretap was illegal and should be disclosed to them. The court is expected to decide whether to hear the appeal shortly after it begins its new term October 2.

The suit filed yesterday is based upon the same assertion that the wiretap was illegal because it was not approved by a judge. The government asserts that "foreign intelligence" wiretapping can be conducted legally without court approval.

Because the government agency planted the alleged wiretap, or which lawyer or consultant was overheard, all lawyers and consultants for the defense sued the top officials of all federal agencies that use wiretapping.

In addition, Ellsberg and Russo filed suit, charging that the interception interfered with their defense and thus denied them "the effective assistance of counsel guaranteed by the Sixth Amendment."

Those sued were former Attorney General John N. Mitchell and Attorney General Richard G. Kleindienst, and the top officials of the FBI, Bureau of Narcotics and dangerous drugs, Customs Bureau, Secret Service, Internal Revenue Service, Internal Revenue Service and State, and Central Intelligence Agency.

The plaintiffs asked for \$50,000 each in punitive damages, plus the amount set by Congress as compensatory damages for illegal wiretapping — \$100 a day for each day of surveillance or \$1000, whichever is higher.

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