

Kissinger Aide Gets Pennies In Wiretap Suit

Washington

A federal judge yesterday awarded token damages to a former member of Richard Nixon's national security staff for wiretaps placed in his home.

Morton Halperin's home telephone was wiretapped in an attempt by the White House to discover the source of news leaks. The wiretapping was conducted for a 21-month-period during 1969, 1970 and 1971.

Halperin had sought \$3 million damages from the former President, former Secretary of State Henry Kissinger, former Attorney General John Mitchell and Nixon aide H. R. Haldeman.

But U.S. District Judge John Lewis Smith Jr. said Halperin could not prove that he, his wife and their two children had suffered any actual damages from the wiretap.

"It is evident, therefore, that the only pecuniary relief available to plaintiffs is nominal damages in the amount of \$1," Smith said.

Lawyers could not immediately determine whether the judge meant to make a total award of \$1 to the Halperins or to award each \$1, making a total of \$4.

Halperin's attorneys, who had sought damages of \$100 a day plus punitive damages, announced they intended to appeal the decision.

The wiretap was ordered in an attempt to discover the source of leaks of national security information while Kissinger was serving as the head of the National Security Council. Halperin for a time was on Kissinger's staff.

In an earlier opinion Smith rejected the "good faith" defense of the former President and the other defendants and ruled they violated the constitutional rights of Halperin and his family.

But Smith said this does not mean it can be "presumed" they were due damages without proof.

"That presumption cannot be invoked here," he said. "In view of the fact that there is no demonstra-



MORTON HALPERIN
He'll appeal the decision

ble injury here, plaintiffs are not entitled to an award of compensatory damages."

"Punitive damages are similarly inappropriate," he said.

The judge cited his earlier opinion, in which he said, "There was justifiably grave concern in early 1969 over the leaking of confidential foreign policy information."

Smith said in his award ruling: "Despite the court's rejection of the defendants' good faith defense, their conduct cannot fairly be characterized as a wanton, reckless or malicious disregard of plaintiffs' rights, justifying the imposition of punitive sanctions."

Smith also dismissed a request that he place the defendants under an injunction forbidding them to use or disclose any information they obtained in the wiretaps.

"Mr. Haldeman and Mr. Mitchell are in prison," Smith said. "Mr. Nixon is in voluntary seclusion and is prohibited by the 22nd Amendment from regaining the office of President. Consequently, the proposed relief is unnecessary."

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