

Judge Rules F.B.I. Did Not Interfere In Attica Defense

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By TOM GOLDSTEIN

A State Supreme Court justice ruled yesterday that there was no evidence of governmental interference with the Attica legal defense team.

In effect, the justice, Joseph S. Mattina of Buffalo, said he did not believe Mary Jo Cook, who testified under oath last month that she had infiltrated the Attica defense camp and reported back to the Federal Bureau of Investigation on legal strategy in the trials of former inmates under indictment for crimes stemming from the 1971 prison rebellion.

"Miss Cook's allegations were neither supported by her testimony, which I must characterize as general and extremely vague, nor was her testimony substantiated in any way by testimony of any of the other witnesses," Justice Mattina wrote in a 12-page decision.

"In fact, the other testimony contradicted her statements that she was communicating information concerning the Attica defense to the F.B.I. or any state agency."

Justice Mattina's ruling came as he denied a motion to dismiss the indictment against

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Bernard Stroble, a former Attica inmate who is on trial on charges of killing two other inmates during the 1971 prison revolt.

Last month, shortly after Miss Cook made her charges at a news conference, lawyers for Mr. Stroble asked for the dismissal on the grounds that her activities had prejudiced their case.

Justice Mattina granted a hearing, at which Miss Cook repeated her statements under oath.

At the hearing Gary Lash, who described himself as Miss Cook's F.B.I. "control agent," testified she had been hired as an informant only to infiltrate the Buffalo chapter of the Vietnam Veterans Against the War/Winter Soldier Organization.

Documents Examined

During the hearing, Justice Mattina examined files Miss Cook had submitted to the F.B.I. He said he had found nothing relevant to the Attica defense.

The Justice also examined documents of the state police and the office of the special Attica prosecutor, and again found no evidence that the defense camp had been pierced by governmental agencies.

Last week Anthony G. Simonetti, the chief Attica prosecutor, testified that his office had received no information from anybody regarding the strategy of the Attica legal defense team.

Justice Mattina found no evidence to contradict Mr. Simonetti's testimony.

Although the issue before the justice was limited to Mr. Stroble's case had been prejudiced by the informer's undercover activities, yesterday's opinion included broader findings.

"There was no governmental interference, misconduct and/or surveillance of defense

secrets strategy of the Attica defense camp, and in particular, Bernard Stroble," Justice Mattina wrote.

Nevertheless, lawyers for other Attica defendants said they intended to press motions to determine if Miss Cook's activities had prejudiced the cases against their clients.

Her activities have been cited as one reason to set aside the convictions of John Hill and Charles J. Parnasilice. Last month Mr. Hill was convicted of murder and Mr. Parnasilice of attempted assault for their roles in the death of a prison guard during the September, 1971 revolt.

Supreme Court Justice Gilbert H. King held a hearing on the defense motion last week. The hearing is scheduled to continue in Buffalo today. If Justice King rules against the defendants, sentencing is expected to follow.