

High Court Refuses To Bar a Sentence On Pentagon Papers

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WASHINGTON, Nov. 10 —

The Supreme Court refused today to delay the execution of a contempt judgment against a Harvard University political scientist who had refused to answer a grand jury's questions relating to the Pentagon papers.

The scholar, Samuel L. Popkin, refused last March to answer seven questions before a grand jury in Boston. He was given an 18-month sentence for contempt.

The United States Court of Appeals for the First Circuit, in May, upheld Mr. Popkin's right to refuse replies to the four questions having to do with his opinions of who might have had copies of the secret Pentagon documents made public by Daniel Ellsberg. But the court ruled that the three others were proper questions.

Professor Popkin, an expert on Vietnamese village life, is a friend of Mr. Ellsberg's. He had asked the high court to stay the contempt judgment, and

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thus the sentence, until it had received and ruled on his appeal of the judgment. But today the Court denied his request in an 8-to-1 decision. Justice William O. Douglas dissented.

Professor Popkin's lawyer William P. Homans Jr. of Boston, said that he did not want to comment until he had studied the implications of the court order. But Professor Popkin indicated recently that he was prepared to go to jail rather than answer the grand jury questions.

The questions upheld by the appeals court dealt with the identities of persons he had interviewed "to acquire this knowledge of who participated in the Pentagon papers study" and of the persons with whom he had conversations that led him to "knowledge of who the participants were," as well as whether or not he and Mr. Ellsberg had ever discussed the "contents or existence of" the papers.

Mr. Popkin was quoted as saying in reply to reporters' questions today: "If I have to go to prison, I will hold a press conference first."

Richard E. Brackman, chief of the Criminal Division of the United States Attorney's office in Boston, said that he could not comment on the high court's ruling because he had not read the decision.

It appeared unlikely, how-

ever, that Mr. Popkin would go to jail in the immediate future. The court order requires him to file a stipulation agreeing to answer the grand jury's questions within a certain period of time. If he does not, the matter will be returned to the United States District Court with directions to affirm the contempt judgment.

But a spokesman for the Justice Department in Washington, while refusing to comment directly on the court's ruling, said there were "no immediate plans to recall the grand jury."

Professor Popkin, in asking for a stay, contended that the questions had only a remote connection with the grand jury's investigation into the publication of the papers, which were first made public in The New York Times in June, 1971. The questions also "implicate confidential source relationships," he said. The Supreme Court did not comment on the issues in its ruling.

Mr. Ellsberg is under indictment in Los Angeles for his role in making public the once-secret Pentagon study of the United States's involvement in the conflict in Vietnam.

Justice Douglas has stayed the trial of Mr. Ellsberg and of Anthony J. Russo Jr., also accused in the release of the papers, while the Supreme Court considers an appeal of a wiretapping issue in the case.



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Prof. Samuel L. Popkin, who refused to testify on the Pentagon papers before a Federal grand jury in Boston.