

DECISION DELAYED IN C. I. A. LAWSUIT

By Frank
Judge Puts Off Decision in
Slander Case to August

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BALTIMORE, May 13 — A Federal judge today postponed for at least three months a ruling on whether an Estonian emigre leader whom the Central Intelligence Agency has acknowledged ordering one of its agents to publicly label as a "Soviet spy" can sue the C.I.A. agent for slander.

Lawyers for both Eerik Heine, 46 years old, and his C.I.A. accuser, Juri Raus, 39, had indicated they expected a ruling today on the key question of the intelligence agency's claim of immunity for Mr. Raus.

The agency has conceded in the United States District Court here that Mr. Raus slandered Mr. Heine in 1963 and 1964. But it contends that Mr. Raus was acting as a "Government official," on proper orders of a Government agency, in telling members of the Estonian emigre community in this country that Mr. Heine was "a K.G.B. agent." The K.G.B. is the Soviet Union's security police.

The C.I.A. has said in a series of affidavits filed in the court here that it sought, by isolating Mr. Heine, to protect "foreign intelligence sources" from discovery by him.

A New Complication

During a three-hour hearing today new complications were injected. Under an opinion of the United States Supreme Court in 1959, defamatory utterances of Government officials and privileged and the officials are immune from suit if they act within "the outer perimeter"

of their duties in making the statements.

However, Mr. Raus's motion for an immunity dismissal of Mr. Heine's \$110,000 slander suit has been complicated by the fact that the C.I.A. will not permit him or other C.I.A. witnesses to be cross-examined by Mr. Heine's lawyers in opposing the dismissal.

The C.I.A. has contended in effect, that Mr. Raus is immune from suit and that Mr. Heine must accept the claim without question because to test it in court would breach security.

This assertion has presented special problems to District Judge Roszel C. Thomsen. Under Federal rules of procedure, a defendant seeking dismissal of a suit—in this case, Mr. Raus—ordinarily bears the burden of showing good cause for the dismissal. Mr. Raus, however, has shown the court nothing, and Government lawyers here today said again that he would not be permitted to do so even if the case ultimately went to trial.

Judge Notes Point

Judge Thomsen noted today that the new points raised by Ernest C. Raskauskas and Robert J. Stanford, Mr. Heine's lawyers, "raise the whole question of the right of the Government to engage in these intelligence and counterintelligence activities, and whether the same rules [of justice] apply as in the other activities of Government."

Mr. Raskauskas had argued that "the C.I.A. has no statutory right to run around the United States, where it is forbidden by law to operate in any case—into the Masons or the Knights of Columbus or some other group or wherever it is—and to subvert those people against one another."

Judge Thomsen set a schedule running through the end of August for the filing of briefs and for oral arguments, if needed, on the new points raised today.