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U.S. WILL APPEAL WIRETAP RULING

Seeks to Overturn Judge's Ban on Surveillance

By FRED P. GRAHAM

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WASHINGTON, Jan. 27—

The Justice Department announced today that it would ask the United States Court of Appeals for the Sixth Circuit to review a Detroit judge's ruling that the Attorney General does not have the right to order wiretapping against radical groups without a court order.

Officials plan to file papers this week seeking to overturn the decision handed down Monday by Federal District Judge Damon J. Keith of the Eastern District of Michigan.

Judge Keith rejected Attorney General John N. Mitchell's assertion that the Constitution and Federal wiretapping laws gave him the authority to eavesdrop on "dangerous" domestic groups when he concluded that their activities threatened the national security.

The ruling came in the preliminary stages of the trial of Lawrence R. Plumondon, a member of the White Panther party, who is accused of conspiracy in the bombing of a Central Intelligence Agency office in Ann Arbor.

The Justice Department refused to turn over to Mr. Plumondon's lawyers transcripts of his conversations picked up by wiretapping. It argued that Mr. Mitchell had the legal authority to order the interceptions without court order.

Judge Keith held that while the Attorney General might

have such a right to eavesdrop on foreign agents, he could not wiretap domestic militant groups without court authority.

He gave the Government until Thursday morning to disclose the transcripts or drop the case.

A spokesman for Mr. Mitchell said that earlier today Judge Keith continued the trial date until Feb. 9 to give the Government an opportunity to seek review of the decision.

It was not known whether the Justice Department would ask the appeals court to rule

by then or to restrain Judge Keith from acting until the point was decided.

The Supreme Court has not considered the validity of Mr. Mitchell's assertion, first made in the Chicago Seven conspiracy trial, that he has the authority to order eavesdropping as an agent of the President. The President's eavesdropping power is inherent in his constitutional responsibility to defend the nation, Mr. Mitchell said.