

MAY 4 1971

Hilliard

Charges

Dismissed

SF Examiner
By Tom Hall

Black Panther David Hilliard was freed today after charges he threatened the President's life were dismissed.

The dismissal, ordered by U.S. District Judge William P. Gray, was based on prosecution refusal to follow a court order to turn over unauthorized tapes of Hilliard's telephone conversations.

Judge Gray ruled Attorney General John Mitchell had no right to permit tapping of Hilliard's phone without first obtaining court permission.

Appeal Planned

Gray further ruled that if the case was to be tried the unauthorized wiretap evidence must be handed to defense attorneys.

U.S. Attorney James L. Browning Jr. said the ruling by Gray will be appealed.

Government prosecutors contended that information obtained through the tap was not part of its prosecution.

Hilliard, chief of staff of the Panthers, was indicted by a grand jury for remarks made Nov. 15, 1969, in Golden Gate Park.

The Government's case contended that wiretaps were necessary in the interest of national security.

Gray said they violated

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Hilliard's constitutional rights since no court approval was granted.

Immaterial

Additionally, they claimed that the overheard conversations had nothing to do with the charge against Hilliard.

The information overheard therefore is immaterial, Browning contended, and wouldn't "taint" the trial even if the wiretaps were held to be illegal.

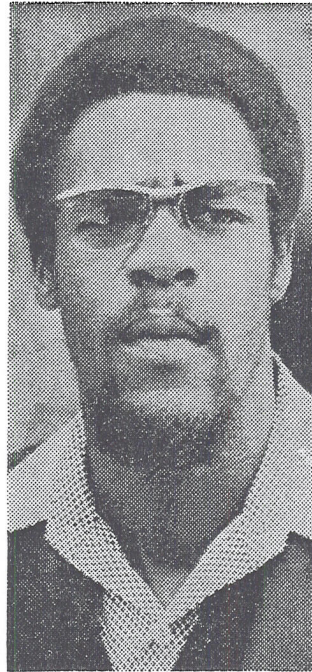
But defense attorney Benjamin Deryfus cited a Detroit federal district judge's decision which held that such warrantless electronic surveillances without court approval were unconstitutional.

The Sixth Circuit Court of Appeals upheld the Detroit decision and Attorney General Mitchell has indicated the issue will be taken to the U.S. Supreme Court.

A fellow judge of Gray's, Warren J. Ferguson of Los Angeles, last January ruled in the case of an alleged Panther that government wiretapping without court approval in national security cases was unconstitutional.

Ferguson's ruling is on appeal to the U.S. Court of Appeals here.

Electronic surveillance, without warrants, in internal security cases has been authorized by Presidents to their attorneys general since Franklin D. Roosevelt's time.



DAVID HILLIARD
Ordered freed