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Judge Drops Case Against Hilliard

By William Cooney

A visiting federal judge here yesterday ordered the government to disclose to David Hilliard information about him it obtained by illegal wiretaps.

When the government refused, U.S. District Judge William P. Gray of Los Angeles dismissed the case against Hilliard. The government had charged that Hilliard, who is chief of staff of the Black Panther party, had threatened the life of President Nixon.

"It is," said Hilliard's attorney, Benjamin Dreyfus, "A very important day for the Constitution.

"I am delighted to have the First and Fourth Amendments to the Constitution upheld."

The beaming Dreyfus added, "This is an easy disposition of the case for the government because it never had a case against Hilliard."

Much of the government's case was a movie showing Hilliard talking to a vast throng in Golden Gate Park during an anti-war rally November 15, 1969, in which Hilliard was clearly shown saying, "We will kill Richard Nixon."

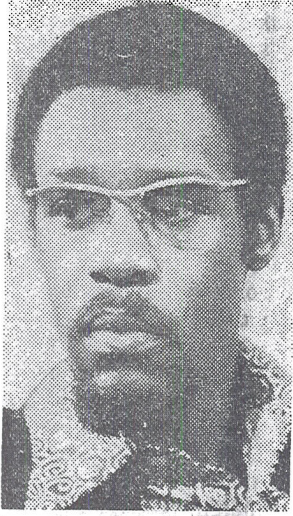
Hilliard claimed this phrase was merely rhetoric and he was exercising his right to free speech.

APPEAL

Obviously downcast by Judge Gray's ruling, James LM. Browning Jr., the United States attorney here, said, "Our intention is to go to the Ninth Circuit Court of Appeals to ask that the dismissal be overturned on the grounds the judge overstepped his authority in dismissing the case."

A beaming, modish-clad Hilliard said, "This is all due to the good work of the attorneys." Then he added that, "This shows the people will

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DAVID HILLIARD
Panther chief of staff

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not accept dictatorial government" and said the indictment was "another form of harassment."

Ironically, the government contends the wiretaps on which it picked up Hilliard have no connection with the charge of threatening the President.

AUTHORIZATION...

Hilliard was picked up, it said, "in numerous conversations that are unrelated to this case . . ." in wiretaps authorized by the President and Attorney General John Mitchell without getting prior approval from a judge to make the wiretap.

The government suggested the judge review the wiretaps, rule they were unrelated to the case against Hilliard and then proceed with Hilliard's trial.

This Judge Gray declined to do, saying the volume was too great and also that since he was not familiar with the case he could not make a decision.

Browning maintained, as Attorney General Mitchell has stated, that the government may tap wires without a judge's prior authority, in cases of national security.

Judge Gray, however, noted that the Fourth Amendment prohibits "unreasonable search and seizure" and ruled, "There is no national security exemption" against illegal wiretapping. He said the government could have complied with the law by getting a magistrate to authorize the wiretaps.

"Not complying is a violation of the Fourth Amendment," he ruled.

Judge Gray said he was following the law in ordering the government to divulge to Hilliard all portions of the wiretaps on which his voice appears or which were taken at his home.

The alternative, Judge Gray said, was to dismiss the case.

"The government will not comply," Browning said and the case was dismissed.