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McCord's Bid to Annul Nixon Pardon Rejected

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Convicted Watergate conspirator James W. McCord lost a court bid, at least temporarily, yesterday to have declared illegal the presidential pardon of Richard M. Nixon as well as the agreement that allowed Mr. Nixon to keep custody and control over White House tapes.

U.S. District Judge Charles R. Richey denied the requests, as well as one by McCord asking for a formal court order to block the transfer of White House tapes to Mr. Nixon in California. Richey acted on the basis of legal defects in wording of the suit filed by McCord's attorneys.

The ruling does not block McCord from raising the same issues after correcting his complaint. Richey said simply that the court was "without power and jurisdiction to act" because of the wording defects.

The ruling by Judge Richey the wording of the suit filed nevers in U.S. District Court here yesterday as lawyers prepared for a Monday hearing before the judge on the questions of whether the tapes agreement is generally binding and whether former President Nixon can validly assert claims of Presidential privilege on White House tapes subpoenaed in civil suits.

The new suit filed yesterday by McCord questioning the le-

gality of the pardon and the tapes agreement was the first such court challenge aimed directly at those two questions.

McCord said the tapes agreement would hamper his access to materials he needs for use in his remaining civil suits involving the Democratic party and his retrial, if he wins his appeal in the original Watergate break-in convictions.

The pardon was illegal, among other reasons, because it was "arbitrary and capricious," McCord's attorney contended.

Meanwhile, attorneys for McCord filed their opposition to a Justice Department motion that seeks to block an outstanding subpoena from McCord for a one-month period of White House tapes.

Justice Department said on behalf of the White House that the tapes can't be turned over by the White House because they belong to Mr. Nixon under the terms of the agreement.

McCord's attorney Bernard Fensterwald said yesterday, however, that "while there is a long-established tradition that the President's papers become his property upon leaving office, there is no such tradition regarding tape recordings. . ."

Attorneys for R. Spencer Oliver, a Democratic Party official who also has subpoenaed a month's worth of tapes for

use in a civil suit growing out of a bug that was placed on his telephone in the Watergate complex in May, 1973, also argued against the Justice Department motion.

Oliver's attorney, Joseph H. Koonz Jr., argued that the Sept. 6 tapes agreement was not binding in this specific instance, among other reasons, because it was signed 14 days after the subpoena in question was issued.

In a brief hearing yesterday before Judge Richey on the new McCord suit, Deputy Watergate Special Prosecutor Henry Ruth said no order blocking transfer of the tapes was necessary because his office had received assurances from the White House that there would be "no disturbance of the custody or location" of the tapes while negotiations are in progress on a new agreement.

The new negotiations began after the special prosecutor's office complained about the agreement giving Mr. Nixon custody and control of the tapes. Implementation of the agreement has been suspended although Mr. Nixon's attorneys said yesterday that they still consider it a valid pact.

One of Mr. Nixon's attorneys, Raymond Larroca, said he had "no knowledge" of any plans to move the tapes at this time.