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Judge June L. Green

JUDGE ASKS TO SEE U.S. FILE ON AGNEW

Acts on '73 Investigation in
Suit to Obtain Evidence

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WASHINGTON, Dec. 22—A Federal judge ordered the Justice Department today to submit for her private inspection much of the documentary evidence in the Government's 1973 criminal investigation of former Vice President Spiro T. Agnew. The evidence has never been made fully public because, in a plea-bargaining deal, Mr. Agnew pleaded no contest to a tax evasion charge and was not tried.

The order by United States District Judge June L. Green was the latest development in a six-month court battle by two young law students, under the Freedom of Information Act, to obtain the Agnew evidence over the strenuous opposition of the Justice Department.

Mr. Agnew has taken no direct part in the struggle over the documents. But in an interview two months ago he said that he had never seen the transcripts of his lawyers' secret plea-bargaining he should have the right to see them.

Agnew's Position

He has maintained that the Government's case against him—summarized in a 40-page public statement released on the day he pleaded nolo contendere to an income tax charge, Oct. 10, 1973—"rested entirely" on the testimony of persons seeking to "save their own

necks" by cooperating with the prosecutors.

The Justice Department's resistance to the disclosures sought in the freedom of information lawsuit suggests that, to some extent, this may be true, but also that Mr. Agnew would probably not care to have the whole record placed on public view.

Neither he nor his lawyer, George W. White, could be reached today to comment on the law students' effort to obtain the evidence.

The students, Roy Baldwin, 24, years old, of Lincoln, Neb., and Bruce Feder, 25, of Phoenix, Ariz., both in the third year at George Washington University Law School here, say they are seeking the documents because, as Mr. Baldwin put it today "we share the feeling of many Americans that the facts are not complete in the Agnew Case."

Undisclosed Evidence

"The question really is, did he deserve to get off with just a \$10,000 fine when the evidence they did not release shows he was responsible for taking a greater sum of money," Mr. Baldwin said.

The documents sought include all of the Agnew case file except grand jury proceedings, which are secret.

But in written pleadings and in argument before Judge Green at a hearing today, Bruce E. Titus, a Justice Department lawyer, said that because the Agnew documents were "part of an ongoing investigation" by the United States Attorney's office in Baltimore, they still might be "usable as evidence, as witness the recent indictment of Gov. [Marvin] Mandel."

Evidence in an ongoing criminal investigation is exempt from the disclosure provisions of the Freedom of Information Act.

Mr. Titus's reference was to Governor Mandel's indictment Nov. 24 by a Federal grand jury in Baltimore, under essentially the same team of assistant prosecutors involved in the Agnew case, on charges of fraud and bribery. Mr. Mandel, a Democrat who succeeded Mr. Agnew as Governor when Mr. Agnew assumed the Vice-Presidency in January 1969, has pleaded not guilty.

Mr. Titus told Judge Green several times that "the release of these [Agnew] documents will harm the ongoing investigation."

Judge Green noted that the trial of one of the "ongoing" defendants of the Agnew period, J. Walter Jones of Annapolis, had been put off until next November.

"The ongoing period may last for months," she said.

Then, declaring that although "the Agnew situation appears to be behind us," she asserted that "the Court does not have enough information" on which to rule on the Justice Department's contention both that criminal investigations would be impaired and that the privacy of Government witnesses would be invaded by release of the Agnew materials.