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SUSPECT ACCUSED OF GIVING SOVIET DATA ON MILITARY

Magistrate Rules Prosecutor 'Just Barely' Succeeded in Staving Off Dismissal

By STEPHEN ENGELBERG
Special to The New York Times

WASHINGTON, Dec. 24 — Federal prosecutors today accused a messenger employed by a court reporting company here of giving Soviet operatives portions of a transcript of a top secret Congressional hearing on military communications.

Congressional sources said today that the hearing included a progress report on a wide array of sensitive military communications systems, including an airplane designed to relay orders to nuclear missile submarines.

On the basis of new testimony by Michael Giglia, an agent of the Federal Bureau of Investigation, a Federal magistrate today ruled that the prosecutors had "just barely" succeeded in overcoming a motion by defense lawyers to dismiss the charges against Randy Miles Jeffries.

Doubts by Magistrate

The magistrate, Jean F. Dwyer had criticized the strength of the case at a court hearing on Monday. She said today: "Frankly, I don't think the case has gained much weight overnight."

Late today, however, a Federal district judge who reviewed the evidence presented to Magistrate Dwyer said the Government's case was "substantial."

"At this juncture of the proceedings," said Federal District Judge Joyce Hens Green, "the weight of the evidence against the defendant is persuasive." She rejected an appeal asking that Mr. Jeffries be released on bond.

Mr. Giglia provided new details about how investigators had developed the case against Mr. Jeffries. He disclosed for the first time that the Federal authorities had overheard phone calls in which he said Mr. Jeffries spoke with the office of the Soviet Military attaché here.

It was not clear what portions of the Congressional transcript Mr. Jeffries is said to have provided to the Soviet officials, or whether it included the most sensitive material. The F.B.I. has said Mr. Jeffries had delivered sample pages of the documents and was negotiating with the Soviet Union over sale of the complete transcript when a Federal undercover agent pretending to be a Soviet agent intervened.

The Congressional sources said that the hearing had included testimony about the bidding competition over a new field telephone system for the military, a matter that the sources said would not be of great interest to the Soviets. However, they said, the hearing also included the Pentagon's comments on a new airplane, the E-6A, that would relay communications to nuclear submarines.

The question of whether the military's communications are sufficiently resistant to attack has become a major issue in recent years. Pentagon officials acknowledge that their systems could be vulnerable to a surprise attack, which could leave commanders unable to send orders to far-flung military units. Part of the Congressional hearing concerned the military's report on a program to improve a wide variety of communication systems, which has been made a top priority by the Reagan Administration.

A Congressional source said there had been two principal witnesses at the hearing: Donald C. Latham, the Assistant Secretary of Defense for Command, Control and Communications, and Gen. Maxwell R. Thurman, Vice Chief of Staff of the Army.

The source said the testimony of General Thurman was "not terribly" sensitive because it dealt with competition over the $3 billion Government contract for field telephones. He said, however, that the testimony of Mr. Latham on the Pentagon's programs to improve communication of commands, as well as on the Navy's E-6A airplane, "would have been far more significant in terms of intelligence concerns."

Typically, a Congressional hearing on a new weapon system includes discussion of its possible limitations.

Congressional sources said the E-6A, which is designed to deliver commands to Trident nuclear submarines in the Pacific Ocean, was a topic of discussion at the hearing because of controversy over its cost. Congress this summer agreed to provide $297 million for the first two aircraft.

Information 'Heavily Classified'

Another Congressional source said Mr. Latham had been informed that the F.B.I. believed the March hearing was compromised. Neither Mr. Latham nor his chief aide could be reached for comment late today.

Representative Samuel S. Stratton, Democrat of upstate New York, who is chairman of the subcommittee, said: "I don't remember the specific hearing. That is obviously a heavily classified area." He said it probably involved questions over what type of equipment the military should purchase to assure the safety of its communications networks.

Mr. Giglia testified that, in a telephone call overheard by the authorities, Mr. Jeffries read the title of the transcript document. He said that a man later identified as Mr. Jeffries used the code name Dano in telephone conversations with an official at the Soviet office.

G. Allen Dale, the lawyer representing Mr. Jeffries, argued that the prosecution had not proved that any documents had ever been given to Soviet officials. Mr. Dale said that there was no evidence beyond Mr. Jeffries's own statements that would corroborate the espionage charge.

Mr. Giglia said Mr. Jeffries told the undercover agent that he had three documents in his possession and had already given pages from each to the Soviet operatives in two previous meetings.

F.B.I. Agent Under Cover

In papers filed before Magistrate Dwyer, prosecutors said a man later identified as Mr. Jeffries entered the Soviet office about half an hour after the call from Dano was overheard.

Mr. Giglia said that less than a week later, Mr. Jeffries was contacted by an F.B.I. undercover agent who speaks English with a Russian accent and who used the name Vladimir. The agent said he worked at the Soviet Military office at 2552 Belmont Road, Mr. Giglia said, and when the agent asked Mr. Jeffries whether he was Dano, the defendant answered, "Uh, huh,"

In the conversation, Mr. Giglia said, Mr. Jeffries mentioned that Soviet officials told him "the last time" not to come to the office again or call on the phone since the conversation was being listened to. He asked for, and apparently received, the "code word" and "initial plan" that he had arranged with the Soviet operatives, according to Mr. Giglia.

Mr. Jeffries then agreed to meet with the undercover agent at a Holiday Inn, Mr. Giglia testified. Mr. Jeffries said that he had three documents and that one of them had top secret information.

Destruction of Documents

According to Mr. Giglia, Mr. Jeffries said the documents were being held for him in a briefcase by a friend who did not know they were classified. As part of his argument for releasing Mr. Jeffries on bond, Mr. Dale, his lawyer, said he met last night with a person who said he had burned the documents. Thus, contended Mr. Dale, there was no risk that Mr. Jeffries could pass further documents to Soviet officials.

Magistrate Dwyer rejected this argument, saying she could not assume that the unidentified witness was telling the truth.

Mr. Jeffries, was convicted on March 25, 1983, of heroin possession and sentenced to 18 months' probation. Prosecutors said today, "He has a history of alcohol and drug abuse." And Judge Green noted that he had been treated for drug abuse at St. Elizabeths Hospital this year.

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