
LaRouche trial

Judge orders more files disclosed to defense

by Our Special Correspondent

Federal Judge Robert Keeton, presiding over the LaRouche case in Boston, Massachusetts, ruled April 6 that five more secret FBI files contain information which should have been disclosed to the defendants in the trial. Keeton made a preliminary finding that the government had again violated its legal obligation to provide exculpatory evidence to the defense. Just the week before, the judge had ruled that a number of other documents, relating to government informant Ryan Quade Emerson, should be released to the defense.

At the same time the government submitted an affidavit by an FBI "classification officer," which stated the reasons why two other FBI files cannot be disclosed for national security reasons.

The government's continued refusal to release classified information means that the court must invoke the Classified Information Procedures Act (CIPA) in relation to each of these files, Judge Keeton said. He then gave each side two more days for the filing of briefs before the CIPA hearing is scheduled to resume on April 11. Keeton noted that the soonest that the jury could resume hearing evidence, would be Tuesday, April 19.

Police-state tactics challenged

The explicit subject of the CIPA hearing is what remedy has to be provided to the defense, given that the government refused to release material which was exculpatory to the defense, and thus violated its obligation of disclosure. The potential remedies range from government admissions, to a mistrial, to dismissal of the case.

Up until approximately six weeks ago, the prosecution had acted with complete abandon toward its obligations of disclosure to the defense. This denial of rights to the defense was then dramatically exposed when defense attorney Daniel Alcorn revealed a telex from Irangate principal Richard Secord to former NSC aide Oliver North which mentioned "info against LaRouche." The telex was received under Freedom of Information Act procedures from the office of the Independent Counsel, not from the Justice Department.

Since that time, even more material that had been suppressed has come to light. The FBI's position, however, has continued to be that it has the right to suppress relevant

material on LaRouche and other defendants because it is classified under national security. Should the FBI's view prevail, the trial would move ahead without the defendants having access to critical material on which the government has based its political prosecution of LaRouche and his associates.

On March 30, Judge Keeton finally challenged the government's police-state tactics, by ruling that the withholding of material had been in violation of law, and that the classified materials were exculpatory to the defense. What is still not clear is what the government will do in response.

Decisions to be made

Judge Keeton told prosecutor Markham on April 6 that the government must now decide whether or not the information as to the reasons for the classification will be disclosed to the court. Markham said that he would seek to have an expanded affidavit from the FBI classification officer for the court April 7.

The government's decision may not be simple. For example, in the affidavit submitted April 6, the FBI classification officer, Philip W. Thomas, not only restated that two documents on Emerson which were previously examined by the judge were "secret," but also refused to "confirm or deny" whether Emerson himself was telling the truth when he testified under oath that he was an informant for the FBI.

Yet, prosecutor Markham, who is supposed to represent the government, filed a document entitled "admission of relevant facts that classified documents would tend to prove," which stated that Emerson had had an informant relationship with the FBI for many years.

The last time Markham had a disagreement with the FBI over the release of a classified document, he threatened to withdraw as federal prosecutor in the case because of what he described as a "conflict of interest." The conflict was only resolved by the release of the document in question.

In that case, the release of the document, citing activity by private intelligence agents against LaRouche, resulted in the judge ordering a full government search of indices relating to these individuals—Lewis, Howard, and Tucker. The results of that search, which were to include the office of Vice President George Bush, have still not been reported to the court. Markham is supposed to produce a status report on the search April 7.

Ollie North's documents

The defense is seeking still more documents relevant to government infiltration and harassment of LaRouche and his associates. To this end, defense attorney William Moffitt announced in court April 6 that he has subpoenaed Lt. Col. Oliver North for testimony and his 21 notebooks, in search of more evidence. Documents have already supported the defense's early contention that North's rogue operations targeted LaRouche, among others, due to his opposition to the policy of arming the Contras.