

Scientologists' Appeal of FBI Search Heard

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A three-judge panel of the U.S. 9th Circuit Court of Appeals took under submission Monday arguments by the Church of Scientology of California that a July, 1977, search by 130 FBI agents of Scientology headquarters here was illegally conducted.

An estimated 90,000 pages of documents were seized by the agents operating under a court-approved search warrant and much of the data was used to obtain criminal indictments against Scientology's top leaders in the United States and Great Britain earlier this year.

The defendants, including Mary Sue Hubbard, wife of Scientology founder L. Ron Hubbard, are accused of taking part in a wide-ranging conspiracy to steal government documents from federal office buildings. Many of the documents reportedly are about the church, while others are said to be on subjects of interest to the church.

Those criminal proceedings in Washington, D.C., however, have essentially been stayed pending the circuit court's determination of whether the search was conducted in a valid manner by the FBI agents.

Extradition from England of two of Scientology's worldwide leaders, Jane Kember and Mo Budlong, also has been stymied pending the appellate court's ruling.

The three-judge panel—Herbert Y. C. Choy, Ben C. Duniway and Gus Solomon—gave no clear-cut indication of how they might rule in the case or when.

But whatever their decision, it likely will be appealed to the U.S. Supreme Court by one side or the other.

Attorney Leonard B. Boudin, who represented Scientology in Monday's hour-long hearing, argued that the search should be declared invalid because FBI agents read parts of nearly 7 million documents in determining what they should seize.

Under a so-called "catch-all" provision of the search warrant, agents were instructed to seize virtually any and all documents that were evidence of a crime.

As a result, Boudin said, agents read communications between the church and its attorneys as well as material in files labeled "confession-

In July, U.S. Dist. Court Judge Malcolm Lucas, after a week of hearings, held the FBI search was based on a valid warrant and conducted in a legal manner. It is Lucas' ruling that is on appeal.

Asst. U.S. Atty. Raymond Banoun, who is prosecuting the Scientology leaders and supervised the 1977 FBI search, contended that throughout the hearings before Lucas, Scientology failed to cite a single document taken in an illegal manner.

The prosecutor characterized the church's actions as "dilatory" and aimed at postponing a trial of its lead-

Judge Duniway at one point said "it happens all the time" that agents armed with search warrants or making arrests can take documents or other evidence that is in "plain view" of them.

Boudin, however, countered that such actions usually happen "inadvertently," but that in the present case agents read every document in hundreds of filing cabinets to see if they involved the commission of crimes.

Banoun said about 200 of the seized documents would be used in any trial, but he contended that all the documents had to be scanned in order to determine what should be seized.

The prosecutor further contended that for months the church has had copies of all but 100 documents seized in the search. Those 100, Banoun said, were believed to be stolen from government offices and have various security classifications.