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Suppl. 1.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :
 :
 vs : Criminal No. 1827-72
 :
 GEORGE GORDON LIDDY, et al :

Monday, December 4, 1972

The following transcript is an excerpt of proceedings of the Pretrial Conference in the above-entitled cause on this date, ordered sealed by the Court, not previously transcribed.

APPEARANCES:

EARL SILBERT
SEYMOUR GLANZER
DONALD CAMPBELL

PETER L. MAROULIS
THOMAS A. KENNELLY
WILLIAM O. BITTMAN
AUSTIN S. MITTLER
JOHN ALBERT JOHNSON
BERNARD SHANKMAN
HENRY B. ROTHBLATT

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Copy for:
Judge Sirica

P R O C E E D I N G S

... MR. BITTMAN: Your Honor, one matter I would like to discuss with the Court at the bench?

THE COURT: All right.

(AT THE BENCH)

THE COURT: All right.

MR. BITTMAN: Your Honor, I understand that there is a possibility of a new indictment coming out in this case.

THE COURT: That is news to me.

MR. BITTMAN: That may name one or more of the present defendants, and would probably relate to election fraud charges and I don't know if this information I received is correct. I have no way of checking it out, but certainly it would be horrendous in my opinion if at the eve of trial a new indictment came out naming any of these defendants with touching on any of the issues we are going to litigate in this case on January 8.

MR. SILBERT: If the Court please, if anything is returned it will not be an indictment, it may be an Information returned relating to the election law violations. All I can say at this time to the Court is this is that this is something handled by the Department and not by us, but will be returned through the U.S. Attorney's Office.

My understanding is that none of the named defendants in this case will be a defendant in that Information.

THE COURT: I don't think he can tell you anymore than that.

MR. BITTMAN: I would like to include certain criminal information in the category as an indictment if none of the defendants are named --

MR. SILBERT: --I didn't say that. What I said, Mr. Bittman, was that none of the defendants would be named as a defendant in that proceeding. I did not say, and in fact, it is true that the substance of the violations will relate to matters arising out of and indirectly related to this case.

MR. BITTMAN: Your Honor, then I think Your Honor has to exercise some discretion in preventing that. Here we go again, this will generate massive prejudicial pretrial publicity, it will do the Court no good to sequester this jury. I didn't know this information I heard was direct or not. Apparently now it is. I can't think of anything that will be more damaging, more prejudicial to all defendants if the government on the eve of trial brings a new charge. I think it will be catastrophic and I vigorously urge Your Honor do something to stop it.

THE COURT: Well, it seems to me now that we have gone this far with this case, I think there will be a better atmosphere, you can call it that, when we try this case than probably there would have been prior to election. I think everybody will agree to that. I would hope nothing will happen to interfere with a

fair trial for both sides, and if it is not a matter of great urgency if this is done, the authorities, whoever they might be, would think about this, because we have enough problems as it is now without having other problems. I am not saying after and if, and when we get a jury and they are sequestered, that is a different thing, I am saying for the time being at least you can get this message over to somebody if they can hold up on this to give us a chance to get started.

MR. SILBERT: I will bring that matter to their attention.

I might say this: there was no attempt by the people in any way to single out this case. The idea was all election law violations, all parties, all possible defendants, some of which did of course relate to this case indirectly to be returned at the same time in different districts.

THE COURT: Another thing you have to think about and I don't have any information on it, but I would like to see this case tried, frankly, for the benefit of everybody -- defendants and the government, and the public too-- before a possible congressional investigation because if you had that going you see the problem you would have there.

MR. BITTMAN: That is something we are very much aware and sensitive to, Your Honor.

THE COURT: I doubt Congress will start an investigation, if they are going to start one, till maybe after this case is started at least, or over. It is another reason why I want to

sequester the jury. Think about it. All right.

MR. BITTMAN: Thank you very much.

MR. ROTHBLATT: Should we have these proceedings sealed so if the minutes are purchased?

THE COURT: I think so. This part here, Mr. Reporter, would you seal this part we just talked about. Without objection by anybody.

MR. ROTHBLATT: We have two minor applications which can be done on the record.

THE COURT: All right.

(END OF BENCH. OPEN COURT
PROCEEDINGS PREVIOUSLY TRANSCRIBED
AND FILED UNDER SEPARATE COVER.)

CERTIFICATE

It is certified the foregoing is the official transcript of proceedings indicated.

Nicholas Sokal
NICHOLAS SOKAL
Official Reporter