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(From Box 2)
SAK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :

v. :

CRIMINAL CASE NO. 78-401

MARY SUE HUBBARD, et al., :

FILED

Defendants. :

JAN 15 1979

#1 +
#4
How
#11

JAMES F. DAVEY Clerk

MOTION FOR DISMISSAL OF INDICTMENT ON GROUND OF
PREJUDICIAL PRE-INDICTMENT PUBLICITY AND PROSE-
CUTION MISCONDUCT OR FOR ALTERNATIVE RELIEF.

The defendants hereby move for an order:

1. Dismissing the indictment herein:

(a) for prejudicial pre-indictment and pre-trial pub-
licity generated by the government, calculated to create a climate
of public opinion hostile to the defendants herein and to influence
and prejudice the grand jury;

(b) for government misconduct before the grand jury
calculated to prejudice the grand jury against the defendants;

(c) for government misconduct in presenting evidence
to the grand jury in such a way as to deprive it of its capacity to
arrive at an informed, independent judgment with regard to each de-
fendant;

(d) for actual bias and prejudice of the grand jury

(e) for violation of grand jury secrecy contrary to
Rule 6(e) of the Federal Rules of Criminal Procedure;

(f) because the indictment was not founded on an in-
formed, independent judgment of the grand jury with regard to each
defendant;

(g) because the prosecution violated the Justice De-
partment and court rules with respect to pre-indictment publicity;

and

2. In the alternative directing a hearing on:

(a) the government's responsibility for the prejudicial press leaks which have marked this case;

(b) the prosecution's conduct before the grand jury tending to prejudice that body;

(c) the manner in which the government presented evidence to the grand jury;

(d) the actual bias and prejudice of the grand jury,

and

3. Directing appropriate discovery in aid of the foregoing, and

4. Directing such other and further relief as to the court may seem appropriate.

Submitted in support of this motion are the affidavits of Stephen Suffern, with exhibits attached: Kevin O'Donnell; Gregory Layton; Albert J. Krieger; John W. Karr; Peter Glickman; Janet Lawrence; Henning Heldt; Irene P. Mele (2 affidavits); Larry Spinks; Chuck Judge; Richard Klinger; Sharon Thomas; Kendrick L. Moxon; Warren Young (4 affidavits); Daniel P. Sheehan.

The affidavits of Peter Glickman; Henning Heldt; Irene P. Mele (one of her affidavits); Kendrick L. Moxon; and Daniel P. Sheehan are copies of the originals not now in possession of defendants' counsel. Some of those originals may have been submitted in an action entitled Church of Scientology of California v. United States of America,

Civ. No. 77-2565-MML, pending in the United States District Court at Los Angeles; others may have been misplaced. Counsel is advised that substitute currently dated affidavits can be supplied at the request of either the court or the government.

This motion seeks discovery in aid of the alternative relief requested, as set forth in an informal request for discovery made by letter dated November 14, 1978, signed by Leonard B. Boudin and Michael Krinsky. On November 17, 1978 the Assistant United States Attorney responded to said request. Copies of that request and response are annexed hereto and incorporated herein. As appears from the response, the Assistant United States Attorney in charge of the case has not complied with the request.

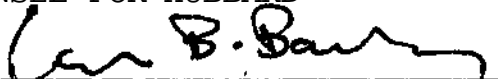
In addition, the defendants have submitted other informal discovery requests to the government relating to other aspects of this litigation. Such informal discovery requests and the responses made thereto are annexed to the defendants' motion for discovery made under Rule 16 and related provisions of federal law and, in order to avoid an undue burden on the court, will not be repeated herein.

Dated: January 15, 1979

Respectfully submitted,

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By Counsel

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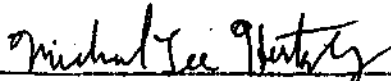
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing
**MOTION FOR DISMISSAL OF INDICTMENT ON GROUND OF PREJUDICIAL
PRE-INDICTMENT PUBLICITY AND PROSECUTION MISCONDUCT**
was served by hand upon the United States Attorney
for the District of Columbia by leaving a true copy of
same with the person designated to accept such service at
the United States Courthouse, Washington, D.C. 20001
this 15th day of January, 1979.



MICHAEL LEE HERTZBERG
Attorney for Defendant
Mary Sue Hubbard