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Heine Loses Case Against CIA Agent

By LYLE DENNISTON
Star Staff Writer

BALTIMORE —

Judge today threw out a \$100,000 lawsuit accusing a CIA agent of slander in calling an Estonian emigre leader a Communist and Soviet agent. Judge Roszel C. Thomsen issued an order summarily dismissing the suit filed two years ago by Erik Heine, a native of Estonia who now lives in a suburb of Toronto, Canada.

Heine's suit was against Juri Raus, a Hyattsville engineer for the Bureau of Public Roads and a sometime agent of the Central Intelligence Agency.

The CIA has said that Raus was an employe of the agency and had been given orders in 1964 to spread the word that Heine was a "dispatched Soviet intelligence operative, a KGB agent." KGB is the Soviet secret police agency.

Judge Thomsen based his dismissal of the lawsuits on two grounds:

1. He said that Raus has a "privilege against liability for defamation" because he acted "within the scope of his employment by an agency of the United States."

2. The government has a "privilege against discovery of the secrets of the CIA."

Thomsen's ruling, in effect, ends the lawsuit, unless Heine's lawyers are able to persuade a higher court to reverse the ruling.

Heine's attorneys have said they would appeal if Thomsen dismissed their case. They have 30 days to file a formal notice of appeal with the 4th U.S. Court of Appeals at Richmond, Va.

Had the judge ruled the other way, Heine's claims that he was defamed by Raus would have been tried before a jury.

"The Same Dilemma . . ."

Thomsen, noting that Heine had challenged the truth of the remarks made about him by Raus, said in his opinion today: "A trial would not resolve

the question of the truth or falsity of the charges, because the court would still be required to assume the privilege asserted by the United States." The judge said "the dilemma which would be presented at the trial would be the same dilemma which is presented now."

That dilemma, the judge said, is whether Raus would be forbidden to testify about facts and to call witnesses in order to prove that what he said about Heine was true. This inability, he said, might not only make Raus come into court "weaponless before his adversary," but might deny Heine "the opportunity to attempt to vindicate himself in court."

The judge said: "No way to avoid choosing between two evils has been suggested or discovered."

In upholding Raus' claim that he has a privilege of immunity for his officially ordered statements against Heine, Judge Thomsen relied on a 1959 Supreme Court decision in the case of Barr v. Matteo.

The ruling in favor of the CIA's claim that it need not tell any more secret information about Raus and his actions was based upon a federal law designed to safeguard national defense and security secrets.

"It is clear that if Raus makes further disclosures without the approval of the agency, he would not only violate the secrecy agreement (that he made with the CIA in 1963), but might also violate the statute prohibiting unlawful disclosure of confidential information respecting the national defense."

The judge said that he "has been anxious" to insure that Heine "should have the opportunity to discover whatever facts

cover . . . and has accorded plaintiff (Heine) that opportunity."

But the judge made it clear he felt the CIA had been compelled to go as far as it should have been in disclosing data about Raus' activities.

The CIA had told the court in several affidavits that Raus was called upon to make the state-

ments about Heine's alleged role as a Soviet agent because that was necessary to protect "the integrity of the agency's foreign intelligence sources."

The agency's concern about Heine apparently rose in 1963 when he was making a tour of the United States and Canada. During his tour, Heine was describing what he called his vigorous efforts as an anti-Soviet freedom fighter, and as a result was gaining popularity among the North American community of Estonian emigrants.

Because of this the agency decided that it had to expose Heine's alleged background as a Communist agent, and chose Raus, himself an Estonian immigrant, to do the job.

In his lawsuit, Heine claimed that on three occasions in 1963 and 1964 Raus described him as a Communist and a KGB agent.

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