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Whitworth Spy Trial Halted by Challenge To a Ruling by Judge

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SAN FRANCISCO, June 27 — A panel of the United States Court of Appeals for the Ninth Circuit halted proceedings Friday in the espionage and tax fraud trial of Jerry A. Whitworth at the request of the Government. Three days of closing arguments, culminating in a day of instructions to the jury, were to have begun Monday.

Prosecutors appealed for the halt after Federal District Judge John P. Vukasin Jr., who is presiding over the trial, refused to reverse a ruling he made earlier this week on his instructions to the jury.

Judge Vukasin said he would not change his decision to instruct the jury that, to win a conviction, prosecutors must have produced evidence proving that Mr. Whitworth knew classified Navy data he is accused of stealing were being sold specifically to the Soviet Union, exactly as the indictment in the case charges.

Wording of Indictment

The appeals court said it would hear the Government's appeal and rule on the issue within a week.

At issue is the wording of the indictment returned against Mr. Whitworth last December charging him with eight counts of espionage and five counts of tax fraud. The Government said that Mr. Whitworth, while a Navy radioman with a top-secret security clearance, stole classified Navy cryptographic materials and coded messages and, in exchange for \$332,000, passed them to a Soviet spy ring headed by John A. Walker Jr.

The espionage statute under which Mr. Whitworth is charged makes it illegal to obtain, deliver or conspire to deliver national defense information with the intent to aid any foreign nation.

However, in the original indictment brought against Mr. Whitworth at the time of his arrest last June and in each of the three amended indictments filed subsequently, the Government specifically charged Mr. Whitworth passed the stolen materials with "intent and reason to believe" that they would be used to the advantage of the Soviet Union.