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Ex-F.B.I. Agent Testifies To Early Bureau Inquiry

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LOS ANGELES, June 19 — Richard W. Miller, the first F.B.I. agent in history to be charged with espionage, was investigated twice on other charges before his arrest Oct. 2, he testified today in Federal District Court.

Mr. Miller said that both times the investigators reached the stage of reading him his rights to remain silent, to consult an attorney, or to have an attorney appointed if he could not afford one.

Mr. Miller gave few details of the investigations, both of which occurred while he was an agent of the Federal Bureau of Investigation, and no indication of their outcome. One investigation followed an accusation that he had taken kickbacks, he said, and the other had to do with an allegation that he was involved in a real estate fraud. The F.B.I. has made no public comment about these investigations.

The prior investigations were disclosed as Mr. Miller began his first day under cross examination by defense lawyers at the trial of Svetlana and Nikolay Ogorodnikov on charges that they conspired with Mr. Miller to pass secret documents to the Soviet Union. Mr. Miller is to be tried later.

'Fully Acceptable' Agent

When the arrest of Mr. Miller was announced, the head of the Los Angeles office of the F.B.I., Richard T. Bretzing, said Mr. Miller's performance had been "fully acceptable" as an agent.

Mr. Miller has previously testified that he had been reprimanded and placed on probation as an agent attached to the Los Angeles office because of poor job performance and overweight. He had also admitted under questioning by the prosecution that he had skimmed money from a bureau informer, illegally sold information he obtained through the bureau to a private investigator and stolen from his wife's grandmother.

Today, under questioning by Brad D. Brian, a lawyer for Mrs. Ogorodnikov, Mr. Miller admitted that he had been investigated for an accusation he had taken kickbacks when he was an investigator assigned to copyright violations before he joined the bureau's foreign counterintelligence squad.

He testified further that he had been investigated on another occasion regarding an accusation that he had illegally benefitted by taking a finder's fee in a purported real estate scam.

He said that he had been read his right to remain silent on each occasion. Mr. Brian dropped the subject at that point. The Ogorodnikovs' lawyer was trying to show that Mr. Miller was aware that he was under investigation.

Mrs. Ogorodnikov, a 35-year-old Russian émigré who the Government contends recruited Mr. Miller as a spy with a sexual relationship and promises of money, asserts that she believed she had been helping the F.B.I. as an informer by associating with Mr. Miller. Mr. Ogorodnikov denies that he was involved in spying. Mr. Miller agreed to testify at her and her husband's trial under a grant of immunity from Judge David V. Kenyon.

Mr. Brian, early in his cross examination, accused Mr. Miller of having initiated a first contact with Mrs. Ogorodnikov by telephoning her in May 1984, rather than the other way around, as Mr. Miller has asserted. Mr. Miller denied that and stuck by his contention that she phoned him twice before he agreed to meet with her on May 24.

He Tells of Going to Bureau

Mr. Brian also contended that Mrs. Ogorodnikov had told Mr. Miller of a suspicion that she was being followed by the F.B.I. late last September. The defense lawyer contended that Mr. Miller's realization that his activities had been exposed had caused him to go to his superiors for the first time on Sept. 27 with an account of some of his activities with the woman.

Mr. Miller denied that, too. His assertion has been that it was on the 27th that he felt he had evidence, in the form of airplane tickets to Vienna purchased by the Mrs. Ogorodnikov, that she was serious about recruiting him as a spy.

Mr. Miller has defended his activities as an attempt to redeem his career and make himself a hero at the bureau by using Mrs. Ogorodnikov to infiltrate the Soviet intelligence service, the K.G.B.

The former agent was interrogated for five days by the F.B.I. after his statement on the 27th. He testified today that he waived his rights to legal counsel before the questioning but that he thought the investigating agents were helping him figure out how to proceed with Mrs. Ogorodnikov, not that he was a target of investigation, as he turned out to be.

Mr. Miller has since denied some statements he made at that time and Mrs. Ogorodnikov's lawyers have argued that some of them would improperly damage her defense if allowed to be entered at this trial.

The former agent said that he did not think he was a target of investigation "because I didn't think I had done anything wrong at the time."

"I thought it was just that what I was doing was unorthodox," he said. "I was in over my head."