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Agent's Purported Spy Confession To F.B.I. Held Admissible in Court

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LOS ANGELES, Jan. 22 — A Federal district judge today rejected a motion to exclude a purported confession and other damaging statements from the forthcoming trial of Richard W. Miller, the first agent of the Federal Bureau of Investigation to be charged with espionage.

In a major setback for Mr. Miller, Judge David V. Kenyon ruled that Mr. Miller's statements to F.B.I. questioners were "purely voluntary."

A major part of Mr. Miller's argument on the request focused on his contention that he was coerced into a confession by religious pressure to "repent" from the special agent in charge of the bureau's Los Angeles office, Richard T. Bretzing.

But Judge Kenyon told a courtroom of spectators, who included Mr. Miller's wife, that he believed "that regardless of what Mr. Bretzing said, the defendant would have made the exact same statements and acted the exact same way that he did," and that the statements did not have any effect on Mr. Miller's conduct.

Judge Kenyon also rejected an argument by Mr. Miller that bureau agents, who Mr. Miller maintained viewed him as "a parasite" for his purported betrayal, had acted deceptively and in bad faith while investigating him. The judge said that there was nothing wrong with the investigators not telling a suspect everything they knew about his actions.

The judge also ordered that Mr. Miller be tried separately from his co-defendants, Svetlana and Nikolay Ogorodnikov. But Judge Kenyon turned down a Government request that Mr. Miller's trial proceed first, saying that the only probable reason for such a request was the Government's hope to glean information that would later be damaging against the Ogorodnikovs.

The trial of the three is scheduled to begin Feb. 12, but Judge Kenyon said he expected to rule Thursday on a request by Mrs. Ogorodnikov's lawyers for a two-month delay.

Mr. Miller, a former agent in the counterintelligence section of the bureau's Los Angeles office, is charged with conspiring to pass classified national security information to the 34-year-old Soviet woman, Mrs. Ogorodnikov, and her husband, Nikolay, 51. The couple's surname is pronounced Oh-go-RAWD-nee-kov, according to the two Russian-language interpreters who accompany them to court every day to translate the proceedings.

The Ogorodnikovs were arrested last Oct. 2, along with Mr. Miller, and were also charged with espionage conspiracy. The Government maintained that Mr. Miller was to receive \$65,000 in cash and gold for providing classified documents that could detailed picture of this country's intelligence activities. Conviction could bring a life prison sentence.

According to court documents filed by the Government, Mr. Miller has said he became romantically involved with Mrs. Ogorodnikov while associating with her in his counterintelligence work. The head of the Los Angeles office of the bureau, Mr. Bretzing, said last October that the Ogorodnikovs were suspected as "covert agents" of the K.G.B., the Soviet intelligence service. Mr. Miller was dismissed from the agency shortly before his arrest.

Mr. Miller, who is 48 and a 20-year veteran of the bureau, has asserted that he maintained his relationship with the Soviet woman in an attempt to infiltrate a unit of the K.G.B., something that he said had never before been achieved by the F.B.I. and that would bring honor to the agency.

Judge Kenyon began hearing testimony on the matter on Jan. 9.

The key question at issue before the court was a motion by Mr. Miller to exclude from his trial incriminating statements he made in interviews with bureau investigators over a five-day period preceding his arrest. Mrs. Ogorodnikov.

Among the incriminating statements was Mr. Miller's purported confession. The bureau's chief polygraph, or lie-detector, specialist, Paul K. Minor, testified at the hearing last week that Mr. Miller, on Oct. 1, identified the specific classified material he turned over to

Mrs. Ogorodnikov.

The bureau has said it was a 25-page classified document titled "Reporting Guidance: Foreign Intelligence Information," which the bureau said could yield to Soviet intelligence "a detailed picture of F.B.I. and U.S. intelligence activities, techniques and requirements."

Robert C. Bonner, the United States Attorney for the Central District in California, said the bureau had videotaped Mr. Miller in the act of giving Mrs. Ogorodnikov the document in her car on Sept. 12. Mr. Miller has said the envelope seen on the videotape contained nothing but bank documents.

Mr. Miller's lawyers, Joel Levine and Stanley I. Greenberg, disputed the Government's contention that the incident Mr. Minor described constituted a confession. Mr. Levine asserted that the bureau investigative notes showed that Mr. Miller had offered "to sign anything" just to get the interrogation over with. Mr. Minor denied this.

Mr. Miller's lawyers accused the Government of "bad faith" and the bureau personnel who participated in the investigation of deliberate "deception."