

DEC 8 1966

Heine Loses Case Against CIA Agent

By LYLE DENNISTON
Star Staff Writer

BALTIMORE — A federal judge today threw out a \$110,000 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 employee 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 recognize 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

he is legally entitled to discover . . . 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: several affidavits that Raus was called upon to make the statements 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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Slander Suit Against CIA Agent Killed in Interest of U.S. Security

BALTIMORE, Md., Dec. 8 (AP) — A slander suit filed against an agent of the Central Intelligence Agency was dismissed on a motion for summary judgment today after a Federal judge ruled that the agent could not be forced to testify.

The suit was filed in 1964 by Eerik Heine, 46, of Rexdale, Ontario, against Juri Raus of Hyattsville Md.

Heine sought \$10,000 in compensatory damages and \$100,000 in punitive damages, claiming Raus slandered him by calling him an agent of the Soviet secret police.

Raus contended that he gave the information about

Heine at a meeting of the Legion of Estonian Liberation in New York. He said he did so in his capacity as a CIA agent and at the Agency's instruction.

The Agency refused to allow Raus to testify, saying it would not be in the best interest of the country.

In his decision today, Chief Judge Roszel C. Thomsen of U.S. District Court said the Court "concludes that activities by the CIA to protect its foreign intelligence sources located in the United States are within the power granted by Congress to the CIA."

Judge Thomsen said that Deputy CIA Director Richard

Helms, in an affidavit, stated "that it would be contrary to the security interests of the United States for any further information pertaining to the use and employment of Juri Raus by the Agency in connection with Eerik Heine to be disclosed."

"It is clear, therefore, that if Raus makes further disclosures without the approval of the Agency, he would not only violate the secrecy agreement (which he signed upon taking a position with the CIA), but might also violate the statute prohibiting unlawful disclosures of confidential information respecting the national defense," Judge Thomsen said.

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SLANDER SUIT AGAINST CIA MAN DROPPED

U.S. Agency's Silence In Case Thwarts \$110,000 Action

By THEODORE W. HENDRICKS

A Federal judge yesterday threw out a \$110,000 slander suit brought against a CIA operative by an Estonian who argued that the agent had called him a subversive.

Eerik Heine, 46, who resides in Canada, claimed damages in the case because his reputation as a lecturer on anti-Communist activities had been ruined.

However, the CIA refused to disclose the sources of its information on Mr. Heine except to admit that it had sent the agent to New York to make the statements.

Impossible To Try Case

Chief Judge Roszel C. Thomsen noted that the reluctance of the CIA to submit to interrogation in normal court procedures made it impossible to try the case.

"A trial would not resolve the question of the truth or falsity of the charges, because the court would still be required to recognize the privilege asserted by the United States," Judge Thomsen wrote.

The dilemma posed by Judge Thomsen was this:

1. Since the agent, Juri Raus, 32, of Hyattsville, was prevented from testifying, he would stand "weaponless before his adversary" in a court trial.

Choice Between 2 Evils

2. On the other hand, lack of a trial would deny Mr. Heine the opportunity to attempt to vindicate himself in court.

"No way to avoid choosing between two evils has been suggested or discovered," Judge Thomsen wrote.

A choice in the matter was dictated, Judge Thomsen decided, by Supreme Court decisions which

reinforced a principle first stated by Judge Learned Hand.

Judge Hand pointed out that there was a danger in subjecting public officials to a civil trial for official acts that caused some persons to suffer.

In the case before him, Judge Hand decided that it was "better to leave unredressed wrongs done by dishonest officers than to subject those who try to do their duty to the constant dread of retaliation . . ."

No Way Of Solving Dilemma

Since there was no way of solving the dilemma in the present case, Judge Thomsen said he would have to rely on "principles so clearly stated" and enter a summary judgment for Mr. Raus.

The slander suit against Mr. Raus was originally brought in Federal Court in November, 1961. At that time, Mr. Heine alleged that he had never been a Communist.

Mr. Heine said that he was a citizen of Canada and had been active in various Estonian emigrant groups, lecturing and showing a movie, "Creators of Legend."

He was a prisoner in Russian prison camps and a guerrilla fighter against the Communist takeover of his country, Mr. Heine asserted.

Suit was filed because Mr. Raus, the national commander of the Legion of Estonian Liberation, Inc., on three occasions stated Mr. Heine was a planted subversive agent.

Admits Furnishing Data

In an answer to the suit, Mr. Raus admitted that on three occasions he had stated the plaintiff was a Soviet agent or collaborator and should not receive Estonian cooperation.

Mr. Raus at first stated only that the information came from an official agency of the United States Government, according to the answer.

However, subsequent court proceedings revealed that Mr. Raus, who worked for the Bureau of Public Roads in Washington, was a CIA agent and had signed a secrecy agreement.

The CIA admitted that it had furnished Mr. Raus with the information and sent him to meeting of key Estonian groups to make the statements complained of in the suit.

Such action was taken, it was asserted, because the CIA was interested in protecting its intelligence sources from infiltration.

The Government spy agency asserted it had an "absolute privi-

lege" to refuse to reveal the source of its information and to prevent Mr. Raus from making any further statements.

Argument Cited

Ernest C. Raskauskas and Robert J. Stanford, Washington attorneys for Mr. Heine, argued that the CIA was not concerned with internal security as opposed to foreign sources. Official privilege could not be extended to those who have no discretion in carrying out orders, it was contended.

The plaintiff's lawyers also asked to go to trial to test whether Mr. Raus was actually employed by the CIA and contended there was a genuine issue at stake.

Affidavits Required

Judge Thomsen noted that he had permitted the CIA to file at least three affidavits in the case but that he was barred on security grounds from requiring full disclosure.

Officials were clearly correct in raising privilege grounds and it was in the scope of the CIA to prevent disclosure, it was decided.

Paul R. Connolly and E. Barrett Prettyman, Jr., were lawyers for Mr. Raus. Thomas J. Kenney, United States attorney, and Lawrence R. Houston represented the CIA.



CASE DISMISSED—Juri Raus (left), a CIA operative, called Eerik Heine (right) a subversive and was sued for slander, but the case was ended because the CIA refused to talk.

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Heine Hits CIA in Slander Case Plea

By ORR KELLY
Star Staff Writer

The Central Intelligence Agency has been accused of using "expediency rather than security" as a guide to how much it revealed to a federal court in a slander case involving two Estonian emigrants.

The accusation was made in a brief filed with the U.S. Court of Appeals in Richmond yesterday by attorneys for Erik of Roxdale, Ont.

Heine filed a \$110,000 slander suit in November 1964 against Juri Raus, an engineer for the Bureau of Public Roads and a resident of Hyattsville. He said

Raus had accused him of being a Soviet agent.

The CIA later admitted, in a series of affidavits filed with a federal court in Baltimore, that it had instructed Raus to warn fellow members of the Estonian community that Heine was a "dispatched Soviet operative, a KGB agent."

On Dec. 8, 1966, Federal District Judge Roszel C. Thomsen, granted Raus a summary judgment based on his claim that he was immune from a slander suit because he was acting as an agent of the U.S. government when he made the accusation against Heine.

In their appeal brief, Heine's lawyers, Ernest C. Raskauskas and Robert J. Stanford, argued that the CIA had said it could supply no further information and then, under urging from the court, told a little bit more about its relations with Raus.

"It would appear that expediency rather than security was the guide in determining how much Richard Helms (now director of Central Intelligence) would disclose in the affidavits filed in support of the motion," the brief said.

The brief also challenges the right of the CIA to involve itself in the activities of groups in this country.

In his affidavits, Helms said the CIA had the right to protect its sources of foreign intelligence. Heine's lawyers argue that this right is restricted to the control of unauthorized disclosure from within the intelligence community.

"Under the contorted con-

struction of the statute and regulation... any source, deemed to be a source of foreign intelligence by the CIA, such as a travel agency, the National Student Association, an international labor movement, the Ancient Order of Hibernians, the American Express Co., the Alliance for Progress or the Trapp Family Singers, could be declared a source of foreign intelligence which must be sequestered and protected from contamination or infiltration by an alleged Communist or Communist sympathizer," the brief said.

Raskauskas and Stanford argued that Judge Thomsen had erred in a variety of ways in not permitting cross-examination of Raus, in not requiring more information from the CIA and in not permitting a trial on the merits of the case. They asked the appeals court to send the case back to the district court "for a full trial on the merits."

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Heine Appeals His Suit Against CIA

Erik Heine, 47, a former Estonian guerrilla fighter who is now a Canadian citizen, again has taken on the CIA in his appeal of a \$110,000 slander case dismissed by a District Court in Baltimore. His reputation and income have suffered, he claimed, since a CIA agent called him a Russian agent.

Mr. Heine, now appealing the Baltimore decision in U.S. Fourth District Court of Appeals in Richmond, insists that the CIA should be required to prove that the man who branded him, Juri Raus, is one of their men.

The CIA testified, however, that to prove Mr. Raus is their agent would open too many doors and expose too much of the CIA's intelligence-gathering methods with Estonian and other immigrant sources. Mr. Raus is also a former Estonian guerrilla fighter.

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Heine Files Appeal

Man Called Soviet Spy Sues to Open CIA Files

RICHMOND (UPI) — The Central Intelligence Agency may have to open its files for the first time if a challenge to the Agency's shroud of secrecy made by a famous Estonian guerilla fighter succeeds.

Eerik Heine, branded as a Russian KGB agent by a man the CIA says works for them, filed suit in the U. S. 4th Circuit Court of Appeals Monday in an appeal of \$10,000 slander case.

The 47-year-old Heine, making this first test of the CIA's right to absolute secrecy, is a naturalized Canadian living with his wife in the Toronto suburb of Rexdale, Ont.

CAPTURED in the Russian seizure of Estonia in World War II, Heine became a legend in the Baltic Sea states for withstanding brutal torture in a Russian labor camp and joining guerilla fighters after his escape.

In a twist to the case, Heine's lawyers say the CIA may think Heine is not the man he claims to be.

Briefs filed for Heine demand-

ed the court order the CIA and director Richard Helms to open their files and prove the man who called him a Russian spy actually works for the CIA.

The man, Juri Raus, another Estonian, now a naturalized U.S. citizen, invoked the veil of national security in the slander trial before a Baltimore Federal District Court.

Publicly, Raus said, he is a highway research engineer for the U. S. Bureau of Public Roads and living in Hyattsville, Md.

PRIVATELY, he and the CIA said, Raus works for the intelligence agency.

Heine's lawyers said the crux of their case is that if Raus is a CIA man, then before he can be given immunity the CIA must at least prove that he is.

But to do that much, the CIA said in District Court, would be to open too many doors and expose too much of the CIA's intelligence-gathering methods among Estonians and other immigrants.

Heine, whose father gained

fame in Europe as a piano maker is noted in Estonian immigrant circles for his rigidly anti-Russian and anti-communist lectures.

Since the case began, the former guerilla fighter's reputation has become clouded and his income has dropped.

APPARENTLY, Heine came under CIA suspicion through similarities between him and another Estonian, Arthur Hayman, since deported as a Russian agent.

Hayman advocated using air balloons filled with anti-Communist leaflets to drop over Estonia, Heine, claiming he knew nothing about Hayman or his proposal, advocated the idea himself.

The CIA's Raus admitted calling Heine a Soviet agent. But that was all Raus would say, under orders from the CIA when the case broke.

Heine's appeal said a "more penetrating inquiry" into whether or not Raus is a CIA agent may show he was no more a CIA man than the average member of the National Student Association, a group publicly linked with CIA financial support.

Heine accused Raus of making the charges because he is "a jealous opportunist delighted to grasp a hint of caution from the CIA, inflate it with the hot breath of his own ambition, and thereafter proclaim to the world that Eerik Heine was a communist."

THE APPEAL said if the CIA merely has to say someone works for it for it to be accepted as courtroom proof, then scores of persons would "carry a CIA Carte Blanche slander card to hurl accusations against any citizen."

The appeal said the CIA could claim nearly anyone as one of its members, from "a travel agency, the National Student Association, an international labor movement, the Ancient Order of Fibbersians, the American Express Company, the Alliance for Progress of the Trapp Family Singers."

Such CIA protection would give persons blanket protection to slander at will, the appeal said.

The case was expected to be heard during the court's June term.

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Court Asked to Order Proof of Raus's CIA Link

RICHMOND, Va., March 27 (UPI)—A naturalized Canadian who has been doing battle with the Central Intelligence Agency today asked the U.S. Fourth Circuit Court of Appeals to order the CIA to open its secret files.

Eerik Heine of Roxdale, Ont., filed a brief with the court against CIA Director Richard Helms and the Agency, seeking to force the CIA to prove its claim that a Maryland man who called Heine a Communist and Russian spy is in fact a CIA agent.

Today's action stemmed from a \$110,000 slander suit

Heine filed against Juri Raus, an Estonian who became a U.S. citizen. Heine charged Raus told members of the Estonian colony in New York that Heine was a Russian agent.

Raus, of Hyattsville, Md., won dismissal of the slander suit in U.S. District Court at Baltimore after presenting affidavits from Helms indicating Raus was a CIA agent.

Heine's lawyers demanded today that the CIA must at least prove Raus is an agent before he can be given immunity from lawsuits.

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