

# Judge Allows Appeals by Ex-Officials Of FBI Despite Pardons by Reagan

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By Joe Pichirallo

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The U.S. Court of Appeals here has ruled that two former top FBI officials convicted of authorizing illegal break-ins of the homes of friends and relatives of underground political radicals during the Vietnam war era can seek reversal of their convictions, even though President Reagan recently granted them full pardons.

Lawyers for the two ex-officials, W. Mark Felt and Edward S. Miller, sought the unusual course of an appeal, which normally would be unnecessary after a pardon, to prevent the convictions from being used against Felt and Miller in related civil proceedings.

For example, Felt, who is a lawyer, is still facing possible disbarment as a result of the conviction.

Felt, once the FBI's No. 2 man, and Miller, formerly chief of the powerful domestic intelligence division, were convicted in U.S. District Court here last November of violating the civil rights of friends and relatives of members of the Weather Underground, a small violence-prone Marxist group, by approving illegal searches of their homes in the early 1970s. U.S. District Court Judge William B. Bryant fined Felt \$5,000 and Miller \$3,500.

Reagan's pardon meant that they did not have to pay the fines.

But the law is unclear about whether the pardon also expunges the convictions from their records, lawyers for the two said yesterday. "We don't know what the effect of the pardon is on the status of their convictions," said Brian P. Gettings, Felt's attorney.

D.C. Bar counsel Fred Grabowsky, who prosecutes disciplinary cases for the bar organization here, says he believes the pardon does not prevent the bar's disciplinary board from using Felt's conviction as a basis for possible disbarment, according to court papers. Felt was suspended from practicing law after the conviction.

Both Felt and Miller are also being sued along with several others in a civil case in New York stemming from the government's investigation of antiwar radicals. The New York suit includes some of the same allegations concerning the break-ins that led to their convictions in the criminal case here.

Lawyers for Felt and Miller said they are concerned that plaintiffs in the New York case might try to invoke legal doctrines that could force the court to rule against the men simply because of their convictions in Washington.

They told the appeals court the issue of whether the convictions can still be used against the two in further proceedings would be rendered moot if the government would move to dismiss the original indictment that led to their convictions.

A Justice Department spokesman said yesterday that up to now the "prevailing thinking" has been for the government to continue to argue the appeal, but no final decision has been reached.

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