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**Tripp granted pretrial hearing; Lawyers dispute date federal immunity became effective**

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Linda R. Tripp gained a victory over prosecutors in their first courtroom showdown in her wiretapping case yesterday, winning a chance to demonstrate that key evidence can't be used against her in a trial.

The significance of Howard Circuit Judge Diane O. Leasure's ruling, which granted Tripp a pretrial hearing, is unclear. While Tripp argues the evidence is tainted because of her federal immunity deal, another major issue remains undecided: when the deal started. The answer to that question could determine the outcome of the case.

Tripp's attorneys contend their client was granted immunity on Jan. 16, 1998, when she received written assurances from independent counsel Kenneth W. Starr's office that she was protected. State prosecutors argue that she was not officially granted immunity until 34 days later -- when a federal judge granted her court-ordered immunity.

If Leasure rules that Tripp was granted immunity in January, state prosecutors say their case would be in jeopardy.

"We would be in big trouble," said Assistant Attorney General Carolyn H. Henneman, who argued yesterday on behalf of State Prosecutor Stephen Montanarelli.

The case also raises major constitutional issues concerning the protection against self-incrimination.

"It is a unique case," Tripp lawyer Joseph Murtha said in an interview. "Because of the two investigations that occurred and immunity issues, it creates unusual issues that are not part of your average criminal case."

Leasure asked attorneys for both sides to try to reach an agreement on the date the immunity deal started. If no agreement is reached, a hearing will be held and lawyers from Starr's office will be called to testify when they offered Tripp immunity and what they thought they were offering her.

Tripp might also testify at that pretrial hearing, her lawyers said. Tripp was not in court yesterday. She was indicted in July on two counts of violating Maryland's wire-tapping statute for tape recording a phone conversation in Dec. 22, 1997, with White House intern Monica Lewinsky and then having her attorney disclose its contents to Newsweek magazine.

Tripp's taping led to the eventual impeachment of President Clinton in December last year.

After establishing the date of immunity, Leasure will hear arguments about whether state prosecutors gathered evidence without using Tripp's immunized testimony or other protected materials. That hearing is scheduled for Dec. 13, and a trial date has been tentatively scheduled for January.

During the pretrial hearings, Lewinsky will likely be called as a witness. Tripp's attorneys argue that Lewinsky's testimony is tainted by the Starr investigation because she listened to the tape recordings in his offices and also read transcripts. "She is radioactive," said Murtha. "Monica Lewinsky had the benefit of every single piece of evidence that Ms. Tripp presented" to Starr.

They also said state prosecutors could not determine the date of the tape recording without Tripp's help. Tripp listened to the tape and gave Starr's attorneys information that allowed them to put a date on it.

Henneman disputed that. She said a Newsweek reporter listened to the tape and stated in his magazine article in February -- before the court-ordered immunity was granted -- that the tape was made before Christmas 1997. She also said a former attorney for Paula Jones listened to the tape.

State prosecutors also need to prove that Tripp knowingly violated Maryland's law when she tape recorded Lewinsky. A key witness is a Radio Shack employee who testified before a Howard County grand jury that he told Tripp it was illegal to tape the conversations. Tripp told a federal grand jury that she did not learn it was illegal to tape in Maryland until a November 1997 meeting with an attorney. She continued to tape, she said, to protect herself.

At yesterday's hearing, Tripp's lawyers argued that nearly all of Montanarelli's evidence was tainted by Tripp's immunized testimony. That taint ranges from Howard County grand jurors hearing news reports about Tripp's involvement in the scandal to state prosecutors allegedly having copies of the Starr report in their offices.

Henneman said yesterday that Montanarelli and the other prosecutor, Thomas M. McDonough, haven't even listened to the tape. State prosecutors contend they never used information related to Tripp's immunized testimony.