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JUDGE DISALLOWS DRUG EVIDENCE AGAINST BROTHERS

MARGARET N. O'SHEA, Staff Writer

A federal judge has suppressed evidence collected in a 1988 search of a suspected "narcotics distribution center" that turned out to be the home of a former 5th Circuit assistant solicitor and his brother.

U.S. District Judge Matthew J. Perry issued the suppression order Friday, wiping out the government's case against George and Charles McElveen because of a faulty search warrant.

George McElveen resigned from the solicitor's office when drug charges were filed against him and his brother. George McElveen was charged with possession of a controlled substance after several dozen capsules of the amphetamine Dexedrine were found in a search of his bedroom on April 7, 1988.

His younger brother, Charles, was charged with growing marijuana. Agents of the U.S. Drug Enforcement Agency and the Richland County Sheriff's Department took 20 marijuana plants from their yard.

U.S. Attorney F. Bart Daniel said he had not decided whether to appeal Perry's order suppressing the evidence or to drop the charges against the McElveens.

Perry said the search warrant was based on "quadruple hearsay" -- a maid told a drug informer, who told an agent, who told Capt. Leon Lott of the Richland County Sheriff's Department.

Lott told a DEA agent.

The maid claimed to have seen a cache of liquid Valium stored at the McElveens' home. Charles McElveen worked for a pharmaceutical company that distributes liquid Valium, but drug agents did not know that when they searched the house.

The maid stole some Valium from the home and sold it to a confidential sheriff's informant for \$50. When the informant asked where she had gotten it, she pointed to the McElveen residence.

Perry said the source of the tip could not be considered reliable because she was a thief and a drug dealer with no track record of informing truthfully.

Perry said those factors flawed the search warrant, making the search illegal and the evidence off-limits for use against the McElveen brothers in court.

Columbia attorney **Jack Swerling**, who asked Perry to rule on the issue, said late Friday: "At the suppression hearing, we took serious issue with whether or not there was probable cause in the warrant to search the residence.



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