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## "Disagreement In Park Case; Turley Quits"

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Authors	Sternberg, Irma O.
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s, Tenn., Wednesday Morning, May 30, 1973

## Turley Steps Out Of Overton Appeal

By MICHAEL LOLLAR

U. S. Atty. Thomas F. Turley Jr. said yesterday he will have "nothing to do" with current appeal proceedings in the Overton Park expressway case.

In withdrawing from that phase of the case, he said: "I think what's being done is not justifiable, either legally or practically."

The issue arose May 21, when the Justice Department's solicitor general, Erwin Griswold, authorized the Transportation Department to appeal U. S. Dist. Judge Bailey Brown's remand of the park case.

Brown remanded the case April 20, ordering Transportation Secretary Claude Stout Brinegar to make a new route determination for Interstate 40 by June 4. The judge said Brinegar's predecessor, John Volpe, erred when he rejected the park route last January, since he neglected to choose an alternative route.

Brinegar's staff opposed the remand order, urging Griswold to authorize the appeal.

When Griswold obliged, Turley declined comment saying he had not been aware that Griswold was considering an appeal. Turley, who has handled the case since 1971, said Griswold should have conferred with him before making a decision.

"I think it should have been a shared responsibility. We (the U. S. attorney's office here) know the community situation. We know infinitely more about the case record at this point. But, there was no communication."

Therefore, he said, he notified the Justice Department that if it intended to pursue the matter in the U. S. Sixth Circuit Court of Appeals, "you'll have to assign someone else to handle the case."

The Justice Department then dispatched staff attorney James R. Prochnow to Memphis with the Transportation Department's notice of appeal. He filed the appeal notice yesterday, along with a motion asking Brown to stay the remand order pending the outcome of the appeal.

Turley said, "What they're undertaking is not in the interest of the taxpayers. The decision to take an appeal at this point couldn't help but cause additional delay in the case." He said it

would be more practical to let Brinegar make a new decision "and get it over with in short order."

"But, if Mr. Griswold is going to take the authority to make the decision (in favor of appeal) he should have the responsibility for carrying it out."

Turley said, however, he will resume his legal obligation to the Transportation Department after the appeal is concluded. "My clients make the cases, not me."

### Disagreement In Park Case; Turley Quits

U.S. Atty. Thomas F. Turley has come into open disagreement with the U.S. Department of Justice and has told Washington officials he will not handle further appeal proceedings involving the Overton Park expressway case.

The dispute is over the decision by Erwin Griswold, Justice Department Solicitor General of the United States, and Griswold's decision to appeal the April 20 remand order in the Overton Park case.

The remand order by U.S. Dist. Judge Bailey Brown gave Transportation Secretary Claude Stout Brinegar 45 days in which to make a new route determination for Interstate 40, choosing the Overton Park route or a specific alternative. The decision is due June 4.

Turley said he informed the Justice Department last week — when learning that Griswold had made the decision to appeal the ruling — that he was "not in sympathy" with such a move and therefore refused to handle the matter. He notified Washington that if they were going to proceed in that direction they would have to assign someone else to handle that aspect of the case.

Late Friday the Justice Department sent James R. Prochnow, from the Washington civil division, into Memphis to take over the proceedings.

Prochnow has filed notice of appeal with Judge Brown today and has asked for a stay of Judge Brown's order pending appeal. Prochnow contends that it would not be feasible for Brinegar to make a new decision by June 4, when the Secretary is appealing Judge Brown's ruling and contending that such a decision itself would be "entirely inappropriate" for Brinegar to make.

The Justice Department contends in its appeal brief that Brinegar's predecessor, John Volpe, was correct in his rejection of the park route last Jan. 18. In his remand order, Brown said Volpe erred in failing to choose an alternative route.

Turley said he had recommended against such an appeal and that he told Washington he questioned "the practicality and the legality

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Ask Sally for last part of quote!