

Jury Selection Is Started for Ellsberg Trial

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LOS ANGELES, July 10—A federal court here today began the arduous task of selecting a jury to try Daniel Ellsberg and Anthony Russo on conspiracy, theft, and espionage charges in connection with disclosure of the top-secret Pentagon Papers.

U.S. District Court Judge W. Matt Byrne Jr., eager to expedite a case that is already almost a month behind schedule, said he would personally conduct all questioning of prospective jurors rather than permitting prosecution and defense lawyers to join in.

Even so, jury selection is expected to last a full week.

On many controversial subjects central to the case, including newspaper publication of the papers last year, each member of the jury panel will be individually questioned outside the presence of all others.

About 100 people were called into the courtroom this morning as possible jurors in the case.

By lunchtime, 17 had been excused because of health, financial or other personal hardships that they said would prevent them from serving for the entire trial, which is expected to last 10 or 12 weeks after a jury has been selected.

Byrne denied the request of only one potential juror who asked to be excused, Terence Meadows, a middle-aged man who said he had vacation plans but acknowledged that he could easily change them.

Dismissal Sought

After seeing the jury panel this morning, the defense immediately renewed its motion to dismiss it entirely on the grounds that it is not a representative cross-section of the community.

Leonard Weinglass, chief defense counsel for Russo, pointed out to the judge that there appeared to be no one under 30 and only about 10 persons under 40 among the 100 who filed into court this morning.

Byrne, standing by his earlier decision that the jury selection system in this federal judicial district fully complies with the law, denied the defense motion.

Nonetheless, Ellsberg and Russo themselves appeared to be optimistic on the first day of the trial. During a press conference on the steps of the U.S. Courthouse in downtown Los Angeles, Russo said he was confident that "any 12 people in this country would acquit us."

The defense was planning careful scrutiny of all potential jurors in an attempt to weed out any persons who might conceal prejudices against Ellsberg and Russo. There was a psychiatrist in the courtroom this morning, for example, to advise Weinglass on jury selection.

The defense optimism was somewhat dampened by several final pretrial rulings by Byrne today, all of them negative to the defense.

Motion Rejected

He rejected the last major pending defense motion, which sought dismissal of three of the espionage counts in the 15-count indictment, on the grounds that the World War I anti-spying law was being improperly used by the Justice Department.

Byrne also said that the prosecution would not be required to prove on those espionage charges that Ellsberg and Russo had intended to

hurt the United States and help a foreign nation by the acts which led to disclosure of the history of U.S. involvement in Southeast Asia.

The defense contends that conviction under the espionage act requires proof of such intent. Ellsberg and Russo say that they sought to help the nation by exposing the fact that the American people were misled by the U.S. government about Vietnam.

Reversing an earlier ruling, the judge relieved the prosecution of the requirement of providing the defense with a copy of the Central Intelligence Agency's rules regarding the disclosure of secret information. The prosecution said that the CIA had refused even to make such material available to the government side, and Byrne ruled that the defense had not sufficiently established that the material would be "relevant" to the case.

The U.S. marshal's office here instituted unusual security precautions today in the corridors leading to Byrne's courtroom. One sign passed by all potential jurors, for example, warned that "All persons entering Courtroom 9 subject to search."