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FBI Ex-Officials Lose Motion for Trial Dismissal

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A federal judge here refused yesterday to dismiss charges against three former top FBI officials accused of authorizing illegal break-ins against radical fugitives. He set Oct. 23 as a trial date.

U.S. District Court Judge William B. Bryant did grant several discovery requests from L. Patrick Gray III, former acting FBI director, and two of his top aides, W. Mark Felt and Edward S. Miller—including access to any Nixon White House tapes discussing the Weather Underground fugitives.

Attorneys for the defendants said yesterday that they were not surprised at Bryant's decision to deny their motions for dismissal or separate trials. But they did express some surprise at the early trial date.

The three men were indicted in April at the end of a nearly three years of investigation that created serious morale problems at the FBI. They are charged with violating the civil rights of friends and relatives of members of the radical Weather Underground by approving break-ins of their homes by FBI agents.

Sixty-eight FBI agents face possible disciplinary charges for their part in the break-ins.

Gray has made it clear in pre-trial arguments that he feels Miller and Felt will try to shift responsibility to him. Bryant declined to give him a separate trial, however. Miller and Felt long ago admitted publicly that they gave orders for the break-ins in the early 1970s.

In denying one of the discovery motions, Bryant said "it is not open to Felt to argue that he did not know his actions were illegal or for Miller to assert he was not put on notice of the illegality of his actions."