Court Bars Review on Watergate

Convictions of Three Former Nixon Aides Allowed to Stand

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By Morton Mintz
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The Supreme Court refused yesterday to review the Watergate cover-up convictions of three former aides to President Nixon, commenting neither on how individual justices voted nor on a recent news leak on the purported lineup.

The action may end the last serious possibility that former top White House aide H.R. (Bob) Haldeman and former Attorney General John N. Mitchell will avoid going to prison.

John D. Ehrlichman, also a former top White House official, is confined in the Swift Trail Federal Prison Camp at Safford, Ariz. He reported there last Oct. 28 but has continued to seek review of his conviction.

Each of the trio was convicted on Jan. 1, 1975. U.S. District Court Judge John J. Sirica sentenced them to 2½ to eight years on Feb. 21, 1975.

The court's decision marks the end or near-end of a spate of cases arising from the scandals that forced Richard M. Nixon to resign as President in August, 1974, and that led to prosecutions of more than 50 persons.

The three-month cover-up trial produced pervasive evidence of a conspiracy directed from the White House Oval Office to thwart the investigation of the June 17, 1972, burglary of the Democratic National Committee headquarters in the Watergate office building.

Day after day, prosecutors played White House tapes of conversations between Nixon and his top aides about the growing Watergate scandal. Haldeman, Ehrlichman, and Mitchell were convicted of every count against them—a total of 14 felonies.

John J. Wilson, Haldeman's lawyer, said he will ask the Supreme Court to reconsider its action.

Mitchell, in a statement released by one of his attorneys, said, "The issues involved in this case and the circumstances accompanying the court's deliberations are too extraordinary and too serious to be addressed appropriately in a press statement. We will treat these matters fully in our petition for a rehearing."

Lawrence H. Schwartz, one of Ehrlichman's lawyers, said he has not talked to his client but is considering seeking a rehearing.

The deadline for petitioning for a rehearing is June 17—three days before the start of the court's summer recess. The court probably would act before going away, although nothing requires it to do so.

The court almost never grants re-

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Court holds that trial jurors, not a state legislature, must define community standards of obscenity. *Page A6.*

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hearing petitions. If it denies them in this case, Haldeman and Mitchell either could surrender or try to postpone imprisonment by filing motions of one kind or another in the trial court.

Under standard court procedures, the convicted men would have won review yesterday if four justices had voted for it in the traditional secret conference attended only by the court's nine members.

Ordinarily, if fewer than four justices vote for review, the public learns of it only if they choose to disclose their votes and reasons in the published orders of the court.

No such disclosure was made yesterday. "The petitions for writs of certiorari are denied," the orders said. Justice William H. Rehnquist, who was a top-ranking official in the Justice Department under Mitchell before President Nixon nominated him to the court, "took no part in the consideration or decision of these petitions," the orders noted.

In addition to Rehnquist, Nixon also appointed Chief Justice Warren E. Burger and Justices Harry A. Blackmyn and Lewis F. Powell Jr.

On April 21, reporter Nina Totenberg said on National Public Radio that the justices, secret conference seven days earlier, had voted 5 to 3 to eny the Haldeman-Mitchell-Ehrlichman review petitions; that the three votes for review had been cast by Nixon appointees Burger, Blackmun and Powell, and that Burger had held up routine announcement of the denial in hopes of winning decisive fourth vote.

The Justices never commented during the large flap raised by the story and later denied a motion by the convicted men for permission to file a memo on "the impact on petitioners' rights before this court of the publicly disclosed circumstances . . ."

The petitions for review of the convictions for obstruction of justice and giving false testimony under oath —were based on allegations that the defendants had been denied a fair trial mainly because of massive and prejudicial pre-trial publicity and of the unavailability to the defense of "the main actor" in Watergate, Nixon.

For Ehrlichman, lawyer William S. Frates said that to expect him "to conduct his defense without the testimony of Richard Nixon is tantamount to asking a Shakespearean troupe to perform 'Hamlet' without Hamlet."

Washington Post staff writer George Lardner Jr. contributed to this article.