

Watergate 7 Lawyers Call Trial Tainted

By Lawrence Feinberg
Washington Post Staff Writer

Lawyers for the seven original defendants in the Watergate break-in told the U.S. Court of Appeals yesterday that the situation surrounding their trial "stinks" so much that convictions of two of the men should be overturned and the others should be allowed to withdraw their pleas of guilty.

"Forget all the technicalities. Something here stinks," declared William G. Ohlhausen, an attorney for James W. McCord Jr., the security expert on the Watergate bugging team. "There was perjury. There was obstruction of justice . . .

"There is such a stench attached to this case," Ohlhausen continued, "that it has to be thrown out."

Ohlhausen and lawyers for the other six men told the appeals court that the White House cover-up of the scandal seriously prejudiced the trial in January, 1973.

Two key prosecution witnesses—Jeb Stuart Magruder and Herbert L. Porter—committed perjury, they said. The lawyers added that important evidence, showing the involvement of high administration officials in the campaign spying operation was hidden or destroyed so the men accused could not make a full defense.

Several of the lawyers also assailed District Judge John J. Sirica for acting like a prosecutor during the trial and using the threat of heavy sentences to force the

men to testify before the federal grand jury and the Senate Watergate committee.

Attorneys for the Watergate special prosecutor's office replied that, regardless of the White House cover-up, all the men were clearly guilty of the break-in, wire-tapping, and conspiracy charges against them.

The prosecutors also strongly rejected the new defense some of the men say they now want to make—that they thought the spying on the Democratic National Committee was a "national security" operation.

"That's no justification," declared assistant special prosecutor Sidney M. Glazer.

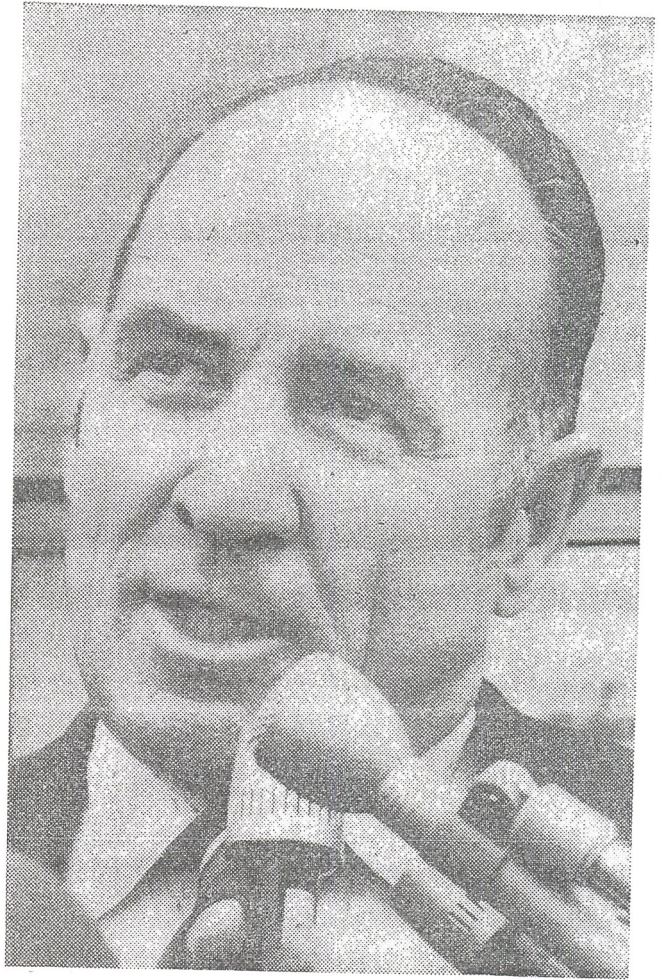
Seven of the nine members of the Court of Appeals heard the oral arguments, which closely followed points made previously in legal briefs.

In their questions several of the judges appeared sympathetic to the arguments made on behalf of the four Cuban-Americans, who were arrested inside the Watergate. The court gave no indication when it might issue a ruling.

The Cuban-Americans Bernard L. Barker, Virgilio Gonzalez, Eugenio Martinez, and Frank A. Sturgis all pleaded guilty at the trial along with E. Howard Hunt, an ex-CIA agent who recruited them for the Watergate operation.

Their lawyer, Daniel E. Schultz, said yesterday that they relied in good faith on Hunt's assurances that the break-in was government-sponsored but chose not to raise this defense at the trial because they did not want to reveal a similar, but then secret, break-in at the office of Daniel Ellsberg's psychiatrist.

Hunt also wants to withdraw his guilty plea, which



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James McCord speaks with newsmen after court hearing.

would force a new jury trial of the case. The prosecutors said yesterday that having such a trial would cause "the utmost difficult" for the government because Hunt and the others were granted immunity for damaging statements they made to the grand jury, and the Senate Watergate committee.

Six of the defendants now

are free either on parole or pending the result of their appeals.

G. Gordon Liddy, who was convicted along with McCord, is the only one in jail. In addition to his sentence in the main case, he is serving an indefinite term for contempt of court because he refused to testify to the grand jury after he was granted immunity.