

# Ellsberg Seen Freed If Jury Had Decided

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LOS ANGELES, May 11—If the Pentagon Papers case had ever gone to the jury, Daniel Ellsberg and Anthony J. Russo Jr. probably would have been acquitted of federal charges of conspiracy, espionage and theft of government property.

But that verdict might have been a long time in coming, because there was at least one holdout in the jury box and because many of the jurors—to the surprise of most participants in the trial—intended to read large sections of the documents before reaching a final decision.

Those are the tentative conclusions based upon interviews by The Washington Post with several of the ten women and two men jurors who heard evidence in the case since January.

U.S. District Court Judge W. Matt Byrne Jr., citing governmental misconduct that had hopelessly violated the rights of the defendants, declared a mistrial Friday and dismissed all charges against Ellsberg and Russo.

It is considered highly unlikely that they will ever be tried again on those charges, because Byrne terminated the case in a way that makes it virtually impossible for the Justice Department to circumvent the Fifth Amendment ban on "double jeopardy."

For most of the jurors, who qualified for service largely on the basis of their prior lack of knowledge about the case, the four-month-long trial was an eye-opening experience.

Some say that it changed their lives.

"I was a typical apathetic American" before the trial, explains Joan B. Duhigg, a housewife from Huntington Beach. "But this has awakened me to what is going on. I'm going to read ... and I might even march" against government policies in the future.

Cora C. Neal, known as "Corky" to her fellow jurors and the apparent gadfly of

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Pentagon Papers defense cost \$900,000. Page A8.

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the jury room, feels the same way.

Between her job at the General Telephone Co. in Santa Monica and night courses at a local community college, she said today, she rarely had time to read the newspapers or books on current affairs. "But I'll have to find time now. I've got a long reading list. Nearly every witness in the case wrote a book."

Mrs. Neal, a widow, said it was "rather surprising" to learn, from testimony about the Pentagon Papers, that the American government often did one thing in Southeast Asia while telling the public it was doing another.

She and Mrs. Duhigg were among the seven jurors and one alternate who attended the Ellsberg-Russo defense's "victory party" in Beverly Hills Friday night.

They stayed until nearly

three o'clock in the morning, talking for hours with the defendants, their wives, lawyers and aides. "It was so nice to meet everyone that I feel like I've known for such a long time," Mrs. Duhigg said today.

Most of the jurors at the party arrived with an obvious feeling of hesitancy — each apparently having the same concern expressed by Margaret C. Kaschube: "Am I the only one?"—and brought two or three friends and relatives along for moral support.

It was an opportunity for them, above all, to ask questions and to fill in some of the gaps in the evidence.

Jean E. Boutelier, for one, took a reporter aside and quizzed him about how his newspaper had made the decision in 1971 to publish articles based on the Pentagon Papers. She said she felt "better" to learn that editors had weighed the relationship of the documents to the "national defense," a consideration more recently thrust upon the jury.

Mrs. Boutelier, a housewife from Cypress in conservative Orange County, brought her son Kim along, and he joked that he had originally felt his mother "was too much of a redneck to ever get selected for that jury."

But she surprised him as the trial went on and she began to lean toward the defense. "I just couldn't see convicting those men of espionage," Mrs. Boutelier told a reporter.

One juror who did not attend the party was Darlene Y. Arneaud, a divorced mother of two who is also caring for five nephews and recently removed herself voluntarily from the welfare rolls.

She acknowledged in a telephone interview today that she had distinctly favored the prosecution case.

Ellsberg "admitted copying" the Pentagon Papers, Mrs. Arneaud pointed out, "and there was testimony by a witness who had identified a Vietnamese fingerprint on a copy. Now he's not part of Congress, he's not an American. That stuck in my mind, too."

(The Vietnamese was Vu

documents in late 1969 while photocopying them at a Hollywood advertising agency.)

Mrs. Arneaud added that she preferred the "cut-and-dried" approach of the government, in which "questions were asked and answered," to the "emotion" of the defense.

But she said that after reading the newspapers today for the first time in months, she is concerned about the Watergate affair and governmental misconduct in the Pentagon Papers case. "There has to be a change in the government, there's no doubt about it. The power is overwhelming. I'm just a little guy. I think I've come to the conclusion that I'm very insignificant. I just want our country to survive," she told a reporter.

The jurors were nearly unanimous on a few points, including their sense of taking part in a historical event and their high regard for Judge Byrne.

Phyllis E. Ortman, at 27 one of the youngest members of the jury and one who was pegged by spectators from the start as being "pro-defense" because of her smiles at Ellsberg and Russo, became a virtual Los Angeles celebrity overnight, as she was interviewed on television stations.

She said today that she came away from the trial "a little wiser and a little sadder."

"I had wished for a long time the war could be over and everyone could come home," Mrs. Ortman ex-

plained. "Then when you sit through something like this and you listen to the history of the war, and the secrecy,

and the way they were telling people something else, it confirms your disillusionment. It made me sad."



United Press International

**Daniel Ellsberg and his wife, Patricia, listen as Pentagon Papers codefendant Anthony J. Russo Jr. speaks at a vic- tory press conference yesterday after all charges against the two men were dismissed Friday in Los Angeles.**

Van Thai, formerly Saigon's ambassador to Washington and a consultant to the Rand Corp. while Ellsberg was a researcher there. Thai became an unindicted coconspirator in the case because Ellsberg showed him the