



# Jaworski Asks Court to Reverse Sirica

By LESLEY OELSNER  
Special to The New York Times

WASHINGTON, Aug. 21 — Leon Jaworski, the special Prosecutor, asked the United States Court of Appeals for the District of Columbia Circuit today to overrule Federal District Judge John J. Sirica and order a delay in the opening of the Watergate cover-up trial.

Mr. Jaworski acknowledged that it was unusual for appellate courts to intervene in such matters. But in legal papers filed this morning he said, "The courts of appeals have power in extraordinary cases to grant extraordinary writs when they are convinced that a district judge has committed a serious error."

And even where appellate courts have declined to exercise the power, Mr. Jaworski said, they have several times "considered it appropriate to admonish the district judges that their actions seemed to be imprudent and risked reversal of any resulting conviction."

Judge Sirica ruled Monday that the trial would begin as scheduled on Sept. 9. Mr. Jaworski suggested that the trial be postponed at least two weeks beyond that. His statement to the appeals court was technically an "answer" to earlier requests by two of the defendants for a delay, rather than a request of his own.

The prosecutor told the court that both the Government and the defendants needed more time to review Watergate-related tap recordings and documents that the White House recently surrendered. He noted that Judge Sirica had not yet processed all the documents for use by the prosecution and defense.

Then he turned to the matter

of pretrial publicity. He said that the legal system had "adequate mechanisms," such as sequestering the jury, for insuring a fair trial. But, he went on, "The requirements of justice demand that even the appearance of justice be satisfied."

"Because of the exceptional nature of the present case," he said, "it would not be unwarranted for the trial of this case to be delayed for a significant but limited period of time to insure that potential jurors are in a position to state candidly whether they can lay aside any preconceptions they may have and to determine guilt or innocence solely on the basis of the evidence at the trial."

Mr. Jaworski closed his argument with that statement. But it is generally believed here that the prosecutor wants a delay for a further reason: to give him more time to resolve the legal status of former President Richard M. Nixon, who faces possible prosecution on charges arising out of the cover-up case.

John D. Ehrlichman, once Mr. Nixon's chief domestic affairs adviser, and then H. R. Haldeman, the former White House chief of staff, took the case to the Court of Appeals soon after Judge Sirica's ruling Monday.

Both told the appellate court, as they had told Judge Sirica, that the trial should be delayed because of the publicity and the need for time to review the tapes and documents.

Two other defendants, John N. Mitchell, the former Attorney General, and Robert C. Mardian, who was deputy manager of the Committee for the Re-election of the President, filed answers with the court today repeating Mr. Haldeman's and Mr. Ehrlichman's arguments.

A fifth defendant, Gordon C.

Strachan, once Mr. Haldeman's assistant, filed no statement, apparently because he is awaiting Judge Sirica's decision on his motion to dismiss his indictment on the ground that it was based on testimony he gave under a grant of immunity.

Thus only one party to the case, the sixth defendant, Kenneth W. Parkinson, a lawyer hired by the campaign committee in the wake of the Watergate break-in on June 17, 1972, wants the trial to begin on Sept. 9. However, Mr. Parkinson is seeking a separate trial in another jurisdiction.

In papers filed with the appeals court this morning, Mr. Parkinson repeated that request. "The recent pretrial publicity," he contended, "adversely and prejudicially affects Kenneth Wells Parkinson."

Mr. Ehrlichman, in an additional statement to the court today, said that he had tried to examine papers from his files at the White House, but that "President Gerald R. Ford, through his counsel, Philip W. Buchen," has said that he may not examine them "at this time."

A White House spokesman said this afternoon that shortly before his resignation, Mr. Nixon apparently stopped allowing defendants to examine their White House files in the presence of a Secret Service agent.

The spokesman said that Mr. Buchen had asked Mr. Ehrlichman's attorneys to "give him some time to consider whether to reinstitute this policy" or instead to devise some other method of allowing defendants access to their files. A decision will be made "shortly," the spokesman said.