

Denied Files, Ehrlichman Says

By William Chapman
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Attorneys for John D. Ehrlichman told the U.S. Circuit Court of Appeals yesterday that the former presidential aide has been denied access to his files in the White House.

They presented that complaint as one reason why the trial of Ehrlichman and five other charged in the Watergate cover-up conspiracy should be postponed.

A petition filed with the court yesterday said that President Ford's legal counsel, Philip W. Buchen, said Ehrlichman "is not permitted to examine his papers at this time, although he may be permitted to examine them at some future, unspecified date."

His attorney, Andrew C. Hall, said the material Ehrlichman hoped to examine in order to prepare a defense included a "substantial number" of notes, correspondence, and memoranda.

During the recent "plumbers" trial, Ehrlichman was at first denied access to his notes left in the White House but ultimately was allowed to examine them without taking notes.

A White House spokesman said yesterday that Buchen is reassessing the whole question of access to such material by the former aides who are now defendants.

Buchen is expected to announce a new policy governing the documents in a few days, the spokesman said.

Ehrlichman and three other defendants have asked the Court of Appeals to order U.S. District Court Judge John J. Sirica to delay the cover-up trial, which is supposed to get under way Sept. 9.

They have said that the wave of publicity accompanying President Nixon's resignation would prejudice a jury selected in September and argued that they needed more time to prepare their case. Sirica rejected their motions

Monday and four of the six defendants appealed.

The Watergate special prosecutors yesterday supported the request for a delay, as they had done before. But for the first time yesterday the prosecutors told the Court of Appeals, as the defendants had, that a delayed trial might be warranted because of the problem of juror bias. Previously, the prosecution had supported the motion to postpone the trial merely on grounds that more time was needed for preparation.

"Because of the exceptional nature of the present case, 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 . . .," the Watergate prosecutors said.

In addition to Ehrlichman former White House chief of staff H. R. Haldeman, former Attorney General John N.

Mitchell, and former Assistant Attorney General Robert C. Mardian have sought a delay. Neither of the other two defendants, former White House aide Gordon Strachan and reelection campaign attorney Kenneth W. Parkinson, has sought a postponement.

Meanwhile, it was confirmed here yesterday that service of a subpoena on former President Nixon had been delayed at the instruction of Wayne Colburn, director of the U.S. Marshal Service.

It was Colburn, a spokesman said, who gave orders that the subpoena should be served on Mr. Nixon, now in California, in a "professional and discreet" manner.

The subpoena arrived in Los Angeles Monday but had not been served by late yesterday afternoon. The U.S. marshal in Los Angeles was understood to be arranging for its being served with a lawyer, Daryl V. Rippey, who has been designated by the former President's staff to handle subpoenas.