

# Sirica ponders sending doctors to check Nixon

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WASHINGTON (AP) — Watergate prosecutors said Wednesday that “clear and convincing evidence” is lacking that former President Richard M. Nixon is too sick to testify at the Watergate cover-up trial.

They urged U.S. District Court Judge John J. Sirica to send three doctors to examine Nixon.

But while asking that Sirica turn down Nixon's request to be excused, the prosecutors said they will not insist on the former president's appearance as a prosecution witness.

Nixon has been subpoenaed by both the government and John D. Ehrlichman, one of the five defendants charged with conspiring to obstruct justice in the Watergate case.

Ehrlichman's lawyers said that if Nixon cannot testify, they want him to give a deposition that can be introduced as evidence in the trial.

Sirica indicated he is thinking of appointing a panel of doctors to examine Nixon and said he would hear arguments Thursday on Nixon's efforts to have the subpoenas quashed.

The government's memorandum was filed as the government's first witness, John W. Dean III, was testifying.

Dean discussed the first weeks after the June 17, 1972, break-in at Democratic headquarters at the Watergate when, according to his testimony, the first efforts were made to help the Watergate burglars financially.

With Dean there to authenticate them, prosecutors plan Thursday to play the first of the White House tapes for the jury of nine women and three men.

Dean testified after the lawyer for Kenneth W. Parkinson finished his opening statement. Lawyers for Ehrlichman and Robert C. Mardian

addressed the jury Tuesday. H.R. Haldeman's and John N. Mitchell's lawyers reserved their opening until after the government's case is in.

Dean detailed his own efforts at trying to stop an FBI investigation into the source of funds found on the Watergate burglars and of trying unsuccessfully to get funds for the defendants, then in jail, from the CIA.

The efforts were made at the behest of

Nixon's two top aides — Ehrlichman and Haldeman — Dean said.

In the early hours of his testimony that may take a week or longer to complete, Dean involved all but Parkinson in the early discussions that concerned how Watergate and the defendants should be handled.

Parkinson's lawyer told the jury his client was not hired as the re-election

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committee attorney until early July 1972, knew none of the Watergate details and was told “let us handle the politics, you just defend the (civil) lawsuit.”

One of the reasons the government subpoenaed the former president was to authenticate some 26 tapes recordings where the conversation involves Nixon and either Haldeman, Ehrlichman or both.

The prosecutors said they intend to establish the authenticity of the tapes even without Nixon's testimony.

The prosecutors said Nixon's contention that his physical condition is such that appearance at the trial “would pose a serious risk to his life” is not backed up by a “compelling showing.”

Nixon's doctor in an affidavit had said the former president must wear an elastic stocking, take oral medication, avoid prolonged periods of sitting, standing or walking, avoid extended trips and should remain in a controlled environment.

“It is clear Mr. Nixon can continue to wear an elastic stocking and take oral medication while in transit and in Washington,” the prosecutors said. They added that he can avoid long periods of sitting or walking and that there are enough medical facilities in Washington to keep an eye on his condition.

The prosecutors said, “Mr. Nixon is not a neutral or detached witness. He has been formally accused of participating in the conspiracy for which defendants are standing trial, and it would be only natural for him to seek to avoid an obligation to testify.”

Before the jury was brought in for the third day of hearings on Wednesday,

Judge John J. Sirica indicated he is thinking of sending doctors to California to examine Nixon. The matter will be debated after the jury leaves the courtroom Thursday. Sirica will rule then.

Dean testified that in the hectic days following the Watergate break-in he told Ehrlichman a great deal about the involvement of Nixon campaign officials in the incident.

Ehrlichman, one of the five defendants in the Watergate cover-up trial, is charged with lying when he said that all he knew about the June 17, 1972, break-in at Democratic national headquarters was what he had read in the newspapers.

The 35-year-old Dean, appearing pale and even thinner than he was last year when he testified before the Senate Watergate committee, was the government's first witness in the Watergate cover-up trial.

As he testified, marshals guarded every door in the U.S. District courtroom and an airterminal type weapons detection system screened everyone who came in.

Assistant special prosecutor James F. Neal led Dean through the early part of the Watergate story beginning with the meetings, attended by former Atty. Gen. John N. Mitchell and Mitchell's campaign deputy Jeb Stuart Magruder at which Dean said a plan for political espionage unfolded.

Mitchell and Ehrlichman are charged with conspiracy to obstruct justice, along with H. R. Haldeman, Kenneth W. Parkinson and Robert C. Mardian. In addition, all but Mardian are charged with actually obstructing justice. Mitchell, Haldeman and Ehrlichman—the three Nixon administration officials in the case—are accused in multiple counts of perjury.

Dean, who was brought here from the federal prison facility at Ft. Holabird, Md., said he introduced G. Gordon Liddy to Mitchell in the attorney general's office in November, 1971.

Subsequently Liddy was hired as general counsel to the reelection committee and on Jan. 27, 1972, Dean said, he was at another meeting in Mitchell's office at which time Liddy outlined a plan for political espionage.

"The plan called for mugging squads, capable of mugging demonstrators and ... kidnap squads capable of taking demonstration leaders and removing them from the demonstrators," Dean said.

He had described the same meetings before at last year's televised Senate Watergate hearings and nothing in his initial testimony added anything to the story.