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## JUDGE PUTS OFF ELLSBERG RULING

### Plans to Consult Colleague on Defense Petition

Special to The New York Times

PORTLAND, Me., Aug. 6—

Judge Frank M. Coffin of the United States Court of Appeals said today that he would consult with at least one of the two other appeals judges before ruling on a petition by Dr. Daniel Ellsberg.

Leonard Boudin and Charles Neson, attorneys for Dr. Ellsberg, argued before Judge Coffin here this afternoon that Judge Arthur Garrity Jr. of the United States District Court was in error when he ruled in Boston yesterday that it was "irrelevant and immaterial" to determine whether illegal wiretapping was used to obtain an indictment against Dr. Ellsberg. Dr. Ellsberg, who has said he gave the secret Pentagon papers to the press, is charged with illegal possession of Government documents.

Lawrence P. Cohen, assistant United States attorney for Massachusetts, represented the Government here today.

Judge Coffin said at the hearing, held in his chambers in the Federal court house building here, that he would consult with one other judge, and mentioned Judge Bailey Aldrich, chief of the three-man First Circuit Appeals Court.

### Ruling Expected Next Week

"I will make available all the papers to him and will have such consultations with him as is needed," Judge Coffin said. He added, "We will act just as soon as we can."

A decision is expected early next week.

Mr. Ellsberg appealed to the court of appeals after Judge Garrity, on the recommendation of a United States magistrate, Peter W. Princi, ordered him removed to California to face grand jury indictment.

Dr. Ellsberg did not appear at the court hearings. Yesterday he said in an impromptu news conference at his home on Boston that he was disappointed that the newspapers did not publish more of the Pentagon report.

When he released the study, Dr. Ellsberg said, he wanted almost the entire 47 volumes of papers made available so that "the American public would have been able to consider them, examine them and form their own opinions on issues of war and peace and on the issue of how they are served by the executive of their Government."

"The New York Times and The Washington Post have most of the papers, but the public doesn't have them," he said.

"I have to say that means many newspapers in this country which have access to large sections of the Pentagon study

are now in the business of withholding it from the public, just as the Defense Department was for so long in that business."

Dr. Ellsberg said that he understood the problems newspapers had in printing the documents but it was important the public have the whole study.

### Russo Wins Delay

WASHINGTON, Aug. 6 (AP)—Anthony J. Russo, the research analyst who refused to testify before a grand jury in the Pentagon papers case, was granted a temporary reprieve from prison today by Justice Hugo L. Black.

Mr. Russo was to surrender

at 2 P.M. Monday to a United States marshal. He had been found in contempt for declining to testify before the federal grand jury in Los Angeles. Justice Black acted at the Supreme Court for Justice William O. Douglas, who is at his summer home in Goose Prairie, Wash.

Justice Black's order permits Mr. Russo to remain free until Aug. 16, a delay of one week. In the interim Justice Douglas is to review a plea filed for Mr. Russo with the Court earlier today as well as an anticipated Justice Department response. Mr. Russo's central claim is that the subpoena was based on unlawful wiretapping.