

Ellsberg Trial

DEC 2 1972

To Open Dec. 12

Los Angeles

United States District Judge Matt Byrne ruled yesterday that the trial of Daniel Ellsberg and Anthony J. Russo in the Pentagon Papers case will start December 12 with the same jury selected more than four months ago.

However, new snags could still upset the timetable. The defense said it will ask the U. S. Court of Appeals for the Ninth Circuit to overrule Byrne next week.

And an argument over which pages of the Pentagon Papers are to be shown the jury by means of slide transparencies could cause further delay, or a drastic exclusion of government evidence.

WIRETAPS

Byrne set a hearing for 2:30 p.m. Monday in hopes of resolving that argument, and clearing up remaining differences over defense demands for disclosure of government wiretapping.

The judge said he would

like to have all pre-trial matter finished by Tuesday or Wednesday. He indicated opening statements to the jury would consume the first full day of trial December 12.

Byrne denied a defense motion for a mistrial after questioning the 12 jurors and six alternates, both singly and as a group.

All indicated they have had little or no exposure to matters concerning the case since they were last in court August 9, and all said they were sure they could still be fair and impartial.

AT LARGE

Defense attorneys Leonard Boudin and Leonard Weinglass argued in vain that the mere length of time the jurors have been at large in the community through the election campaign warrants choosing a new jury.

This is the point to be raised in a petition for a writ of mandate, expected to be filed Monday in the appeals court.

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