

Ellsberg Break - In Testimony Order



UPI Telephoto

DAVID NISSEN
Ellsberg prosecutor

Los Angeles

E. Howard Hunt's testimony before a Washington, D.C., grand jury about an alleged burglary of Daniel Ellsberg's psychiatrist's office was ordered turned over to the Pentagon Papers trial judge yesterday.

Chief U.S. District Judge John J. Sirica in Washington ordered the action after Judge Matt Byrne in Los Angeles demanded that the government tell him any-

thing Hunt had told the Washington grand jury about the alleged burglary.

Prosecutors told Judge Sirica during a brief hearing in Washington that Hunt, a convicted Watergate conspirator, had testified about the burglary.

ANGERED

Byrne, who has repeatedly ordered the government to tell him everything about Watergate and White House involvement in the prosecution of Ellsberg, was obviously angered by a memo from Watergate prosecutor Earl J. Silbert in which Silbert refused to give the judge new information.

Silbert, who broke the news last week that Hunt and Liddy may have burglarized Ellsberg's psychiatrist's office, said his information came from a "confidential source" he couldn't reveal.

"Silbert can't say this is a confidential source," Byrne said. "If it's a grand jury source, I want to know that." The Silbert memo was written before Judge Sirica's ruling.

CONCERN

Byrne, who previously voiced suspicions that the Watergate probers in Washington were keeping information from him, told prosecutor David Nissen: "My concern is this case. My concern is the rights of these defendants."

Byrne, chastising the government for moving too slowly in its investigation,

said: "Mr. Nissen, again you and the people in the Department of Justice keep in mind I need this investigation material as soon as possible. The burden is on the government to prove that neither the Justice Department, the White House nor the Watergate conspirators tainted the case.

The judge has said he will not let jurors deliberate a verdict in the trial until he has all information on whether evidence in the case was tainted by use of stolen records or any other illegally obtained information.

OBSTRUCTION

He also indicated he wants government information on matters reported in yesterday's newspapers and cited to the judge by defense attorney Charles Nesson. "The only information we get of substance comes from newspapers, not the government," said Nesson. "It seems to me there is an obstruction of the court's orders."

Nissen, pressed by the

judge to explain why he hasn't produced the reports, insisted investigators are at work. He promised the judge he will soon deliver the FBI's inventory report on the contents of Hunt's White House office when it was first searched.

SUMMARY

One report was furnished by the government yesterday, and it was turned over to the defense. It was a summary of an FBI interview of Robert C. Mardian, former assistant attorney general in charge of the Internal Security Division. He later became political coordinator of the Committee to Re-Elect the President and directed its internal investigation of the Watergate affair.

Interviewed yesterday in Phoenix, Mardian denied any knowledge of the burglary of the psychiatrist's office while he was in government, but hinted he learned of it later.

"At no time while I was assistant attorney general did I acquire any knowledge of any burglary by G. Gordon Liddy and E. Howard Hunt or anyone else," he said. "I have not had any prior knowledge in any capacity."

However, Mardian said that if he were to go further, he might violate laws pertaining to the attorney-client privilege.

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