

McCord Asks Vacated Conviction

By Jules Witcover
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Convicted Watergate conspirator James W. McCord Jr. yesterday formally asked U.S. District Court Chief Judge John J. Sirica to vacate McCord's conviction on the ground that President Nixon tainted the case by falling a year ago to report he had been told hush money was paid to Watergate defendants.

In a detailed brief filed here, McCord requested an evidentiary hearing on the matter and that subpoenas be issued to Mr. Nixon and six others "to testify about the various alleged obstructions of justice in this case."

McCord also asked that subpoenas be issued for six specific White House tapes containing conversations involving the President and key aides, including the March 21, 1973, discussion in which Mr. Nixon has said then-White House counsel John W. Dean III told him the hush money had been paid.

Two days after that discussion, McCord noted, he and the other Watergate break-in defendants were as of that date, and especially had the court been made aware by the highest law enforcement officer in the land, that hush money had been paid . . . there would have been as absolute duty on the part of the court to

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Had the court been aware by the highest law enforcement officer in the land, that hush money had been paid . . . there would have been an absolute duty on the part of the court to vacate (McCord's) conviction and either order a new trial or dismiss the indictment," the motion said.

The bid to have his conviction thrown out was the latest of a series of moves McCord had made in the last week to draw attention to the President's admission in his March 6 press conference that Dean told him on March 21, 1973, that "payments had been made to the defendants for the purpose of keeping them quiet, not simply for their defense."

On Monday, he sent a formal petition to the House Judiciary Committee for the impeachment of Mr. Nixon on the grounds that he violated federal law and his constitutional duties in not reporting that knowledge to proper authorities.

The President's March 6 statement was a direct continuation of what he said last Aug. 15 in a televised talk. Then he said he was "only told that the money had been used for attorney's fees and family support, not that it had been paid to pro-



JAMES W. MCCORD JR.
... seeks subpoenas

cure silence from the recipients."

McCord has charged that Mr. Nixon's failure to tell Judge Sirica prior to the Watergate defendants' scheduled sentencing a year ago that he had been told of the hush-money payments amounted to tampering with a defendant, a federal crime, and obstruction of justice.

The others McCord asked the court to subpoena are Dean, former White House chief of staff, H. R. (Bob) Haldeman, Kenneth Parkinson and Paul O'Brien, lawyers for the Committee for the Re-election of the President, Frederick C. LaRue, former deputy to John N. Mitchell at the re-election committee, and William Bittman, lawyer for con-

victed Watergate conspirator E. Howard Hunt Jr.

In the March 1 indictment against Haldeman, Parkinson and five other Nixon aides in the Watergate cover-up, it is alleged that after the Nixon-Dean White House meeting of March 21, 1973, attended by Haldeman, Parkinson, Mitchell, who in turn called LaRue and told him to deliver \$75,000 to Hunt, who had asked for \$120,000.

That same night, the indictment alleges, LaRue delivered the money to Bittman, and the next day Mitchell assured White House aide John D. Ehrlichman, also indicted, March 1, that Hunt "was not a 'problem' any longer."

The other tapes sought include a conversation among Mr. Nixon, Haldeman and Ehrlichman on or about Feb. 27, 1973, concerning Dean's assignment to work on Watergate matters; a Nixon-Dean conversation of the next day in which Dean has said they discussed the cover-up; Nixon-Dean conversations of March 17, 21 and 23, 1973, the last of which allegedly concerned McCord's celebrated letter to Sirica claiming that political pressure was applied to silence the defendants' and a Nixon-Ehrlichman talk on or about April 15, 1973 concerning Ehrlichman's assignment to work on Watergate matters.

Yesterday's motion was

the second filed by McCord, security officer for the Nixon re-election committee and whistleblower expert on the Watergate break-in team, to overturn his conviction or seek a new trial.

Last June 8 he argued that he was enticed into the operation by high government officials and then a "massive obstruction of justice" had denied him use of the enticement defense. The motion was denied without a hearing last Nov. 7. Two days later McCord was sentenced to one to five years in prison. He is now free on bond pending appeal.

Since Nov. 7, McCord told the court yesterday, "new evidence of obstruction of justice has come to light"—an allegation by the grand jury in the March 1 indictment "that at least \$402,000 was dispensed to purchase the silence of the original Watergate defendants."

This, coupled with Mr. Nixon's press conference admission that he knew hush money had been paid a year ago and his failure to inform the court, warrant the hearing, McCord said.

These developments, and others detailed in last year's Senate Watergate hearings, "constitute perhaps the most flagrant example of obstruction of justice in the annals of American law," a memorandum supporting the motion said.