

Sirica Denies Bid for Dismissal By Three Watergate Defendants

NYTimes

by JOHN M. CREWDSON SEP 13 1974

special — WASHINGTON, Sept. 12—The judge in the Watergate cover-up case denied today requests by three of the six defendants that charges against them be dropped because the pardoning of former President Richard M. Nixon had created the public impression that they were guilty.

Judge John J. Sirica agreed, however, to delay by one day the starting date for the trial to permit the assembling of a new panel of potential jurors after H. R. Haldeman, one of the defendants, argued that the original panel of 400 potential jurors have deduced that the case was that they would be called upon to decide.

The judge conceded that a questionnaire sent to the 400 individuals by mail might have contained "prior inferential notice" that they might be involved in the cover-up trial, and that, "out of an abundance of caution," he would assemble a new group of some 1,000 from which lawyers for both sides could select a jury.

Data About Trial

The questionnaire indicated that the trial at which the individuals might serve was expected to begin this month, would last three or four months, and would require that the jury be sequestered because "the case is expected to create a large amount of publicity."

Today, lawyers for Mr. Haldeman, John D. Ehrlichman and John N. Mitchell asked Judge Sirica either to postpone the trial indefinitely or dismiss the charges against them because of what Mr. Haldeman termed "an entire new dimension of adverse publicity" created by the pardoning of Mr. Nixon on Sunday by President Ford.

The judge summoned counsel for the cover-up defendants to the United States Courthouse late this afternoon for what he later described as a pretrial conference on the motions to dismiss.

He told newsmen later that he had concluded that the grounds on which the motions were based, with the exception of the one granted today, were "insubstantial."

Earlier Notions Denied

The judge had previously denied motions by some of the six defendants to postpone the trial because of the publicity that had attended the Watergate matter in general and Mr. Nixon's resignation from the Presidency last month.

He declined but then granted a three-week continuance at the behest of the United States Court of Appeals until Sept. 30. His action of today moves the opening of the trial to Oct. 1.

Lawyers for Mr. Mitchell, the

former Attorney General who managed Mr. Nixon's 1972 re-election campaign for a time, indicated today that they would seek to appeal a denial by Judge Sirica.

In the motion to dismiss filed today, Mr. Mitchell alleged that Mr. Nixon, by accepting the unconditional pardon conferred on him last Sunday, had "implied that he had engaged in certain illegal acts which are inextricably related" to the illegal actions with which Mr. Mitchell is charged.

Mr. Haldeman and Mr. Ehrlichman, who served Mr. Nixon as his two chief aides in their White House years, advanced a similar line of reasoning in separate pretrial motions.

'Impression' of Guilt

The pardoning of Mr. Nixon by President Ford, Mr. Mitchell's motion asserted, "undoubtedly leaves the average citizen and potential juror with the impression that he was guilty of certain illegalities and that his subordinates, the defendants at the bar, are equally guilty."

He added in his motion that White House statements this week that President Ford was considering pardons for all Watergate figures, including the six defendants, "further engendered in the public mind the belief that the defendants are culpable."

White House spokesmen said yesterday that pardons in the Watergate case would be considered by Mr. Ford only on an individual basis, and they explained today that no such consideration would be given until after the cover-up trial had ended.

Mr. Ehrlichman's motion, denied with the others today, echoed Mr. Mitchell's argument, noting that Philip W. Buchen, the White House counsel, when asked whether Mr. Nixon's acceptance of the pardon implied an admission of guilt, replied, "You can so read it."

Newsmen Accused

Mr. Ehrlichman accused newsmen of having "engaged in a conscious effort to shape public opinion," in reporting the Watergate events and the Nixon pardon, "so as to assure that a jury will be selected and, having been totally biased by that public opinion, render a verdict of guilty without fairly considering the charges presented."

Both he and Mr. Haldeman, the former White House chief of staff, took particular issue in their motions with a report today that they had sought to obtain pardons from Mr. Nixon in the days before he left the Presidency on Aug. 9.