

# Ehrlichman Delay *F. Post 9-21-74* Request Is Denied

WASHINGTON (AP) — U.S. District Judge John J. Sirica turned down on Friday a request from Watergate cover-up defendant John D. Ehrlichman that the trial be delayed until former President Richard M. Nixon is healthy enough to appear as a witness.

Sirica acted only six hours after special prosecutor Leon Jaworski urged the judge to make his own immediate inquiry into the status of Nixon's health.

Sirica's denial of Ehrlichman's motion, however, is unlikely to resolve the question of the former President's ability to testify in the trial, scheduled to begin Oct. 1.

Ehrlichman and Jaworski have issued — for much differ-

ent reasons — their own subpoenas for Nixon's testimony.

Nixon's lawyer, Herbert J. Miller, has already cited Nixon's phlebitis and mental strain as reasons why he should not be required to give a sworn deposition in an unrelated civil suit.

In a related development, the U.S. Court of Appeals denied another move for delay in the trial from two other defendants, former Atty. Gen. John N. Mitchell and former White House chief of staff H. R. Halde-  
deman.

In a 5 to 1 decision, the Appeals Court said it could not agree that the publicity surrounding the pardon granted Nixon by President Ford would make it impossible to select an impartial jury.

Before Sirica's turn-down of Ehrlichman's request for a 60-90 day delay, Jaworski said Nixon's lawyer should be summoned to describe his client's medical condition.

"If Mr. Miller indicates that Mr. Nixon's condition is such that he may be unable to appear at trial," Jaworski said, "the court could then consider taking the customary step of appointing a team of medical experts to examine Mr. Nixon and report their findings to the court."

Ehrlichman's attorneys are seeking the former President's testimony on what he knows about the cover-up itself. The prosecution subpoenaed him to provide authentication of more than 30 White House tapes that may be used as evidence.

Sirica has scheduled a meeting with defense and prosecution lawyers for Tuesday, when the health issue is expected to be discussed.