

# Judge Drops Ehrlichman *Post 7-23-74* Lying Count

WASHINGTON (AP)—U.S. District Judge Gerhard A. Gesell Monday set aside one of the charges for which former presidential assistant John D. Ehrlichman was convicted in the Ellsberg break-in trial July 12.

Ehrlichman was convicted of conspiracy and lying to a federal grand jury and also of lying to FBI agents on what he remembered seeing in his files about the break-in at the office of Daniel Ellsberg's psychiatrist. Monday Gesell set aside the conviction involving the FBI.

During the trial and outside the hearing of the jury, Gesell had indicated his objection to the use of perjury statutes as applied to interviews with FBI agents.

He nonetheless allowed the FBI-lying charge to go the jury, but ruled today that the perjury statute "was improperly invoked in this case."

At the same time, Gesell turned down Ehrlichman's attorneys' request that the entire conviction be set aside. Without the FBI-lying conviction, Ehrlichman faces maximum penalties of 20 years in prison and a \$30,000 fine.