

# Nixon will not testify at

WASHINGTON (AP) — The Watergate cover-up trial will end without the testimony of former President Richard M. Nixon, U.S. District Judge John J. Sirica ruled Thursday.

Sirica declared that Nixon's testimony "is not indispensable or necessary" because much of what he knows has been — or can be — obtained from other witnesses.

The judge also questioned the former President's credibility.

Noting that the former President was named an unindicted co-conspirator in the cover-up case, Sirica said Nixon "has been accused, in effect, of being an accomplice of the defendants.

"Certainly ... his testimony should be subject to the instruction to the jury that it should be received with caution and scrutinized with care."

Nixon, recovering at his San

Clemente, Calif., home from complications of a chronic phlebitis condition, had been subpoenaed last September by cover-up defendant John D. Ehrlichman.

Ehrlichman opened his case Thursday and among the first witnesses called was former special White House counsel Charles W. Colson.

Colson, also an unindicted coconspirator in the cover-up case, is currently serving a prison term for a related Watergate offense.

Initially, in his six-page order, Sirica granted a request from Nixon's lawyer, Herbert J. Miller, that subpoenas for his client's testimony be dismissed.

The order also ruled out the possibility that Nixon might answer written questions about his party in the cover-up.

Three court-appointed cardiovascular specialists recommended on Nov. 29 that

Nixon not be required to provide even limited testimony before Jan. 6 — about two weeks after the trial now is expected to end.

The doctors said the former President might be able to testify twice daily under oath at his California estate with a doctor present.

Sirica said the limitations within the medical opinion alone should answer attempts by defendants to get Nixon's testimony.

"The witness is simply unavailable to be deposed," Sirica said. "The court will not issue an order to take the deposition of Mr. Nixon while it appears he is so ill that the taking of such a deposition could seriously jeopardize his health."

Shortly before Sirica's opinion was made public, Nixon's lawyer said not until Jan. 6 would his client be able to even prepare to give testimony.

The lawyer said it would be "highly unfair" to require the former President's testimony until long after Jan. 6.

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Sirica agreed with that in his own order and added that complications in Nixon's recovery could also push back the date he might begin testifying.

Ehrlichman's lawyer, William S. Frates, has said Nixon's testimony is indispensable to his case because the former President kept Ehrlichman in the dark about the real reason for the Watergate cover-up. Defendants John N. Mitchell and H. R. Haldeman also sought testimony from Nixon.

Frates had asked Sirica to recess the trial over the Christmas holidays and send the jury home until Nixon could testify. Other defense lawyers suggested the jury might remain sequestered during a trial recess.

It would be unwarranted and wholly inappropriate to interrupt, adjourn or continue this trial with the jury sequestered until an uncertain date in the somewhat distant future," the judge said.