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# One Conviction Against Ehrlichman Thrown Out

Washington

U. S. District Judge Gerhard A. Gesell yesterday threw out one of the three perjury convictions returned against John D. Ehrlichman ten days ago in the Ellsberg break-in case.

Gesell declared President Nixon's former No. 2 aide innocent of lying to the FBI. The judge ruled that the statute under which Special Prosecutor Leon Jaworski obtained the indictment "was improperly invoked in this case."

But he denied Ehrlichman's motions for a new trial or acquittal on all charges, letting stand the jury's verdict that found Ehrlichman guilty of conspiracy and two counts of lying to a grand jury about the case.

In ruling Ehrlichman innocent of lying to the FBI because the statute was improperly invoked, Gesell said:

"The court concludes that Congress did not intend that statute to be applied to statements given to the FBI voluntarily and without oath or verbatim transcription during an interview initiated by the bureau in the course of a criminal investigation."

The judge said the problem is that the law permits a person to be punished as severely — a five-year prison term and a \$10,000 fine — for lying at an informal FBI interview as for lying under oath.

"In short, the FBI interview may occur — as it did here — under extremely informal circumstances which do not sufficiently alert the

person interviewed to the danger that false statements may lead to a felony conviction," Gesell said.

Gesell also denied without comment a motion by co-conspirator G. Gordon Liddy for a directed verdict of acquittal.

Liddy, convicted last year

for the Watergate bugging, and Ehrlichman, who faces trial in September for the coverup of the scandal, are appealing their convictions in the Ellsberg case.

Ehrlichman and three others in the case are to be sentenced July 31.

United Press