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Dismissal of Ellsberg Jury Asked

LOS ANGELES —(AP) — Jurors who have waited four months to serve in the "Pentagon Papers" trial returned to court today, but defense attorneys said if the jurors are not dismissed they will ask a higher court to send them home.

Leonard Boudin, chief attorney for Daniel Ellsberg, said he and lawyers for co-defendant Anthony Russo will go to a federal appeals court if necessary to prove that jurors were "infected" by prejudicial publicity.

U.S. District Court Judge Matt Byrne urged attorneys to postpone their decision on whether to appeal until after he questions each juror individually.

Byrne refused yesterday to dismiss the indictments against Ellsberg and Russo, despite defense comments that presidential campaign statements by Vice President Agnew had prejudiced the community, including jurors.

Agnew compared the "Pentagon Papers" case to the bugging and break-in at Democratic national headquarters at Washington's Watergate complex.

Byrne said that even if the statements caused prejudice, it was not sufficient reason to dismiss the indictment.