
**BID TO DELAY TRIAL
OF ELLSBERG BALKED****DEC 9 1972**

Special to The New York Times

SAN FRANCISCO, Dec. 8—The United States Court of Appeals for the Ninth Circuit refused today to halt the trial of Daniel Ellsberg and Anthony J. Russo for stealing the Pentagon papers.

The three-judge court said it was "inappropriate to interfere at this time." The court had been asked by the defendants for a writ of mandamus halting the trial in Los Angeles.

The court, however, said it regarded the continuation of the trial with a jury selected four months ago as "foolish."

Mr. Ellsberg and Mr. Russo had sought to stop the trial on the ground that the case was not ready.

They had asked for a mistrial and dismissal of the jury to select a new one.

"It appears to us as foolish to proceed to trial in the case with the jury selected four months ago," the appeals court said. "However, we do not reach the question of whether it is error. We simply conclude on the record that it is inappropriate to interfere at this time."
