

Fresh Start for Ellsberg Trial

LOS ANGELES — (UPI) — The on again, off again Pentagon Papers trial is off again — at least until after the first of the year — because of delays that have kept the jury idle for the more than four months since it was chosen.

U.S. District Judge Matt Byrne, who is hearing the case of Daniel Ellsberg and Anthony J. Russo, said he would declare a mistrial today and dismiss the jury tomorrow, the time the trial had been scheduled to resume.

Byrne said he was taking the action in light of an opinion by the U.S. Ninth Circuit Court of Appeals in San Francisco that it would be "foolish to proceed to trial in the case with the jury se-

The eight-woman, five-man jury was picked last July but the trial was recessed before testimony began because of a series

defense motions involving government wiretapping.

When the U.S. Supreme Court refused to hear the wiretap appeal last month, the defense moved for a mistrial on the ground that the jury has been exposed to prejudicial publicity during the delay.

Ellsberg and Russo, former colleagues at the Rand Corp. "Think Tank," are charged under espionage laws of illegal theft and possession of the secret documents about the evolution of the Vietnam war.

The government prosecutor wants to get on with the selection of a new jury quickly. But the defense is seeking a postponement until after the Christmas and New Year holidays.