

New Ellsberg Challenges Are Rejected

Los Angeles

Challenges to the jury selection system and to government wiretapping in the Pentagon Papers case were rejected yesterday, clearing the way for the second trial of Daniel Ellsberg to start in early January.

U.S. District Judge Matt Byrne denied a series of defense motions including one protesting a telephone tap by the U.S. Attorney General's office of a conversation by one of the lawyers for Ellsberg and codefendant Anthony J. Russo.

A similar appeal on electronic surveillance led to a four-month delay in the first trial and the subsequent ruling of a mistrial earlier this month.

Judge Byrne said yesterday he had examined the substance of the latest wiretap revealed by the government and said it entailed "one statement made on a single date."

"It had no relationship in any way to this case," Byrne said. "It had no bearing on the attorney-client relationship."

Ellsberg and Russo, his former colleague at the Rand Corp. "think tank," are charged with illegal removal and possession of secret government documents outlining the evolution of the Vietnam War. They could receive up to 115 years in jail, if convicted.

Byrne said he would issue a further order instructing the attorney general's office to furnish him the full transcript of any electronic surveillance of any of the principals, attorneys or consultants for the defense.

The court also denied a motion challenging the entire jury selection system in the federal courts and asking for an open evidentiary hearing on the issue.

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