

State Won't Drop Ehrlichman Case

Los Angeles

The state court of appeals refused yesterday to halt criminal proceedings against John D. Ehrlichman and two other former White House aides indicted for conspiracy and burglary in the break-in at the office of Daniel Ellsberg's psychiatrist.

Defense attorneys had petitioned the appellate court for a writ of prohibition on the grounds that, in a legal sense, no conspiracy existed and no burglary was committed.

The lawyers for Ehrlichman, David Young and G. Gordon Liddy also maintained they could not be tried in state courts because whatever connection they had with the break-in resulted from their duties as federal officers.

In denying the defense petition, the appellate court upheld Superior Court Judge James G. Kolts, who ruled October 19 against these

same defense contentions.

The defense maintains that the lawful association of the defendants on an assignment given them by President Nixon to protect national security was never "transformed into a criminal conspiracy."

Attorneys for the ex-White House staff members claim there is no evidence to show they had either "evil" or "corrupt" intent in their actions as required under the legal definition of conspiracy.

It is the defense's position that no burglary was committed because the evidence does not indicate the break-in at the Beverly Hills office of Dr. Lewis J. Fielding was for the purpose of "permanently depriving anyone of their property," an ingredient required under the law. The purpose of the illegal entry was only to photograph files, the defense claims.

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