

Colson Gets 1 to 3-Year Term

Accuses President Of Pressing for Smear of Ellsberg

Says Both Did Same Thing

By Timothy S. Robinson
Washington Post Staff Writer

President Nixon "on numerous occasions urged me to disseminate damaging information about Daniel Ellsberg," former presidential aide Charles W. Colson declared yesterday at his U.S. District Court sentencing on an obstruction of justice charge.

Colson thus, in effect, accused the President of the same offense for which Colson was convicted and sentencing: trying to defame Ellsberg at the time he was awaiting trial on charges of theft and conspiracy in the Pentagon Paper case.

In his prepared courtroom statement, Colson said the damaging information the President wanted disseminated included "information about Ellsberg's attorney (Leonard Boudin, who had represented Communists and accused subversives in court) and others with whom Ellsberg had been in close contact."

Colson added that he was "convinced" that Mr. Nixon "believed he was acting in the national interest. I know I did. Daniel Ellsberg was viewed as a serious threat to the security of the United States..."

Lawyers who are familiar with various Watergate investigations and the impeachment proceedings under way on Capitol Hill said later that Colson's statement probably will have an immediate impact for the President in those inquiries.

The White House press office, meanwhile, said Mr. Nixon would not issue an official comment in the claim. However, White House communications director Kenneth W. Clawson, in continuing his attacks on news leaks, said Colson was sent to prison "for committing the same felony that has been standard practice of

members and staff of the Senate Watergate committee for more than a year, and the same felony being committed daily by some partisan members of the House Judiciary Committee.

"I wish the special Watergate prosecutor would pursue these felons with the same ardor with which he investigated Mr. Colson," Clawson said.

The White House has

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maintained that the leaks from those committees have been prejudiced and distorted against the President, and contain damaging information only. That was essentially the type of activity indulged in by Colson that resulted in his guilty plea.

Vice President Gerald Ford said in Los Angeles that Colson should be brought before an open televised hearing of the House Judiciary Committee to repeat his allegations about Mr. Nixon.

In response to reporters' questions, according to United Press International, Ford said at one point: "There's a big difference between telling Charles Col-

son to smear and actually ordering a break-in (of Ellsberg's psychiatrist's office.)"

Colson has continued to maintain his innocence of the break-in charges and they have been dropped, but his plea solely was to a crime of "smearing" Ellsberg.

While Colson pleaded guilty to a crime for his activities and has accused the President of ordering those activities, several legal sources close to the Watergate case have expressed doubts that distributing damaging information against a criminal defendant is a criminal offense.

Colson's attorney, David I. Shapiro, in his court statement yesterday seemed to share this view, describing

Colson's plea as one to a "first-time offense."

Shapiro quoted a letter from Special Watergate Prosecutor Leon Jaworski in which he said Colson's plea was "of great national significance in helping to insure the sanctity of the judicial process with respect to cases involving controversial defendants" and that the principle could not have been established without that plea.

Members of the special prosecutor's staff have been known to privately express their concerns over the difficulty of proving a charge such as the one to which Colson pleaded, since the obstruction statute requires proof that such a crime was

committed with a "willful intent" specifically to damage a prosecution.

In addition to the legal question over the enforcement of such a charge, the House Judiciary Committee studying impeachment would also have to fight criticism such as that from Clawson yesterday that the committee has been guilty of the same crime because of leaks containing damaging information about the President.

Colson has said that he will testify willingly before the Judiciary Committee or any other legal investigating body that calls him, and that he will testify fully and "let the chips fall where they may."

Calls Sentence 'Lord's Will'

By Timothy S. Robinson
Washington Post Staff Writer

Former White House special counsel Charles W. Colson, who described his three-year year role in the White House as "to get done what the President wanted done," was sentence yesterday to one to three years in jail and fined \$5,000 for obstructing justice in the prosecution of Pentagon Papers codefendant Daniel Ellsberg.

Colson, who was given until July 8 to report to a federal penitentiary to begin serving a minimum of one year in jail, said afterwards that the sentence was "The Lord's will and the court's will. . . I can work for the Lord in prison or out of prison and that's how I want

to spend my life." He had stood erect, facing the judge, as the sentence was imposed.

The sentence by U. S. District Judge Gerhard A. Gesell was the stiffest given in original Watergate burglars.

Colson, who was an intimate adviser to the President and one of the most powerful figures in the White House during the first Nixon administration until he left the White House early last year to enter private law practice here, is the highest ranking former Nixon aide to be sentenced for a Watergate-related crime.

Gesell said that he felt "that the integrity of the public service requires the sentence here, particularly if (as Colson's lawyer had claimed), it has become a national pastime to interfere with the rights of defendants on trial."

Colson continued yesterday to maintain vigorously his innocence of any charges in connection with the Watergate cover-up and the White House authorized break-in at the office of Ellsberg's psychiatrist, Dr. Lewis Fielding. Colson's attorney, David I. Shapiro, said the cases brought by the Watergate special prosecutor in connection with those events were "woefully weak." Those charges against Colson have been dropped.

Colson's surprising June 6 plea was to a crime with

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SENTENCE, From A1

which he had not been charged: obstructing justice by disseminating derogatory information in an attempt to publicly discredit Ellsberg and his attorney. It carried a maximum penalty of five years in jail, a \$5,000 fine or both.

In a statement to the judge yesterday, Colson said that "the President on numerous occasions urged me to disseminate damaging information" about Ellsberg and his attorneys and close friends.

"I endeavored to do so—and willingly. I don't mean to shift my responsibility to the President. I believed what I was doing was right. The President, I am convinced, believed he was acting in the national interest.

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I know I did," Colson said.

Colson, who gained a reputation in the White House for accepting unsavory assignments and once said he would "walk over my own grandmother" for President Nixon, said in court yesterday that image of him was inaccurate. The one-time tough-talking ex-marine presented a totally different image in Judge Gesell's courtroom yesterday. Upon entering the court eight minutes before the sentencing procedures began, he shook hands and kissed several friends and coworkers who had filled at least four rows of the packed courtroom.

Immediately after the sentence was pronounced, he bear-hugged former U.S. Sen. Harold Hughes (D-Iowa) who has been his men-

tor during Colson's recent reaffirmation of faith in Christ. Mrs. Colson strode to her husband's side at the front of the room when court was adjourned.

Outside the courthouse, Colson, who was with his wife and Hughes, told reporters: "I did it because in my own heart I felt I could perhaps help protect other defendants against their individual rights being abused when they are defendants in trials. What's going on in this country now in terms of interfering with a defendant's right to a fair trial has got to be stopped.

"If my plea and my sentence will serve as a symbol that will stop it and stop people's individual rights being abused, I hope it will have served a worthy cause."

About 15 people were in line outside Gesell's courtroom as early as 8:30 a.m. to get in to watch Colson's sentencing and the spectator section of the courtroom had been filled by his friends, aides, press, courthouse employees and a visiting high school class by the time Colson entered at 9:23 a.m. with several of his lawyers.

Colson and Shapiro were called forward by the judge after he took the bench at 9:31 and Colson began reading an eight-page prepared statement in which he expressed his contriteness.

He read the statement—a combination of his personal philosophy on life, a description of life as a member of Ricard Nixon's White House inner circle and his view of the democratic system of government—in a fast, soft voice as he leaned with both hands upon the lectern.

His plea, said Colson was

"right as a matter of law and right as a matter of conscience." He said that to have fought the charges against him for the next several years "would have been spent in self-centered activity with no ultimate value to myself or to society."

Colson said he would be cooperating with the Watergate Special Prosecutor's Office and the House Judiciary Committee in its impeachment probe, but that he did not bargain with anyone over the value of such testimony.

As to his years in the White House, Colson said he worked day and night and "was proud to have been asked to serve the President of the United States." Colson said he thought he was making a "great personal sacrifice for my country."

But during his time at the White House, Colson said, "I rarely questioned a presidential order. Infrequently did I question the President's judgment." That, Colson said yesterday, was wrong.

"One's loyalty should go beyond the man he serves to the institutions and people that have reposed that trust in him," Colson said. He said his loyalty to the President also extended to complete support of the President's policy in Vietnam "even though as a private citizen in the mid-1960s I was personally opposed to the policy decision to intervene in Vietnam."

Colson's voice wavered as he ended his statement: "I regret what I have done and will spend a lifetime trying to be a better man as a result."

Colson's attorney then pleaded with the judge to place the former White House aide on probation. He said no purpose would be served by placing Colson in jail.

"This country has had enough of vengeance, it has had enough of hate, and it has no need to punish Colson any further. It does have a need—a crying need—for compassion, particularly in its courts—and that need is required the most when political passions are at their peak," said Shapiro.

He stressed his belief that Colson was not guilty of the specific crimes with which he had been charged previously by the Special Prosecutor. He said that jail time

should not be imposed on Colson just because he has a bad public image or because the public expected him to go to jail.

"If—because of the public expectancies built up in this case your honor were to sentence Colson to jail, that would be for some a most popular disposition. It would also be—I must respectfully suggest—a terribly shortsighted one," Shapiro said.

When Shapiro sought to claim that Colson's public image was distorted because of "pernicious publicity . . . created as a result of deliberate leaks from governmental bodies," Gesell interrupted, saying "You're barking up the wrong tree. Public expectation play no part in the sentence. You're beating a dead horse." He then permitted Shapiro to continue.

Shapiro listed nine allegations against Colson that he said came as a result of leaks from the government. He singled out the Senate Watergate committee as being the source of many inaccurate, misleading leaks.

He said the leaks by governmental agencies bore "similarity to the conduct" for which Colson pleaded guilty.

"Let us make no mistake here. Colson is no St. Francis. The crime to which he pleaded guilty was a serious one, and I, for one, do not seek to minimize it," Shapiro told the judge.

"But, up till now—'smearing' controversial defendants and their lawyers has been a national pastime—engaged in by the FBI, prosecutors, senators and even presidents," Shapiro said.

For example, Shapiro singled out a highly-publicized allegation that he said was leaked "by some member of the Senate Watergate committee staff" that Colson urged a firebombing of the Brookings Institution in order to create a commotion during which federal officials could retrieve stolen documents.

"Colson has no more recollection of what he told (former White House undercover espionage agent John J.) Caulfield on that occasion than I have about what I had for lunch six months ago," Shipiro said. He said that Colson says now that if he told Caulfield that, "it was a typical Colson overstatement born of frustration and nobody . . . could have taken me literally."

He described the Colson case as having "not only a first time offender, but a first time offense."

"All I can see is the tragedy involved in the wreck of a brilliant legal career, the everlasting disgrace and the pain and suffering that has been caused his family and his friends," he added.

Gesell said he recognizes that Colson's public image is "somewhat distorted," but that Colson's "fully documented . . . deliberate misconduct" required a sentence in prison.

"The offense, by one holding such a position of high public trust, is in the court's view one of utmost seriousness," Gesell said.

"The court recognizes that men of ambition affected by blind, impulsive loyalty, react to the atmosphere in which they worked and which they helped to create, but this does not change the individual responsibility of each public servant," Judge Gesell said. He continued:

"The responsibility does not shift, no matter how many others may be involved. Morality is a higher force than expediency."

In imposing the sentence, Gesell also said he had been guided by reviewing judicial records of fiscal year 1973 sentences imposed across the country in federal obstruction of justice cases.

He did not say in which penitentiary the term will have to be served. It is likely that it will be either in Allenwood, Pa., the closest federal minimum security facility to Washington, or Danbury, Conn., which is nearest to Massachusetts, where Colson was reared.

Colson, 42, of McLean, is a lawyer in Washington. However, his guilty plea to a felony will result in automatic disbarment.