

Guilty Plea Was Near in Ellsberg Break-In Case

Washington.

Special Watergate prosecutor Leon Jaworski said yesterday that two of the remaining four defendants in the Ellsberg break-in case came close to pleading guilty last week.

But the plea bargaining broke down at the last minute and the two men, Bernard L. Barker and Eugenio R. Martinez, will go on trial as scheduled this morning along with John D. Ehrlichman and G. Gordon Liddy for the 1971 burglary at the office of Daniel Ellsberg's psychiatrist.

About 150 prospective jurors have been summoned for the opening day of the trial, expected to last as long as six weeks. Another 200, for whom sequestration would be a hardship, have already been excused.

Like Liddy, Barker and Martinez were part of the Watergate bugging team. Liddy is still in jail; Barker has served part of his prison but is now free on appeal, and Martinez has been paroled.

They and Ehrlichman are accused of conspiring to violate the civil rights of the psychiatrist, Dr. Lewis J. Fielding of Los Angeles, by burglarizing his office on Labor Day weekend of 1971 in search of damaging information about Ellsberg, who was then awaiting trial for release of the top secret Pentagon papers.

The conspiracy charge carries a ten-year maximum sentence upon conviction.

Ehrlichman, once Mr. Nixon's No. 2 aide, also is accused on four counts of lying to federal investigators, crimes which carry a five-year maximum prison term each.

Barker and Martinez, according to previous sworn testimony, were the operatives of the White House "Plumbers" unit who actually carried out the break-in of Fielding's office.

They were rumored in recent weeks to be ready to plead guilty prior to trial.

They even flew to Washington from their homes in Miami and appeared at the

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court house last Friday. But after a final conference with U.S. District Judge Gerhard A. Gesell and the prosecutors they flew back to Florida.

Monday they asked Gesell to delay the trial.

He refused and ordered their reasons for the request sealed to avoid more pre-trial publicity.

But yesterday, Jaworski let the secret out by revealing in a legal brief that their lawyer had complained he could not be ready for trial because he had "lost two weeks" negotiating a plea with the prosecutors.

Jaworski said that there had indeed been "an agreement in principle" to settle the charges against Barker and Martinez, but that he disagreed with their lawyer, Daniel E. Shultz, about the nature of the disposition.

He indicated that Shultz had insisted that just "a judgment of conviction would be entered" apparently by a plea of no contest rather than a formal plea of guilty.

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