

Appeals Court Acts to Speed Decision On Request to Delay the Cover-Up Trial

By LESLEY OELSNER
Special to The New York Times

WASHINGTON, Aug. 20 — The United States Court of Appeals for the District of Columbia Circuit, moving rapidly today to resolve the controversy over the starting date of the Watergate cover-up trial, ordered all parties to the case to file by noon tomorrow their views on whether or not the trial should be postponed.

Judge John J. Sirica of the Federal District Court ruled yesterday that the trial would begin in his courtroom as scheduled on Sept. 9. There was, he said, "no better time to try this case."

But the prosecution and four of the six defendants asked him to delay the trial. As soon as Judge Sirica ruled, lawyers for one defendant, John D. Ehrlichman, took the matter to the appeals court.

The appeals court met late yesterday, and this morning it filed its order.

Mr. Ehrlichman and three of his co-defendants — John N. Mitchell, H.R. Haldeman and Robert C. Mardian—had told Judge Sirica that the massive publicity surrounding former President Richard M. Nixon's resignation made it possible, for the time being, to impanel an unbiased jury.

The Nixon Aspect

The defendants also argued—and the special Watergate prosecution concurred—that the parties to the case needed more time to review the recently surrendered White House tape recordings.

The starting date of the trial has taken on added significance because of Mr. Nixon's potential criminal liabilities. The grand jury that returned the indictment in the cover-up case

named Mr. Nixon an unindicted co-conspirator, and when he resigned, he lost whatever immunity his office may have given him.

If Judge Sirica's ruling is upheld, it may thus force Leon Jaworski, the special prosecutor, to decide within a few weeks how to resolve Mr. Nixon's legal status.

The case now before the Court of Appeals is, technically, a request by Mr. Ehrlichman that the court order Judge Sirica to delay the trial. Under the Federal rules of appellate procedure, Judge Sirica, the prosecutor and the five other defendants are thus all respondents in the case.

In some proceedings of this type, the prosecutor files a response on behalf of the judge. However, the special prosecution has already taken the position that a delay in the trial is "warranted," and is expected to repeat that position in its response to the court of appeals.

Judge Sirica would thus have to retain his own attorneys if he wished to argue his position before the court.

The rules also provide, though, that judges named in such proceedings need not appear. Judge Sirica's office said today that he did not plan to file a response with the court of appeals and that he intended, instead, to rely on what he said in court yesterday when he issued his ruling.

Fund for Haldeman Grows

The Washington Star-News

WASHINGTON, Aug. 20—Sizable donations to a new defense fund for H. R. Haldeman, the former Presidential assistant, are "just starting to trickle in" and the prospects are "encouraging," according to

a fund trustee, Z. Wayne Griffin.

In a telephone interview yesterday, Mr. Griffin, the guiding force behind the fund, said he had already received about 10 responses to his Aug. 8 letter soliciting funds, and said the checks he had received "average a little over \$1,000."

Mr. Griffin, a Los Angeles investor who says he was the best friend of Mr. Haldeman's father, sent 1,500 letters around the country two weeks ago, saying that Mr. Haldeman was facing more than \$350,000 in legal fees and needed financial help.

In the letter, he said he believed Mr. Haldeman's story that he was innocent of "allegedly improper acts while serving President Nixon and our country."

In his letter and in the interview, he said the solicitation of funds was based primarily on friendship and the belief that any person was entitled to a qualified legal representation.

"Innocent or not, we feel he's entitled to the best legal defense," he said.