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De Diego Is Freed of Charges

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Acting at the request of the Watergate Special Prosecution Force, a federal judge yesterday dismissed all charges

against Miami reactor Felipe De Diego in connection with the September, 1971, break-in of the office of Dr. Lewis Fielding, Daniel Ellsberg's psychiatrist.

Assistant Watergate prosecutor Peter Kreindler asked that the charges be dropped "in the interest of justice." He did not elaborate. U.S. District Judge Gerhard A. Gesell promptly granted the request.

De Diego had been charged with one count of conspiracy to violate the civil rights of

Fielding in the White House-inspired attempt to steal the doctor's records on Ellsberg following the latter's distribution of the Pentagon Papers.

Last July, former White House aide John D. Ehrlichman was sentenced to a prison term of from 20 months to five years after being convicted of conspiracy and perjury in the case. He is appealing.

Sentenced with Ehrlichman was G. Gordon Liddy, who was given one to three years. Bernard L. Barker and Eugenio Martinez were also convicted and were placed on probation at the close of the case, which was tried before Judge Gesell.

Liddy, Martinez and Barker had all been convicted and sentenced for their roles in the break-in at the Democratic National Committee offices at the Watergate that touched off the scandals leading to President Nixon's resignation.

Yesterday's action concerning De Diego was the second time Gesell dismissed the charges against him. He did so in May, 1974, prior to the trial of Haldeman and the other defendants, on the ground that De Diego had been granted immunity for testimony he gave in Florida and California. Last month, a three-judge panel of the U. S. Court of Ap-

peals voted 2 to 1 to reverse Gesell. The majority stated that Gesell erred in dismissing the charges without giving the government a chance to show that it could prove its case against De Diego without using any of the testimony for which immunity had been granted.

There was no explanation from the Watergate prosecutors yesterday for their decision not to pursue the case. Their action was "with prejudice," meaning that De Diego cannot be tried for the charges that were brought against him. Prosecutor Kreindler said De Diego's attorneys had approved this procedure.



FELIPE DE DIEGO
... Ellsberg case dropped