

No Break-in Retrial

Washington

A federal judge ruled yesterday that Bernard A. Barker and Eugenio R. Martinez will not be retried for their White House-sponsored burglary in the office of a California psychiatrist.

Judge Gerhard A. Gesell, acting at the request of the special Watergate prosecutor, signed an order dismissing charges against the two men who already have served more than a year apiece for their role in the Watergate break-in.

Barker and Martinez, both from Miami's Cuban refugee community, burglarized the office of Dr. Lewis J. Fielding in 1971, searching for the records of a patient, Pentagon Papers figure Daniel Ellsberg.

Along with former White House aide John D. Ehrlichman and Watergate mastermind G. Gordon Liddy, they were convicted of violating Fielding's civil rights. In that case, Barker and Martinez were given three years' suspended sentence.

But the U.S. Court of Appeals reversed their convictions on May 17, ruling that Gesell had not permitted them to use as a defense the fact that they thought they were acting under lawful authority — the White House.

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