

ELLSBERG-CASE CHARGES

DROPPED AGAINST TWO
NYTimes NOV 12 1976

WASHINGTON, Nov. 11 (UPI)—A Federal judge today dismissed an indictment charging Bernard L. Barker and Eugenio R. Martinez with conspiracy in the 1971 break-in at the office of Daniel Ellsberg's psychiatrist.

Judge Gerhard A. Gesell acted on a request by the Watergate special prosecutor's office. The request was made because both men had already served portions of their break-in sentences concurrently with sentences for breaking into the Watergate hotel complex in June 1972.

They were freed when the United States Court of Appeals for the District of Columbia reversed their convictions of conspiring to violate the civil rights of the Beverly Hills, Calif., psychiatrist, Dr. Lewis Fielding.

The conviction of a co-conspirator, John D. Ehrlichman, former aide to President Nixon was affirmed by the appeals court, which called Mr. Barker and Mr. Martinez mere "footsidirs" in the break-in plot.

Since their sentences had been served, the special prosecutor's office saw no point in retrying them on the Fielding charge.