

'Evidence Is False,' Murder Conviction Is Upset

Supreme Court Says It Won't 'Tolerate' Such Verdicts

WASHINGTON, Feb. 13 (AP) — The Supreme Court served notice on prosecutors today that convictions obtained "by the knowing use of false evidence" could not stand.

With that declaration, the Court unanimously threw out the murder conviction of a former taxi driver who once was only seven hours away from the electric chair in Illinois.

The prosecution at the trial of Lloyd Eldon Miller Jr. "deliberately misrepresented the truth" by contending that underwear shorts found about a mile from the murder scene were stained with blood and not with paint, said Justice Potter Stewart.

The Constitution "cannot tolerate a state criminal conviction obtained by the knowing use of false evidence," Justice Stewart wrote.

"There has been no deviation from that established principle. There can be no retreat from that principle here," he added.

Confession Obtained

Miller was convicted in 1956 in the slaying of an 8-year-old girl, Janice May, in Canton, Ill. He can be retried if authorities act promptly. Otherwise, he will go free.

Miller, now 40 years old, signed a confession four days after the body of the girl had been found under a railroad track. She died in a hospital about an hour later, and the



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Lloyd E. Miller Jr. at a 1963 hearing of his case.

coroner concluded she had been sexually assaulted.

The core of Miller's appeal to the Supreme Court was that, in order to obtain the confession, the authorities had falsely told him they had incriminating evidence.

The ruling today that his trial was not constitutionally valid centered on the shorts, which were covered with dark reddish-brown stains.

Justice Stewart said the shorts had been found by a policeman about a mile from the scene of the crime and that the prosecution had theorized that Miller had been wearing

Illinois May Face Retrial in '56 Killing of Girl, 8

them at the time of the murder.

"Their gruesomely emotional impact upon the jury was incalculable," Justice Stewart said.

He recalled Miller's sworn denial that he had owned or worn the shorts, and pointed out that it was not until Miller began habeas corpus proceedings in Federal court that he was allowed to have the garments examined by a chemical microanalyst.

"What the microanalyst found cast an extraordinary new light on people's exhibit 3," Justice Stewart said. "The reddish brown stains on the shorts were not blood, but paint."

The state did not dispute this testimony, the Justice said, and it was further established "that counsel for the prosecution had known at the time of the trial that the shorts were stained with paint."

A District Court order that Miller be retried or released was reversed by the United States Court of Appeals for the Seventh Circuit in Chicago on Feb. 20, 1965.

That court's ruling was reversed today. This has the effect of reinstating the District Court finding, leaving open the possibility that Miller can be retried.

Miller was convicted and sentenced to death by the Circuit Court of Hancock County. The Illinois Supreme Court affirmed the conviction.