Judge Clears Hirschkop Of Contempt

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By Jim Mann
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Civil liberties attorney Philip J. Hirschkop was cleared yesterday of a contempt-of-court citation handed down more than two years ago by U.S. District Court Judge John H. Pratt after the trial of the so-called D.C. Nine.

A visiting federal judge from Baltimore, Frank A. Kaufman, ruled that Hirschkop's conduct during the 1970 trial did not beyond a reasonable doubt amount to contempt of Judge Pratt, although he said that in one case Hirschkop's remarks added up to "misbehavior."

"If I had been Judge Pratt, I would have been annoyed at the remarks. . . . Perhaps because I have a low boiling point, I would have bitten your head off at the bench at the time," Kaufman said. "We don't have to get into criminal contempt in order to control."

It was a final vindication for Hirschkop, an activist well-known in the legal community, who has been fighting the contempt citation and its repercussions ever since the trial. "It's nice to end one phase of my life," he said afterwards.

Immediately after Kaufman ruled, Hirschkop stood up in the courtroom and told the judge he had never had a case where a judge was so familiar with the facts and records. "I deeply appreciate it," he said.

Judge Pratt, who generally has declined to comment on the case since the original citation, was out of town on va-

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cation this week and could not be reached.

The contempt charges against Hirschkop arose out of the trial of nine persons for ransacking the offices of the Dow Chemical Company here on March 22, 1969.

During the trial, Hirschkop argued bitterly with the judge and at one point asked Pratt to disqualify himself. "Judge," he said, "you've made up your mind about everything in this case except the length of the sentence. I'm very upset. I'm not here to expedite things, to grease the wheels of the court. You are just sending these people off to jail as expeditiously as possible."

When the trial was over, Pratt sentenced Hirschkop to 30 days in jail for contempt. But last January, in a 2-to-1 decision, the U.S. Court of Appeals overturned the conviction and ruled that the case should be decided by some judge other than the one before whom the allegedly contemptuous conduct occurred. The case then was assigned to Kaufman, even though there are 14 other judges on the District Court here besides Pratt.

Prosecution sources said yesterday that Hirschkop was aided by the decision overturning Judge Julius Hoffman's contempt citations in the trial of the Chicago Seven. The law set down in that ruling made it difficult to prove Hirschkop was contemptuous, they said.

Besides citing Hifschkop for contempt, Pratt also asked the court's committee on admissions and grievances to investigate Hirschkop's behavior. The committee recommended a suspension or disbarment, but last fall a three-judge federal panel decided only to censure Hirschkop.

It was the second victory in a month for Hirschkop. On June 30, the U.S. Court of Appeals, by a 2-to-1 vote, also overturned the convictions of seven of the nine persons convicted at the D.C. Nine trial and ordered a new trial on grounds that the defendants had a right to represent themselves without attorneys at their trial. The prosecution is expected to appeal that ruling to the full U.S. Court of Appeals.