

Court Throws Out

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The U.S. Court of Appeals and written confessions, but threw out the convictions of all of these now have been three confessed murderers ordered excluded by the Court of Appeals in any new trial. A member of the appellate section of the U.S. Attorney's Office seriously questioned yesterday whether the Government now has sufficient evidence.

Handed down with the ruling was an opinion by Judge Harold Leventhal that an adult's confession of a crime committed while he was a juvenile cannot be used against him in a District court trial if it was obtained before juvenile authorities waived jurisdiction in the case.

Observers in the U.S. Attorney's office viewed the statement as a continuation of the Appellate Court's inclination in recent years to narrow the scope of legally obtainable confessions.

The decision reversed the convictions of Orson G. White, Joseph R. Sampson and Eddie M. Harrison in the 1960 shotgun slaying of gambler George H. ("Cider") Brown.

The three were convicted in October, 1960, but won a new trial when it was discovered their attorney was an impostor. They were tried again in 1963 before District Judge Alexander Holtzoff and sentenced to life imprisonment.

The prosecution relied heavily on both trials on both oral

Act, proceedings against juveniles are not construed as "criminal" actions, Leventhal observed, and any statements by juveniles obtained in such non-criminal proceedings can-

Sampson and White signed confessions the night of March 20, 1960, after several hours of questioning but were not taken to a U.S. Commissioner for arraignment until the next morning.

These confessions, plus a similar written statement by Harrison, were held invalid under the 1957 Supreme Court Mallory decision. This says that any incriminating statement obtained during an "unnecessary delay" between arrest and arraignment is inadmissible as evidence.

A three-judge panel of the Court of Appeals unanimously reversed the convictions last summer. But in a 2-to-1 decision, the panel also held that an oral confession by Harrison still was valid.

On its own motion, the full nine-judge bench, plus one senior judge, then decided to reconsider the validity of the oral confession. The controversy revolved around Harrison's status as a juvenile.

"Cider" Brown was slain on March 8, 1960. Harrison was 17 years old but turned 18 on March 18. On March 21 he orally confessed to shooting Brown after being confronted in jail with Sampson and White, who told him they had admitted their part in the crime.

Judge Leventhal said in his opinion yesterday that the confession was invalid under the case of Harling v. U.S., which holds that any statement obtained from a juvenile cannot be used against him if juvenile authorities subsequently waive jurisdiction so that he can be tried as an adult.

Under the Juvenile Court

Convictions

not be introduced into the criminal proceedings of an adult court.

Even though Harrison had turned 18 and was no longer a juvenile when he confessed

the controlling factor is that the crime was committed when he was still 17, Leventhal said.

Chief Judge David L. Bazelon and Judges Charles Fahy,

of Three in

J. Skelly Wright and Carl McGowan concurred in Leventhal's opinion. Judge George T. Washington concurred in a separate opinion.

Arrayed in a dissent against this majority were senior Judge Wilbur K. Miller and Judges Warren E. Burger, John A. Danaher and Edward A. Tamm.

Harrison had not been

Slaying

charged at the time of his confession and thus was not under Juvenile Court authority or the authority of any other court, said Danaher, author of the dissent.