

Court Overturns Convictions Of Man Not Told of Free Aid

By Paul W. Valentine
Washington Post Staff Writer

The U.S. Court of Appeals threw out yesterday the 1963 assault and narcotics convictions of a Washington man because he had not been advised of his right to free legal assistance at his pretrial committal hearing.

Oscar Dancy Jr., 38, was arrested Feb. 4, 1963, about 18 months before a crucial appellate court decision requiring committing magistrates to arrange legal assistance for indigent defendants at committal or preliminary hearings.

Dancy was advised by U.S. Commissioner Sam Wertleb only that he could proceed without a lawyer, postpone the hearing until he retained one or waive the hearing altogether—the customary advice given at the time.

A year and a half later, the Court of Appeals ruled in the Blue v. U.S. case that a com-

missioner must additionally determine if the defendant can afford a lawyer and arrange to get one through the Legal Aid Agency if he cannot.

This ruling was applied to Dancy's case yesterday.

Dancy was brought before Wertleb for a hearing on charges of selling heroin. He asked to act as his own lawyer.

During questioning Dancy suddenly cursed and struck the arresting police officer Rufus Moore.

Wertleb bound the narcotics case over to the grand jury, which additionally indicted Dancy on its own initiative for assaulting the officer. There was no preliminary hearing on the assault charge since it originated with the grand jury.

Dancy was convicted of both charges and served his sentence on the assault count.

Both convictions were re-

versed yesterday and the assault indictment was dismissed (so that it cannot be retried and will not show on Dancy's criminal record).

Chief Judge David L. Bazelon, Senior Circuit Judge Henry W. Edgerton and Circuit Judge Charles Fahy ruled unanimously in the case.

The court ruled that Dancy's trial lawyer was at a disadvantage because neither he nor any other court-appointed attorney had been on hand during the preliminary hearing and thus could not prepare a full defense.

Also, "the presence of counsel probably would have avoided" Dancy's assault on the officer, the court said.

The lawyer's "absence at the preliminary hearing deprived (him) of the opportunity to make a clear presentation of the matter to the jury," the court said.