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Libel Rule Extended to Public Figures

The Supreme Court ruled yesterday that "public figures," as well as public officeholders, must bear the heavy burden of proving that "actual malice" motivated the publishing of libelous statements about them.

Five Justices combined to extend the principle of qualified libel immunity, first announced three years ago in the case of public officials, to prominent persons who, in the words of Chief Justice Earl Warren, "often play an influential role in ordering society."

All nine members of the Court agreed that a $500,000 libel judgement in favor of former Gen. Edwin Walker against the Associated Press, had to be reversed. Walker, a right-wing figure and one-time political candidate, had demanded a total of $32 million from the AP for a news account of his role in the 1962 rioting at the University of Mississippi.

Butts Award Upheld

But the Court split 5 to 4 in upholding a $460,000 libel award to Wally Butts, former University of Georgia athletic director, for a story in the Saturday Evening Post accusing him of fixing a football game.

Former Attorney General William P. Rogers, who argued the case for the AP, hailed the Court's action as a significant victory for press freedom. He said the decision was broad enough to wipe out all of Walker's damage claims.

Butts said he was "pleased" and added, "This was one of those ball games it was nice to win."

The ruling in Butts's favor rested on the opinion of four Justices — John M. Harlan, Tom C. Clark, Potter Stewart and Abe Fortas—that the magazine engaged in "highly unreasonable conduct constituting an extreme departure from the standards" of responsible publishers, plus the concurring opinion of Warren that the heavy burden of proving "actual malice" had been met.

Walker objected to an AP dispatch that depicted him as leading a charge by segregationist demonstrators on the Ole Miss campus protesting the admission of James Meredith to the University.

The feature about Butts, called "The Story of a Football Fix," was an example of what the Saturday Evening Post called its policy of "sophisticated muckraking" designed to shore up circulation in 1963.

Not 'Hot' at Time

Harlan, Clark, Stewart and Fortas emphasized that the feature was not "hot news" when it was published and said the jury must have found that "elementary precautions were . . . ignored" in its preparation.

Arguing for a standard less favorable to the press than the "actual malice" rule, the four Justices said the magazine fell short of "the standards of investigation and reporting ordinarily adhered to by responsible publishers."

But Justice William S. Brennan Jr. and Byron R. White joined Warren in calling for the "actual malice" standards, by which the plaintiff must prove a "knowing falsehood" or "reckless disregard" for truth.

Their three votes were augmented by those of Justice Hugo L. Black and William O. Douglas, advocates of a rule that all libel suits must be forbidden under the First Amendment's free speech and press guarantees. In concurring opinions, they said they were joining the majority without abandoning their deeply held convictions.

Substantial Accuracy

The AP insisted that its account of Walker's activities was substantially accurate and that the size of the libel judgment demonstrated the hazards to press freedoms from libel suits that get before hostile juries.

The Saturday Evening Post said that whether or not Butts was a public official, the press immunity should extend to newsworthy events as well as newsworthy people.

The Butts lawsuit was tried before the Court announced, in a 1964 case involving an advertisement in the New York Times, that the heavy burden of proof was needed to combat the "chilling effect" of libel suits on free expression. Warren's swing vote against the magazine was based on his contention that the jury was aware of the substantially heavier burden of proof.