

# Mallory, of Famed Decision, Slain by Philadelphia Police

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Andrew R. Mallory, 37, snatched from death row here in 1957 by a landmark Supreme Court decision overturning his rape conviction and amplifying the rights of the criminally accused, was shot to death last weekend by Philadelphia police who sought him for abducting a woman.

Officers pumped four bullets into Mallory as he turned on them with a .22 caliber revolver in Fairmount Park, where a woman claimed he had forced her to disrobe, police officials said yesterday.

Minutes earlier, Mallory had robbed the woman's male companion of \$10 to \$15 and commandeered his car, police said. The woman was not raped.

Mallory, whose life was marked by arrests, violence, more than a dozen years behind bars and an aimless drift from city to city between prison stints, stunned the legal world when the Supreme



**ANDREW R. MALLORY**  
... at time of decision

Court overturned his rape conviction here in June, 1957.

The unanimous court ruled in a decision written by Justice Felix Frankfurter that a confession of the crime given by Mallory to Washington metropolitan police detectives was extracted during an "unnecessary delay" of 7½ hours

between his arrest and attempts by police to bring him before a judicial officer for arraignment.

Frankfurter said a brief and reasonable delay is justifiable but it "must not be of a nature to give opportunity for the extraction of a confession." The court ordered any such "fruit of the investigation inadmissible at a future retrial.

Mallory, awaiting a death sentence in D.C. jail, was released almost immediately after prosecutors said they could not prove his guilt without the confession.

The high court ruling, which has been modified several times since 1957, brought cheers from civil liberties attorneys and cries of consternation from police and prosecutors.

Robert V. Murray, then police chief here, said the decision "handcuffed" his men and "rendered them almost totally ineffective."

More than half of their few convictions resulted from Mallory-type confessions at the time, police acknowledged.

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## MALLORY, From A1

Sen. Strom Thurmond (R-S.C.) warned that the nation faced a choice of "judicial limitation or judicial tyranny." Several attempts were made immediately to push through legislation limiting the effect of the court decision. None was successful.

The 1968 Omnibus Crime Act, passed in the wake of a growing nationwide crime wave, contained provisions permitting confessions obtained between arrest and arraignment if a judge determined they were voluntarily given. The act specified that

the time lapse between arrest and arraignment and other factors surrounding the police interrogation "need not be conclusive" on the issue of the voluntariness of the confession.

Mallory, released from a Pennsylvania prison only last October after an 11½-year term on an assault and burglary conviction, lived in Philadelphia at the time of his death. Police gave his address there as 3128 Euclid St.

He first came to Washington in early 1954, drifting in from his native South Carolina to visit a half-brother. Mallory was then 19.

On April 9, 1954, Washington detectives arrested him on a charge of raping a 38-year-old woman in an inner city apartment basement two days earlier.

Police said he admitted choking and raping the woman, who was in the basement to hang up her laundry.

He was convicted the following year, and U.S. District Court Judge Alexander Holtzoff sentenced him to die in the electric chair.

His conviction was appealed by William B. Bryant, then an attorney and now a U.S. District Court judge himself.

He argued the inadmissibility of the confession, but the U.S. Court of Appeals, in a 2-to-1 decision, upheld the conviction. Bryant took the case to the Supreme Court and in June, 1957, that body unanimously reversed the conviction and vindicated the lone dissenter on the Court of Appeals, Chief Judge David L. Bazelon.

Within days, Mallory was released from D.C. jail. He was issued \$12.60, a light gray suit and a white turtleneck sweatshirt—the same clothes and money he had on the day he was arrested more than three years earlier.

He told reporters he planned to return to Greenville, S.C., and "start a new life."

He apparently remained in Washington, wandering from job to job until he was hired in November, 1957, as a babysitter for a couple whose fam-

ily had befriended him while he had been in D.C. jail.

In January, 1958, the couple, Robert and Mamie Hunter, of 1704 Gales St. NW, abruptly fired Mallory, according to police. When he was barred from the Hunter home, he broke in through a rear door and beat Mrs. Hunter severely, police said. Police searched for Mallory for some time after that but failed to locate him.

He next popped to the surface in Philadelphia in March, 1960, when he was arrested on charges of entering a North Philadelphia home and beating and raping a 21-year-old mother of four children. He was acquitted of the rape charge but convicted of assault, battery and burglary, drawing an 11½-to-33-year prison term.

Mallory acknowledged entering the house but contended he was seeking a relative who was not there at the time. When the woman surprised him, he grabbed her but did not harm her, he testified. He said he fled when a friend of the woman entered.

Although Mallory signed a confession of the 1954 rape in Washington, he denied his guilt on the day he was sentenced to die by Judge Holtzoff in 1955.

Shackled and closely guarded by deputy U.S. marshals, Mallory entered the courtroom. Holtzoff, a diminutive but stern judge with a Victorian air, imposed the death penalty, concluding, "May God have mercy on your soul."