

LOS ANGELES(CNS)--LOS ANGELES DISTRICT ATTORNEY JOSEPH BUSCH SAID HE WAS PLEASED WITH TODAY'S DECISION BY THE CALIFORNIA SUPREME COURT UPHOLDING THE FIRST-DEGREE MURDER CONVICTION OF SIRHAN B. SIRHAN.

"WE ARE DEEPLY PLEASED WITH THE...DECISION AFFIRMING THE CONVICTION IN THE SIRHAN CASE," BUSCH SAID. "THE LEGAL CONTENTIONS OF THE LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE WERE UPHELD IN EVERY PARTICULAR BY THE COURT.

"THIS DECISION IS THE DEFINITIVE STATEMENT BY ANY UNITED STATES COURT ON THE TRAGIC CRIME OF POLITICAL ASSASSINATION," BUSCH CONTINUED.

"IN PARTICULAR, THE COURT RECOGNIZES THE SPECIAL ACTIONS WHICH MUST BE TAKEN BY THE POLICE IN ANY EMERGENCY SITUATION."

BUSCH SAID HE REFERRED TO SEARCH AND SEIZURE LAWS WHICH ALLEGEDLY MAY BE VIOLATED WHEN POLICE ACT QUICKLY IN "EMERGENCY SITUATIONS." THEY ALWAYS DO NOT HAVE TIME TO CONSIDER POSSIBLE RAMIFICATIONS, HE NOTED.

"IN THE WORDS OF THE COURT, 'THE CRIME WAS ONE OF ENORMOUS GRAVITY, AND THE GRAVITY OF THE OFFENSE IS AN APPROPRIATE FACTOR TO TAKE INTO CONSIDERATION,'" BUSCH SAID.

"WE ARE GRATEFUL THAT THE COURT CAME TO GRIPS WITH THIS CRUCIAL QUESTION IN SUCH A DECISIVE AND ALL-INCLUSIVE MANNER."

HE ALSO SAID THAT SIRHAN, WHO IN 1963 SHOT SEN. ROBERT KENNEDY, CANNOT BE EXECUTED BECAUSE OF THE STATE SUPREME COURT'S RECENT DECISION BANNING THE DEATH PENALTY.

(SIRHAN WAS CONVICTED OF FIRST-DEGREE MURDER IN 1969, AND SENTENCED TO DEATH).

"EVEN IF IT WERE REINSTATED, IT COULD NOT ACT RETROACTIVELY," BUSCH SAID. "IT COULD NOT BE AN EX POST FACTO LAW. EVERYBODY UP TO THIS DAY IN CALIFORNIA WHO IS ON DEATH ROW HAS HAD THEIR TRIAL...AND IT COULD NOT AFFECT THEM."

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BIRMAN 6/16/72

1ST LD 134

LOS ANGELES (CNS)--THE CALIFORNIA SUPREME COURT UPHELD TODAY THE FIRST-DEGREE MURDER CONVICTION OF BIRMAN B. BIRMAN, RULING THAT HE FULLY KNEW WHAT HE WAS DOING WHEN HE FIRED THE SHOTS THAT KILLED SEN. ROBERT F. KENNEDY IN JUNE OF 1965.

IN A UNANIMOUS OPINION, THE SEVEN JUSTICES REJECTED DEFENSE APPEALS THAT THE PALESTINEAN IMMIGRANT HAD DIMINISHED MENTAL CAPACITY, WAS DENIED A FAIR TRIAL AND HAD HIS HOME SUBJECTED TO ILLEGAL SEARCH AND SEIZURE.

THE COURT MODIFIED THE SENTENCE FROM DEATH IN THE GAS CHAMBER TO LIFE IMPRISONMENT, BUT THIS WAS REGARDED AS MERELY A LEGAL TECHNICALITY IN LIGHT OF THE STATE SUPREME COURT'S LANDMARK DECISION EARLIER THIS YEAR ABOLISHING THE DEATH PENALTY IN CALIFORNIA.

IN ITS 75-PAGE OPINION, THE COURT SPOKE OUT STRONGLY IN SUPPORT OF THE RIGHT OF LAW OFFICERS TO CONDUCT A SEARCH WITHOUT A WARRANT IN A CASE OF "ENORMOUS GRAVITY SUCH AS THE ASSASSINATION OF SEN. KENNEDY.

"TODAY WHEN ASSASSINATION OF PERSONS OF PROMINENCE HAVE REPEATEDLY BEEN COMMITTED IN THIS COUNTRY, IT IS ESSENTIAL THAT LAW ENFORCEMENT OFFICERS BE ALLOWED TO TAKE FAST ACTION IN THEIR ENDEAVORS TO COMBAT SUCH CRIMES," SAID THE COURT.

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SIRHAN 6/16/72

SUB 5TH PCH 152 BENG: SIRHAN'S CHIEF XXX

ATTORNEY LUKE MCKISSACK, WHO IS HANDLING THE APPEAL BUT DID NOT SERVE AS DEFENSE LAYER DURING SIRHAN'S TRIAL, SAID HE WILL DEFINITELY APPEAL. HE SAID THERE ARE TWO OPTIONS OPEN TO HIM. ONE, HE SAID, IS TO ASK THE STATE SUPREME COURT FOR A REHEARING, AND, TWO, TO APPEAL DIRECTLY TO THE U.S. SUPREME COURT.

AT THIS POINT, MCKISSACK SAID, HE LEANS TOWARD THE FIRST OPTION, AND IF THE REHEARING IS DENIED, THEN PETITION THE U.S. SUPREME COURT.

HE SAID HE DISPUTES THE SUPREME COURT RULING ON THE SEARCH AND SEIZURE ISSUES AND PROBABLY WILL MAKE THIS THE BIG POINT OF THE APPEAL.

"THE EMERGENCY DOCTRINE (USED TO JUSTIFY THE SEARCH AND SEIZURE IN THE STATE SUPREME COURT DECISION) LOOKS ANFULLY TENUOUS," MCKISSACK SAID

"IT GIVES US AN ANFUL LOT TO GO FOR IN AN APPEAL TO THE U.S. SUPREME COURT."

PICKUP 10TH PCH 0002: THE OPINION XXX)

TT619PM

SIRHAN, NOW 28, WAS CONVICTED BY A JURY IN LOS ANGELES SUPERIOR COURT ON APRIL 17, 1969.

UNDER CALIFORNIA LAW AFFECTING FIRST-DEGREE MURDER CONVICTIONS, AN APPEAL TO THE STATE SUPREME COURT WAS AUTOMATIC.

SIRHAN'S CHIEF DEFENSE ATTORNEY, LUKE MC KISSACK, COULD NOT BE REACHED IMMEDIATELY FOR COMMENT ON THE RULING HANDED DOWN IN LOS ANGELES.

AN APPEAL TO THE U.S. SUPREME COURT IS STILL POSSIBLE.

THE OPINION AFFIRMING THE FIRST-DEGREE MURDER CONVICTION WAS CONCURRED IN BY ALL SEVEN JUSTICES. HOWEVER, JUSTICE MARSHAL MC COMB DISSENTED THE PROVISION MODIFYING THE PENALTY TO LIFE IMPRISONMENT.

JUSTICE MC COMB ALSO WAS THE lone DISSENTER IN THE ANDERSON CASE FINDING THE DEATH PENALTY TO BE CRUEL OR UNUSUAL PUNISHMENT.

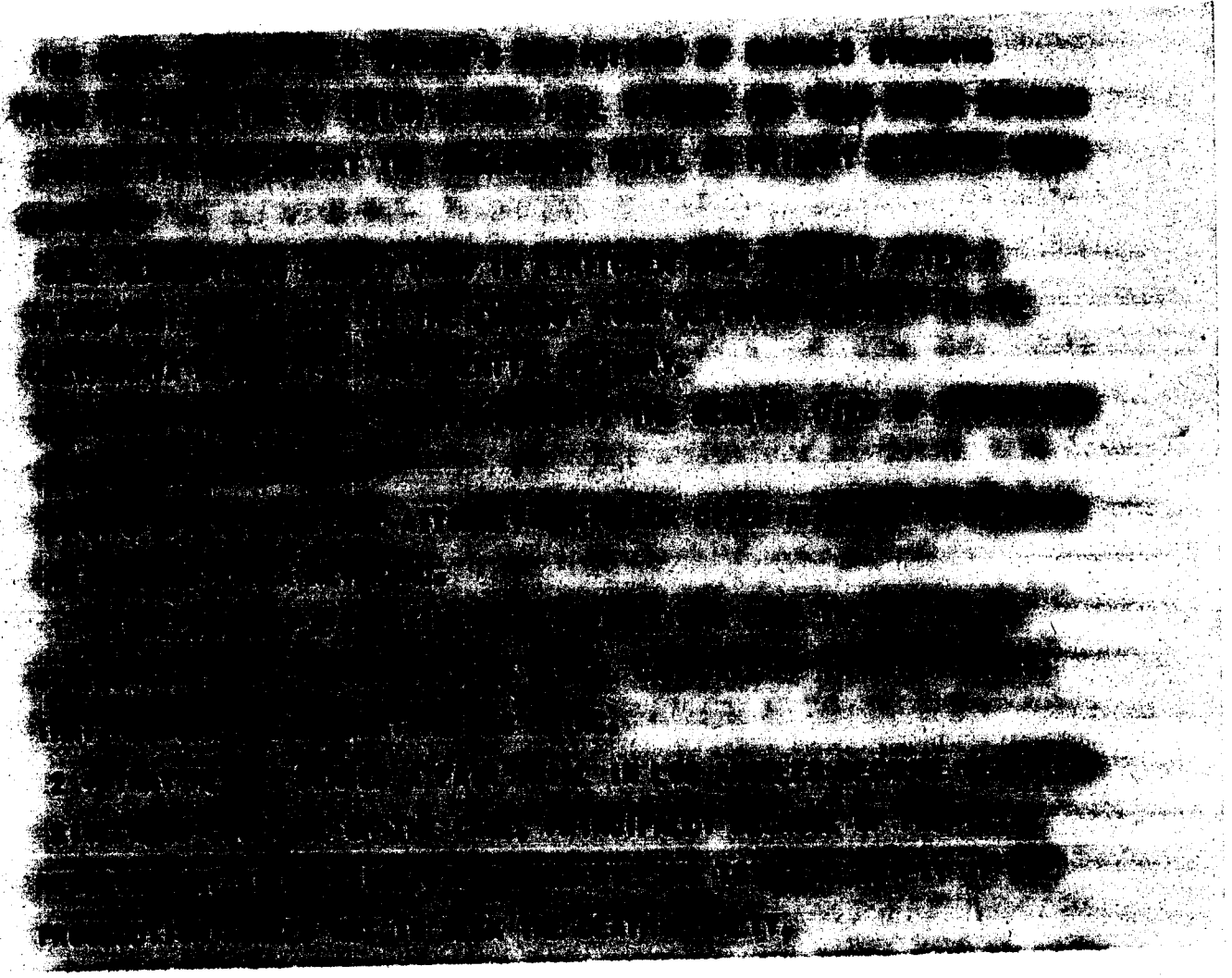
SIRHAN HAS BEEN INCARCERATED SINCE THE TRIAL AT SAN QUENTIN.

HIS APPEAL WAS FILED MANY MONTHS BEFORE THE COURT'S CAPITAL PUNISHMENT DECISION, THEREFORE IT CONTINUED TO CONTAIN A CHALLENGE TO THE DEATH PENALTY VERDICT HANDED DOWN BY THE LOS ANGELES JURY.

LIKE THE ANDERSON CASE, THE "CRUEL OR UNUSUAL PUNISHMENT" ARGUMENT WAS RAISED IN SIRHAN'S APPEAL.

IN MODIFYING THE SENTENCE TO LIFE IMPRISONMENT, THE SUPREME COURT CITED ITS OWN RULING IN THE ANDERSON CASE.

CRUEL OR UNUSUAL PUNISHMENT CONSIDERED UNUSUAL MERITORIOUS," SAID THE OPINION.



3 - THAT LOS ANGELES POLICE DETECTIVES BREACHED CONSTITUTIONAL PROHIBITIONS AGAINST UNREASONABLE AND ILLEGAL SEARCH AND SEIZURE WHEN THEY SEARCHED SIRHAN'S ROOM IN PASADENA AND FOUND NOTEBOOKS AND OTHER WRITINGS FILLED WITH INCRIMINATING EVIDENCE. THE NOTEBOOKS CONTAINED SCRIBBLINGS SUCH AS "RFK MUST BE ASSASSINATED."

THE HIGH COURT REJECTED ALL THREE APPEAL ARGUMENTS, AS WELL AS SEVERAL TECHNICAL ONES DEALING WITH SELECTION OF THE TRIAL COURT JURY AND THE GRAND JURY WHICH INDICTED SIRHAN.

THE COURT CONCLUDED THERE WAS SUFFICIENT EVIDENCE THAT SIRHAN DID, INDEED, KNOW WHAT HE WAS DOING. DIMINISHED CAPACITY HAD BEEN THE PRINCIPAL DEFENSE ARGUMENT AT THE LENGTHY TRIAL IN LOS ANGELES.

THE JUSTICES TOOK NOTE OF EVIDENCE THAT SIRHAN HAD ATTENDED A SPEECH BY SEN. KENNEDY TWO DAYS BEFORE THE SHOOTING, HAD GONE TO GUN RANGE TO PRACTICE RAPID FIRE ON THE AFTERNOON OF JUNE 4 AND HAD A BACKGROUND OF RESENTING AMERICAN POLICY IN SUPPORT OF ISRAEL.

THE COURT FOUND THAT SIRHAN HAD AMPLE TIME TO REFLECT UPON HIS ACTIONS AND THAT AT THE TIME OF THE SHOOTING WAS NOT A "PARANOID SCHIZOPHRENIC, (NOT) IN A DISSOCIATE STATE, OR INTOXICATED."

IN REJECTED THE ARGUMENT OVER NEWS COVERAGE, THE COURT SAID NO PROOF WAS PRESENTED TO INDICATE THAT SUCH PUBLICITY SWAYED THE JURY, NOTING THAT SIRHAN HIMSELF ADMITTED UNDER CROSS-EXAMINATION THAT HE ONCE HAD CONFESSED TO THE CRIME.

THE SUPREME COURT DEVOTED NEARLY 20 PAGES OF THE 76-PAGE OPINION TO A DEFENSE ARGUMENT OVER ILLEGAL SEARCH AND SEIZURE, RULING THAT DETECTIVES WERE WITHIN THEIR RIGHTS TO EXAMINE SIRHAN'S ROOM WITHOUT A WARRANT BECAUSE OF THE "ENORMOUS GRAVITY" OF THE CRIME AND THE EMERGENCY NATURE OF THE INVESTIGATION.

THE SEARCH WAS CONDUCTED WITHIN HOURS AFTER THE SHOOTING AT THE AMBASSADOR HOTEL AND, AT THAT TIME, THE JUSTICE SAID, AUTHORITIES HAD NO WAY OF KNOWING WHETHER SIRHAN ACTED ALONE OR MIGHT BE PART OF AN ORGANIZED PLOT DIRECTED AGAINST THE LIVES OF OTHER PUBLIC OFFICIALS.

MOST OF THE NOTEBOOKS, ALONG WITH AN ENVELOPE ALSO CONTAINING SCRAWLINGS OF DEATH THREATS, WERE FOUND DURING THAT SEARCH.

IN UPHOLDING THE LEGALITY OF THE SEARCH, THE COURT AGREED WITH THE STATE ATTORNEY GENERAL'S OFFICE THAT THE "EXIGENCIES OF THE SITUATION" JUSTIFIED THE POLICE ACTION.

"THE HERETOFORE RECITED EVIDENCE INDICATES THAT THE OFFICERS BELIEVED THAT THERE MIGHT BE A CONSPIRACY AND...THEY UNDOUBTEDLY CONTEMPLATED THE OBVIOUS POSSIBILITY OF A CONSPIRACY TO ASSASSINATE POLITICAL LEADERS IN THIS COUNTRY," SAID THE COURT.

"THEIR BELIEFS WERE ENTIRELY REASONABLE. THE CRIME WAS ONE OF ENORMOUS GRAVITY AND THE 'GRAVITY OF THE OFFENSE' IS AN APPROPRIATE FACTOR TO TAKE INTO CONSIDERATION...THE VICTIM WAS A MAJOR PRESIDENTIAL CANDIDATE AND A CRIME OF VIOLENCE HAD ALREADY BEEN COMMITTED AGAINST HIM.

"THE CRIME THIS INVOLVED FAR MORE THAN POSSIBLY IDLE THREATS. ALTHOUGH THE OFFICERS DID NOT HAVE REASONABLE CAUSE TO BELIEVE THAT THE HOUSE CONTAINED EVIDENCE OF A CONSPIRACY TO ASSASSINATE PROMINENT POLITICAL LEADERS, WE BELIEVE THAT THE MERE POSSIBILITY THAT THERE MIGHT BE SUCH EVIDENCE IN THE HOUSE FULLY WARRANTED THE OFFICERS' ACTIONS," SAID THE COURT.

"IT IS NOT DIFFICULT TO ENVISAGE WHAT WOULD HAVE BEEN THE EFFECT ON THIS NATION IF SEVERAL MORE POLITICAL ASSASSINATIONS HAD FOLLOWED THAT OF SEN. KENNEDY. TODAY WHEN ASSASSINATIONS OF PERSONS OF PROMINENCE HAVE REPEATEDLY BEEN COMMITTED IN THIS COUNTRY, IT IS ESSENTIAL THAT LAW ENFORCEMENT OFFICERS BE ALLOWED TO TAKE FAST ACTION IN THEIR ENDEAVORS TO COMBAT SUCH CRIMES."

THE COURT MADE ONE ADDITIONAL POINT IN UPHOLDING THE EVIDENCE INTRODUCED FROM THE NOTEBOOKS. IT SAID THAT THE DEFENSE ITSELF HAD INTRODUCED SOME OF THE PAGES IN AN EFFORT TO SUPPORT ITS CONTENTION THAT SIRHAN HAD DIMINISHED MENTAL CAPACITY.

(INCLUDES PREVIOUS)