

Juror Bias Probe Clarified by Court

By John P. MacKenzie
Washington Post Staff Writer

The Supreme Court ruled yesterday that a bearded, black defendant has a right to have prospective jurors questioned about racial prejudice but not about possible bias against beards.

Drawing a line between potential racial prejudice and other forms of potential juror hostility, the court left trial judges with broad discretion in presiding over the pretrial selection of juries.

The net effect the decision — unanimous on the racial issue but 7 to 2 on the question of beards — was to invite judges to shorten the often dragged-out process of choosing juries for criminal trial.

The court also:

- Ruled that a state may not deny illegitimate children the right to support from their natural fathers while granting that right to legitimate children.

- Dismissed a major test of the right of states to suspend unemployment compensation without a hearing, suggesting that the case may be moot because the plaintiff, an Indianapolis woman, has won her case.

- Held unanimously that inmates in Philadelphia prisons awaiting trial have a right to a hearing before a three-judge federal court on whether a state election law illegally denies them voting rights.

The jury selection decision, delivered by Justice William H. Rehnquist, reversed the conviction and 18-month prison sentence given to Gene Ham in Florence, S.C., for possession of marijuana.

Ham, whose defense was that police were trying to frame him because of local civil rights activity, contended that he could not get a fair trial because of racial and other prejudice.

Defense attorneys, seeking to lay a basis for challenging some potential jurors, asked the trial judge for specific

questions about bias against blacks and beards, but the judge asked only general questions about the jurors' ability to be fair.

A divided state supreme court upheld the conviction but the high court yesterday held that the judge's questions did not adequately safeguard Ham's right to a fair trial by an impartial jury.

But the court said the judge did not have to ask about beards. One reason it gave was the traditionally broad discretion given to trial judges. The other was what the majority called its "inability to constitutionally distinguish possible prejudice against beards from a host of other possible similar prejudices."

Justices William O. Douglas and Thurgood Marshall filed separate dissents on the beard question. They contended that prejudice related to dress and life style was just as real to a defendant as racial prejudice.

Douglas noted that lower courts had numerous cases which demonstrated that such bias is "deeply felt" and "evidencing the attempt of one segment of the population to control the plumage of another." Marshall said the beard question could be asked without involving time-consuming and irrelevant questions on other matters.

In the case involving the rights of illegitimate children, the court struck down a Texas law that excluded illegitimates from the state's compulsory child support system.

The court's unsigned opinion said that it is "illogical and unjust" and a denial of equal protection of the laws to deal with needy children on the basis of their parents' marital status. Justices Rehnquist and Potter Stewart dissented from the ruling and said the appeal should be dismissed because the legal issues had been "vaguely drawn."

1/18/73
W. Post