

DR. KING CLEARED IN '63 MARCH CASE

Aide Seized With Him Wins Test Appeal in High Court

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WASHINGTON, March 10—The Rev. Dr. Martin Luther King Jr. was posthumously cleared by the Supreme Court today of charges of parading without a permit during Birmingham civil rights demonstrations in 1963.

The Court ruled in a test appeal brought by the Rev. Fred L. Shuttlesworth, a former aide of Dr. King, that a group of Negroes led by the two civil rights leaders were within their rights in staging a Good Friday protest march without a city permit.

Police Commissioner Eugene Connor and other city officials, the Court said, had made it plain they would not grant parade permits for the Negroes' antisegregation marches.

The Court held that since the

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parade permit ordinance gave the City Commission almost unfettered discretion to reject permit application, the demonstrators could rightly assume they would not be granted a permit, and could parade without one.

The Supreme Court has ruled in a series of cases that persons may ignore vague, overbroad laws that unconstitutionally limit their freedom of expression. However, it also held, in 1941, that if a state appellate court gives the law a narrow enough interpretation to render it constitutional the convictions of those who ignored it may be upheld.

In Mr. Shuttlesworth's case, the Supreme Court of Alabama gave the Birmingham ordinance a narrow interpretation, holding that the City Commission would have been almost required to grant the Negroes permits if they had formally applied for them.

In the Court's unanimous opinion today, Justice Potter Stewart declared that the after-the-fact rehabilitation of the ordinance did not preserve the Birmingham convictions, because the city officials' attitude had made it clear that no permits would be granted. He stressed that if the Negroes had taken the matter to court the Easter weekend would have passed without any demonstrations.

Justice John M. Harlan, in a concurring opinion, said the

ruling might "carry seeds of mischief" because would-be protesters who were denied parade permits by unsympathetic officials might take to the streets, believing that the courts would overturn their convictions.

Today's action reversed the conviction and 90-day jail sentence of Mr. Shuttlesworth. This was litigated as a test case for the charges against Dr. King and about 1,500 other Negroes who were arrested for parading without permits during demonstrations in 1963. These defendants will now presumably not be tried.

Jack Greenberg, director of the N.A.A.C.P. Legal Defense and Educational Fund, Inc., argued for Mr. Shuttlesworth. Earl McBee, assistant city attorney of Birmingham, argued for the city.

Mr. Shuttlesworth has now appealed to the Supreme Court seven criminal convictions growing out of civil rights activity and has won acquittal in six. The Court in 1967 upheld the convictions of Mr. Shuttlesworth and Dr. King for violating a state court order when they led the Good Friday march. Dr. King served Mr. Shuttlesworth and Dr. King his five-day sentence shortly last April 4.

Gregory Wins Appeal

The Supreme Court today also reversed a disorderly conduct conviction of Dick Gregory, entertainer and civil rights activist, growing out of a protest march around the home of Mayor Richard J. Daley of Chicago in 1965.

The unanimous opinion, written by Chief Justice Earl Warren, noted that Mr. Gregory and 39 other demonstrators had been arrested after they had refused to disperse when ordered to leave by the police. But they were convicted for disturbing the peace. This was totally unsupported by the evidence, the court held.

Chief Justice Warren said that the demonstrators and the police had made every effort to maintain an orderly demonstration but that the presence of 1,500 jeering and rock-throwing whites had made the situation ripe for a major riot.

A concurring opinion by Justice Hugo L. Black, which was joined in by Justice William O. Douglas, said that "groups with diametrically opposed, deep-seated views" could be discouraged from staging such confrontations if communities would pass "narrowly drawn" laws against picketing outside individuals' homes.

Since the incident at Mayor Daley's home, the Illinois Legislature has outlawed residential picketing.

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