

15 AUG. 1966

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NIGHT LEAD WALKER

(340)

DENVER, COLO., AUG. 15 (AP)-THE COLORADO SUPREME COURT RULED 6-0 TODAY THAT A SUIT BROUGHT BY FORMER MAJOR GENERAL EDWIN A. WALKER AGAINST THE ASSOCIATED PRESS MUST BE HEARD IN DENVER DISTRICT COURT.

THE HIGH STATE COURT REVERSED THE DISMISSAL BY THE DENVER DISTRICT COURT OF HIS SUIT BASED ON AN ASSOCIATED PRESS STORY IN THE DENVER POST OCT. 3, 1962. THE STORY CONCERNED WALKER'S APPEARANCE AT THE UNIVERSITY OF MISSISSIPPI CAMPUS DURING THE DISTURBANCES INVOLVING THE EFFORT OF JAMES MEREDITH TO BECOME THE FIRST NEGRO TO ENROLL THERE.

THE HIGH COURT UPHELD THE DISTRICT COURT'S DISMISSAL OF TWO OTHER ACTIONS BY WALKER AGAINST THE AP, BASED ON AN EDITORIAL AND A NEWS STORY IN THE POST.

THE DISTRICT COURT HAD RULED THAT THE STORY CARRIED IN THE POST WAS LIBELOUS PER QUOD--BY INFERENCE. THE HIGH COURT IN REVERSING THAT DECISION HELD THAT THE STORY WAS LIBELOUS PER SE--IN AND OF ITSELF.

THE SUPREME COURT SAID THAT WALKER'S ATTORNEYS MUST NOW GO BACK TO THE DISTRICT COURT AND PROVE ACTUAL MALICE WAS INVOLVED IN THE STORY BEFORE ANY DAMAGES COULD BE COLLECTED.

THE DECISION WAS DELIVERED BY JUSTICE ROBERT MCWILLIAMS. (CAP MW). CHIEF JUSTICE LEONARD SUTTON, VACATIONING IN EUROPE, DID NOT PARTICIPATE.

IN RETURNING THE CASE TO THE DISTRICT COURT, JUSTICE MCWILLIAMS HELD THAT THE U.S. SUPREME COURT RULING IN NEW YORK TIMES CO. VS. SULLIVAN IS APPLICABLE TO THE WALKER CASE.

A166DX

IN THE NEW YORK TIMES CASE, JUSTICE MCWILLIAMS SAID, "THE SUPREME COURT OF THE UNITED STATES RATHER SEVERELY LIMITED THE RIGHT OF PUBLIC OFFICIALS TO RECOVER FOR LIBELOUS NEWSPAPER ARTICLES BY HOLDING THAT THE CONSTITUTIONAL SAFEGUARD REGARDING FREEDOM OF S

THE CONSTITUTIONAL SAFEGUARD REGARDING FREEDOM OF SPEECH AND PRESS REQUIRE THAT A PUBLIC OFFICIAL IN A LIBEL ACTION AGAINST A CRITIC OF HIS OFFICIAL CONDUCT MUST SHOW ACTUAL MALICE ON THE PART OF SUCH CRITIC BEFORE THE PUBLIC OFFICIAL CAN MAKE ANY RECOVERY, AND THAT SUCH IS TRUE EVEN THOUGH THE STATEMENTS ARE LIBELOUS PER SE."

JUSTICE MCWILLIAMS SAID THAT, ALTHOUGH WALKER IS NOT A PUBLIC OFFICIAL, "HE ADMITTEDLY IS A PUBLIC PERSONAGE WHO DID VOLUNTARILY GO FROM HIS HOME IN TEXAS TO MISSISSIPPI.....AND UNDER SUCH CIRCUMSTANCES HE MOST CERTAINLY DID THRUST HIMSELF INTO THE VORTEX OF THE DISCUSSION OF A MATTER OF GREAT PUBLIC CONCERN."

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