

JUDGE INSTRUCTS 'CAMDEN 28' JURY

631-11 MAY 18 1973
Calls U.S. Role a Possible

Ground for Acquittal
NYTimes

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Special to The New York Times

CAMDEN, May 17 — The "Camden 28" trial went to the jury this afternoon after 15 weeks in Federal District Court here.

Judge Clarkson S. Fisher instructed the jurors that they could acquit the defendants if they found "overreaching" in Government participation" in setting up a raid on draft board files in the same Federal building nearly two years ago.

Both the defense and Government lawyers in the case said that never before had a judge given any jury such an instruction.

Seventeen of the Camden 28 are on trial, charged with conspiring to raid board offices and destroy files.

They concede that they were predisposed to commit the crime, as a protest against the Vietnam war. But they contend that they had abandoned the plan until an agent provocateur for the Federal Bureau of Investigation joined them, pretended to be a fellow activist, resurrected their plan and provided the leadership and burglary tools to make the crime possible.

Entrapment Not Issue

The defendants did not rely on entrapment as a defense, because under the definition provided repeatedly by the Supreme Court, entrapment can absolve only defendants who had not been predisposed to commit the crime charged.

Judge Fisher's charge to the jury goes beyond entrapment, applying to defendants whether or not they were predisposed.

He told the jurors that they

must determine whether what occurred in 1971 "reached an intolerable degree of overreaching Government participation."

He said the actions of the informant, Robert W. Hardy, and F.B.I. agents could be defined as intolerable if the jury found them to be "so fundamentally unfair as to be offensive to the basic standards of decency and shocking to the universal sense of justice."

In that case, he said, the jury could bring in a verdict of acquittal even though it found the defendants committed the acts that they are charged with.

Role Described

"Under this defense," he said, "you need not consider the predisposition of any defendant because if the Government activities reached the point I have just defined, in your own minds, then the predisposition of any defendant does not matter."

The defense contends that the Camden 28 case is one in which Government agents crossed the line of permissibility in inducing criminal action in order to make arrests.

In the case decided last month by the Supreme Court upholding the traditional definition of entrapment, a Federal agent persuaded a predisposed Washington State man to break the law by making and selling him illegal drugs.

In the Camden 28 case, Mr. Hardy testified that the F.B.I. provided him with money to supply the antiwar activists with burglary tools, food, money, transportation and other equipment needed to carry out the raid.