

# Defendant in Kent Rioting Is Guilty of Misdemeanor

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RAVENNA, Ohio, Nov. 30—  
The first of the Kent trials ended today with the jury finding Jerry Rupe guilty of obstructing firemen during the 1970 riots at Kent State University. But the jury failed to reach a verdict on three more serious charges against him.

The charge of which Mr. Rupe was convicted is a misdemeanor.

Newsmen and spectators were locked out of the Portage County Common Pleas Court room when the verdict was announced. Judge Edwin W. Jones later apologized to newsmen, saying that neither he nor the prosecution nor the defense had any knowledge of the exclusion. He blamed a deputy sheriff.

James Primm Jr., special prosecutor, declined to say whether the state of Ohio would be content with the minimal victory in the Rupe case or would press for a new trial. Judge Jones deferred sentencing.

Mr. Rupe, a 23-year-old sandal maker who never attended Kent State, faces a fine of \$50 to \$500, or 30 days to six months in the workhouse, or both.

The jury was unable to agree on whether Mr. Rupe had helped to burn the campus Reserve Officers Training Corps building, whether he had assaulted a fireman and whether he had participated in first-degree riot. Mr. Rupe would have faced a maximum punishment of 16 years in prison had he been convicted on all counts.

The burning of the R.O.T.C. building on May 2, 1970, brought National Guardsmen to the campus at Kent. Two days later the guardsmen killed four students and wounded nine in a volley of rifle fire that Attorney General John N. Mitchell has since condemned as "unnecessary, unwarranted and inexcusable."

An Ohio special grand jury took no action against the guardsmen and indicted 25 alleged rioters, mostly students. A report by the grand jury absolved the guardsmen and the students. A Federal judge ordered the controversial report burned, but the indictments were allowed to stand.

Today the state's decision to prosecute was further clouded by two developments.

First, the case against one defendant, Peter Blik, 23, of Rochester, N. Y., collapsed when a key witness for the state said he was unable to

identify Mr. Blik as one of two men he had observed throwing gasoline-soaked rags into the R.O.T.C. building.

Second, Judge Jones—against whom an affidavit of prejudice had been filed by David Scribner, a New York labor lawyer serving as defense coordinator for several indicted students—stepped down as the judge assigned to 10 of the cases.

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These cases will now be heard by Common Pleas Judge Albert Caris, 80, but Mr. Scribner plans to file an affidavit of prejudice against Judge Caris also. Both judges, according to Mr. Scribner, were authors of a "gag rule" silencing some 300 witnesses who appeared before the special grand jury, a set of orders later held unconstitutional by a Federal judge.

Judge Jones disqualified himself after talking with Chief Justice C. William O'Neill of the Ohio Supreme Court.

"I said I wasn't prejudiced," Judge Jones said, "but if Mr. Scribner thought I was prejudiced, Judge Caris could hear those 10 cases."

In Columbus, Chief Justice O'Neill said:

"He disqualified himself. He said he didn't want to complicate or delay the trials."

Mr. O'Neill said Mr. Jones would sit on other Kent State cases to which he had been assigned and in which no objection to him had been raised.

The jury in the Rupe case deliberated eight hours before it reported.

Meanwhile, in a nearby courtroom, Kent State students among the spectators gave stifled yelps of approval when Mr. Primm conceded failure in the Blik case.

"We have no further witnesses who can identify Peter Blik, and I do not wish to prosecute further," Mr. Primm told Judge Caris. Mr. Blik had been charged with burning an uninhabited building and first-degree rioting.

Mr. Blik, a tall youth with shoulder-length blond hair, accepted hugs from his sobbing wife, Sandra, and said with a touch of surprise: "The system works!"

He said he would resume his studies—but not at Kent. After dropping out of school more than a year ago he had trouble finding work. Finally he got a job as orderly in the operating room at Rochester General Hospital. His father, Gerald Blik, is vice president of Lincoln Rochester Trust Company.

"Now I can start my life over aagin," young Blik said.