

Kent State Jury Clears the Guard

Cleveland

A federal court jury refused yesterday to hold Ohio Governor James A. Rhodes, former Kent State University president Robert I. White and current or former National Guardsmen and officers personally or financially liable in the 1970 Kent State shootings.

U.S. District Judge Donald J. Young announced that only two jurors dissented in the \$46 million civil damages suit verdict, but when the jury was polled three members of the six-man, six-woman panel were heard to whisper, "No." Jury verdicts in civil cases do not require unanimous votes, as in criminal trials.

When each of the dissenting jurors so indicated, Arthur Krause of Pittsburgh, whose daughter Allison was one of the students killed, said, "God bless you."

Four students were killed and nine were wounded on May 4, 1970, when guardsmen opened fire as they swept across the Kent State campus to disperse a rally in protest over U.S. military intervention in Cambodia. The suit was filed by the wounded students and by the parents of the dead.

There were muffled sobs from the mothers of the slain students as the verdict was read.

"He's still a murderer," shouted Thomas R. Grace, one of the wounded students, as the 20-minute reading of the verdict droned on. It was unclear to whom Grace referred.

Outside the courthouse, Burt Fulton, a defense attorney, said the guardsmen "stood up there and told their story, and that jury just believed them."

The jurors had heard three months of testimony and deliberated for five days before returning their findings.

Defendants in the suit included Rhodes; White; former Ohio National Guard Adjutant General Sylvester Del Corso and Brigadier General Robert H. Canterbury, the Guard commanders at Kent State, and 25 current and former guardsmen.

Attorneys for the wounded students and families of the dead students told the jury the shooting was an unprovoked and unwarranted action which deprived the students of their rights to life and liberty.

The defendants argued that they were carrying out their lawful duties on the campus and fired to protect themselves from a mob.

Judge Young said the case was the most difficult given a jury "since the trial of John Peter Zenger," an early American journalist.

"These questions go to the very depths of civil justice," he told the jury after the verdict was read. "You have plumbed those depths. You have earned the gratitude of everyone in this courtroom, regardless of whether they benefited by your decision, and of everyone in this free land."

At that point, Grace said, "What freedom? Spare us; it's a sham in every way."

Joseph Kelner, chief attorney for the plaintiffs, said an appeal was certain. He urged Young to set aside the verdict, but the judge said he wanted the attorney

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UPI Telephoto

JUDGE DONALD J. YOUNG
Praise for the jury

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to file his motion in writing before making a decision.

The shootings had been termed "unwarranted, unnecessary and inexcusable" by the President's Commission on Campus Unrest, which was established in August, 1970, to investigate.

A month later, a special state grand jury conducted a probe. It exonerated the guardsmen but indicted 25 students and faculty members. Most were charged with violation of state riot laws.

Two of those indicted were never arrested. Three were convicted, one was acquitted, and charges were dismissed against the rest.

A few months later, a federal judge ruled that the state grand jury had exceeded its authority, and its report was ordered destroyed.

On Aug. 13, 1971, Attorney

General John N. Mitchell said the Justice Department had completed an investigation of the shootings, and no further federal action was considered necessary.

Nearly two years later, on Aug. 3, 1973, then-Attorney General Elliot Richardson ordered a new investigation. On Dec. 12, 1973, he announced that a grand jury had been convened to conduct the new probe.

That panel indicted eight of the guardsmen, charging them with violating the dead and wounded students' constitutional rights. Those criminal charges were later dismissed after Justice Department attorneys completed their court presentation and the trial judge ruled the government had failed to make its case.

Those eight guardsmen were among the defendants in the civil suit.

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