

Chicago 7 Case

Verdict Upset

Judge Held In Error On Appeal

CHICAGO — (AP) — Citing errors by Judge Julius J. Hoffman, a federal appeals court today reversed the convictions of the Chicago Seven defendants found guilty of crossing state lines to incite the street rioting that occurred during the 1968 Democratic Convention.

The 2-1 ruling by three Seventh U.S. Circuit Court of Appeals judges reversed the convictions of David T. Dellinger, Rennie Davis, Abbie Hoffman, Jerry C. Rubin and Thomas E. Hayden. The two other defendants had not been convicted.

Judges Walter Cummings and Thomas Fairchild said the constitutional rights of the defendants may have been violated by Judge Hoffman, who presided at the stormy trial in U.S. District Court here. Judge Wilbur F. Pell dissented in part from the majority.

Attitude

The judges ruled that Hoffman erred in several areas during the trial and displayed "a deprecatory and often antagonistic attitude toward the defense from the very beginning."

The appeals court said the government could retry the defendants, but added:

"There is evidence in the record which, if believed, and inferences favorable to the defendants drawn, would lead a jury to acquit."

Thomas Foran, former U.S. district attorney who prosecuted the case, also was criticized for referring to the defendants as "evil men, liars and obscene haters and violent anarchists."

Demeanor

The appeals court said:

"We conclude that the demeanor of the judge and prosecutor would require re-

—Turn to Page 8, Col. 7

'Chicago 7' Guilt Finding Reversed

—From Page 1

versal if other errors did not."

James R. Thompson, U.S. district attorney in Chicago, declined comment on the possibility of a retrial pending consultations with the attorney general.

The five men were sentenced Feb. 18, 1970, to five years in prison and were fined \$5000 each by Hoffman.

Two other defendants, John R. Froines and Lee Weiner, were acquitted. All seven defendants were acquitted on charges they conspired to incite the rioting. An eighth defendant, Black Panther leader Bobby Seale, was included in the original indictment.

Seale Mistrial

He was sentenced to contempt for his courtroom outbursts, however, and a mistrial was declared. The government did not retry him on the conspiracy charges.

Hoffman sentenced the remaining seven defendants and two of their lawyers for contempt at the end of the trial. That sentence was reversed by the appeals court earlier this year, but the government says it plans to retry the men on the contempt charges.

The appeals court said that Judge Hoffman erred in not permitting defense lawyers sufficient questioning of potential jurors, in failing to inquire into the effect of pre-trial news coverage possibly prejudicing the defendants, and in communicating with the jury through a U.S. marshal.

'Blatant Antagonism'

In arguing before the appeals panel for reversal of the convictions of the five, attorneys claimed that the anti-riot section of the Civil Rights Act of 1968 under which the defendants were indicted violated their clients' rights under the First Amendment to the Constitution. They also accused Judge Hoffman of "blatant antagonism" and favoring the prosecution over the defense.

The main thrust of the defense appeal concerned the wording of the law which is "crossing state lines with the intent to incite rioting." The defense argued that this is the only federal statute that makes it a crime "to have a state of mind."