

NYTimes
**Ruling to Throw Out Conviction
In 'Harlem Six' Case Reversed**

PREP

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By ARNOLD H. LUBASCH

A decision to throw out a controversial murder conviction in the "Harlem Six" case was reversed yesterday by an appeals court.

Judge Harold R. Tyler Jr. had ruled last July 17 in Federal District Court here that Robert Rice, serving a life sentence for murder, must receive a new trial because doubt had been cast on important testimony and fingerprint evidence in the case.

Reversing the decision by Judge Tyler, the United States Court of Appeals for the Second Circuit restored the Rice conviction, which grew out of the murder of Mrs. Margit Sugar in the attempted robbery of a Harlem store 10 years ago.

The appeals court decided that the disputed evidence in the Rice case did not require a new trial and that the jury had heard sufficient evidence to reach a verdict of guilty.

Mr. Rice was one of six black youths called the "Harlem Six" who were charged with the fatal stabbing of Mrs. Sugar and the serious wounding of her husband in the attempted robbery of the couple's small clothing store on West 125th Street in 1964.

The prosecution's principal witness was Robert Barnes Jr., a friend of the six defendants, who testified that he had planned the robbery with them and that Mr. Rice admitted afterward that he had stabbed Mrs. Sugar.

Reasonably Satisfied

Mr. Barnes later recanted his testimony, then repudiated the recantation and finally swore that the defendants were innocent, contending that he had been coerced into testifying falsely.

Judge Tyler cited the Barnes recantation and a disputed fingerprint found at the murder scene as reasons for ordering a new trial, but this view was overruled by the Court of Appeals.

In an 18-page decision, written by Judge J. Edward Lumbard, with the concurrence of Judge Harold R. Medina and Judge William H. Timbers, the appeals court observed that "recantations of testimony given at trial are looked upon with the utmost suspicion."

"We are not reasonably well satisfied that Barnes's testimony at trial was false," Judge Lumbard wrote. "Barnes gave essentially the same testimony at four trials. Three of these trials occurred after an earlier recantation."

Judge Lumbard also disputed the significance of a fingerprint that was found at the murder scene, that was considered of no value at first and that was later identified as Mr. Rice's in his trial.

"We also doubt that the verdict might have been different," Judge Lumbard added, noting that the jury had re-

ceived extensive evidence, including a confession that Mr. Rice made and later repudiated.

Lewis Steel, a lawyer for Mr. Rice, said that he expected to appeal the reversal to the United States Supreme Court and that a separate appeal of the conviction was still pending before the state's Court of Appeals.

In 1965, the year following the murder, the "Harlem Six" were convicted in State Supreme Court here, but the convictions were dismissed by the state's Court of Appeals because confessions by two defendants had prejudiced the four others.

Separate Prosecutions

Mr. Rice and another defendant were subsequently prosecuted separately, while the four others were prosecuted together as the "Harlem Four" in two trials that resulted in hung juries.

The four—Wallace Baker, William Craig, Ronald Felder and Walter Thomas—eventually pleaded guilty to manslaughter in return for sentences that freed them after the eight years they had already spent in prison.

Daniel Hamm, a defendant who had previously pleaded guilty to manslaughter in the case, received a prison sentence of 15 to 30 years and failed recently to win parole.

The separate trial of Mr. Rice in 1970 resulted in the murder conviction that was voided by Judge Tyler last July, leading to yesterday's reversal by the Court of Appeals.

Nixon Requests \$21-Million For Arms Control Agency

WASHINGTON, Feb. 7 (UPI)

President Nixon asked Congress today to authorize \$21-million for continued operation of the Arms Control and Disarmament Agency over the next two years.

Mr. Nixon's message said that the agency was continuing to play a key role in talks with the Soviet Union on limiting strategic arms and in the negotiations for mutually reducing force levels in Central Europe.

Nixon Adviser Predicts Lag In Food Price Increases

WASHINGTON, Feb. 7 (Reu-

ters)—Gary L. Seevers, a member of President Nixon's Council of Economic Advisers, predicted today that food prices would stabilize or decline in the second half of this year, or at least rise at a slower rate than in the first six months.

The agricultural specialist told the Joint Economic Committee of Congress that, given normal weather, there should be record crops this year.