

11 - AUG. 1964  
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BA135 (270)

Misc II - Walker

NEW ORLEANS, AUG. 11 (AP)-THE U.S. FIFTH CIRCUIT COURT OF APPEALS TODAY UPHELD A FEDERAL COURT ORDER DISMISSING THE \$2,000,000 LIBEL SUIT FILED IN MISSISSIPPI BY FORMER MAJ. GEN. EDWIN A. WALKER AGAINST THE ASSOCIATED PRESS.

THE COURT AFFIRMED THE DECISION OF THE DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI, QUASHING THE SERVICE OF PROCESS AND DISMISSING THE COMPLAINT ALLEGING LIBEL ON THE GROUND THAT THE AP IS A NON-RESIDENT CORPORATION THAT DOES NOT DO BUSINESS IN MISSISSIPPI.

WALKER HAD ALLEGED HE WAS LIBELED BY DISPATCHES FILED DURING THE RIOTS THAT ERUPTED WHEN NEGRO JAMES MEREDITH ENROLLED IN THE UNIVERSITY OF MISSISSIPPI AT OXFORD TWO YEARS AGO.

WALKER APPEALED THE LOWER COURT DECISION, BUT THE COURT HERE TODAY UPHELD THE ACTION. THE APPEALS COURT CITED THE FACT THAT THE ASSOCIATED PRESS "IS A MUTUAL COOPERATIVE AND NON-PROFIT ASSOCIATION, FORMED TO GATHER, COLLECT AND INTERCHANGE WITH ITS MEMBERS NEWS AND INTELLIGENCE WHICH, UNDER THE TERMS OF ITS CHARTER, IT CAN NEITHER SELL NOR TRAFFIC IN SUCH NEWS ITEMS, BUT DISTRIBUTES THEM ONLY TO ITS MEMBERS. THE COST OF THESE SERVICES ARE APPORTIONED AMONG THE MEMBERS IN THE FORM OF ASSESSMENTS."

THE APPEALS COURT NOTED PREVIOUS CASES IN WHICH VARIOUS FIRMS, INCLUDING THE MEMPHIS PUBLISHING COMPANY, HAD BEEN DECLARED AS NOT DOING BUSINESS IN MISSISSIPPI ALTHOUGH THEIR ACTIVITIES WERE WIDER IN SCOPE THAN THOSE OF THE AP.

THE COURT DECISION SAID "IT MAY WELL BE" THE POLICY OF MISSISSIPPI TO REQUIRE A "MUCH STRONGER SHOWING OF THE DOING OF BUSINESS" WITHIN THAT STATE BY AN OUTSIDE NEWSPAPER SUCH AS THE MEMPHIS COMMERCIAL APPEAL OR A NONRESIDENT NEWS SERVICE SUCH AS THE AP. "WE THINK THERE IS A REASON FOR SUCH A DISTINCTION," SAID THE COURT, "BECAUSE OF THE INHERENT DANGER OR THREAT TO THE FREE EXERCISE OF THE RIGHT OF FREEDOM OF THE PRESS IF JURISDICTION IN EVERY STATE CAN BE INFERRED FROM MINIMAL CONTACTS."

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