

30 July 1961

127 PED

A7

FORT WORTH, TEXAS, JULY 30 (AP)-THE SECOND COURT OF CIVIL APPEALS AFFIRMED TODAY A \$500,000 JUDGMENT WON BY FORMER MAJ. GEN. EDWIN A. WALKER IN A LIBEL SUIT AGAINST THE ASSOCIATED PRESS.

THE COURT REJECTED WALKER'S CROSS APPEAL FOR AN ADDITIONAL \$300,000 PUNITIVE DAMAGES ON GROUNDS OF MALICE.

WALKER WON AN \$800,000 JUDGMENT FROM A JURY IN 17TH DISTRICT COURT ON JUNE 19, 1964, GROWING OUT OF THE AP'S ACCOUNT OF WALKER'S ACTIVITIES DURING THE RIOT THAT ERUPTED WHEN JAMES MEREDITH, A NEGRO, ENROLLED IN THE UNIVERSITY OF MISSISSIPPI. WALKER WAS AWARDED \$500,000 IN ACTUAL DAMAGES AND \$300,000 IN PUNITIVE DAMAGES.

DISTRICT COURT JUDGE CHARLES A. MURRAY LATER SET ASIDE THE AWARD FOR PUNITIVE DAMAGES, SAYING THE AP WAS NOT ACTUATED BY MALICE IN WRITING OF WALKER'S ACTIVITIES.

"IN VIEW OF ALL THE SURROUNDING CIRCUMSTANCES, THE RAPID AND CONFUSED OCCURRENCE OF EVENTS OF THE OCCASION IN QUESTION, AND IN THE LIGHT OF ALL THE EVIDENCE," THE COURT SAID, "WE HOLD THAT APPELLE (WALKER) FAILED TO PROVE MALICE, AS DEFINED, AND THE TRIAL COURT WAS CORRECT IN SETTING ASIDE SAID FINDINGS."

A8

REJECTING THE AP'S CLAIM THAT IT WAS PROTECTED FROM THE CLAIM OF LIBEL BY CONSTITUTIONAL AMENDMENTS AND RECENT DECISIONS OF THE SUPREME COURT OF THE UNITED STATES, THE COURT SAID:

"WE FIND NO MERIT IN APPELLANTS' CONTENTION THAT THE REPORTS, MADE WITHOUT MALICE, ARE PROTECTED FROM THE CLAIM OF LIBEL BY THE 1ST AND 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION. THESE AMENDMENTS PROHIBIT CONGRESS FROM MAKING LAWS ABRIDGING FREEDOM OF SPEECH AND OF THE PRESS AND THE STATE FROM MAKING OR ENFORCING LAWS OF SIMILAR NATURE."

THE COURT SAID THAT STATEMENTS IN THE AP STORY THAT WALKER "LED A CHARGE OF STUDENTS" AND "ASSUMED COMMAND OF THE CROWD" WERE "STATEMENTS OF FACT AND NOT OF COMMENT."

"TRUTH OF THE STATEMENTS WOULD CONSTITUTE A COMPLETE DEFENSE," THE COURT SAID. "APPELLANT (AP) FAILED IN ITS EFFORTS TO ESTABLISH THIS DEFENSE TO THE SATISFACTION OF THE JURY WHICH FOUND THAT NEITHER OF THE STATEMENTS WERE SUBSTANTIALLY TRUE."

A SPOKESMAN FOR THE AP SAID THE DECISION WOULD BE APPEALED.
BJ127PED