

CPYRGHT

Military Court Rules Out Evidence Based on Inadmissible Confessions

In a major decision, the United States Court of Military Appeals ruled yesterday that evidence uncovered by military prosecutors as a result of an inadmissible confession may not be used against the person who gave the confession.

The court split 2 to 1 in reversing the conviction of Airman 1/c Cyrus W. Haynes, 25, of Cullman, Ala., on morals and extortion charges.

The majority decision, written by Judge Homer Ferguson and concurred in by Chief Judge Robert E. Quinn, threw out a provision of the Manual for Courts-Martial permitting such evidence to be used and also overturned an earlier military appellate court ruling.

The Haynes case began when he was given a lie detector test by a civilian intelligence agency in June, 1956, preliminary to being given a higher security clearance. Prior to this examination, Defense Attorney Harry S. Wender contended, Haynes was assured his answers would be treated with confidence and would not lead to criminal prosecution.

However, Haynes was charged after the lie detector examination. The prosecution based its case on evidence turned up as a result of those statements. Wender said the case was an "unlawful search" of Haynes' mind.

The evidence was inadmissible at the trial, Ferguson wrote, and the ramifications of

permitting such evidence "are dire in the extreme." To sanction such procedures, the judge declared, would be to permit the prosecution to obtain confessions by force or other unlawful means "and then simply rest the prosecution's case upon the evidence procured through those statements."

In a vigorous dissenting opinion, Judge George M. Latimer declared that a widespread use of the rule enunciated by the majority "would very effectively hamper the prosecution of an admitted offender."

Noting the overturning of a previous decision which permitted in evidence a gun although a statement about the weapon's location was inadmissible, Latimer said military authorities who look to the court for guidance "must wonder at the cavalier manner in which we overturn our previous holding."