

SUPREME COURT OF THE UNITED STATES

Irvin v. Dowd

366 U.S. 717 (1961) · No. No. 41 · Decided June 5, 1961

SUMMARY

The Supreme Court held that the petitioner was denied due process because pervasive and inflammatory pretrial publicity created a community-wide prejudice reflected in the jury selection. The Court concluded that the trial court's finding of juror impartiality did not meet constitutional standards where two-thirds of the seated jurors acknowledged an opinion that the petitioner was guilty. The judgment was vacated and the case remanded, allowing Indiana a reasonable opportunity to retry the petitioner.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                       |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | Supreme Court of the United States                                                                                                                                                                                                                                                                                                                    |
| WRITING FOR THE COURT | Justice Clark                                                                                                                                                                                                                                                                                                                                         |
| JURISDICTION          | Federal                                                                                                                                                                                                                                                                                                                                               |
| DECIDED               | June 5, 1961                                                                                                                                                                                                                                                                                                                                          |
| DOCKET                | No. 41                                                                                                                                                                                                                                                                                                                                                |
| DISPOSITION           | vacated                                                                                                                                                                                                                                                                                                                                               |
| PROCEDURAL POSTURE    | Petitioner sought federal habeas corpus relief from an Indiana murder conviction and death sentence, arguing that pervasive prejudicial publicity and juror bias denied him a fair trial under the Fourteenth Amendment. The Supreme Court reviewed the adverse decision of the United States Court of Appeals for the Seventh Circuit on certiorari. |
| STANDARD OF REVIEW    | Independent evaluation of the voir dire testimony and the constitutional application of the facts; a trial court's finding regarding juror impartiality should not be set aside unless the error is manifest.                                                                                                                                         |
| PRECEDENTIAL VALUE    | binding Supreme Court precedent                                                                                                                                                                                                                                                                                                                       |
| PARTIES               | Irvin v. Dowd, Warden                                                                                                                                                                                                                                                                                                                                 |

TOPICS

- jury selection
- due process
- criminal procedure
- federal habeas corpus
- post-conviction relief

## PRACTICE AREAS

criminal procedure

constitutional law

federal habeas corpus

jury selection

## QUESTIONS PRESENTED

1. Whether petitioner was denied due process by being tried before a jury allegedly biased by pervasive and inflammatory pretrial publicity.
2. Whether the Indiana statute limiting a defendant to one change of venue from the county was unconstitutional as applied to petitioner's circumstances.
3. Whether the federal courts properly evaluated the impartiality of the jurors selected in light of the voir dire record.

## HOLDINGS

1. A criminal defendant is denied the impartial jury and fair trial guaranteed by due process when the surrounding publicity and voir dire record demonstrate that seated jurors possess such strong and pervasive preconceived opinions of guilt that they cannot reasonably be expected to decide the case solely on the evidence presented at trial.
2. The Indiana statute limiting changes of venue from the county was not facially unconstitutional because, under Indiana precedent, courts had a duty to order an additional transfer when the totality of the surrounding facts showed that an impartial jury could not be obtained.

## KEY QUOTATIONS

*“A fair trial in a fair tribunal is a basic requirement of due process.”* (at 722)

*“With his life at stake, it is not requiring too much that petitioner be tried in an atmosphere undisturbed by so huge a wave of public passion and by a jury other than one in which two-thirds of the members admit, before hearing any testimony, to possessing a belief in his guilt.”* (at 728)

## FACTUAL BACKGROUND

Six murders in and around Evansville, Indiana, generated extensive and inflammatory local publicity, including reports that petitioner had confessed to the murders and should receive the death penalty. Although petitioner obtained a change of venue from Vanderburgh County to adjoining Gibson County, the trial court denied a further change of venue and continuances under the applicable Indiana statute. During voir dire, 370 prospective jurors expressed some opinion about petitioner's guilt, eight of the twelve seated jurors thought he was guilty, and many jurors had been exposed to highly prejudicial reports before trial.

## PROCEDURAL HISTORY

The Indiana Supreme Court affirmed petitioner's conviction. The Supreme Court initially denied direct review without prejudice to a federal habeas petition after exhaustion of state remedies. The federal district court dismissed the habeas petition for failure to exhaust, and the Seventh Circuit affirmed. The Supreme Court granted certiorari, remanded for consideration of the merits, and later granted certiorari again after the Court of

Appeals rejected the constitutional claim. The Supreme Court vacated the lower federal judgments and remanded for further proceedings allowing Indiana a reasonable time to retry petitioner.

#### DISPOSITION

vacated

#### REMAND INSTRUCTIONS

The judgments of the Court of Appeals and the District Court were vacated, and the case was remanded to the District Court. The District Court was directed to enter appropriate orders allowing Indiana a reasonable time to retry petitioner under the state indictment or another indictment, consistent with the opinion.

#### CASES CITED

- Irvin v. State, 236 Ind. 384, 139 N.E.2d 898
- Gannon v. Porter Circuit Court, 239 Ind. 637, 159 N.E.2d 713
- Fay v. New York, 332 U.S. 261
- Palko v. Connecticut, 302 U.S. 319
- In re Oliver, 333 U.S. 257
- Tumey v. Ohio, 273 U.S. 510
- In re Murchison, 349 U.S. 133, 136
- Thompson v. City of Louisville, 362 U.S. 199
- Reynolds v. United States, 98 U.S. 145, 155-157
- Spies v. Illinois, 123 U.S. 131
- Holt v. United States, 218 U.S. 245
- Lisenba v. California, 314 U.S. 219, 236
- Brown v. Allen, 344 U.S. 443, 507
- United States v. Wood, 299 U.S. 123, 145-146
- Hopt v. Utah, 120 U.S. 430
- Stroh v. California, 343 U.S. 181
- Delaney v. United States, 199 F.2d 107
- Shepherd v. Florida, 341 U.S. 50
- Moore v. Dempsey, 261 U.S. 86
- Mahler v. Eby, 264 U.S. 32, 46
- Grandsinger v. Bovey, 153 F. Supp. 201, 240
- Chessman v. Teets, 354 U.S. 156
- Dowd v. Cook, 340 U.S. 206
- Tod v. Waldman, 266 U.S. 113
- Marshall v. United States, 360 U.S. 310

- Maryland v. Baltimore Radio Show, 338 U.S. 912, 915
- Janko v. United States, ante, p. 716

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