

JUSTIA**Sheppard v. Maxwell, 384 U.S. 333 (1966)****Syllabus**

Case

U.S. Supreme Court**Sheppard v. Maxwell, 384 U.S. 333 (1966)****Sheppard v. Maxwell****No. 490****Argued February 28, 1966****Decided June 6, 1966****384 U.S. 333***Syllabus*

Petitioner's wife was bludgeoned to death July 4, 1954. From the outset officials focused suspicion on petitioner, who was arrested on a murder charge July 30 and indicted August 17. His trial began October 18 and terminated with his conviction December 21, 1954. During the entire pretrial period, virulent and incriminating publicity about petitioner and the murder made the case notorious, and the news media frequently aired charges and countercharges besides those for which petitioner was tried. Three months before trial, he was examined for more than five hours without counsel in a televised three-day inquest conducted before an audience of several hundred spectators in a gymnasium. Over three weeks before trial, the newspapers published the names and addresses of prospective jurors causing them to receive letters and telephone calls about the case. The trial began two weeks before a hotly contested election at which the chief prosecutor and the trial judge were candidates for judgeships. Newsmen were allowed to take over almost the entire small courtroom, hounding petitioner and most of the participants. Twenty reporters were assigned seats by the court within the bar and in close proximity to the jury and counsel, precluding privacy between petitioner and his counsel. The movement of the reporters in the courtroom caused frequent confusion and disrupted the trial, and, in the corridors and elsewhere in and around the courthouse, they were allowed free rein by the trial judge. A broadcasting station was assigned space next to the jury room. Before the jurors began deliberations they were not sequestered, and had access to all

news media, though the court made "suggestions" and "requests" that the jurors not expose themselves to comment about the case. Though they were sequestered during the five days and four nights of their deliberations, the jurors were allowed to make inadequately supervised telephone calls during that period. Pervasive publicity was given to the case throughout the trial, much of it involving incriminating matter not introduced at the trial, and the jurors were thrust into the role of celebrities. At least some of the publicity deluge reached the jurors. At the very inception

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of the proceedings and later, the trial judge announced that neither he nor anyone else could restrict the prejudicial news accounts. Despite his awareness of the excessive pretrial publicity, the trial judge failed to take effective measures against the massive publicity, which continued throughout the trial, or to take adequate steps to control the conduct of the trial. The petitioner filed a habeas corpus petition contending that he did not receive a fair trial. The District Court granted the writ. The Court of Appeals reversed.

Held:

1. The massive, pervasive, and prejudicial publicity attending petitioner's prosecution prevented him from receiving a fair trial consistent with the Due Process Clause of the Fourteenth Amendment. Pp. 384 U. S. 349-363.

(a) Though freedom of discussion should be given the widest range compatible with the fair and orderly administration of justice, it must not be allowed to divert a trial from its purpose of adjudicating controversies according to legal procedures based on evidence received only in open court. Pp. 384 U. S. 350-351.

(b) Identifiable prejudice to the accused need not be shown if, as in *Estes v. Texas*, 381 U. S. 532, and even more so in this case, the totality of the circumstances raises the probability of prejudice. Pp. 384 U. S. 352-355.

(c) The trial court failed to invoke procedures which would have guaranteed petitioner a fair trial, such as adopting stricter rules for use of the courtroom by newsmen as petitioner's counsel requested, limiting their number, and more closely supervising their courtroom conduct. The court should also have insulated the witnesses; controlled the release of leads, information, and gossip to the press by police officers, witnesses, and counsel; proscribed extrajudicial statements by any lawyer, witness, party, or court official divulging prejudicial matters, and requested the appropriate city and county officials to regulate release of information by their employees. Pp. 384 U. S. 358-362.

2. The case is remanded to the District Court with instructions to release petitioner from custody unless he is tried again within a reasonable time. P. 384 U. S. 363.

346 F.2d 707, reversed and remanded.

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Oral Argument - February 28, 1966

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