

T. 4/26/62

BN:DHM:sab 8455
144-13-210

APR 30 1962

Honorable Lawrence M. Henry
United States Attorney
Denver, Colorado

Re: Florenz Michael Cooney; et al.
Eugenia Degenhardt; et al - Victims
Civil Rights

Dear Mr. Henry:

We are in receipt of your letter of April 13, 1962, concerning the above captioned case, and the attachments thereto.

The contention raised by both defense attorneys, as contained in the Motions to Dismiss, that the indictment is based upon the Fourth Amendment to the United States Constitution and thereby inapplicable to state officials is spurious, at best. Few principles are clearer than the one which prohibits under the Fourteenth Amendment state officers from making unreasonable searches and seizures. Wolf v. Colorado, 338 U.S. 25; Irvine v. California, 347 U.S. 128.

The contention that Mapp v. Ohio, 367 U.S. 643, had any effect on this principle is, of course, erroneous. This case overruled Wolf v. Colorado only as to the exclusionary rule.

cc: Records
Chrono
Marlin

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This discussion is intended only as a commentary on the case although we are willing to supply any assistance you request. Please keep us advised of the progress of the case, including copies of motions and pleadings submitted by your office and defense counsel and answers thereto.

Sincerely,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

By: JOHN L. MURPHY, Chief
General Litigation Section