

Exhibit E

Re: Christopher Hexter
City of Drew

On August 6, 1964, at approximately 3:30 in the afternoon, Hexter was arrested while driving in Indianola, Mississippi, pursuant to a warrant issued out of the City of Drew on July 15, 1962, the charge being the obstruction of traffic. On July 16, 1964, Hexter with 23 COFO workers appeared in Drew City Court and was given a week's continuance of trial to July 22nd 1964. Petitions of removal were filed by the National Lawyer's Guild for the defendants, but by error a petition was not filed for Hexter. Hexter failed to appear for trial on July 22nd and a bench warrant for his arrest was issued for his failure to appear. He was finally picked up on August 6, 1964. He was driven directly to Drew and at 4:30 in the afternoon trial was held.

No adjournment was granted and Goldstick of LDCG represented the defendant. The arresting officer, C.E. Floyd, did not appear to testify. Officer FLD. Fleming was the only witness called for by the city by the city attorney, Townsend. He testified that he observed a crowd on the private property of a Church on North Union Street between Central and Wilson streets; that the crowd moved from the Church property to the street and failed to disperse upon being ordered by officer Floyd. At that time all were arrested for obstructing traffic. Upon cross-examination the officer admitted that the area was sealed off by the Drew Police Department so that no traffic could pass through when the crowd moved onto the street. It was further pointed out that the officer failed properly to identify the defendant out of the crowd and further that failure that have the arresting officer testify made the charge patently defective. Hexter did not take the stand. Defendant was found guilty.

Appeal bond was set, the sentence having been set at 30 days on the County farm and \$100 found. Removal proceedings are being handled by the National Lawyer's Guild.

Exhibit C

Chief Floyd arrived. He immediately placed the defendant under arrest. The charge at this time was trespassing on school property. The defendant was given the opportunity to make one telephone call. He was taken to City Hall for this purpose. A meeting between eight to ten men was being conducted when they arrived at City Hall. Defendant placed a call to the COFO office in Ruleville. The line was busy and he was given no further opportunity. He was then taken and lodged in the City Jail in Drew. Smith stated that on previous occasions he had been on High School grounds and that upon one of these occasions he had about an hour's cordial conversation with the Negro principal, a Mr. Deering. Deering advised him that he would have to check with the White Superintendent, a Mr. Sanders, before he could tell him what use the defendant could make of the school grounds. On August 12, 1964, Mayor Williford of Drew, warned the defendant that he was in danger that he wouldn't be allowed on school property.

I returned to the City Hall for the trial at around 3:00. Prior to the trial I had a conversation with Townsend and Welch. After first telling me of their grievances with the COFO workers and the dangerous situation in Drew, they advised me that the following proclamations had been adopted by the Town's Board of Alderman at a special meeting held that afternoon at 3:00. A paraphrase of these proclamations ~~xxx~~ is follows; Proclamation #1 No person shall be allowed in school buildings or on school grounds other than school children educators and authorized persons participating in scheduled school activities. Proclamation #2 - Any person the Police Department feels is in danger will be taken into protective custody and released the following morning. One of the reasons given for the issuance of the second proclamation was the expense involved in having auxiliary police on duty. They also advised me that a curfew may follow. Other aspects of the conversation were to the effect that most ~~Drew~~ Negro Churches had restrictive covenants in their deeds. They stated that some of these properties might be taken back if their use was not confined to strictly religious activities.

The trial followed. ~~XXXXXXXXXX~~ I was given the opportunity to examine the affidavit of the Police Chief charging the defendant with a violation of Section 2089.5 of the Mississippi Code Annotated. Police Chief Floyd was called as the only witness for the State. He testified substantially as follows: At approximately 7:00 on August 13, 1964, assistant Marshall, Fleming, reported that ~~there might be trouble at the High School~~ ~~XXXXXXXXXX~~ there might be trouble at the High School. ~~Fleming~~ Floyd immediately went to the High School. On arriving he observed the defendant talking with a crowd of Negroes some of them were close enough for the defendant to touch. He did not hear any of the conversation. He testified that in his opinion it looked like one of them demonstration was about to take place. This latter statement was stricken from the evidence as improper opinion testimony. Floyd also testified that football practice was going on at this time. He advised the defendant that he was under arrest for trespassing on school property. ~~XXXXXXXXXX~~ ~~XXXXXXXXXX~~ This was the full extent of the State's testimony. Defendant's motion for a directed verdict on the basis that a prima facie case had not been proven and that a construction of the statute in question which would allow for a conviction on the above fact pattern being in deprivation of the right of freedom of speech and assembly were overruled.

The case of Gantwell v Connecticut, 310 U.S. 296 (1940) was pointed out to the court. However, it was improperly cited, the reason for this being my 12 page library was inadequate for the occasion. The defendant presented no evidence and summations were had. The defendant pointed out the scintilla of evidence that had been testified to in the case and also renewed his arguments of a constitutional nature. City Attorney Townsend in his rebuttal argument stated that along with the evidence testified to judicial notice could be taken of the defendant's background, the COFO activities in the area, and the general state of things in the state of Mississippi and the Town of Drew. Objection was made as to this being a proper matter for judicial notice and the additional ground that ~~within~~ judicial notice of these subjects would deny defendant his constitutional rights of cross-examination. The Mayor, the presiding magistrate, then turned to Attorney Welch for advice in this matter. Attorney Welch then prostituted himself and the profession which he practices by saying that judicial notice could be taken of these matters. The Mayor then ruled that he would properly take judicial notice of those matters requested by Townsend and ~~returned~~ Townsend completed his summation. During the arguments on the subject of judicial notice the Police chief requested that he might have a say in this matter. This was objected to by the defendant and he was not given opportunity to make additional statements. The Mayor then rendered his true and Mississippi Just verdict after first prefacing it with the following remarks: He stated that he (the Mayor) had told Smith ^{to stay off} the school campus or he would be put in jail. He then related an event that happened in the neighboring community of Shaw. He said that COFO workers had entered the Negro school cafeteria and incited the students to such a feverish pitch that they bodily threw the Principal out of the school. In addition the Mayor stated that he had checked the background of the defendant with the New York State Police and also checked the background of Rev. William Burns, of Roland Iowa, a national council of Churches minister who had been canvassing with the Defendant, with the Iowa authorities. He stated that their backgrounds were suspect. He then found the defendant guilty on the basis of the testimony introduced, the matters judicially noted, and his own personal knowledge of the situation. He stated that this decision was based on common sense.

The defendant requested that bond for appeal be set. Townsend advised that this was a matter for the Sunflower County Sheriff's office. Over objection by defendant the Mayor refused to set bail. Upon ^{urging} by defendant the Mayor called the Sheriff's office and asked what the bond should be. The Sheriff true to his promise of August 12, 1964 to C.A. Frerichs set the bond at \$500. It should be added that while investigating an unrelated matter the sheriff advised Frerichs that all Civil Rights appeal bonds would be in the amount of \$500. Bond was posted and defendant was released.

The following persons were present at this trial: Defendant Joe Smith, Attorney for the defendant C.A. Frerichs of Waterloo, Iowa, Leonard Edwards, Rev. William Burns of Roland, Iowa, Mayor W.O. Williford, City Prosecutor Townsend, Police chief Floy, and amicus curiae Welch.

A conversation then took place between Welch, Frerichs, Edwards and the Mayor. The Mayor then repeated for Edwards'

sake the aldermen's action in adopting the proclamations. He stated that these proclamations were necessary to avoid any violence in Drew. His conversation was such that Frerichs and Edwards received the impression that the Mayor had knowledge as to possible actions that might be taken by radical whites in the community. He distinctly stated that if any white civil rights workers attempted to stay in the Negro community in Drew that violence would follow. He then passed on to Edwards and Frerichs some inside information he had as to certain COFO workers' activities. He first related a story of a white female COFO worker in Greenwood throwing a brick through the Police Chief's front windshield. The Mayor was informed that the charges against the COFO worker had been dropped and that Frerichs predecessor in Sunflower County, David Goldstick of New York, had handled the case for COFO. He then told the story that another white female COFO worker in Greenwood had raised COFO funds by prostituting herself with Negroes. He stated that she took on 34 Negroes in a row before the police arrived. Upon denials by Edwards of the truth of this matter, the Mayor insisted that she was presently incarcerated in the Greenwood Jail.

Frerichs and Edwards returned to Ruleville with Smith and reported Project Leader Charles MacLaurin of the issuance of the proclamations and the Mayor's conversation that violence would take place if any white COFO workers stayed at a Negro's house in Drew. The decision was made by the Project Leader that white and Negro COFO workers would attend a meeting at the Holly Grove Baptist Church the same evening at 7:30 PM. In addition the decision was made that these workers would stay at the home of Mrs. Nora Hayes 177 Broadway, Drew. Frerichs reported the above incidents to the LCDC office in Jackson. He also phoned the FBI office in Jackson as to his apprehension in fear for the COFO workers in Drew that evening. He made a full disclosure as to the church meeting and the planned spending of the night at Mrs. Hayes house. Edwards also phoned Mayor Williford and told him that the workers would be coming into the town for the meeting. Edwards said that he hoped there would be no problem with the City's new proclamation.

At approximately 9:50 PM, August 14, 1964, Edwards and Frerichs were advised by the Ruleville COFO headquarters that four workers who were to spend the night at Mrs. Hayes house, Jerry Tecklin, Rev. William Burns, Gary DeMoss, and Mike Wallace, had been taken into protective custody and incarcerated in the Drew City Jail. This news came from a phone call from Mrs. Nora Hayes. No phone call has been forthcoming from the incarcerated workers.

ACTION TO BE TAKEN BY JACKSON OFFICE IMMEDIATELY

- (1) Removal proceedings for Joe Smith's case. Notify Ruleville office immediately when this has been done.

RECOMMENDATIONS

- (1) injunctive relief be sought to alleviate this situation.
Note--there has been a history of harassment in Drew. The records of this are with the LCDC office and with the Lawyer's Guild office. Law Student, Len Edwards, also has a fairly good record of the incidents in Drew this summer.