

The Facts Behind the Angela Davis Case

By LAWRENCE V. COTJ

On Aug. 7, 1970, 17-year-old Jonathan Jackson, observing a trial in Northern California's Marin County courthouse, suddenly pulled a pistol from under his raincoat, ordering everyone to freeze. As stunned officials and spectators watched, he then distributed guns from a briefcase to three San Quentin inmates, "all of whom were in the courtroom in connection with the charge that one of them, James McClain, had knifed a San Quentin guard.

As they moved outside toward an escape van rented by Jackson, they shanghaied five hostages, including presiding Judge Harold Haley, an assistant district attorney and three female jurors. A sawed-off shotgun was taped under the chin of the judge.

When Jackson, the fugitives and the hostages began pulling away from the area in the van, a vicious gun battle ensued between the four men and the police. Before the shootout was over, the judge's head had been blown off, Jackson and two of the convicts, McClain and William Arthur Christmas, were mortally wounded. Two of the hostages were wounded, one seriously, and one convict, Ruchell Magee, survived, and should come to trial shortly.

Upon discovery that Angela Davis had purchased the weapons smuggled into the courtroom and used in the escape effort) a warrant was issued for her arrest on charges of murder and kidnaping.

A Fugitive Warrant was obtained on August 16 when it was learned she had fled California, and on October 13 the FBI arrested Miss Davis and David Poindexter, her companion at the time, in New York City. Miss Davis was extradited, and on Nov. 10, 1970, indicted on counts of murder, kidnaping and conspiracy charges. Nineteen months later an all-white jury, after just 13 hours of deliberation, found her innocent. Indeed, the jurors were so favorably impressed with Miss Davis that a majority of them joined in festivities to celebrate her acquittal.

In some ways, it is not hard to understand why many Americans find empathy with this youthful revolutionary. She has been lionized by much of the American intellectual elite and championed by such celebrities as Sammy Davis Jr., Jane Fonda and Leonard Bernstein. While more accurate descriptions might be "attractive" and "well educated," the news media can't resist calling her "beautiful" and "brilliant."

She was a product of Birmingham's "Dynamite Hill" in Alabama, but she is also one of the new privileged class—scholarships at some plain and some fancy Eastern schools, opportunities to study abroad, quick acceptance and popularity as a philosophy instructor at prestigious UCLA.

Obscured by all the glitter, however, is the fact that she has also been instilled with the doctrines of revolutionary violence. A vigorous supporter of the murderous Black Panther organization, she is a self-avowed Communist and for more than a dozen years has been infused with doses of Marxist and Leninist propaganda. Miss Davis, in



A happy Angela Davis holds her first press conference following her acquittal. Writer Cott, an expert on internal security matters, investigates some of the strange shenanigans behind the jury selection and the trial itself. Miss Davis had been charged with the purchase of the guns that took the lives of four people, including Judge Harold Haley, during the 1970 Marin County Shootout.

fact, is a violent enemy of this country. She has condemned the "American oppressor" and called for liberation of the United States "by any means necessary."

As she was steeped in the philosophy of violence and befriended by fellow revolutionaries, it was not really, surprising that she would eventually wind up in an episode that evokes memories of the Rue Morgue. There are 12 or 15 deaths, depending on when you start counting, that in some way touch upon the Marin County courthouse shooting, and in the midst of all this carnage stands the now innocent figure of the "brilliant" and "beautiful" Miss Davis, 29, black, a Communist and a woman who is in the habit of losing control of her arsenal of weapons. To give a brief idea of what sort of bloodshed is linked with the Davis case:

- It was on Jan. 16, 1970, that guard John Mills was killed at the state's Soledad Prison in the Salinas Valley 150 miles south of San Francisco. Three convicts were held for trial in the case—George Jackson, Fleeta Drumgo and John Cluchette, subsequently dubbed the "Soledad Brothers." The convicts claimed they were innocent.

- In the Aug. 7, 1970, shootout at Marin County's Civic Center, in which the state said Miss Davis played a role, four persons were killed. Injured were two of the kidnapped, Assistant District Attorney Gary Thomas and juror Maria Elena Graham, and escaping convict Ruchell Magee.

- On Aug. 21, 1971, a year later, Soledad Brother George Jackson and several other prisoners staged a desperate attempt to escape from behind the yellow walls of San Quentin prison, using smuggled weapons. In the attempt, they killed prison guards Jere Graham, Frank P. DeLeon, and Paul Krasenes, and two white convicts, John T. Lynn and Ronald L. Kane. Jackson was killed by guards as he ran across a courtyard with a pistol in hand; authorities still seek his attorney, Stephen Bingham, suspected of smuggling the gun. A dozen convicts await trial for complicity in the escape try.

How was Miss Davis linked to all these cases? The prosecution's thesis boiled down to this: Angela Davis, a Communist revolutionary, was desperately in love with George Jackson and hoped to spring him from jail. To achieve this, she and George's younger brother, Jonathan, worked out, an elaborate scheris. Jonathan, armed with Angela's arsenal, was to take hostages from the Marin County courthouse for the purpose of bartering for the freedom of his brother, George, and two other convicts who were collectively known as the Soledad Brothers.

Angela Davis' trial began in early March after more than a year of delays, disqualifications of several judges and a change of venue. Presiding was Superior Court Judge Richard E. Arnason. Prosecuting for the state was Assistant Attorney General Albert W. Harris Jr. Defending Miss Davis were Leo Branton and Howard Moore Jr., assisted by Margaret Burnham, others and Miss Davis herself.

The trial proper began March 27 when Prosecutor Harris outlined his case to the jury, telling them he would offer a chain of circumstantial evidence so strong it would "convince you beyond a reasonable doubt" that Miss Davis had guilty knowledge of the plot to invade the Marin County courthouse in August 1970, and a plot to capture judge and jury, free the prisoners and hold hostages for safe release of the Soledad Brothers.

Harris explained that with young Jonathan Jackson dead there was not a surviving witness of conversations between him and Miss Davis, so "we must rely on circumstantial proof of facts from which reasonable inferences may be drawn."

Surprisingly, the state advanced as the motive for the crime not that Miss Davis was one revolutionary struggling to free another revolutionary, but rather, that she was driven by a motive as old as mankind—love. "Her basic motive was not to free political prisoners," maintained Harris, "but to free the one prisoner she loved."

The love letters she wrote to Jackson (found in his cell after he was killed in his own escape attempt) would demonstrate, Harris said, that Miss Davis actually considered herself married to Jackson. He said he would provide that for many days prior to the courtroom incident Miss Davis and young Jonathan Jackson were in each other's constant company, visited George Jackson at nearby San Quentin (presumably to apprise him of the developing conspiracy to free him) and that when the plan aborted, through unforeseen gunfire, Miss Davis acted—in the manner of a guilty person, panicked, fled the area, hid out, then fled the state, altered her appearance and adopted false identification.

Harris said the evidence would show that the original Davis-Jackson plan probably called for the courtroom showdown to take place a day before it actually did, but that the plan on August 7 was foiled when Judge Haley unexpectedly adjourned the court early and had the prisoners returned to San Quentin. He also said the evidence would show Miss Davis constantly accompanied Jonathan as she cashed checks (presumably funds to fuel the conspiracy)—when she cashed a check in Los Angeles on July 29, when she cashed a \$200 check the next day when she and Jonathan crossed the border briefly into Mexico, when she cashed another \$100 check on August 4 in Oakland.

They traveled the next day in a car borrowed from a young white woman who sympathized with the Soledad Brothers case—Jonathan asked to borrow it for a day but the woman didn't see her car again for at least two weeks.

On August 6, Jonathan Jackson rented a yellow van, to be used for the getaway, in San Francisco, and produced two \$20 bills as deposit (Jonathan was unemployed).

Later that morning Jonathan first turned up in Judge Haley's courtroom wearing a knee-length raincoat, an oddity that did not trigger suspicion by court attaches despite the 83 degree August heat, and carrying a blue satchel. (Why the kidnap plot did not move forward at this moment has never been explained—perhaps it was just a dry run to be sure courtroom security was lax.) A few minutes later Jackson left the courtroom, and with a woman identified as Miss Davis by three witnesses, turned up at a service station across the street from the courthouse and sought assistance in starting the van.

Half an hour later, Harris said, Miss Davis and Jackson arrived at San Quentin, and Jonathan conferred with his brother George. Miss Davis, said Harris, was seen in the van, which had its engine running, probably to keep the battery charged.

At two o'clock that August 6 afternoon, Jonathan returned to the courtroom carrying only a paper bag (again a dry run on security?). He left in a few minutes and returned at 3 p.m., this time wearing the coat and carrying the satchel. He was told that court had been recessed by Judge Haley at 2:30.

A few hours later, at 7:45 p.m., Jonathan Jackson, accompanied by one other person (never identified) checked in

(continued on next page)

Mr. Cott, a former Editor of the newsletter Combat, a subsidiary of National Review, has been news editor of radio and TV stations in California and Hawaii.

stand and relived her terror. She had, she said, spent 19 months trying to forget the seizure and battle.

Moore guided Mrs. Graham once more to describe the kidnapping, the walk to the parking lot, the entry to the van that she said was to take them to San Francisco airport. She had described McClain BE the take-charge leader of the fugitives.

"Don't you remember what McClain explained why he had to be free?"

"Yes," she said forihrighly. "He said he had to have the Soledad Brothers free." Moore suggested the answer he wanted: "Didn't he say he had to be free because he didn't want his mother frightened?" Mrs. Graham: "I don't remember that."

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Another of the kidnapped jurors, Mrs. Norene Morris, was next. In her recitation she remembered Jackson rising in the spectator's gallery and shouting, "This is it!" She heard no mention of the Soledad Brothers.

She remembered McClain taping the shotgun to the judge's neck, and the judge calling the sheriffs office, stating, "This is Judge Haley. We have an emergency here." She said that when the judge's talk with the sheriff became prolonged McClain seized the phone "and started yelling that if he didn't get out he would kill Judge Haley."

Then McClain looked at the judge, she said, and commented, "If I get killed, you get killed."

Christmas was trying to wrap a wire around the neck of a female juror and when McClain saw that he shouted, "Leave the jury alone! We don't want to hurl anyone! I'd think you would live-had-enough of that! We're nut animals and we're not going to act like them!"

It was then Jackson said, she recalled, "Well, I want to kill somebody."

McClain then inuk- the decision of fale—choosing those from the jury they would lake as hostages. One white-haired woman looked like stark terror- Another woman stood shaking, speechless, hand to mouth.

Mrs. Morris broke down and sobbed as she identified the group selected as they were herded out of the courtroom and photographed by a San Rafael photographer.

Mrs. Doris Wittmer's testimony was similar to the other juror-victims, but she added that she was so frightened she could remember little of what was said. As the group was led from the building like cattle, linked together by wire, she heard two shots "fired from our group." (This is unlikely; none of the lawmen later testified to this, and none of the lay witnesses.)

Mrs. Wittmer did remember that as they waited their Rim to sprawl into the van as directed. Judge Haley surveyed the three women hostages and apologized to them for having been "dragged into this."

The defense attorneys smiled when they got their turn, and pointed out to the jury that neither Mrs. Morris nor Mrs. Wittmer reported ever hearing anyone say, "Free the Soledad Brothers." (The defense seem determined to remove the motive of freeing the Soledad Brothers from the Marin County escape attempt, presumably because this would then remove the motive from Angela Davis. But then, why would

Jonathan Jackson risk his life to free James McClain, a man he didn't even know?)

The next witness was one of destiny's children, a man who had seized his main chance, photographer James Kean of the San Rafael *Independent-Journal*. Kean related that he was returning from a photo assignment that Thursday when he received a radio call that there was a man with a gun at the courthouse area of the civic center, and he drove there immediately.

Kean said he took the elevator to the second, coun floor, and as he stepped out came immediately face to face with a remarkable tableau—the convicts herding judge and jury out the door. "I saw a man come around the corner and he had something strapped to the neck of Judge Haley. I thought at the time it was a homemade bomb."

There was then a short discussion between the escaping convicts, he said, and Christmas shouted to him. "Take all the photos you want! We are the revolutionaries!" Magee said to him. "Bring your stuff over here." McClain added, "Be sure and get a good picture of the judge."

At first Kean was ordered to join the escape party, but Jackson complained the group was becoming too large and Kean was allowed to stay behind, watching the group depart by elevator.

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McClain told him, said Kean, "Tell them we want the Soledad Brothers released by 12 o'clock." Kean testified he queried McClain on the point: "Just so there's no mistake, you mean 12 o'clock today or 12 midnight, and he said, 'Twelve o'clock today.'"

Defense attorney Leo Brunton tried a short gambit. Perhaps it was just a rhetorical remark by McClain, "Free the Soledad Brothers" just as now many say "Free Huey" or "Free Angela."

Kean was unshakable. "No, I told you what Mr. McClain said."

The photographer illustrated his testimony with blowups of the pictures he took that (lay. some of the most widely reproduced news photographs of this decade.

He was followed by three law officials, all of whom had been ignominiously disarmed during the breakout.

Harvey E. Teague, a sheriff's captain and then commander of the juvenile bureau, said he was one of those surprised in the hallway as the party left Judge Haley's court. He was braced against the wall by the cons, and Jackson threatened to blow the head off anyone who moved. Then, he said, someone (he was never able to identify the person) said, "We have only five minutes to get out of here," and then, "You have until 12 noon to free the Soledad Brothers and all political prisoners."

Teague then produced the books that were found in the satchel that Jackson had brought into the courtroom, the books that had concealed the sawed-off shotgun, the tape, the wire, and the phony dynamite bomb made of fuses. Teague said the satchel was found in the yellow van after the shootout and he had catalogued its contents the next day.

One book was *The Politics of Violence in the Modern World*, and on the inside cover was the name, "Angela Y. Davis" and "New York, March 1969." Another book was *Violence and Social Change*, and it, too, had "Angela Y. Davis" on the inside cover, with the inscription,

"Los Angeles, 1969." The other books, which were neither dated nor *ex-libred*, were *Studies in Revolution, Pour L'Algerie, L'Anarchisme*, and *L'Homme el la Societe*.

On cross-examination all Branton Could extract from Teague was an admission that in the report he had made after the shootout he had not mentioned the demand he had heard to free the Soledad Brothers. He had, though, mentioned it eight months later when being questioned by a state investigator.

Disarmed Policeman

The next witness was police officer Clifford Niederer from Corte Madera, another Marin County bedroom community. He had delivered a prisoner to the courthouse when he heard there was a commotion upstairs and went to help, only to be disarmed by Jackson. At the elevator McClain demanded, in a loud voice, "release of the Soledad Brothers by this afternoon."

Chief Dan Terzich of Mill Valley had been at the civic center on a traffic matter and had "been unarmed. When he heard of the trouble he borrowed a .38 and went to the court floor and saw the party emerging from the courtroom. He heard McClain say, "Free the Soledad Brothers by 12:30 or they all die!"

Terzich said he did not write a report of the incident, but two months after the shooiout he gave similar testimony to the county grand jury.

Three more policemen testified. Marin sheriffs inspector Kenneth Irving said



Soledad Brother Gootge Jackson was an aridant rtipicant of Miss DMVIX' lova, according to hmr saH-admitted testimony.

he loo was disarmed shortly after the escape gang entered the main corridor. Jackson, he said, menaced him with the carbine and said, "Get your hands up." Later he heard Jackson say, "I'm itching to blow somebody's head off."

Irving heard arguing between McClain and Jackson, about their time schedule—Jackson urging them on with the admonition, "We have only one hour." Then, after parading the judge and hostages before photographer Kean, said Irving, McClain said to Kean, "Take some pictures of the judge; this will be the last time you see him alive." As the group paused near the elevator Irving heard one of the group—he didn't know who—shout, "You have until noon to free the Soledad Brothers!"

Marin deputy Theodore Hughes identified one of the .357 magnums on the evidence table in front of him as his weapon, confiscated by Jackson. Hughes caused heads to snap in the courtroom when he said that as he stood, arms above his head, he heard someone—he didn't know who—say, "We are brothers at Folsom. Free all." (Folsom is another California prison—100 miles from San Quentin, 250 miles from Soledad. Hughes' testimony has the ring of truth, although he had the specifics wrong—he

knew the cons wanted to free some fellow convicts then in a California prison. His testimony was, if anything, unrehearsed.)

Hughes also said that after the shoot-out he went down to the driveway near the yellow escape truck and saw an officer nearby holding a .357 magnum and recognized it as his gun and asked for it, checked the serial number and hoistered it. It wasn't until the next day, he said, that he closely examined it and found it had been fired and turned it in as evidence,

Branton wanted to know how a policeman could holster a gun without looking to see if it was loaded, and Hughes guilessly said, "Who can explain the excitement as it was? I hadn't been around that many casualties at onetime before."

Deputy David Nori took the stand and identified the other .357 magnum as his weapon, taken by Christmas.

The next witness made the most dramatic appearance of the trial. He was a young, big man dressed in a conservative suit with a broad tie. He was brought into the San Jose courtroom in a wheelchair. He was Gary Thomas, 34, assistant district attorney of Marin County, who had on Aug. 7, 1970, been prosecuting James McClain on charges of assaulting a San Quentin guard (Magee, Christmas and Willie Reddicks, another con who did not join the escape attempt, were McClain's witnesses).

Thomas, related how he experienced bloody Thursday. He had Magee on the witness stand and was questioning him. "The first time I noticed anyone in back was when I heard a voice at the back of the courtroom. As best I can remember that voice said, 'Hold it right there. That's enough,' or words to that effect. When I turned I saw a man, tall, he appeared thin, in a raincoat, with a natural type hairdo, a light skin, black. He was standing. He had a handgun in his hand—a short-barreledpistop."

Thomas testified he heard McClain ask the intruder—Jackson—if he had brought the tape.

Then Jackson moved forward, withdrew the carbine with collapsible stock from beneath his rain coat and handed the pistol to McClain. Everyone was ordered to lie on the floor and McClain told the judge ID call the sheriff. The shotgun, produced from Jackson's satchel, was taped around Judge Haley's neck with the barrel beneath his chin.

He recounted the judge's conversation, as he overheard it, with the shrill and then heard McClain on the phone " "We have the judge. If you don't do a we say, we'll kill him and the people on the jury."

Lying on the floor and not able to see all the action in the courtroom, Thomas said that nevertheless he could tell that a woman with a child had entered the courtroom just as the escapees were choosing hostages. "I heard the cryin of a small child and I heard a woman say, 'Oh my God, no! Don't take my baby!' McClain, he said, disagree with his cohorts again, protesting, "We're not taking any kids!"

Then McClain came over to him and said, "You're a good man, I'm lakin you along." In the corridor outside McClain favored him with a momentary smile and told him, "We're revolutionaries, but you knew that all along, didn't you?"

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Twice, Thomas said in response to Prosecutor Harris' questioning, he heard young Jackson allude to a time element. Once he had said, "We're falling be hint

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"We're five minutes behind."

As the group gathered at the van, Thomas tried to bargain with McClain, urging that the women jurors be released, but the con was adamant. "No. You're all going." Once inside the truck, Thomas said the judge asked where they were being taken and McClain told him, "We're going to the airport and take a plane."

The van started up, said Thomas, Jackson at the wheel, McClain crouched on the floor beside him (there was no passenger seat on the truck).

"The van came to a sudden stop, very quickly. I saw Jonathan Jackson with a revolver in his hand. He put his hand out the window. Then I heard a shot. Then I heard—I can't say, if it was one or two shots in almost immediate retort. Jackson pulled his hand back inside the van and looked at it. There was blood on the bottom part of his hand. When I saw that, I immediately turned to look at Judge Haley."

The full horror of the moment came to a spellbound courtroom in San Jose. "I saw his face. He was alive. An instant later I saw the right side of his face slowly pulling away from his skull."

"Was there a gun?" Prosecutor Harris asked.

"There was a sawed-off shotgun beneath his chin that was held by Ruchell Magee."

"Did it go off?"

"Yes."

"Would you describe the judge's face?"

"It was as if it was in slow motion, all the outward appearances of his face just completely moving away. I turned to my right and took the gun that was in Jonathan Jackson's hand. I took it out of his hand and fired a shot in Jackson's direction—at least one, maybe two."

"James McClain was moving toward the left side of the front of the van. I hit him in the back. I turned and I fired a shot in the area of Christmas who was crouched on the driver's side of the rear of the van) and then I shot Ruchell Magee in the chest. I shot Magee once and he was still moving. I tried to shoot him again and the gun clicked. It was the same time he stopped moving."

"I yelled out, 'Stop firing! Please, please stop firing!' About the same time I felt the sharp pains in my back. My legs gave out and I crumpled down."

It was a bullet fired from outside, Thomas explained, that "shot away over an inch of my spinal cord so I am paralyzed from the waist down."

Thomas told his story matter of factly, without histrionics. There could be no doubt, though, that he was the hero of that hot August day. With only that little help from the outside, the shooting of Jackson by a San Quentin guard, he had single-handedly destroyed the gang of fugitives in a desperate gamble for his own life and those around him, right to witness at arm's length the explosive disintegration of his longtime friend, Judge Haley. Then, at the moment when he had gained control inside the truck, he was struck down, and permanently maimed, by a wild shot fired by a San Quentin guard.

Attorney Leo Branton Jr. moved cautiously with the young D.A., for you 3 not clobber a crippled hero. He jinked out some minor inconsistencies in Thomas' story, mostly having to do with confusion over the names of William Christmas and Willie Reddicks. Then he got Thomas to admit that of the 10 .357 magnums displayed on the table; could not tell which one he had used, they were almost identical, and both had been fired six times.

...*...the situation in the truck*—the first gunfire exchange resulted in the death of McClain and Jackson, and Thomas grabbed McClain's gun to fire at Christmas and Magee but also hit Judge Haley—

It was a fact that at about the same time Haley's head was being blown off, a .357 magnum slug hit the judge in the heart. As Branton tried to reconstruct the story, Thomas, shot in the spine, instinctively discharged his .357 magnum into the judge's heart, killing him, and his death throes caused the shotgun held by Magee to discharge. (The theory is only one that could be concocted by a desperate defense—D.A. kills his friend the judge, while convicts struggle against odds to preserve life, to no avail.)

Unchallenged Testimony

Thomas was an impressive witness and when he was wheeled away from in front of the jury his story was intact. A short time later a state expert would show conclusively that Thomas shot who he said he shot, and Christmas shot Judge Haley.

Thomas' remembering that McClain asked Jackson for the tape established that there was a conspiracy in train; his testimony about the schedule the desperadoes were on confirmed other testimony; his testimony about the intended ride to the airport buttressed other witnesses and lent credence to the belief the conspiracy had unseen partners at the airport; his vivid description of the frantic 20-second fight within the van, observed by few surviving witnesses, finally gave the public the last pieces of the story played out that August morning 19 months before.

Next were two Los Angeles gun dealers. Owen Swisher, formerly of Western Surplus, told how Angela Davis came to the store April 7, 1969, and bought the Plainfield carbine with extendable stock, serial 18514, and two banana clips, 100 rounds of ammo, a sling and a cleaning kit, all for \$158.42. Inexplicably, Swisher listed her in his records as a "male Negro." For identification she showed him her driver's license and passport. He said the ammunition was military type, illegal for hunting.

Gun for 'Self-Protection'

John E. Plimpton, who was working at the Brass. Rail gun shop in Hollywood on Jan. 2, 1968, recounted selling Miss Davis the .38 Browning automatic. He said she told him she needed it for self-protection.

(At this point in the trial an extra-courtroom event nearly caused a mistrial. An assassin cut down James Carr, 28, a San Jose resident and onetime cellmate of George Jackson. Police almost immediately arrested two former Black Panthers stopped a few miles from the scene in a car containing several guns and several Molotov cocktails. Carr was the husband of Betsy Hammer, daughter of Mrs. Joan Hammer of San Jose, and was staying in the Hammer house, a center for the Soledad Brothers defense movement, and one of the others staying at the house, Mabel Magers, was on close terms with Jonathan Jackson and became a major prosecution witness. Mrs. Hammer visited George Jackson at San Quentin August 6, her conversation with the convict interrupted by the visit of Jonathan.)

Two more witnesses followed. San Rafael photographer Roger Alan Bockrath said he watched the gun battle from behind a car near the van, after being threatened by the cons, and he thought the fight opened with rifle fire from a San Quentin guard crouched behind a prison vehicle and that after the guard's first three shots the van lurched

i umaiut, vnu waicucu Luc uauie iron) a third-floor balcony, said approximately the same.

Another prison guard, Joseph J. Murphy, explained San Quentin's policy of "No escape with hostages," and related his own observations at the civic center (he didn't fire a shot). He thought someone in the van fired first, and that Guard John Matthews then fired two or three times, after which the escape vehicle stopped.

The next day more San Quentin guards told their stories. John Matthews, an expert marksman, said he was on duty that day accompanied by rookie guards, some with only four days of service, and they set up a hasty roadblock outside the big court building. He said he fired only at positive targets.

When the van started up he saw both driver and passenger beside him, both looking left and right. "When they got to me two weapons were pointed at me and one or both of them discharged. I ducked and came up firing. I fired a shot at a person in the van... The one on the driver's side first... He flew down away from the sitting position..." Matthews fired again at the visible passenger and "he flew down too. His body went violently away from the line of fire. A man exposed himself from the rear of the van, facing me with a pistol in his hand. I fired and he went down. He was either pushed up or bounced back up. I fired again and he stayed down." (This must have been Christmas, who had tried to go out the back door of the van.)

Three other guards, neophytes all, testified about their firing. None seemed sure he had hit anything.

Keith Craig, a bespectacled investigator for the Marin County Coroner, testified that a wild bullet crashed into the window of his office, too, and that he went below to the Shootout scene as soon as the shooting had stopped. He climbed into the van and examined the bodies—Christmas dead at the back of the truck; Judge Haley dead. Young Jackson, lying next to the driver's seat, was still alive, moaning and rolling his eyes, but died as Craig examined him. When he started to examine McClain, who was slumped over the stick shift, he was ordered not to touch him, an official pointing to three red "dynamite" sticks in his pocket (the highway flares).

Craig said he looked through Jackson's wallet, and based his identification upon the youth's driver's license. Then he pronounced one of the vital pieces of the state's evidence: in Jackson's wallet he found a yellow slip of paper upon which was written "588-9073." (It was a telephone number the prosecution said was that of a public telephone booth near the American Airlines ticket counter at San Francisco airport. Prosecutor Harris had suggested that no one would want a public telephone booth number or want to call one unless he reasonably expected someone of his acquaintance to be there when he called, and he would establish, that Angela Davis was at the airport that day, and left in a hurry.)

History of Guns Involved

The state's next witness was Fred H. Wynbrandt, chief of the department of technical services of the state Bureau of Criminal Identification and Investigation.

Wynbrandt's testimony was long and involved, but he was able to trace for the jury the history of each gun in evidence, whether purchased by Angela Davis or seized from a law officer, and who held it and what happened to most of its bullets (and if recovered, where).

oi Branton that Assistant District Attorney Gary Thomas might have seen his friend Judge Haley.

Wynbrandt established that while both Colts were .357 magnums, they held different ammunition—one had .357 magnum ammo; the other .38 caliber Christmas held the pistol with the .31 caliber bullets; Thomas testified he seized a .357 from Jackson and fired it at Jackson, McClain, Christmas and Magee. Wynbrandt testified that .357 slugs killed McClain and Christmas and wounded Magee (the bullet that killed Jackson was never recovered). The bullet in the judge's heart was a .38. (If attorney Branton's theory was correct, that D.A. Thomas shot Judge Haley, then Christmas would have been responsible for killing McClain, shooting Magee, and committing suicide.)

Wynbrandt stated he had found 14 bullet holes or creases on the van, four of them caused by bullets fired from outside. The bullet that severed D.A. Thomas' spine was a .30 caliber carbine, and only two Quentin guards fired that weapon that day—one was the marksman Matthews firing from a few yards away, the other was in the hands of a rookie at quite a distance.

Wynbrandt could also state that the shotgun that killed Judge Haley was the one purchased by Angela Davis two days before the Shootout. This proved what seemed obvious, but it was a crucial piece of evidence in establishing the crime, and an advance in the science of ballistics, where usually shotgun discharges cannot be associated with any particular shotgun.

Angela's shotgun had been sawed off and the resulting rough edge left identifiable marks on shotgun barrels as they are expelled from the barrel, and by chance the autopsy surgeon had removed such a plastic shotgun wad that had lodged in Judge Haley's head.

On April 20 Prosecutor Harris put a state fingerprint expert, Spiro Vases, on the stand to relate the fruits of his examination of the van. Vases said that Marin County authorities waited a week before they called him in to give a thorough examination of the truck. He found smudges, some partial prints, but only one fingerprint that he could definitely identify—Jonathan Jackson's.

He did not find Angela Davis' fingerprint on the van. But in the satchel he found her print on her book, *The Politics of Violence*, and on two other pamphlets, one dealing with the M-1 carbine, and the other with the Cuban printing of Carlos Marighella's *Mini-Manual of the Urban Guerrilla*. He found more of Jonathan Jackson's prints.

Two more witnesses were father and daughter, Charles and Nancy Conrad. The man testified about Angela's repeated visits to his store, Western Surplus in Los Angeles, to buy ammunition. His daughter testified especially about "Steven Mitchell's" purchase of the M-1 carbine (exchanged for the faulty 9-mm. Jetfire) on July 25, 1970, just two weeks before the shootout. Both Conrads testified they saw Angela give "Mitchell" the money to buy the 9-mm. rifle which she later pronounced defective. Miss Conrad swore that on July 25 Angela had an escort—Jonathan Jackson.

A San Diego police officer on patrol at the Mexican border the night of July 30, 1970, testified he saw Angela and Jonathan Jackson at the U.S. inspection station that night. They told him they were cousins and had been shopping in Mexico. They were riding in her blue Rambler when they were stopped. Officer Jerry Hoover's testimony underscored the close and continuing relationship between the pair in the days immediately preceding the shootout, if not their habit of casually and inaccurately

(Continued on page 12)

tely identifying one another.

The next witness Harris called was a bearded lawyer from San Jose, John Thorne. Thorne had been George Jackson's attorney (authorities duly noted that the smuggled love letters from Angela to George had been found by prison guards in an envelope from Thorne's office. Months later authorities would reveal that details of an escape plan for George Jackson were contained in yet another Thorne envelope which was in the trousers of James Carr left at a Santa Cruz dry cleaners by Betsy Hammer Carr).

The prosecutor wanted Thorne to reseat on the stand a statement he had given to state investigators months before: that on August 5 he was in his San Jose office and had received a phone call from Angela Davis who told him she and Jonathan Jackson were in town, passing through en route to Santa Cruz, some 40 miles south, "to pick up some things."

Thorne resisted answering any of the prosecutor's questions, and was accompanied by his own attorney, who fired off salvos of objections, most of which Judge Arnason sustained. Thorne's attorney was Charles Garry, often the mouthpiece for Black Panthers in trouble with the law.

Garry and Thorne maintained that anything Thorne said would violate the attorney-client relationship, first with Jackson, then with Miss Davis (who later took the stand for but a moment to claim that she wanted Thorne to represent her with publishers).

Harris maintained that on Sept. 29, 1970, when Miss Davis was still a fugitive, Thorne appeared in response to a subpoena at the attorney general's office, accompanied by his own brace of attorneys, Marvin Stender and Floyd Silliman.

Branton said that Thorne admitted he had been confused when at the attorney general's office—the phone call came in July, not in August. When Harris finally was permitted to question Thorne, he asked, "Where were you Aug. 5, 1970?" Thorne replied drily, "I have no memory whatsoever where I was that date." He could not even remember if he was in the United States. Thorne then consistently pleaded atrocious memory in slipping away from every question.

Another state witness, Lt. Robert H. West of San Quentin, brought the trial back to the days immediately before the shooting. He testified he was in charge of mail and visitors at "Q" and saw Angela Davis and Jonathan Jackson together just two days before the tragic events, and that Jonathan held a long conference with his brother while Angela waited outside the visitor's room, registered under a phony name.

West said that on August 5 Jonathan appeared at "Q" and signed in to visit his brother at 11:50 a.m. He also signed stating his companion was "Diane Robinson." Asked who accompanied Jackson that day, West replied, "the lady sitting over there with the purple clothes on," meaning Angela Davis.

West said that once during the visit Angela stood up from her seat in the waiting room and walked over to a doorway, where she could see both Jacksons. She was sneaking a peek. He told her to return to her seat. Jackson signed out at 2:15 p.m.

West also said Jonathan visited George the previous day, also accompanied by "Diane Robinson," and that he arrived at 15 p.m. and left at 3:10 p.m. West stated that on the August 4 visit he did not see the face of "Diane Robinson" but only the back of her head, and he described her as a fair-skinned black woman with an Afro hairdo.

Another "Q" custodian, Robert L. Ayers, supported West—indeed the "Diane Robinson" who accompanied Jonathan August 4 and 5 was Angela Davis.

A United Air Lines passenger agent testified that he sold an airline ticket to Miss Davis in Los Angeles on Aug. 3, 1970, for an 8:30 flight to San Francisco. Asked how he could identify her as Miss Davis, he noted one of her outstanding personal markings—"the split in her teeth was something that stuck in my mind."

The defense stipulated that indeed this was Angela buying a ticket, and the prosecution's reason for witness testimony to support something the defense would concede seemed to convince the jurors that identifying Angela Davis—given her Afro, stature, earrings, gapped teeth and celebrity—was not a difficult feat.

The next state's witness came from almost within the household of the Soledad Brothers defense. She was Mabel Magers, a young blonde originally from Kansas City, who for months had been staying in the home of Joan Hammer, the Soledad Brothers activist and mother-in-law of the slain James Carr.

Miss Magers' story revealed one thing about Jonathan Jackson—he got around in her car—and it also gave further support to the state's theory that Angela Davis drove herself to San Francisco airport.

Miss Magers said she loaned her 1965 Volkswagen to Jonathan on August 4, and didn't get it back again until late August or early September, and then under unusual circumstances.

The Car Mystery

She did not seem concerned that her car was missing for weeks. About its recovery she told a strange story: In late August or early September she was asleep at the Hammer home when suddenly she awakened to find Georgia Jackson, mother of George and Jonathan, standing beside her bed. They talked about her car, and then a few days later Mrs. Hammer drove the blonde north to San Francisco airport, where they rendezvoused with Georgia Jackson and drove through the cavernous parking garage until eventually they came to her beige VW. She had no explanation how Mrs. Jackson would know where the car was.

Miss Magers said that when she got in the car she found newspapers and trash, which she itemized to include a Coca Cola paper cup and an empty cigar package (during 1970 Angela Davis smoked cigars). She threw out the trash. Her parking bill was \$33.

The young woman said she first met Jonathan in mid-July (thus she knew him but three weeks of his short life)—Angela Davis had stopped by the Hammer home in San Jose with him. Then she had run into him again at San Quentin, when she had accompanied Mrs. Hammer on a visit to George Jackson. Then she had driven him to the airport on July 28 and she met him August 2 at a Soledad Brothers rally in San Francisco.

The cross-examination was an exhibition of brutality by Howard Moore Jr., one of Angela's panel of lawyers. He began suavely enough: Hadn't she referred to herself on occasion as Mickey Jackson? Yes, she replied. "That was because of your warm and close relationship with Jonathan Jackson, is that correct?"

"Perhaps correct. I was returning a compliment."

"The relationship was warm and affectionate, is that right?"

"Yes."

"Now, I QOXI I warn to eniuaaaa, you or your family, but didn't you spend the evening of Aug. 6, 1970, with Jonathan Jackson in the Holland Hotel [Motel] in San Francisco?"

The question had all the subtlety of a Black Panther fund appeal. The press row was stunned, then reporters scribbled furiously as Miss Magers' attorney (she was permitted counsel) conferred with the judge. When she was permitted a reply it was a firm, "No."

It was clear what the Davis defense wanted to insinuate about the woman's "warm and affectionate relationship" with Jonathan.

Later the prosecution could remove the burden placed on the witness by Moore: she had never heard of the Holland Motel until that day in court, she had never gone to any hotel with Jonathan, and she never accompanied him on any trip to Marin County Civic Center or to San Quentin on August 6.

Four witnesses then placed Angela Davis with Jonathan Jackson in the vicinity of the Marin Civic Center on the day before the Shootout, Wednesday, and that August 6 was possibly the originally scheduled time for the kidnapping, if one believes that Judge Haley's early recess foiled Jonathan's plan and forced postponement until Thursday.

Alden Fleming, a husky wrestler type who runs a Mobil gas station across San Pedro Avenue from the Marin Civic Center, said that on August 6 at about 10 a.m. "a colored man and a colored girl" came to his station. The young man reported he had a rented Hertz van and it wouldn't start. He didn't seem positive about what he should do, Fleming said. "I wondered why she did not come inside. He didn't know what to do. I had to do everything for him. He gave me the impression he wanted some help from her, wanted the authority to do things."

Fleming said he suggested calling Hertz and getting authorization to run a bill for repairs up to at least \$6.

then Fleming sent his son, Peter, over in a station wagon to "jump start" the stalled truck. It was the next day, when he heard about the Shootout that involved a rented yellow van, that he phoned the sheriff's office to provide the identification he had, Fleming said. Asked to identify Miss Davis, Fleming approached her at the counsel table. "It's the lady here."

In cross-examination Branton asked, "Have you much experience in distinguishing the feature characteristics of people you describe as colored people?" "Yes," was the reply. Fleming allowed as how he hadn't seen too many black women with light complexions, but added that Miss Davis was distinctive, with high cheekbones, big eyes. "After you've been around a person awhile, you pick up the characteristics of their face." He said she wore tinted glasses, but he didn't know what color because, he explained, he is color blind. (The defense pounced on this fact later.)

Branton's cross-examination also brought out that Fleming had seen pictures of Miss Davis in the newspapers before August 6 but had not recognized her that day, and he challenged the very reliability of the photographic lineup that Fleming took at the sheriff's office 10 days after the Shootout. He had looked at nine photos; three were of Angela, one of her sister Fania Jordan, a Negro woman without Afro, one a black woman about 55 years old, and two of black women without Afros, and one undescribed.

The service station owner admitted that at one point he had mistaken Fania for Angela (most observers would agree that the sisters look remarkably like, well, sisters). He had, in other words, picked out four photos of the woman who had come to his station—three Angelas and a Fania.

he drove the two to the stalled van and because the man didn't know how to start a vehicle on compression the woman took the wheel. He identified the couple as Angela and Jonathan. He pointed out Angela in the courtroom.

On cross-examination Branton elicited that young Fleming had not been able to "positively" pick Angela's photo at the sheriff's office, and his grand jury testimony had not been so authoritative. He described the woman he helped as "tall, slender, with a pretty good build on her, an Afro hairdo and sun glasses."

A more forceful identification came from Michael Vonada, a county fireman who was at Fleming's station on August 6. Vonada said without hesitation that the customer was Angela Davis and picked her out in court. He remembered her at the station, said "hi" to her, stood next to her for a few minutes. He said she was "a young, black, Afro hair, light-complected, good-looking young lady. She was 5 foot 6 or 7. Her teeth were spaced apart. She was smoking a black cigar. . . ." Vonada said he helped Jackson look up the Hertz number in the phone book.

Even Gave Autograph

Dennis Bosch, the mechanic at Fleming's, said he remembered the yellow van, and the two people associated with it—"a good-looking young black with sharp-looking clothes" and a Negro woman he described as "tall, slender, fair-complexioned with Afro hair, wearing a black mini-skirt and boots." In one of the few slip-ups in the prosecution's presentation, Bosch was not asked to identify Angela Davis as the woman who came to the station August 6.

In questioning the station employees, attorneys Branton and Moore seemed to stress to the jury that whites are not reliable in distinguishing one Negro from another.

Two witnesses, Frank Blumenthal and David E. Lifson, employees of the Eagle Loan Co., on San Francisco's 3rd Street, testified that Miss Davis, accompanied by Jonathan Jackson, showed up at 5 p.m. August 5 and she bought an inexpensive shotgun. She was recognized as the Angela Davis and gave one of the men her autograph.

The next witness was a San Quentin guard, Gordon C. Farrell, who had been McClain's escort at his trial August 6 and 7, 1970, Farrell said Jonathan Jackson visited the courtroom on the morning of the 6th, and then again the next morning. The morning visit of August 6 is generally believed to have been a dress rehearsal for the real event, which probably would have taken place that afternoon except for Judge Haley's early recess.

Then James Layne, Haley's bailiff, was sworn, and told about Jackson coming to court after 3 p.m. August 6 and leaving when told the trial had recessed. Layne said Jackson carried a black bag and wore a knee-length coat.

The next morning at 10:45 Layne said he saw Jackson again. Again the knee-length coat, again the black bag. He took a seat. Then a few minutes later "he removed a small black automatic, turned and told me to freeze."

Next on the stand was a Pacific Telephone Co. security agent, James J. Finnegan, who brought company records which showed that at 10:44 a.m. on August 6, 1970, a collect call had been made from the Al Fleming Mobil service station to the Hertz office in San Francisco, that the call was made in the name of Jonathan Jackson, that it lasted five minutes 41.5 seconds, and cost 4¢ cents.

(Continued on next page)

Finnegan also confirmed one other item of company record. Telephone number 588-9073 is located near the American Airlines ticket counter at San Francisco International Airport.

Harris' next witness was an ex-convict, Louis F. May, who had in August 1970 operated a motorized tram that took visitors from the main gate of the prison to the prisoner-visiting area. May said that on the day before the civic center Shootout he had seen Jonathan Jackson and Angela Davis at the prison, had seen them walking on a pathway, and had later seen them drive off in a yellow van, with Miss Davis facing Jackson. He said as they drove by on the other side of a chain link fence he heard sounds of arguing coming from the van.

When defense attorney Moore turned to substance, he succeeded in denting May's story. He got May to repeat a statement he had seen young Jackson in the van on August 5, although Jackson didn't rent the van until the 6th. May said he had seen Jonathan August 3, 4, 5 and 6 at the prison, and that on the third Angela was with him. Other testimony has established that she had not flown to the Bay area until the night of the third.

Another witness was the owner of the Holland Motel on San Francisco's Lombard Street, who testified that at 7:45 p.m. Aug. 6, 1970, a man named Jackson driving a Ford, license T99889 (the Hertz rental van) registered for two, paid \$16.50, and was assigned room 20. Mr. N.K. Patel said he could not identify Jonathan Jackson from the photos displayed and could not say the vehicle listed was a yellow truck. He did not see the other occupant.

A Pacific Southwest Airlines ticket agent, Marcia Lynn Brewer, was the next witness, and said that on Aug. 7, 1970, and a few minutes before 2 p.m., Angela Davis ran up to her counter at the K&M Mini gate and bought a ticket to Los Angeles, hurriedly writing out a check for \$16.50. Miss Davis had no luggage, she stated. She recognized Miss Davis because of the gap in her teeth, she said.

Later, under Branton's cross-examination, Miss Brewer conceded the 2 o'clock plane left 13 to 20 minutes late that day, and she acknowledged that a week after the shootout, when investigators came around, she had no memory of the Angela Davis ticket sale. She explained, "I couldn't remember because of all the publicity. ... I couldn't remember if it was that particular day. So I went back and double-checked and there was the record of the \$16.50 check and I knew then I had had some transaction with Angela Davis that day... it was my first check of the day."

Branton suggested Miss Davis wasn't in a hurry—She was in a hurry all right," responded the ticket clerk—and Miss Davis might have had luggage but Miss Brewer might not have seen it.

Harris' next move was to show what Angela Davis did after she left San Francisco. Much of the facts were conceded in stipulations by the defense.

A deposition from Robert Loman of Chicago who said that on Aug. 14, 1970, a tenant in his Chicago building, David Poindexter, told him that Angela Davis was coming to Chicago and would later go to Detroit. In Poindexter's apartment he was introduced to Miss Davis. He said he saw them again the next day and saw them leave on the 16th (this occurred the day after a warrant had been issued in Marin County charging Angela with murder and kidnapping).

A Detroit motel clerk, Donald Tracy, testified by deposition that on August 17 Mr. and Mrs. David Poindexter registered, and left August 19. He identified Poindexter by photos. Another deposi-

tion—stipulated by the in-chambers—was read from Dr. Irving Berris, an optometrist whose shop was across from the Detroit Howard Johnson motel, who said that on August 18 a man and woman came in and he examined the woman's eyes. She said she was Mrs. Lorean Poindexter. She paid for the glasses on the spot and picked them up the next day.

David Dennis, a Howard Johnson Motel clerk in New York, deposed that on October 8 Mr. and Mrs. George Gilbert registered at the motel. Mrs. Gilbert was a "tall, black, very good-looking woman."

Then Harris put Harry Mursten, manager of the Gold Lake Apartments of Miami, on the stand and he testified that on Sept. 4, 1970, Mr. and Mrs. David Poindexter of Chicago, accompanied by June Hunzinger (Poindexter's mother) rented an apartment, moving in September 9. Poindexter said he was a \$15,000-a-year legislative assistant in Illinois and his wife was Lorean Poindexter. Mrs. Poindexter, said Mursten, was "on the tall side, a light Negro, very attractive, very intelligent, very friendly, very smartly dressed, with hair pulled straight back and gathered back in a bun." He identified Poindexter by photo, but was not asked to identify Angela.

A Fort Lauderdale auto mechanic, Patrick Rogan, testified that Poindexter brought in a Toyota September 28 for air conditioning service and that he was accompanied by a woman, "tall, with skin not black-black, hair pulled back and spaces between her teeth." They stayed more than an hour.

FBI agent Lawrence T. Monroe testified about the arrest of Miss Davis at the Howard Johnson Motel on New York's 8th Avenue on Oct. 13, 1970. He said she was wearing a wig, was arrested with David Poindexter, and they had registered as Mr. and Mrs. George Gilbert. In her handbag, he said, he found numerous credit cards in the name of Lorean Robinson and Lorean Poindexter (Lorean was the name of Poindexter's late wife).

All this testimony was designed to show guilty flight, hiding out under aliases, efforts to disguise and evade.

Harris made another attempt to extract testimony from attorney John Thome, who was again represented by his own counsel, Charles Garry. Thome still suffered from fuzzy blackout of the memory, but when Prosecutor Harris read from a statement given in the attorney general's office in September 1970, when a nationwide search was underway for Angela, in which Thome recounted receiving a phone call from her on August 5 (passing through San Jose with Jonathan en route to Santa Cruz), Thome reached for an answer. Yes, but that statement was in error. He had checked his records; the phone call couldn't have been in August, it must have been before July 21.

Harris had just about finished his case, circumstantial as it was: Angela Davis had owned all the guns used in the escape try; she was in almost continuous company with Jonathan Jackson for days before the kidnapping; she had cashed several checks in the Bay area and Jackson had disbursed large sums for an unemployed man; she was in the vicinity of the Marin Civic Center the day before the shootout; she had a romantic interest in freeing George Jackson as well as a revolutionary's interest in freeing the Soledad Brothers; the slain Jonathan's wallet contained the number of a public telephone at San Francisco airport; the escaping cons said they were going to the airport; Angela was at the airport that day and departed in a seeming panic.

Just before he rested his case Harris was permitted to introduce Angela's

love diary, also called "The San Quentin Document," because it was found in George Jackson's cell. The diary was smuggled in to Jackson, and while it was written after Angela's capture, Harris contended that it supported his theory that love and passion were the principal motives for Angela Davis to conspire to free George Jackson and that that love existed prior to the events of August 1970 and continued until Jackson's death in his own escape attempt in August 1971.

Sample excerpts: "7/8 I'm totally intoxicated, overflowing with you and wanting you more than ever before. An hour and a half since the last embrace. You are in your cell. I am in mine...."

"You're still here. I see you, we are one and this indestructible togetherness they'll never be powerful to wrest away from us. With words effortlessly at my command, like you, I'd be able to pour out the thousand pages describing all the nuances of all those vast feelings which have been accumulating over centuries, today infinitely magnified, achieving dimensions of concrete and now still undiminished in their intensity."

Later the same day she wrote, "That so much love could exist anywhere, in any two people, even between us, I never realized. It makes me feel all fluttery and kind of weak, not though in the sense of succumbing to weakness, for it makes me feel so much stronger, with you my strength without end, my life-long husband."

"The most perfect moments of my life, that is what today was all about, a perfection screaming for more love."

"As I was pulling myself together (as in Salinas in May of 1970)... I was struck by a similar sense of inexorably succumbing to you, just you, being absorbed by that huge beautiful man with whom I had instantly and unexpectedly fallen in love...."

"Love you, love you with love even more unbounded, even more unquerable. Your life-long wife."

The love diary had originally amounted to 18 pages; at the judge's instruction it was pared down to seven pages, then reduced to three pages, which is what the jury saw.

That was the prosecution's case. After a routine request for a directed verdict of acquittal, and a denial, the defense began. Miss Davis would never testify in her own behalf, where she would be subjected to cross-examination.

The defense also used an invaluable tactic: It did not present its list of witnesses to the prosecution until the day before their testimony, thus at every step the prosecution was kept in the dark about defense witnesses.

First witness for Angela Davis was Susan Castro, identified as the director of the Mission Child Care Consortium, part of the Model Cities program in San Francisco.

Mrs. Castro testified that on August 5, two days before the shootout, when Quentin guards West and Ayers said Miss Davis was with Jonathan Jackson at the prison under the name of "Diane Robinson," and was there from noon to 2 p.m., why in fact Miss Davis was with her. She had lunch with Angela that day, from noon until 2:30 or 2:45 at the home of Juanita Wheeler on Willard Street, near Frederick, in San Francisco (this is near San Francisco's Golden Gate Park, a half-hour's drive from San Quentin).

After a leisurely lunch, said Mrs. Castro, she drove Angela to Soledad House in the Potrero district of the city and showed Angela around the facility, and later Jonathan Jackson joined them and volunteered to drive Miss Davis back to

Soledad House had come up and young Jackson had participated in the talk; there was some discussion about getting weapons to protect the place, she said.

Attorney Branton asked her how she became interested in the Soledad defense, and she said a friend, attorney Faye Stender, had told her about the three convicts accused of murdering a guard.

Cross-examining, Prosecutor Harris brought out some details of Mrs. Castro's own participation in the Committee to Free Angela Davis, that she had given a speech at a committee rally, that her luncheon companion Juanita Wheeler works for the *People's World*, the Communist newspaper in San Francisco, and that that is where she met Mrs. Wheeler, and that she herself had written articles for the *People's World*.

"Is there any other person in the world," asked Harris, "other than Jonathan Jackson who is now deceased, who you say was present on the date you saw Angela Davis?" "No," she replied thoughtfully, "I can't positively identify anyone."

In other words, the entire luncheon alibi would be supported only by her own words, and Mrs. Wheeler's, which would come later.

Had she not been visited by FBI agents in September 1970, seeking information about the fugitive Angela Davis, and had she not refused to open her door to them? Yes, it was true, she said, but she had told them to see her in her attorney's office and they declined.

Susan Castro was a virtual unknown to members of the press corps, and, it seems, to Harris.

Actually, Sue Castro is known by several names. She was known in the early 1960s when she was active with the radical Slate party at Berkeley as Susan Witkovsky. She worked for *Root & Branch*, the beginning of many Berkeley radicals' careers. She was married for some time to a prominent young star ascending in the Communist party. Marvin Markman, who had already established his anti-American credentials by leading the American delegation to the Communist-sponsored World Youth Festival at Vienna in 1959. Susar (her real first name is Susajuenna) divorced Markman, and in 1966 married David Castro, vice president of American Documentary-Films, which sponsors, in the U.S., films from Cubs and distributes such "documentaries" as CBS' "The Selling of the Pentagon."

Sue Witkovsky followed the usual path of campus revolutionaries in the early 1960s—from Slate, where she was thrown into contact with such budding revolutionaries as Mike Myerson (a DuBois Club founder, a Hanoi and

(Continued on nextpage)

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(continued from preceding page 1)

Havana visitor and now New York boss of American Documentary Films and a prominent Communist) and Terence "Kayo" Hallinan.

When in 1965 Hallinan began his ill-starred San Francisco School of Social Sciences, Susan was a functionary for the school, even wrote a letter to the *People's World* soliciting office space for the Marxist academy (it finally wound up in rooms furnished by the wealthy Hallinan family). About the same time she was selected as a delegate from San Francisco for a Women for Peace contingent going to Washington to agitate for peace (Women for Peace in San Francisco was closely allied with Women Strike for Peace, but the Bay area had a pronounced attraction for CP rather than "peace" types).

In 1965 Sue Witkovsky was also listed on the masthead of *Insurgent* magazine of the DuBois Clubs. Carl Bloice was editor of *Insurgent*; David Castro was listed as a staff member.

In recent years Sue Castro has clearly shown she has not moved out of the CP orbit, or too far away from journalism. In 1970 she became Northern California coordinator for *Colonist*, a publication of the Black Student Union at Stanford University. Then she moved closer to CP activity, serving as a functionary of the Northern California Committee for Trade Union Action and Democracy, a blatant CP-front effort, and played a role in the Political Prisoners Solidarity Committee.

Next Bramon called Valerie Mitchell, who testified she and Angela Davis lived together at 215 W. 45th St., Los Angeles, until July 1970, when Mrs. Davis moved into her own apartment. The 45th Street place was becoming too crowded, she said, because it was being used by both the Che-Lumumba Club of the Communist party and the Soledad Brothers Defense Committee. Mrs. Mitchell said she was still a member of the Communist party.

When attorney Leo Branton brought out a high wooden gun rack Mrs. Mitchell identified it and said it was always stored in a closet in her apartment and that members of the Che-Lumumba Club, including Angela, used the guns for target practice. Two of the carbines and the Browning automatic entered as evidence she said looked like the guns customarily stored in the rack.

Mrs. Mitchell's story was that on August 1 Jonathan Jackson dropped by her apartment to run off some material on her mimeograph machine and she left him there alone. When she returned he was gone. The next day, she said, she left for San Francisco, to attend the opening ceremonies for the Soledad House and then returned to Los Angeles.

It wasn't until the day after the Marin County shootout, she said, that Angela Davis and Franklin Alexander came to her apartment in an agitated state and asked if the weapons were still in the rack. "I said I didn't know. I opened the closet and the two carbines were gone.... I checked the bottom of the rack and the Browning was missing. When they saw the guns were missing Franklin said, 'Oh shit!' and Angela said, 'Oh, no!'"

Alexander had then showed her a newspaper with a picture of Jonathan in it with a carbine with a collapsible stock. "They asked if Jonathan had been there and I said he had come by on Saturday. Then they left and the next I saw Angela was in the Marin County Jail."

Mrs. Mitchell's testimony, without stating it explicitly, added up to the charge that Jonathan had stolen all the guns and ammunition from her apartment, and the target-practicing Che-Lumumba club members hadn't

iiouceu me missing weapons tur m least a week.

To Harris' cross-examination Mrs. Mitchell acknowledged that Angela kept her clothes and books there and even stayed overnight sometimes, even though she moved out in mid-July. She also admitted that twice investigators from the attorney general's office had come to question her about any knowledge she might have about the Marin shooting but that she had declined to respond to any of their questions on the grounds of self-incrimination.

Mrs. Mitchell seemed to support the defense's construction that Jonathan Jackson was not only a kidnapper and a gunman but a thief as well. She had, Mrs. Mitchell said upon cross-examination, left Jonathan in the apartment alone while she and a friend, known only as Reggie, went off to San Francisco.

Mrs. Mitchell, while evincing no trouble in recalling the events of that July and August of 1970, has trouble remembering her own name. She frequently affects a black African name, and in 1969 she wanted to be called "Tamu Uhuru," but by 1970 she was calling herself "Tami Ushindi." (In Swahili *tamu* means "sweetness" and *uhuru* means "freedom.")

Mrs. Mitchell has been moving in the Communist orbit at least as long as Angela Davis. From June 21-24, 1969, something called the World Peace Assembly was held in East Berlin. While there were some lovely cover names like the American Friends Service Committee, it was really an affair stage-managed by the Moscow-run World Peace Council.

The Oct. 17, 1970, *People's World* disclosed that Morton Sobell (convicted Soviet espionage agent) wouldn't be able to attend the 14th annual donors' banquet to benefit the *People's World* (some trouble with his parole board), so Tamu Ushindi would fill in, describing how prison authorities tried to frame the Soledad Brothers. Families of the brothers would be introduced.

The young Communist turned up as a public speaker again this year, speaking at the 34th anniversary celebration for the *People's World*, held at the First Unitarian Church in Los Angeles, a frequent picnic grounds for Communist groups. The CP paper referred to her as Tami Ushindi.

Carl Bloice, executive editor of the *People's World*, was the next alibi witness for Angela Davis, and he too would add an account of Angela during the critical days, none of it substantiated except by a few other CP members.

Husky (5'9", 190 pounds), with only a slight natural and a droopy mustache, the Negro Communist is a figure well known to law enforcement officers who have been watching him at Communist affairs for the past 17 years—ever since he was 16 years old.

Bloice testified he had received a letter from Angela in late July saying she would be in San Francisco the week of August 2, and he made arrangements for her to stay with Juanita Wheeler, who has labored in the *People's World* circulation department for 21 years.

Bloice said Angela came to his office at the *People's World* the mornings of August 4, 6, and 7, each day arriving about 8:30 in the morning. He recalled that on the 4th she stayed two and a half hours, on the 6th he was not sure how long she stayed and on the 7th—the day of the shootout—she was there until 1 p.m. At that time he borrowed Mrs. Wheeler's car and drove her to San

nuliuwu anpoii, auu lie taiucu nei luggage inside and watched as she went to the PSA counter at 1:45 p.m. and bought a ticket to Los Angeles.

Bloice's testimony directly contradicted that of the eyewitnesses who placed her in Marin County on the 4th and 6th, also suggested that Angela wasn't in a hurry at the airport, that she bought her ticket in an orderly fashion, that she had luggage, that she didn't drive Miss Mager's car there, that she had had an iron-clad alibi—accompanied by friends all the time—for all the time eyewitnesses placed her elsewhere..

It also revealed something about Bloice—for 19 months the Communists had bleated that Angela Davis was innocent of any involvement in the shootout, and journalist Bloice claimed to have intimate details of her whereabouts that would undeniably prove her presence elsewhere, and he had sat on the information and sat on the story, possibly the biggest one he will ever get in his lifetime.

Not once in the *People's World* had he written about his personal knowledge of Angela's activities while federal and local law enforcement officers ransacked the nation looking for her—only to discover later that she had been spirited out of Los Angeles to Chicago and beyond with the help of the Communist party.

When the prosecution's rationale for charging Angela with conspiracy was revealed in the indictment, Bloice had not once written that he could destroy the state's allegations. Angela Davis languished in jail for a

cal three months kept to himself the information that might have convinced a judge that the prisoner should be granted bail.

Bloice also accounted for Angela's activities the night of August 5, right after the shotgun purchase on Third Street He and Miss Davis, along with Mrs. Wheeler, had had dinner together at the home of a friend, Lynne Hollander (Miss Hollander, who was an activist in Berkeley's convulsive Free Speed Movement in 1964, is the public relations director for the Soledad Brother-Defense Committee.) (One wonders—don't Communists ever eat out?)

Bloice has a unique background that Harris could not have known. For many years Bloice was observed on the periphery of the CP, but he attended meetings in Los Angeles of the Labor Youth League, successor to the Young Communist League, as early as 1955. He was a UCLA student by 1960. Later that year he moved to the San Francisco area and joined the *People's World* staff.

He lived at 2924 Otis Street, Berkeley with Douglas Wachter, who had just achieved a measure of national fame for being the only CAL student called before the 1960 hearings of the House Un-American Activities Committee. Young Wachter invoked the 5th Amendment and then convinced many Cal students; he was a victim of a HUAC witch-hunt. Actually Wachter had been a delegate to the 1959 CP convention in New York. The other occupant of the apartment at 2924 Otis Street was Marvin Markman, the man who was the husband of Susan Witkovsky, also known as Susan Castro.

Continued on next page

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Bloice worked with the Slate party on campus (in which Sue Witkovsky was busy) and wrote also for *Root & Branch*. In 1963 he took off for the South to cover the momentous events of the freedom rides and the civil rights confrontations of those days and came back on a speaking tour.

In 1962 and 1963 Bloice lived—between trips to the South and to Southern California—at 633 Redwood Street in San Francisco, an alley on the fringes of the city's black Fillmore district.

For many years there were three houses in a row in the 600 block of Redwood, all occupied by CP members (and one house abutting them, on McAllister Street, was the headquarters of the Du-Bois Clubs). If the Communists felt the need for proximity for self-protection, security men appreciated the gesture as simplifying surveillance.

In 1964 Bloice moved from 633 to 636 Redwood, establishing a living arrangement to save money with Beverly and David Radcliffe (once red-hots, they now appear to have drifted out of the movement) and the aging black matriarch of the *People's World*, Juanita Wheeler.

Like Valerie Mitchell, Bloice tasted some of the good international life the Communist party can offer—he was delegated to a World Youth Forum in Moscow in 1964. The forum is just another presentation of the World Peace Council, represented in San Francisco by Bloice's good friend, black M.D. and Ph.D., Dr. Carlton Goodlett.

In 1965 Bloice became an academician, appointed an instructor at the San Francisco School of Social Sciences, the outfit run by Terence Hallinan and in which Sue Witkovsky had a hand.

Then it was back to the Red jet set—meeting in Belgium to arrange a WPC-sponsored affair in Helsinki, then in three months off to Helsinki, then a dash back to Los Angeles to tell a Communist rally all about exciting new developments on the peace front and then off to Chicago to report the same to a Du-Bois Club convention.

In 1966 Bloice became a member of the county committee of the Communist party in San Francisco, and was put on the CPUSA's National Committee. He also was delegated to move into electoral politics, especially the developing New Left politics. He joined the Community for New Politics in Berkeley and was campaign manager for Ramparts editor Robert Scheer's try for Congress.

When the CP ordered Bloice to Washington as *Worker* and *People's Worker* correspondent, his New Left friends threw a party for him and in a good-natured jab in his ribs presented him with a bigger-than-life portrait of Chairman Mao. Someone, it is said, sent a copy of the news story to the military attaché at the Soviet Embassy in Washington, which complicated Bloice's life for a good many months and perhaps led to early disenchantment with capital life and his early return to San Francisco. He has been editor of the *People's World* since January 1970.

Angela Davis' next alibi witness was Los Angeles social worker Ellen (Mrs. William) Broms, who described how Angela received the first news of Jonathan Jackson's death—in tears.

She said the evening of Aug. 7, 1970, Angela and Franklin arrived about 7:30 for dinner, and after the meal the four of them sat around a table playing Scrabble and listening to records when the phone rang. It was Kendra, Franklin's wife. Was an announcement made? Yes. What was the reaction of Angela

and she began to cry."

She said they turned on the TV and caught 11 o'clock news reports on both radio and TV. Mrs. Broms said Angela kept saying she couldn't believe it. She gave her a tranquilizer and she remained overnight and the next day the men brought in a paper.

When Miss Davis read the article and saw the pictures, she exclaimed, according to Mrs. Broms, "My God, there's something about a shotgun. I just bought a shotgun in San Francisco for defense of the Soledad House and I gave it to Jonathan." Then she looked at a picture of Jonathan with a carbine and she said, "I wonder if it's one of ours."

On cross-examination Mrs. Broms said she had seen Miss Davis several times before the August 7 dinner, at "social gatherings," and she had attended a few meetings of the Committee to Free Angela Davis but she did not consider herself a member.

Harris said he presumed that Mrs. Broms had reported her information to some official agency after she heard a warrant was out for Miss Davis' arrest. No. After she heard of Angela's arrest by the FBI in New York, did she then report to some official agency? No. After Angela was returned to California and lodged in Marin County Jail? No. "And until this morning, in open court, you never have reported your information to any official agency of the state of California?" "That is right."

Harris didn't know Mrs. Broms' background and she was too modest. She was born in Brooklyn in 1942 as Ellen Margaret Kleinman, and she was known by that name until she married Broms in February 1963. She was Ellen Kleinman in 1959 when she attended the Communist 7th World Youth Festival in Vienna (Marvin Markman, Sue Castro's husband, the big Vienna cheese), and she was Ellen Elleinman in 1960 in Los Angeles when she was a member of the Independent Student Union (Carl Bloice, Prop.). She was busy—part of the Freedom Riders in 1961, and jailed in Houston; chairman of an ACLU meeting at L.A. State College in 1961, and a member in 1965 of the W.E.B. DuBois Clubs, the CP's youth auxiliary (like Bloice and Sue Castro).

Juanita Wheeler, the aging black *People's World* circulation worker was next, and her appearance was brief. She said Miss Davis arrived at her house on Willard Street about 10:30 p.m. August 3 and stayed there four or five days. She did not testify about the dinner with Bloice, Angela and Lynne Hollander on August 5.

Mrs. Wheeler, whose lifetime records almost continuous employment by the Communist party or its ancillaries, has an aversion to giving testimony.

Long-time students of Communist activities will remember that in May 1960 she was, according to FBI Director J. Edgar Hoover, one of the top Communists in the Bay area who were given instructions to create sympathetic demonstrations in San Francisco to protest the hearings of the House Un-American Activities Committee.

Another of Angela's alibi witnesses was San Francisco attorney Marvin Stender, whose wife, Faye, was the lawyer for George Jackson. Stender's testimony contradicted that of the four eyewitnesses who placed Angela in Marin County with Jonathan on August 6.

Not so, said Stender. On that day she had called his office at 9:30 a.m. and said she was at the *People's World*. He said he met her at 11:30 in a parking lot at Second and Mission Streets, midway between his office and the *People's World*, and drove her to Oregon Street in Berkeley, where he left her at noon. (Stender's story thus lent just the proper amount of verisimilitude to Bloice's—

rived on the 6th at 8:30 and stayed an unknown length of time. Stender said it was precisely three hours.)

The defense's next witness was Dr. Robert H. Buckhout, associate professor of psychology at California State College at Hayward, who spoke on the reliability of eyewitness identifications. He was currently doing a study, on a federal grant, of various factors coloring eyewitness identifications, and he gave a lengthy illustrated slide lecture discussing it.

The penultimate defense witness was one of the Soledad Brothers, Fleeta Drumgo, who was brought into the courtroom in chains and manacles and seated before the jury was brought in. (John Cluchette, the other Soledad Brother, was waiting nearby in the courthouse but was never called. Both Drumgo and Cluchette will be paroled in November of this year. Drumgo must stand trial for murder in connection with George Jackson's escape attempt Aug. 21, 1971. Three guards and two prisoners were slain in that attempt; most of the bodies were found in Jackson's cell.)

Drumgo really didn't have anything to say—he didn't know of any attempt at a prisoner escape at the Marin Civic Center and he had never been told by James McClain that there would be an escape with the purpose of securing freedom for the brothers. (This was idle motion by the defense—the prosecution never claimed that all three Soledad Brothers would have knowledge of the escape-hostage plan.)

The final defense witness was Charlotte Elsie Gluck, UCLA philosophy department office manager during 1969-70, who said the department had been flooded with hate mail and phone calls directed at the black Communist. A stack of the hate letters was introduced as evidence.

Thus ended the defense, which never put Miss Davis on the stand to personally describe her activities the first week of August and thereafter, or be subjected to cross-examination about them.

A rebuttal witness for the prosecution probably did the defense more good. He was Lester Jackson, father of George and Jonathan. Prosecutor Harris, after much wrangling with judge and defense, finally was permitted to ask the quaking, tearful Jackson, "Did you, on Aug. 1, 1970, at 9 o'clock in the morning, drive your wife and your son, Jonathan, to the Los Angeles International Airport?"

Jackson, his hands trembling, answered slowly, looking at Judge Arnsperg. "Sir, I have lost two sons. I cannot participate in these proceedings for the preservation of my mental health." Mental health is not a legally acceptable plea for declining to answer the questions, and Jackson was cited for contempt, and in a merciful gesture fined \$100 by the judge and excused.

It was "an anti-climax, but the end of testimony. The jury had been presented the body of the evidence.

If chose to disbelieve the testimony of the witnesses who placed Angela Davis in Marin County during the critical days preceding the Shootout, and depended instead on the alibis provided by her closest and most intimate friends, many of them members of the same secret organization, all of whom asserted that they had been alone with her, with no other outside witnesses, during the critical hours.

When they had meals together it was never in a public restaurant, but always alone, in private homes, away from public view. They believed a newsman who sat on the biggest story of his life for nearly two years.

In believing the collection of alibi witnesses who had never lifted a finger

to investigate the jury also had to disbelieve the prosecution's witnesses, almost every one of whom admitted a failing, as opposed to the defense's witnesses, who had almost total recall (except for John Thome, who went blotto).

There is no doubting that the defense team presented a brilliant case for the defendant, and it began, many months before the case ever went to trial.

One close observer of the trial put it this way: "The defense began many months ago with all the legal delays. That gave them time to put their stuff together. For nearly a year there was a steady tatoon of motions, each one heavily publicized, charging the prejudice on the part of the judge, prejudice on the part of the community, prejudice on the part of the grand jury, prejudice on the part of the jury panel.

"After nearly a year of squawking about not getting a fair trial, about legal processes rigged against the defendant, and about white prejudice—all inspired to seed the entire Bay area with propaganda favorable to Angela—the defense paid dose attention to jury selection, ably assisted by volunteer psychologists."

This point was later revealed to newsmen by attorney Howard Moore. Moore said the defense used psychiatrists, psychologists and even a handwriting expert to help pick out the jury. These behavioral scientists gave advice about each juror's reaction to questions during the examination process.

Teams of volunteer investigators ran down additional leads on all prospective jurors. Moore told reporter Richard Starnes the importance of this effort: "The chief value to the defense was in predicting how the jurors would interact in a group. We were not interested so much in whether prospective juror 'X' was pro-prosecution—*et pro-defense*. That's sheer nonsense, because by the time you get down to exercising challenges you tend to have moderate juries anyway.

"People with obvious bias, for or against, are gone by then. But what you need is some idea of how juror 'X' will react in a group. A juror with pro-prosecution leanings would be acceptable, for example, if it could be determined that he was a follower rather than a leader."

That they did their work well was illustrated by the fact that the jury was said to be divided 10-to-2 for acquittal from the outset and that the majority attended a rock festival victory celebration for Angela afterwards.

After the acquittal, juror Ralph DeLange was so swept up in the enthusiasm for Miss Davis that he responded to cheers outside the courtroom by giving the revolutionary's clenched-fist salute; then explained to reporters: "I did it because I wanted to show I felt an identity with the oppressed people in the crowd. All through the trial, they thought we were just a white, middle-class jury. I wanted to express my sympathy with their struggle."

Now Miss Davis leaves for a triumphal tour—San Antonio, Chicago, Detroit—ending with a gigantic rally June 29 at Madison Square Garden in New York. The Garden party, designed to draw in more money for "legal expenses," will include Carmen McRae, the Persuasions and undoubtedly even more important Hollywood and Broadway luminaries. Then she proposes to take a six-week vacation in Europe, ending, probably, in the Soviet Union.