

Panther 21 trial opens in New York

By Rod Such

As the Panther 21 trial progressed through its first four days last week, it became apparent that if nothing else can expose the political character of the trial, then the 13 of the 21 indicted Black Panthers present at the trial intend to accomplish that by themselves.

The atmosphere of the 13th floor courtroom, where Manhattan supreme court justice John M. Murtagh presides, is inescapably shaped each day by the Panther's determination to carry their political struggle into the courts. They have refused to be silent.

"We will speak out anytime we wish to," Analye Dahruba told Murtagh on the opening day of the trial after the white-haired judge had admonished a Panther for telling the prosecutor, assistant district attorney Joseph Phillips, to sit down.

In the mixture of outbursts, defiance and the politicizing of the courtroom that characterized the trial's opening week, the Panthers became a third party that the unprepared court had to deal with. The court's reaction largely was to ignore them and blame defense counsel for their actions.



Comrades demonstrate outside New York court for Panther 21.

As a result, the trial was marked last week by numerous and lengthy exchanges between the court and defense attorneys nearly all of which ended with a feeling among the attorneys that Murtagh was building a record of contempt against them.

Dahruba's comments and those of the other Panthers seated at two long tables behind their defense attorneys have made it clear that they view the court proceedings as illegitimate, an attempt to use the criminal charges against them as a cover for an attack on the Black Panther party in New York.

"You are trying a political case under a criminal guise," Dahruba shouted at Murtagh the afternoon of the trial's second day and later that day, echoing point nine of the Black Panther's 10-point program, he said, "If the court continues to judge us by standards of white, middle-class society, there can be no justice."

Murtagh has resisted acknowledging that the Black Panther party is on trial. At one point, when Gerald Lefcourt, a defense attorney, was arguing for a bail reduction, the 59-year-old judge responded to Lefcourt's motion by saying that one of the defendants, Fred Richardson, had escaped bail. Lefcourt replied that Richardson was not a Black Panther, and Murtagh said, "Counsellor, what does that have to do with this case?"

Heavy security measures prevail inside and outside the courtroom in the Manhattan criminal courts building. The press, spectators, and families of the Panthers are searched as they enter and some 40 court officers are stationed inside the courtroom, which seats approximately 84 persons.

In the first day of the trial, Feb. 2, there was a brief battle with a court officer who had attempted to force one of the Panthers to remain seated when the defendant had risen and tried to consult with his attorney, separated from him by the peculiar seating arrangements.

But by the second day, the traditional order of the court was under attack. A woman in the audience, Maryann Weissman, hearing Murtagh tell defense attorney William Crain that the court record would be the sole judge of his conduct, jumped up and said, "Who will judge your conduct." Dahruba shouted, "the people, the people," and she responded, "then you would have been judged in contempt long ago." Weissman was later sentenced to 30 days in the county jail for the action.

Lonnie Epps, a 17-year-old Panther severed from the trial on the first day, was seated directly next to her and as court officers sought to remove Mrs. Weissman from the room, he was caught up in the struggle and carried spread-eagled into a corridor alongside the courtroom. Epps was arrested on charges of assault and resisting arrest and was jailed without bail. In the meantime, declaring that they would leave if she was removed, the Panthers were ushered into the corridor and defense counsel and some newsmen could see a court officer standing over Dahruba with a blackjack while others pummeled him with their fists.

When Dahruba appeared in court after a lunch-hour recess, his left eye was badly swollen and the blackjack had raised large welts around his kneecaps. Lumumba Shakur, another Panther, had also suffered contusions to the head and defense attorney, William Crain, reported that he had been threatened by a court officer who told him that the next time there was a melee he hoped Crain would be in the middle of it.

The 13 defendants on trial, most of whom have been imprisoned since their arrests last April 2 on bail ranging from \$50,000 to \$100,000, face a maximum prison sentence of 150 years. A 30-count grand jury indictment charges them with conspiracy to bomb department stores, the Bronx Restaurant,

dens, and sections of a commuter railroad and to attack a number of police precincts. Over 20 bail hearings have failed to reduce the \$100,000 bail imposed now on nine of the Panthers.

In the context of their 10-month imprisonment and the possible sentence they face, the reasons for the Panther's outspoken reactions to the trial become even more apparent. Murtagh at one point told Crain to continue his cross-examination of police detective, Joseph Coffey, in order to silence Dahruha. But the Panther, a self-employed artist before his arrest, warned Murtagh "when it comes to 150 years, I'll shout louder than the whole world."

Murtagh has tried to hold defense counsel responsible for the Panthers' protests. After Tuesday's disruption, he blamed Crain, who had laboriously questioned detective Coffey in the morning session for the incident, charging that the tediousness of the cross-examination had given the Panthers an opportunity to speak out.

"Your lack of skill in cross-examination," Murtagh said to Crain, "was largely responsible for the disturbances that occurred here this morning and this will be put on the record as the court's feeling." Murtagh had, in fact, interrupted Crain's cross-examination several times during the three days Coffey was on the stand without waiting for objections from the assistant district attorney.

Attorneys Intimidated

On Thursday, Feb. 5, the last day of the trial week, Sanford Katz moved to have stricken from the record the court's remarks about Crain. Katz, one of six defense attorneys in the trial, said, "it is our view that this court, at one time seeking to intimidate and coerce the defendants, is now embarked on intimidating their counsel."

Murtagh has seemingly paid no attention to the Panthers' insistence that they will represent themselves when they feel it necessary, a position explicitly stated again by Dahruha on Thursday. "We are going to turn this raggedy pig pen inside out every day," Dahruha said. "We have a constitutional right to address this court, and let it be entered on the record that I, Analye Dahruha, although advised by his attorney that he would be out of order if he spoke, spoke."

Dahruha, although not alone among the Panthers who have openly accused the court, has sporadically led the vocal assault, often with a sense of humor. He has accused Murtagh of "felonious racism" and renamed the bronze legend above Murtagh's bench, "In Pig We Trust." In response, Murtagh, who was the presiding justice of a three-judge panel that sentenced Lenny Bruce to a four-year prison term for obscenity, has apparently been shaken from his usual composure.

When the trial began, 16 of the 22 defendants named in the overall indictment were expected to stand trial. The defense succeeded on the opening day, however, in severing three Panthers from the trial. Lonnie Epps and Eddie Josephs, both 17 years old, were granted youthful offender treatment, and Lee Berry was severed from the trial because he is still seriously ill in the Bellevue Hospital prison ward.

As youthful offenders, Epps and Josephs cannot be tried under the conspiracy indictment and the maximum sentence they face is reduced to four years. Both pleaded not guilty.

Three of the original 21 are out on bail. Eddie Josephs, who had been held since April on \$25,000 bail, was released Jan. 30 after his bail was lowered to \$5000 and Afeni Shakur was freed two weeks ago after a group of Presbyterian and Episcopalian churches raised nearly \$61,000 to meet her \$100,000 bail. Lonnie Epps was released on \$10,000 bail several months ago.

The lengthy history of Lee Berry's harassment still continues, however. Gerald Lefcourt, his attorney, argued for a bail reduction in court last week. Lefcourt said that because Berry, an epileptic, was severed from the trial, he cannot expect a new trial date until fall. With no relief from the \$100,000 bail, Lefcourt said, that would mean a pre-trial detention lasting over a year and a half. Murtagh replied that Berry had the option to rejoin the trial when he recovers.

The cross-examination last week of detectives Joseph Coffey and William Halloran are part of a pre-trial hearing to suppress alleged evidence illegally seized. Coffey and Halloran were among five police officers who arrested Michael Tabor, a Panther, last April 2 in his apartment where weapons were allegedly found.

Detective Halloran described how the pre-dawn raid had been conducted. A uniformed officer knocked on Tabor's apartment door and said they had received a noise complaint. A female voice responded, Halloran testified, and said there was no trouble. The officer then asked her to sign his book to verify that he had answered the call and she told him to slip it under the door. At this point, Halloran said, the lieutenant ordered that the door be kicked in.

Coffey testified that among the items taken from the apartment were miscellaneous materials of a "revolutionary nature." These included posters of Huey Newton, Mao Tse-tung,

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and two black athletes raising clenched fists at the Olympic games in Mexico. Asked how he felt the posters related to the arrest warrant the officers carried, Coffey said that he thought they could be used as evidence in the conspiracy charges. The posters were later withdrawn from evidence by the prosecution.

Both Coffey and Halloran testified they were warned previous to the arrests that Tabor was a Black Panther, considered armed and dangerous. Coffey also admitted he once told his fellow officers that he felt the Black Panthers should be eliminated. "Yes sir," he said, when the question was posed to him by Lefcourt. Both officers also said they believed the Panthers were "terrorists."

Except for one instance, the court has not moved against persons in the courtroom audience who have echoed the Panthers' protests against the court with shouts of "Right on" and "Power to the People." The audience has been largely young, angry, and representative of the black community. On Wednesday 35 students from Elisabeth Irwin High School, a private school in Greenwich Village, walked out of their classes after the school refused permission for them to attend the trial.