

# Oakland Prosecutor Decides Not to Retry Huey Newton

Post 12/15/67

OAKLAND, Calif., Dec. 15 (UPI)—Black Panther co-founder Huey P. Newton was freed of charges in the 1967 killing of an Oakland policeman when the district attorney decided a fourth trial would be fruitless.

Newton, 29, broke into a broad grin today as Alameda County Superior Court Judge William J. Hayes dismissed voluntary manslaughter charges in the shooting death of officer John Frey.

The dismissal, on the motion of District Attorney Lowell Jensen, ended a four-year effort involving three trials to convict Newton for the slaying of Frey in a predawn gun battle on an Oakland street.

Jensen asked Hayes to drop the charges against Newton on grounds a fourth trial would have concluded—with the jury unable to reach a verdict.

end as two others this year. "I feel this is a frustration of justice and would prefer to retry the case," Jensen said. "But I am compelled to ask at this time for a dismissal."

The district attorney said that if new evidence was found—including the weapon

used to kill Frey—he "would have no hesitancy to reinstitute prosecution."

Newton originally was charged with first-degree murder in the Oct. 28, 1967, slaying of Frey, 23, who was killed in a shooting in which Newton and a second officer were wounded.

His first trial in 1968 ended with a "compromise verdict" of guilty of voluntary manslaughter. Newton served 22 months in prison before a state appellate court overturned the verdict on grounds of judicial error.

He was tried twice this year on the voluntary manslaughter charges. Both trials ended with the juries deadlocked—11 to 1 for conviction last June and 6 to 6 last Saturday.

Charles Garry, the Black Panthers' attorney, stood silently as Jensen explained his motion to the judge, then answered with a simple "no" when Hayes asked if he had any objections to the move.

"The action is dismissed," Hayes said as Newton and 50 of his supporters who had crowded into the courtroom broke into broad grins. There was no courtroom demonstra-

tion and the happy Panthers rushed into the hallway outside for a hugging, kissing, back-slapping celebration.

On Garry's motion, the judge released Newton's \$50,000 cash bail and the Panther leader left the courtroom. He refused to comment on the decision.

The defense attorney then went to another courtroom in the Alameda County courthouse where the Panther's other co-founder, Bobby Seale, was due for a hearing on an effort to revoke his probation for an old firearms conviction.

The county contends Seale violated his probationary injunction to "obey all laws" when he was found guilty of contempt and sentenced to four years in prison by U.S. Judge Julius Hoffman for his courtroom outbursts during the Chicago Eight conspiracy trial.

Superior Court Judge Redmond Staats continued the revocation hearing until next May 15 because Seale's appeal of the contempt conviction is still pending. He faces a possible one-year jail term for the conviction on charges of carrying a weapon near a jail.