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Murtagh Was Biased, Panther Juror Charges

By RALPH BLUMENFELD

A juror who voted to acquit 13 Black Panthers of conspiracy charges says he became so angry with Supreme Court Justice John M. Murtagh once during the trial that he started to jump out of the jury box.

Benjamin Giles, 66, a retired longshoreman, said that heated moment came when defendant Afeni Shakur asked the judge to assure the defendants a just trial and Murtagh replied: "Motion denied."

At the time—it happened on March 22, and the judge actually said "request denied"—his response had seemed clearly inadvertent. Even so, more than one juror recalled it with distaste, as a sample of the climate in Murtagh's courtroom.

Giles remembers another moment when his fellow jurors "had to hold me back" in the jury room to cool his wrath at Murtagh.

Charge Bias

"He was definitely biased," Giles said. "For the defense, the motion was always denied, and the objection was always overruled. I wanted to go out there and ask him where he thought he was—Mississippi?"

Giles made his remarks during a WBAI-FM radio forum Saturday with jurors Frederic Hills and Steve Chaberski and alternate juror Joseph Rainato. Of the

four, Giles was the only black.

Hills, a textbook editor at McGraw-Hill, said the question of possible racial bias "on the part of the judge" had been raised among the jurors. "There were moments when we felt bias was there," he said.

Chaberski, a doctoral candidate in political science at Columbia University, felt there were other explanations for Murtagh's apparent brusqueness. "One of the first things I noticed was his inordinate desire to get this thing over with," he explained.

Chaberski also doubted that the verdict was a repudiation of Murtagh or, necessarily, of bias. "It doesn't mean a black man can get a fair trial," he said. "It means that a jury will acquit when there is a lack of evidence."

In the jury room Thursday afternoon, before the verdict was decided, the jurors remembered that foreman James Fox has "somehow sensed a rapport," and "just started talking about how he felt" about the case.

'Nothing to Argue'

One by one, the others followed the foreman's lead. There were no dissents.

"What a dramatic moment," Hills said, "to realize that 12 people from different walks of life had nothing to argue about." And, he added, it was "not just a

couple of West Side liberals trying to manipulate a verdict."

"I think the answer, more than anything else," said Chaberski, "was that it was a Manhattan jury, and in Manhattan you get people like Fred and Ben. Not like in Chicago, where you get a bunch of Cook County housewives."

Hills: "Those were 13 extraordinary defendants who, of themselves, ran a wide spectrum of society. They were all black men, but their personalities and educations ran a wide spectrum."

Giles observed that the unanimity of the mass acquittal had been all but dictated by the judge. "His instructions to the jury were that if one was guilty, all were guilty; if one was innocent, all were innocent."

It was the judge's conspiracy definition ("a breathing together") that got Hills "very upset," he said, because it told him "that under the conspiracy law in this country, alleged conspirators do not have to know each other. I began to realize that it's a lasso . . . turned into a hangman's noose that fits everybody's collar size."

Chaberski cited Murtagh's analogy of seeing a dozen men hammering boards together at a construction job. "Which is fine," he said, "except in this case no one ever saw the defendants do anything."