

# The Panther Verdict: Jury Tells Why

By Ralph Blumenfeld

Here is the jurors' account of why they found the 13 Black Panthers innocent of bombing and murder - conspiracy charges.

"Discrepancies," said Juror No. 11, James Butters, a teacher at Stuyvesant HS, as he stood in the lobby of the Criminal Courts Building an hour after leaving the jury room. "I think that's what decided the case so quickly. There were too many discrepancies."

Butters, who had grown a beard during the eight-month trial and worried the defense by shaving it off last month, said he wasn't surprised by the brevity of the delibera-

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A telephone interview with Michael Tabor, a defendant who fled to Algeria. Page 3.

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tions—a mere 90 minutes.

"Not once it started," he said. "We went around the table saying how we felt, and it was boom-boom-boom all the way around."

There was only one paper ballot taken, he said, and the results were clear beforehand — so

clear that 14 of the 16 jurors and alternates were able to make it to a hastily arranged victory party and drink champagne with the acquitted Panthers, a display of affirmation perhaps unmatched in the annals of the State Supreme Court.

Amid the handshakes and kisses and beaming smiles, the jurors spent more than four hours explaining a verdict that had come as a thunderbolt

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# The Panther Jurors Tell Their Story

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to the defendants and their lawyers

The jurors agreed that the verdicts — 156 separate “not guilty” — had come as something of a surprise to them, too.

But not a complete surprise.

Most of the discrepancies were in the testimony of the three police undercover agents — Ralph White, Carlos Ashwood and Gene Roberts—who infiltrated the Black Panthers and were the main cogs in the prosecution case.

White and Ashwood drew most of the jurors’ criticism, and White was the least convincing to juror No. 3, Steve Chaberski, a doctoral candidate at Columbia University in political science.

Chaberski recalled the testimony Roberts gave for three weeks last fall and Whites testimony for the full month of February. “Roberts told an interesting story, and all the way through to White I was ready to believe the case,” Chaberski said. “But about halfway through White’s testimony I began to realize that there wasn’t going to be any real confirmation.”

Juror No. 5, Frederic Hills, a textbook editor at McGraw-Hill, said the prosecution’s case was weak, making the anticipated battle in the jury room “virtually no contest.”

Hills said he had packed a suitcase for a five-day stay, “so I was surprised. But I had thought everybody’s mind was in essentially

the same place”—meaning the jurors, all favored acquittal.

“With a case that flimsy, if tried, to acquit everybody is to protect everybody’s freedom,” Hills said.

Beyond the original 30-count indictment, some of the jurors’ thoughts settled on what they considered a hostile courtroom atmosphere maintained by Justice John M. Murtagh toward the defendants and their lawyers.

Joseph Gary, No. 12, a postal employe and one of the jury’s five blacks, said several jurors had considered the judge “biased” ever since the middle of the trial.

## Juror Gets Riled

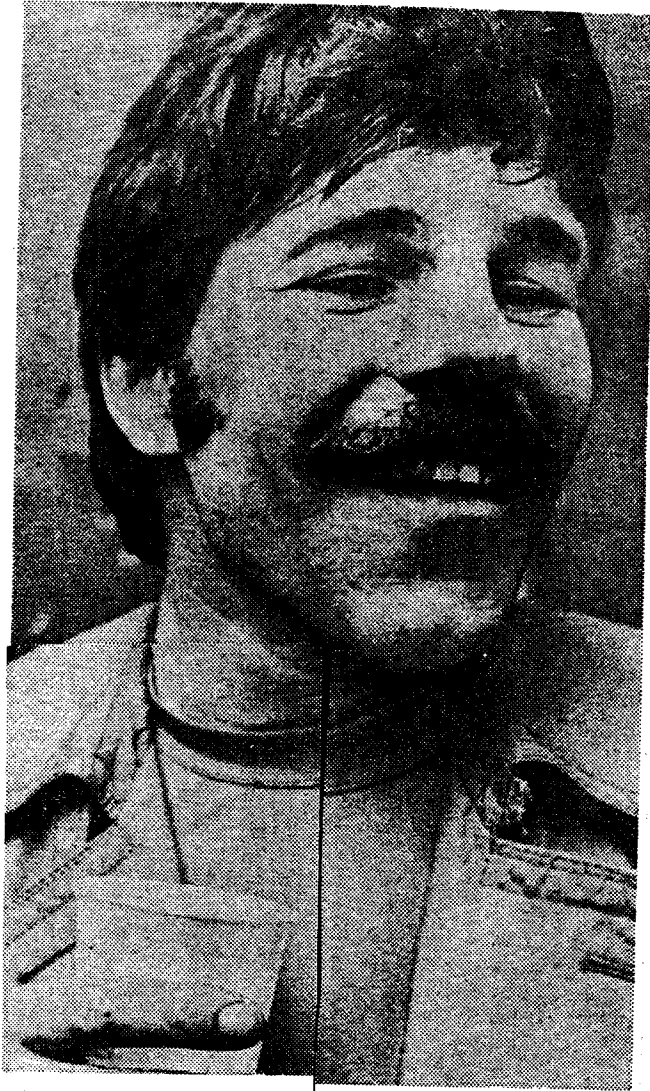
“Some were so angry they wanted to come out of the jury box and say, ‘You’re biased, biased . . . this is it — we’re gonna acquit,’” Garry said.

“One guy went completely wild. They had to hold him back. They told him wait, don’t blow your cool—the only way to get at him is in the deliberations.”

James Fox, the jury foreman, a musician and composer, is 55 years old and very bald. He sat impassively for eight months; not until the verdict was ready to be delivered did he step out of character, smiling faintly as he rose.

The first of the 156 counts, conspiracy to commit murder, was against defendant Lumumba Shakur, named in the indictment as the chief architect of an alleged mass conspiracy to bomb public places and kill policemen.

“Not guilty,” Fox said clearly, looking straight ahead, his



Juror James Butters joins the victory toast. Post Photo by Vernon Shible

hands clasped in front of him. There were still 11 counts to go against Lumumba Shakur, generally considered the likeliest candidate for conviction.

**Moment of Truth**

"Not guilty," Fox said to the second and third counts, as eyes began to widen around the crowded courtroom. His response to the fourth count—"Not guilty"—brought something like a keening sound from the defense side.

The defendants waited until Fox had said "Not guilty" 12 times—which meant Lumumba Shakur was acquitted. And then they let loose.

**A Long, Long Smile**

Afeni Shakur burst into tears at the defendants' table. Her husband, Lumumba, put his arm around her. Ali Bey Hassan put his arm around a sobbing Joan Bird. Clark Squire said "Right on"—quietly. Curtis Powell turned to William Kinshasa King and said: "Well, we got through it." And Kinshasa replied: "Nice to go through the experience with you."

Judge Murtagh looked impassively at the defendants. The prosecutors, Joseph Phillips and Jeffrey Weinsten, sat at the prosecution table with their foreheads in their hands.

Fox, by this time, was intoning "Not guilty" to the 13

counts against Richard Dharruba Moore, who fled to Algeria on Feb. 8. And when that was over, there were no doubts, although the foreman had to say "Not guilty" 156 times in all. It took about 15 minutes.

Then Fox really smiled. Through all the questions, for the next few hours, Fox smiled. He must have been embraced and kissed more than 156 times in the courtroom alone, and somewhat more than that at the victory party.

"We were lucky," Fox said. "It was a lucky assembly of jurors, a cross-section, who were able to agree." stse.s

The foreman thought the turning point in the trial came when Phillips, the chief prosecutor, summed up his case.

There was "no weight," to the prosecution's case, Fox said, and in the jury room there was no one to support it: "No one. Finally, one of the jurors said 'let's take a quick ballot.'"

"So we did. And it was surprising . . ."

Benjamin Giles (Juror No. 9), a retired longshoreman, said the police undercover agents who served as witnesses had seemed to him to be unintentionally "testifying for the defense" at times.

Giles recalled defense counsel Charles T. McKin-

**The Dinner Guard**

The Panther verdict came in just in time to cancel a dinner for '76—the jurors and a huge force of men guarding them—at a restaurant near the courthouse.

Sean and Peggy Doyle, who run Doyle's Corner Pub at 70 Lafayette St., had been asked to prepare the dinners, in two sittings beginning at 4 p.m., for the party.

It was not explained why a 12-man jury would have needed 64 guards.

ney's cross-examination of agent Carlos Ashwood:

"McKinney kept asking him: 'Did you see any of the defendants try to kill anybody, or bomb anything, or do anything?' And Ashwood kept answering, 'No' and 'No' and 'No.' I thought the agents made the difference. They didn't make a strong case."

There was only one stumbling block for the jurors, agreed Giles and welfare worker Charles Bowser (juror No. 10). That was the question of judging Moore in absentia along with Michael Tabor, another Panther fugitive in Algeria.

"We didn't feel right about that," said Bowser. But he added: "Not that we blamed them for running."

Judge Murtagh had instructed that the flight of Moore and Tabor was an indication of "consciousness of guilt."

But Bowser said: "It was an indication of pressure. Don't forget, these people felt that American justice doesn't really work. I think this is an indication that it does work."

#### **Cheers and Laughter**

When the jury filed out of the courtroom, some of the defendants jumped up and surged toward the jurors to express their gratitude. They were quickly intercepted by some of the 40 court officers assigned to the finale—three times the usual number.

There were cheers and emotional from many spectators, but Judge Murtagh made no comment. Before the jurors left, he told them:

"I want to thank you for your dedicated service. You have served in the best tradition of our law." He did not comment on the verdict.

The defendants were then herded one last time into the detention room, and five were kept their for return to Rikers Island to be held on other charges—Lumumba Shakur, Kinshasa, Squire, Hassen and Robert Collier.

The six freed defendants walked from the courtroom—Mrs. Shakur, Miss Bird Powell Lee Roper Alex McKiever and Walter Johnson. The four men had bn behind bars for 18 months to two years.

Phillips did not issue a statement immediately. He was quoted today as saying

of the undercover agents:

"These men have done their jobs well." He also expressed surprise that the jury could "evaluate the very complicated evidence" so quickly.

Asst. DA Weinsten, his colleague, made the same point. "The very brief period the jury had to deliberate," he said, "might indicate that they didn't examine the facts as closely as we had hoped they would."