

MONDAY, JULY 5, 1971

After Two Days, Some Turco Jurors Turned to Gin Rummy

By Lawrence Meyer
Washington Post Staff Writer

About 3:30 o'clock Saturday afternoon, after deliberating the fate of Arthur F. Turco for two days, some jurors turned their attention to another matter: gin rummy.

"You can't go on 13 or 14 hours, everybody trying to convince the other people without stopping for a while," one juror said in a interview yesterday. "There was no need for card-playing when a man's life's on the line. But it's only human."

"It's clear that we're not going to come to a verdict," one juror reportedly told

the others Saturday morning. "Why doesn't the judge let us go?"

Shortly after 11 o'clock Saturday night, Criminal Court Judge James W. Murphy did just that. Determining that the jury was deadlocked after 19 hours of deliberation, Murphy dismissed the jury and declared a mistrial.

Turco was released at 12:25 a.m. yesterday on \$10,000 bail. He had been in the Baltimore city jail since Dec. 8 and in solitary confinement since February. Despite repeated requests in state and federal courts, he had been denied bail until yesterday.

After being freed, Turco went to the lobby of the Lord Baltimore Hotel, where his release was being celebrated. Some of the Baltimore cast of "Hair" greeted him with "Let The Sun Shine In."

Turco said he would remain in Baltimore a few days, go to New York and then vacation on the West Coast with his wife Judy. No restrictions had been placed on his movements, he said.

Since June 14, Turco, 28, a white lawyer from New York who had represented Black Panthers in Baltimore, had been on trial as an accessory to the murder of Eugene Leroy Anderson, a 20-year-old car painter.

The charge carries a maximum penalty of death.

The prosecution said Anderson had been murdered the night of July 11-12, 1969, because the Baltimore Panthers suspected him of being a police informer. Anderson's skeleton was found in Baltimore Leakin Park in October, 1969.

The trial had had some extraordinary moments. One prosecution witness' testimony was so contradictory that it was ordered stricken from the record, and Murphy told the jury to disregard it. Murphy's action was highly unusual and perhaps unprecedented in Maryland legal history.

Another prosecution witness, who had been allowed to refresh his memory during the trial by looking at a statement he was supposed to have given police and signed, admitted under-cross-examination at the very end of the trial that he could not read.

A third witness, a police agent who had testified that Turco appeared to be in charge of Panther headquarters before the murder, altered his testimony when recalled to the stand a week later.

The defense, led by William M. Kunstler, had presented virtually no case in the professed belief that the

jury would not accept the prosecution's version of the alleged crime. Kunstler had charged that Turco was the target of a police conspiracy, designed to destroy the Black Panther Party in Baltimore.

For eight hours, from 3:17 p.m. Friday, when the jury began its deliberations, until shortly before 11:30 o'clock the same night, the evidence was debated, according to a juror who spoke with a reporter yesterday but asked not to be identified.

"Before we left Friday night it seemed like a pretty sure thing that it wouldn't be anything but a hung jury," he said.

When the jury was called out by Murphy after 11 p.m. Friday, the foreman, Paul F. Ronnholm, told the judge that the jury was "deadlocked" and "hung." Ronnholm, a 47-year-old white bachelor who is an engineer, was one of the two who voted for acquittal, according to other jurors.

Ronnholm, who could not be reached for comment, said he was not convinced that Anderson had been murdered the way the prosecution had contended, other jurors related.

The other juror who held out for acquittal, according to the jurors interviewed,

was Albert L. Graham. Graham, one of the black jurors, declined to discuss the trial yesterday. The other jurors said, however, that Graham cited the prosecution witness' inability to read his statement as a reason for his position.

Murphy ordered the jury sequestered in a Baltimore hotel Friday night. Saturday, the jury began deliberating again at 10 a.m.

At times, according to the room, the jurors could be heard yelling at each other. "It got pretty heavy," the juror who asked not to be identified said.

While Ronnholm held to his view, other jurors found convincing the testimony of Arnold Loney, one of three former Black Panthers given immunity from prosecution and \$40 a week by the Baltimore police to testify for the state. Loney, who admitted serving as a lookout while Anderson was murdered, had testified that Turco had told the alleged murderers to "go and do what you have to do."

Turco's association with revolutionaries was irrelevant, the juror said. "This was an accepted fact by practically everyone," he said. "I don't think it affected my vote at all. Because a man's revolutionary doesn't automatically take him off the street. There are going to be people like this and there are going to be people who don't like him. It isn't actually part of whether he did it or not."

Daniel T. Carroll, a juror who works as a chauffeur, told reporters, "I was confused from the beginning of the trial until the end." Carroll said he had voted for conviction, however, and had had no problems determining that he was convinced "beyond a reasonable doubt."

The jurors also discussed the testimony of Sam Walters, police undercover agent, known as "Agent 94," who testified that Turco "was running things" at Panther headquarters before Anderson's murder.

Kunstler later confronted Walters with his own handwritten report to his police superiors that directly contradicted portions of his testimony.

The report was initially withheld because of "an oversight" by the police, according to Assistant State's Attorney Hilary Caplan.

Kunstler relied heavily on Walters' altering his testimony and the disclosure of his report to argue before the jury that the police had conspired against Turco.

Carroll and other jurors disagreed. "To believe Kunstler," Carroll said, "you'd have to believe that all the cops are bad, and I don't believe that."

"Detectives are on quite a number of cases" the other juror said. "It's possible to get things mixed up." He, too, voted for conviction.

Asked why he thought the police had withheld the report, the juror said, "That's a good question. But I think if they were trying to rail-

road someone, they would have put someone on the stand and told him what to say — not just not given him the report."

At times the jurors broke into two smaller groups, trying to convince those who were holding out for acquittal that Turco was guilty. By 3:30 p.m. Saturday, the juror said, "They had pretty well exhausted the arguments. That's when the card-playing started."

The card playing — how

many participated or who they were is not known — lasted about an hour or so, the juror said. Discussions resumed. At 6:14 p.m., the jury returned. Ronnholm told the judge, "I think the jury is hung, your honor." Murphy asked if the jury was still discussing the case.

"From time to time, your honor," Ronnholm replied, adding so softly that Murphy did not hear, "Card games going on." Mrs. Jennie Chojnowski, sitting next

to Ronnholm in the jury box, shook her head vigorously, indicating a "no" as Ronnholm spoke.

Murphy sent the jury to dinner. Kunstler called to Murphy's attention that the jury was playing cards. "I'll have the cards taken away," Murphy said.

"What I'm saying is that that's fruitless," Kunstler replied. The card-playing "indicates the level of deliberation." Murphy repeated his determination to send the

jury to dinner and let them deliberate after that.

When the jury returned two hours later, the jurors favoring acquittal were asked to explain their positions to the other jurors. After about 20 minutes, Murphy summoned them to the courtroom.

"Members of the jury," Murphy told them, "you're not here to play cards. You're here to deliberate on the evidence in this case."

When Turco was released

the jury of seven blacks and five whites had left for home. The final vote had been 10 to 2, for conviction, but the two had held firm for acquittal from the outset.

Murphy then read the jury new instructions, known to lawyers as the "Allen" or "dynamite" charge, urging them to "pay due attention and respect to the opinion of others" but not to "surrender" to the opinion of another.

Kunstler objected, in the jury's presence, to the new instructions. He explained later that he considered the Allen charge, named for the judge who first delivered it, "coercive." The jury returned to the jury room.

Shortly before 10 p.m., Murphy told Caplan and Kunstler that if no verdict had been reached by 11 p.m., he would declare a mistrial and grant Turco bail.

At exactly 11 p.m., Murphy, exchanging his powder blue sport coat for black robes, took the bench, called in the jury and dismissed them.

Caplan told reporters he had not decided whether to retry Turco. Kunstler said he will attempt to block any retrial.

Murphy is expected to hear arguments on a defense motion to dismiss the charge against Turco before the end of the month.