

Severity of Contempt Sentence an Issue

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Seale Case Sparks Judicial Debate

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BOBBY SEALE
... 'I stood up and spoke'

The Court (Judge Hoffman): "I find not only from seeing and hearing . . . the conduct of the defendant Seale, but from reading the transcript of the proceedings that the acts, statements and conduct of the defendant Seale . . . constituted a deliberate and willful attack upon the administration of justice in an attempt to sabotage the functioning of the federal judicial system."

Mr. Seale: "That is a lie. I stood up and spoke in behalf of myself. I stood up and spoke in behalf of myself and made motions and requests . . ."

The Court: "You are making it very difficult for me, Mr. Seale."

Mr. Seale: "You are making it difficult for me, Judge Hoffman."

It was one of the last of many bitter exchanges between U.S. District Judge Julius J. Hoffman and the Black Panther leader, Bobby G. Seale. Shortly afterward, last Wednesday afternoon in Chicago, Hoffman sentenced Seale to four years in prison for con-

tempt of court. For nearly six weeks, Seale had made interruptions, blurted epithets; he had called the judge a "fascist," a "racist" and a "pig"—always, he maintained, in the process of demanding constitutional rights.

Hoffman ended the courtroom chaos with the prison sentence, but he also provoked a new debate, a scholarly but anxious one.

Among lawyers, law professors, and court observers the questions now were: Could the showdown with Seale have been avoided? Was the sentence excessive? How could Hoffman's court or any future court preserve an orderly trial when the bitterness of the streets intrudes on the theoretically peaceful decorum of a courtroom?

The dilemmas were best expressed by Professor Robert A. Burt of the University of Chicago Law School. The sentence was excessive and the judge could have acted differently and more swiftly, Burt thinks. But he adds:

See SEALE, A4, Col. 2

SEALE, From A1

"Seale was making a farce of the court. It's just like the new 'confrontational politics' in which the people deliberately do things totally at war with the accepted proprieties. It's like throwing crap at the cops."

Chicago Bar Association president Frank Greenberg put it more strongly. The "tactics of revolution" in the courtroom, he said, strike "at the heart of our judicial system," making a mockery of orderly due process. He had no solution but thought the American Bar Association should come up with one.

But another authority, Northwestern University law professor Jon Waltz, had another point of view. Seale no doubt was deeply in contempt of court, he said. But Seale also will have a respectable appeal on grounds that Hoffman had in fact denied him his constitutional rights, he said.

Sentence Held Excessive

The length of the sentence—four years in prison—shocked many authorities interviewed last week. Most criminal contempt sentences are three months or six months. Judge Hoffman cited Seale for 16 separate offenses in court and gave him three months on each one.

Historically, a judge has had wide discretion, in contempt proceedings and other matters, to control his own courtroom. Until recently, his right to convict for contempt without a jury trial was virtually unchallenged. But the Supreme Court ruled last year that in cases of serious contempt and long sentences a defendant can demand a jury trial.

In May, 1968, the court ordered a new trial for a Chicago attorney, S. Edward Bloom, who had been sentenced to two years in prison for contempt of court. The court said that "serious contempts are so nearly like other serious crimes that they are subject to the jury trial provisions of the Constitution . . ."

An informal 6-month limitation was established. Hoffman sought to get around it last week by breaking Seale's term up into separate 3-month sentences. Higher courts will decide whether it will stick.

Earlier Action Favored

Several authorities suggested that Hoffman should have acted sooner in Seale's case. After a couple of his outbursts, they said, the judge could have ordered him bound and gagged (as subsequently happened) and, when that did not work, sentence him for contempt, remove him from court, and try him separately later. "As it happened," said Professor Burt, "it will look like a case of Hoffman sitting back and waiting for Seale to hang himself."

On the other hand, the judge is hearing a conspiracy case, in which testimony against Seale is relevant to the other seven defendants, accused of conspiring to incite a riot at last year's Democratic National Convention. By severing Seale's case from theirs at any point, legal authorities pointed out, Hoffman may have endangered the government's case against the other seven defendants.

Seale justified his interruptions by asserting his constitutional rights had been denied. The judge has refused a motion to postpone the trial until Seale's ailing lawyer recovered and had declined to let Seale defend himself in court. The judge pointed out that another defense lawyer, William Kunstler, was officially on record as representing Seale.

Firing Is Disputed

Seale publicly discharged Kunstler in court. Hoffman said he would not fire his lawyer without permission from the bench. The judge viewed the "firing" as a plot by Seale to perfect an appeal on grounds he was not represented in court.

It is true that most of Seale's outbursts included references to his demand to represent himself. He asked to cross-examine witnesses or receive FBI material, like other lawyers. But material, like other lawyers. But in at least five of the 16 disruptions cited by Hoffman, Seale made no direct claim of his constitutional rights.

And how would an appeals court view the following incident—as an intentional disruption or a claim of constitutional rights of self defense in court?

Judge Hoffman: "Ladies and gentlemen of the jury, good morning."

Seale: "Good morning, ladies and gentlemen of the jury. As I said, I hope you don't blame me for anything."

Hoffman: "Mr. Marshal, will you tell that man to sit down."

The marshal: "Take a seat, Mr. Seale."

Seale: "I know . . ."

Hoffman: "Mr. Marshal, I think Mr. Seale is saying something there."

Seale: "I know I am saying something. You know I am getting ready to speak out in behalf of my constitutional rights again, don't you?"

After refusing several more orders to sit down, Seale persisted: "What about my constitutional right to defend myself and have my lawyer?"

Hoffman: "Your constitutional rights . . ."

Seale: "You are denying them. You have been denying them. Every other word you say is denied, denied, denied, denied, and you begin to oink in the faces of the masses of the people of this country. That is what you begin to represent, the corruptness of this rot-

ten government, for four hundred years."

The marshal: "Mr. Seale, will you sit down."

Seale: "Why don't you knock me in the mouth? Try that."

The marshal: "Sit down."

Hoffman: "Ladies and gentlemen of the jury, I regret that I will have to excuse you."

New Trial Date Set

After sentencing Seale and declaring a mistrial, Hoffman set next April for the beginning of his separate trial. But there was considerable doubt among Chicago lawyers that the government would bring him to trial again.

They pointed out that Seale's part in the alleged conspiracy appeared to be the least significant of any of the defendants, on the basis of what the government claimed.

Seale was not involved in planning demonstrations or negotiating permits for the Democratic convention last year. He flew to Chicago during convention week, made two speeches, and then flew back to California.

The speeches were militant—one suggested buying guns, a prosecution witness testified—but aroused no riotous behavior. In fact, blacks of Seale's militant attitudes largely disdained the convention protest as a white man's game.

Seale already is in serious legal trouble—charged in the kidnapping and murder of Alex Rackley, a former New York Black Panther party member, in Connecticut last May. He has insisted that it is a "frame-up" and that he never saw Rackley.

Pretrial Treatment Cited

Part of Seale's indignation in the Chicago case is traceable to his treatment in California where he was being held on the Connecticut murder charge, his friends assert.

Seale was removed from the San Francisco prison by federal marshals on the morning of Sept. 11, 13 days before the Chicago trial started. With the prisoner manacled, they set out on a six-day journey to Chicago, during which Seale was never in contact with an attorney.

On that very morning, one of Seale's lawyers had been in U.S. District Court in San Francisco, arguing before Judge Albert C. Wollenberg that the prisoner should not be removed from the city because his lawyers there were trying to prepare his defense.

According to news reports in San Francisco, the judge ordered Seale to be brought into court. A U.S. marshal, after some delays in which he constantly looked at his watch, told the judge he doubted Seale was still in the court's jurisdiction. Finally it was disclosed that Seale had been taken away earlier.

Panthers' Trial Rules Are Strict

From News Dispatches

NEW HAVEN, Conn., Nov. 8 (UPI)—The New Haven County Superior Court has issued strict ground rules, barring even sketching, for the trial of Bobby G. Seale and 11 other Black Panthers in the torture-slaying of New York City Panther Alex Rackley.

Judge Aaron J. Palmer said that because of "national attention attracted to this case, resulting in extensive publicity in the news media," his measures "are necessary to a constitutionally guaranteed, orderly and fair trial by an impartial jury."

He forbade interviews with all participants in the trial, including lawyers and their staffs, court officials, police, witnesses, jurors and prospective jurors who are not chosen.

Cameras and tape recorders are banned from the courtroom, the courthouse, the alleyways, parking lots and grounds outside.

All demonstrators, whether involving picketing, parades or rallies are forbidden to come closer than 500 feet from the courthouse.

Palmer said every person entering the courtroom must be searched, and no one once admitted may leave until a recess or adjournment, except in bona fide emergencies.

Twelve persons, including Black Panther national chairman Seale, have been charged in the slaying of Alex Rackley, 24, of New York City, whose body was found in Middlefield, Conn., last May. No date has been set for the trial.

Representatives of the biracial Coalition of New Haven Organizations plans to meet Monday with State's Attorney Arnold Markle in a renewed attempt to obtain the release of the prisoners who have been denied bail.