

# Kunstler Is on Stand in New Haven Panther Trial

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NEW HAVEN, Aug. 13—The defense began its case in the Lonnie McClucas trial today by calling William M. Kunstler, the civil rights lawyer, and four other witnesses to the stand in a concentrated effort to undermine the testimony of a key prosecution witness.

The effort was halted by a series of adverse rulings by Judge Harold M. Mulvey, who refused to allow two of the witnesses to be questioned about the activities, statements and reputation of George Sams Jr. on the ground that the questions would not be directly relevant to the central issue in the case — Mr. McClucas's guilt or innocence in the slaying of Alex Rackley.

"The rule is that you cannot go into collateral matters," Judge Mulvey declared soon after the fourth defense witness, a young woman who once lived in the same house with Sams in Washington, took the stand. Otherwise, he said, the door would be open to a "confusion of issues" in the minds of the jury.

Mr. McClucas, a Black Panther, has been on trial here for nearly two months.

Mr. McClucas's lawyer, Theodore I. Koskoff, insisted that the testimony was necessary to show that Sams had a reputation for lying and violence and that Mr. McClucas had good reason to fear him on the night of the murder of Rackley. But the judge sustained objections to 19 of his next 24 questions.

## Trial May Be Shorter

The rulings were expected to abbreviate the defense case by several days at least, for Mr. Koskoff had planned to call other witnesses in an effort to convince the jury that the murder was the result of Sams's inclination to sadism rather than a conspiracy by the Black Panthers. Presumably, this would have assisted the lawyer in portraying Mr. McClucas as Sams's unwitting tool rather than a willing participant in the crime.

Sams, who was the final wit-

ness for the prosecution, was the only one to say he heard Bobby G. Seale, the national chairman of the Panthers, give the order to "off," or kill, Rackley.

Mr. Kunstler, the chief counsel in the Chicago conspiracy trial last fall, had also figured in his testimony. Sams told of fleeing New Haven after the murder and meeting other Panthers in the lawyer's office, then of taking brief refuge in the apartment of a "girl friend" of Mr. Kunstler's "near Chinatown."

"My wife was very interested in that remark," the lawyer said after testifying that he could not recall ever having encountered Sams. "I just don't know what he looks like," he declared.

Mr. Kunstler said he was actually here in New Haven, meeting relatives of the Panthers arrested in connection with the Rackley slaying, at the time Sams gave for the meeting in his New York office.

Earlier, Gerald Lefcourt, a lawyer in the case of the Panther 21 in New York, testified about a conference in Mr. Kunstler's Fifth Avenue office similar to the one Sams had described, but said it took place before the murder.

Mr. Lefcourt said he did not recall meeting Sams at the conference, which had no other purpose, he said, but to discuss ways of raising bail money for the Panthers in New York.

## Earlier Comment Cited

Under cross-examination, Mr. Kunstler was pressed by the prosecutor, State's Attorney Arnold Markle, to describe his conversations here on May 22, 1969, the day after Rackley's body was found.

Mr. Kunstler said he recalled saying "that another persecution" of the Black Panthers was under way and that "the state was out to destroy these proud black men by any means possible."

"You knew nothing of the facts," Mr. Markle commented.

"I didn't have to know the facts," the lawyer replied. "I knew the history of the Black

Panther party." A moment later he added, "I would still make the same statement."

"I realize that," Mr. Markle said icily.

The confrontation between the prosecution and Mr. Kunstler gained an element of piquancy from a speech the "Chicago 7" attorney gave last night at the Yale Law School in which he declared that Mr. Markle should resign.

When the prosecutor asked whether Mr. Kunstler was paid for his conferences here in the Panther case, the lawyer retorted flatly, "I don't charge fees myself and I have nothing to do with fees."

Obviously pleased with the opening this response gave him, Mr. Markle then read into evidence an exchange of letters between Mr. Kunstler and George Johnson, a local lawyer, discussing payment of a \$500 installment on a \$2,000 fee to Mr. Johnson for his work in the case. The prosecutor said he received the correspondence from Warren Kimbro, a local Panther who pleaded guilty and testified for the state.

Mr. Kunstler explained that he made the payment as "chief counsel" for the Black Panthers on the East Coast.

He was followed to the stand by Linda Young, a light-complexioned young woman with a flaring Afro hair-do, and Robert Webb, a Black Panther in dark glasses and a charreuse turtle-neck shirt.

Both, Mr. Koskoff said, could testify about Sams' strained relations with the Black Panther party and various acts of assault he had committed. The lawyer said he also planned to call a young man from California, identified so far only as Tanaka, who he said was Sams' victim at a torture session similar to that experienced by Rackley.

Judge Mulvey made it clear the jury would not be permitted to hear that testimony, but Mr. Markle rose anyway to object to his adversary's comments.

"I sustained the motion," the judge snapped. "You're home free. Sit down."

The first defense witness was

Dr. Robert B. Miller, superintendent of a state mental hospital at Newton, Conn., who had examined Sams before the trial and concluded he was competent to testify. Mr. Koskoff asked the psychiatrist about Sam's record in two institutions for mentally retarded youths.

Dr. Miller said Sams had a personality type variously known "psychopathic" and "sociopathic."

Among the spectators this morning was Dr. Benjamin Spock, the pediatrician and spokesman for the peace movement tood patiently to be frisked by court attendants, as all spectators are, before taking his seat. He wore a necktie embroidered the peace symbol and a button showing a hand clutching a rifle.

During the morning recess, Dr. Spock said procedures in the trial seemed "much fairer" and even "decorous" compared to what he had seen at his own conspiracy trial in Boston and at the Chicago trial. He said he was not familiar with the facts of the Rackley murder, but that he regarded the trial "in a general way as 'part of an attack on black militants' by a government that 'has gone berserk.'"

"White people, respectable people," Dr. Spock said, have a duty to visit such trials to make sure adequate legal defense is provided.