

## Defense Begins Case in Panther Trial

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NEW HAVEN, Aug. 12—

Judge Harold M. Mulvey denied today defense motions for the dismissal of the four charges on which Lonnie McLucas, a Black Panther, has been on trial here for nearly two months.

The charges, arising from the killing of Alex Rackley last year, are kidnapping resulting in death, conspiracy to kidnap, conspiracy to murder, and binding with intent to commit a crime.

In addition to the routine motion to drop the charges on the ground that the prosecution had failed to present a prima facie case, the defense also presented a more unusual motion, contending that evidence admitted to support the conspiracy charges had prejudiced Mr. McLucas's right to a fair trial on the binding and kidnapping charges.

Much of the testimony by prosecution witnesses concerned the activities and statements of Mr. McLucas's alleged co-conspirators. Michael P. Koskoff, who argued the motion for the defense, said that the jury would never have been allowed to hear such testimony if the defendant had been tried only on the kidnapping and binding charges.

### 1969 Ruling Cited

He cited a 1969 ruling by the United States Supreme Court that barred the admission of incriminating statements by a defendant that might prejudice the rights of a codefendant standing trial with him. Arguing that the conspiracy charges had created an analogous situation here, Mr. Kos-

koff asked that the kidnapping and binding charges be dropped or carried over to a new trial.

Judge Mulvey said he could not see the analogy and denied the motion.

Taking up his formal argument that the state had failed to present a substantial case on the four charges, Mr. Koskoff complained that much of the evidence in the prosecution case had been irrelevant to the activities of the defendant.

"There has been surprisingly little evidence in the course of this long trial about McLucas," he said. "Everyone under the sun has been talked about except McLucas."

The defendant is only the first of eight Panthers due to stand trial in connection with the Rackley slaying.

The arguments by the young lawyer (whose father, Theodore I. Koskoff, is in charge of Mr. McLucas's defense) provided an insight into the defense strategy in a case that is unusual for the narrow range of contention over facts.

The jury has heard a tape-recorded interrogation in which the defendant admitted that he was present at the torture and subsequent murder of Rackley and, also, that he fired a shot into the victim's body to make sure he was dead.

The main item of factual dispute in the case is not directly related to Mr. McLucas's guilt or innocence. This is the issue of whether the order to kill Rackley was handed down the Black Panther chain-of-command from Bobby G. Seale, the party's national chairman, or whether it originated with George Sams Jr., the main witness against Mr. Seale.

The defense will challenge

testimony that Mr. McLucas made a call to the Panther chapter in Hartford on the murder night for "political power" in the form of guns, that Sams had no weapon that night other than the pistol used in the killing, and that the victim might still have been alive when Mr. McLucas fired the second shot into his body.

But its main contention will be that the defendant had been a passive bystander in the treatment of Rackley who never learned until the very last minute that he was to be killed. Thus, it will be argued, he could not have been a conspirator.

The conspiracy had ended before Mr. McLucas fired a shot, Mr. Koskoff argued this morning, because Rackley was already dead. He argued also that the kidnapping charge was irrelevant to the crimes that actually occurred, which he defined as false imprisonment and murder. And he contended that there was no evidence of any intention on the part of Mr. McLucas to commit a crime when he helped bind the victim.

Essentially then, Mr. McLucas's defense acknowledges that he was a participant in the events surrounding Rackley's death but maintains that he is not guilty of the specific charges drawn by the state.

State's Attorney Arnold Markle, the prosecutor, rebutted all these arguments, declaring that Mr. McLucas knew what was happening "right from the very outset" and willingly took part in the slaying.

The defense will present its first witness tomorrow.

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