Judge Drops Seale Charges; Unbiased Jury 'Impossible'

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By Stan Simon
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NEW HAVEN, Conn., May 25—Murder and kidnap charges against Black Panthers Bobby G. Seale and Ericka Huggins were dismissed outright today in the aftermath of their long trial and deadlocked jury.

Judge Harold M. Mulvey stunned the prosecution, his Superior Court audience and the defendants themselves by his rare but not unprecedented ruling that they need not undergo another trial for the murder of Panther Alex Rackley.

"With the massive publicity attendant upon the trial just completed," Mulvey said, "I find it impossible to believe that an unbiased jury could be selected without superhuman efforts which this court, the state and these defendants should not be called upon either to make or endure."

Held in check by a warning from the [illegible]-year-old jurist against outbursts, spectators heard Mulvey declare, "The motion to dismiss is granted in each case and the prisoners are discharged forthwith."

Immediately they jumped to their feet, embraced each other and cried aloud. One black youth sat in his chair trembling, tears rolling down his face.

Seale and his codefendant embraced. Mrs. Huggins, 23, widow of a Black Panther, then walked from the court a free woman.

The 34-year-old Panther chairman, who has been in custody since August, 1969, remained a prisoner as the Seventh U.S. Circuit Court of Appeals in Chicago deferred a ruling on motions for bail there.

Seale, one of the original Chicago Eight riot conspiracy defendants, is the only member of that group still in prison during the appeal from the tumultuous trial before Federal Judge Julius J. Hoffman. Riot charges against Seale have been dropped, but he is appealing a four-year sentence for contempt of court.

The Justice Department has resisted Seale's attempts to be free on bail in Chicago, relying primarily on his status as a defendant in New Haven.

See SEALE, A12, Col. 1

The appellate court late yesterday gave the government until noon Thursday to file a further response to the bail motion.

Government lawyers have admitted that the seven remaining Chicago defendants, but not Seale or defense attorneys Leonard Weinglass and William M. Kunstler, are entitled to a new contempt hearing before a judge other than Hoffman. Arguments on the contempt issue are scheduled for late June.

Judge Mulvey's unusual ruling was read from a handwritten prepared statement. It followed arguments by defense counsel and State's Attorney Arnold Markle over the next move after Monday's mistrial resulting from a hung jury.

A few scattered legal precedents were cited for the dismissal but defense counsel relied chiefly on the months of accumulated publicity in this city and state during the jury selection and trials of Panther Lonnie McLucas and Seale—all of it presided over by Mulvey.

In arguing the prejudicial publicity motion, Seale's local attorney, David R. Rosen, said the four months of jury selection involving more than 1,500 prospective jurors showed that "the system is not equipped to deal with the situation."

Mrs. Huggins' attorney, Catharine Roraback, compared the four weeks required to pick a jury for the McLucas trial last summer and the 17 weeks required in the Seale-Huggins case. Both lawyers cited the additional "massive" publicity generated by the trial itself.

Prosecutor Markle said, "I submit we can get a fair trial. The reporting of the facts has not been prejudicial." Saying that the defense should have made the request, Markle asked that the location of the trial be changed.

"The state cannot make a change of venue motion," Mulvey said.

After less than 15 minutes of arguments, Mulvey dismissed the charges.

After the pandemonium following Mulvey's ruling subsided, Markle asked the judge for permission to appeal the decision, a necessary step before the prosecution in Connecticut may appeal a decision. The judge refused.

Both Seale and Mrs. Huggins were charged with murder, kidnaping resulting in death, conspiracy to murder and conspiracy to kidnap in the torture murder of Rackley. Seale was specifically charged with ordering Rackley's death.

The motion to dismiss was only one of several actions filed by the defense. Garry, who reportedly talked to at least one of the jurors dismissed Monday, was prepared to argue that the jury had in fact decided to acquit Seale early in its deliberations.

"The jury was ignorant of

their right and duty to report their unanimous verdicts in the Seale case because they had received no instructions from the Court . . . to treat the case of Mr. Seale as entirely distinct," he said.

Garry contended that as deliberations continued on Mrs. Huggins' case one juror threatened to reopen the Seale case. "The final vote in the Seale case prior to the time a mistrial was declared . . . was 11 to 1 for acquittal on all charges except conspiracy to murder, on which the vote was 10 to 2 for acquittal," Garry said in an affidavit.

"The votes in the Huggins case were 11 to 1 for acquittal on all charges except kidnaping resulting in death, on which the vote was 10 for acquittal, 1 for conviction, and 1 for conviction of kidnaping," he said.

Associated Press

Ericka Huggins, left, and attorney Catherine Roraback smile after dismissal of charges.