

Defense Affidavit Accuses Authorities In Six Deaths at San Quentin in 1971

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An affidavit filed with the California Supreme Court says that various law-enforcement agencies had advance knowledge of and participated in an escape attempt at San Quentin prison on Aug. 21, 1971, in which George Jackson, the black revolutionary writer, and five other persons were killed.

The document also contends that various law-enforcement agencies had been aware of a conspiracy to kidnap a judge and other persons at the Marin County Courthouse, near here, in August, 1970, and use the hostages to barter for Mr. Jackson's freedom. This incident, which the document says the agencies allowed to occur, led to the deaths of a judge, two prison inmates and George Jackson's younger brother, Jonathan, who led the kidnaping attempt.

The affidavit was filed by Frank J. Cox, Chief Deputy Public Defender of Marin County, on behalf of David Johnson, one of six defendants charged with murder as a result of the August, 1971, prison incident. Their trial began this week.

Motion For Files

The affidavit supported a motion by Mr. Cox to obtain all the files on the 1971 escape case and related matters, such as the 1970 courthouse incident, that various police agencies hold. He contends that documents held by the Criminal Conspiracy Section of the Los Angeles Police Department, by the Criminal Intelligence and Identification unit of the California Attorney General's office; by the Federal Bureau of Investigation, the Central Intelligence Agency and the National Security Agency will prove that there was a conspiracy to involve Mr. Jackson in an "impossible escape attempt."

Mr. Cox contends that Mr. Johnson, who is 28 years old, had nothing to do with this conspiracy and that the documents are essential to his defense. Mr. Johnson and the other defendants are charged with five counts of murder, conspiracy to escape by force,

conspiracy to possess firearms, and conspiracy to kidnap as well as various counts of assault.

Mr. Cox's position is that what occurred before Aug. 21, 1971, is critical to the case and that he has not been able to obtain the necessary information through normal investigative channels. But Marin Superior Court Judge Henry Broderick denied his motion to obtain the files held by the agencies.

Filed under seal in Marin County Superior Court, the affidavit became public this week when Mr. Cox appealed Judge Broderick's denial. First

to the state Court of Appeal and then the California Supreme Court.

One of Mr. Cox's sources for the allegations in his affidavit is Louis E. Tackwood, who has said that as a double agent for the Los Angeles Police Department he infiltrated militant groups. Mr. Tackwood described these activities in a book called "The Glass House Tapes."

Mr. Cox said that he had a statement from Mr. Tackwood that he was present in the criminal Conspiracy Section headquarters of the Los Angeles Police Department the day after the San Quentin incident, and that he was told by Officer Robert Sherritt "that the police had known for months of the breakout plan."

Edward Davis, Los Angeles police chief, said through a spokesman today that this contention is "baloney."

Mr. Cox said that he obtained other information from confidential sources "of human credibility" and from an official report on the case by a state criminologist named Louis Maurieri.

The affidavit focuses on the activities of five persons:

Melvin Smith, formerly an agent of the Los Angeles Police Department Criminal Conspiracy Section who infiltrated the Black Panther party in Los Angeles;

James E. Carr, a prison friend of Mr. Jackson and of Huey

P. Newton, the Black Panther leader who was slain in April, 1972;

Robert Sherritt and Donald Mahoney, Los Angeles Police Department officers, and

Steven M. Bingham, a radical lawyer who did legal work for Mr. Carr and who allegedly smuggled a gun to Mr. Jackson before the August, 1971, escape attempt.

Gun Smuggled In

A Marin County grand jury charged more than three years ago that Mr. Bingham smuggled a gun to Mr. Jackson inside a tape recorder.

After Mr. Bingham left the prison-visiting room, according to the authorities, Mr. Jackson returned to the maximum-security wing with the gun hidden in a wig. When he was stopped there by a suspicious guard, the authorities said, Mr. Jackson overpowered the guard and freed all the inmates in the cellblock. A short time later, after three guards and two inmate trustees had been killed, Mr. Jackson was himself killed while trying to escape across the prison yard, according to the authorities.

Mr. Cox's affidavit asserts that an inoperable gun and simple putty resembling plastic explosive were smuggled to Mr. Jackson. This occurred through a conspiracy of law enforcement officials, the affidavit

says, after they learned of a possible escape attempt.

Mr. Cox asserts that in January, 1971, the police found on Mr. Carr a letter written by Mr. Jackson in which he referred to escape plans and the smuggling of a gun and explosives. The affidavit said that the police did not arrest Mr. Carr when they found the letter, but did arrest him a few months later on another matter and forced him to cooperate with the authorities by feigning participation in the plot to free Mr. Jackson.

Mr. Carr was shot to death in San Jose on April 6, 1972. In an autobiography based on

tape recordings, which will be issued in May Dell Publishing Company, Mr. Carr expressed a feeling of great loss at hearing of Mr. Jackson's death.

Woman's Alleged Role

According to Mr. Cox's affidavit, the central incident in the law enforcement conspiracy was the arrival of a woman who identified herself as Vanita Anderson at the prison at the same time as Mr. Bingham on Aug. 21, 1971. That is verified by prison logs.

The affidavit says that when the woman was denied permission to see Mr. Jackson, she gave to Mr. Bingham, at a guard's suggestion, the tape recorder that he took in to the prisoner.

Mr. Cox said the officials knew that the woman was not Vanita Anderson, and that this woman or Mr. Bingham could be tricked into making available to Jackson the "dummy weapons."

Miss Anderson, who reportedly lives in Houston, has never been indicted in connection with the case or subpoenaed to testify before the grand jury.

Mr. Bingham disappeared on Aug. 21, 1971. He was located in Canada last summer and was interviewed by a New York Times reporter there, but would not affirm or deny allegation about the San Quentin incident.

When asked out the allegations in the affidavit a spokesman at the California Department of Corrections said, "We have no knowledge of anything like that." A spokesman at the California Attorney General's office said the assertions in the affidavit were "absurd."

Mr. Cox's affidavit says that he wants C.I.A. records because he has information that the C.I.A. was investigating the suspected smuggling of explosives, arms and money to the Black Panther party by the People's Republic of China. Mr. Jackson was the head of the San Quentin chapter of the Panthers at the time of his death. No one at the C.I.A. was immediately available for comment on this charge.