

# 13 PANTHERS HERE FOUND NOT GUILTY ON ALL 12 COUNTS

Jurors in Bomb Conspiracy  
Case Reach a Verdict  
With Unexpected Speed

## COURTROOM IN UPROAR

Two Who Fled to Algeria  
Among Those Freed in  
8-Month-Long Trial

By EDITH EVANS ASBURY

Thirteen Black Panthers, including two who fled to Algeria during their trial, were acquitted yesterday on all 12 counts of an indictment accusing them of conspiring to bomb department stores and police stations and murder policemen.

The members of the jury—which included five blacks and one Puerto Rican—reached a unanimous verdict so quickly that they surprised even themselves.

"We had lunch and began talking and were amazed to find out right away that we all felt about the same," said Frederick Hills, an editor for McGraw Hill Publications, after the verdict was given in the eight-month trial, the longest in the history of the State Supreme Court here.

"There just wasn't enough evidence," said Joseph Gary, a post office clerk.

"We all came with bags, prepared to stay a long time, but it wasn't necessary. There was evidence, all right, but it just wasn't enough," Mr. Gary said.

## Laughter and Tears

Jurors, defendants, six defense lawyers and relatives and friends of the defendants crowded together afterwards in the lobby of the Criminal Court building at 100 Centre Street. They laughed and cried and hugged each other.

James I. Fox, the white-haired jury foreman who is an expert on African music, brought the verdicts into the courtroom noted on score sheet that Justice John M. Murtagh had provided.

Mr. Fox led the jury back into the courtroom at 4:35 P.M. The 11 men and one woman had received the case at 1:20, with instructions to have lunch before beginning deliberations.

One juror smiled broadly at the defendants as he passed their table to his seat.

Other smiles appeared all over the courtroom as the first "not guilty" was voiced by Mr. Fox in answer to the first question by William Wallace, the court clerk.

### Shakur Is First

That question related to the innocence or guilt of Lumumba Shakur on the first count, conspiracy in the first degree.

Mr. Shakur, who is 29 years old and is also known as Anthony Caston, had been labeled one of the ringleaders of the alleged bomb conspiracy by Assistant District Attorney Joseph A. Phillips, and the first count was the major one in the indictment.

Mr. Phillips, who stands 6-foot-4 and has a shock of short, curly brown hair, sat with bowed head as the answers continued, "not guilty," 12 times for each of the 13 defendants.

Mrs. Afeni Shakur, one of two women defendants, and the only one of the 13 free in bail, shrieked and began to sob loudly as the "not guilty" answers rolled out concerning her husband.

Spectators cheered, applauded and sobbed as the replies by Mr. Fox continued on other counts against the other defendants.

About 40 court officers and

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policemen had been stationed around the room before spectators were permitted in to hear the verdict. Few believed the jury was coming back with a verdict, assuming it was merely coming in for further instructions or rereading of the transcript.

Many spectators who had been present daily were not there, because of the suddenness of the verdict. Mrs. Clarice Bird, mother of Joan Bird, the other woman defendant, was not there and friends were frantically calling to each other across the courtroom for her telephone number. She had not missed a day of the trial nor the several months of pretrial hearings that preceded it.

The defendants, most of whom had been in jail since their predawn arrests on April 2, 1969, listened quietly at first. Then the jubilation began, with applause and shouts of "Right on!" and "Power to the people!"

Tense court officers yelled, "Be seated, find seats!" as relatives and friends tried to run forward to the defendants as soon as it was clear that all had been found not guilty on all counts.

### Murtagh Thanks Jurors

Justice Murtagh thanked Mr. Fox and the other jurors "for your dedicated service."

"You have served the community well," he said, "and the community should be grateful to you for enduring this long trial of many months."

It took Mr. Fox only 20 minutes to reel off "not guilty" 156 times. The sheaf of verdict ballots was clasped in his right hand, and as he continued to answer without referring to the papers, it became apparent that all were going to be acquitted on all accounts.

This became especially clear after it was known that Richard Moore, whose name was the second called out by Mr. Wallace, was found not guilty on all counts. Mr. Moore, who is 26 years old and is known also as Anallye Darhubi, fled to Algeria last February, forfeiting bail of \$100,000, while the trial was on.

The name of Michael Tabor, 25, known also as Ceteyo—he fled with Mr. Moore and forfeited bail of \$150,000—was the fourth one to be called, and by then acquittal for all seemed a certainty to the cheering spectators.

### Judge's Charge

In his charge to the jurors, which he completed at 12 noon yesterday, Justice Murtagh had instructed them that they could consider the flight of Mr. Moore and Mr. Tabor as evidence of a consciousness of guilt.



He also told the jury that the flight of two other defendants on April 2 to avoid arrest—William E. King Jr., 33, also known as Kinchasa and Lee Roper, 24, also known as Shaba Nm—could also be considered evidence of consciousness of guilt.

Mr. King and Mr. Roper were arrested later, on Nov. 14, 1969, living under assumed names in Columbus, Ohio, by agents of the Federal Bureau of Investigation.

The prosecution case had rested heavily on testimony by three undercover agents who had infiltrated the New York branch of the Panther party.

They testified they had heard the defendants plot to bomb police precincts, department stores, railway and subway installations and the Bronx Botanical Garden. They also testified to having attended classes conducted by the Panthers that included simulated firing and instructions on how to make bombs, and on guerrilla warfare.

The undercover agents also testified that they had heard the defendants urge that all members of the party have guns and know how to use them, and that they had advocated killing "pigs," as they called policemen.

#### 'Agents Did Their Job'

Mr. Gary, one of the five black jurors, said: "I don't fault the undercover agents; they were doing their job where society put them, but nobody really saw anybody do the things they talked about."

None of the defendants took the stand, and defense counsel put on only 10 witnesses, in contrast to the 65 for the prosecution.

The defense concentrated its attack, in lengthy summations, on the undercover agents. They denounced them as lying tools of a police department eager to wipe out the Panther Party and prevent militant blacks from joining together to improve conditions of black people.

Charles T. McKinney, the only black among the six defense lawyers, had stressed that the prosecution rested heavily on the agents, whom he denounced as "spies" assigned "to find something criminal in the Black Panther party."

"Nothing testified to by the three agents was corroborated by a single disinterested witness," Mr. McKinney told the jury.

Mr. Phillips, the prosecutor, had praised the courage of the agents who he said "laid their lives on the line every day" as they gathered evidence of a "conspiracy designed to society and the 'power structure.'"

Mrs. Shakur, who is eight

months pregnant, represented herself during the trial. She was remanded to jail, along with Joan Bird, when Mr. Tabor and Mr. Moore fled to Algeria. However, Justice Murtagh paroled her on May 3, saying he was "mindful of the rights of the child."

#### The Bail Dispute

Mrs. Shakur had been free in bail of \$100,000 before she was remanded in February. Her bail and that of Mr. Tabor, Mr. Moore and Miss Bird had been raised by church, community and other groups sympathetic to the Panthers and indignant about the high bail.

The bail—\$100,000 each for most of the defendants—had been protested in and out of court by the defense lawyers since the inception of the case on April 2, 1969. They had also sought in numerous court moves to remove the case from the jurisdiction of Justice Murtagh, who they charged was biased against the Panthers.

The lawyers reiterated this claim of bias yesterday in final arguments out of the presence of jury, after Justice Murtagh finished his charge. They asserted that the charge was deliberately phrased to convince the jurors of the guilt of the defendants.

A total of 22 Panthers were indicted in the alleged conspiracy. Some were not apprehended and the trails of the others were severed because of their youth or illness.

The flight of Mr. Moore and Mr. Tabor to Algeria took place at a time of a split between East and West Coast factions of the Panther party.

Huey P. Newton, supreme commander and a co-founder of the party, expelled Mr. Moore and Mr. Tabor from the party and denounced them for having run out on their co-defendants.

#### The Seale Case

He also asserted that they had jeopardized the fate of Bobby G. Seale, co-founder with Mr. Newton of the party. Mr. Seale was then already on trial in New Haven on charges of ordering the murder of Alex Rackley, a New York Panther suspected by other party members of having been a police informant.

This changed the character of the "Panther 21 Committee" which had been formed to raise money for the defense of the original New York defendants. The name was changed to "Committee to Defend the Panthers" and the members stayed with Mr. Newton and disavowed the defendants.

When pretrial hearings began Feb. 2, 1969, they were characterized by noisy outbursts from defendants and spectators and, on one occasion, violence. This necessitated several adjournments and caused Justice Murtagh to hold three spectators in contempt.

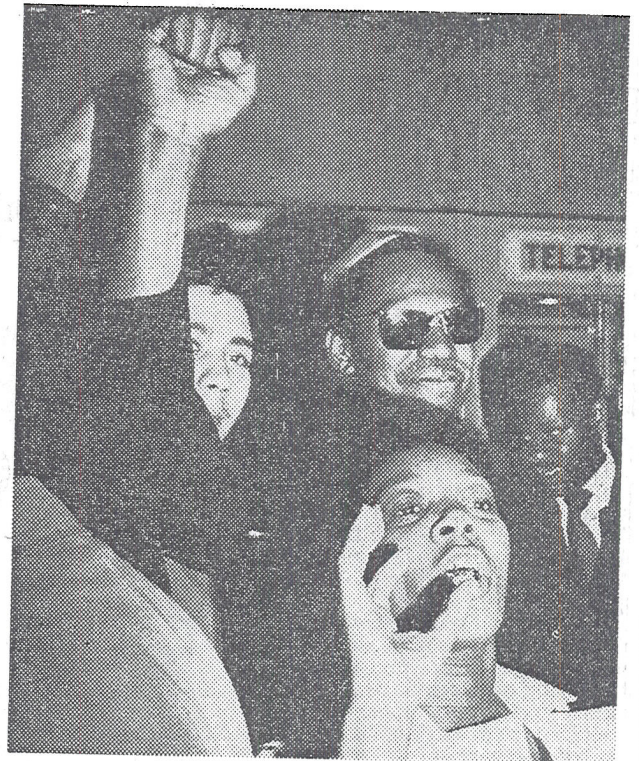
A United States Supreme Court decision last May in another case calmed the courtroom here. It held that if defendants refused to behave they could be sent from the courtroom and tried in absentia.

At the time of the decision Justice Murtagh was considering a proposal by Mr. Phillips to continue the trial with the defendants in another room and



The New York Times/Tyrone Dukas

ATTORNEY: William E. Grain, defense lawyer for Black Panthers, with Mrs. Claudette Sullivan, alternate juror.



MOTHER: Mrs. Clariss Bird, mother of Joan Bird, one of those acquitted, with friends after hearing the verdict.

viewing the proceedings on closed-circuit television.

Other defendants acquitted were Walter Johnson, also known as Baba O Dinga, 26; John J. Casson, also known as Ali Bey Hassan, 30; Robert Collier, 34; Curtis Powell, 35; Alex McKiever, also known as Catarra, 21, and Clark Squire, 34.

The first to walk out of the courtroom was Curtis Powell, holding both arms up with clenched fists and smiling. Five others followed, one slamming the courtroom door as he went into the hall.

Five of the defendants were not permitted to leave because other charges are pending against them. They were Mr. Collier, Mr. Casson, Mr. King, Mr. Shakur and Mr. Squire.