

# Deadlock by Jury Results In Seale-Huggins Mistrial

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NEW HAVEN, May 24—The six-month murder and kidnapping trial of Bobby G. Seale and Mrs. Ericka Huggins ended in a mistrial for each of them today after a jury of

seven whites and five blacks announced it was unable to reach a verdict on any of the nine charges in the case.

"We are still deadlocked," the jurors, who had deliberated since last Wednesday, said in a note to State Superior Court Judge Harold M. Mulvey this afternoon. "We feel it is in vain to deliberate further," the note said.

The lawyers were told to meet with Judge Mulvey at 2 P.M. tomorrow to discuss the next step.

Mr. Seale, the Black Panther party chairman, and Mrs. Huggins, a New Haven Panther, thus continue to be charged with a series of crimes arising from the death in May, 1969, of Alex Rackley. The state contends that Rackley, a Panther, was killed because the party leadership considered him an informer.

#### Lawyers Announce Plans

Mr. Seale's attorney, Charles R. Garry, asked Judge Mulvey for "an immediate retrial." Later, outside court, State's Attorney Arnold Markle said: "I'll try them again, absolutely, as soon as the court sets a date."

The jurors' note was the second such note the judge received today. The first time he had told the jury to reconsider, but this time, his face showing his disappointment, he turned to the jury foreman and said he had only two questions.

"In the Ericka Huggins case, you're telling me you cannot agree on a unanimous verdict on any of the charges?"

"Yes," replied the foreman, Robert L. Gauthier, a 30-year-old telephone-equipment installer and assistant Boy Scout master.

"In the Bobby Seale case, you're telling me you cannot agree on a unanimous verdict on any of the charges?"

"Yes."

With that, at 2:45 P.M., the judge declared the mistrials. Mrs. Huggin's attorney, Catherine Roraback, objected, saying

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she had heard another juror say something while Mr. Gauthier was replying. But Judge Mulvey said he was satisfied with the answers.

#### Close Attention

The two defendants had been leaning forward to hear the exchange. Now, they said nothing—Mr. Seale, merely sighing, Mrs. Huggins, a 23-year-old widow, smiling wanly.

Both Mr. Seale and Mrs. Huggins face two capital counts: aiding and abetting murder and kidnapping resulting in death. They are also charged with conspiracy to kidnap, punishable by 30 years in prison, and conspiracy to murder, punishable by 15 years. In addition, Mrs. Huggins is accused of binding with intent to commit a crime, a felony with a maximum 25-year penalty.

Their trial, which began Nov. 17, was the longest in the state's history; the jury selection process, which lasted four months, is thought to be the longest in the country's history.

Today, there were only 150 or so protesters in sight. But the case was one that, a year ago, drew 15,000 young demonstrators to the New Haven green and that led Kingman Brewster Jr., president of Yale University, to say he was "skeptical of the ability of black revolutionaries to achieve a fair trial anywhere in the United States."

Mr. Brewster could not be reached for comment today.

#### Range of Testimony

The jurors had heard of torture by boiling water, of killing in a murky swamp, of sex, drugs, beatings, Black Panther breakfast programs and Black Panther ideology.

They had heard, too, a tape recording of the interrogation of Rackley by his fellow Panthers—a recording on which the victim could be heard sobbing, and on which a baby could be heard crying in the background.

Today, and most other days of their deliberations, they could be heard shouting and arguing loudly among themselves. And this afternoon, as the eight women jurors and four men hurried out of the courtroom, with their escort of sheriff's aides, they seemed as upset by the trial's outcome as any of the subdued and shaken Panther sympathizers in court.

Mr. Gauthier, who had smiled at Mrs. Huggins earlier, strode out with a stony look. Mrs. Jean H. Lowe, a 57-year-old black hospital worker, stumbled into the person ahead of her. Mrs. Mary Armstrong, a former nurse, also black, seemed to be crying behind her sunglasses.

### Orders 'No Comments'

But the jurors had been expressly told by judge Mulvey not to speak to reporters — "You have one thing to say," he told them, "no comments, no comments, and hang up"—so the specifics of the deadlock could not be learned.

The lawyers had also been forbade to discuss the case. Miss Roraback said that anyway, she had, "after two years, nothing printable" to say. Mr. Markle, on the other hand, was beaming.

One lawyer did have a comment. Theodore Koskoff, whose client, Lonnie McLucas, was convicted last summer of conspiring to murder Rackley, in what Mr. Koskoff later called a "fair trial." In the Seale-Huggins case, he said the charges should be dropped. "How many shots should the state get?" he said.

And Martin Kenner, coordinator of the Committee to Defend the Panthers, said: "The state could not prove beyond a reasonable doubt, and nonetheless they must stay in jail until the people free them."

The central question of the case was: Who ordered Rackley killed? Was it Mr. Seale, as the state contended? Or was it the state's star witness, George Sams Jr., who has pleaded guilty to second-degree murder in the case, as the defense and the Panther Party contended?

But interwoven, through the two months of testimony, through the four months of jury selection that had gone before, was another question: What kind of organization was the Black Panther party? And because of the way the prosecution and the defense each chose to try its case, the second question was nearly as crucial as the first.

### Torture of Rackley

There was no disputing, by either side, that a group of Panthers had, in fact, tortured and killed Rackley. He had come to New Haven with a group of other Panthers from New York on May 17, 1969.

The following day, at Panther headquarters here, he was beaten, then brutally burned and beaten again, and then interrogated about police infiltration of the New York chapter.

Later he was bound to a bed. And a few days afterward, in the early hours of May 21, he was led at gunpoint from party headquarters and—on a bank by the Coginchaug River near Middlefield, 22 miles to the north—shot twice.

There was no dispute, either, that Sams had been in immediate charge of the beating, interrogation and shooting; that Warren Kimbro, who had pleaded guilty to second-degree murder, fired the first bullet; that Lonnie McLucas, who was convicted last sum-

mer of conspiracy to murder, fired the second.

It was simply a question of who decided all this should be done and of who the other participants were. To place the blame on Mr. Seale, State's Attorney Arnold Markle tried to depict the beating as typical of Panther "discipline" and the Panthers as people who obeyed their superiors in the party without question.

So the defense, to prove that Sams was in charge, tried to depict just the opposite—that Panther "discipline" was a matter of doing push-ups or taking the early shift at a

Panther breakfast program; that Panthers tried through various social programs, to right the innumerable wrongs they said had been done to black people in America.

Each side used traditional trial techniques as well. The state, for example, presented Sams, who testified that the Panther chairman confronted Rackley at headquarters the night of May 19, just after giving a speech at Yale, and said: "What do you do with a pig? A pig is a pig. Do away with him."

It also presented a policeman who said he saw Mr. Seale

enter Panther headquarters the night he allegedly gave the order. To the apparent horror of some of the jurors, the prosecution played the tape the Panthers made of the interrogation.

### Girlfriend Testifies

The defense, in turn, produced Linda Young, a young woman who had once lived with Sams. She described him as irrational and violent and said he wanted to "get even with" the Panther chairman.

It called two priests who testified that Mr. Seale was "peaceful" and other witnesses who described Mrs. Huggins

as "gentle" and sensitive.

The defense brought out the fact that her daughter was six months old at the time, and that her husband had been killed just four months earlier.

Throughout the trial, both sides sought also to convey a particular impression of the party itself from these witnesses and others; there were 15 for the prosecution, 11 for the defense.

Some, for example, testified to having "used much worse things" than boiling water in disciplining other Panthers. For the same reason, but an opposing purpose, the priests de-

scribed Panther breakfast programs in California.

The technique backfired occasionally, as when the defense questioned Mrs. Margaret Huggins, a young Panther, about the party's ideology. She began to recite the 10-point program, and the refrain "We want freedom . . . We want bread . . ." filled the courtroom.

But then she was asked—by the prosecution—about the party's rules concerning drugs and the reporting of misdeeds, and she conceded that the rules had been consistently broken.

It was the fact that these were Black Panthers on trial—

14 were charged originally; only two have yet to have their cases resolved — that brought the case its original notoriety.

When the pretrial hearings began here in the spring of the day that the police raided 1970, the memory of Dec. 4, 1969, was still vivid. That was a Panther apartment in Chicago there and, in a shootout, killed Fred Hampton, the Panther leader.

### Acme of Popularity

The Panthers' popularity and the coverage by the media were at their height then; the country's college campuses

were also much more attuned to demonstrations.

And through the fall and winter, while Mrs. Huggins and Mr. Seale waited in jail, their lawyers filed a number of suits. They conducted the longest jury selection in the state, during which hundreds of people were rejected because they thought the defendants were guilty.

And until last week, when the end seemed in sight, there were usually empty seats in a gallery that holds no more than 30 spectators.

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