

Pruning the Panel of Angela Trial Jurors

By Carolyn Anspacher

Prospective jurors in the Angela Davis murder-kidnap-conspiracy trial in San Jose fell like autumn leaves in a high wind yesterday.

Within the day, 12 were excused from the general panel by stipulation without ever appearing in court, five for educational reasons, five for medical reasons, and two for reasons of economic hardship.

A thirteenth, Robert McCarty, a tax expert with the Southern Pacific Railway who had occupied the third seat in the jurors' box for several days, was also excused, McCarty, who has worked for SP for 31 years, said he had "no assurance" the company would pay his salary for more than two weeks and the trial is expected to last anywhere from four to six months.

He said he would be "unable to carry on" for three months without his full salary.

Ruth Ann Charlton, whose name was picked for McCarty's spot in the jurors' box, said she has been working only three weeks as a sales supervisor in the new Bullock's store in Palo Alto and had no idea whether the firm would pay her salary for the duration of the trial. Superior Court Judge Richard E. Arnason sent her to Palo Alto to find out.

PLUMBING

Questioning of those seated more firmly in the box proceeded at a snail's pace as attorneys for prosecution and defense attempted to plumb every hidden reservoir of prejudice, hostility,

and even undue empathy.

Miss Davis, who is accused of having furnished the weapons used in the bloody escape attempt at the Marin County Courthouse 19 months ago in which four were slain, seemed to lose all identity as the questioning went on.

She emerged as a physical being only once during the day. Howard Moore, Jr., one of her attorneys, while examining Mary Borrelli, attempted to demonstrate how Miss Davis is clothed in the presumption of innocence.

He lifted from Miss Davis' shoulders a deep bois de rose shawl in which she had wrapped herself, held it aloft, and then carefully tucked in back around her. Miss Davis affects shawls and stoles, even in warmest weather, and has a huge wardrobe of them.

STUNNED

Mrs. Borrelli, whose husband services and helps operate a wind tunnel at Moffett Field and who is the mother of three adult children; Mrs. Alice Evarts, the young wife of a Stanford graduate student, and James Masser, an FAA air traffic controller stationed at Fremont, were the only three panelists questioned yesterday.

Mrs. Evarts, her face shining and earnest, seemed disconcerted by only one question posed by Defense Attorney Leo Branton.

"Are you aware of Miss Davis' racial background?" he asked.

Mrs. Evarts, apparently stunned, answered: "No."

"Well," Branton said, "what color is she?"

"Black," replied Mrs. Evarts.

"Is there anything that would cause you to look on blacks with disfavor?" Branton asked.

"No," responded Mrs. Evarts.

"If it appears during the trial that all the victims in the August 1970 Marin County Courthouse shooting were white, and all the perpetrators were black, would this create, in your mind a gigantic black and white conflict?" the attorney asked.

"No," said Mrs. Evarts.

SURPRISE

Mrs. Borrelli, quiet and well groomed, produced one of the surprises of the day. She told Attorney Moore that she has no objections to the ownership of guns — her husband has a rifle for pheasant hunting.

Two of her sons and her husband served in the Navy, but, she said she would not condemn Miss Davis for her opposition to war. And she

said she would not be too greatly moved by the sight of a principal prosecution witness, Marin County Assistant District Attorney Gary Thomas, who was shot and permanently paralyzed in the Marin shootout.

"Have you ever been to Marin county?" Moore asked.

"Yes," Mrs. Borrelli replied. "My brother was in San Quentin 20 years ago."

The silence in the courtroom fairly screamed.

"Has that situation worked out all right, Moore asked.

"Oh, yes," Mrs. Borrelli replied.

COMMUNISTS

There was something of a different problem with Messer, the FAA air controller, the last juror to be questioned.

He was, he said, a graduate of the U.S. Naval Academy; served as a Navy lieutenant, a Pan American pilot and he believed the Communist party was devoted to the violent overthrow of the United States Government.

"If that is so, and it is admitted Miss Davis is a member of the Communist Party, do you feel you might not be able to give her a fair trial?"

"That's possible," Messer said.

Branton asked that Messer be challenged for cause, and the prospective juror's questioning was taken over by Judge Arnason.

He told Messer he could not swear in a jury unless he were satisfied all were fair and impartial, free of bias and prejudice. He asked Messer if he felt he could arrive at a decision based solely on what he heard and saw in the courtroom.

"It may come up that a witness is a Communist or a socialist, and knowing this, do you feel in your heart and conscience you can be a fair and impartial juror?" he asked.

"Yes," said Messer, "I do."

Judge Arnason overruled the challenge for cause.