

Wounded DA's Angela Testimony

By Carolyn Anspacher

A tall man with wasted legs was wheeled yesterday into a San Jose courtroom and testified that the bullet that tore away an inch of his spine in the Marin county Hall of Justice parking lot Aug. 7, 1970, was fired from outside the van in which he and four others were being held hostage.

The words from Gary Thomas, 34, Marin County's Assistant District Attorney, were the first acknowledgment that he had not been shot by one of the convicts who executed the escape plot that left four persons dead.

A key witness in the State murder - kidnap - conspiracy case against Communist revolutionary Angela Davis, Thomas was one of those seized in the courtroom of Marin Superior Court Judge Harold Haley, presumably — by the states' reasoning — to be exchanged like ran-

son for the San Quentin prisoners known as the Soledad Brothers.

The shot that left him paralyzed for life, Thomas testified from his wheel chair, did not come from inside the van. Where it was fired, and by whom, Thomas said he did not know.

Slow spoken, with long hands that seemed to move almost involuntarily, he told the story of his ordeal that bright summer day in Marin county. He was, he testified, prosecuting a case against James McClain, a San Quentin prisoner accused of assaulting a guard.

A fellow convict, Ruchell Magee, was on the stand.

Thomas said he was sitting at the counsel table, his back to the audience, when he heard a voice say: "Hold it right there. That's enough."

He turned, he said, and saw a "light-skinned black"

he was ordered to lie on the floor, stretched out, head turned toward the bench.

Thereafter Thomas heard more than he saw.

"I heard McClain say something to the effect we have the judge. If you don't do as we say we'll kill him and the others."

There was a discussion between McClain and Magee about the hostages to be taken, Thomas testified, and he quoted Magee as saying: "Let's not take any of them. Let's kill them all here."

At no time, Thomas said, did he hear mention of the Soledad Brothers.

Thomas recounted the long walk from the Hall of Justice to the waiting yellow van and once there he said he said: "I asked them (the convicts) if they would let the women go. I told McClain that the Marin deputies and the San Quentin guards would recognize me and not fire, and the response was 'You're all going.'"

Then came the story of what transpired inside the van.

McClain tried to drive and couldn't manipulate the complicated mechanism. Somehow they exchanged places and young Jackson took over. On one side squatted Thomas, Judge Haley and Magee. On the other side were the three women jurors. Somewhere toward the back was Willie Christmas.

"What was the destination of the bus," Harris is asked.

"Judge Haley asked them where were going," Thomas said. "And McClain said we're going to the airport and take a plane."

"The van backed up and turned toward the left and



UPI Photo

**GARY THOMAS
Shot from outside van**

went forward," Thomas went on. "It was going not more than 25 miles an hour and came to a sudden, and abrupt stop.

"I saw Jackson reach his right hand over his body and

out of the window with a gun. I heard a shot. And then I heard one or two more shots. I do not know from where they came. Jackson brought his hand inside. There was blood on it and blood on the revolver.

"The sawed off shotgun was being held in Judge Haley's chin by Magee. The gun went off. It was as if it was in slow motion — all outward features of his face moving away.

"I turned to my right and took the gun from Jackson's hand that was lying over the engine housing — the hump in the middle of the van. I fired a shot at Jackson, maybe once or twice. McClain was moving toward the left side toward the front and I shot him in the back. I turned and fired a shot in the area of Christmas and then I shot Magee in the chest, I shot him once and he was moving and I tried to shoot again but the gun clicked. He stopped moving.

"I yelled out (of the van) 'Stop firing. Please stop firing!' And right then, at the same time, I felt pains in my back. My legs gave out and I crumpled down.

"Over an inch of my spinal cord had been shot away. I am permanently paralyzed," Thomas said.

He made the disclosure about having been wounded by a shot fired from outside the van during rigorous cross-examination by defense attorney Leo Branton Jr.

Branton gave Thomas no quarter as he sought to minimize the impact of his testimony.

Branton suggested that Thomas' memory of the events of August 7 were blurred because of his personal involvement with the late jurist. Thomas' wife, Maureen, is Judge Haley's niece and the young attorney

spoke of his uncle-by-marriage as a "saint."

THEORY

Branton theorized that the bloodbath in the van started when an outside fusillade of shots killed Jackson and McClain, and that Thomas then grabbed McClain's gun and began to fire at Christmas and Magee.

"And you hit Christmas and Magee and possibly hit Judge Haley," Branton said.

"No" answered Thomas.

It was this note that Branton suddenly closed his cross-examination and Thomas was wheeled out of the courtroom.

The day's first witness was Inspector Kenneth Irving, who, like so many law enforcement officers, had been held at bay by the escaping convicts on the fourth floor of the Marin Hall of Justice.

He testified he heard "someone at the elevator shout: 'You have until noon to free the Soledad Brothers.'" He said he heard young Jackson declare: "I'm itching to blow somebody's head off."