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# How Angela

## Bought a

### Carbine

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SAN JOSE—A former clerk of a Los Angeles surplus store today examined a 30-caliber carbine—one of the guns the state says was used in the Marin Civic Center shootout Aug. 7, 1970—and said Angela Davis bought it for \$129.95 on April 7, 1969.

Owen Swisher testified at the kidnap-murder-conspiracy trial of Miss Davis, who already has admitted she bought the gun but denies she plotted to have it used in the shooting that killed a judge and three blacks.

Swisher, who formerly worked for the Western Surplus Store, said Miss Davis also bought two ammunition clips, 100 rounds of ammunition, a sling and a cleaning kit. Swisher identified a sales slip that carried Miss Davis' name, passport num-

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ber, driver's license number and signature.

#### 'Free Our Brothers'

Another witness, Theodore Hughes, one of the Marin County sheriff's deputies disarmed and held off in a corridor during the 1970 violence, said he heard one of the blacks shout prior to the shootings:

"Free our brothers at Folsom — free all."

The prosecution contends that seizure of the judge, three jurors and a prosecutor was aimed at getting hostages for which to de-

mand release of three blacks in San Quentin Prison, held for killing a guard at Soledad Prison.

Other witnesses have testified to hearing shouted demands of "Free the Soledad Brothers by 12 o'clock (noon)."

#### Prosecutor's Story

The Angela Davis jury has before it now the question whether the 19-second shootout's ending was due to heroism or an emotion-charged and ill-advised impulse.

The answer may depend on whether yesterday's testimony by Gary W. Thomas, the 34 year old assistant district attorney crippled forever by that gunfire, is viewed through the eyes of the prosecution or the Angela Davis defense.

Thomas, speaking from a wheelchair placed directly in front of the jury hearing Miss Davis's murder, kidnap and conspiracy trial, gave his first public accounting of the events as he experienced them Aug. 7, 1970, at the Marin Hall of Justice.

#### Shootout

Prosecutor Albert W. Harris gently guided Thomas from the armed takeover of the courtroom where he had been prosecuting convict James D. McClain to the sudden collapse of the kidnap-escape attempt in a hail of gunfire just outside the courthouse building.

Thomas, Superior Judge Harold J. Haley and three woman jurors were taken hostage by convicts McClain, Ruchell Magee and William Christmas and the youth who brought guns into the courtroom — Jonathan Jackson, 17 year old brother of Soledad Brother George Jackson.

Unlike other prosecution witnesses, Thomas said firmly that he never heard his abductors make a demand that the Soledad Brothers be freed by noon.

#### 'Good Man'

Thomas revealed an unex-

pected relationship between himself and McClain, whom he was prosecuting for the second time in two months of charges of assaulting a prison guard.

McClain, who was acting as his own lawyer, picked him as a last minute hostage saying: "You're a good man. I'm taking you along," he recalled.

And then, just outside the courtroom, McClain turned to him while holding a sawed off shotgun at the neck of Judge Haley "and he gave me kind of a smile and said, 'We're revolutionaries but you knew that all along, didn't you? There are more people behind us than you think.'"

#### Pleads for Women

Just before stepping into the van that carried the judge, Jackson, McClain and Christmas to their deaths, Thomas recalled:

"I asked if they would let the women jurors go. I told McClain the sheriff's men and San Quentin guards would recognize me and wouldn't fire. McClain said, 'No. You're all going.'"

Inside the van, Thomas recalled, Judge Haley asked where they were being taken.

"We're going to the airport and take a plane," he recalled McClain responding.

Then, at the close of two hours of testimony, Harris led Thomas into his dramatic tale of the shootout as seen inside the yellow rental van.

#### Gunfire Starts

"The van came to a sudden stop, very quickly. I saw Jonathan Jackson (the driver) with a revolver in his hand. He put his hand out the window. Then I heard a

shot. Then I heard—I can't say if it was one or two shots in almost immediate retort.

"Jackson pulled his hand back inside the van and looked at it. There was blood on the bottom part of his hand. When I saw that I immediately turned to look at Judge Haley.

"I saw his face. He was alive. An instant later I saw slowly pulling away from his the right side of his face skull."

"Was there a gun?" Harris asked softly.

"There was a sawed off shotgun beneath his chin that was held by Ruchell Magee," Thomas said.

Q—"Did it go off?"

A—"Yes."

Q—"Would you describe the judge's face?"

A—"It was as if it was in slow motion, all the outward appearances of his face just completely moving away.

"I turned to my right and took the gun that was in Jonathan Jackson's hand. I took it out of his hand and fired a shot in Jackson's direction—at least one, maybe two.

"James McClain was moving toward the left side of the front of the van. I shot him in the back. I turned and I fired a shot in the area of Christmas (in the rear of the driver's side of the van).

"And then I shot Ruchell Magee in the chest. I shot Magee once and he was still moving. I tried to shoot him again and the gun clicked. At the same time, he stopped moving.

"I yelled out, 'Stop firing. Please, please stop firing.' About the same time I felt the sharp pains in my back.

My legs gave out and I crumpled down."

A bullet fired from outside the van "shot away over an inch of my spinal cord so I am paralyzed from the waist down," Thomas told the jury.

It became apparent during an hour and 15 minutes of cross examination by Attorney Leo Branton Jr. that the defense has a different theory of the sequence of the shootout.

Acting impulsively, Branton charged, Thomas himself may have shot the judge

rin County deputy sheriffs this morning harked back to the two .357 magnums which Thomas was unable to differentiate.

Ted Hughes and Dave Mori both said their guns, of that caliber, were taken from them on the courtroom floor of the Civic Center—Mori's by Christmas and Hughes' by Jackson.

Both men identified the weapons in court. Hughes testified that in the excitement after the shootout, he was near the van and saw an officer with his gun.

He asked to examine it, found it bore his serial number, and put it in his holster without checking it further, Hughes said. Only next morning did he discover it had been fired six times and turn it in as evidence.

Branton quizzed him closely as to how an officer, whose life may depend upon a ready weapon, could have failed to check at once as to whether the gun was loaded.

"Who can explain the excitement as it was?" Hughes responded. "I hadn't been around that many casualties at one time before."

or caused him to be shot.

Q—"Isn't it true that it was only after you hit Ruchell Magee that the shotgun went off?"

A—"No."

Q—"Did you hear the shotgun go off?"

A—"No."

Q—"Isn't it true that the reason you didn't hear it go off was because, at the same time you were hit in the spine, the shotgun went off?"

A—"No."

The testimony of two Ma-