

The Angela Trial Is Slowed

By Carolyn Anspacher

For the second time in two weeks, the Angela Davis trial in San Jose all but foundered yesterday on a peripheral issue involving violence.

The slaying here Thursday of James Carr, 28, an intimate friend and former cell-mate of "Soledad Brother" George Jackson sent the Davis case into a morning-long recess, and came close to causing a mistrial.

Jackson, who was shot and killed last August during a bloody disturbance at San Quentin prison, casts a long shadow over the trial of Miss Davis, charged with murder- kidnap and conspiracy.

It is claimed that for love of Jackson Miss Davis plotted and gave arms to Jackson's 17 - year - old brother, Jonathan, to execute a hostage exchange — Marin Superior Court Judge Harold Haley and four others—in return for San Quentin convicts George Jackson and his two fellow so-called Soledad Brothers. Instead, four died in a gun fight at the Marin Civic Center.

CONNECTION

Jackson's long-standing tie to Carr, and, in fact, Carr's amorphous connection with Miss Davis, provided grist for the press over the weekend, particularly for San Jose newspapers.

Miss Davis, her corps of attorneys, Assistant Attorney General Albert W. Harris Jr. and Deputy Attorney General Clifford Thompson spent the morning closeted with Superior Court Judge Richard Arnason, who is hearing the trial.

Midway in the conference a stack of newspapers was carried into the judge's chambers.

The only comment on the conference came from de-

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fense attorney Leo Branton Jr., who said "matters of serious proportions" were under consideration.

APOLOGY

When court finally convened shortly after 2 p.m. Judge Arnason apologized for the "inconvenience" caused by the delay, then asked the eight-woman, four-man jury and the four alternates if they had acquired knowledge of the death of James Carr.

He asked those jurors who may have heard, read or seen on television anything about the Carr death (speaking of it always as a "death" and never as a murder). Five jurors and three alternates raised their hands in affirmative response.

Then he asked the panel members en masse if any had learned anything that might cause bias either against the prosecution or defense in the Davis trial. He asked if the reports had raised any doubts or reservations that might keep them from being entirely fair.

He asked if any believed

there was any connection between the death of Carr and Miss Davis. He asked if any juror had any doubt he could set aside information not given in court, under oath, as evidence.

The jurors indicated they had no doubts they could continue to serve, and the trial went on.

Two weeks ago, in a totally unrelated episode, three San Jose county jail inmates took two civilian hostages in an attempt to escape. The jail is only a couple of

hundred yards from the secluded area where Miss Davis is being tried, and the attempted break and subsequent shooting occurred almost under the eyes of the Davis jurors.

After that disquieting interlude, the Davis trial was adjourned for the day, and the jurors subsequently polled individually to determine what effect the episode had had on their judgment. All said they would not be swayed and the trial went on.

Defense attorney Branton spoke with both anger and bitterness yesterday over publicity given the Carr slaying, excoriating the press for printing "untruths, half - truths and innuendoes."

A key witness for the prosecution during the abbreviated court session yesterday was Marin Assistant Coroner Eugene R. Fontaine, who watched the gun battle from a balcony on the third floor of the Marin Hall of Justice.

He said he watched a yellow van containing Judge Haley, the four other hostages, young Jackson and three escaping convicts move eastward out of the Civic Center parking lot.

He saw San Quentin Guard John Matthews crouch behind a San Quentin vehicle, with a rifle. Matthews, he said, appeared to shout something at the van. Then came a report that sounded like a pistol shot. He said Matthews flinched and then fired three times at the van.

The vehicle lurched to a halt, and there was a lot of firing, including a shotgun blast from inside the van.

When the shooting stopped, he went to the van. "You could see Judge Haley laying down and there was so much destruction on the lower part of his face, you

could tell he was probably dead," he said.

In Judge Haley's lap, he said, he saw a sawed-off shotgun. As he watched, he saw a hand moving toward the gun.

"It was Ruchell Magee's hand, and he looked as though he were trying to grab the gun," Fontaine said.

The assistant coroner said he took the weapon and held Magee until the convict was removed from the van.

San Rafael Police Inspector Harold Pennington was the afternoon's only other witness. He said he was among the first to open the van doors after the shootout and heard male and female voices "crying for assistance."

Pennington testified that his first move was to take three weapons from the van interior — a 12-gauge shotgun and two revolvers.

Attorney Branton made much of the fact that Pen-

nington was so preoccupied with the weapons he ignored the dead and wounded in the van and, additionally, failed to consider that the weapons might have had fingerprints.

Under re-direct examination Pennington said he personally saw no gunfire at the van and said he could not estimate how many shots were fired inside. And, he said, others were taking care of the wounded.

The trial will resume at 9 a.m. today.