

# Davis Trial Duel Over Testimony

SF Examiner  
*Prosecutor vs.  
'Bad Memory'*

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SAN JOSE—An attorney who claimed his memory is "very bad," and a determined prosecutor fought a lengthy duel today in the trial of Angela Davis over testimony the state regards as vital to get into the record.

It came after a witness testified that Miss Davis, accompanied by Jonathan Jackson, bought one of the weapons used in the Marin County Courthouse shootout only two weeks before it figured in the carnage there that left four dead.

The protagonists in the duel were Assistant Attorney General Albert W. Harris Jr., and attorney John Thorne, who once represented George Jackson and was later accredited to visit Miss Davis in her Marin County Jail cell.

### Brings Garry

Thorne, summoned as a prosecution witness, brought along his own attorney — Charles Garry, widely known for his defense of Black Panther leaders.

And the reluctant witness proved to be as thorny as his name. Harris began by asking whether he had in fact been George Jackson's attorney. Garry objected on the grounds an answer

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would violate the attorney-client relation of confidence, and Superior Judge Richard Arnason upheld the objection.

A lengthy argument over the application of the attorney-client privilege finally brought from Harris an offer-of-proof as to what he expected Thorne's testimony to be.

### Bought Shotgun

He said it would show Miss Davis called Thorne in his office in San Jose after she bought a shotgun in San Francisco two days before it was used in the shootout.

She told Thorne, the prosecutor said, that she was in that city with Jonathan Jackson, who later smuggled guns into a Marin County courtroom and sparked the shooting, and that they were "enroute to Santa Cruz to pick up some things."

With the jury absent at his own suggestion, Harris said Thorne would also testify he delivered certain letters to George Jackson from Miss Davis, and that he tried to obtain a court order permitting her to visit Jackson in prison.

### Stipulations

Defense Attorney Leo Branton Jr. promptly rose to say the defense would stipulate that Miss Davis was in a Salinas courtroom in April or May, 1970, when George Jackson was there. Harris had asked Thorne about that, it being the state's contention that this was the first time Miss Davis ever saw Jackson, for whom she allegedly had a passionate love.

The defense would also stipulate, Branton said, that Miss Davis was in court for a San Francisco hearing July 15, 1970, when Thorne tried to obtain an order admitting her to visit Jackson



**JOHN THORNE**  
Declines to testify

as a special investigator.

It would agree that Jonathan Jackson and his father, Lester, were in court with her that day, and that they spent the night of July 14 in a Berkeley motel, he added.

.... Objection....

But Branton steadfastly objected to the offer-of-proof as to the alleged telephone conversation between Miss Davis and Thorne on Aug. 5, 1970. It would not be affirmed, he said, and if it were proved, it would be proved to have occurred in July rather than on the August date two days before the shootout.

Accepting the stipulations, Harris tackled Thorne under

terms set by Judge Arnason that he would later rule, question by question, as to whether Thorne could be required to answer.

It was then that the duel between Harris and Thorne began. At one point, the reluctant witness told the prosecutor:

"You have to understand about the memory of John Thorne. It is very bad."

.... Demonstrates....

He went on to demonstrate as Garry and Branton routinely objected to every question put by Harris.

Thorne said he did not remember, for instance, whether he had filed a petition for a writ that would allow Miss Davis to visit Jackson. Harris showed it to him, and pointed out his name on it.

"I frankly don't remember..."

Did he remember anything about the document?

"No, Mr. Harris, I don't," Thorne replied testily. "If you think I'm lying, you'd better be prepared to prove it."

The questioning went along in that vein until Harris asked, over the usual objections, where Thorne was on Aug. 5, 1970.

"I have no memory whatsoever where I was that day," the witness replied. And he insisted that he

didn't even remember whether he was in the United States, or in his office.

#### Sworn Statement

Harris produced a sworn statement Thorne had given him Sept. 29, 1980, and asked if the witness had been in the Attorney General's office that date. He said he didn't remember.

"I'm not playing with you," he said. "I simply don't remember."

Harris won admission that Thorne recalled being subpoenaed to appear at the Attorney General's office, but the witness couldn't remember having taken an oath. The prosecutor showed him a transcript of the oath.

"I'm sorry," said Thorne. "It doesn't help me. I really just don't remember. I re-

member very little about that day."

#### Testimony

The inconclusive attempt to wring a shred of testimony from Thorne developed after Nancy Conrad, a clerk in the Western Surplus store in Los Angeles, testified as to Miss Davis' purchase of one of the guns used in the shootout.

Miss Conrad's story was

one of the strongest links yet in the chain of circumstantial evidence which the prosecution hopes will bind Miss Davis to the conspiracy that led to the shootout on Aug. 7, 1970.

#### Hostage Theory

Harris has claimed that Miss Davis acted for love of George Jackson, hoping that hostages would be taken who could be exchanged for his

freedom and that of two other convicts.

It charges that she supplied four guns to Jonathan Jackson that he used to invade the courtroom of Marin County Superior Court Judge Harold Haley. Haley, young Jackson, and two convicts who joined the attempt in the courtroom, died in the subsequent shooting.

Miss Conrad said that

Miss Davis purchased an M-1 carbine, along with 200 rounds of 30 caliber ammunition and two banana clips, on July 25, 1970.

#### Stipulation

Defense attorneys stipulated that this was so, and that it was the same carbine found among other weapons in the yellow getaway van that was the center of the shooting.