

MISS DAVIS TAKES STAND AT HEARING

Attempt to Bar Testimony by a State's Witness Fails

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SAN JOSE, Calif., May 2—Angela Davis took the stand for the first time in her murder-conspiracy trial today in an unsuccessful defense attempt to bar the testimony of a prosecution witness. She testified in the absence of the jury.

Miss Davis was called to the stand by her counsel, Leo Branton. Mr. Branton was seeking to establish that Miss Davis had a lawyer-client relationship with John E. Thorne of San Jose in the days preceding the Aug. 7, 1970, Marin County Courthouse breakout.

Miss Davis is accused of helping to plot that incident, which resulted in the shooting deaths of four persons.

The prosecution had called Mr. Thorne to testify about a phone call he allegedly received from Miss Davis on Aug. 5, 1970. Mr. Thorne and the defense had objected to his testifying, contending that it would violate a lawyer-client relationship between Mr. Thorne and Miss Davis and also between Mr. Thorne and the late George Jackson.

Prosecution Theory

The prosecution contends that Miss Davis's love for Jackson led her to plot the Marin County break in an effort to obtain hostages to exchange for Jackson's freedom from San Quentin Prison.

Miss Davis testified in the morning. After the noon recess, Superior Court Judge Richard E. Arnason ruled that a lawyer-client relationship had existed during the time in question. But he also ruled that Mr. Thorne could take the stand and be questioned about the time, place and subject matter of the alleged telephone conversation.

The judge said that after Mr. Thorne answered these questions, the court would hand down a further ruling as to whether he could be questioned also about the alleged conversation's content.

Defendant's Testimony

Miss Davis, wearing a long-sleeved navy blue dress, testified in a calm, soft voice that she engaged Mr. Thorne in the spring of 1970 to represent her in connection with a book she was writing and to handle Northern California aspects of her dispute at the University of California, Los Angeles. Miss Davis, an avowed Communist, taught philosophy at U.C.L.A.

before she was dismissed on June 19, 1970.

The defendant also testified that she had been hired by Mr. Thorne as an investigator in the case of Jackson. Later, in August of 1971, Jackson was slain at San Quentin in what prison officials said was an escape attempt.

The defense offered into evidence a petition to a San Francisco court by Mr. Thorne asking that Miss Davis be certified as an investigator in the case.

"Was that relationship ever terminated?" Mr. Branton asked Miss Davis. "No, it wasn't," she replied.

In cross-examination, Albert Harris Jr., the prosecutor, brought out that Mr. Thorne was never listed as an attorney of record in court cases involving Miss Davis.

Nature of Assignments

When Mr. Harris asked Miss Davis about the nature of her assignments as an investigator for Mr. Thorne, Charles Garry, lawyer for Mr. Thorne, objected. Mr. Garry said he had talked this morning with Mrs. Georgia Jackson, mother of Jackson and executrix of his estate, and that she had repeated a threat to sue Mr. Thorne and move for his disbarment if the lawyer-client relationship was breached by Mr. Thorne's testifying.

Judge Arnason ruled that Miss Davis could describe the general nature of her assignments.

Miss Davis said her work involved investigation of a conviction of George Jackson "that dealt with incidents that transpired in Los Angeles."

"I also did some work in connection with a book in which Mr. Thorne was representing George Jackson and investigation work regarding a case pending against him," apparently a murder charge involving the death of a Soledad Prison guard.

The defense asserted that the testimony had established the lawyer-client relationship between Miss Davis and Mr. Thorne. But the prosecutor argued that the law regarding such relationships had been held to be strictly construed and confined only to professional communications between lawyers and clients.

Mr. Harris, the prosecutor, said that even if Miss Davis's testimony were taken at face value, the nonlegal portions of the alleged Aug. 5 phone conversation should be admitted.