

The Jury Goes Out On Angela

NYTimes
By Stephen Cook
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SAN JOSE — A jury of seven women and five men began deliberating today on charges that Angela Davis committed the crimes of murder, kidnap and conspiracy by planning and aiding the kidnap of a Marin County superior judge Aug. 7, 1970.

Superior Judge Richard E. Arnason spent a one and a half hour instruction session telling the panel about the laws which must guide them in their decision.

The jury went out at 11:05 a.m.

The last word from the lawyers in the case which has been pending in California courts since November, 1970, came late yesterday afternoon.

Prosecutor Albert W. Harris Jr. closed out 13 weeks of trial with a quiet, dogged insistence that "the defendant is guilty beyond a reasonable doubt."

The assistant attorney general, given the last word in the trial by the same law that places the burden of proof on the prosecution in a criminal trial, stepped to the podium after three and a half hours of dramatic, emotion charged arguments by the defense.

The styles of the prosecutor and chief defense attorney

—From Page 1

ney Leo Branton Jr. seemed just as opposite as their versions of the evidence in the case.

Branton, who says he once aspired to be an actor, used all the theatrical skills at his disposal — laughing, sneering, shouting, softly imploring, pouting, sometimes almost weeping.

Harris, the professional prosecutor, was dead-pan, seemingly deliberately low key in his response.

Branton opened with a theme that carried subtly throughout his argument, by reminding the jurors they are white and cannot understand what it means to be black, like Angela Davis.

"Not many of you in the totality of your lives have been close enough to black people to know what it means," Branton said. "I'm going to ask that, for a few minutes, you be black with me. Don't worry, when the case is over I'll let you go back to the safety of being white."

The lawyer spoke with sorrow and disgust of the memory of his black ancestors, brought to this country as slaves, in chains, 300 years ago.

Many Died

"And you know that only the strongest survived. Many died in the holds of the slave ships that brought them, often choking in their own vomit . . .

"Add in the 20th Century,

the chains of slavery are still there in everyday life," he said.

Branton spoke of the chains of the Soledad Brothers — George Jackson, Fleeta Drumgo and John Cluchette — that so moved Miss Davis when she saw them restraining those black men in a Salinas courtroom in May of 1970 that she committed herself to the legal struggle to free the three men.

He produced a professional drawing of a chain which he called the prosecution's chain of circumstantial evidence and, point by point, scratched out the links, saying the case had not been proven.

Caricature

He ripped away some covering paper and revealed a caricature of Angela Davis, wrapped in the chains and shackles of a prisoner-slave.

What the prosecution wants, Branton intoned, is for the jury to take a defective chain of circumstantial evidence and use it to shackle her like a slave, for life.

The prosecution of Miss Davis, he said, has "been a sorry stain on the history of justice in this country. But the last chapter has not been written."

In writing that chapter, he urged, the jurors should free Miss Davis of those chains. He produced another caricature of Miss Davis, free with broken chains at her feet.

"The life of Miss Davis these last two years has been one of terror and of agony," he said. "We hope that when you write the final chapter in the case of the people against Angela Davis you say you were chosen, you served, you considered and you brought back the only verdict that could serve justice in this case — and that's a verdict of not guilty."

Harris talked softly, without expression, as if tired. He referred to the "moving remarks by Mr. Branton about the injustices done to black people," but told the jury:

"You've heard evidence relating to a specific situation and you should and can draw an inference of guilt . . . You must not be governed by sentiment, sympathy or public opinion."

Evidence

"There's certainly much that could be made in any murder case about the death of the person, how he suffered, how his family feels. Grief can be displayed. But I don't think I've done that. I've tried not to."

Branton contended the jury would have to conclude Miss Davis, a former university professor, is a fool if it believes she plotted the kidnap of Judge Harold Haley.

Miss Davis used her own name, even signed her autograph for a clerk, when she bought the shotgun which killed the judge two days

later. Only a fool would do that, he said.

"And no matter what you say or think about Angela Davis, we can agree on one thing. She's no fool. She's an intelligent woman. She was a college professor," Branton said.

Harris responded by pointing to the 18-page love letter Miss Davis wrote to George Jackson — the man whose freedom the kidnaped judge was to have been exchanged for — after she was arrested, while she was facing trial.

'No Fool'

He asked the jury to imagine Branton's argument if it had not been conclusively proven that the letter, found in Jackson's cell after his death, was written by Miss Davis.

"He would have said, 'How absurd, to think Angela Davis would write a love letter to George Jackson, the very man she is accused of trying to free, while waiting trial. Why, she's no fool. She's a college professor,'" Harris said.

Branton and his co-counsel, Howard Moore Jr., argued that the eye witnesses who placed Miss Davis with Jonathan Jackson at the scene of the crime the day before the bloody shootout and at San Quentin Prison while he visited his brother, George, on the three days before the events, were mistaken.

The defense offered witnesses who testified she was with them, in San Francisco



HER FATE GOES INTO A JURY'S HANDS
Angela Davis at conclusion of yesterday's session

—AP Photo

and Berkeley, at the times she was supposed to have been with Jackson in Marin County, Branton said.

"In order to believe his witnesses over ours, you have to accept the testimony of eyewitnesses, who are notoriously unreliable, against

another group who, if you disbelieve, you have to believe, they perjured themselves," he said.

Harris said it was his contention that those witnesses lied.

And, Harris said, if the jury believes his eyewitness-

es, placing Miss Davis with Jonathan Jackson Aug. 4, 5 and 6 at San Quentin and the Marin Civic Center, then there are only two explanations.

Either she knew of the plot and furnished her guns and ammunition to further it, or Jonathan Jackson, for some reason, tried to implicate her in the crimes.

Guesswork

"Either Angela Davis knew what Jonathan Jackson was going to do with her guns, her shotgun, the ammunition . . . or you have to believe Jonathan Jackson was trying to implicate the one person in the world who shared his devotion to his brother . . . possibly his closest friend," Harris said.

But Branton contended: "The real truth is that the prosecutor doesn't know at all how to connect Angela Davis with the events of Aug. 7. All he can prove are the things we admit:

"She had a close association of Jonathan Jackson. Her guns were used. She had a desire to free the Soledad Brothers. She had expressed love for George Jackson. After Aug. 7, Angela made herself unavailable.

"That's the totality of his case. Everything else is the product of guess, speculation and conjecture. There's not one word of evidence Angela had any knowledge of a plan. He wants you to guess. There's not one word of evidence Angela shared in Jonathan's intent. He wants you to guess."



JUDGE ARNASON
Instructs the jury



ALBERT W. HARRIS