

# The Trial of Ruchell Magee

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*"The halls of justice, the only place you see the justice is in the halls." — Lenny Bruce*

*"To some degree, slavery has always been outlawed and condemned on the outside by the hypocritical mockery of chattering lips, but on the inside of people and prisons, where slavery is deeply embedded and proudly displayed as a Western way of life and a privilege of God himself, slavery is condoned on all of its many levels." — Ruchell Magee, February, 1971*

*December 1, Hall of Justice  
San Francisco*

Whoever thinks that Kafka's novels are fiction would do well to try and make their way into the courtroom and sit in on the trial of Ruchell Magee. The trial, on charges of murder and kidnapping and conspiracy for Magee's participation in the "Courthouse Slave Rebellion" on August 7, 1970 in Marin County, across the Golden Gate Bridge from San Francisco, culminated its first week of jury selection today.

The trial is taking place in what many observers, with good cause, have called "America's first police state courtroom." To be admitted to the courtroom, both spectators and press must be subjected to the guardianship of twenty-four members of the police tactical squad, complete with four-foot billy clubs and automatic weapons, a stringent frisking (including a skin search for women — "in case they have weapons in their vagina") and as more than rumors have it, a voice-print. Once admitted, you find yourself walled-off from the courtroom participants by bullet-proof glass, and further scrutinized by TV cameras. With this being the technologically terrifying environment that observers find themselves in, you may get a glimpse as to how the absurdity and obnoxiousness accentuates Ruchell Magee's fight for his life.

As the first week of the courtroom drama unfolded, Ruchell seemed like the savage in the frigid bureaucratic web of the Brave New World. Contrary to the images concocted by the media, this appearance is not because Ruchell Magee is "fanatic" or "a dangerous mental defective" or even a mad genius robbed of judgement by an oppressive society. Ruchell has been ejected from the

courtroom and placed in a holding tank within the first half-hour of each morning's proceedings because of the tragic discrepancy between the case of the prosecution (led incidently by Albert Harris who prosecuted Angela Davis) and the case presented by the defendant.

Ruchell is not debating the fact that he participated in the August 7 "shoot-out" during which San Quentin guards riddled the van carrying Magee, James McClain, William Christmas, and several hostages, including judge Harold Halley, with whom Ruchell is charged with murdering, with nineteen seconds of continuous firing. All of the above-mentioned were killed except Ruchell Magee.

Contrary to the state, which views the trial as a crackdown on criminality bent on destroying law and order, Ruchell Magee claims that he has been held involuntarily since 1963 on a conviction based on false evidence. Magee wants it understood that being held in abject slavery, he had a legal and political right to rebel, as not only was he falsely convicted, but that the prisons and court have systematically kept him from remedying that situation in a lawful fashion. To understand the important historic legal precedent that Ruchell Magee is basing on the slave's right to rebel, we must go to the beginning of the story of this trial, in 1963.

Although Ruchell Magee has spent half of his thirty-three years behind bars, all due to racism and an inept judicial system, that which has direct bearing on the present trial began in 1963. It was in 1963 that Ruchell Magee and his cousin Leroy Stuart were arrested and charged with robbery and kidnapping after a \$10 quarrel. Magee was convicted as the prosecutor attributed a coerced confession by Magee's codefendant to Magee, and Ruchell Magee was given the mandatory life sentence. Not only did the trial take place in a closed courtroom, but Magee's court-appointed attorney (over Magee's objections that he be dismissed after he had spent only four hours preparing the case) refused to challenge the blatant contradictions in the evidence.

When Ruchell requested the transcripts of the trial, he found that they had been falsified to omit much of the discussion of the confession, in-

cluding Ruchell's testimony describing how he had been beaten upon, arrested and hospitalized for five days. Despite this rampant corruption, a retrial was granted on a technicality involving the co-defendant. Not only did the same judge hear the retrial, but the judge appointed a friend of his, an ex-sherrif, to defend Magee. Magee never even saw this lawyer until the day of the trial, when the lawyer entered the plea of "not guilty by reason of insanity" and presented no defense.

When Ruchell objected to this railroading procedure and asserted his innocence he was gagged with towels (shades of Bobby Seale) ejected from the courtroom, and eventually sent back to San Quentin.

In the years following that conviction Ruchell Magee spent his time in San Quentin zealously studying law to expose the injustices which he and other blacks and Third World peoples have suffered under a

judicial and prison system loaded against them. Although he has filed hundreds of writs at every level, from local courts to the Supreme Court to expose his being "secretly enslaved on known false evidence," he was not granted a single hearing.

Ruchell Magee became a competent jailhouse lawyer. So competent had he become, filing hundreds of writs leading to the release of many inmates, that he was placed in the maximum security hole and kept incommunicado. Despite his legal prowess he has been consistently denied the right to defend himself. His objections and "verbal outbursts" which have led to his being ejected from the courtroom every day during the first week stem from the fact that he does not want his court-appointed attorney, Robert Carrow. He wants to defend himself.

Magee sees the denial of self-representation as part and parcel of the entire judicial system which he sees as a conspiracy of judges, self-aggrandizing lawyers and prison officials who use a whole class of people, prisoners, as raw material to be processed by the justice factory. In short, Ruchell Magee's defense strategy is based on a condemnation of the entire judicial system which he claims illegally enslaves convicts. This is the only perspective from which Magee will deal with the charges against him stemming from

the August 7 rebellion.

It was this strategy that caused him to be in the Marin courtroom on August 7, where he was appearing as a witness in the trial of James McClain, when a heavily-armed Jonathon Jackson entered. To back his claim that they were not going to kill the hostages, Magee points to the fact that he spent fifteen minutes explaining to Marin jurors why he was participating in the escape, and said that before they were fired upon by San Quentin guards, they were trying to get to a radio station, so they could air their grievances and explain publicly the illegality of the judicial system.

Ruchell's legal strategy centers on proving that he is a slave, denied all constitutional rights, and therefore, not to be held responsible for technical violations of "the man's law" in his efforts to escape slavery.

There are three components to his legal strategy: Removal of jurisdiction to the federal courts because he (as in the Angela Davis case) has been systematically denied civil rights. Under the Civil Rights Act of 1964, an individual may appeal to the federal courts if they feel they have been denied due process because of race in the state courts. Ruchell's petitions to the federal courts with this demand have been denied and called "frivolous."

The second point is also related to achieving federal jurisdiction. In order to prove that the state courts acted prejudicially, the federal courts would have to investigate previous convictions. Ruchell's goal is to have the 1963 conviction overturned.

Finally, there is Ruchell's seemingly endless struggle for self-representation. This is far from a personal battle. Ruchell is intent on destroying the image of convicts as helpless, passive receptacles of the "justice dispensers." In his words, he is out to destroy the "myth of the need for a lawyer." Although, admittedly, his chances seem slim, his defense is not based on any romantic or idealistic delusions, but rather on solid moral and legal principles.

To support his legal right-to-rebel defense, Magee has discovered an obscure but powerful legal precedent. In 1841, the U.S. Supreme Court freed fifty-two blacks who had revolted against whites bringing them to the Caribbean from Sierra Leone, Africa, after slave trade had been declared illegal. Magee has taken on the name of the leader of that slave revolt, Cinque, as his middle name.

The blacks, of the Spanish slave ship *Smistad* seized the ship in 1839, killed a member of the crew, and demanded to be returned to Sierra Leone. Instead, the whites sailed the ship up the U.S. East Coast, where the ship was captured by the Navy near New Haven. The blacks were charged, in a parallel to Magee, with murder and piracy, but a lower court ruled that their rebellion was justified, and the Supreme Court

upheld the decision. This precedent remains unchallenged in the courts.

With this legal precedent in mind, it is not difficult to understand why Ruchell sees the August 7 rebellion in the context of the Nat Turner Slave Rebellion, and the 400 year struggle against slavery. Ruchell observes, "The slave auction block has been temporarily named the courtroom." It is impossible to see the rationality of Ruchell Magee without comprehending his perspective. Thus, it is easy for the media to distort Ruchell's reactions to what he sees as the invalidity of the legal system, as the maniacal passions of a mentally deranged psychopath. Nothing could be further from the truth.

Predictably enough, the judicial and prison systems seem to be doing their best to discredit Magee on several levels. San Quentin officials produced a mysterious IQ of 75 for Magee to brand him incompetent. Prosecuting attorney Albert Harris has made widespread use of this IQ score to call Magee a "moron both in court and in statements to the press." The defendant's below average intelligence, subnormal

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education, and indisposition towards the courts do not adequately equip him to save his life," Harris has stated. Under the gag rule which Harris imposed on the case at his own request and routinely violates, "to protect the defendant from ad-

verse publicity," Magee is silenced and denied access to the press.

Ruchell's claims that presiding judge Morton Colvin (the 7th judge so far) is prejudiced do not seem totally unwarranted. Judge Colvin was an old friend and business partner of the murdered judge Halley. One of Colvin's first moves after the case was transferred to him was to prevent Ruchell from speaking to the court, even though at that time Ruchell was still legally co-counsel. On August 3, 1972, Colvin revoked Judge Leonard Ginsburg's ruling allowing Ruchell the right to defend himself, and recognizing Ruchell's status as attorney. Colvin furthermore, denied Ruchell's request to have his cousin, a qualified Louisiana attorney, defend him, on the grounds that he was from out of state.

On August 21, the anniversary of George Jackson's murder, Colvin made an interesting decision. Despite the recent abolition of capital punishment, Colvin declared it a "Capital Case," and activated a recently passed California amendment which requires defendants in "Capital Cases" to be represented by counsel. This "Right to Counsel Amendment" also gives judges arbitrary power to refuse defendants the right to participate in their own defense. Many people feel this amendment was aimed at Magee.

The first week of Ruchell Magee's trial saw Judge Colvin ignore or write off as "frivolous" every writ and motion introduced by Magee, though properly presented through his appointed counsel. Colvin has estimated that jury selection will take a few weeks, and that the trial will take "from seven to eleven weeks."

So far, of the perspective jurors interrogated, one man who is a member of the SWP has not yet been dismissed, although most observers admit his chances of being ultimately retained are about nil. Another perspective juror, Ellis Goldberg, a reporter from the Communist Party Paper *People's World* was dismissed for bias. Goldberg covered the Angela Davis trial and because of that, Harris succeeded in having him dismissed. Although it is too early to tell, it seems at best doubtful from the present trend of jury selection that the jury chosen will even approach "a cross-section of peers."

The feeling one is left with after observing the proceedings so far brings to mind images of a militant sort of Meursault in *The Stranger*. The seeming charade of justice, as it is unravelling brings to mind a statement Ruchell Magee made, "What crimes the oligarchy has committed that they fear the voice of one man."