

# Two black men accused of murder

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Larry Justice and Earl Gibson, San Quentin prisoners, are accused of the murder of a white guard, Leo Davis, but both are protesting their innocence in the trial which is just beginning. Davis was guarding Herman Johnson, a former key prosecution witness in the Soledad Seven case. Two days before the stabbing of the guard, Johnson had been attacked and hospitalized but did not identify anyone as his attacker. When the guard, Davis, was killed on July 21, 1971, it was apparently in a second attempt to reach Johnson. Although hundreds of prisoners had access to the prison hospital, only Justice and Gibson were indicted on the basis of testimony by Johnson, who was suspiciously released from prison on parole four days after his accusation.

Justice and Gibson tried to rid themselves of the first two private attorneys that had been appointed by the courts to "defend" them. One of

*"Two black men stand accused of murder! A racist system and society's tools and fools will be judge, jury and executioner . . . Throughout 'history' this has been the form and process justice has taken. The poor man will never know justice as long as this system continues to thrive on those who are but commodities, objects, submissive servants. We have submitted to this dehumanization process too long . . . For the masses to remain silent, to condone these acts of aggression, is but . . . complicity to the means of your own end!!!!" —Earl Gibson*

them, Lawrence Colin, is the oldest attorney in Marin County, with Sol Abrahms, the second attorney, is not far behind Colin. From the beginning, Justice and Gibson refused to deal with these "two old men."

Ms. de Normanville, a member of the Committee to Defend the San Quentin Two, explained, "They had really racist incompetent attorneys in the beginning. The first time I saw Larry in court was when the judge had asked for any motions he made and

*"This is the hearing where all the notorious snitches will be in court to tell their lies once more. But this time it will be in front of the people! We're going to need the Blacks to support this hearing, because the State star witness is a "black ass nigger" and will be lying once more to stay on parole. This is these niggers, black and white, reward, . . . parole." —Larry Justice*

been filed by an attorney in San Rafael which attested to the fact that one of the attorneys had referred to the defendants as niggers. What did finally get the two attorneys dismissed was a ruling in another case by the California Court of Appeals which allowed the defendant to the attorney

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## in prison get help

of his choice.

It was then that attorneys Marvin Stender and Skip Glenn were able to step in at the request of Larry Justice and Earl Gibson.

Ms. de Normanville told me, "Since they have taken over, Larry and Earl have been much happier, they look much better and the defense has gotten almost all of the motions granted in the end after a struggle." They were also able to persuade Judge Wilson, who is known as the 'liberal' on the bench, to remove the chains and shackles that had been forced upon the two since the beginning.

(A possible motive for the chaining, as no reason ever was given, could be due to the fact that the trial is taking place in the same room where the Marin County Courthouse Rescue and Shootout took place. Since then, \$40,000 dollars of taxpayers money was spent installing a partition, which separates the court from the people who are in attendance. Separated by a wall of bullet-proof plastic, it is impossible to see faces, as they are distorted by the plastic, and at times very hard to hear as the speakers are barely audible. More tax money put to good use!)

The story the prosecution is presenting as to the guilt of Earl and Larry is full of contradictions and inconsistencies. The killing had taken place on the second floor and the defense maintains that Larry Justice had been on the first floor at the time, where he had been working in the maintenance department linen room for over two years. Gibson, who had been hospitalized on the fourth floor

Larry said, 'Yes, Judge, I've got a motion. I move to dismiss my attorney — he's incompetent and incapable of defending me and I have here a written statement that proves he called me a nigger in front of witnesses, and I want this filed.' " He in fact had an affidavit which had with a back injury, was on crutches at the time, a weakness in the prosecution's case since he obviously could not take part in something as physical as an attack.

The prosecution has five witnesses — three eyewitnesses and two others, who supposedly had seen them conspiring. The three eyewitnesses were in rooms next to each other. Johnson claims he was able to get up from his bed, though he had been hooked up to an intravenous apparatus, disentangle himself, and actually see the killing. The most unbelievable witness, though, is a middle-aged, Yugoslavian born man named Ivan

Kranzelik, who claims he saw Larry and Earl conspiring. Who is going to accept the credibility of a witness who had recently been convicted of killing his mother and then setting fire to her?

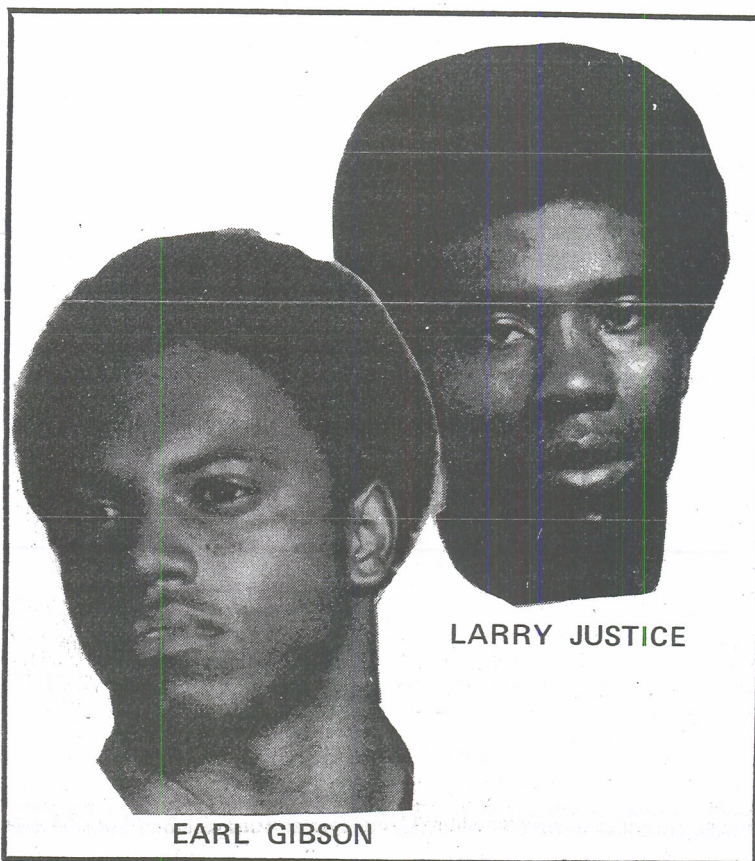
In an interview this writer conducted with Marvin Stender, he discussed the importance of the three days of pre-trial hearings, where an evidentiary hearing was held, and where four of the witnesses (the fifth was sick and will be questioned later) were questioned. The defense purpose was to show that the photos the witnesses had been shown after the killing were unduly suggestive.

Stender explained, "Four of these five people were shown photographs of about fifteen to twenty inmates right after the killing. These were regular prison mug shots that had the names of the individuals on them. And with regard to most of them, we can show that the witnesses already knew at the time that they looked at these photographs the names of the two people who had been arrested, that is, Larry and Earl. So, you know, they're told who the prison authorities suspect in this killing and then they're shown photographs of fifteen to twenty Black inmates — but the names are on there so, of course, they pick out the names that say Gibson and Justice! There is a series of case law, which holds that if an in-court identification of a defendant in a criminal case is the product of an unduly suggestive line-up procedure or photo show-up procedure, you can suppress the in-court identification." Currently, jury selection is taking place, and so far all the prospective jurors have been white. Mr. Stender discussed this problem: "Traditionally the juries underrepresent the young, in urban areas they underrepresent the poor, the Black, and the working

class — though again we're encountering a funny kind of area, because there aren't any poor, very few Black, very few working class people in Marin County, which is composed mostly of the middle class. In the cities, the two main problems are that they don't register to vote in the same proportionate number as do the middle classes and, more important, through every aspect of the screening they get further underrepresented because it's working people who can't afford to serve on juries if they're not paid by their boss for time off of work."

In discussing the significance of this case, as well as the problems facing all prisoners, Mr. Stender pointed out, "I think the significance of this case, aside from its importance to the defendants, which, of course, is the main significance, is that these two guys are anonymous — they're not stars or well known radicals. It's relatively a new phenomenon that lawyers are interested in these cases. Before this case, people like this were passed off to the public defenders or to appointed counsel, like initially happened in this case, who weren't particularly interested in the case. Subsequently, the conviction rate was astounding. Inmates never used to win these kinds of cases. But since competent lawyers began to get involved in them and public attention focused on them, the inmates are winning these cases.

"The Department of Corrections has an incredibly bad track record in prison cases in the last couple of years. They lose many more than they win. The main problem, of course, is that prison inmates have no constituency, and therefore, there's no great leverage that anybody can put on politicians to do something about prisons. Who cares? You know, there's a very very small number of people who care, so it's hard to get legislators to move on that basis."



EARL GIBSON

LARRY JUSTICE