

Ruchell Magee trial

Does a slave have the right to rebel?

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SAN FRANCISCO JAN. 22 — After being prefaced by seven lengthy weeks of jury selection (a process usually lasting a week), opening statements began last Monday in the trial of Ruchell Cinque Magee on charges of murder and kidnap for Magee's participation in the "Courthouse Slave Rebellion" of August 7, 1970 in Marin County.

Although the prosecution presented its opening statements, the defense will not present its opening statements until the prosecution rests. In the first week of the trial the prosecution called on six of its thirty prospective witnesses. The prosecution's key witness, Gary Thomas (then assistant D.A. in Marin) is expected to testify sometime this week. Prosecuting Attorney Albert Harris told the jury last Monday in his opening statement that Thomas will testify that he saw San Quentin inmate Ruchell Magee, "split Haley's skull in half" with a sawed-off shotgun fired at point blank range." Whether this dubious fact will be established remains to be seen. Evidence revealed so far has not shown Magee to even have touched the said shotgun.

In the interim between jury selection and opening statements, Judge Mortin Colvin, who was appointed by Governor Reagan in 1970, ruled on several key motions brought forth by the defense and the prosecution. One significant motion was filed by the prosecution to permit further inquiry of the jurors. This motion stemmed from a personal peremption by the defendant, Ruchell Magee, who is not allowed to address the court, of No. 1 juror, Barbara Giddis, a registered nurse. At the conclusion of jury selection, Magee, who spent his first full day in the courtroom, jumped from his seat just before State appointed Attorney for the Defense, Robert Carrow, accepted the jury, although four of his twenty peremptory challenges remained. Magee began shouting that Ms. Giddis was a state agent. He was thereupon removed from the courtroom to a holding cell. After a moment of hesitation, Carrow accepted the jury by exclaiming, "The defense rests."

Prosecuting Attorney Harris, considering the possibility of a mistrial because of Magee's action, moved to examine the jury further or have Ms. Giddis perempted. Judge Colvin

denied such a motion. More important for the Defense, Judge Colvin denied Ruchell Magee's motion for the dismissal of the entire jury panel on the grounds that the jury was prejudiced by witnessing Magee in courtroom handcuffed and chained at the waist, and also that the jury was misled by not being shown the misrepresentation of Magee's case by Defense Attorney Carrow (who refers to himself as a state-appointed agent to represent the defense). Colvin also denied a motion by the defense to lift the gag rule, which denies Magee access to the press.

Colvin, the seventh judge to preside over the case, has proceeded with a callous methodic manner, overlooking any human consideration that might "interfere" with "the orderly proceedings of the court." At times it has seemed as if Ionesco wrote this theater of the Absurd.

Magee has not remained in the courtroom for more than a few minutes. His motivation is one of protest against what he views to be illegal proceedings. He has filed writ after writ to have the trial moved from state to federal jurisdiction, and as a decision is still pending, he views these proceedings as illegal, in violation of the U.S. Constitution.

Magee, also protesting over the denial of self-representation has filed several motions against Defense Attorney Robert Carrow, who he accuses of "entering fraudulent documents and injuring my person."

Magee's so-called "outbursts" and "disturbances" in the courtroom are also based on what Magee sees as a conspiracy against him, violating his constitutional rights. Most recently, last Tuesday, after Judge Colvin asked the by now standard question, "Does the Court have your assurance, Mr. Magee, that you will not disrupt these proceedings," Magee said Yes, and asked the judge to explain why his relatives were not allowed to visit him. After the judge said he would not discuss the matter, which is crucial to Magee's defense, as several of his relatives are prospective witnesses,

Magee jumped up, and knocked over the defense counsel table. Magee was removed from the Courtroom, and taken to the County Jail on the 7th floor.

After last Tuesday's incident, Colvin declared that Magee "will be manacled when in the courtroom from now on." Judge Colvin also went into a tirade when about thirty-five spectators rose in unison as Ruchell was brought in the courtroom the first day of opening statements, and walked out in unison as Magee voluntarily left the courtroom. The judge admonished the spectators at the beginning of each session for the rest of the week, that spectators must remain in their seats until the end of each recess. Anyone violating this procedure "will be held in contempt of court and subject to a \$500 fine and five days in jail and not permitted to enter the trial again."

The first witnesses for the prosecution graphically reconstructed the events of Aug. 7, 1970. The first witness, James Keane, a photographer from the San Rafael *Independent Journal* who took a series of thirty photos of the "Courthouse Slave Rebellion," some of which were actually posed, told the court that William Christmas, a participant in the events of August 7, who was slain in the getaway van told him to "Take all the pictures you want, we are the true revolutionaries."

Keane also testified that Magee wanted to take him along as a hostage, but was overruled by Johnathan Jackson, who said, "We don't need this motherfucker (about Keane), we've got enough."

Keane also gave interesting testimony "That at no time did he see Mr. Magee touch the sawed-off shotgun." Keane said that James McLain, one of the participants in the rebellion, or "escape" in the language of repression, said, "tell them we want the Soledad Brothers released by 12:00. As the conspiracy charge was dropped, and Angela Davis, who has been noticeably absent from her former co-defendant's trial, was acquitted, the defense moved to have any mention of the Soledad Brothers stricken from the record. A decision is still pending on this.

Last Wednesday, Defense attorney Carrow, made a motion for a mistrial on the grounds that Magee is being denied his Constitutional rights by

being removed to the 7th-floor, and being denied the right to confront witnesses and assist and consult in his defense. After the motion was denied predictably, Noreen Morris, a witness for the prosecution, gave an interesting testimony. She described James McLain as "almost gentle," and depicted Johnathan Jackson as bloodthirsty. Ms. Morris told the court

that McLain told the jurors that (on Aug. 7), "We don't want to hurt anyone, we just want to get away."

Kenneth Irving, a Sgt. in the Marin County Sheriff's office, and witness for the prosecution, testified that he was employed as a plain clothes detective on the day of the rebellion, and also in the Soledad Brothers case. It is of interest to note that three witnesses attribute the statement, "take all the pictures you want, we are the revolutionaries." to three different participants in the Aug. 7 rebellion, of which Ruchell Magee is the only survivor. It was attributed to Johnathan Jackson, Magee, and also Christmas, by James Keane, Kenneth Irving, and Ms. Morris.

Although the prosecution's case rests on the testimony of Gary Thomas, who was in the getaway van, and was crippled for life by the shooting in the spine by San Quentin guards who riddled the van with 19 seconds of consecutive gunfire, the truth of the matter remains in question. Defense attorney Robert Carrow, told the *Free Press* that he has a report by a pathologist which states that Judge Haley was killed before the shotgun was fired. This may render Thomas' testimony irrelevant. At any rate, the truth of the matter should be unravelled as the trial continues, although whether Magee's defense, the right of a slave to rebel, enters into the defense strategy prepared by defense attorney Carrow seems doubtful.