

Ruchell Magee's Stubborn Battle For His Rights

By Jerry Carroll

Every weekday morning, a green military helicopter rises from the concrete and steel fastness of San Quentin Prison and slices south over blue water toward a lesser fortress.

The passenger aboard, the central figure in what is perhaps the longest-running criminal case in American judicial history, is chained and manacled.

Below, unseen, countless windows wink back the flooding light of a new day and the bridges wear their glittering lines of commute traffic like jewelry.

Awaiting him at the end of the 15-mile flight are no fewer than 78 fellow actors in a gal drama that has lasted 382 days so far with maybe eight weeks more to go.

FUTURE

And when it is all over, the future of Ruchell Magee—the silent, brooding helicopter passenger in the denim and thin windbreaker—will be no different than it is now: life in prison.

This \$5000-a-day trial has been creeping along in one stage of proceeding or another for so long it is sometimes hard to recall when Magee was not on trial.

It long ago disappeared from the headlines and news programs and even radical publications and underground radio give it only fitful attention.

But the trial plods on with a stubborn, weary life of its own: evidence is presented,



RUCHELL MAGEE
A tedious drama

testimony drones, questions are asked, lawyers object, arguments are heard, court recesses and reconvenes.

TEDIUM

The tedium in this trial without suspense is almost complete and in the courtroom the strangled yawn is almost as common as the glazed eye.

The Magee trial has been so long in the public domain, the details of the case have been all but memorized by even the most casual reader.

He is charged with mur-

der, kidnap and assault by a lifer in connection with the bloody escape attempt from a San Rafael courtroom by three prisoners August 7, 1970.

Magee was shot in the chest in that breakout, which saw four other persons killed, including a judge, an assistant district attorney paralyzed for life and a women juror wounded.

GUNS

Angela Davis, accused of supplying the guns used in the escape try, was found not guilty eight months ago, 600 days after her arrest.

By way of gauging just how long Magee has been awaiting his verdict by jury, compare his case with some of the more famous criminal trials of recent years.

There were 421 days between the arrest and conviction of Charles Manson, 604 days, with Juan Corona. In the case of the Soledad Brothers, 338 days elapsed between their arrest and acquittal.

When the helicopter—a second is kept on standby—arrives atop the Hall of Justice in San Francisco and Magee is escorted out, it begins the day for the huge supporting cast.

Among it are numbered 26 policemen, perhaps 20 bailiffs and deputies, 16 jurors and alternates, six body-

guards, four lawyers, two police inspectors, two court reporters, a clerk and a judge.

Surrounded by his armed entourage like some oil sheik, Magee, thin and frail as a schoolboy, is led deep into the bowels of the building to wait for the start of court.

BAND

For that small band of spectators interested enough in Magee to submit to the oppressive security rules—a gantlet of beefy cops with little to do but congest the corridor, make body searches and assign seats like in school days—it is as if life imitates, not art, but McLuhan-age technology.

The thick bulletproof glass which seals the audience from the players stretches the width of the room like a giant television screen.

Inside, everyone with a speaking part uses a microphone and a television camera mounted near the ceiling for surveillance reasons adds another Orwellian touch.

Nobody—from the judge, jury and lawyers to the guards bored silly outside—have any relish for this smothering, oppressive atmosphere; once so foreign to American jurisprudence.

The rationale lies in the crime, which struck at a society which would govern itself by law rather than brute, naked force.

CASE

These days, the prosecution is presenting its case. It's dull, slow work with few if any surprises because most of it emerged during the 14-week Angela Davis trial.

The same faces repeat the same testimony for the most part.

Magee, a 34-year-old seventh grade dropout who has spent all but six months of his life since the age of 16 behind bars, sits silent at a table, his profile vaguely patrician, the eyes large and liquid.

Behind him, at least for now, are the wild outbursts

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Ruchell Magee, third from left, walks toward the helicopter on the roof at the Hall of Justice

which began at his first court hearing 28 months ago at which Magee shouted:

"I object to this whole Ku Klux Klan trial." His position, has never varied.

FOUGHT

Since then, Magee has doggedly fought and lost long battles to transfer his case to the federal courts and to serve as his own attorney, not to mention interminable lesser legal struggles he has waged.

During that time, defense attorneys came and went and judges were disqualified as Magee blew up a blizzard of legal writs which one aggrieved jurist complained was "flooding the courts."

In between times, Magee was wrestled out of court more than 30 times and departed on his own hook even more often.

One of his two present attorneys, Robert Carrow, despairingly tried to resign from the defense 22 months ago, but was refused.

Since then, Carrow — a mild-looking man with a bald head and spade beard — has been variously kicked, punched, spat upon and cursed by his client.

RITUAL

But one observer who has been in the courtroom since the start says admiringly: "There is always an element of ritual in Magee's outbursts."

The observer, who asked not to be identified, said Magee, with a keen instinct for timing, uses them to dramatize "a specific legal point at issue."

The observer noted that Magee has usually seen to it that there are guards in his path before he makes a threatening move toward his attorney.

If Magee is at war with the courts, with its stylized adversary proceedings which he believes impedes the discovery of truth, he nonetheless has an abiding

vis trial, efforts were made to portray her as a political prisoner being prosecuted because of her Communist beliefs.

The same was tried for Magee, but it has never quite come off, chiefly because of his single-minded preoccupation with dry legalisms and bloodless abstractions.

Hopes that there could be a joint defense for Magee and Miss Davis foundered finally on the unyielding rock of Magee's determination to do things his own way. When Miss Davis' lawyers interfered, Magee called them "pro-Reagan."

An assortment of judges, dating back to 1963, when Magee was convicted and sentenced to life for a \$10 kidnap - robbery, have held him incompetent to act as his own lawyer. In that trial, he lunged at the judge.

But Magee seemed to

have achieved his victory last march when a Tulare county judge gave his permission for the defendant to represent himself in court.

In June, however, voters amended the state constitution to remove the right of a defendant to act as his own attorney, a month later the State Supreme Court said such a decision was up to the trial judge, and a month after that another judge ruled Magee could no longer defend himself.

STUBBORN

Ironically, Magee likely would be a free man today were it not for his own stubborn insistence on legal self-

defense, a role to which he continues to believe he has an absolute right, both constitutional and moral.

In a 1965 re-trial granted on technical grounds, the earlier conviction and sentence were reaffirmed.

Attorney H. Clay Jacke, who defended Magee in that trial, recalled that the prosecution agreed to recommend a year in jail and probation if Magee would plead guilty.

"It was an excellent deal. But he wouldn't take it," Jacke said. "He's obviously schizophrenic and psychotic and is suspicious of everybody."

REPORT

A psychological report on Magee after he emerged from six years in a Louisiana prison for rape, described him as "extremely inadequate and pressured to impress others."

A difficult, complex and driven man; incomprehensible, perhaps, to anyone who has not burned for most of his life with an obsession."

That obsession is Magee's belief in his own innocence and an unshakable resolve to clear his name and gain his freedom—and, just as importantly, to do it his own way.

At the end of another long, wearisome day in court—the reporters have already called their offices to say there is nothing new—the actors on the other side of the glass pack up and go home.

And a little while later, the big green helicopter lifts from the rooftop and heads for the distant mustard smudge on the Marin shoreline that is San Quentin.

belief in the law.

During the past decade, Magee has ground out something like 1500 legal writs seeking to overturn a 1963 felony conviction.

HEROIC

His admirers view Magee as a heroic figure — a lone, powerless, friendless man convinced of his innocence and indomitable in his Kafkaesque struggle against an all-powerful state to prove it.

His dogged insistence on conducting his own defense has always transcended everything, even efforts to enlist him fully in black liberation struggles.

Although his name is one of those rhetorical touchstones in radical black and white circles, Magee has been just as prickly and difficult with them as anyone else.

Before and during the Da-