



Every day Ruchell Magee (seen in the middle of his guards) is transported from San Quentin prison by a rented U.S. Army helicopter to the Hall of Justice where he is standing trial. This is one of the expenses which brings the cost of the Magee trial to five thousand dollars per day. (Telephoto photograph by Connie Hwang).

Clark barred from Magee trial

BOB MANNING

Former U.S. Attorney General Ramsey Clark was barred from becoming part of the defense team in the Ruchell Magee trial last week, as the prosecution concluded the presentation of its case. Judge Morton Calvin denied the motion on the grounds that he was not personally familiar with Ramsey Clark.

Judge Colvin's denial came two days after the withdrawal of co-counsel Rommel Bondoc from the case, at which point Colvin assured the defense that he would accept any qualified and competent attorney as a replacement. Defense Attorney Carrow argued that Mr. Clark, who has agreed to assist the defense at no cost to the city or county of San Francisco or the State of California, is the only lawyer at this late date (the trial is entering its sixth week since opening statements) who could provide meaningful assistance to the defense.

Carrow explained to the court that he has been consulting with Mr. Clark over the past nine months, that Clark has met with Ruchell Magee and received his approval, has read over 1100 pages of motions filed by Magee, 2000 pages of transcripts from the Angela Davis trial, the

pretrial hearings and transcripts of this case, and has consulted with Carrow for more than 25 hours. The former attorney general has also been engaged in research on the right of a slave to rebel, a key part of the defense strategy.

Carrow pointed out that since Clark would be associate counsel, not assistant co-counsel, Clark would not be paid by the state, and the court had no jurisdiction to prevent Clark from entering the case. Carrow said that he will seek a writ of mandate from the State Court of Appeal to compel Judge Colvin to rescind his decision.

"Throughout this trial," Carrow said, "Colvin has purposefully and intentionally, in my opinion, obstructed the preparation and presentation of any defense." Despite Colvin's arbitrary decision, Ramsey Clark will show up at the trial sometime this week.

As the prosecution rested its case last Thursday morning, the key

questions which the case hinges upon remained unanswered. Who fired the first shot on Aug. 7; Under whose jurisdiction were the San Quentin guards, and what were their orders; Did the San Quentin hostage rule apply at the Marin Courthouse; Did the shot-gun blast kill Judge Harold Haley or did a chest wound from a .38 revolver cause death? These questions were paramount in the issues that the prosecution failed to clarify. The 28 witnesses presented by the prosecution gave testimonies often conflicting with each other, and even with previous testimonies given by themselves.

The prosecution's case revolves around the testimony of Judge Gary Thomas, who at the time of the "courthouse rebellion" was the prosecutor in Judge Harold Haley's courtroom, and was taken as one of four hostages on Aug. 7. Thomas testified that Ruchell Magee shot Judge Haley in the following words: "I turned and looked at Judge Haley and then I saw his face slowly dissolve." Moving from the right side, I saw a shotgun at Judge Haley's chin. It was held by Ruchell Magee." Thomas, however, remarkably could not recall hearing the sound of the

blast.

Thomas, who was paralyzed from the waist down by a bullet which he assumed came from one of the San Quentin guards, said he shot the four black men in the van, killing Jonathan Jackson, James McLain, and wounding Magee.

Upon cross-examination, defense attorney Carrow asked Thomas to place three bailiffs in the positions that Thomas, Haley, and Magee occupied in the van. When Carrow asked the bailiff playing the part of Magee, to place the sawed-off shotgun at the chin of the bailiff playing the position of Judge Haley, the bailiff playing the part of Magee, after a futile effort to place the gun at the chin at the chin of the bailiff playing Haley, said, "I can't, I have to move."

Gary Thomas' testimony was further cast into doubt when San Quentin guard John Matthews took the stand several days later. Matthews testified that he shot three of the black men with a 30-30 rifle as he stood behind a parked car less than 20 feet from the van.

Matthews also testified that Johnathan Jackson flew back out of view. Thomas said that Jackson never left the driver's seat. The prosecution, which was attempting to plant in the minds of the jurors a portrait of four desperate, violence-prone black men embarking in a criminal enterprise bound from the start to end in death and violence, was contradicted by the facts that emerged from its witnesses.

What did emerge from the often-conflicting testimonies of more than half a dozen law enforcement officials was utter confusion. Several officers testified that Johnathan Jackson's hand was outside the window of the van and holding a revolver which he fired at the law officers and touched off the 20-second fusillade. Cross-examination of several guards revealed an uncertainty whether one shot was fired from the van or if several shots were fired, with the first shot coming from law officials.

Under cross-examination from defense attorney Carrow, San Quentin guard John Matthews revealed that he and the other prison officials were acting independently of all other police agencies, and pursuing an unwritten San Quentin hostage rule. This was true despite the fact that Matthews said that the Marin Sheriff's Department had jurisdiction over the area.

According to the hostage rule, all hostages are to be disregarded in the event of a prisoner escape, regardless of number or status. Whether the hostages are babies, women, guards, wardens, judges, or civilians, the San Quentin officials explained, they are to be disregarded. Under no circumstances are inmates to be bargained with.

As Sgt. Murphy, another San
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Quentin official, explained, "Once inmates understand that such a policy is in force, they will think before they try these things." Murphy could not say, however, how prisoners are informed of this rule.

Although Murphy tried to say that this rule was written, contradicting both his prior testimony and that of Matthews, he could not say where it was written. It turned out, that in November, 1970, three months after the incident, San Quentin officials issued a bulletin stating the hostage rule. Matthews said that he had heard of the rule when he broke in five years ago from a training officer.

The image of Magee as a violent, anger-crazed black man has been carefully developed by the mass media. Somehow, the media in general manages to report Ruchell's "violent disruptions" of the court proceedings, but neglects to report the actions of the court toward Ruchell. Magee's so-called outbursts have followed an almost ritual pattern, illustrating legal points in the only way possible, as Ruchell is not allowed to speak in court.

After Colvin refuses to discuss motions filed by Ruchell or refuses Ruchell the right to conduct cross-examination, as he did in the case of both Gary Thomas, and Sgt. Murphy, Ruchell has responded by such actions as the media has reported; overturning the defense table, spitting at the judge, and screaming at his court-appointed attorney (Magee is a competent, self-trained jailhouse lawyer, but Judge Colvin revoked his right to self-defense).

Taken out of context, as often is the case, images of Magee as a hostile,

HARDCORE POLICE NEWS

Another "accidental" police killing was barely avoided last week. Police had prepared to storm the home of Robert Henderson who was believed to be armed and a dangerous suspect. However, immediately before the assault, police learned that they had made a mistake. Henderson was asleep throughout the episode. A report from police chief Davis' office lists the following crime figures for January: Robberies, 1,177; Aggravated assaults, 1,003; Burglaries, 6,208; Rapes, 182; Homicides, 40.

Careless smoking was the reported cause of a Saturday fire at the New Hampshire House Apartments. The forty unit structure suffered extensive smoke damage. 70 tenants had to be evacuated.

psychopathic black convict have been evoked, rather than a competent, if not brilliant, self-taught lawyer, deprived of his basic rights. This, coupled with the outrageous and intimidating security — 24 members of the tactical squad in full dress, thorough frisking (including a humiliating skin search for women), voiceprints, and handwriting checks, not to mention the on the spot arrest of anyone with a traffic warrant — amounts to what can hardly be called a public trial.

The testimonies of a Dr. John Manwaring, and Marin County criminalist, Fred Wynbrendt, the last of 28 witnesses called on by the prosecution, further brought into question the credibility of the state's case. Dr. Manwaring was the Marin pathologist who conducted the autopsies on the bodies of Jackson, McLain, Christmas and Judge Haley.

Dr. Manwaring told the court he conducted all four autopsies in the scope of four hours. Manwaring said the autopsies began about 4 p.m. and ended about 8 p.m. Although Manwaring testified that Wynbrandt was with him the whole time he conducted the autopsies, Wynbrandt told the court he left the mortuary where the autopsies were done and recalls being at the Sheriff's office at 7 p.m., indicating that the autopsies may have been conducted in an even briefer period.

Dr. Manwaring said that there were two wounds received by Judge Haley, one to the head, a shotgun wound, and one revolver wound to the chest, causing a hemorrhaging of two quarts of blood (almost one-third of the total blood in the body). Manwaring stated that either wound by itself could have been lethal. "I couldn't determine which wound occurred first, they were close together in time," Manwaring explained.

Although Manwaring concluded that in his opinion, Judge Haley was alive when he received the head wound from a shotgun allegedly held by Ruchell Magee, under a thorough cross-examination which lasted two days, Manwaring revised his story slightly.

As attorney Carrow methodically hammered away at the talkative doctor, Manwaring admitted that much of what he discovered during Haley's autopsy was consistent with the defense's position: that Haley was dead when the shotgun was fired. After Manwaring stated that Haley had pinpoint hemorrhages in the brain which probably resulted in concussion from the shotgun, and which

could have occurred only if the judge were alive, Carrow got Manwaring to admit that all four bodies had pin point hemorrhages. The other three bodies had only chest wounds similar to that received by Haley.

Manwaring also could not explain the lack of blood in Haley's throat. Manwaring could not determine if the small amount of blood that the gaping shotgun wound, which tore away part of Haley's face was coughed up or caused by post-mortem seepage. Carrow then got Manwaring to admit that he not only threw away the blood he found in Haley's throat instead of preserving it as evidence, but also that a wound of the type from the shotgun usually produces much more bleeding — if not a post-mortem wound.

The testimony of Fred Wynbrandt cast even further doubts as to the authenticity of the prosecution's claims. When cross-examined, Wynbrandt couldn't explain how a report of about 50 items had a .357 magnum revolver belonging to officer Ted Hughes, and six spent cartridges listed in sequence on the report. Hughes had previously testified that he did not submit his revolver, which was taken by William Christmas, until the day after the shooting. The report itself was filed the night of the shooting. This was but another incident hinting at the possibility that police authorities, whether through ineptness or design, tampered with the evidence, making it difficult to accurately reconstruct the events.

Last Thursday, the defense presented its opening statements. Attorney Carrow told the court the evidence will show Ruchell Magee had "a surprised, unexpected expression on his face when Johnathan Jackson entered the courtroom on Aug. 7." Carrow continued, saying that the evidence will show that Magee had no prior knowledge of the event which occurred, that his part was a passive one, and that Magee had no intention of hurting anyone.

Carrow further explained in his opening statement that his expert pathologists will prove that Haley was killed by a chest wound, and that when Ruchell Magee walked off the witness stand on Aug. 7 and instructed the bailiff to remove his handcuffs, he was motivated by "an irresistible impulse to walk to freedom after being falsely convicted, and interminably delayed, after Ruchell bombarded the Court with thousands of pages of pleadings, attempting to seek relief within the system, to no avail."

The defense began to present its case on Thursday as it began to bring as witnesses the three pathologists who conducted a second autopsy on Judge Haley, 14 months after the shooting. The pathologists, regarded as the top in the world, consists of a Viennese father-son team, Drs. Leopold and Rudiger Breitnecker, and a radiologist from Baltimore, Dr. Robert Hirshfeld.

In sharp contrast to the scant four hours Dr. Manwaring spent on all four bodies, the second autopsy on Haley was a tedious affair, lasting some 14 hours. Dr. Hirshfeld presented a series of x-rays graphically illustrating the nature of the wounds. Hirschfeld concluded from his findings, that, "It seems logical that if there was any blood pressure in Haley's body, that the head wound should have caused much more bleeding." Hirshfeld told the court it is not possible to conclude from his radiographic tests that the head-neck wound was received before death.

The Breitneckers are to testify this week, and should further elaborate on Hirschfeld's testimony, as the conclusions were reached after working as a team. The presence of Ramsey Clark at the trial this week should also help to change the demeanor of the proceedings.