

Quentin Murder Cases Quashed

By Jim Brewer

In an unprecedented judicial attack on the way grand juries are selected, a judge dismissed murder indictments yesterday against six San Quentin convicts accused of taking part in a

bloody escape attempt 29 months ago.

Judge Vernon Stoll, a retired jurist from Nevada county, held in San Rafael that the six were indicted by a grand jury that did not reflect the population mix of Marin county.

Indictments charging murder, assault and conspiracy were returned against the six following the escape try which left three guards and three inmates dead, including George Jackson, the 29-year-old "Soledad Brother."

Judge Stoll dismissed indictments against Larry Spain, 25, Fleeta Drumgo, 28, Hugo Pinell, 29, Willie Tate, 29, David Johnson, 26, and Louis Talamantes, 31.

The judge said the pool of Marin county residents from which the 1971 grand jury was taken "did not assure a fair representation of the group to which the defendants belonged."

More particularly, Stoll said the pool of prospective grand jurors excluded blacks, Latin Americans, the blue collar working class and the young.

His ruling came after six weeks of intermittent hearings in San Rafael and marked the first time a judge upheld a defense challenge questioning the racial and economic composition of a grand jury.

Marin county District Attorney Bruce Bales lost little time in planning an appeal to the state Court of Appeal.

He said:

"This is an issue that has to be resolved once and for all, because it could effect all grand jury indictments from now on."

Defense attorney Charles Garry, a co-counsel for defendant Spain, called Judge Stoll "a beautiful man who is not afraid of the judicial system."

Garry led the first legal attack on the way grand jurors are selected in the 1968 murder trial in Oakland of Black Panther leader Huey P. Newton.

His effort failed then and the trial later ended in a hung jury. Following his lead, however, dozens of other attorneys have made similar challenges, none successfully.

Bales said he is "confident" Stoll will be reversed at the appellate level. The judge was brought out of retirement to hear the challenge.

Ficepresent and former Marin county Superior Court judges testified during the hearing on how they chose the members of the 1971 grand jury.

Ironically, that was the year the Superior Court bench there made special efforts to select grand jurors who were young or from minority groups.

Three grand jurors walked out of the secret proceedings

before the vote was taken to indict the six prisoners. They complained that the grand jury was too dependent on the advice of the prosecutor. One of the three later resigned in protest.

Stoll left undisturbed the

indictments against Stephen Bingham, a 29-year-old radical attorney who is believed to have smuggled a pistol into the prison to Jackson. Bingham, a white, hasn't been seen since and is believed to be dead.

Drumgo is the only one naturally eligible for parole. Attorneys for the others said they will try to get them moved from the tough "prison-within-a-prison" detention center back into the general prison population.