

Prosecutor, in Summation, Calls Killing of Officer in

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Special to The New York Times

BUFFALO, April 2 — Calling the killing of Correction Officer William E. Quinn "a cowardly, unmanly attack," Louis Aidala, the prosecutor in the Attica trial here, summed up his case today and asked that the two defendants, John Hill and Charles Joseph Pemasilice, be found guilty.

With his voice frequently rising to a shout, the special prosecutor insisted that the state had proved that both men acted with intent to kill when the uprising began at the "Times Square" area of the prison, where Mr. Quinn was on duty on Sept. 9, 1971. And he tore into defense allegations of fabricated and selective prosecutions, terming such assertions to be without foundation.

Mr. Aidala made his final argument after William M. Kunstler, Mr. Hill's lawyer, concluded his defense summation with an emotional and tearful plea.

7-Hour Summation

Mr. Kunstler, who spoke for more than seven hours over two days, leaned on the jury box, his voice cracking and said:

"I passed through Attica, too, at another time. It was an experience that seared my soul."

The lawyer was a member of the committee that negotiated with the rebellious Attica inmates.

"My brother, Dacajewiah [Mr. Hill's Indian name] is in your hands," Mr. Kunstler said. "Do well by him. He is an innocent man. Do well by him."

The lawyer reminded the eight men and four women on the jury that Ramsey Clark, Mr. Pemasilice's lawyer, had wished them Godspeed yesterday, and then added, "I say, do justice and you will have Godspeed."

He turned sobbing, and was embraced, first by his client and then by Mr. Clark. At that point, Justice Gilbert H. King called the luncheon recess.

When court reconvened, Mr. Aidala, obviously mindful of the impact of Mr. Kunstler's impassioned appeal, moved quickly in an attempt to diminish it.

"At the close of the morning session Mr. Kunstler shed tears and referred to his client as 'my brother,' the 38-year-old prosecutor said. "I wonder

whether Mr. Kunstler ever shed a tear for William Quinn, for the wife of William Quinn, for the children of William Quinn.

"This trial shows what one human being is capable of doing to another, to literally tear away the brain of William Quinn."

"Keep in mind," Mr. Aidala advised the jury, "these defendants and no one else are responsible for the consequences of their acts."

Evidence Is Evalnnted

The prosecutor then began a short witness-by-witness evaluation of the evidence. Through its eyewitnesses, he said, the state accomplished

what it had set out to do, to show first that a death had occurred, and then that the defendants had willfully committed criminal acts contributing to that death.

He recalled the testimony of Donald Melven, a correction officer who identified Mr. Hill as having struck Officer Quinn. He conceded that Mr. Melven had some reservations about Mr. Hill's hair, as the defense had emphasized. But, he continued, Mr. Melven was certain of the defendant's features, and he had kept a mental image of Mr. Quinn's assailant locked indelibly in his mind.

Mr. Aidala walked to within arm's reach of Mr. Hill, who

sat at the defense table, and he said: "You remember how Donald Melven walked to Hohn Hill and said, 'This is how close I was to him.'"

Repeatedly, he maintained that the testimony of the prosecution's eyewitnesses had not been refuted. And he scoffed at the defense contention that such testimony had been concocted and extracted through promise and duress.

Concentration on Hill

"If there was fabrication, why did only one man say he saw Mr. Pemasilice hit Officer Quinn? the prosecutor asked. "If they lied, why didn't they lie better?"

Throughout his comments,

Revolt at Attica Prison 'Cowardly, Unmanly Attack'

Mr. Aidala concentrated largely on the case against Mr. Hill. But he also affirmed the testimony of Edward Zimmer, a former inmate, who had said he had seen Mr. Pernasilice hit Mr. Quinn "over the shoulders."

"There are people in your life who you notice more than others, and John Hill has more of a presence, that's why he was noticed by more people," the prosecutor said.

"For Mr. Hill, the only intent was to cause a death of a human being and cause it he did. Mr. Pernasilice had the same intent, only he did not succeed."

On the basis of the trial

record, Justice King has reduced the maximum charge against Mr. Pernasilice from

In addressing himself to the defense witnesses, Mr. Aidala sought to make short shrift of their testimony. Four of them, he said, had extensive histories of mental problems. Another, he contended, testified, quite accurately, but about a time period that followed the attack on Mr. Quinn.

The prosecutor asked the jury to consider the circumstantial evidence in the case. Mr. Melven, he recalled, had said he had saw a white young inmate with pimples and oriental eyes strike Mr. Quinn.

"Remember, this is not a

crime on the street, this is a crime in a prison where the identity of everyone is known," Mr. Aicala said.

Numbers Stressed

He then pointed out that there were fewer than a hundred men who could have been at the Times Square location when the attack took place. Of these, only a portion were white, he said, adding that much fewer than that were about the same age as Mr. Hill, who was then 19 years old.

"Ask yourself how many of those may have had slanty eyes and pimples, and you can see how many inmates could have committed this crime," the prosecutor said.

Often in the course of his remarks, Mr. Aidals showed the jury photographs of Mr. Quinn taken after his death, and of Mr. Quinn's brain. While holding the pictures, he declared:

"William Quinn had the misfortune that morning of being a symbol of authority. For reasons known only to John Hill, he struck out at William Quinn. He struck out repeatedly until he ripped away the brain of William Quinn, a cowardly and unmanly attack on a helpless human being."

Justice King will charge the Jury tomorrow and then the jury will be sequestered to begin its deliberations.