

CHARGES DROPPED IN THE SEALE CASE; 'PUBLICITY' CITED

Judge Finds It 'Impossible'
to Retry Panther Leader
and Mrs. Huggins Fairly

BACKERS CHEER RULING

Court Doubts an Unbiased
Jury Could Be Selected
by Normal Procedures

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NEW HAVEN, May 25—The judge in the murder-kidnapping case of Bobby G. Seale and Mrs. Ericka Huggins dismissed all charges against them today, saying that "massive publicity" about their aborted trial had made it too difficult to try them again.

The trial ended yesterday in a hung jury.

"I find it impossible to believe," said Superior Court Judge Harold M. Mulvey, "that an unbiased jury could be selected without superhuman efforts—efforts which this court, the state and these defendants should not be called upon either to make or to endure."

It took four months to select the first jury.

Supporters Cheer

As Judge Mulvey announced his ruling, Mrs. Huggins smiled and cried and shook her head. A few minutes later, she walked out of the courtroom to the victorious chants and cheers of some 100 young blacks and whites.

Mr. Seale, who will be held until bail is set in Chicago for his appeal of a four-year contempt sentence meted out by Federal Judge Julius Hoffman in the 1969 Chicago conspiracy trial, sagged low in his seat and looked numb.

Mr. Seale, chairman of the Black Panther party, and Mrs. Huggins, a young local Panther leader, had faced two capital counts as well as several other charges, all stemming from the kidnapping and murder of Alex Rackley in May, 1969. They had, as Judge Mulvey noted in his ruling, been held in jail for more than two years in the case.

Jury Problem Noted

The judge's decision was read from handwritten notes at about 2:40 P.M., and it stunned those in the crowded courtroom.

Noting that some 1,500 prospective jurors had been screened to get the jury for the first trial, Judge Mulvey concluded that the chances of drawing a new panel this year were "practically nil."

The judge said he had "gained a rather wide knowledge" of the defendants. "I

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have observed a rather remarkable change in [their] attitude," he asserted, "and I don't think it is feigned."

And, he said, although State's Attorney Arnold Markle was a "good lawyer" and a "credit to the state" and although the state had "put its best foot forward" in presenting its case, "they have failed to convince a jury of their guilt."

While he based his decision on the massive news coverage of the trial, Judge Mulvey—to whose ruling Mr. Markle strenuously objected—seemed to have been partly influenced by these other facts, too.

Saying that his "duties and obligations to the people of this state are different" from Mr. Markle's, he told the hushed in the courtroom:

"It is my duty to see to it, to the best of my ability, that justice is dispensed fairly and even-handedly."

At the beginning of his statement, Judge Mulvey had said that "as far as the audience is concerned" there had been "no outburst of any kind, no demonstrations of any kind." And while he spoke, nothing louder than gasps and whispers could be heard.

But then Mrs. Huggins, speechless and looking dazed, walked from the courtroom into the lobby. There the frenzy began.

"Ericka, Ericka! . . . Power! . . . You're free! You're free!" were shouts that echoed through the old marble building, as dozens of people rushed to her, pushing in, grabbing at her, shoving small children forward for her to see.

For a moment, it seemed, as if she might be crushed. But then Elbert Howard, a husky Panther known as Big Man, took her by one hand, and Rosemary Gross, the mother of one of Mr. Seale's children, took her by another.

'Power to the People'

They led her to the green across the street from the courthouse. There she was again mobbed by supporters. She was taken to a microphone to speak.

As she waited for a shout of "Power to the people" to die down, she peered up "Look at the sun," she said, smiling and shaking her head.

Then, still too shaken to speak, extensively, she was taken to a park bench, still guarded by Mr. Howard and a few others. What would she do now, she was asked.

"Live," Mrs. Huggins replied, adding, "Now I can see Mai," her 2½-year-old daughter.

Shortly afterward she stepped into a station wagon bearing New York license plates and rode off.

Throughout the trial the

small band of spectators and protectors had been made up of more whites than blacks. Today it was the blacks who crowded closest and shouted the loudest.

"The people won," one black youth cried out.

"The people always win," another responded.

Lawyer Praises Judge

Neither Mrs. Huggins's lawyer, Catherine Roraback, nor Mr. Seale's attorneys, Charles R. Garry and David Rosen, were quite that effusive—though Mr. Garry did say, latter:

"I find Judge Mulvey to be of a much higher level than most of the judiciary in the United States."

They had asked Judge Mulvey, in written motions and in brief oral argument this afternoon, to dismiss the charges on the grounds of publicity. Mr. Markle had opposed the motion.

According to the prosecutor, the leading United States Supreme Court decision on the subject, Sheppard v. Maxwell, allowed such dismissal only where a "carnival atmosphere" had been caused by publicity generated by the prosecution.

But the defense argued that the Sheppard case meant not just publicity prompted by the authorities—the kind of publicity involved there—but any publicity so pervasive as to make a fair trial impossible. Mr. Rosen put it this way:

"The system—let's be perfectly frank—is not equipped to deal in this time, in this place" with such a situation as the Seale-Huggins case."

Acquittal Reported Near

In agreeing with the defense, Judge Mulvey avoided the necessity of dealing with another of Mr. Gary's motions: an application to dismiss on the grounds that the jury had decided to acquit Mr. Seale on the first day of its deliberations but had been stymied by one juror who insisted on getting an agreement on the charges against Mrs. Huggins.

Rumors that that effect had been circulating here for several days, though most of those close to the case believed that the minority in favor of conviction, although small, was larger than one.

At the end of his ruling, Judge Mulvey denied a request by Mr. Markle to appeal the dismissal of charges.

The prosecutor's only comment, late in the day, was: "I did my job, and I was prepared to do it again."

He still has pending the cases of the last two of the original 14 defendants in the case, Landon Williams and Rory Hithe, who are in jail here.

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