

Harlem ~~W~~ 4 Witness
 Reputedly Recants
 Earlier Repudiation

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By Alfonso A. Narvaez

A Manhattan prosecutor told a State Supreme Court justice that the chief prosecution witness in the murder trials of the Harlem Four had said he repudiated his testimony against the four defendants because of threats.

The witness, Robert Barnes Jr., an inmate at Clinton Prison in Dannemora, N.Y., repudiated his testimony early last month in a 38-page affidavit, which ~~sa~~ said that he had lied in testifying that he and the four defendants had plotted to rob and murder a Harlem shopkeeper in 1964.

But, according to Robert J. Lehner, an assistant District Attorney, Barnes told him in a recent conversation that "his recantation statement was untrue."

In court papers, Mr. Lerner wrote of Barnes: "He informed me that because of pressure applied by prison inmates at Clinton Prison and his desire to be removed from Clinton Prison he made a statement recanting his testimony given in the grand jury and the four separate trials."

Of the four trials, at each of which Barnes was the star witness for the prosecution, one resulted in conviction for all and was overturned on appeal, another brought a conviction

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WITNESS IS SAID TO RECANT AGAIN

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for one defendant and two resulted in hung juries.

"Barnes stated to me that his recantation statement was untrue," Mr. Lerner wrote, "and that his prior testimony in the grand jury and in the four trials is true and that in any subsequent trial his testimony will remain the same as his previous testimony."

The Barnes statement was disclosed in a hearing before Justice Sidney Fine, who reserved decision on a request by defense attorney, William M. Kunstler, for an evidentiary hearing on the Barnes recantation and for dismissal of the charges.

'Recanter Has Recanted'

Mr. Kunstler, after reading the papers presented by Mr. Lehner, smiled and said, "The recanter has recanted." Later, he told the court that he planned to appeal the conviction of Robert Rice, one of the original six defendants, whose confession has implicated the others.

Justice Fine reserved decision on Mr. Kunstler's motions and asked for additional arguments from both sides to be presented by Aug. 17.

In the affidavit that Barnes is now alleged to have repudiated, he said that he had lied in saying he had participated in planning the crime with the other defendants and in a meeting afterward.

He specifically denied any

pressure on him to make that statement, saying: "I have not been threatened by any person whatsoever . . ." and adding: "I am making this affidavit to right a terrible wrong and because it is the truth."

Barnes said he had lied because "I was afraid," because he was made to feel "that I was in trouble if I ever stopped cooperating with the police." Barnes is serving an eight-year sentence for armed robbery.

Mr. Kunstler, in pressing yesterday for dismissal, noted that the prosecution case relied heavily on the Barnes testimony

He asked for a hearing to determine whether the recantation, which was sent to him by Barnes, or the more recent repudiation, as presented yesterday by Mr. Lehner, was correct.

The defense lawyer said that he planned to appeal the conviction of Rice on the basis of the Barnes recantation, and also on the ground that the prosecution had not informed the court that a fingerprint found at the scene of the crime and alleged to be that of Rice, had been described as having "no value" by detectives investigating the case in 1964.

The tangle of trials and appeals began in April, 1964, when the six young men were arrested and charged with the murder of Mrs. Margit Sugar, an elderly shopkeeper.

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