

'Soledad Brothers' Judge Quits Case

By Charles Howe

The long-delayed trial of the "Soledad Brothers" suffered another setback here yesterday when attorneys for the defense succeeded in disqualifying the judge who was to have tried their case.

Grumbling that the entire scenario was "something out of Alice-in-Wonderland," Superior Court Judge Walter Carpeneti ruled in favor of defense lawyer John Thornes's preemptory challenge.

Court attaches said the matter will be heard at the Hall of Justice on August 23, before Superior Court Judge Walter F. Calcagno, who will name still another judge to hear the case.



ATTORNEY THORNE
He won a new delay



JUDGE CARPENETI
Disqualified

GUARD

Three black prisoners, George Jackson, 28, Fleeta Drumgo, 24 and John Cluchette, 26, are accused of killing white guard John V. Mills at Soledad Prison on January 16, 1970.

In their latest legal effort, attorneys for the defense had challenged Carpeneti because he belongs to two fraternal organizations that exclude members of minority races.

But just what kind of a challenge Thorne actually exercised yesterday was somewhat in doubt.

Lawyers in criminal trials are entitled to one — and only one — peremptory challenge.

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They are, however, entitled to any number of challenges for cause: on grounds of possible prejudice by a judge, and the like.

Carpeneti — who by law had no choice — yesterday disqualified himself on grounds of a peremptory challenge.

But Thorne said just before the trial began at 10:35 a.m. he had filed a motion before the State Supreme Court asking that Carpeneti be disqualified for cause.

The state court has until September 7 to rule on the

matter. Thorne had attempted to challenge Carpeneti for cause repeatedly in earlier actions, the last of them turned down by the State Court of Appeal on Friday.

If the State Supreme Court rules that Thorne's motion for cause is valid, he will still retain a peremptory challenge for the next judge to be assigned.

If the court rules against Thorne he will be left only with challenges for cause. In no case will Carpeneti hear the case again.

What started out to be a trial took less than a half hour. Unlike the brawl that broke out last April, yesterday's proceedings were orderly.

When the three defendants were brought in they gave the sign of the raised, clenched fist and said: "Power to the People."

Ninety-two spectators seated behind bullet-resistant sheets of glass echoed the cry.

The three defendants all wore prison-issue khaki shirts and trousers.