

# Ruchell Magee. Convict-Lawyer

## EARL OFARI

As many are now aware, Ruchell Magee is facing a battery of charges, including murder, kidnap and conspiracy, flowing from the so-called shoot-out, August 7, 1970, at the San Rafael Courthouse. This resulted in the deaths of Jonathon Jackson, James McClain, William Christmas, and the presiding judge. The State has used this incident in its attempt to railroad Angela Davis into prison.

What is not generally known is that the events of Aug. 7 were only the culmination of a long series of battles which Magee has waged over the past several years against the penal and judicial system.

Magee was first imprisoned in Louisiana at 16 for allegedly raping a white woman. After his release, he moved to L.A. In 1963 he was again

arrested for robbery and kidnap in a case which involved ten dollars.

At the time of Magee's arrest he was severely beaten by police, requiring hospitalization for five days. The subsequent hearing was marked by contradictory statements from both the police and prosecution witnesses. On the advice of a public defender, Magee and a friend, Leroy Stewart, who was charged with him, pleaded guilty to the charges. (Supposedly a deal had been worked out with the District Attorney's office) Magee, though, immediately realized that he had been tricked by the public defender, and in actuality, no deal had been considered.

He then filed an appeal attempting to establish that: (1) the plea of guilty was fraudulent and unauthorized, (2) the judge had failed to explain to his

co-defendant the nature of his plea, and (3) the evidence presented by police was false. (At the hearing it had been ruled inadmissible.) Not only was his appeal denied, but he was not allowed to have any record of the appeal.

In 1965 a second trial was ordered. This time Magee demanded that he be allowed to defend himself. The judge refused this request. Speaking to the jury, Magee labeled the trial a "kangaroo court." He was then beaten by the bailiffs and ordered by the judge to be gagged and chained to his chair. This happened exactly four years before the gagging of Bobby Seale at the Chicago 7 trial. A clear precedent was established in Magee's case for the future treatment of persons who take the initiative and demand full recognition of their rights in court.

Magee was again found guilty. Over the following months he filed numerous appeals, but each one was denied. In the meantime, he had become well-versed with state and federal law as well as court procedures. This was necessary since he had no attorney of record to submit appeals and write on his behalf.

Magee's early experiences with

court-appointed lawyers had served to convince him that he could get no recourse to justice through them. On every occasion, he insisted that he be allowed to represent himself in court. To him, this was the only way in which his rights could be safeguarded. It did not take the events of the August 7 shoot-out to impress on Magee the need for a personalized, coherent strategy designed to put the courts, rather than the defendant, on trial.

Magee knows more about the technical aspects of the law than many practicing attorneys. He has demonstrated this in having six judges disqualified on perfectly structured legal motions. Currently, he has several civil suits pending against various officials, including Reagan, for suppressing documents and evidence which could be used in his defense. This blows the myth that one must attend a "first rate" law school for X number of years before he can be certified as competent to say "Your Honor."

Judicial officials definitely recognize the potential threat which Magee's actions offer. They have pulled out all stops in an effort to discredit both his ability and intelligence. They have put out the lie that he is a "moron," an "illiterate," and an "incompetent," but Magee has consistently taken the position that he must be allowed to defend himself. He is not prepared to compromise on this.

Magee has called the August 7 "shootout" a "slave rebellion." He has stated: "That Warden Louis S. Nelson and Marin County Sheriffs murdered Judge Haley and three other human beings, and seriously wounded jurors."

According to him, the object of the "escape attempt" was not to inflict any harm on the hostages but instead to inform the public about the prison system. Pat Gallyot, writer for the *San Francisco Sun Reporter*, has similarly observed: "But August 7 was more than just an escape attempt. It was an effort to reach the people and dramatically awaken them to the plight of all prisoners, particularly Blacks. The real 'conspiracy' was to take over the nearest radio station and inform the public

about the murder of Fred Billingsley. (A black San Quentin inmate who was teargassed to death in his cell) and the torturous prison conditions in general.”

In an important position paper, “The Right to Kill,” Magee deals with a range of issues from the prisons and courts to society in general. He forthrightly asserts that an oppressed people have the right to rebel and kill their oppressors:

Great numbers of us due to our mis-education by the arch enemy and the seemingly omniscient, omnipresent propaganda machine of the oppressor refuse to acknowledge the omniscient aphorism, ‘Justice only comes out of the barrel of a gun.’ In short, there will be no meaningful change in this system until the oppressor is killed and oppression annihilated.

“The Right to Kill,” in a real sense, forms the framework for Magee’s defense. The ideas he develops in this work provide the basis for his entire court strategy. Magee has also sought to establish a historical foundation for this position in comparing his case to that of Joseph Cinque.

Cinque was among a group of African slaves who were being transported by the Spanish in 1839 on the slaver, the *Amistad*, from one Cuban port to another. Before the ship reached its destination, the Africans, under Cinque’s leadership, rose up, killed the captain, and captured the ship. Eventually, the ship was seized by the U.S. Navy. Cinque and his men were arrested. The Spanish Government demanded their return. A major court battle ensued.

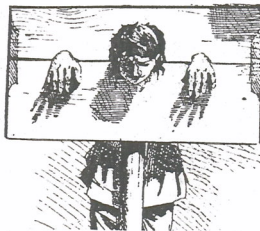
The case finally reached the Supreme Court where the Africans were defended by former president John Quincy Adams. In a landmark decision, the court upheld a lower court ruling in favor of Cinque. They were released and returned to Africa.

Magee intends to use the same approach which won freedom for Cinque (he has now adopted “Cinque” as his traditional African name). He has carefully studied every feature of this case. Magee notes that the U.S. District Attorney in the prosecution of Cinque argued for the Spanish Government and pro-slavery interests in America, and held that the Africans were property (slaves) and had committed murder in rebelling. Magee hopes to show that the same reasoning which permeated the pro-slavery legal system then has not changed today.

There are, of course, obvious pitfalls here. The fact remains that

Magee is not a chattel slave in the strict legal usage of the term. Although the masses of blacks face conditions of oppression and exploitation which approximate slavery, it is unlikely that the courts will accept such a designation. This means that Magee must stand squarely on a principle. If convicted, under California law, he faces a mandatory death penalty. The inescapable conclusion one can draw is that he is putting his life on the line behind principle.

Every attorney who has been assigned him by the court has attempted to dissuade him from this course. He has even been approached by these lawyers with offers of deals from the prosecution. This has been a further source of antagonism between Magee and his appointed “defenders.” It has also strengthened his determination to move ahead independently with his own plan.



Because of the tremendous implications of his case one is forced to ask why his case has not attracted the national acclaim from the radical movement which has gone to others such as Seale, Angela, or Newton?

Unlike the others, Magee has clearly projected into the legal arena itself the notion that blacks can and should initiate revolutionary violence against a racist, capitalist system. The same persons who eagerly rush forth to champion those “nice” causes appear very reluctant to organize defense committees, print up and sell posters and buttons, secure lawyers, etc. for blacks like Magee.

Magee himself recognizes that he must carry the burden here. He is no longer willing to defer the start of his trial for Angela’s. He therefore recently filed a petition requesting that the court begin proceedings in his case.

The newly formed Ruchell Magee Committee for Black Prisoners in L.A. says: “We must be prepared to fight for the release on equal terms of the poorest of the poor and the forgottenest of the forgotten. In the end, the demand should be to free all prisoners, not one or two personalities or celebrities.”

The committee, which distributes literature on Ruchell and the prison struggle, may be contacted at: PO Box 62200. (Phone) 758-6701.