

# Oaklander Was Out 22 Months

By Stephen Cook

Why does Frank Nubin have to go back to prison Friday? The California Adult Authority says he has to "finish his program of rehabilitation."

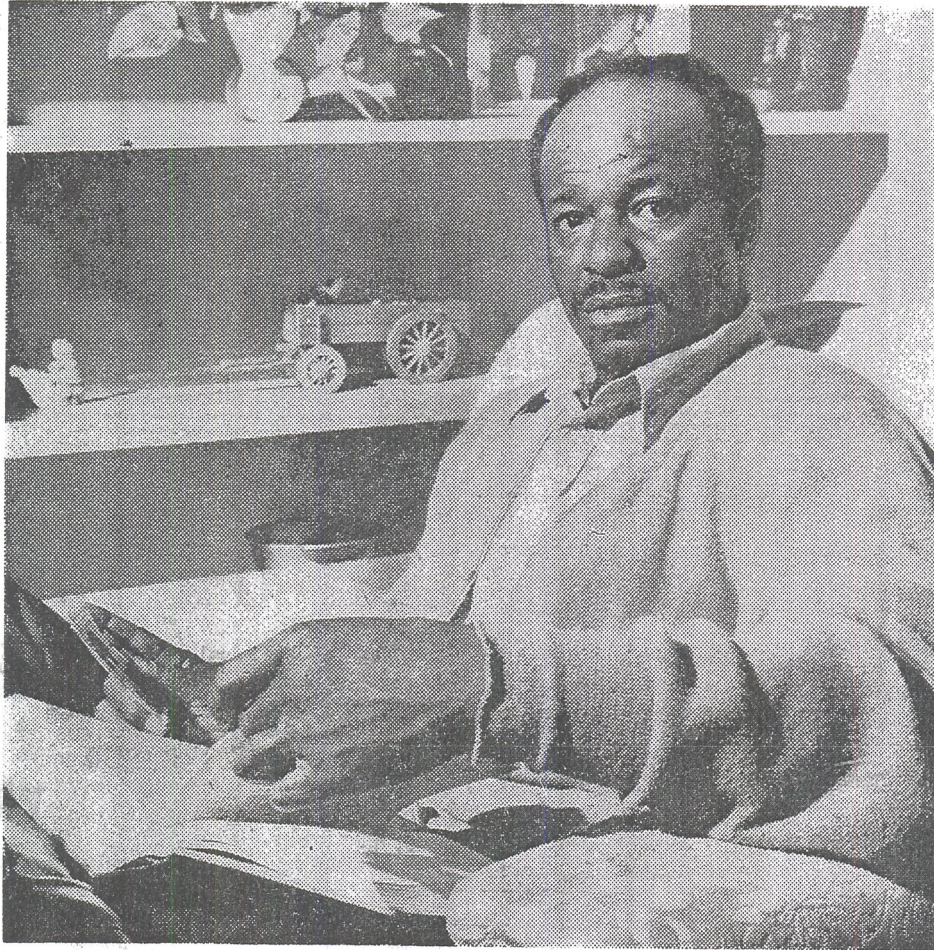
His attorney, prison reform lawyer Salle Soladay of San Rafael, says it is because Nubin is in the path of the Adult Authority's "all powerful fist that is going to have its way."

in the background is a technical error, a typists miscue on a date.

Nubin is 46, a black man, steadily employed in Emeryville as an ironworker. He resides at 3030 60th Ave., Oakland, with his wife and two children by a prior marriage.

Owes 10 Months

He has been free almost



## ADULT AUTHORITY ORDERS HIM BACK TO JAIL

Frank Nubin, free two years, steadily employed, still owes 10 months

—Examiner Photo

two years, yet he must return to San Quentin to serve 10 months which the state says he owes.

Nubin has done a lot of prison time.

At 18, he began a sentence that ran four years and 10 months for robbery and grand theft.

In January 1961, at 36, he went to prison for assaulting his former wife with a deadly weapon.

He served until May, 1965, when the Adult Authority paroled him and fixed his term at 7½ years.

In August, 1966, his parole was revoked and his term fixed at 10 years when his parole officer accused him of excessive drinking.

### Parole Repeated

Nubin was paroled again after 12 months in August 1966. This time the Adult Authority told him his term would end after eight year — on Jan. 4, 1969 — if he just stayed out of trouble.

Nubin went back to his wife, got a job and stayed clean until Christmas Eve 1968. Then in a drunken quar-

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rel, his wife stabbed his arm with a pair of scissors. He put her in the hospital with blows from a baseball bat.

Nubin was accused of assault with a deadly weapon, but the charges were dropped — because his wife refused to testify.

The Adult Authority said that made no difference and on Jan. 3, 1969, one day before his sentence was to expire, it sent Nubin back to San Quentin and refixed his term at the maximum — 10 years.

But the Authority made a mistake. It sent Nubin a letter reporting this action was taken Jan. 31, 1969, 27 days after he was by law a free man.

This technical error, which the Adult Authority blamed on a typist, gave Nubin a second chance.

Marin Superior Judge E.

Warren McGuire granted him a writ of habeas corpus in September, 1969. The Attorney General appealed, but Judge McGuire ordered the prisoner released on a \$5000 bond on Jan. 26, 1970.

Nubin has been free since then. He has worked steadily and remarried.

Since then, Nubin was arrested once — for being drunk in public. He says he has since joined Alcoholics Anonymous.

Meanwhile, the District Court of Appeal reversed the case after the Adult Authority produced new evidence to prove Nubin's parole was revoked a day before, not 27 days after, his discharge date.

Judge McGuire then ordered him to return to San Quentin Prison this Friday and recommended to the Adult Authority that they immediately consider him for parole.

The prospect of returning

to prison after 22 months of freedom has thrown Nubin into a profound state of depression.

"They're always saying they want to help people rehabilitate. They want to help keep men out of prison. Why are they doing this to me?" he asks.

A spokesman for the Adult Authority says Nubin will get a hearing the first time the parole board meets at San Quentin after his return — probably sometime in December.

D. Stuart Candland, the deputy attorney general who

convinced Judge McGuire to send Nubin back to prison, regrets what has happened.

"Looking at the case, it looks bad," he admitted. "I agree the equities might be with Mr. Nubin. It was a long legal process and I think we're all sorry it took place."