

SF Examiner

MAR 21 1972

# Soledad Defense Charges Frameup

By Harold V. Streeter

The defense today denounced as a frameup the case against two black convicts charged with the 1970 impulsive killing of a white guard at Soledad Prison.

Officials neglected to make a thorough search because they already "had made up their minds whom they wanted to cite," defense attorney Richard Silver told the jury in closing arguments.

Silver, attorney for defendant Fleeta Drumgo, cited the finding of blood near Cell 324 on the other side of the tier from the northeast corner of Y Wing where guard John Mills was beaten.

#### Says No Blood Check

Silver said a blood expert for the state's Criminal Identification and Information department, although on the scene the night of the slaying, never did try to check whose blood was there. Pointing out that the area was across from defendant John Clutchette's cell and a tier above Drumgo's second floor cell, Silver said:

"Maybe they didn't want to find out if somebody else" killed Mills.

Yesterday Ed Barnes, Monterey County deputy district attorney, opened the closing arguments of a 13-week trial that could go to the all-white jury of nine women and three men by Friday.

Today, Barnes hammered away on the credibility of his convict witnesses, acknowledging that they had testified reluctantly for him.

"There were pressures to testify," he told the jury. "But there was no pressure

to falsify. There is no intimation by any witness from any source of pressure to falsify evidence."

Four convict eyewitnesses for the prosecution have testified they saw Drumgo and Clutchette active on the third tier just before the body of Mills was dropped to the first floor by black convict George Jackson, later killed last August in a San Quentin outbreak.

#### Story Denied

Drumgo, 26, and Clutchette, 28, both denied from the witness stand they were even on the third floor when Mills was killed.

Barnes told the jurors to ask themselves in determining who told the truth "does he (the witness) have a stake in the outcome?"

Barnes criticized defense attempts to belittle the testimony of convict eyewitnesses for the prosecution by calling them "snitches" and violators of "the convict code" — never to inform on a fellow prisoner.

"The inmate code is not a legal code," Barnes emphasized.