

# Soledad

## Jury: Both Innocent

### SF Examiner

### 16 Hours of Deliberation

By Harold V. Streeter

Fleeta Drumgo and John Clutchette were found innocent today in the killing of guard John Mills at Soledad Prison Jan. 16, 1970.

The all-white jury of nine women and three men, after a trial conducted under the tightest security conditions in The City's history, brought in its verdict shortly before noon after 16 hours of deliberation.

It was the first settlement in this area's three current and interlocking murder cases.

#### Third Case

The most notable of the other two is the trial of Angela Davis, accused of helping to plot the 1970 escape attempt in which four men were slain at Marin County Civic Center.

The third case, not yet ready for trial, rises from the 1971 San Quentin outbreak in which convict George Jackson and five other men were killed.

Jackson, whose brother Jonathan was one of those who died in the Civic Center battle, was originally charged with Drumgo and Clutchette in the Soledad case.

After his death, they were tried alone.

Today, Drumgo and Clutchette leaped to their feet and hugged their attorneys when the acquittal verdicts were read.

The lawyers, Floyd Silli-

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man and Richard Silver, embraced each other and their clients in turn.

#### Reactions

Clutchette's mother, Mrs. Doris Maxwell, stood up, put her face in her hands, and wept.

Mrs. Inez Williams, mother of Drumgo, ran out of the courtroom and sat down on a bench outside.

The prosecutors, William Curtis, Monterey County district attorney, and his assistant Ed Barnes, sat in silence.

#### Were Deadlocked

The jury took the case at 4:30 p.m. Friday in the court of Superior Judge S. Lee Vavuris.

It reported itself deadlocked 9-3 yesterday afternoon, but was sent back to try again.

The buzzer from the jury room buzzed at 11:36 a.m. today.

After all participants had assembled in the court, the jurors returned, and the foreman, Mrs. Jean Batten, handed the papers containing the verdicts to Bailiff Bill Flynn.

Flynn handed the verdicts to the judge, who handed them to his clerk, Jack O'Brien, who read, in a low voice, the "not guilty" judgment on the counts of murder, manslaughter, aggravated assault and simple assault in the case of Drumgo.

The defense attorneys threw their arms around each other, delaying the reading of the Clutchette verdicts until Judge Vavuris told them to settle down.

The result was the same for Clutchette — not guilty on all counts.

After thanking the jurors, Drumgo and Clutchette were put in a National Guard helicopter and flown back to San Quentin.

Drumgo faces another murder charge as a result of the San Quentin shooting in which George Jackson died.

Clutchette had been due for parole three months after Mills was killed, but the murder charge canceled it out. His attorney said today he would move for Clutchette's early release. But the matter has to come up before the Adult Authority.

The two men, along with the now-dead George Jackson, were Soledad inmates at the time of the Mills' killing.

Jackson had been regarded as the prime participant in that affair. The cases against Drumgo and Clutchette, it was generally accepted, were less substantial.

#### '3 Were Unbelievable'

Jurors said just that after the verdict today. John Callahan, an airline ticket agent said flatly:

"There was no case against them. Everybody who testified was bought."

Callahan said three convict witnesses. — Thomas York, Manuel Green and William Worzella — were "completely unbelievable."

He said Drumgo and Clutchette should be pardoned by the governor because:

"We suffered in this trial five months to get the truth, but they have suffered more than two years to get justice."

Juror Harry Diethelm said he felt the evidence was "not strong enough to make me hold out for conviction."

"More than that," he add-

ed, "although the trial was legally fair, I felt it was morally unfair because there were no blacks on the jury."

#### No Contempt Charges

He and the other jurors all appeared exhausted after their long ordeal.

Meantime, Judge Vavuris announced he was dropping contempt charges against the defense attorneys, Silliman and Silver, because "it's been a long and bitter trial."

Mills was the only prison official in the Y Wing at Soledad when he was slain. Thus all the prosecution eye witnesses were convicts.

Four — two blacks, two whites — said they saw:

- Jackson grab Mills in a judo choke at the northeast corner of Y Wing's third tier — close by Clutchette's Cell 302 — beat the guard with fists, karate chokes and finally with the guard's flashlight.

- Drumgo swing at Mills with his fists.

- Clutchette pick up the bloody flashlight, wipe it off, take it back to his cell and pause to wipe a spot of blood off his cell door.

- Jackson push Mills' body between the third tier railings, the guard's head striking the second floor railing and splattering the area with blood before the body crashed to a stop, face up, on the first floor.

#### Drumgo's Story

The defense branded the accounts of all four guards as "snitching" obtained by threats or promises of favored treatment. It countered by putting both Drumgo and Clutchette on the witness stand.

Drumgo, who was charged with murder over the Aug. 21, 1971, violence at

San Quentin even before the Soledad trial began, denied ever being on the third tier that fatal night.

He said he heard glass breaking, "went in to my (second tier) cell and locked the door."

Drumgo, a short, thick-lipped man with a persistent grin, refuted testimony by prosecution convict witnesses that they saw him drop bottles from the third tier as a diversion, then hurry over and swing at Mills. He did concede, under cross examination, he might have voiced threats in the past to "kill one of you" guards.

#### Clutchette's Story

Clutchette, a tall, quiet-mannered man with an almost shy smile, said he was in the first-floor television room when Mills was attacked.

He admitted he left the room at 6:15 p.m. — some 15 minutes before Mills was slain — to get a clean towel, but said he returned and saw the body of Mills on the first floor from the television room doorway.

It was only then, Clutchette insisted, that he hurried up to the third floor, saw Mills' blood on his cell door and wiped it off with toilet paper.

The trial had the tightest security in San Francisco's criminal court history.

Sixteen armed sheriff's deputies were in the third floor corridor and in the courtroom.

#### Courtroom Shield

More than that many members of the Police Tac Squad, with guns in holsters, holding long riot batons and some with walkie-talkies, joined in third floor duty.

Under a 15-point order issued last Sept. 14 by Judge Vavuris, the fifth judge in the case, all spectators had

to get passes on the first floor, then submit to an intimate search on the third floor. Women were required to lower their panties and loosen their brassieres.

Judge Vavuris said the stringent security was for everyone — including the defendants.

Throughout the trial, a bullet-resistant glass and

metal barrier, built at a cost of \$15,000, separated the spectator section from the judge, defendants, opposing counsel and the jury.

There were no major incidents. A woman spectator was ejected last Oct. 27 after "off the pigs" was found scrawled on the courtroom seat she occupied.

Last February, a Berkeley

woman attorney, Elaine Wender, was ordered out of the Hall of Justice for trying to bring a briefcase into the courtroom.