

Crippled DA's Story of Bloody Marin Shootout

by Stephen Cook
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San Jose - The prosecutor who was crippled for life in the 1970 Marin Civic Center shootout described today how he saw Judge Harold Haley shotgunned to death, and then grabbed a gun and shot

four kidnapers before he himself was gunned down.

Gary W. Thomas, a key witness at the murder, kidnap conspiracy trial of Angela Davis, said:

- He saw Jonathan Jackson, revolver in hand, put it outside the driver's side of the kidnap van, then draw it back with blood on the palm.

- He turned toward Judge Haley, who had a sawed off shotgun beneath his chin that convict Ruchell Magee held, and "all the outward appearances of his face were just completely moving away."

- Then he grabbed the gun from Jackson and fired at him once or twice.

- "James McClain (another convict) was moving toward the left side of the front of the van. I shot him in the back."

- "I turned and fired a shot in the area of (William) Christmas (sitting in the van's rear).

- "And then I shot Magee once and saw he was still moving. I tried to shoot him again and the gun clicked."

- He yelled out for everybody to "stop firing" and "about the same time I felt the sharp pains in my back."

Earlier Thomas testified he heard Judge Haley, on entering the van, ask where they were going and McClain replied: "We're going to the airport and take a plane."

Thomas was brought into

the courtroom in a wheelchair.

Unable to go farther, he stayed there while Assistant Attorney General Albert Harris Jr. used a pointer on a chart of the courtroom of the late Superior Judge Harold Haley to guide him through his testimony.

Thomas, holding a microphone, gave his account of how Judge Haley — a long-time friend — met his death along with two convicts and the man who smuggled guns into the courtroom in an attempt to free them.

Throughout his testimony, Miss Davis, who is accused of having supplied the guns that were used, sat at the defense table, her chin cupped in her hand most of the time, apparently absorbed in his words.

Convict James McClain, who was on trial, was putting on his defense, and convict Ruchell Magee — the only one of the would-be escapers who survived — was on the witness stand, Thomas related.

"Was there anyone in the audience?" Harris asked.

"The first time I noticed anyone in back was when I heard a voice at the back of

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the courtroom," Thomas replied.

"As best I can remember, that voice said, 'Hold it right there! That's enough!' or words to that effect.

"When I turned, I saw a man, tall, he appeared thin, in a raincoat, with a natural type hairdo, a light skin, black. He was standing. He had a handgun in his hand — a short-barreled pistol."

McClain asked that man — Jonathan Jackson, 17 — whether he had brought the tape. Thomas said he did not hear the answer, but later saw a shotgun taped to Judge Haley's neck.

Jackson handed the gun he had first produced to McClain, who ordered everybody in the courtroom to get on the floor, Thomas continued.

While they were doing so, Jackson pulled a carbine from beneath his raincoat.

Then McClain forced Judge Haley to call Sheriff Louis P. Mountanos from his bench, with the gun taped to his neck, Thomas said.

Harris handed him a sawed-off shotgun — presumably the one that was used to kill the judge, although it has not yet been formally identified.

Thomas, still a Marin County deputy district attorney, was completely in control of himself. He accepted the gun, flipped it over a few times as he examined it, and said he had seen a gun like it before — perhaps the same one.

"I saw this underneath Judge Haley's chin," he testified. "It was taped around Judge Haley's neck. I can't say this is the sawed-off shotgun, but it certainly looks like it."

Speaking in the slow, measured phrases that he always used, even before a bullet lodged in his spine during the escape attempt, Thomas said he heard Judge Haley on the telephone ask for the sheriff.

"I heard him state something like, 'The inmates here are holding us hostage. They have guns,' and something to the effect, 'Don't do anything rash.'"

"And there was something



GARY THOMAS ARRIVES AT COURT
Invalided prosecutor testified from his wheelchair

—AP Photo

to the effect to 'clear the area, they want the area cleared.' That's the best I can remember," the witness testified.

Harris asked whether he heard McClain say anything to the sheriff.

"Yes," Thomas said, quoting McClain. "We have the judge. If you don't do as we say, we'll kill him and the people on the jury."

He described the conversation between McClain, Jackson and Magee over the selection of jurors as hostages, and recalled that Magee wanted to "kill them all

here."

"Come on," he quoted McClain. "Cool it. Keep cool. Don't lose your cool."

Thomas, who was lying on the floor at the time and thus could not see the entire action, was aware that a woman with a small child had entered the courtroom while the hostages were being chosen.

"She was seated against a back wall of the courtroom," he related. "I heard the crying of a small child, and I heard a woman say, 'Oh my God no! Don't take my baby!'"

Again, it was McClain who ruled, "We're not taking any kids," the witness testified.

He heard instructions to "bring in Willie," Thomas said, and then someone else came into the courtroom — someone he later learned was William Christmas, a convict who had been waiting outside to testify in McClain's behalf in his trial on charges of assaulting a San Quentin Prison guard.

Then, Thomas continued, McClain told him to get off the floor, that he "was taking me along." He rose to see three women jurors wired together as hostages, and they were all "more or less prodded" out of the courtroom.

In the corridor, Thomas said, McClain turned to him.

"He gave me kind of a msile," the witness said, and he said, "We're revolutionaries, but you knew that all along, didn't you?"

Harris pressed him as to whether any references were made by the escaping convicts to time. Thomas recalled young Jackson saying on one occasion in the courtroom, "We're falling behind schedule," and later in the corridor protesting that "we're five minutes behind."

Once in the corridor, Thomas said, the group seemed confused as to which way to go, and changed direction after a false start.

He described the encounter with news photographer James Kean and the taking of pictures of the group — an event already related in detail by Kean and other witnesses, and remembered McClain taking Judge Haley down to the far end of the corridor.

There was some confusion here on Thomas' part, apparently. He understood McClain was going to get another inmate, "to the best of my recollection, Willie."

Thomas confused that reference with Willie Christmas, who was already in the escape party. It apparently was to Willie Reddicks, another San Quentin prisoner who was to testify that day and who refused to join the break.

Marin Sheriff's Inspector Kenneth Irving testified earlier to events that occurred on the courtroom floor of the

Civic Center the morning of the shootout.

Like four witnesses who testified on Monday, he said he heard a demand made to "Free the Soledad Brothers."

Irving said he saw McClain leading Judge Haley from his courtroom, a shotgun taped to his head. They were followed by the other kidnapers and their hostages.

Jonathan Jackson came to him, Irving said, and jabbed him with the M-1 carbine that other witnesses said looked like a machinegun.

"Get your hands up!" he ordered. And, at another point, Irving said, Jackson growled: "I'm itching to blow somebody's head off."

Before the party took an elevator to the ground floor, McClain paraded Judge Haley to the far end of the corridor, the witness related.

Jackson told him to "hurry up, we have only one hour," Irving related, but McClain made no response.

Five minutes or so later, McClain returned with the judge and posed for pictures

by Kean, one of Monday's witnesses. Irving recalled that McClain told Kean:

"Take some pictures of the judge. This will be the last time you see him alive."

And then, as the group walked toward the elevator, Irving said he heard some yell:

"You have until noon to free the Soledad Brothers."

The inspector also testified to various bits of evidence found in the party's getaway van after the shootout ended with Judge Haley, McClain and convicts William Christmas and Jackson dead.