

Angela Defender Tries Gun Ruse

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SAN JOSE — Defense attorney Howard Moore Jr. carried off a deft courtroom ruse today in the Angela Davis trial, switching exhibits on one of the state's expert witnesses.

The maneuver of discussing one weapon used in the fatal Aug. 7, 1970, Marin Civic Center shootout while holding up a second one was ended after many minutes of errant answers from Fred H. Wynbrandt, chief of the Department of Technical Services.

The line of questioning was halted by prosecution objections and a lengthier than usual morning recess.

After the recess, Wynbrandt returned to the

stand. Moore began by clearing up the ruse, explaining in court what he had done. But he seem tried the same trick again.

This time, however, Wynbrandt was not caught. A very cool and confident witness thoughtout, he was handed the weapons while on the stand and demonstrated — in front of the jury — the actual differences in the frames of the two pistols, both .357 magnums.

Yesterday, Wynbrandt testified that a .357 Magnum (Trial Exhibit 56) was in the hand of escaping convict William Christmas, while a second .357 Magnum pistol

—Turn to Page 10, Col. 1

—From Page 1

(Exhibit 58) was in the hands of Jonathan Jackson — and eventually may have wound up in the hand of crippled Assistant Marin District Attorney Gary Thomas.

The state contends in the trial that Miss Davis, the Communist and former UCLA philosophy professor, plotted the kidnap-escape which led to the death of Marin Superior Judge Harold Haley in an attempt to free her lover-by-mail, George Jackson. He was in Soledad Prison at the time.

Wynbrandt did not falter in making his original determination of who had which pistol. He made his determination aided by photographs taken of the abortive escape attempt.

Ruse Confusion

The ruse used by Moore did not seem to directly affect evidence introduced so far against Miss Davis. But in the upcoming trial of convict Ruchell Magee, any confusion over which weapon was in Christmas' hand and which was held by Jonathan Jackson (and subsequently by Thomas) could be crucial to part of the defense.

It would be important because the defense may try to prove that Judge Haley was killed by a bullet from the gun held by Assistant District Attorney Thomas, who fired at his abductors inside the van while the bloody escape was in progress.

Judge Haley suffered two potentially fatal gunshots, according to autopsy testimony. One was from a revolver, the other from the sawed-off shotgun taped to his neck and held by Magee.

Fires Both Shells

Exhibit 56, testimony revealed, was loaded with .38 caliber ammunition — which

can be fired from a .357 magnum. The other, exhibit 58, was loaded with .357 slugs. (A .357 magnum can fire either .357 or .38 Special ammunition.)

Wynbrandt testified, first, that the gun loaded with .38 ammunition fired the slug into the late judge. Then, looking at a photograph of Christmas holding a juror hostage, he was referred to the two .357 magnum revolvers found in the van and asked which the convict was holding.

It was not the revolver that had been loaded with .357 magnum shells, he said. It was a weapon of the model of the gun with the .38 bullets.

Thomas testified he grabbed the gun from Jonathan Jackson, driver of the van, and fired at Jackson, convict James D. McClain, Christmas, and Magee, who he said had fired the shotgun into Judge Haley's head.

Wynbrandt's testimony in-

licated Thomas killed McClain and Christmas and wounded Magee.

A .357 slug was removed from Magee, he said. The bullet which killed Christmas passed through his body but a slug found in his jacket was fired from that gun, also, he said. A .357 slug was found in the body of McClain but was too damaged for exact comparison, he said.

The origin of the bullet that killed young Jackson was still in question, since no slug was ever found.

Thomas, whose spine was severed by a slug that is still in his body, was hit by another bullet that was removed and it was a .30 caliber, according to Wynbrandt.

Two San Quentin guards testified they fired .30 caliber rifles that day — Officer John Matthews, through the van window at a distance of seven yards, and Officer John Hicks, firing from a

distance of 50 yards in the general direction of the van.

Matthews testified he was certain his four shots found

their targets — Jackson, McClain and a man with a gun in the rear of the van, at whom he fired two shots.

(That could have been Gary Thomas.) Wynbrandt's testimony yesterday indicated he at least missed his shot at McClain.