

Angela Trial Witness

By Stephen Cook
Examiner News Staff

SAN JOSE — The prosecution succeeded in wringing testimony from one of its most reluctant witnesses today in the trial of Angela Davis, but it came up with a mixed bag.

On the one hand, Assistant Attorney General Albert Harris Jr. won a ruling that forced attorney John Thorne, who once represented George Jackson, to testify.

And in doing so, he was able to place before the jury a record of what Thorne told him at a conference in the Attorney General's office on Sept. 29, 1970.

Memory Lapse

But on the other hand, Thorne, in direct testimony today, said the statements he had given then simply weren't so — they were due to a lapse of memory.

The interlude came after lengthy in-chambers debate before Superior Judge Richard Arnason as to whether Thorne, who claimed privilege by virtue of attorney-client relationships both with Jackson and Miss Davis, could be required to testify.

Harris, who claims Miss Davis aided the Marin County Courthouse shootout of Aug. 7, 1970, in attempt to win freedom for Jackson whom she loved, obviously won out.

Question

Accordingly, he began by asking Thorne whether he had received a telephone call from Miss Davis on Aug. 5, 1970 — the same day she bought a sawed-off shotgun that was used in the

shooting, and two days before the actual violence.

"No," Thorne replied.

With that, Harris directed his attention to a statement Thorne had given that September in the presence of

two lawyers who accompanied him.

Reading from a transcript of a tape recording, he disclosed that Thorne then told him he had received such a call on "a Wednesday, it would have been, I assume, on the 5th of August."

At Office

Miss Davis, he said, in the statement, called him at his office in the evening and said she was passing through San Jose. When Harris asked him what was said, according to the transcript, Thorne responded:

"You're asking me to recall things I had no reason to remember at the time. As best I can recall, she asked what was happening with her application to visit my client (Jackson), and I told her we were putting together a petition for the District Court of Appeal . . . something like that, and that's guessing."

Thorne continued that Miss Davis said she would see him in the "next four or five days," and that she was on her way to Santa Cruz with Jonathan Jackson — George's younger brother, who smuggled guns into a

Marin County Courtroom to trigger the shootout.

In Santa Cruz

"He (young Jackson) had apparently been living in Santa Cruz for I don't know how long," Thorne said in the statement. "Jonathan had to pick up some clothes and stuff. He was moving into the city."

When Harris completed reading the transcript, he asked whether Thorne had been asked those questions and given those answers.

"Yes," he replied on direct testimony, "but I'd had no chance to check."

The witness, who previously pleaded on the stand that he had a "very bad memory, said he recently checked his records and found that conversation in which Miss Davis asked what was going to happen on the petition.

Petition Filed

He said he discovered he had filed a petition on July 21 1970 and "that means my conversation with her was prior to that date. I'm positive in my mind it was prior to that date."

Harris then recalled Thorne's testimony before a

Talks

special session of the Marin County Grand Jury on Jan. 19, 1971, about four months after his statement in the Attorney General's office.

Thorne was asked then when he last talked to Miss Davis, and replied that to the best of his recollection it was prior to Aug. 7, and in that he didn't know specifically.

Under Oath

Again, he admitted today that he had given that answer under oath.

But on cross-examination by defense attorney Leo Branton Jr., Thorne said

this morning that he "certainly" was not positive about the date when he testified before the grand jury or when he gave his statement to the Attorney General.

When he was subpoenaed to testify in the present trial, Thorne said, he checked his records, refreshed his memory, and became positive that the phone call was before July 21.

Pressed

Harris pressed him on his prior statements, and the witness replied:

"I was then giving you my best recollection. It certainly has been proved inaccurate."

The prosecutor did succeed in drawing from Thorne that he had discussed his testimony in advance with Miss Davis and her attorneys, and there the matter rested.

Judge Arnason dismissed the jury until Monday, telling them Harris anticipates presenting two or three witnesses who will not be available until next week.

The balance of the day was spent in an effort to resolve disputes over evidence which has been offered and challenged, and over motions to strike certain testimony.