

San Francisco Report

State Supreme Court allows Clark

The State Supreme Court issued a writ of Mandate over-ruling Judge Colvin and allowing Ramsey Clark as associate of counsel. The decision was unanimous.

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SAN FRANCISCO — In what must be described as at least a minor victory over what many observers have called Judge Mortin Colvin's "orderly reign of terror," the California State Supreme Court issued a stay, halting the trial of Ruchell "Cinque" Magee on charges of murder and kidnapping stemming from his participation in the Aug. 7, 1970, "Marin Courthouse Slave Rebellion".

The stay was issued last Wednesday afternoon, as the defense, minus former U.S. Attorney General Ramsey Clark (who, barred from the courtroom, has been quietly observing the trial in the spectator section since Monday morning), began presenting the heart of its case, the right of Ruchell Magee to rebel on Aug. 7, during which Judge Haley was shot and killed.

The proceedings will be suspended until the State Supreme Court rules as to whether Judge Colvin went beyond his jurisdiction by denying Ramsey Clark as associate of counsel to court-appointed defense attorney Robert Carrow on the grounds that "the court will appoint only an attorney whom the court has confidence in, and with whom the court is personally familiar, and whose qualifications are known to the court." (sic)

Defense Attorney Carrow told the *Free Press* that this is the first instance he could recall of the Supreme Court stopping a murder trial.

The writ of Mandate which the State Supreme Court voted by a 4-2 margin to rule on was filed last Monday with the District Court of Appeals, who denied it without a hearing. On Tuesday, Defense Attorney Carrow then filed the writ with the State Supreme Court, and the trial was stopped as Judge Colvin received the decision on Wednesday afternoon.

Carrow's filing of the writ on Monday was prefaced by a long and eloquent plea with the court to reconsider its previous decision regarding Mr. Clark, as Carrow explained that this segment of the defense, dealing

with Magee's justification for his actions on Aug. 7 would "be crippled without the assistance of Mr. Clark." It was to no avail, as Judge Colvin, a personal friend of the late Judge Haley, flatly denied Carrow's motion for renewal. Many observers have posed the possibility that Ramsey Clark's outspoken anti-war stand and criticism of the prison system may have had some bearing on the ill treatment he has received.

With the behind the scenes aid of Mr. Clark, Carrow began to present last Tuesday, his version of the "right to rebel" defense. Before he was

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Defense Attorney Carrow embarked upon a variation of that theme last Tuesday. Basing his case on the state of mind of Magee on that fateful day, Carrow is attempting to show that Magee suffered from "diminished capacity", which under California law, relieves him from being held responsible for his ac-



Ramsey Clark and Defense attorney Carrow

stripped of the right to defend himself by Judge Colvin, Magee had predicated his case on the right of a slave to rebel, maintaining that he was illegally convicted and incarcerated in prior 1963 and 1965 convictions in Los Angeles, over a \$10 quarrel.

Magee's strategy had been to bring before the court the illegality of those 1963 and 1965 proceedings, about which Magee had filed more than 1000 pages of petitions to the courts, all of which were ignored. Ruchell Magee maintains that because of the illegality of those trials, and the lack of response to his pleadings over the seven years he was incarcerated, he

had the right to rebel, based on a U.S. Supreme Court decision in 1842, in the Amistad case, which vindicated the right of illegally held slaves to revolt. Ruchell has adopted the name of the leader of that revolt, Cinque, as his middle name.

To develop this position Carrow called as witnesses Dr. Kenneth B. Clark, the renowned black psychologist and former president of the American Psychological Association (the bibliography of Clark's writings totals 69 pages); Ernest Graves, who was one of the half-dozen attorneys who have represented Magee at one point or another in the two-and-a-half years that this case has been delayed and prominent Marin Psychiatrist Dr. Martin Blinder, who was on the witness stand when the proceedings were abruptly halted last Wednesday.

In what was by far the most convincing explanation and psychological exposition of Magee's behavior, Dr.

to defend Magee

Clark occupied the witness stand all day last Tuesday. Dr. Clark told the court that Ramsey Clark called his attention to the case and after studying the 1100 pages of legal writs, and many personal writings of Magee, decided to testify.

Dr. Clark also spent about three hours conversing with Magee in his San Quentin cell.

Dr. Clark first dispelled the so-called I.Q. scores which categorized Magee as ranging between 75 and 85 and "low and dull". Dr. Clark told the court that the low scores, "didn't make any sense," he continued, describing Magee's intelligence as "unbelievable, indomitable, he is intelligent, he is alive." He further added, that, "any person who puts a score of 75 or 85 in Magee's record is immature and questionable as a psychologist."

He analyzed Magee's upbringing in rural Louisiana as that of "learning about himself as a black in an inferior status (to whites)." He explained Magee's sleeping with a white woman at age 16, for which he was convicted of aggravated rape (standard treatment in the South for a black caught with a white woman) as, "testing patterns of rebellion." He said that Magee's life was typical and reflected "a common pattern of racism in our society which was bearing upon him." The psychologist continued, explaining that, "In the last seven years, Magee has sought to convert these dehumanizing forces into learning, learning about the law, and communicating, in order to vindicate himself as a human being in the eyes of the society who branded him inferior."

The eminent psychologist concluded his compelling protrait of Ruchell Magee, by putting his whole reputation on the line. He explained that Magee, after mastering the techniques of the society that degraded him, and after being snubbed again by the courts, "had no choice on that day but to opt for freedom, otherwise, he would have repudiated everything his life stood for." Being confronted with a situation where a young black man (Johnathon Jackson) took control and invited Magee to join, Dr. Clark said Magee's chances of refusing, based on his life experiences, were about nil.

Under the intimidating cross-

examination of Prosecutor Albert Harris (who prosecuted Magee's former co-defendant Angela Davis) Clark held steadfast to his position, ending with a statement that appeared to have a tremendous impact on the six-man, six-woman jury, especially on the three black jurors: "He had absolutely no choice but to participate (on Aug. 7). If that judgment is not correct, I say to the court, the public, and my colleagues, all my work has no validity."

Although it might seem a bit anticlimactic to follow such an emotion-laden testimony, the testimony of Ernest Graves, ex-court-appointed attorney for Magee, marked one of the paramount achievements in Ruchell Magee's decade-long struggle with the judicial system. Graves' testimony consisted of an explanation of a chart detailing the 166 writs and motions Magee had filed with the courts from 1963 to Aug. 7, 1970. Not only did Graves delineate the allegations in Magee's petitions, which in the main were: police brutality, entering of fraudulent records, purgery, suppression of records and evidence, and numerous appeals to Governor Reagan, but more central to Magee's goals, Graves described before the court the lucid details of the manner in which Ruchell Magee was railroaded and maligned, being funneled through the judicial and prison systems.

This was the first time that these lurid details were laid out in court, the first time Ruchell Magee's one-man battle with the machinery of justice has been aired before a jury. Magee, who has refused to recognize the legality of the trial, as he has a motion pending to move the trial to federal jurisdiction, has nonetheless been remaining in courtroom quietly and attentively, apparently anticipating the developments which have occurred.

Last Wednesday, Graves' testimony coupled with the Supreme Court stay, brought a rare emotional display: Magee emanated a noticeable gleam of at least temporary redemption.

