

Fugitive Lawyer Held Key to Trial of San Quentin 6

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SAN RAFAEL, Calif., Aug. 9—The controversy about what role, if any, that Stephen M. Bingham, a fugitive lawyer, played in an alleged prison escape attempt in 1971 by George Jackson intensified during the first week of testimony in the murder trial here of six inmates of San Quentin prison.

Mr. Bingham and the six inmates were indicted for the murder of three guards and two inmate trustees in October, 1971, on charges stemming from an incident in which Mr. Jackson, the black militant author, was also killed.

Gerry Herman, the Marin County prosecutor, said in his opening statement last week that Mr. Jackson attempted to escape from San Quentin on Aug. 21, 1971, after pulling an automatic pistol and two bullet clips out of a wig following a visit with Mr. Bingham at the prison.

Prison authorities first said that Mr. Bingham had smuggled the gun and wig to Mr. Jackson in a tape recorder during the visit. Last week, Mr. Herman said the gun was smuggled either in the tape recorder or in the false bottom of a briefcase Mr. Bingham carried into the visiting room that day.

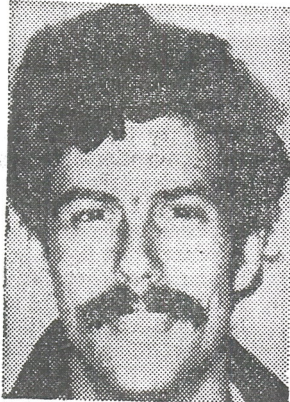
Statement Disputed

However, cross-examination this week of the prison guard who checked the tape recorder that Mr. Bingham took into the visiting room indicated that the gun could not have fit into the tape recorder.

Bernard C. Betts, who has worked at San Quentin for 14 years, testified that Vanita Anderson, an investigator in the Soledad Brothers murder trial, arrived at the prison on the day of the alleged escape carrying the briefcase and a tape recorder. Mr. Betts said the tape recorder was 9½ inches long and 5½ inches high. He also said he examined a 3½-inch by 5½-inch section of the cassette recorder at its lower end, which contained batteries and transistors, and that he saw no gun in it.

Daniel Scarborough, the visiting room guard, said Mr. Bingham borrowed the tape recorder from Miss Anderson at his suggestion.

Michael Dufficy, a defense attorney, drew the dimensions of the tape recorder on a black-



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Stephen M. Bingham

board in the courtroom and then placed the weapon Mr. Jackson is said to have used on the diagram. The weapon, a 9-millimeter Spanish Astra pistol, is 8¼ inches long and 5 inches high. The gun barely fit within the outline of the diagram and extended about two and a half inches into the batteries compartment.

Mr. Betts said on redirect examination that he did not

examine the briefcase for a false bottom.

Mr. Bingham disappeared the day of the incident and has been a fugitive ever since. Last summer, he was interviewed in Canada by a reporter for The New York Times. However, Mr. Bingham would neither confirm nor deny allegations that prison authorities had made about his conduct on the day of the alleged prison escape. Miss Anderson has never been questioned, subpoenaed or indicted, and is not scheduled to be a witness in the trial.

Mr. Scarborough then startled the courtroom by testifying that prison officials knew in late 1970 or early 1971 that someone planned to smuggle a gun to Mr. Jackson, but that they "didn't try to do anything about it." The defense contends that prison officials "set up" Mr. Jackson and murdered him.

While being cross-examined by Frank Cox, another defense attorney, Mr. Scarborough said he was shown a letter in November or December, 1970, or in early 1971, by Lieut. Win-

field Wagner that said a gun was to be brought to Mr. Jackson in the hollowed-out heel of a shoe.

Two Letters Cited

Mr. Scarborough said the letter he was shown might have been one of two letters. He said it could have been a copy of a letter allegedly found in January, 1971, in the pocket of James Carr, a former cellmate of Mr. Jackson, who was slain in 1972 in San Jose, Calif., or that the letter could have a description by the Federal Bureau of Investigation of a possible attempt to smuggle a gun to Mr. Jackson.

The letter has been a subject of controversy for several years. Mr. Carr's widow, Elizabeth Hammer Carr, has said it is phony.

One redirect examination by Mr. Herman, Mr. Scarborough downplayed the importance of the tip, saying, "There were always rumors going around about things being smuggled in for escape plans." He said this was the only tip he heard regarding the gun being provided for Mr. Jackson.