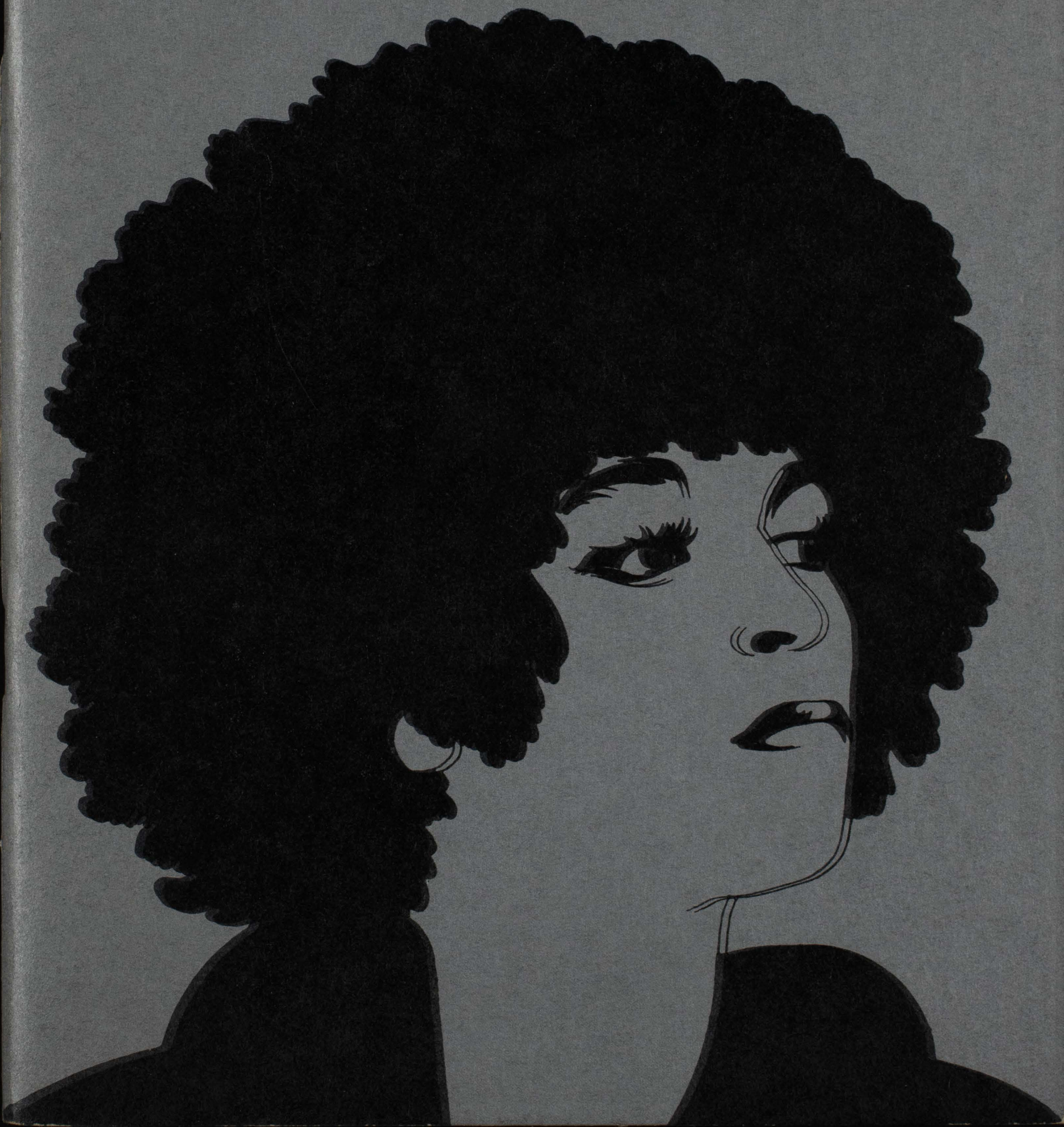


# FREED BY the PEOPLE



THE CLOSING DEFENSE  
STATEMENT MADE in  
the ANGELA DAVIS CASE

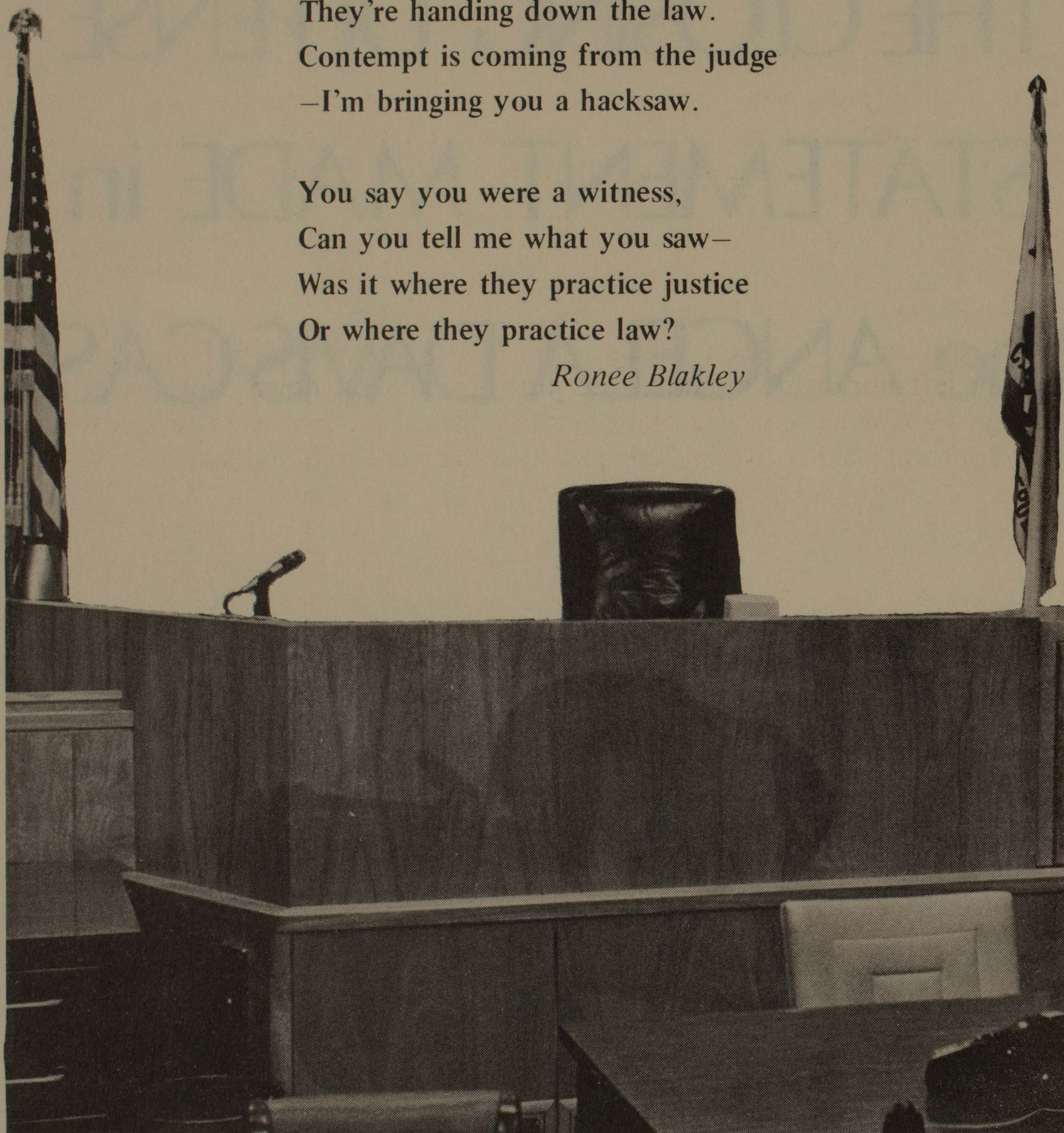
june 1, 1972

Credit: Anthony Korody

The criminals are in the courts,  
They're handing down the law.  
Contempt is coming from the judge  
—I'm bringing you a hacksaw.

You say you were a witness,  
Can you tell me what you saw—  
Was it where they practice justice  
Or where they practice law?

*Ronee Blakley*



© Sawtooth—Irving Almo, 1970

## PREFACE

*Sunday, June 4, 11:45 a.m.*

THE SMALL COURTROOM in the Santa Clara County Superior Court building was tightly jammed with reporters representing most of the world's largest, most influential media outlets. On this day they abandoned their studied, professional masks; they became, like the rest of us, tense, anxious and quiet people waiting for some word about a sister's life. At 10:30, just an hour previous, Judge Richard Arnason learned that the jury had come to a final decision about the fate of Angela Y. Davis. We too—a handful of supporters, family and friends of Angela—waited nervously in our seats at the rear of the courtroom. Nearly two years of waiting left us hardly prepared for this last, interminable wait for the jurors to enter the courtroom.

At last the foyer doors swung open. The jurors quickly walked in, looking neither left nor right, mounted the jury box and sat down. Not one of them betrayed so much as a degree of emotion. These 12 faces we had so carefully searched and studied during the past months were cold and silent, marked by pale, drawn expressions. Earlier, we had been sure that a verdict reached so quickly—in 13 hours—could only be an acquittal. Some of us had even begun our celebration of an anticipated victory as soon as the judge first sent out word that a verdict had been reached. Waiting for the jury in the foyer outside of the courtroom, reporters had first seen tears of joy on many faces, and then heard thirty and more of our voices take up the old militant refrain, "Got My Mind Staid on Freedom."

But still, we had seen too many defeats in American courts not to be wary of the complete uncertainty of American justice. The sight of these stone-faced jurors revived all of our fears. Arnason marshalled us to order in his polite way. He read each of the verdicts to himself, very slowly and without expression—selfishly, we thought. With an apparently premeditated deliberation he neatly shuffled the sheaf of papers and handed them to his clerk, who quickly rose, cleared his throat, and plunged assertively into the reading of the verdicts.

Minutes later the court was shaking with cries, cheers and applause. Jurors whose happy, smiling faces were wet with tears could no more restrain themselves than us, than many reporters—and than the defendant herself, Angela Davis, a free Black woman Communist, who buried her head deep within the arms of a sister investigator and cried for joy. And suddenly Richard Arnason, who had for long months hid behind his polite judge's mask, burst out in an irrational, angry torrent of threats. "Any noise and you are going to leave right now! You conduct yourself proper, and if anybody misbehaves you'll be cited for contempt!" he screamed, banging his gavel repeatedly, "I will not tolerate misconduct in my courtroom. . . . Now let's conduct ourselves properly!" But it was too late for threats from that side of the bench. We had won, Angela had won, the people had won, and the only further orders we would take would come from *our* side of the bar.

**A**NGELA'S FIRST THOUGHT was to go outside and talk to the people, the three or four hundred brothers and sisters—young and old, Black, White, Chicano and Asian—who had been vigiling outside the courthouse since the jury had begun to deliberate. They came first, we agreed, and Angela eagerly spoke to and walked among her own people, a free woman at last.

Later, the press was given their due at a conference held in the nearby press bunker. With Angela, her lawyers, family and supporters looking on, Fania Jordan (Angela's sister), the national coordinator of NUCFAD, read a carefully prepared victory statement. She read:

*The acquittal of Angela Davis is a sweet victory for the millions of us across the earth who have supported this long and difficult fight. For us, the trial has symbolized struggle against oppression, and especially the struggle of people of color against repression, racism and war. The decision of the jury has borne out this contention. The simple truth, obvious to all long ago, is this: there never was a legal case against Angela Davis. But the political necessity for such a trial was incontrovertible for the state. As we all remember, the whole thrust of the original case against Angela Davis was that she is a "dangerous Black revolutionary." Her conviction would have deprived the Black liberation movement in particular of another important leader, and served as a lesson to the broader movement. That is why it is so important this state conspiracy to get Angela was smashed.*

*For the truly national, united defense movement which has matured in the past months, this victory proved the correctness of our strategy in building a complementary political and legal defense. As the freeing of the Soledad Brothers, Angela Davis, and numerous other political prisoners has shown, it is only a truly massive, broad movement of peoples that can free victims of oppression. We are indeed proud of the people's achievement.*

*But we have no intention of stopping here. There are struggles everywhere which demand urgent work: Ruchell Magee, the San Quentin 6, Gary Lawton and Billy Dean Smith are on trial in California, Lee Otis Johnson and Fred Bell in Texas, Martin Sostre and the Harlem 4 in New York. There is considerable new and threatening repressive legislation, including the Supreme Court's politically-inspired ruling on "majority" verdicts and especially the frightening renewal and extension of HUAC's franchise.*

*This case itself is exemplary of the kind of domestic repression which threatens most Americans—and we do not think that our labelling of such repression as ENCROACHING FASCISM is in any way inappropriate.*

*Angela's acquittal was at the same time a conviction of the State of California on our charges of conspiracy—criminal, political conspiracy. Reagan, Evelle Younger and Albert Harris wanted this*

*prosecution to serve as a lesson to other Blacks, other Communists, other women, other activists. The total lack of evidence proved to the jury—and the watching world—that there is no other explanation.*

*We fought this battle at a considerable disadvantage. Despite our vigorous protests, the case was tried in a county of the prosecutor's choice, a county where the currents of racism and anti-Communism have often run deep and strong. The choice of this county also meant few or no Black People in the jury pool—and in fact Prosecutor Harris preemptorily dismissed the only Black juror in that pool. We warned that the notoriously conservative courts and police agencies here would indulge themselves in racist, reactionary excesses designed to destroy Angela's presumption of innocence and other constitutional rights—and in fact a \$750,000 "security network" was quickly erected to create a climate of fear and danger—and to influence potential jurors. The body searches, photographing and metal detectors were specifically designed to make it appear as if Angela were indeed a dangerous criminal and give the impression that she had been involved in the events of August 7, 1970.*

*We were treated to the spectacle of the arrest of 24 of Angela's supporters for violating a statute (never before enforced) under which the County Sheriff boasted that he could arrest someone for singing the "Star Spangled Banner." And we watched a viciously racist county District Attorney demanding of the trial judge in that case that he set aside "personal prejudices"—a backhanded reference to the fact that the judge, of Japanese ancestry, spent part of his youth during the Second World War in a California concentration camp with other Japanese-Americans.*

*But Prosecutor Harris needed no lessons from local racists. His men were ransacking George Jackson's cell on August 21, 1971—even before the murdered brother's corpse was cold—looking for anything to document the relationship between George and Angela. Harris had previously personally ordered blatantly illegal searches and seizures in Angela's Marin County jail cell, blithely ignored the gag rule when it suited him, refused to provide the defense with lists of witnesses or evidence until mid-1971. He based his case on the testimony of police, prison guards and one ex-con who was paroled immediately after giving a statement to Harris (and then telling a defense investigator that he'd have "sold his mother down the river" to get out of San Quentin Prison). And, perhaps worst of all, Angela Davis spent nearly 17 months without bail in de facto solitary confinement.*

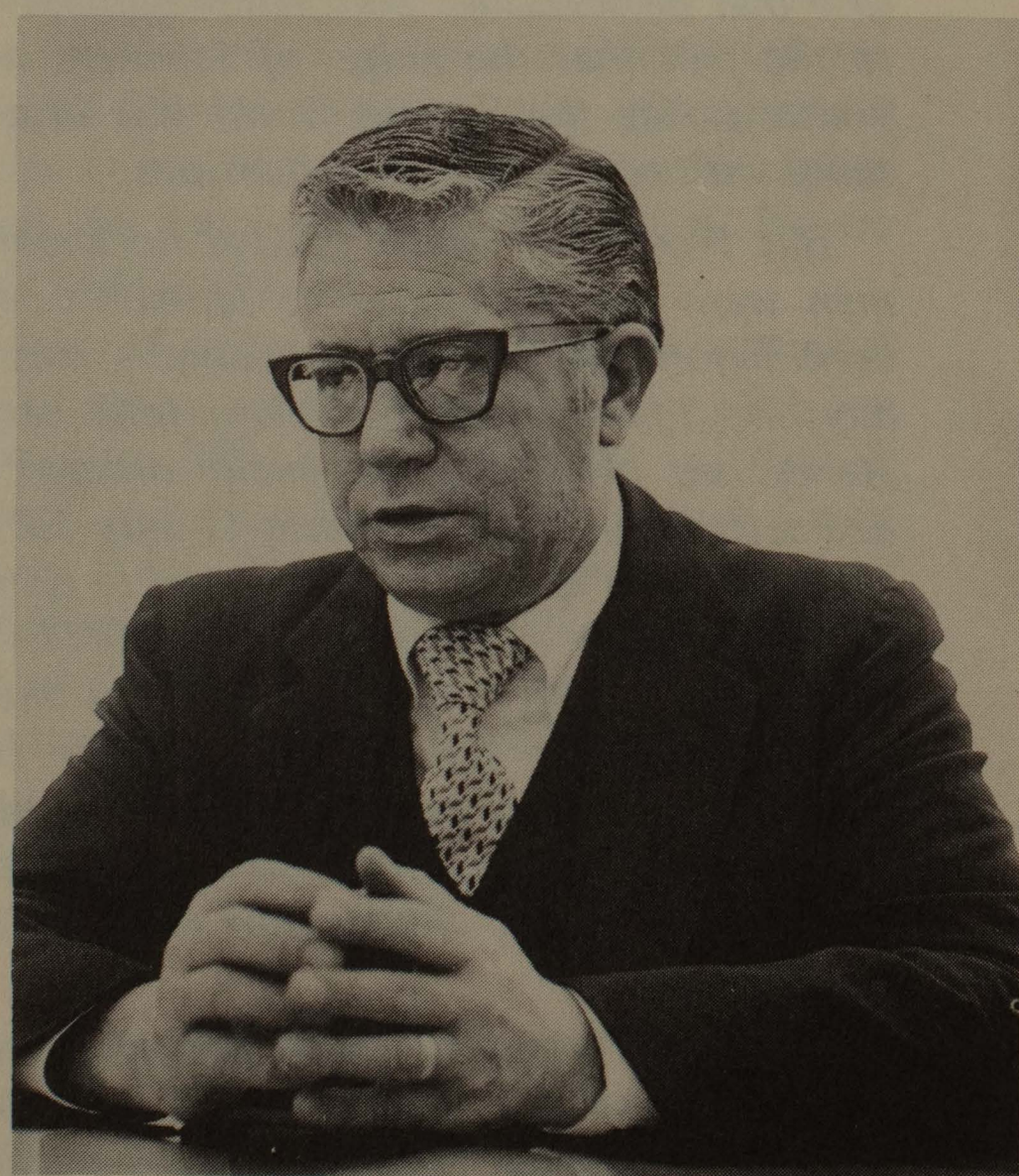
*There can be no discussion of whether or not a "fair trial" took place. No trial should have taken place, instead of this outrageous frame-up which has consumed two years of the life of Angela Davis.*



Angela Davis: Black Woman Communist . . .  
 "The demand to free all political prisoners must burst out of a movement encompassing the broad masses of people!"

Credit: Anthony Korody

**THE STATE OF CALIFORNIA vs. ANGELA Y. DAVIS:** Albert Harris: Special State's Prosecutor, California State Assistant Attorney General . . .  
 "The power of the people will not decide this case."



*We think that the people have taught the government of the state of California a lesson. But justice, real justice, will be done only when the authors of this conspiracy—Nixon, Reagan, Younger and Harris—are indicted and convicted for the crimes they have perpetrated against the people. And now Angela Davis can take her rightful place in the struggle to bring these criminals before the people's bar.*

**I**N THE DAYS that followed, we anxiously searched the nation's papers and magazines for their analyses of our victory. We got a good jury, they said. We got skilled lawyers, they said. We got a sympathetic judge, they said. And the prosecutor did what little he could with a patently weak case. In short, they concluded, victory was always inevitable and defeat had been likewise inconceivable. We were amazed, angered at these reporters who in the fall of 1970 and for months thereafter had been so very sure that Angela Davis, a Black woman Communist, was also a murderess and a conspirator in a bloody escape plot. Their coverage had been so viciously prejudiced that we clipped thousands of their articles to support our contention that the press had tried Angela Davis and found her guilty long, long before the first prospective juror took the witness stand for questioning. And now, incredible as it seemed, these same reporters agreed that it had always been a frame-up.

But if some few scales had fallen from their eyes, the press still failed to see the real reason for Angela's victory. Not one of these analysts recognized the national, united mass defense movement that had raised the cry, "Free Angela!" from the day of her arrest, October 13, 1970. It was incredible, this failure to credit a people's struggle of such magnitude. *We* had made the case a national and even international issue, *we* had raised the money to pay for a legal and political defense, *we* had sought out and hired the lawyers, *we* had helped determine the defense strategy, *we* had held rallies, demonstrations, marches, forums, printed and distributed literature, collected petition signatures, published newspapers, hung posters, and even freed Angela on bail! That had been *our* achievement. People active in earlier, great national defense efforts—the Sacco-Vanzetti case, the Scottsboro Boys case, the Tom Mooney case, the Smith Act trials, the Angelo Herndon case, the Rosenberg case, the International Labor Defense, the Civil Rights Congress, etc.—told us that we had built the most massive, most powerful defense movement ever seen in the USA. We had freed Angela Davis!—but we were invisible to the press. It was a pointed reminder that the media remains a tool of monopoly capital, controlled and guided by the same forces who have brought war, racism, hunger, repression and poverty to the richest land in all of human history.

Although this victory seemed easily won to some looking back on the case, most of those who joined the fight for Angela's freedom found themselves doing political defense work for the first time. Rapidly, they found just how difficult, exhausting and time-consuming defense organizing can be. Although we had the advice of friends with experience in previous defense movements, plus our own experience in defending the Soledad Brothers and many other politically-active defendants, we learned our lessons slowly.

Chief among these lessons is the question of "breadth"—the size, diversity and character of the mass movement. In recent years, remember, narrow defense appeals aimed principally at other political activists became fashionable—though rarely successful. In November and December of 1970, and into the early months of 1971, we were riding the crest of a wave of spontaneous response—primarily from Black communities everywhere—to the capture of Angela Davis in a Manhattan motel. We in the NUCFAD staff found this spontaneously-generated movement to be so far ahead of us in its energetic political presence that we were barely able to keep tabs on these nuclei of support, much less coordinate their work and supply them with information. While conducting our own frantic efforts to ride herd on this "movement," we let our heads become filled with visions of thousands upon thousands rising up in streets and shops to tell this government that the people would never allow the frameup-prosecution of Angela Davis to take place.

But the prosecutor, unimpressed by our visions, was making rapid progress with his frame-up. In a matter of days, Angela was rushed through the entire New York State and federal court systems despite our anguished protests against blatantly illegal procedures. After suffering a beating at the hands of prison guards in Manhattan, Angela was thrown into a police van at 3 a.m. early in the morning of December 23; amidst a dozen police escort cars, she was taken at high speed along a complicated, carefully planned route to McGuire AFB in New Jersey. There she was dragged to a waiting plane, a military air transport thoughtfully provided by the California Air National Guard on the urgent order of Gov. Ronald Reagan. A full platoon of guardsmen, rifles loaded and aimed at this handcuffed woman protected only by her thin smock, warily entered the plane behind Angela. Chained to a bulkhead, unable even to light a cigarette for herself, she spent the next several hours in the cold, unheated plane facing the gun barrels of grimly hostile, silent soldiers. The thousands and thousands of us who had risen to the sister's defense felt helpless, impotent despite our numbers.

On arriving at the Marin County jail, Angela was thrown into solitary confinement and deprived of all rights routinely accorded inmates. She was expressly forbidden movement of any kind outside her tiny cell, and forbidden contact with anyone other than her lawyer—including doctors, friends or family. We were angry, we were militant—but again we were faced by our feelings of impotence.

In the courtroom, after Angela's courageous proclamation of her own innocence on January 5 and her indictment of the state for authoring the frame-up, we began to see for ourselves what lay in store for the sister as a succession of racist judges paraded before us, denying each of our motions in order, subjecting Angela's co-defendant, Ruchell Magee, to the most vicious kind of humiliation. After the entire Marin County judiciary was disqualified, the defendants were handed over to Albert Lindsay, a Reagan appointee and former traffic court judge who had never in his life presided in a criminal case. He once headed a school board in a mainly black district; there, he had defended segregation through his rulings, and earned the enmity of the NAACP. Although he was held in low regard by lawyers and some other judges by reason of his racist views and general incompetence, he was to be our judge. After Ruchell

Magee disqualified him, we found ourselves pitted against Richard Arnason, a young judge who once enjoyed a liberal reputation but had since, it was said, abandoned his principles in favor of ambitions which only Ronald Reagan—an exacting taskmaster—could further.

We began to realize that our early visions of success were short-sighted in view of the competent, determined repressive forces that we faced. Although it was true that many thousands had been mobilized in the preceding months, creating an unprecedented groundswell of support for this Black woman Communist prisoner, we had not organized these masses into a united movement that could exert really effective pressure on the state. Our bark was worse than our bite.

**E**ARLY IN JANUARY 1971, we initiated a bail drive all across the country. We knew that if Angela were released on bail, we could turn the tables on the prosecutor. All of the work he had done to implant the notion of guilt in the press would be seriously undermined. The expensive and awesome security apparatus—a quarter of a million dollars' worth—in and around the courtroom and jail would become just so much junk that irate citizens would protest having had to purchase in the first place. And, most importantly, Angela would be free to set her politics clearly before the people—politics which were at the heart of the prosecution's case. Despite persistent criticism from so-called friends on the Left that a bail campaign was reformist, committees everywhere began to solicit signatures on bail petitions. By late May 1971, when the lawyers were ready to raise the issue in the courtroom, we had accumulated about 40,000 signatures. We deposited them in neatly bound volumes on the clerk's desk one morning, and later counsel Howard Moore made a powerful argument for the granting of bail. Although Judge Arnason seemed singularly bored by the whole presentation and argument, we hoped for a favorable decision.

When an older, politically experienced friend of Angela's learned of our hopes, she mocked our optimism. "That judge grant her bail?" she laughed, "Don't be silly, you haven't done enough work, you haven't earned it." She was right. On June 15, during a quiet session on another pre-trial motion, Judge Arnason mentioned offhandedly that he was going to deny the motion for bail. We looked at our skimpy volumes of signatures and decided that it was time to review our strategy.

We came to the immediate conclusion that we were building on too narrow a base; we had 40,000 signatures when 400,000 were minimally necessary. We had not really taken the case to the already organized sectors of this society, particularly in the Black community. What we needed, we realized, were commitments from conscientious church groups, peace organizations, progressive professional organizations of doctors, lawyers and teachers, women's groups, fraternal groups and the myriad other organizations found in the average community which show a serious concern for the rights and interests of brother and sister citizens.

Although it had been argued that what we should really be doing was "organizing the unorganized," we realized that it was fallacious to assume that our constituency was in fact unorganized, since most of the people that we sought

to reach—mainly Black people and other working class folk—were already members of the very organizations whose support we needed to make a serious attempt at pressuring the state.

Most importantly, we realized that any kind of serious defense effort could not possibly be mounted without well-organized working class support, particularly from workers' organizations—the trade unions. Frankly, we had failed to appreciate the extent to which Angela's prosecution was a class prosecution. Her previous struggle against the University of California's Board of Regents—an exclusive club of millionaires representing high finance, agribusiness, oil and the defense industry—had a profoundly class character from the start. "My politics don't incriminate me," she had charged, "they incriminate the Reagans, Rockefellers and Nixons." As her struggle widened in the California academic community, it touched on the struggles of the American Federation of Teachers to unionize faculty and AFSCME to unionize campus workers—struggles resisted by the millionaire Regents. Her work through the Soledad Brothers Defense Committee to expose prison conditions, where the victims of prison come from and why, likewise had a frank class perspective. And where others made vague, narrow appeals for immediate revolution, Angela spoke about the different fronts of the struggle toward socialism. Her prosecution around the events of August 7 had clear parallels, we realized, in the frame-ups of labor organizers that filled the '20's, '30's and '40's, the concurrent frame-up of American Communists that extended into the '50's, and the historic and genocidal policy against Black people.

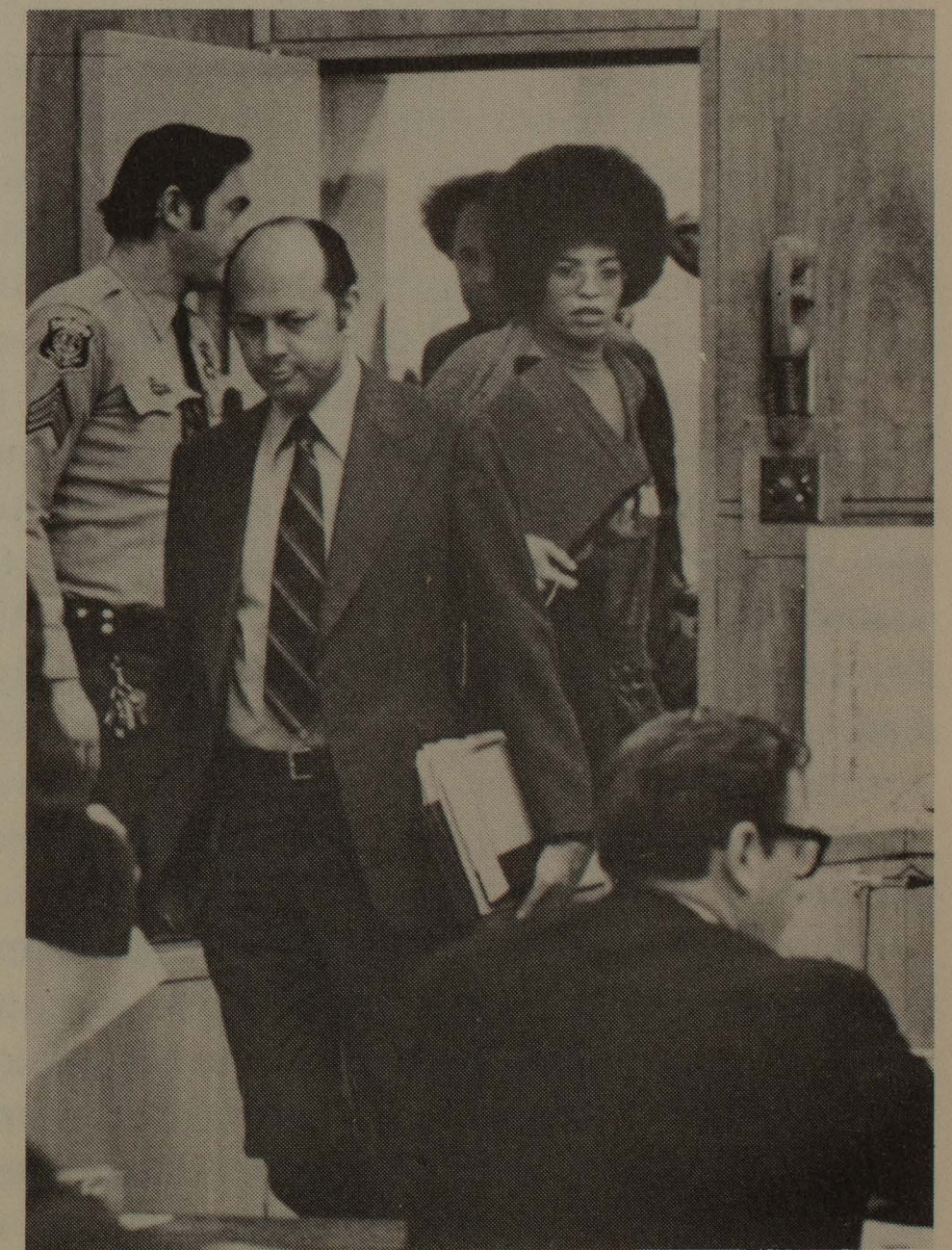
We concluded that our lack of clarity on these class issues had allowed us in places to mobilize only individual workers when what was necessary was to mobilize the locals and parent unions themselves. Local "Free Angela" committees began to win broader support as rank and file caucuses, often Black-led, pushed resolutions in support of bail through locals, regional trades councils and even some national and international unions. These struggles were not always won in the locals, but in most cases, rank and file trade union leaders found the issue of repression of compelling interest to their sisters and brothers. Given, in addition, the rising rates of inflation and unemployment, and the increasing incidence of repression aimed at rank and file leaders—often Black and Brown workers—it followed that considerable support for Angela's freedom and against political repression could be won from the unions.

**I**N THE MONTHS FOLLOWING the initiation of a new bail drive, it became obvious that the kind of mass organizing we had begun to do was correct. The signs were many: within five months we had collected nearly 500,000 petition signatures; resolutions of support from all sorts of community and trade union groups poured into our office; the prosecutor began to complain regularly that our international movement was depriving the state of *its* right to a fair trial; the judge commented on the volume of mail he was receiving; Angela's jailers complained of the huge sacks of mail awaiting the censors. Most importantly, we were receiving numerous small contributions and requests for any and all information we would send to people and organizations whose local media pointedly ignored the trial.



Credit: Stephen Shames

**FOR THE DEFENSE:** (left to right) Malcolm Ushindi (Los Angeles Committee to Free Angela), Howard Moore, Jr. (lawyer), Margaret Burnham (lawyer), Stephanie Allan (National United Committee to Free Angela Davis), Fania Davis Jordan (NUCFAD), Franklin Alexander (NUCFAD), Angela Davis, Doris Walker (lawyer), Rodney Barnett (NUCFAD).



Attorney Leo Branton enters the San Jose courtroom, followed by Angela Davis and co-counsel Howard Moore.

Significantly, we could also see increased, actively-expressed interest in the issues of political repression, prisons and prison conditions. When San Francisco political defense activists learned that a very serious and dangerous situation existed at San Quentin prison following the brutal murder of Soledad Brother George Jackson by prison guards on August 21, 1971, they were able to organize a massive response to the threat to prisoners' lives, sustaining demonstrations of thousands of people for four straight days. The result was that the California Department of Corrections had to back down and open San Quentin's gates to an investigating team of Black doctors, lawyers and legislators. Prison inmates credited the demonstrators with saving the lives of many brothers inside by their quick action. Similar demonstrations were held at Attica and other prisons when the need arose for immediate outside support, but a truer measure of the influence of this vast political defense movement lay in the increasing willingness of state officials—including Nixon's Attorney General—to admit that drastic problems exist in the current penal and judicial systems which require reform. Clearly, the lid was about to be blown off these traditionally closed institutions.

The change of venue in Angela's case in December 1971 showed that we were not yet strong enough to turn the tables on the prosecution. Because of his tactical success in the venue struggle—resulting in the selection of very conservative Santa Clara County as a trial site—the prosecutor had in fact succeeded in setting the stage for what he hoped would be a legal lynching. By calling on all of our newly-organized forces, however, we were able to mount a protest that quickly crushed the state's effort to subject Angela to solitary confinement once again in her new jail. This was a clear indication that we were on the verge of a major breakthrough. It came in mid-February 1972, when the California Supreme Court's reversal of the death penalty opened the way to the reintroduction of our demand for immediate bail. Again we called on our sisters and brothers; again their response was measured in avalanche proportions. As Judge Arnason signed the bail papers releasing Angela, he commented on the impression made on him by the enormous volume of mail, telegrams and phone calls that he had received during the previous days.

This victory, a crucial political victory, permanently upset the balance of forces in the case. In a previous meeting between the judge, the defendant and the opposing counsel, Special State Prosecutor Albert Harris angrily demanded that Angela not be freed on bail, arguing that her release would completely transform the case. A few days later, after the bail decision, Harris announced his new "crime of passion" theory and blandly told a judge and jury that politics had never been an issue in his case against this Black woman Communist and former leader in the movement to free the Soledad Brothers and other imprisoned activists. His arguments had been "misunderstood," Harris complained.

Having won bail for Angela and depriving the state of its case, we immediately raised a new demand for a complete dismissal of all charges. We were in our second month of serious national organizing to implement this demand when Angela's case drew to an unexpectedly rapid close. As if to confirm the correctness of our demand, jurors who acquitted Angela told us that after hearing the prosecutor's case they had dropped the charges against her in

their own minds; only a sense of duty, they said, made them listen to the defense case before making public their decision that the defendant was completely innocent.

If, despite our achievement, the press found us invisible, at least they succeeded in keeping their spotlights focused on the courtroom participants—and this meant primarily the lawyers. But since we were invisible, there was no discussion in the press of how these particular lawyers were chosen. In fact, the choices were made by Angela and a core of people working on her defense; our criteria were not merely legal but sharply political as well. Although more attention was paid by the world press to this case than to perhaps any other current trial, the political nature of the defense was most often ignored by all but the socialist and other progressive reporters. It was an unfortunate—if purposeful—omission, since we believed that the sister's defense was an effective marriage of political and legal strategy, of work inside and outside the courtroom.

**W**HO WERE THE LAWYERS? Margaret Burnham, a Black woman working with the NAACP Legal Defense Fund in New York, was the first lawyer to join the defense team. Although a young lawyer, Ms. Burnham had done exemplary bail work in previous political cases, notably that of the Panther 21 in New York. Her substantive contributions to this defense were many, particularly her thorough analysis of the racist, prejudicial jury selection procedures used in Santa Clara County, and her equally thorough argument for changes of venue from both Marin and Santa Clara Counties on ground of overwhelming existing prejudice against Angela.

Howard Moore, Jr., left a burgeoning practice in Atlanta, Georgia to work for Angela's freedom. A Black lawyer who has made a reputation in defending Black activists like Rap Brown, Stokely Carmichael and Martin Luther King, Bro. Moore continually forced discussions of anti-communism and racism which lay at the heart of the state's case. His detailed argument for bail in this case was separately printed by NUCFAD under the title, *Right Without Remedy: No Bail for Angela* (San Francisco; July 1971).

Sheldon Otis, a tough and capable lawyer from Detroit with many years experience in difficult criminal and political prosecutions, was in fact the backbone of the defense team during the lengthy pre-trial phase when more than 30 separate motions were argued. His work posed such a threat to the shaky case of Prosecutor Albert Harris that a phony embezzlement charge was filed against Otis in an attempt to disrupt the defense. Although Otis was exonerated, his loss momentarily hamstrung the defense.

Doris Walker, former head of the National Lawyers Guild from Oakland, California, has made substantial contributions to political defense efforts dating back to the infamous Smith Act trials in the McCarthy era. She and Ms. Burnham were largely responsible for pulling together the affirmative defense case, and Ms. Walker's sharp questioning of prospective jurors minimized the possibility of facing racist, anti-communist jurors.

Leo Branton was for many reporters the principal advocate for the defense. Although this judgement was short-sighted, Branton's skilled flair for aggressive

advocacy in the court arena clearly marked his contribution. This Black lawyer from Los Angeles participated with Ms. Walker in the Smith Act trials and has had a very successful career in the intervening years. The closing defense argument to the jury reprinted here—the product of collective discussions among the legal and political defense staff—was delivered by Bro. Branton. Several jurors found that argument, with its intense and frank characterization of racism and repression, to be decisively persuasive.

**B**UT THE CHIEF LESSON which the prosecution of Angela Y. Davis—among many others in this past decade—teaches us is that legal defense in political cases is a *political* problem. While our rulers have used the recent rash of acquittals in political cases to insist that the scales of justice are still in balance, it is indisputably true that these verdicts have been rendered in cities with increasingly well-politicized populations. Further, jurors in Detroit, New York, Los Angeles, San Francisco, New Orleans and other cities have admitted that their understanding of the repressive character of American institutions helped them reject state efforts to frame-up activists. *Let there be no mistake: this degree of consciousness is the cumulative result of years of mass-organizing around the issues of repression and liberation.* On the other hand, there are a handful of activists who, believing in expensive, “clever” lawyers and disbelieving in the importance of mass organizing, have been convicted or narrowly escaped conviction.

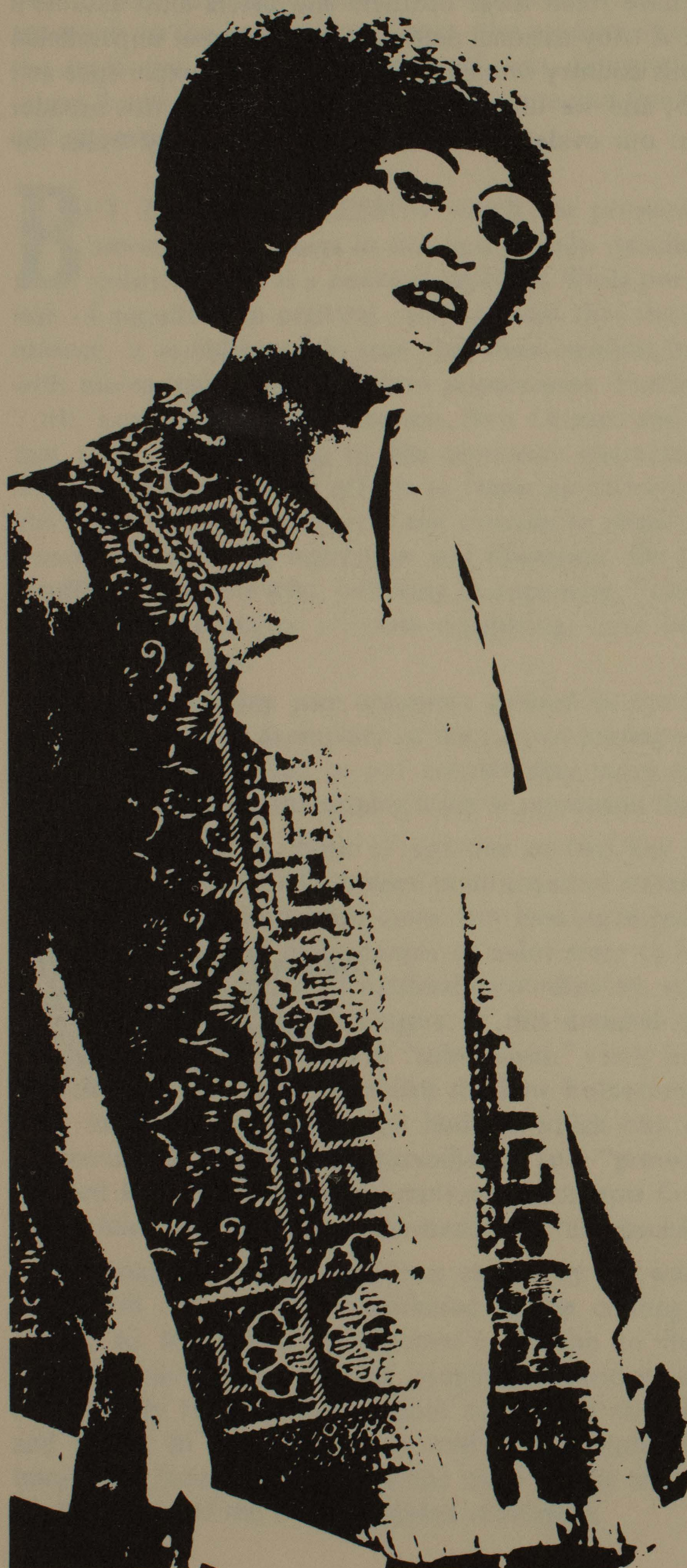
While the closing jury argument printed in the following pages will repay study because it is exemplary of the correct joining of legal and political attacks in such cases, we need to put considerably more effort into talking, writing, reading and fighting the surging wave of repression that threatens to inundate us.

Too many of us think of just one or two key trials when we talk about repression. As NUCFAD stressed in its acquittal statement (printed above), there are many current important cases. But looking ahead beyond these cases, most working people and most people of color seem to be about to undergo a new McCarthy era, a period of nationally-coordinated, state-directed repression. We have already seen the harbingers of this dreaded change: a much larger and stronger FBI frankly aimed at “subversives,” vastly increased federal intelligence agencies and service agencies like the Law Enforcement Assistance Administration, inflated law enforcement budgets which buy increasingly expensive and electronically sophisticated surveillance and “preventative” hardware, a rejuvenated HUAC, a decidedly reactionary Supreme Court, etc. Angela Davis and others have fairly described this menace as “encroaching facism.”

The major economic problems caused by the war—inflation and unemployment—will certainly be exacerbated in the coming period even if the war is ended. As the federal government’s reaction to the recent ILWU strike, for example, has shown, working people who protest steadily declining real wages and steadily rising unemployment can expect stiff resistance from their bosses and rulers. In fact, labor may well be the central focus of repression in the immediate future—and that is one more reason why the working class must be the backbone of the struggle against repression.

**I**N SHORT, we who have worked to expose the fraudulent prosecutions of political activists and have freed these brothers and sisters must assume a broader responsibility. A truly national defense organization of unparalleled breadth must be built in this country *immediately*. We have the experience and the skills to begin this job, and we understand the need. In fact, this broader struggle has already begun: our evidence is that Angela Davis today walks the streets a free woman.

*National United Committee  
to Free Angela Davis  
San Francisco, California  
August 7, 1972*



Credit: Marquē C. Neal

CLOSING DEFENSE ARGUMENT  
PRESENTED BY  
LEO BRANTON  
IN SANTA CLARA COUNTY SUPERIOR COURT  
JUNE 1, 1972

**M**AY IT PLEASE THE COURT, gentlemen of the prosecution, my colleagues, and Angela Davis, ladies and gentlemen of the jury, I rise to speak to you today on one of the most important days of my life, and one of the most important days of the life of my client.

I rise to address you as an officer of this Court, a member of a very noble profession. But more importantly, I rise to address you as a black man, to defend my black sister, Angela.

Now, I know that you think that we of the defense have used this term "black" quite a bit. And perhaps you might even think that we have used it unnecessarily. But I assure you we haven't.

My colleague Howard Moore has called attention to the fact that there is not one black person sitting in that jury box. You might not think that is important, but I tell you that it is. I mention this subject first because I am going to talk about something for a few minutes which, to you as white Americans, might be difficult to understand unless you have an appreciation for what it means to be black in this country.

You are a cross-section of Santa Clara County. You are the young and you are the old. You are the Jew and you are the Gentile. You are the worker and you are the executive. But not only do I see no black face, but I don't think that I would be mistaken if I said that not many of you—not many of you in the totality of your lives have ever been close enough to black people to know what it means. And the reason I want to talk about that first is because it deals with a very important aspect of this case, and that is the issue of flight, and how flight, according to the Prosecution, is supposed to indicate some consciousness of guilt.

In order to understand this, I think you have to understand what it is about the history of this country which has made an Angela Davis. I am going to ask you, if you will, for the next few minutes to think black with me—to *BE* black. Don't worry. When the case is over, I am going to let you revert back to the safety of being what you are. You only have to be black and think black for the minutes that it will take for me to express to you what it means to be black in this country.

If you are black, you know that 300 years ago your forebearers were brought to this country in chains on slave ships. And you know that only the strongest of them survived. You know that the weak died in the holds of those ships choking and suffocating in their own vomit and their own stink and their own stench.

If your skin is the color of Angela's, every time you look at the color of the skin you realize that it's the result of some white master having raped your great grandmother.

You are brought to this country. They pass a law. They call it the Fugitive Slave Law. It means that they can chase a slave across every state border, bring him back, bring him back in chains. No trial—no jury, just sign an affidavit that this slave is mine.

Then, when this country declares its independence, it speaks in a document, which has gone down in history as one of the greatest documents of our time. Yet it's a document which was drafted and written by men who owned hundreds of slaves. It says: "We declare that all men are created equal"—but it only means that all *white* men are created equal. Black men are counted as only three-fifths of a man. Did you know that? In the beginning, we weren't even a whole man—only three-fifths of a man.

Then, there was a man by the name of Frederick Douglass, who was a great abolitionist, one of the greatest people that this world has ever known. When John Brown had his raid at Harper's Ferry, the governor of the State of Virginia started looking for Frederick Douglass to charge him with a conspiracy to free the slaves. Frederick Douglass fled this country and went to Canada. He fled—not because of guilt, but because he feared what might happen to him if he were charged with a conspiracy to free the slaves, having spoken out so eloquently on the right of all men to be free.

The Supreme Court of this country handed down a decision which became known as the Dred-Scott Decision. That decision said that "the black man has no rights which a white man is bound to respect." That law became the law of this land for a long time.

**H**ERE WE ARE NOW in the 20th Century. As a black person, you realize that the chains of slavery, visible or invisible, are still there in your everyday life. You realize that you can't buy a home where you want to because somebody is going to try to stop you.

Here we are over a hundred years after slavery, and in the year 1972, a great part of the energy of this nation and of the courts is taken up in determining where a black person can go to school and fighting over whether or not there should be busing to bring about integration.

And, if you grow up in the South like Angela Davis did, you become familiar with the Scottsboro case, a case where several young black men were charged with rape of two white women, and who spent their lives fighting the monstrous frameup nature of those charges. Some of those men died in prison before they were finally vindicated. Some of them finally got out, but only after many years, and when it was finally realized that it was a frameup. The only reason they were on trial was because they were black. Those who survived the ordeal were old and broken men.

If you are an Angela Davis who grew up in the South, you know also about the struggle that went on in the South where any man who dared speak out for liberation of black people was assassinated in cold blood. You recall Medgar Evers. You recall Dr. Martin Luther King. You recall Malcolm X. You remember four little girls in Birmingham, Alabama, Angela Davis' home town. And the church they were attending was dynamited by people who didn't like what the preacher was preaching in that church—the equality of man. And four little girls lost their lives—victims of racism.

Well, you might say that *that* is the South, and not the North, or the West. But, if you are black, you also know that, in Los Angeles, in December of 1969, three hundred and fifty Los Angeles policemen, armed with bulletproof vests and automatic rifles, synchronized their watches at 5:00 a.m. and made simultaneous raids on Black Panther headquarters and residences. They go in with guns blazing. You know that two days before, the police in the City of Chicago moved into a Black Panther residence and murdered two people in bed. There is no question about that. The State's Attorney is now under indictment in Illinois because of covering up police activity in those murders. You are aware of the Los Angeles incident and know that had it not been for the fact that those people held off the police in a five-hour gun battle until the press and the media and the public got there to observe their surrender they would all have been dead. You know that all of the victims of this police attack were put on trial for conspiracy to commit murder against the police officers for defending their homes. And you know that many of those people spent many, many months in jail fighting those charges until they were finally acquitted of the charges of conspiracy to commit murder against a police officer.

Yes, I tell you, ladies and gentlemen, if you are black, you remember these things.

But, in Angela Davis, we have something else. Not only is she black, she is a militant black. She has not laid down and accepted her lot. She has used her voice. She has used her efforts—and not just to improve her own lot. It would be so easy for an Angela Davis, product of some of the finest schools of this country and of the world, to be satisfied with her lot and to say, "I have made it." That would be very easy for her. But it is to her credit that, when she walked into a courtroom in Salinas, California, in 1970, and she saw black men in chains, she said to herself, "My God, am I still seeing black men in chains after 300 years?" Is it any wonder that she felt compelled to dedicate a great part of her life to stopping this kind of thing?

But, on August 7th, an Angela Davis also remembered what happened to other black militants: That a Huey Newton had to go through three trials before he was finally let free; that a Bobby Seale was kept in jail for months and months in Connecticut on a phony charge before he was let free; that an Ericka Huggins spent many months in jail before she was let free; that 21 people in New York stayed in jail for over two years before they were let free.

And, there is something else. Angela Davis not only is black and a militant, but she is a Communist. She has publically acknowledged to the world the fact that she's a Communist. So how does this enter into the thinking of an Angela

Davis on August 7th or thereafter when she made herself unavailable to the police?

I don't have to remind you what this country has gone through since World War I. I don't have to remind you of the anti-Communism which is rampant in this country. I don't have to remind you of the fact that many Communists have been put on trial for advocating their First Amendment rights. It took the Supreme Court of the United States to declare that they had these rights.

Angela Davis had a very nice job as a professor at UCLA in the Philosophy Department. She was fired from this job. Why? Because she was a Communist.

Now, you remember the little lady who testified here, Mrs. Elsie Gluck, who was the Office Manager in the Philosophy Department? She told you that following the firing of Angela Davis at UCLA that Angela Davis received phone calls, threatening calls, hate calls. She told you that the Chancellor's Office received hate mail. She told you that Professor Kalish, the head of the Philosophy Department received hate mail. She told you that so many hate calls came in that they had to change the switchboard system in order that people could make their regular business calls.

We've had introduced into evidence here a packet of letters and cards, Defendant's Exhibit 22-A. That's only a sample of the hate and the venom that's been directed against Angela Davis because of the fact that she's black and because of the fact that she's a Communist.

Now, we promised you that we wouldn't burden you with having to go through those packets of letters and cards. But I did extract a few so you can get an idea not only of what is in that packet but what must have been going through Angela Davis' mind after August the 7th.

Here is a post card, 22-I, addressed to Angela Davis:

"Hey you, with the Fiji hairstyle. Communism is for whites only. When we take over, there won't be a nigger left in North America. Then Europe, then Africa. You black bastards are giving the party a bad name."

22-J, addressed to Angela Davis from the Hotel Figueroa in Los Angeles:

"We haven't forgotten the old days, Big Mouthed Angela Davis. The Klu Klux didn't fool around with Courts and judges. They acted then asked questions. Thank God there are still some left in America who love the U.S. enough to stop this type. Our greatest war is within not overseas. Where can this Commie go. She has had her day in front of the camera of T.V. She is marked for life." Signed "A true American."

Letter 22-K:

"Angela Davis: Deep within yourself, don't you feel like an outlandish extroverted ass teaching young white Americans in an American university while looking like a Hottentot out of the African bush country?

"If you black wooley headed militant throw-backs to humanity knew how filthy, dirty, nasty and repulsive you appeared to other normal types you would waste no time in changing your style and mannerisms.



Credit: Phyllis Stoffman

**FOR THE DEFENSE:**  
Mrs. Sallye Davis, leading participant in her daughter's defense, speaks at rally held in Bobby Hutton Memorial Park, Oakland, California.

Ben and Sylvia Davis in discussion outside their sister's courtroom in San Jose.



"If you apostles of hate and destruction are so dissatisfied with the way of life for millions of Americans, black and white, why don't you form a committee and initiate a pooled effort nationwide for a mass exodus to Africa . . . that is, if Africans will accept the likes of you . . . which is dubious."

Here is one that encloses some newspaper articles. It writes vulgarities across the photograph of Angela Davis. It's enclosed in a letter that reads:

"Listen you Commie bitch. Get your burrhead out of UCLA. We don't need your Commie nigger shit talk. Our problems of the day are keeping the black panthers from raping white women. Robbery—nearly every market held up is held up by two niggers. And selling dope and raping and killing children, white, under 12 years of age, and stabbing senior citizens in the back and robbing them."

That's an expression from the people who live in her area.

Here is another one with vulgarities written across a newspaper article, across the picture of Angela Davis. A letter dated the 22nd of October of 1969, addressed to Professor Angela Davis, unhappy that she is teaching and that she has a matter in courts.

"Dear Miss Davis: Your so-called 'Victory' is somewhat premature and a hollow one.

"The decision of Judge Jerry Pacht will be appealed to the United States Supreme Court. With the Warren Court in the minority, we believe that a decision will reverse the one handed down by Pacht.

"Communists are the scourge of the world and should be exterminated. The officials of the United States are stupid in that Commies in this country should have been placed in concentration camps years ago.

"Wishing you everything that is bad, we are the Jacob Rabinowitz family."

I won't read any more of these. They make me sick to think about it.

But there they are, ladies and gentlemen of the jury.

The prosecution would have you believe that when Angela Davis left the State of California, she did so out of a consciousness of guilt.

**D**O YOU BELIEVE THAT? Do you believe that the Prosecution has proven to you beyond a reasonable doubt that the reason that Angela Davis left the State of California was because of a consciousness of guilt? I am now asking 12 black people. I haven't released you yet from my little game of making you black for a few minutes. I will in a moment, but, before I do that, I want you to now remember the whole history of your people and of the treatment that they have gotten in this country, even up until the enlightened years of the 1970's, and I want you to remember how you know that many Americans, many Californians feel about you as a black woman and a black woman Communist, and then, on August the 7th or August the 8th of 1970, you know that you have been very active in constitutional means to free the Soledad Brothers. You know that you have had a close association with Jonathan Jackson, the young brother of George Jackson, and you find out that, without

your knowledge, young Jonathan has taken three guns that you bought and which are registered in your name, and you discover that a shotgun which you had bought for the legitimate purpose of defending a place that was subject to attack may have also been used in the crime because you read about it in the newspaper—what do you do? Do you go forward to the police, and you try to explain to them, "Oh, those were my guns, they were all registered to me, and I bought that shotgun, yes, I did, and, sure, I was a close friend of Jonathan Jackson and, sure, I worked in the Soledad Defense Committee, and I did all these things, but I know you are going to be fair with me, you are going to treat me equal, you are going to let me go because you know I had nothing to do with it." Do you think you would have done that?

Has the experience of this trial given us any reason to believe that that would have been the proper thing to do? Hasn't the experience of being held in jail 16 months without bail shown that it wouldn't have been a wise thing to do? Hasn't the experience of being in a trial for three months in which the Prosecution tries to take truth and twist it into lies, and in which the Prosecution has taken innocent acts and converted them into criminal acts—hasn't the experience of your seeing with your own eyes and hearing with your own ears a prosecution which would go to any lengths—any lengths to bring about a conviction of a woman on the weakest kind of evidence that has ever been presented in a court of law—hasn't that convinced you that Angela Davis wasn't wrong when she left the state of California?

It is not really important whether you believe that she was right or wrong. Maybe, in retrospect, as she looks back, maybe she might say to herself, "Gee, maybe I made a mistake—maybe I should have gone forward and spoken to them." But that is not the point. The point is: Do you believe that there is evidence before you from which you can determine that it was a reasonable thing for her to do, even though you might not have done the same thing? In other words, has the Prosecution proved to you beyond a reasonable doubt that her reason for leaving this state was because she was guilty?

I say to you, when you look at the situation through the eyes of a black person, you must realize that no black person in this world would have wondered why she fled. They would only wonder why she allowed herself to be caught. And that is the way you must look at this case, through the eyes of Angela Davis.

What was her state of mind? What was facing her? And, when you look at it through those eyes, I think that you must come to the conclusion that, what the Prosecution considers to be the strongest element of their case is no case at all.

Now, let me deal, if I might, with some aspects of what the Prosecution's case is all about. My colleague has already told you and reminded you that, in a criminal case, the burden is put on the Prosecution to prove every element of their case beyond a reasonable doubt. This is not a debating society where the Prosecution gets up and makes his speech, and then we get up and make our speech, and you determine who has won. This is a criminal trial in which my client faces the liberty of her life and, under our system, she does not have to come forward with one iota of evidence to prove her innocence. Under our system she can force the Prosecution, without any help from her, without her

presenting one word of evidence, to prove every element of their case beyond a reasonable doubt. Now, even though she does not have any responsibility or burden to do that, we think in this case we have put evidence before you, but before we get to the evidence that we put before you, both through the Prosecution's witnesses and through our witnesses, let's talk about something which I think is very important in this case.

No matter what you say about Angela Davis, no matter what the Prosecution might say or what you might think about Angela Davis, I think there is one thing we can agree on. She is no fool. She is no fool. This woman is a college professor. You have heard her articulate writings enunciated here by the Prosecution. You heard her make the opening statement to the jury. Can you believe she is a fool? Well, in order to find her guilty of these offenses that the Prosecution has thrown against her, you have got to believe that she is a fool.

I don't want to talk about any specific evidence or how we met the evidence. Let's just talk about the kind of thing that you have to believe in. She bought a shotgun on August the 5th. Now, according to the Prosecution, she bought that shotgun for the purpose of taping it around a Judge's head and two days later blowing it off, if things didn't work out right. That is why she bought the shotgun according to the Prosecution. She had in mind buying a shotgun, sawing it off, taping it to the Judge's head and, if things didn't go right, blow his head off. Now, where did she buy the shotgun? In a pawn shop. How did she buy it? Shows her driver's license, and all the information concerning where she lives, what her name is, date of birth, where she was born, her whole life history. She signs the document, and not as Diane Robinson, but as Angela Davis. You remember I brought out through one of the witnesses here that, if a person wanted to buy a gun and didn't want to be known, all they have got to do is show some false identification, such as a false Social Security card and they would never be discovered. They don't check on who it is. Do you think this woman is such a fool that she would go out and buy a shotgun to blow a Judge's head off and give her own name and sign an autograph at the same time? For God's sake, give her more credit than that. Give her the credit that the Prosecution can't find to give her, that she wouldn't do that. Even if she was going to go out and buy a gun for a criminal enterprise of this type, she certainly would have used a phony name. If ever she was going to use a Diane Robinson, she would have used it then. Why she could have thrown a brick through a pawn shop window and taken a gun out or they could have robbed a gun shop and gotten all the weapons they needed.

But, here is a shotgun that is purchased on the 5th under the most open and obvious circumstances in the world, and the Prosecution would have you believe that, when that shotgun was purchased, she was purchasing it for the purpose of blowing a Judge's head off. It is absurd.

Guns are brought into a courtroom. Something is put over the guns in the bag to cover it up so that, if someone looks in there, they don't see the guns. What are they covered up with? Books with Angela Davis' name in it. Do you think that woman is such an idiotic fool that, if she was planning to blow a Judge's head off in a courthouse caper the next day, or that day, or whenever it was, that those books were put in there, that she would put in books that had her



Credit: Anthony Korody

**FOR THE DEFENSE:** Sisters and brothers walking a picket line in San Jose. Minutes later they were arrested for demonstrating and eventually convicted under a never-before-used and obviously unconstitutional law.



Four determined sisters participating in an unprecedented march through the city of Oakland, California. Thousands, nearly all of them Oakland community residents, joined this march in defense of political prisoners.

name written in it? It is an insult to your intelligence for the Prosecution to even suggest that.

The Prosecution makes a big point out of the fact that all of the guns that were used were guns that were registered to Angela Davis. Well, two of the guns were purchased way back in 1968. Surely the Prosecution does not contend that, when those guns were purchased, they were a part of a conspiracy which didn't begin until 1970.

**Y**OU KNOW, one of the things that the Prosecution has done throughout this case is to parade all these guns in front of you. Even when witnesses weren't testifying about the guns, he kept them laying out on this table. That is so that you could walk by here and you would get conditioned to seeing all of those guns and every time you see it you would shake and quiver with fear. Because a lot of you, maybe you are afraid of guns. I don't blame you. A lot of people are afraid of guns, but I think it is about time that we stopped being afraid of guns. I want to show you these two guns. You remember, in his opening statement, the Prosecution talked about this gun (indicating) being Jonathan's favorite weapon?

He puts it out here because it looks, you know, menacing—you know, something different about this gun. He's always made a point to talk about this gun, this carbine, as compared to this one.

Well, I want to tell you something. There's no difference between these two guns. These guns are exactly the same guns. You might as well realize it. You might as well stop looking at this gun as being some kind of a terrible weapon that was meant for annihilating a larger number of people than this little gun. These guns are the same.

Take a look at them. One of you men, who was in service, can show these to the ladies when you get in the jury room. The barrels of these guns are the same. All of this is the same.

The only difference between these two guns is that this gun has a wooden stock on the end of it. And this gun has a collapsible stock.

You take this stock off. You put it here instead of putting it here. You've got exactly the same gun.

Take this grip off here, put the grip on here, and you can make this gun into this gun. This is the gun, the part here—all the same.

The only reason this gun is different is because it has this stock, which makes it easier to carry around. It has a 30-bullet clip on it because, as the witness testified, from the gun shop, people use 30-bullet clips because for target practice, they don't have to worry about reloading. They can shoot 30 bullets before they reload.

Mr. Harris would have you think that there was a 30-bullet clip in here because, boy, they really wanted to be able to go in there and mow down an awful lot of people in that courtroom.

But this gun was bought back in 1969, long before Angela Davis knew that the Soledad Brothers would ever exist and long before they thought they would ever exist. Surely, the prosecution would never contend that this gun was purchased pursuant to any kind of a conspiracy.

The same thing is true of the pistol.

Now, he would have you believe that this gun was bought pursuant to a conspiracy. But the evidence shows unequivocally by their witnesses as well as ours that all this gun was was an exchange for another gun that was bought by Stephen Mitchell.

So the only gun that was bought at any time which the prosecution could logically even contend was bought for purposes of conspiracy was the shotgun. We have already talked about that. And you already know why that shotgun was purchased.

I come back to talking about the fact that in order to believe that Angela Davis is guilty of any crimes here, you've got to believe that she's the kind of fool who would go in and give her own name—and not only that. When the man gets through, the man says: "You're Angela Davis?" No question then about who she is, even if the man didn't place the name "Angela Davis" with the face. The question was asked: "You are Angela Davis, the professor at UCLA, who lost your job?" "Yes, I am," replied Angela. "What are you going to do?" Angela answered, "I'm going to fight it all the way to the Supreme Court." "Would you give me your autograph?" "Be glad to," responded Angela, and proceeded to give her autograph.

Can you conceive of that set of circumstances being a part of a conspiracy to blow a judge's head off two days later? They brought in much evidence of buying of ammunition. And Angela Davis always goes to the same store, goes to the store where everybody knows her.

If she is going to buy a lot of ammunition for a criminal caper on the 7th of August or any other time, do you think she would go to the same store where everybody knows her, where she knows that there is a record kept of all of the ammunition that is being bought?

**N**OW, LET'S TALK about two aspects of the prosecution's case that they consider to be very, very important. And that is the Diane Robinson jail visit of Angela Davis. That's what the prosecution says, that Diane Robinson was at San Quentin on the 4th and 5th of August, and that that person was Angela Davis.

Well, again I say that if you are going to believe that that person was Angela Davis, you've got to believe that she is, indeed, a fool. This brilliant college professor, who has worked out a plan to free her lover, as the prosecution says, is so passion stricken, is so stupid, is so idiotic that she rides out to San Quentin in front of all of the prison guards. She sits around and allows herself to be seen and waits in the waiting room two hours while Jonathan visits his brother. And the only way that she attempts to disguise herself is by using the name Diane Robinson.

The prosecution has shown that when Angela Davis didn't want to be recognized, she knew what to do. He showed the photographs of her with her hair straight and a wig on. If she wanted to go out to that jail and if she just had to go there so that she could have a moment that she would stand in the doorway and wave at George, at least she would have had sense enough to put

on some kind of a disguise, and she would not consider that "I'm disguised enough if I just sign my name Diane Robinson."

Do you believe that outrageous story? Do you believe that Angela Davis is that much of an idiot, that she would go out and sit in a waiting room of a state prison where people are walking in and out and where she is likely to be recognized. I don't understand the prosecution. They are so inconsistent. They say that the reason people could recognize Angela Davis was because she had become a celebrity. She was readily recognizable. People knew who she was because of all of the publicity that she had down at UCLA.

Well, if that's a fact, wouldn't Angela Davis know that better than anybody in the world? Wouldn't she be aware of the fact that she is a celebrity? So if she is a celebrity and she wants to go to the jail, for whatever reason, God only knows why she sat in that waiting room—why anybody sat in that waiting room—but why Angela Davis sat in that waiting room while Jonathan is there visiting his brother so that she can have a chance to peep around a column and get up on her tiptoe and wave at George and George can wave back.

Here she was planning the next day to take people out of a courtroom and, if it became necessary to do so, kill everybody in that courtroom. And that's what she was exposing herself to by being in there.

She didn't have sense enough to get rid of her Afro or to disguise herself in any way, knowing she was a celebrity. How can the prosecution have it both ways? That's what they are trying to do, to have it both ways.

Now, let's talk about this van. To me, the most idiotic claim of the prosecution is the claim that Angela Davis was in that van.

Once again, I'm not talking about the credibility or the lack of credibility of those eyewitnesses. My colleague has dealt with that.

We, of course, have evidence that it couldn't have been Angela Davis because there's proof that she was somewhere else on the times that she was supposed to have been in that van and on the time that she was supposed to have been at San Quentin.

You will recall that when the prosecution rested, we promised you a very abbreviated defense. We gave you the kind of defense that we thought you would like to hear something on. We thought you would like to know why it was that Angela Davis wasn't in that van, and we gave that to you, not through mistaken identification, but through witnesses who went up there and raised their right hand and swore that Angela Davis was somewhere else.

We thought you would like to know: Was that really Angela Davis who was in there using the name of Diane Robinson? And we brought you a witness who testified where she was at that time and, therefore, it couldn't have been Angela Davis.

Now, what the prosecution is asking you to do is weigh their witnesses against our witnesses and determine which group you are going to believe. He wants you to believe his witnesses rather than ours.

Well, I will tell you something, ladies and gentlemen: In order for you to do what he wants you to do, it's not just a matter of weighing one group of witnesses against another group. If you do what he wants you to do, you are accepting the testimony of witnesses who notoriously have been shown to be

unreliable—that is, people who claim they saw somebody—against another group of witnesses who, if you did believe, you have to believe that they perjured themselves.

There's no question about where Angela Davis was, according to our witnesses. These are not people who said: "I think I had lunch with Angela Davis. I had lunch with a light-complected Negro woman with an Afro, and I think it might have been Angela Davis. As a matter of fact, I'm positive it was Angela Davis."

That's how they identified her. They knew Angela Davis. All of these people knew Angela Davis. In order to believe the prosecution's case, you've got to believe that we called a group of witnesses up here who, when they raised their right hand to God and swore that they were telling the truth, that they lied, they perjured themselves.

Not only did they perjure themselves, but any lawyer who had anything to do with that, suborned their perjury. This is not a matter of a witness being mistaken.

The prosecution says that I am a party to perjury, and he says for you to believe it. That's what he's saying, in his nice, soft, quiet, gentle way. He doesn't use those words. But that's what it gets down to.

But suppose we didn't even have those witnesses. Suppose all we had was the prosecution's testimony. You still must believe beyond a reasonable doubt that those witnesses were correct, for example, when they said that Angela Davis was in that van on August 6th. Now, let's examine the inherent incredibility of that kind of a situation. What was she doing in the van? What was she doing there? On the 6th, according to the prosecution's witnesses, Jonathan was running in and out of that courtroom like he was caught in a revolving door.

**T**HE TRUTH OF THE MATTER is that the prosecution witnesses have gotten themselves all mixed up. At one time he was supposed to have been in there with his coat on, long coat. Another time he was supposed to have been in there with an attache case, a briefcase. The same day at another time he was supposed to have been in there and he didn't have on a coat—he had a paper bag.

Another time he went in there, and he still had on a long coat. But it's not important whether or not the prosecution's witnesses were correct or incorrect about Jonathan. We know they were incorrect on a lot of the descriptions that they gave about his supposed to have been in and out of that courtroom so many times on the 6th. That's not important.

The important thing is: Can you believe that Angela Davis was in that van? Can you believe that? Well, for the life of me, I can't figure out why she was in there. But we do know from the prosecution's witnesses that whoever it was that was in that van went over to the service station with Jonathan, and they had a little problem. The battery failed on the van.

Now, here is this brilliant college professor, who has worked out this—how does he describe it? How does my opponent describe it? "This ingenious plan, simple but ingenious, and it almost worked."



**FOR THE DEFENSE:** Young brothers from East Palo Alto protest Angela Davis's transfer to a tiny, cold, and poorly-lit "holding facility" in their town.

The Oakland American Federation of Teachers' banner heads a column of more than 400 teacher/delegates from the national AFT convention, held in San Francisco in August, 1971. They marched at the Marin County jail in San Rafael, California, to support their imprisoned sister trade-unionist, Angela Davis.

Credit: Joel Panzer



Well, this plan that he's talking about called for—called for a situation where people were going to go into a courtroom with guns, take hostages, and after taking hostages, attempt to exchange those hostages for the defense of the Soledad Brothers, I suppose—kind of got lost yesterday. Before yesterday, I thought I knew what Mr. Harris' theory was. But after yesterday, I'm not so sure.

Of course, he admitted that he didn't know what the plan was after that. At least, up until now we were laboring under the illusion that they were going to make some kind of an exchange. And what does Diane Robinson, alias Angela Davis, according to the prosecution, do? Now this is less than 24 hours before the big caper. And they have battery trouble.

And they go to a service station, and they don't know what to do. They don't know how to fix a battery and somebody suggests, well, maybe you ought to call Hertz and see how much they will authorize to fix the battery. Now, here is this gigantic plan, you know, coming off the next day, and they are concerned about who is going to pay for charging the battery, and they find out that Hertz will authorize up to \$6.00 for the battery, and the man says to Jonathan, I can send my boy over to bring the truck over, but Jonathan does not know what to do, and he goes out and talks to this lady, and they have a hard time deciding, gee, shall we spend \$6.00, does the budget allow to spending \$6.00 more to free the Soledad Brothers? Finally, they decide, well, \$6.00 is too much, that is above the budget, I think maybe we shouldn't go that far, so they don't get the battery charged, that is over the budget for this big caper the next day. That is what you have got to believe if you believe this idiotic plan that has been concocted by the Prosecution out of his fertile imagination because that is all it is—imagination. There is no proof of it, no evidence of it.

Now, we come to something else. Part of this plan. Angela Davis was waiting at the airport, waiting by the American Airlines terminal for Jonathan to call because Jonathan has got in his wallet the telephone number of a public telephone near the American Airlines terminal. And, according to the Prosecution, Angela Davis is waiting there anxiously. Now, how in the world she ever got the phone call, considering the fact that Jonathan was killed on the 7th with the number still in his pocket, I don't know. I would like for the Prosecution to explain that one to me. What was he going to call for? Was he going to call and say, "Angela, the jig is up. We didn't make it. You better take off," or did someone else call Angela and say that the jig is up, you had better take off. And then, what Angela Davis said, according to the Prosecution, after she got that phone call at the American Airlines terminal even though right next door to her was an airplane that left at 2:00 o'clock for Los Angeles, she rushes out of that air terminal all the way down to a different air terminal in order to catch a PSA flight that left at 2:20.

This—the real answer, ladies and gentlemen, the real answer is that the Prosecution does not know, does not know at all how they can connect Angela Davis with the events of August 7th. All they can prove is things which we admit, things about which there is no doubt, and that is that Angela was associated with Jonathan, that they had a very close relationship; that Angela's guns were used by Jonathan on August 7th, which we have never denied; that

Angela had a desire to free the Soledad Brothers; that Angela had expressed love for George Jackson; and that, following August 7th, Angela made herself unavailable. That is all.

**T**HAT'S THE TOTALITY of the evidence in this case. Everything else is a product of guess, speculation, and surmise. There is no proof of any agreement between Jonathan and Angela, not one word of proof. He wants you to guess. He also contends that Angela had knowledge of Jonathan's plans. There is not one word of evidence to support his contention that Angela had any knowledge of Jonathan's plans. He wants you to guess. He contends that Angela shared Jonathan's intent to do what he was going to do. Not one word of evidence. He wants you to guess.

Now, he baited me yesterday. He tried to lay a trap for the Defense. He knows he has no evidence of knowledge of any plan by Angela. He knows not one word of evidence of any agreement or any plan as between Angela and Jonathan, but, in his argument he said, if Angela was in the van on the 6th, if she was at the prison on the 4th and if she was at the prison on the 5th, is there any other logical inference other than the fact that she must have known about Jonathan's plans? And I suppose that he wants me to get up here and try to give you some other logical inference to be drawn, and I am not going to fall for that trap. It is a trap, because in answering it, I have got to admit and acknowledge that in fact it was Angela who was at the prison and who was in the van, and I cannot make any such admission because the overwhelming proof shows that it was otherwise and not even for the purpose of trying to give him any other inference, am I going to assume a necessary facet of the case which he must prove beyond a reasonable doubt, and he has not proved it.

He hasn't proved one word about a plan, one word about an agreement. You know his theory in this case has changed from day to day. Do you remember his argument yesterday about the conspiracy? If you heard his argument yesterday, what he told you was that Jonathan had conspired with his brother and with McClain to bring about a prison escape and that Angela was a part of that conspiracy. He never told you how she was a part of that conspiracy or wherein she had any knowledge that there was any evidence to show that she had ever planned or ever conspired with Jonathan, but he told you, for example, that McClain would not have known, would not have known about certain things, had he not been in prior contact with Jonathan, and he gave as an example the tape.

Now, that is his theory and argument. In other words, his theory and argument is that this was a conspiracy between Jonathan and McClain which Angela knew about. But I want to read you the Indictment in this case. The Indictment didn't say any such thing. The third Count of Indictment, and that is supposed to be what we are on trial here for, this Indictment, not some other theory that Mr. Harris thinks up in the middle of the case. It says, Defendant Angela Y. Davis and Jonathan Jackson conspired and other persons unknown conspired—Angela Davis and Jonathan Jackson conspired, and then he gets down and he says, on or about August 7th in Marin County, Ruchell Magee, James D. McClain and William J. Christmas did join the conspiracy. In other words, when

he filed this Indictment, he charged that there was a conspiracy between Angela and Jonathan and that McClain did not join the conspiracy until August the 7th. In other words, the theory of this Indictment was that McClain saw an opportunity to free himself, and he joined in the conspiracy on August the 7th, but, in his argument, he is arguing that McClain was a part of the conspiracy in the beginning with Jonathan, not with Angela and, apparently, Angela at some time joined the conspiracy.

So, I don't know from day to day what the Prosecution's theory is. All I know is that the burden is put on him to prove whatever he is going to prove to show a conspiracy, and he hasn't done it.

He tells you that Angela, either gave those guns to Jonathan with knowledge of what he was going to do with them, or that she brought them up here herself from down South or made them available to him in some way with knowledge of what he was going to do with them. But yet there is not one word of evidence to support it.

**H**E WANTS YOU TO GUESS. He tells you that Angela bought that shotgun for the purpose of using it in the events of August 7th and that she gave it to Jonathan for that purpose, but not one word of evidence to show that. He wants you to guess. The evidence is to the contrary as to why that gun was purchased. He has evidence that Jonathan Jackson spent the night of August 6th at the Holland Motel in San Francisco and that he signed in a room for two. He wants you to believe that the other person in that room was Angela Davis, and not one word of evidence to support it. He wants you to guess. We know that Jonathan borrowed a VW from Micki Magers. That VW was later found, several weeks later, at the San Francisco Airport. Mr. Harris tells you that Angela Davis drove that VW to the airport, but not one word of evidence to support it. He wants you to guess. He tells you that Angela Davis was waiting by that phone booth for a phone call, but not one word of evidence to support it. He wants you to guess.

And, when we start talking about his wanting you to guess, let's talk about another curious thing about the evidence in this case. This is a case which has had more time, more effort, more money spent on it in its investigatory stages of any case that I know of. Do you think the State of California has spared one penny in trying to get evidence to convict Angela Davis? You think that they had to worry about the budget? And yet they went over that van that they claim she was in, that van that she was in all day on the 6th, the van that she was supposed to have ridden in, the van that was in the service station, the van that was in the parking lot at San Quentin—they went over that van with a fine tooth comb looking for fingerprints, and could not find one single fingerprint of Angela Davis. Oh, they found a lot of other fingerprints. They haven't told us all the fingerprints they have found, but they didn't find any of Angela Davis' fingerprints.

Every one of these weapons, even though they are Angela Davis' weapons, they went over for fingerprints, and not one fingerprint on any of those weapons. The VW that was left at the airport, they went over for fingerprints. Not one fingerprint of Angela Davis. The hotel room where Jonathan spent the



**INTERNATIONAL SUPPORT:** Part of a crowd of more than 400,000 Parisians who marched in support of Angela Davis in 1971.

A women's contingent leading a large crowd down the streets of Sydney, Australia in support of Angela Davis, equal rights, and peace.



night of the 6th. They not only went over it for fingerprints, but you will remember that Mr. Patel indicated that they vacuumed the floor and took all of the debris, the vacuumed dust from the carpet in order to try to find some evidence of the fact that Angela Davis was in that room, and not one bit of evidence.

Now, maybe the Prosecution will argue, well, that just shows you what a brilliant criminal she was. "She wiped off all the fingerprints. She did away with any evidence of her ever being in that van. She wiped everything away carefully before she gave the guns to Jonathan." That is the same criminal who won't even put on a wig when she goes to San Quentin so she can wave to George at the door or, when she gets ready to buy a gun to blow a judge's head off, she is not smart enough to steal the gun or sign a phony name to the Federal form. It won't be the first time the Prosecution has been inconsistent in arguments, but you think about that. You think about the fact that, in all of the 201 exhibits that have been introduced in evidence in this case by the People, do you know how many fingerprints they found of Angela Davis, and do you know where they were? One fingerprint on one page of the letter that was found in George Jackson's cell. One fingerprint or two fingerprints, perhaps, on two different pages of a book that had her name in it. This is the extent of the scientific evidence against Angela Davis in this case.

Now, you might ask, ladies and gentlemen of the jury, if it wasn't Angela Davis who was at San Quentin under the name of Diane Robinson, who was it? And you might want me to answer that question for you. But I am not Perry Mason, and it is not my responsibility or my burden to prove who it was. Things don't happen like that in real cases. I don't know who it was. I can guess. I can guess, and that is about as good as what the Prosecution is doing in this case, guessing. There are a whole lot of people in this world who are light skinned and have Afros. There are a whole lot of people in this world who don't necessarily have Afros but, if the Prosecution wants to have Angela Davis placed there, even if a person didn't have an Afro, that is the way the description would come out. The Prosecution hasn't made us privy to all of the information they found about who was a friend of Jonathan's. They haven't made us privy as to why it is that they gave a promise of immunity to the owner of that VW. They haven't told us why. They haven't told us about all of the people who were picked up during the course of this investigation because people thought it was Angela Davis. And they haven't told us about all of the many people who have been wrongly identified as Angela Davis. And, if you put that burden on us, then you are disobeying your oath and your responsibility as jurors because we don't have any burden. The burden at all times, including this and every other facet of the Prosecution's case, is to prove their case to you beyond a reasonable doubt, and we say that, on the issue of whether or not Diane Robinson was Angela Davis, it certainly has not been proven at all. As the evidence now stands, you cannot say to yourself to a moral certainty that that person who was Diane Robinson was Angela Davis, especially not in view of the unreliability of the witnesses, as well as the fact that we have witnesses who testified that they saw Angela Davis elsewhere.

Now, if I might, ladies and gentlemen, I want to talk to you for a moment about the kind of case that the Prosecution has attempted to build in this case.

He has admitted from the beginning of this trial and still admits that Angela Davis was not present on August the 7th, and that there are many things that he cannot prove by direct testimony. But he's going to ask you to draw inferences.

When a prosecutor asks you to draw inferences, then he has what is known as a case that is based upon circumstantial evidence. Now, the Court will instruct you that circumstantial evidence is admissible. He will tell you that in a circumstantial case, the circumstances must be circumstances which are not only consistent with guilt but are totally inconsistent with innocence. This entire case is based upon circumstantial evidence.

**L**ADIES AND GENTLEMEN of the jury, one of my colleagues, during the lunch hour, told me that I had neglected to relieve you of your responsibility of being black. Well, now that you have had a nice lunch and you are back here this afternoon, I relieve you of that responsibility for the rest of this case. But I do not relieve you of your responsibility to be fair and just human beings in spite of the fact that you are not black.

This morning I ended by talking about the fact that the Prosecution in this case had attempted to build a case entirely on circumstantial evidence, and we lawyers who talk about circumstantial evidence always talk about the chain of circumstantial evidence. One of the instructions that the Court will give you is that you must, when a case is based on circumstantial evidence, find each necessary element of that chain by proof which is beyond a reasonable doubt.

Since we lawyers talk about it in the terms of a chain of circumstantial evidence, we talk about the fact that no chain is any stronger than its weakest link.

I have taken the liberty of preparing a drawing here, which is symbolical of a chain, in order to demonstrate to you, if I might, what we mean when we talk about the chain of circumstantial evidence. You will see that I have marked each link of that chain by a name. These are the names that the prosecution has given to each link of its case. They have talked about the link of motive, the link of object, the link of agreement—agreement, meaning the plan or the agreement of the conspiracy—the link of knowledge on the part of the Defendant, the link of intent, and the one that the prosecution has called flight, which he calls a consciousness of guilt.

Now, as I said to you earlier, each link in that chain must hold or the whole chain will break and the prosecution has no case. I'm going to show you, if I might, in a very short period of time how not only is there no chain to bind Miss Davis, but there is no single link in that chain which can stand the scrutiny of truth.

One of the biggest things that the prosecution has talked about is the object of the conspiracy. I've made some notes during the lunch hour on this, notes which aren't nearly as well drawn as the ones over here on the right because I did those on the left, and someone else did those on the right. I did this in order to save time.

But the Prosecution has contended that the object of this conspiracy was to free the Soledad Brothers. That's been his theory.

I have written the names of all of the witnesses in this case who testified about the freeing of the Soledad Brothers. I want to discuss it for a few minutes, if I might.

The key witness in this link that the prosecution would attempt to forge around my client was Mr. Kean, the photographer. I have written out exactly what Mr. Kean said from the transcript. He said that Mr. McClain, as he left the corridor and was about to go down the elevator, said: "Tell them we want the Soledad Brothers released by 12:00 o'clock." That's all that McClain said, according to Mr. Kean: "Tell them we want the Soledad Brothers released by 12:00 o'clock." Kean said: "I felt he was saying that to me because I was a newspaper man, and they wanted to get the word out. So I asked the question—I asked the question: 'So there will be no misunderstanding, do you mean 12:00 o'clock noon or 12:00 o'clock midnight?'"

And McClain is supposed to have answered, "12:00 o'clock noon." He took out his little notebook, as was related by Mr. Harris yesterday, and wrote the words "Soledad Brothers" out.

Now, we must believe that if the Soledad Brothers' release was the purpose or the object of this conspiracy, that the transmission to outsiders of the purpose of the conspiracy or the object of the conspiracy is contained in that conversation between McClain and Kean.

So it's important to remember at all times exactly what it was that McClain said: "Tell them we want the Soledad Brothers released by 12:00 o'clock."

He did not say: Tell them we want them released by 12:00 noon. He said: "12:00 o'clock." The twelve-noon aspect of it was only elicited after Mr. Kean asked a question: "So there will be no misunderstanding, do you mean 12:00 noon or 12:00 midnight?" And McClain is supposed to have said, "12:00 noon." Now, it is strange, indeed, that this important statement was made by Mr. McClain, which is the object of this whole conspiracy, which is the very reason why we had the tragedy of August 7th in Marin County, that the man who had some written evidence of the fact that it was the object of the conspiracy lost or threw away his note where he wrote down "Soledad Brothers."

Isn't that strange, that he lost it or he threw it away? I suggest to you, ladies and gentlemen of the jury, that Mr. Kean never heard McClain say: "We want the Soledad Brothers released by 12:00 o'clock." And he never asked: "Do you mean 12:00 noon or 12:00 midnight." But that is a theory that was concocted by the prosecution in this case only when they decided that they could tie Angela Davis to the crime. They must find a motive for Angela Davis to be involved.

Let me tell you how much support there is in this record for: "Tell them that we want the Soledad Brothers released by 12:00 o'clock."

The next witness who testified on that was Gary Thomas, the prosecutor. Here is a man who is trained in the law. He is trained to have a memory, to remember what people say, and what people do, so that he can use his skills as a prosecutor. He must remember what someone said on direct examination so that he can properly ask questions on cross-examination.

If there was anybody in that party—anybody who should have heard something said about the Soledad Brothers, it would have been Gary Thomas. But you recall that Gary Thomas was asked the question, not by me—not by me—but by Mr. Harris: “Did you ever at any time hear anybody say anything about the Soledad Brothers?” And his answer was a resounding, “No.” It seems to me that that ought to be sufficient to dispel any notion that anything was said about the Soledad Brothers.

But let’s go to the next witness. Mrs. Morris was one of the jurors. Mrs. Morris was in the courtroom, and she heard telephone conversations. But she heard nothing on the telephone about a demand to free the Soledad Brothers.

She didn’t hear anything at any time about freeing the Soledad Brothers. So, we have up here Mr. Thomas, zilch (indicating).

Mrs. Morris, zilch (indicating).

The next witness was Mrs. Wittmer. Mrs. Wittmer was another juror. I think it might be important to read to you the entire cross examination of Mrs. Wittmer. It was very brief. It is at page 2573.

*“Cross Examination by Mr. Branton. Now, when the conversation took place over the telephone in the courtroom on August the 7th, Judge Haley picked up the phone and called down to the Sheriff. Isn’t that right? That’s right. And he orders the Sheriff’s people to stay away and not to interfere? Yes. And that’s the full extent of what you heard? That’s what I heard. You didn’t hear Judge Haley say anything to the effect that there were people up here who want to hold us as hostages to get the Soledad Brothers free, did you? No. And then Mr. McClain took the telephone and he talked to the Sheriff over it, didn’t he? That’s right. And you didn’t hear him say anything about freeing the Soledad Brothers, did you? No, I didn’t. And then, after you left the courtroom, you went out in the corridor of the court, and a photographer showed up and the photographer took pictures of people out there including yourself. Isn’t that correct? Yes. And there was some conversation out there about the taking of photographs, wasn’t there? Yes. And while you were in the corridor, you never heard anybody at all say anything about freeing the Soledad Brothers, did you? No, I didn’t. As a matter of fact, in your entire experience of this unfortunate day of August 7th, you never heard the words ‘Soledad Brothers’ mentioned at all, did you? No, I didn’t.”*

There is a lady who was there through the entire transaction. She never heard it said.

**N**OW, I THINK the next witness is a very important and significant witness in this case. The prosecution thought so because that’s the way they started their case. They started their case by calling Mrs. Graham. I don’t want to take the time of reading to you the entire testimony of Mrs. Graham because it was extensive. But I think it is sufficient to say that Mrs. Graham was programmed, completely programmed to give the testimony which she gave in this case, and she admitted it.



Credit: Kors van Bennekom

**INTERNATIONAL SUPPORT:** Sisters from the Dutch Women’s Liberation group, “Dolle Mina,” picket in front of the American Consulate in Amsterdam on Angela’s birthday in January, 1971.

Moscow students and working youth listen to Fania Jordan in the Hall of Columns, House of Trade Unions in Moscow during the winter of 1971.



Credit: V. Ahlomov

Mrs. Graham gave statements, and she admitted on page 2429 of the transcript that she had given a statement in which she was highlighting her account of the day's activities in question, and that this highlighting contained no mention of the Soledad Brothers or the Soledad Trio. Now, Mrs. Graham knew what the Prosecution's theory was. She admitted this, and I think it is important to read a few pages of her testimony at least.

No, I am not going to read it to you. I am going to paraphrase it, if I might.

You will recall that Mrs. Graham was being asked by Mr. Moore, and Mr. Moore was trying to show that Mrs. Graham had talked to Mr. Harris about the case, and Mr. Moore did ask these questions:

*"Mr. Harris oriented you to your courtroom experience, to testifying here in court, didn't he? Yes, sir. He told you where to come? Yes, sir. He told you what time to be here? Yes, sir. And he told you what to do in case that the case was postponed for any reason and where he could reach you and contact you by phone, did he not? Yes, sir. And he told you how the courtroom was laid out, where the jury would be seated, where he would be seated, where you would be seated. Is that correct? Yes. And he discussed with you generally his approach to the case, didn't he? Yes. And he discussed, and he mentioned to you that one of the important things in this case was the testimony relating to the remarks 'free the Soledad Brothers by 12:00'. Is that right? No, I don't think he said that. One of the important things was this. He said that I should try to answer all questions as truthfully as I possibly could. I am sure he told you that, but what I am getting at, he did indicate to you that one of the important critical aspects of the case would be remarks relating to free the Soledad Brothers by 12:30 or 12:00. Isn't that right? He asked—I don't remember the exact words—I am sure he must have mentioned it at some time or another. You say he must have mentioned it? You mean the remarks about free the Soledad Brothers by 12:00? No, not—no one has ever mentioned the 12:00 business to me. He has never asked me about a specific time, but what you do is what I suppose is called a lecture orientation or pre-appearance discussion about the case. We did discuss. All right, and he indicated to you in that lecture and conference his approach to the case and indicated to you that significantly, evidence about free the Soledad Brothers by 12:00 was important. Is that correct? Free the Soledad Brothers, but no mention of 12:00, no, sir. Can you remember now specifically what Mr. Harris told you about free the Soledad Brothers? He asked me if I had heard, if I had heard anyone say this. Now, tell us please, ma'am, what Mr. Harris asked you that you heard, give us his specific words, complete. I can't give you verbatim. I cannot give you a word for word report of something that was held in conversation because it was not a question and answer period, it was strictly a conversation. I can understand that, but I am not asking you to give us the verbatim words but just, using your best recollection and your intelligence*

*that you undoubtedly have, tell us everything that you remember about what Mr. Harris said with regard to free the Soledad Brothers. He asked me if I had heard anyone mention that, and I said, yes, I had, and I told him that I had heard it repeatedly. Did you want to take a break now? No, that is all right. Now, what I am getting at I want you to tell as best you can remember, what Mr. Harris said in regard to free the Soledad Brothers. He asked me if I had heard anyone say"—*

That must be a misprint—

*"He asked me if I had heard anyone say this. Answer. He said did you hear anyone ask—geez, I can't give you the exact words. He asked me if anyone had mentioned—had mentioned free the Soledad Brothers. He also asked me if I had heard said free our brothers at Soledad, and I said, no. He just briefed me on what we went through yesterday. Question. You mean after he said that he just let it go? He didn't say anything else about it? Answer. I don't remember anything else. Question. Did he ask you, well, let me put it this way, Mrs. Graham, again. You were sitting around a table there, and Mr. Harris said some words to the effect, do you remember that McClain said in the courtroom on the telephone, free the Soledad Brothers or we will kill the Judge? Answer. No, he asked me if I remembered what McClain had said on the telephone. All right. He asked you if you remembered what McClain said on the telephone, but that is not all he asked you in that regard. He asked you what did McClain say on the telephone about the Soledad Brothers, didn't he? Answer. He may have. Question. As a matter of fact, it is more likely that he asked you that than it was that he did not. Isn't that right? Answer. Probably. Question. So, Mr. Harris suggested to you by question that Mr. McClain had said into the telephone, free the Soledad Brothers by 12:00. Isn't that right? Answer. I don't know that he was suggesting to me what to say. I think he was trying to help me remember what I probably had forgotten or had put out of my mind at one time or another."*

Now, earlier—earlier, Mrs. Graham said this—page 2451:

*"Question. Now, when you made the statement 'by twelve o'clock,' yesterday was the first time that you made that statement?*

*"Answer. Because it came to me at that time when I was talking."*

Now, here is a lady who had given statements long before. It came to her for the first time while she was talking, while she was on the stand, that she heard something said about "Free the Soledad Brothers at twelve o'clock."

Now, it is significant that Mrs. Graham is the only witness who had testified that something was said on the telephone about "freeing the Soledad Brothers at twelve o'clock"—the only one of all of them.

You and I know that that statement is not true. How do we know it? Because the telephone call was made to Sheriff Montanos. If Sheriff Montanos had been called on that phone and been told "Free the Soledad Brothers by twelve o'clock," the prosecution would have called the receiver of that phone call in

here, the Sheriff himself of Marin County, who would have said: "I received the phone call from the courtroom of Judge Haley, and he told me that if I didn't let them out and free the Soledad Brothers, the Judge would be killed."

But he never came in. He never came in. The reason that he never came in is that Sheriff Montanos would not take that witness stand and lie about something that Mrs. Graham had given testimony about, not even to corroborate a very important part of the prosecution's case.

Mrs. Graham was so programmed to bring out this business about "Free the Soledad Brothers," that she even had Jonathan Jackson making the remark repeatedly on the walk from the courthouse to the van. When we asked her who he was making that remark to, she didn't know. But she is the only witness who not only had this remark said over the telephone and in the corridor, but she had it being said repeatedly on the walk to the van.

So we don't give Mrs. Graham a zilch. We give her three of them.

**N**OW, THE NEXT WITNESS who testified on that, Mr. Teague—what did Harvey Teague say? He heard: "You have until 12:00 noon to free the Soledad Brothers and all political prisoners"—not released by twelve o'clock. Teague puts in the word "noon." Why does he know to put in the word "noon"? Because he knows that the prosecution's case deals with freeing them by twelve noon. So he puts the word in the mouth of whoever said that: "You have until 12:00 noon to free the Soledad Brothers." But he also adds not only "Free the Soledad Brothers," but "all political prisoners"—all.

So, now, this is really—the object of this conspiracy is getting broader. We are not only going to free the Soledad Brothers by twelve noon—and it's 11:15 when we make the demand. In 45 minutes, they are going to free the Soledad Brothers. But, now, we are going to free all political prisoners. I don't know who that is. Different people have different ideas about who all the political prisoners are. But that's a mammoth undertaking, a gigantic conspiracy now.

Clifford Niederer was the next man who testified. What did he say? He said—oh, incidentally, Mr. Teague doesn't know who made the statement—just heard it said, doesn't know who said it.

Cliff Niederer said: "I don't know who said it either, but I heard somebody say they wished the Soledad Three released by this afternoon"—not by noon, but this afternoon.

So we are extending the deadline in which they can release the Soledad Brothers now until this afternoon, according to Niederer.

But it's very strange that Mr. Niederer gave a statement before this trial, and in his statement he never mentioned anything about what was said about the Soledad Brothers. As a matter of fact, the words in his report are: "The suspects had little to say."

But he gets up here on this witness stand, and he tells you that the demand was to "Free the Soledad Brothers by this afternoon." So he's the afternoon—the afternoon boy.

The next man who testified was Terzich. He's the Mill Valley Police Chief. He said that McClain said: "Free the Soledad Brothers by 12:30 or they all die."

He's not going to give them as much time as Niederer, but he is going to give them more time than Teague. 12:30 was his deadline.

The next man is Kenneth Irving. He said he heard someone yell—doesn't know who: "You have until noon to free the Soledad Brothers." He doesn't know who said it, but he heard it yelled: "You have until noon to free the Soledad Brothers."

Now, remember, the man to whom this was supposed to have been said was Kean. McClain never said anything to Kean about noon. He said "twelve o'clock." And the "noon" came in as an answer to a specific question.

But Irving again knew what the Prosecution's theory was. So he doesn't put it in a question-and-answer session. He puts it all in one statement: "McClain said 'Free them by noon.'"

The next person is David Mori of the Sheriff's Office. He said: "Somebody said 'Take all the pictures you want. The revolutionaries are taking over.'"—He didn't hear anything said about the Soledad Brothers. "Revolutionaries are taking over." That's what he heard said.

Then, Mr. Hughes—Mr. Hughes heard someone say: "Free our brothers at Folsom, free them all, free all our brothers." When I asked him to tell this jury what he heard in the nearest words that he could recall and in the nearest voice that he could reproduce, he said: "Well, I'm not in very good voice today." And I said: "Try the very best you can." And he cleared his voice, and what did he come out with? "Power to the people. Free our brothers at Folsom." That's what he said.

Mr. Retana—all Mr. Retana heard was the plain word "Soledad." And then he heard the word "revolutionary" hollered.

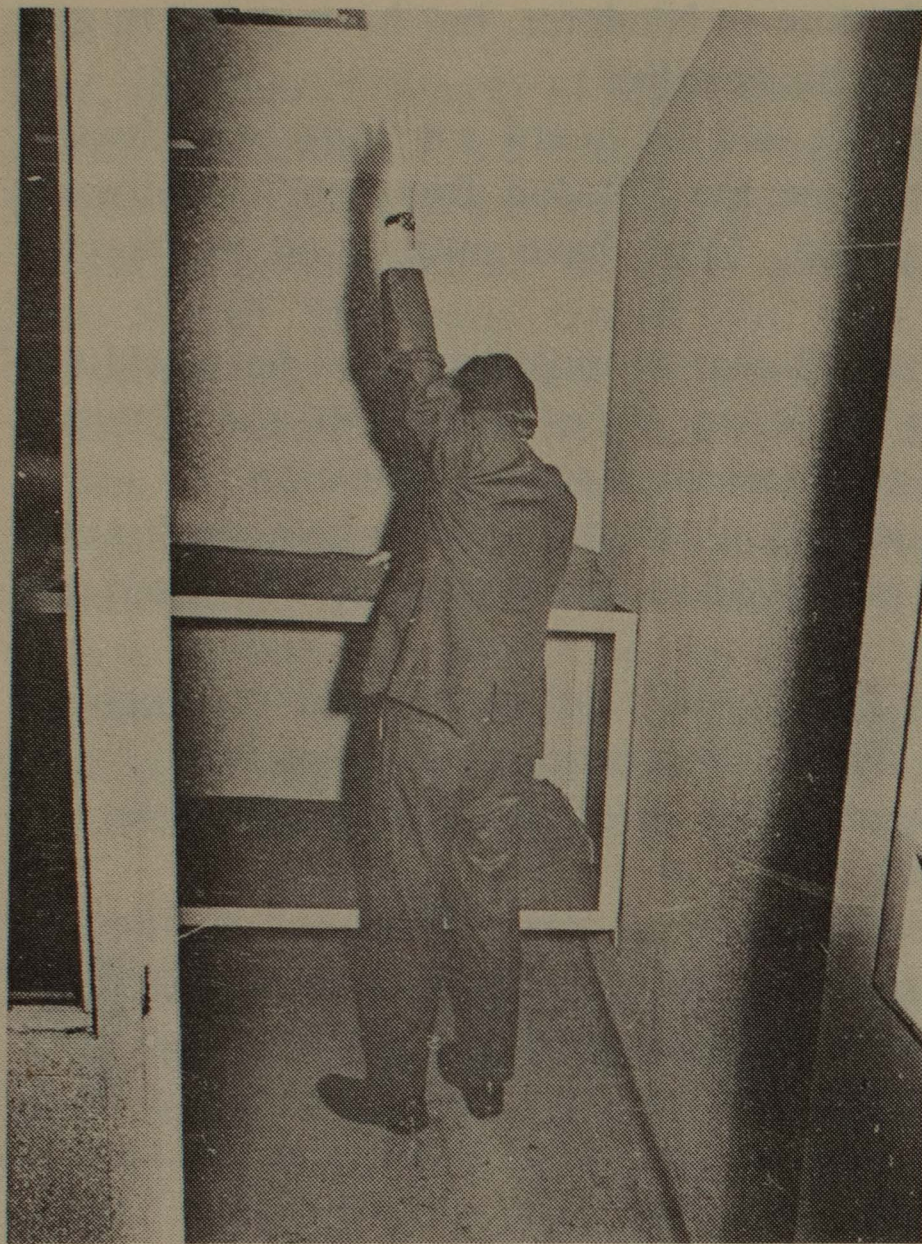
So, now, we have all of these witnesses, Kean and Thomas and Morris and Wittmer and Graham and Teague and Niederer and Irving and Terzich and Mori and Hughes, and Retana. And everybody here has made the object of this conspiracy different. Nobody has the same object of this conspiracy.

But you know what is the significant thing about this whole business—it's rubbish. It's rubbish.

Of all of the criminal cases in the history of the world, I have never heard of a more outlandish theory than the one that has been advanced by the prosecution in this case as to say that what this means is that the object of this conspiracy was to free the Soledad Brothers. Here is a plan to take hostages, a judge, a district attorney, three women jurors, take guns from everybody in the court. And they don't even have enough organization about them to make their demand known.

How in the world do they get out to the world that the purpose of this was to free the Soledad Brothers? Wouldn't you think that if that was the object, that when they went in there, they would have had a note saying that "we want the Soledad Brothers freed" or "we are going to kill the judge and the jurors" or when he called down on the phone, instead of saying "let us out of here, we want to get out of here," he would have said: "Look. We are going to hold these people until the Soledad Brothers are freed."

Instead of talking about the Soledad Brothers, don't you think that someone, especially someone as intelligent as Angela Davis, who is supposed to have been



**NORTH PALO ALTO HOLDING FACILITY:** When NUCFAD held a press conference protesting punitive conditions of detention for Angela in this jail, resulting in a deluge of protests from all over the world, the Santa Clara County Sheriff's Office tried to remedy the situation by releasing this photo of Angela's cell. Presumably, the officer here (note shiny pants) is showing that he can comfortably stand and wave in the cell. Press maliciously suggested that a dwarf had been hired for the photo session.

Worker painting Angela's cell:  
"I feel like I'm painting the gallows for my girl friend."



Credit: Anthony Korody

the mastermind, I suppose, of this conspiracy, would have said: "We want George Jackson and Fleeta Drumgo and John Clutchette freed or some things are going to happen"?

Here the people have gone to all of this great trouble in order to free the Soledad Brothers and the demand, the object, the purpose of the conspiracy is so—so remote, so nebulous, so untold.

The reason for that, ladies and gentlemen, is because what the prosecution hopes to do is to put my client in those kinds of chains. That's what he wants to do with these various chains here, the links of that chain. He wants to make her the way those people walked into that Salinas courtroom in May of 1970, when Angela Davis was so moved that she decided to devote a part of her life to freeing the Soledad Brothers by all legal means.

If the prosecution had its way, that's how Miss Davis would end up. But I say to you that the evidence in this case shows that not one link of that chain can hold. I think that we have established that it's ridiculous what the object of this conspiracy was and so that link is no good.

**T**HERE ISN'T ONE WORD of evidence in this case of a plan. Nobody ever heard anybody say: "Let's get together. Let's do this." And all of the correspondence and the letters that Mr. Harris has pawed through—not one word that talks about the plan of having him escape.

He wants you to guess that there was an agreement. I've already talked about the knowledge and the fact that there is no evidence of knowledge, no evidence of intent. And flight doesn't mean a thing because that's been debunked.

I'll get to motive in a few minutes.

To me, the sorriest thing about this case, about this prosecution, is the lengths to which the prosecution has gone to take words in a letter or in letters, words of love and affection of one human being to another and transposed those into some criminal intent, words taken out of context.

Mr. Harris has read to you from the letter of June the 2nd. He's taken things out of context. But if you read those letters in the jury room, I urge that you read the entire letter because in the first letter of June 2nd, for example, while Angela was expressing her affection for George, she said: "My feelings dictate neither illusionary hopes nor intolerable despair. They do not dictate intolerable despair, my love, your love reinforces my fighting instincts".

Are these the expressions of a woman who has lost all hope, who feels that the only way that she can free George Jackson is by some bizarre plan, some plan not to free George Jackson directly? And this is another thing about the purpose of this conspiracy that I might talk about for a moment, if I may.

Whether you are talking about Angela or whether you are talking about Jonathan, the Prosecution argues, "Is it conceivable that Jonathan had any other purpose in mind other than to free his brother?" I would say it was ridiculous he had in mind freeing his brother. If he wanted to free his brother, why didn't he wait until his brother went to court and take his brother out of the courtroom by gunpoint? They had all the guns. He disarmed everyone that was in there. He is going to say because the Judge didn't allow guns in his courtroom. I don't care how many he allowed. There were guns in the corridor, but they were all

disarmed. Isn't it a bizarre plan where you take somebody out of a courtroom to take somebody else out of jail? All he had to do was wait until his brother went to court and take him out directly. It's stupid. It's ridiculous for the Prosecution to even suggest that that was the purpose of it.

I am not going to attempt to answer all of the things that Mr. Harris has taken out of context in these letters, but I do want to read a few things to you, if I might. His theory is that Angela Davis' passions had reached such heights, they were so boundless, that she would do anything to free George. Now, where is the evidence of that? The evidence of that he gets from the letters in which she says, "Each letter from you my mind is beginning to be closed and each letter from you narrows my mind a little bit closer. There are beautiful dreams ahead," and that means that she was getting to the point where she just couldn't stand it any longer, and the beautiful dream is one day when she would crash him out of prison, and they would get on a plane and buy a ticket to somewhere and sail away into the never never. That is what he is saying to you, but look at the very letter that he is reading and see what Angela Davis' state of mind is, how she feels about individual acts of escape.

She says, "We have learned from our revolutionary ancestors that no individual act in response can seize the scepter of the enemy. The slave lashes out against his immediate master. He subdues him. He has escaped, but he has done nothing more than take the first step in the long spiral upwards towards liberation, and often the individual escape is an extension of the real problem. It is only when all the slaves are aroused from their slumber and articulate their goals, choose their leaders, make an unwavering commitment to destroy every single obstacle which might prevent him from transmitting their visions into a new world, a new man into the evil of the earth, into the flesh and the blood of men."

**W**HAT IS SHE SAYING; what is she saying to George who is in prison? An individual act of escape does not mean anything. What does it mean for one slave to escape the master? It is only when all of the slaves are aroused that it means anything, but yet Mr. Harris would have you believe that she had abandoned all of those things, that she had worked for all of those months and all of those years and indeed, all of her life to free one slave from the prison system that had him enslaved.

He reads to you that, "I never said Jon was too young for anything," the implication meaning that, oh, she is telling George that Jon isn't too young to help to break you out of prison. That is what he wants you to believe.

Other letters, June 10th, she talks about her activities, and she says to him, "Daily speeches about struggle, the Soledad Brothers, pulling together, keeping together on the L.A. Soledad Brothers Defense Committee. It must be close to 2:00 am. I have just returned from Franklin and Kendra's, the meeting place for the Soledad Brothers Defense Committee. My roommate, Tamu, and I have been examining—evaluating the meeting. She has gone to the back to see about her crying 6 month old infant. The meeting, long, encouraging, overcrowded with brothers and sisters eager to revolt and to build."

Does that sound like a woman who is engaged in the thought of freeing George by some bizarre means on August the 7th? She talks about building, a mass movement.

Again, in this letter of June 10th she says, "I want to return to the Defense Committee. There remains a great deal of ground work, indispensable if we want to build a revolutionary collective from all that will to learn and work. There is already a hint of success."

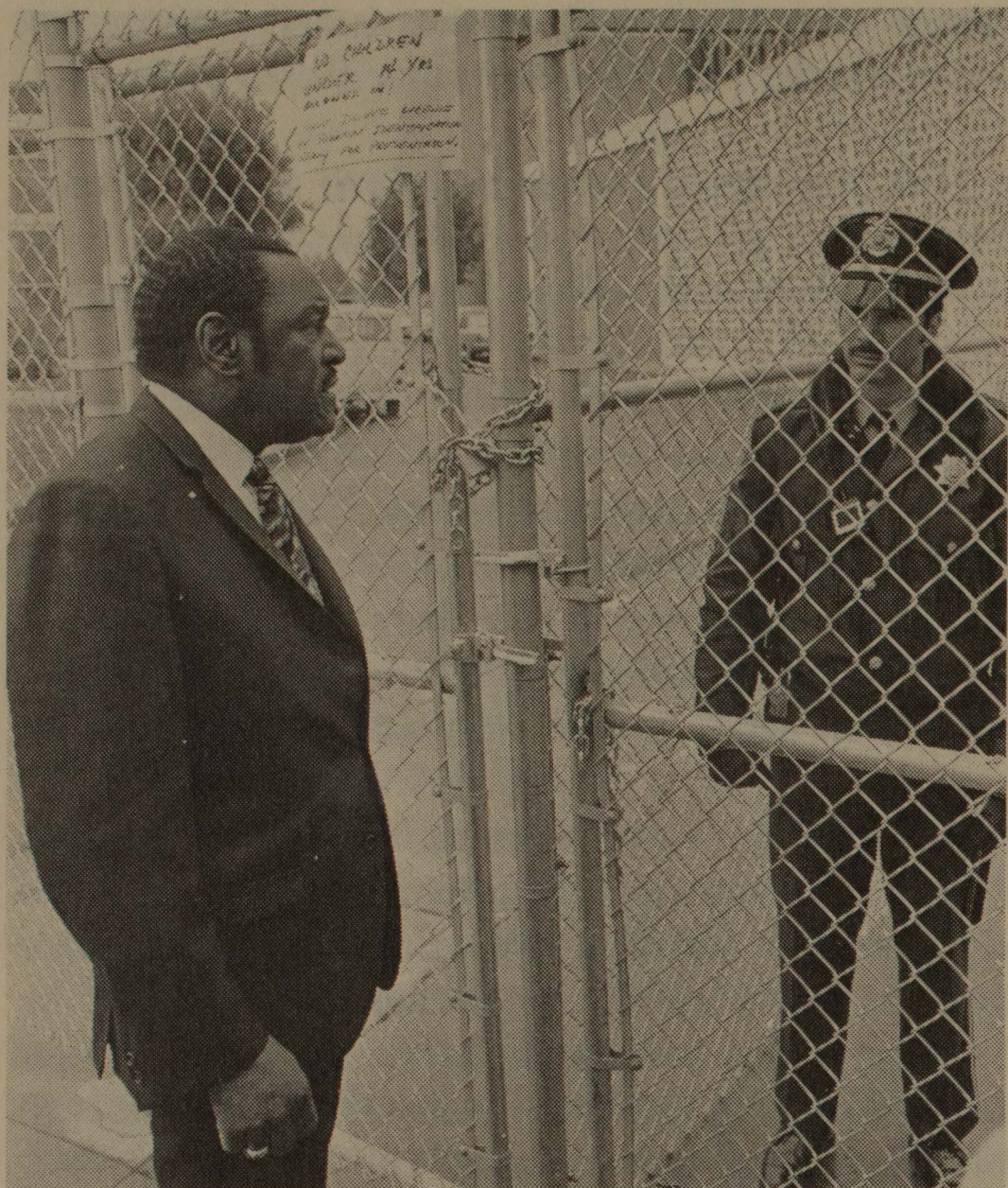
All that want to live and learn and work, and all of the work that has to be done. There is already a hint of success, and I tell you that she forecast it exactly, even back on June the 10th, 1970, there was a hint of success because that success came to fruition, ladies and gentlemen of the jury, when 12 people like you in the Superior Court of San Francisco decided that the Soledad Brothers were innocent of the crimes for which they had been charged, and it vindicated the work and activity of all those people who had worked on their behalf.

She goes further, "George, we have an overwhelming amount of research before us, material, concrete facts concerning the California Penal System. Some brothers and sisters have already gone to work on it. We would really appreciate it if you could give us some ideas, as many as you can. Pandora's box must be sprung. This is what they fear." What is she talking about? Is she talking about prison escape? She is talking about springing Pandora's box. Give us the facts so that we can arouse the people to know what is happening. Then she says, "Pour out your ideas on how to move in a present day above-ground defense organization." Is she talking about escape? Is she talking about blowing a judge's head off? She asked George, pour out your own ideas on how we can do it, and then someplace else in here—I am not going to read all of these letters, she talks about essays that have to be written, and she talks about they have already begun to work on it, all that sort of thing, so it would seem to me that, within the very letters that this man would make criminal, is the proof of the fact that she was doing things in a legal, above-ground manner.

Now, it is one thing for Mr. Harris to take out of context portions of those letters which were found before August, which were written before August 7th. It is another for him to take out of context and to attempt to brand as criminal those warm and tender expressions of love and affection which were written almost a year after Miss Davis was in prison herself.

Can you understand how Miss Davis must have felt in having worked so diligently to free George Jackson and the Soledad Brothers and, incidentally, in all of the letters where she talks about love and work, she does not only talk about George Jackson, she says, "I love you, George, I love all my black people. I am working for you, George, and all the Soledad Brothers." She never singled out George as a single thing. It was always a collective of the Soledad Brothers and the black people that she talked about.

To me the sorriest thing that has happened in this case is for Mr. Harris to take the letters that were found in the prison which could not possibly have any bearing whatsoever on what took place before August the 7th of 1970, and have you believe that those things have some bearing. I think it is an obscenity to delve into the most personal, touching aspects of a person's life, and that is what



Credit: Howard Harrison

# COURT SECURITY:

"\$745,000 worth of junk."

"The Cattlepens"—Here trial spectators presented "proper identification," emptied clothing of all contents, decorations and accessories, were searched, photographed, sent through metal detector, searched again (skin-searched if necessary), and then let into courtroom. Simultaneous check with state police computer banks resulted in arrests or detentions for those with outstanding parking tickets or other warrants.

he did without it serving any purpose. He has attempted to apologize for it by saying he didn't want to do it. Well, if he didn't want to do it, why did he do it, because it proves nothing in this case. He has taken those words out of context and attempted to make something criminal out of them.

Now, I have done the same thing. I have taken some words out of context too, but I have done it in another way. I am going to read something to you in a minute. I have not changed one single word, but I have put in poetic form the words extracted from the letter that was found in prison. Not one word is changed. Not one word is added, but it has been put in poetic form, and the reason for that is to say to you we do not know how deeply Angela Davis felt for George Jackson. We only know how deeply she was able to express a feeling. It may be that she expressed feelings far beyond the intensity of those true feelings because of the fact that she has the ability, an ability to put words together, or it may be that she did indeed feel as intensely as she did. But, in any event, I want to read to you now, and ask you if anyone who writes words like these about love between two human beings can be said to be of a vicious, criminal mind where life of other human beings means nothing. She wrote:

*Do you know how elated I was  
When I first discovered you loved me?  
I did not know George Jackson;  
He was an abstract figure,  
A brother I had to fight for;  
I didn't know how to respond  
To Something so remote  
Until I saw you  
And, stunned, I stared  
Like a love-struck girl.*

*After the court appearance in Salinas,  
I was struck with a sense of—of you  
That beautiful man with whom I had  
Instantly and unexpectedly  
Fallen in love.*

*During the trip back  
(We took the seaside road  
Through fog and curving mountains  
And green woods—and water—)  
I was beside myself with happiness,  
Loving you and growing ever more impatient . . .*

*I love you  
I love you totally  
I love you to the end  
I love you, George.*



*I'm glad we saw each other when we did;  
It makes me realize that I have not always  
Been as alone as I feel at this moment . . .*

*I'm intoxicated,  
Overflowing with you,  
Wanting you more than ever.*

*Since that last embrace  
You're still here  
I see you  
We are one  
They'll never wrest away from us  
Those feelings—  
Feelings accumulating over centuries,  
Today infinitely magnified,  
Undiminished in their intensity.*

*That so much love could exist  
Anywhere  
In any two people  
Even between us  
I never realized.*

*It makes me feel weak,  
Though not in the sense of  
Succumbing to weakness,  
For it makes me stronger,  
Stronger with your strength without end—  
So terrible is this love.*

*This morning—this morning—  
As I walked the few yards  
(Treading in the air, it seemed)  
From this cell toward you—toward you—  
The millions of pieces  
I had tried to fit together  
Into a picture which would reflect  
The reality of the man I love  
Would all be there—these and more—  
In an arrangement more perfect  
Than the perfection  
I had already conceived.  
Though time seemed short—  
Eight hours but a moment—  
It was a moment containing eternity.*

*Tapping out these words,  
My mind wanders into other worlds,  
Worlds full of you;  
Reality fantasies lure me away  
From this machine,  
And before I know it,  
The minute-hand on this other  
Machine they've installed,  
Has made half a revolution.*

*Goodbye—goodnight  
I'm going early to  
That other cell  
To rejoin you.  
I love you  
I love you with love  
Unbounded  
Unconquerable.*

**T**HERE WAS A WOMAN by the name of Elizabeth Barret Browning who also had the ability to write of her love. She is revered and she is respected, and I don't think that anybody ever would say that because she had the ability to recite her love and her affection for another human being, that that was some evidence of some criminal intent, or plan, or conspiracy, or motive.

The life of my people, ladies and gentlemen, has been one of tragedy, oppression, and hatred, and injustice. The life of Angela Davis for the last two years has been one of terror and of agony. This case, in my opinion, has been a sorry stain—a sorry chapter on the history of justice in this country.

But the last chapter has not yet been written. Some of you may ask the question, why didn't the Defense answer this? Why didn't they answer that? I remind you once again that it is not the burden of the Defendant to answer anything in this case or any criminal case. Some of you may wonder why it is in a case that lasts for three months, that the Defendant herself did not testify. I am not going to comment or attempt to explain to you why she did not testify. Some time, when this case is over, we will talk about it.

At this time all I want to say is that the Judge is going to give you an instruction which tells you that it is a constitutional right of a defendant in a criminal trial not to testify and that you are to draw no inference of guilt from her failure to testify. You are not to discuss it, and it is not to enter into your deliberations at all, and each of you before this case started, raised your hand, and you promised—you promised that you would follow the law as given to you by his Honor, whether you agreed with that law or not.

We think that, under the instructions of this case and on the basis of the evidence which has been heard in this case, that, far from the situation of an Angela Davis appearing in chains that are symbolic, that, when the case is over, what will happen with you is to pull away these chains (indicating) as I have pulled away that piece of paper from across that symbolic photograph because



Credit: Howard Harrison

**FREED ON BAIL!** (left to right) Kendra Alexander (NUCFAD), Stephanie Allan (NUCFAD), Howard Moore, Tony Estemarra (San Jose Community Alert Patrol) walking towards the North Palo Alto jail with Angela Davis's bail, February, 1972.



(left to right) Luis Figueroa (Chilean trade union leader), Gus Hall (CPUSA), Angela Davis, Sallye Davis at dinner celebrating Angela's freedom on bail.

that's where the chains should be in this case—broken and bent and destroyed, because there is no evidence in this case with which my client can be convicted.

Ladies and gentlemen, before I came here, my friends told me that I could not get a fair trial for Angela Davis in this county; I could not find 12 white people who would be willing to be fair to a black woman charged with the serious crimes with which she is charged in this case.

But I tell you, Mr. DeLange, and you, Mr. Gaetani, Mrs. Charlton, Mr. Seidel, Mr. Messer, Mr. Franco, Mrs. Timothy, Miss Savage, Mrs. Frederick, Miss Walker, Mrs. Wade, Mrs. Ryon, and any of the three alternates who might eventually sit on this case, you have an opportunity to be a part of history. You have heard one of our expert witnesses in this case explain the desire to be a part of history. Whether you want to or not, you are going to be a part of history. We on the Defense are a part of history. We have labored hard and long to try to get over to you the gigantic hoax that has been committed, not only against this defendant but against the name of American justice in this country.

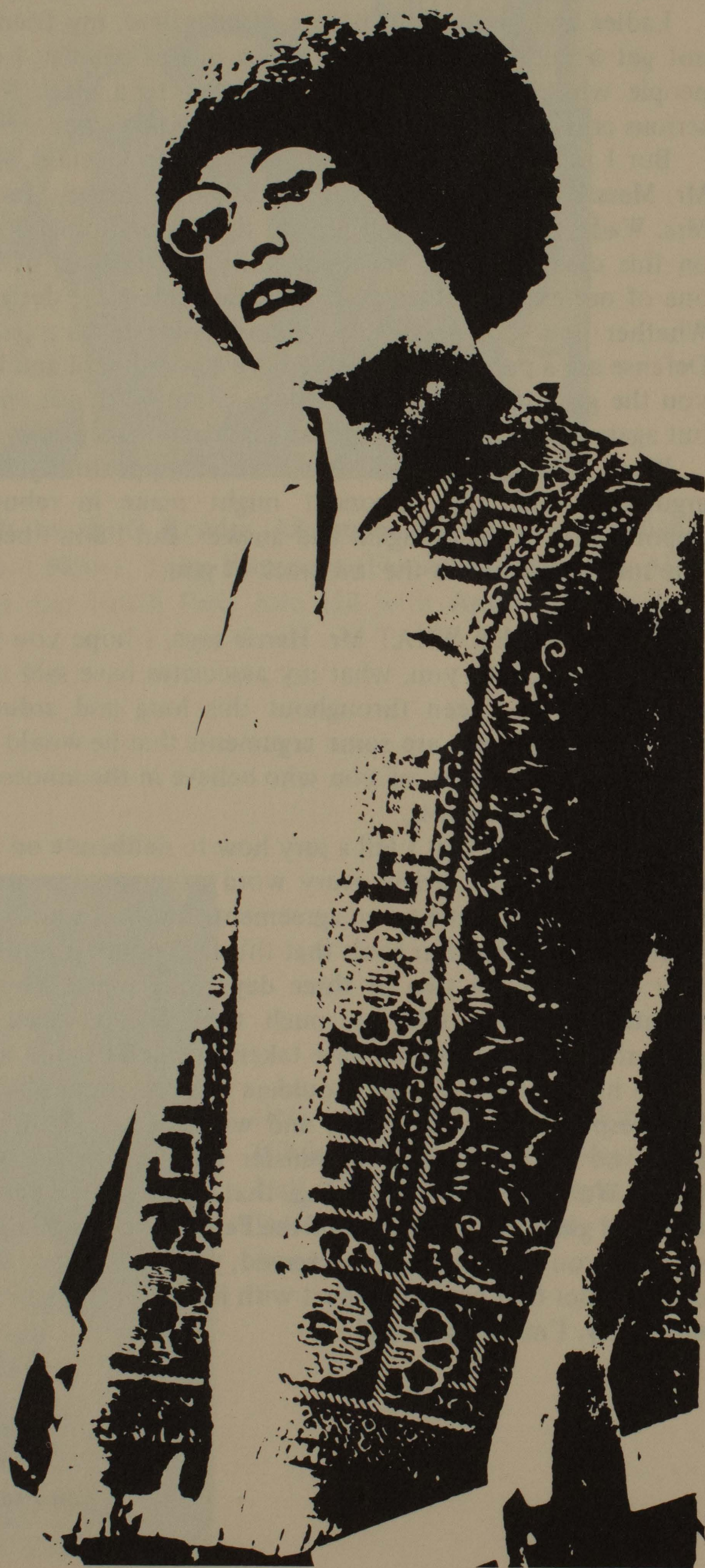
When I sit down, I will not have an opportunity to respond to any of the arguments that my opponent might make in rebuttal. I wish I had the opportunity to get up again and answer. But I don't because that's not the rule. The rule is that he has the last crack at you.

**N**O MATTER WHAT Mr. Harris says, I hope you will keep in mind what I have said to you, what my associates have said to you, and what you've heard and seen throughout this long and arduous task that you have undertaken. If there are some arguments that he would make that you feel need answering, I ask those of you who believe in the innocence of this Defendant to answer those arguments.

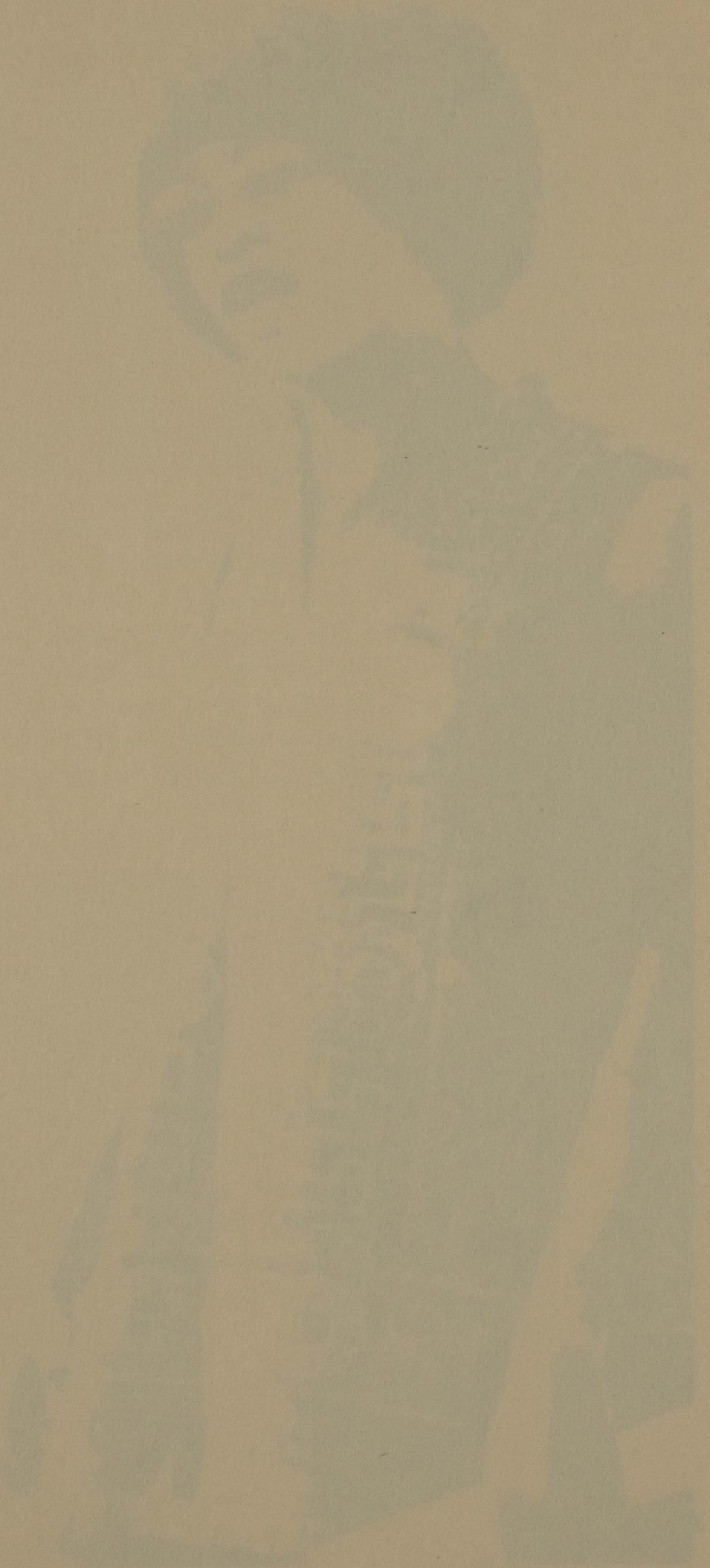
It is not often that I tell a jury how to deliberate on a case. Some juries think that they have to review every word of testimony and look at every exhibit before they can come to an agreement. But that's not necessary. If you know in your hearts and in your souls that this Defendant is not guilty, you don't have to stay out there for two or three days or a week. You can come back in five minutes. But you take as much time as you need because we, who have presented this case to you, have taken as much time as we felt we needed.

We have carried on our shoulders a great responsibility. We've tried to carry that responsibility with truth and with dignity. With these last few words of mine, we are now going to transfer that responsibility from our shoulders to yours. We hope that in so doing, that when you 12 people, tried and true, write the final chapter in the case of the **People—vs—Angela Davis**, you will be able to say that you were chosen, you served, you considered, and you brought back the only verdict that could comport with justice in this case,—and that is a verdict of **not guilty**. I'm sure you will.

*National United Committee  
to Free Angela Davis  
and All Political Prisoners  
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Credit: Marque C. Neal





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