

Jury rules slain prisoners were 'set up'

By **KAREN WALD**
Guardian Bureau

San Francisco

California inmates and, in effect, prisoners throughout the country, won a major victory April 9 when a civil jury found eight Soledad Prison guards and administrators responsible for the intentional slaying of three Black prisoners in January 1970.

The all-white, three-man, three-woman jury determined that the prisoners had been "set up" for the killing and that prison officials were liable for their deaths. The jury will determine the amount of damages to be awarded to the families of the slain men this week. The families are asking for \$1.2 million.

The three slain men, W.L. Nolen, 25, Alvin Miller, 23, and Cleveland Edwards, 20, were shot by O.G. Miller, a gun tower guard and one of the defendants in the suit, on the opening day of the "O" Wing exercise yard. A campaign designed to stir up race hatred was engineered by authorities for several months before the exercise yard was opened, attorney Melvin Belli, representing the families, maintained. The seven Black and eight white prisoners held in the maximum security wing of the Soledad prison were told deliberate lies by the guards about what the "others" were saying and planning against them. The object of the campaign was to instigate a fight between Black and white prisoners once the exercise yard was opened.

The official prison administration story was that the guard saw two Black prisoners "severely beating a white prisoner" and blew a warning

whistle, fired two warning shots and then fired at the feet of the two Black prisoners. When the guard, an acknowledged marksman, had finished shooting four bullets, Nolen and Miller each had a bullet in the heart, Edwards had been shot in the side and a fourth prisoner was wounded in the groin. There were no other serious injuries to indicate any major fight or severe beating had taken place.

RACIST SET-UP

Addie Miller, Nolen's mother, testified that her son had told her several months before the opening of the exercise yard that a set-up was planned by prison officials to get rid of the Black organizers in the institution. The three slain men were well-known for their militancy and support for prisoners' struggles.

"My boys never came crying to me about anything," Nolen's mother said. "I knew that if he was telling me he was afraid they were going to kill him when that exercise yard opened, he must know what he was talking about."

Despite evidence exposing the intentional slaying of the three men, the case was delayed for over five years. The prisoners' deaths were ruled "justifiable homicide" by the original Salinas County grand jury that investigated the shootings in 1970. A half-hour after the "justifiable homicide" verdict was aired on the prison television, a white guard was discovered dead in "O" wing.

George Jackson, charged along with Fleeta Drumgo and John Cluchette with murdering the guard, was later killed in an alleged escape attempt from the San Quentin Adjustment Center. Drumgo and Cluchette were later acquitted of the murder charge. The trial of the San Quentin Six on charges stemming from Jackson's alleged escape attempt began at the same time as the proceedings in the civil suit against the Soledad prison officials.

The case presented on behalf of the slain prisoners' families convinced the jurors that the prison was responsible—through intent or negligence—for the murder of the three young Black men. The jury apparently did not believe that the tower guard—an acknowledged expert marksman who "could shoot an apple off a man's head at 150 feet"—had "accidentally" hit two men in the heart from 80 feet. Or that he had fired two warning shots, thus killing three men and wounding a fourth with only two bullets.

*Soledad Brothers
[from left] Fleeta
Drumgo, John
Cluchette and the late
George Jackson.*



warden and other officials, had deaths, they must also have been several prisoners, ex-inmates and told them of the inhuman conditions were forced to live under at Soledad intense racism instigated and perpetrated officials who ran the prison.

Prison and state officials in California viewing this precedent-setting decision as an apparent concern, while the prisoners regard it as a major victory. Since the federal civil rights suit, the decision has important implications for prison states. Although it cannot eliminate the brutality inherent in the capitalist system, it does signal a departure from the policy that a guard could kill a prisoner with impunity.

'Peoples music in N.Y.C.'

A rare double bill of "people music" featuring Barbara Dane and The Human Condition with Beverly Grant—for one week only in a New York club April 30-May 4.

Barbara Dane, who has sung of antiwar rallies and mass demonstrations will present a program combining her repertoire of blues and jazz with temporary songs of political struggle as a national reputation in the 1950s as a blues-oriented artist singing with Teagarden, Louis Armstrong, Waters and her own trio. She began her commercial career at the height of the Vietnam war in order to counter her efforts on the struggle against imperialism. She became the best-selling GI's singer, the artist who visited every GI organizing project in Japan, Okinawa and the Philippines.

The Human Condition with Beverly Grant is a young folk-blues-rock band with energy and style whose sound has a working-class orientation. They have appeared on many programs sponsored by people's organizations.

The combined show will be held at Folk City, 130 W. 3rd St. (nr. 6th St.) through Sun., April 30 to May 4 on Wed., Thurs. and Sun. with a \$2.50 admission. Fri. shows are at 9, 11 and 1 am with a charge. For reservations, call (Mike Porco).

Soledad verdict: 8 officials responsible

By Tom Hall

Eight current or former Soledad prison officials are responsible for the deaths of three black convicts shot from a gun tower there, a federal jury here ruled yesterday.

The verdict, returned after less than five hours' deliberation by an all-white jury of three women and three men, ended the first phase of a civil rights trial which began in U.S. District Judge Samuel Conti's court last March 24.

The next phase of the trial, to determine the amount of damages, is scheduled to begin April 21. The complaint, filed on behalf of relatives of the slain convicts, asked for \$1.2 million.

Ten persons were named in the original action, but the jury absolved two of them—William H. Merkle and Manuel Cortez—of liability.

The three convicts—W. L. Nolen, 25; Alvin Miller, 23, and Cleveland Edwards, 20—were shot to death Jan. 13, 1970, during an interracial melee in the exercise yard of Soledad's maximum security "O" Wing.

Because the second phase of the trial remains to be completed, Judge Conti instructed the jurors—limited to six by agreement of attorneys for both sides—not to discuss the verdict.

One of the plaintiffs' attorneys, Scott Hansen, speculated however that Merkle and Cortez were not in the

chain of command which ran from gun tower officer O. G. Miller up to then superintendent C. J. Fitzharris.

Merkle, now an information officer at San Quentin, was head of the Soledad security guard at the time of the shooting and Cortez was a member of the guard.

Those held responsible were Fitzharris, now retired; Miller, the actual trigger man in the incident; Clemitt Swagerty, Eugene A. Peterson, W. H. Eads, Richard Maddix, Jose Moto and James Dykes.

Swagerty, now at San Quentin, was deputy superintendent at the time of the shooting; Peterson was a program administrator; Eads was a program lieu-

tenant; Maddix was a sergeant assigned to "O" Wing, no longer at Soledad; Moto is a correctional counselor, and Dykes, also no longer at the prison, was an "O" Wing guard.

The suit was brought on behalf of Nolen's parents, O. C. and Addie Nolen and his young son Antoine; Perry Miller, Alvin's father and the slain convict's son Alvin Jr., and Mrs. Susie Edwards, mother of Edwards.

Mrs. Nolen, who with her husband was in court for every session of the trial, said after the verdict was returned:

"I'm happy because I feel my son was murdered. It's been really hard on me and it's difficult to express myself."

Melvin Belli, also an attorney for the plaintiffs, had charged in his opening statement that the three convicts were slain as part of a conspiracy among prison officials.

He said they were deliberately set up for assassination as a result of racial hatred borne toward black inmates.

Eight whites and eight blacks were chosen to go into the exercise yard "as a setup to get rid of the most notorious ringleaders," Belli charged.

During the trial Raymond Procnier, now head of the state parole board and then corrections director, testified that while the shooting was "a disaster," it was not "a result of anybody's delib-

erate or intentional planning."

Gun tower officer Miller, now retired and living in Germany, returned to the United States to testify.

He said that when the racial brawl broke out among the 16 men in the yard, he first blew a warning whistle, then fired two warning shots.

When that failed to halt the fracas, he said, he fired twice more at the "lower extremities" of the men in the yard. Two of the slain convicts were shot in the chest.

Three deputies of the state attorney general's office represented the prison officials—Charles R. B. Kirk, Wayland Robertson and Jay Henderson.

SOLEDAD

JAN 13, 1970

Prisoners **NOLAN,**
EDWARDS & MILLER
shot to death by guard

(□) HUGO PINELL
filed affidavit
against prison

(*) ANGELA DAVIS
WORKS FOR
SOLEDAD defense

(△) WILLIE TATE
(*) DAVID JOHNSON
(□) RUCHELL HAGEE
file affidavits
against prison

SAN QUENTIN

FEB 26, 1970

Prisoner **FRED**
BILLINGSLEA
gassed to death by guard

JAN 16, 1970

(+) GEORGE JACKSON
(○) FLEETA DRUMGO
JOHN CLUCHETTE
accused of killing
guard in retaliation

JULY, 1970

SOLEDAD 7 accused
of killing second guard
in retaliation
(charges eventually
dismissed - may '71)

JULY, 1971

GIBSON & JUSTICE
accused of stabbing
guard protecting
snitch
(awaiting trial)

MARCH 2, 1970

JAMES McCLAIN
accused of assaulting
guard in retaliation

AUGUST 7, 1970

JONATHAN JACKSON attempts
to free McCLAIN, HAGEE &
WILLIAM CHRISTMAS from
Marin Courtroom & take
hostages to exchange
for SOLEDAD BROTHERS

(*) ANGELA DAVIS &
(□) RUCHELL HAGEE
accused on murder
& conspiracy
(*) on trial
(□) awaiting trial

AUGUST 21, 1971

(+) GEORGE JACKSON shot to death
by San Quentin prison guard
(○) F. DRUMGO (△) WILLIE TATE
(□) H. PINELL (*) DAVID JOHNSON

L. TALAMANTEZ J.L. SPAIN
(active in interracial organizing)

& STEVE BINGHAM
accused of murder & conspiracy

Attica

MEN NOT BEASTS ..A list of demands issued by the rebelling Attica prisoners

We, the men of Attica Prison, have been committed to the New York State Department of Corrections by the people of society for the purpose of correcting what has been deemed as social errors in behavior. Errors which have classified us as socially unacceptable until re-programmed with new values and more thorough understanding as to our value and responsibilities as members of the outside community. The Attica Prison program in its structure and conditions have been enslaved on the pages of this Manifesto of Demands with the blood, sweat, and tears of the inmates of this prison.

The programs which we are submitted to under the facade of rehabilitation are relative to the ancient stupidity of pouring water on a drowning man, inasmuch as we are treated for our hostilities by our program administrators with their hostility as medication.

In our efforts to comprehend on a feeling level as existence contrary to violence, we are confronted by our captors with what is fair and just, we are victimized by the exploitation and the denial of the celebrated due process of law.

In our peaceful efforts to assemble in dissent as provided under this nation's U.S. Constitution, we are in turn murdered, brutalized, and framed on various criminal charges because we seek the rights and privileges of all American People.

In our efforts to intellectually expand in keeping with the outside world, through all categories of news media, we are systematically restricted and punitively remanded to isolation status when we insist on our human rights to the wisdom of awareness.

Manifesto of Demands

(1) We demand the constitutional rights of legal representation at the time of all parole board hearings and the protection from the procedures of the parole authorities whereby they permit no procedural safeguards such as an attorney for cross-examination of witnesses, witnesses in behalf of the parolee, at parole revocation hearings.

(2) We Demand a change in medical staff and medical policy and procedure. The Attica Prison hospital is totally inadequate, understaffed, and prejudiced in the treatment of inmates. There are numerous 'mistakes' made many times; improper and erroneous medication is given by untrained personnel. We also DEMAND periodical check-ups on all prisoners and sufficient licensed practitioners 24 hours a day instead of inmates' help that is used now.

(3) We Demand adequate visiting conditions and facilities for the inmate and families of Attica prisoners. The visiting facilities at the prison are such as to preclude adequate visiting for inmates and their families.

(4) We Demand an end to the segregation of prisoners from the mainline population because of their political beliefs. Some of the men in segregation units are confined there solely for political reasons and their segregation from other inmates is indefinite.

(5) We demand an end to the persecution and punishment of prisoners who practice the Constitutional Right of peaceful dissent. Prisoners in Attica and other New York prisons cannot be compelled to work as these prisons were built for the purpose of housing prisoners and there is no mention as to the prisoners being required to work on prison jobs in order to remain in the mainline population and/or be considered for release.

Many prisoners believe their labor power is being exploited in order for the state to increase its economic power and to continue to expand its correctinnal industries (which are million-dollar complexes), yet do not develop working skills acceptable for employment in the outside society, and which do not pay the prisoner more than an average of forty cents a day. Most prisoners never make more than fifty cents a day. Prisoners who refuse to work for the outrageous scale, or who strike, are punished and segregated without the access to the privileges shared by those who work; this is class legislation, class division, and creates hostilities within the prison.

(6) We Demand an end to political persecution, racial persecution, and the denial of prisoner's rights to subscribe to political papers, books, or any other educational and current media chronicles that are forwarded through the U.S. Mail.

(7) We Demand that industries be allowed to enter the institutions and employ inmates to work eight hours a day and fit into the category of workers for scale wages. The working conditions in prisons do not develop working incentives parallel to the many jobs in the outside society, and a paroled prisoner faces many contradictions of the job that add to his difficulty in adjusting. Those industries outside who desire to enter prisons should be allowed to enter for the purpose of employment placement.

(8) We Demand that inmates be granted the right to join of form labor unions.

(9) We Demand that inmates be granted the right to support their own families; at present, thousands of welfare recipients have to divide their checks to support their imprisoned relatives, who without the outside support, cannot even buy toilet articles or food. Men working on scale wages could support themselves and families while in prison.

(10) We Demand that correctional officers be prosecuted asa matter of law for any act of cruel and unusual punishment where it is not a matter of life and death.

(11) We Demand that all institutions using inmate labor be made to conform with the state and federal minimum wage laws.

(12) We Demand an end to the escalating practice of physical brutality being perpertrated upon the inmates of New York State prisons.

(13) We Demand the appointment of three lawyers from the New York State Bar Association to full-time positions for the provision of legal assistance to inmates seeking post-conviction relief, and to act as a liason between the administration and inmates for bringing inmates' complaints to the attention of the administration.

(14) We Demand the updating of industry working conditions to the standards provided for under New York State law.

(15) We Demand the establishment of inmate worker's insurance plan to provide compensation for work-related accident.

(16) We Demand the establishment of unionized vocational training programs comparable to that of the Federal Prison System which provides for union instructions, union pay scales, and union membership upon completion of the vocational training course.

(17) We Demand annual accounting of the Inmates Recreational Fund and formulation of an inmate committee to give inamtes a voice as to how such funds are used.

(18) We Demand that the present Parole Board appointed by the Governor be eradicated and replaced by the parole board elected by popular vote of the people. In a world where many crimes are punished by indeterminate sentences and where authority acts within secrecy and within vast discretion and given heavy weight to accusations by prison employees against inmates, inmates feel trapped unless they are willing to abandon their desire to be independent men.

(19) We Demand that the state legislature create a full-time salaried board of overseers for the State Prisons. The board would be responsible for evaluating allegations made by inmates, their families, friends and lawyers against employers charged with acting inhumanely, illegally, or unreasonably. The board should include people nominated by a psychological or psychiatric association, by the State Bar Association or by the Civil Liberties Union and by groups of concerned involved laymen.

(20) We demand an immediate end to the agitation of race relations by the prison administration of this State.

(21) We Demand that the Dept. of Corrections furnish all prisoners with the services of ethnic counselors for the needed special services of the Brown and Black population of this prison.

(22) We Demand an end to the discrimination in the judgement and quota for parole for Black and Brown people.

(23) We Demand that all prisoners be present at the time their cells and property are being searched by the correctional officers of state prisons.

(24) We Demand an end to the discrimination against prisoners when they appear before the Parole Board. Most prisoners are denied parole solely because of their prior records. Life sentences should not confine a man longer than 10 years as 7 years is the considered statute for a lifetime out of circulation, and if a man cannot be rehabilitated after a maximum of 10 years of constructive programs, etc., then he belongs in a mental hygiene center, not a prison.

(25) We Demand that better food be served to the inmates. The food is a gastronomical disaster. We also demand that drinking water be put on each table and that each inmate be allowed to take as much food as he wants and as much bread as he wants, instead of the severely limited portions and limited (4) slices of bread. Inmates wishing a pork-free diet should have one, since 85% of our diet is pork meat or pork-saturated food.

(26) We Demand an end to the unsanitary conditions that exist in the mess hall: i.e., dirty trays, dirty utensils, stained drinking cups and the end to the practice of putting food on the tables hours before eating time without any protective covering over it.

(27) We Demand that there be one set of rules governing all prisons in this state instead of the present system where each warden makes rules for his institution as he sees fit.

In Conclusion

We are firm in our resolve and we demand, as human beings, the dignity and justice that is due to us by our right of birth. We do not know how the present system of brutality and dehumanization and injustice has been allowed to be perpetrated in this day of enlightenment, but we are the living proof of its existence and we cannot allow it to continue.

The taxpayers who just happen to be our mothers, fathers, sisters, brothers daughters and sons should be made aware of how their tax dollars are being spent to deny their sons, brothers, fathers and uncles of justice, equality and dignity.

*** The above demands were presented at the outset of the rebellion. In addition, the prisoners made the three key demands of passage to a nonimperialist country, the firing of warden Mancusi, and complete amnesty. These key demands were unconditionally refused by Governor Rockefeller and his prison hacks.

(distributed by Prison Action Project 1/27/72)