

Viera-Fuller

The Trial Continues at the Railroad Station

Sam Stark

1970

A little more than a year ago, David Brown, Jr. of Compton, California sat isolated and frightened in a Wayne County jail cell awaiting trial on charges of assault with intent to commit murder.

He was charged with having shot at Detroit Patrolman Harkewitz from a loft inside the New Bethel Baptist Church on the night of March 29, 1969.

The incident occurred after members of the Detroit Police Department shot up the church located at Linwood and Philadelphia, where a meeting of the Republic of New Africa had just ended.

With one Detroit police officer lying dead on the sidewalk along Linwood and another en route to Ford Hospital critically wounded, Brown was swiftly arrested and taken Downtown after first being beaten by officers inside the church who called him "nigger", accused him of killing their partner and kicked him several times in the head and groin.

Although faced with a possible sentence of life imprisonment if convicted, Brown rarely saw his court-appointed attorney. He was later to express his dissatisfaction with attorney Robert Mitchell who did not even leave Brown a telephone number where he could be reached. Although Brown requested a new lawyer, he was "stuck", as he said, with Mitchell for his four months in jail.

By contrast, Brown met frequently with Detective Sergeant Henry LaHouse and various other members of the Homicide Bureau as well as representatives of the Wayne County Prosecutor's office.

He was also visited by his father who flew to Detroit after receiving a letter from his son. Although Mr. Brown had no way of meeting his son's bond which had been set at \$50,000, he told him that he was "going to see the detectives to see what I could do."

During the examination of one of the accused last July, David Brown testified that his father had informed him that they were more interested in getting the one who shot the police officer than you."

In a meeting April 8 in the office of the Homicide Bureau, Brown made his first statement regarding the events of March 29. Present at the meeting were Detectives LaHouse, Kroll, Eljay, Bowron, and David Brown Sr.

Attorney Mitchell was not mentioned as having attended that meeting with his client. A defendant, of course has a Constitutional right to have an attorney present whenever he makes a statement.

After making the statement in which he implicated members of the RNA's Black Legion in the shootings, David Brown was transferred from his jail cell to a single room in Police Headquarters with a private bathroom and a shower. He gained 15 pounds during his stay there.

A little more than a week ago, David Brown Jr., was back in Detroit sitting in a Downtown hotel, where all his expenses were paid by Detroit Recorder's Court, including his round-trip air plane ticket from California. He was waiting to testify against Rafael Viera, Chief Medical Cadre of the New York Young Lords who is currently on trial, charged with the killing of Patrolman Michael Czapski.

Clarence Fuller, Brother Chaka, the other defendant, is charged with shooting Patrolman Richard Worobec. He faces the same charges David Brown was faced with.

Never brought to trial, Brown, who is black, is presently serving out a three-year probation back home in California for attempting to murder a white Detroit police officer.

The charges, though, have never been dropped and may be reinstated at any time that the prosecutor chooses.

Upon the witness stand in Judge Horace W. Gilmore's City-County Building courtroom, David Brown, Jr., declared he was testifying against Rafael Viera "to see that justice was done."

And there is no question that David Brown Jr., even more so than Prosecutor Robert Harrison, who lost the first New Bethel trial last December when Alfred Hibbit was acquitted, has sufficient reasons for seeing "justice done" and Rafael Viera put behind bars for life.

Brown exists as the key witness in the New Bethel trial because Prosecutor Harrison has no case against Rafael Viera nor even a case to justify the actions of the Detroit Police Department in shooting up the church.

When the trial ends in the next couple of weeks, Prosecutor Harrison will probably argue before the jury that David Brown stuck by his testimony and that it is corroborated by every other witness to testify during the trial.

Brown's testimony is about as air-tight as a summer porch screen. And the only person who will corroborate his testimony will be Harrison himself when he presents his far-out theory on how Rafael Viera shot the policeman. In the Hibbit trial, Harrison's theory of the shooting, intended to explain away the absence of the murder weapon and the missing bullet shells was that as Alfred Hibbit shot from a bolt-action M-1 rifle, he reached down and scooped up each shell and tossed them, along with the weapon into the back seat of a White Cadillac which was waiting there to take them away.

This was supposed to have all happened within the span of 12 to 30 feet from the nearest street light.

Based on Brown's testimony given in this trial, Harrison will have to come up with an equally outrageous theory. This time, he will be telling it to a jury that, thanks to the jury selection challenge, consists of 12 Blacks and two whites.

Worobec's story is that he and his partner, Michael Czapski, decided to sign out a half hour early that night, and to avoid 12th Street and the likelihood of trouble there, followed a course west on Euclid to Linwood where they turned north. At that point, Worobec testified, he saw a white Cadillac double-parked on Linwood one block north at Philadelphia and beside it were 8 to 12 men in military uniforms carrying rifles.

Upon reporting this to the station, Worobec said Czapski jumped out of the car as he "goosed" it past a "lone Negro Male" who was isolated from the group. By that time, Worobec said, the men had dispersed after first raising their rifles above their heads. Worobec was later quoted in the April 13, 1969 issue of the Detroit News that the "gunmen had fled back into the church because that is where I saw them."

According to where he himself positions his car in his testimony, Worobec would have had to observe them through a brick wall. It was Worobec's statement that the gunmen fled back into the church which was used by then — Commissioner Spreen to justify the shooting into the church.

Let us compare Brown's testimony at this stage. Whereas Worobec places a white Cadillac on Linwood, Brown says that the car Milton Henry owned was a White Cadillac at the time of the shooting.

At no time, during the 7 to 14 minutes he claims to have been present on the street corner at Linwood and Philadelphia did Brown say he ever saw a group of 8 to 12 men raise rifles above their heads and flee. If David Brown was where he said he was at the time he said he was, the men would have had to run past him while he was out there.

In testimony May 12, Brown described that the passenger officer (Czapski) "got out of the car and walked towards the men in a regular way." This contradicted his own testimony of June 30, 1969 in pre-trial examination when he said that the officer "got out fast."

Czapski, Brown insists, walked in a northerly direction toward four men standing near a door at the side of the church. Worobec claims he is absolutely certain that his partner walked south to the sidewalk and approached a lone male and that he saw no one at the corner. The group of four men that David Brown saw, included, he said, Alfred Hibbit and Rafael Viera and two others he could not identify.

This would seem to be a major discrepancy between two witnesses who Prosecutor Harrison asserts corroborate one another one hundred percent.

In a statement taken by Detective John Manniaci two days after the incident, Worobec described the man who his partner approached as "about the same size as Czapski, but thinner."

Patrolman Czapski, according to the coroner, was six feet tall and weighed approximately 208 pounds. Viera stands approximately 5 feet 6 inches and weighs 135 pounds, while Chaka is only slightly taller at 5 feet 7 inches and weighs 135 pounds.

Worobec no longer holds to that description or anything else he said in that March 31, 1969 statement except the part about the men entering the church.

Originally, he stated that he was shot in the thigh from “an unknown direction.” Two weeks ago, -more than one year after the incident, Worobec’s testimony and memory have improved on “certain points” and now he says the shot came from his left, that is, from the place where Brown says the four men were standing.

There are inconsistencies within Brown’s own testimony. In the Hibbitt trial, he testified that only three men did the shooting. In the Viera-Fuller trial, he said all four men fired shots. When cross-examined about this, he attempted to clarify his remarks with, “I’m assuming the fourth man was firing.”

Brown is equally uncertain about whether he entered the church before or after Viera.

There are other matters in Brown’s testimony which raise questions of credibility regarding his testimony. While Patrolman Harkeqitz insisted in the Hibbitt trial that it was Brown who shot at him from inside the church with an automatic pistol taken from the floor beside Brown when he is believed to have fallen from the loft, Brown denies that he was in the loft or that he had in his possession an automatic pistol which belonged to a friend or that he shot at anybody.

David Brown has never sought to bring perjury charges against Officer Harkewitz. Nor has he ever filed a complaint of Police Brutality against the officers who beat him in the church.

Although not a weapons expert, David Brown said he could identify Viera from having seen him at a meeting earlier in the day of March 29 because Viera, a light-skinned Puerto Rican, at a Black Nationalist convention was carrying a “nickel-plated, bolt action rifle,” the supposed murder weapon.

David Brown is the key witness against Rafael Viera. If Viera is found guilty, and a verdict of guilty means a mandatory life sentence, it will be Brown’s testimony that will have convicted him.

It seems inconceivable that any jury of fair-minded persons could convict a man based on testimony filled with such contradictions and discrepancies by a witness who has an obvious self-interest in the outcome of the trial.

But, on the other hand, it seemed inconceivable that the masquerade could have gone on this long.

Related

See other articles on this site.

fifth Estate

Sam Stark
Viera-Fuller
The Trial Continues at the Railroad Station
1970

<https://www.fifthestate.org/archive/106-may-28-june-10-1970/viera-fuller>
Fifth Estate #106, May 28-June 10, 1970

fifthestate.anarchistlibraries.net