

This One's Ours

J.R. Kennedy

1970

After only three hours of deliberation on December 22 a half black half white Detroit Recorder's Court jury found Alfred Hibbitt, member of the Black Legion, the paramilitary arm of the Republic of New Africa (RNA), innocent of assault with intent to kill. This was the first of three trials that are the result of charges stemming from a shooting at the New Bethel Church last March.

In that incident one Detroit officer was killed and another wounded, along with four members of the RNA. A national convention of the RNA was being held at New Bethel and following the shootings outside, the Detroit Police Department launched an attack against the Church. Four RNA members were wounded and 142 people, including several children, were arrested.

Controversy was intensified when black Judge George Crockett released some of the prisoners when he found that they were being held illegally.

Rage swept through the black community with street protest against the Detroit Police Department and in support of Judge Crockett. The final result was further polarization of Detroit's black and white community with the local newspaper media coming under severe criticism for their racist reporting of the incident.

The issue is far from settled however. Not only is it still a vital issue in the minds of many community residents, but the extent to which the racist legal institutions in this city are willing to go remains to be seen.

Besides Alfred Hibbitt, Raphael Viera and Clarence Fuller have also been charged in the shootings. Their charges carry sentences of life imprisonment. The first trial (of Hibbitt) ended on December 22 after lasting for more than five weeks. The lawyers that defended him were Ken Cockerel, Milton Henry, and Chuck Ravitz.

Sam Stark, a local movement activist, became the jury foreman of the Hibbitt trial through a strange set of circumstances. He recently related to the Fifth Estate his own impressions and experiences of that trial.

When he was originally tapped for jury duty he was not involved with politics, but was employed as a bookkeeper with an electrical contractor and lived in Northwest Detroit. Because of this mild background he slipped through the initial screening process that ordinarily excludes anyone who does not blend into the homogeneous middle-class stream of things.

Since that time Sam Stark became involved first with the Eugene McCarthy Presidential campaign and then with the Grape Boycott. He currently is a community organizer with People Concerned About Urban Renewal (PCAUR) which is a grass roots organization that is gaining wide community support in the Warren-Forest area. Stark himself often advocates militant confrontations to achieve community control.

When the jury selection process arrived at the crucial stage when the defense and prosecution were questioning prospective jurors, Stark was still able to get through. When the time to question him arrived, Stark said that the prosecution had been questioning all day and was extremely tired. He never asked Stark any heavy questions that would have revealed his political positions. He stated that Cockerel's examinations during this period were brilliant. Cockerel was able to bring out the middle class racism that was held by most of the jurors.

Stark now questions the entire selection process itself in that any individual who is not from a "very straight middle-class background and appearance" does not stand a chance of selection except as he himself did—by acci-

dent. He pointed out that one of the questions asked by Cockerel was, "What is your attitude toward the policies and programs of The Republic of New Africa?" He stated that every juror except himself, who was never asked that question, indicated that they were strongly opposed to the RNA.

During the trial itself Stark became convinced that the individuals accused by the State were arbitrarily selected for prosecution and bore no relation to the objective facts.

Hibbitt was charged because a photograph, seized during the raid on the church, showed him in uniform as an honor guard at the convention. Viera was charged because he stood out as the only non-black member of the Black Legion.

The entire prosecution case against these men is based upon the testimony of David Brown who, Stark felt, was easily discredited. He stated that Brown's testimony was "received through intimidation and bribery" and then molded to fit the prosecutions presuppositions.

David Brown, who attended the RNA Convention, was originally charged with assault also. A policeman stated that he was fired upon by Brown from inside the church. Brown was held in jail under \$50,000 bail from March to August 1st. During that time he seldom saw his court appointed attorney, but was visited frequently by many members of the Police Department and the prosecutor's office.

Then suddenly Brown was released under the Holmes Youthful Offenders Act to the custody of his -parents and emerged as the prosecution's star witness.

The Holmes Act states that individuals who commit felonies, but are not yet 20 years of age, can be given special treatment. They are usually charged with minor felonies and are sent to Camp Pugsley rather than to Jackson Prison. Brown however was charged with a major felony and was never sent to any prison.

The actions were instituted by Judge Joseph Gillis who twisted the act to make it fit this situation. The act specifically states that the individual concerned must not have reached the age of twenty. All of the police records introduced at the trial listed that David Brown's age was 20. While at the examination before Judge Gillis it was listed as 19.

The testimony of Gillis' court proceedings were introduced to the Hibbitt trial as evidence. Stark said he was amazed to note that when the testimony of that hearing was read, Gillis asked Brown what his birth date was and Brown stated that it was 1949. Judge Gillis then stated, "You mean 1950, don't you?", and Brown then answered, "Oh, yes I mean 1950."

Aside from the obvious collusion between this witness and the prosecutor's office, David Brown's testimony was confused and garbled. He continually contradicted himself with respect to time and place. He further contradicted the testimony of another witness, Randy Costan.

Randy Costan is a YMCA worker from Boston, who, according to Brown's testimony, was with him when he supposedly says Hibbitt shot one of the police officers. Costan totally refuted Brown's testimony and stated that neither he nor Brown saw anything together. He went on to say that the only time they left the church together, they were walking away from the corner where he and Brown were supposed to have witnessed the shootings.

Brown's further testimony was discredited by other witnesses. All thirteen major eyewitnesses stated that they saw only one gunman, and none of them could identify that gunman as Hibbitt. Brown had stated that there were several gunmen, one of which was Hibbitt.

The prosecutor in this case, Robert Harrison, was unable to reconcile the continual inconsistencies of testimony. David Brown himself also testified that he was brutally beaten by the police officers when they found him, after the raid, in the loft of the church. He stated that he was kicked in the head and the groin at least three times and that various police officers used "racist epithets".

He also told how he was forced to wear a police helmet and his head was pushed through an opening into the loft because the police wanted to find out if any armed members were still there. Randy Costan who refuted earlier parts of Brown's testimony confirmed the police beatings and the "racist epithets," yet all of the police who testified at the trial contended that no such things occurred.

Randy Costan also went on to say that Detective Eljay Bowron, a close associate of Mayor Gribbs, who was in charge of the entire New Bethel investigation, had tried to bribe and intimidate him. He said that Bowron had visited him at his work in Boston and had tried to put Brown's words into his mouth in an attempt to further build his case. Credibility was further challenged when Detective Bowron tried to deny that he was the officer in charge

of the investigation, although his name appeared at the bottom of arrest papers as the officer in charge. Stark said that he could not understand why the detective would make such an obvious lie unless he really assumed that the jurors were “deaf and ignorant.”

Afterwards when the trial was completed Stark went back and read the media accounts of the trial and pointed out that if the Detroit newspapers had been his only source of information, he would have found Hibbitt guilty based upon their biased reporting. Stark tried to relate the mood of the entire trial.

He stated, “I cannot describe or articulate the feeling that I and the other jurors had that a conspiracy between Prosecutor Robert Harrison, Judge Joseph Gillis and various members of the Detroit Police Department was actually being carried out. We never really overtly confronted it, but the feeling was definitely there among most of the jurors. We never spoke about it directly because to do so would raise larger questions about the whole American judicial system.”

Ken Cockerel, in his final statement to the jury, charged that the entire proceedings were a fraud and that not only should Hibbitt be acquitted, but that he should not even be on trial. He said that the prosecution had failed to even show due cause to suspect. He pointed to the contradictions of David Brown’s testimony and called him a liar manipulated by the prosecutor.

Robert Harrison, in the prosecutor’s rebuttal, lost his control and responded to Cockerel’s charges with raging appeals to racist fears. He held the picture of Hibbitt, showing him as an honor guard at the convention, in his hand and waved it at the jurors.

He yelled, “Is this the face of a peaceful man? No! Is this the face of a man ready to kill? Yes! Is this man ready to kill a fellow RNA member? No, he was ready to shoot a white Detroit police officer. See that gun in his hands? Notice the gloves that he is wearing? Even then he was thinking about the necessity of covering his fingerprints.”

After describing this portion of the prosecution’s final statement, Stark said that Harrison’s obvious attempts to appeal to racism and to “pander the jury, summarized for me what the trial as a whole was all about.”

In further discussing the trial experience, Stark noted that one aspect of the trial-by-jury process that particularly attracted his attention was the degree of precautions that are taken to isolate jury members from external influence and pressures.

He said that despite all the instructions that are given the jury about prohibiting outside discussion and warning against media influence, it is impossible to remove these influences. He went on to say that he is sure external pressures often override the attempts to strive for a fair and impartial trial. In expanding on this, Stark related an incident in which one female juror involved exhibited this problem.

Stark noticed that one particular woman on the jury “had shown excessive signs of nervousness, nearing hysteria on the final day of the trial.” She later told him, after the trial was over, that she was a resident of Northwest Detroit and at a party she had attended the previous week her friends had told her that it was her duty to “get that nigger who shot a white policeman and show them that they can’t get away with this.”

Stark said that these pressures had at first made her afraid to give a not guilty verdict despite the fact that she was convinced of Hibbitt’s innocence.

When the jury left the courtroom and met for deliberation, Stark was surprised that they were able to overcome initial irrational racism and tendencies toward disorder.

The procedure was orderly, methodic and smooth with each aspect of the case being examined and resolved. When this process was completed the members of the jury were aware that the prosecution had simply failed to present any case at all and was, in fact, ironically inconsistent. They unanimously voted a verdict of not guilty on the first ballot.

Stark felt that one of the points of the trial that will always stick in his mind was another portion of the prosecutor’s closing statements in which Harrison stated, “Mr. Cockerel and the defense would have you believe this: the prosecutor’s office, the Detroit Police Department, David Brown, and all of the witnesses huddled together in a room to conspire against Alfred Hibbitt. If you can believe this, then you can believe that the entire American judicial system is a fraud.”

Stark said that he believed that it was not necessary to be convinced that the men mentioned actually huddled together in a room in order to believe that a very real conspiracy existed.

He understood that with the deliberate overt attempt to railroad Hibbitt, with the sloppy investigation, with the lies and partial truths, with the examples of intimidation and bribery and with the appeals to white racist fears, the prosecution and the Detroit Police Department did directly and indirectly conspire to railroad Alfred Hibbitt to jail for being a black man with a gun.

Sam Stark concluded his conversation by remarking that the facts of the trial and the method with which they were presented, along with the racist nature of our society and its institutions, which assume that a black man with a gun is up to no good and is guilty by implication, not by proof, were all together evidence enough “to convince me that the entire American judicial system is indeed a fraud.

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