

v. BRINKS

SSS 83 Cr. 312 (KTD)

sekou Odinga, et al

TRIAL

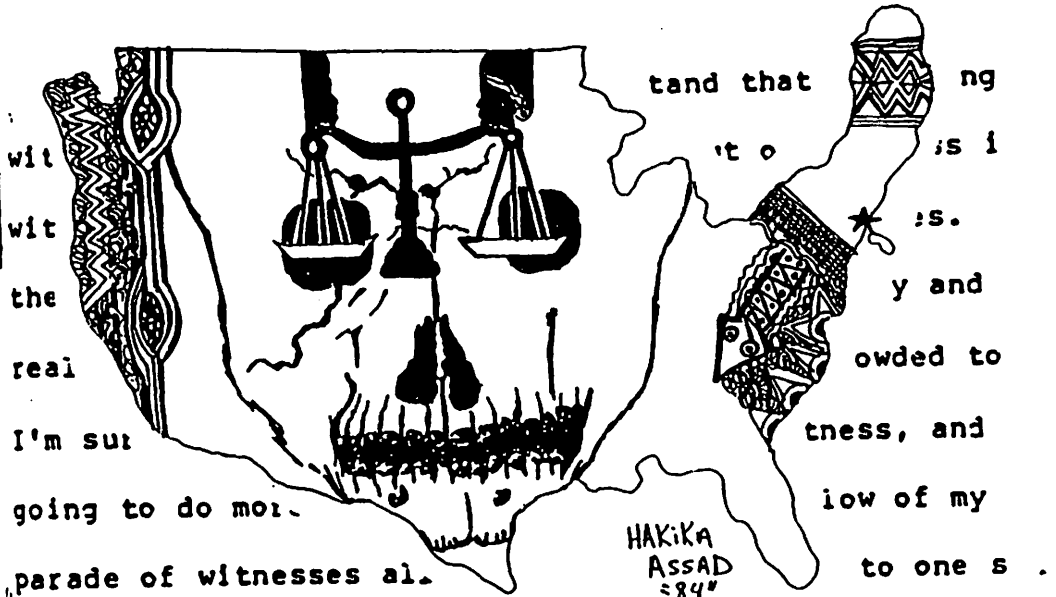
August 15, 1983

TESTIMONY ⁵ a.m.

(Trial resumed)

(Open court; jury not present)

MR. BERMAN: Judge, I have one brief request



subject matter and I think it is going to have an impa
my client's defense, especially, for example, in the s

of, **by SUNDIATA ACOLL** nga'

witness.

THE COURT: No.

Prologue:

It was still dark outside the U.S. Penitentiary at Marion, IL in the early morning hours of August 10, 1983. Inside, a squad of guards marched up to a cell, shined flashlights on the prisoner's eyes and barked "Squire! Wake up, step to the bars and strip naked!" Sundiata Acoli arose, was stripped searched and escorted naked through the empty corridors of the still slumbering prison into the custody of 2 waiting U.S. Marshalls. Without telling him where they were taking him, they dressed him, shackled him hand and foot, and escorted him to their car. 3 hours later, they pulled into the Terre Haute, IN airport. There he caught the federal prisoners' plane to Lewisburgh, PA Penitentiary and was put in "the hole."

The next morning he was put on the prisoners' bus and arrived at the Metropolitan Correction Center (MCC), NY at 1 o'clock in the morning and again put in "the hole." He hadn't had a cigarette in 2 days and everywhere he had been rudely treated by the guards. At MCC, NY, it got no better, but worse. No one was allowed to talk to him or pass him anything. No visits, telephone calls or letters were allowed, no showers, nothing. On the 2nd morning, he was awakened and told he had a visit "right now!" Upon entering a makeshift visiting room, he looked through the partition to see Sekou Odinga. It had been 15 years since they had last seen each other.

Sekou Odinga, Bilal Sunni Ali, Silvia Baraldini, Chui Ferguson, Illiana Robinson and Jamal Joseph were the 6 defendants and freedom fighters on trial in the New York federal "Brinks" case. The 28 count RICO (Racketeering Influenced Corrupt Organizations) indictments, originally designed for prosecution of Mafia organizations, was used to prosecute these particular defendants in an effort to stamp a "criminal" brand on any and all activities by freedom fighters. The RICO indictment stemmed from incidents arising out of the Black Liberation Army's October 20, 1981 \$1.6 million expropriation attempt against a Brinks armored truck in Nyack, NY, the November 2, 1979 liberation of Assata Shakur from the Clinton Women's Prison of NJ, and a series of attacks on Brinks trucks and U.S. banks between 1976 and 1981. In writing up the indictment, the prosecutor had thrown everything, "including the kitchen sink." Allegations against the defendants included charges of killing policemen and Brinks guards, bank robbery, conspiracy, racketeering, prison escape and accessory after the fact.

Chokwe Lumumba was the attorney for Bilal Sunni Ali. Susan Tipograph was the attorney for Silvia Baraldini. Lawrence Stern was the attorney for Illiana Robinson. Jesse Berman was the attorney for Cecilio Chui Ferguson. William Mogulescu was the attorney for Edward Jamal Joseph. Robert S. Litt was the prosecuting U.S. Attorney. Kevin Duffy was the presiding U.S. District Judge.

Sekou Odinga defended himself at the trial and called Sundiata as one of his witnesses. Ms. Stewart was Sekou Odinga's legal advisor. The U.S. prosecutor had had almost 2 years to prepare his witnesses and drill and coach his informants on what they should say on the stand. Sekou and Sundiata had less than 2 hours together to prepare his testimony. It seems as though they had barely begun when the guard notified them that time was up. Arriving back at "the hole," Sundiata realized that he'd forgotten to ask Sekou, "What is the main purpose of my testimony?" And to make matters worse, he couldn't remember Sekou ever pointing out the main purpose during their meeting.

The following is a transcript of Sundiata's testimony and the courtroom events immediately preceding his taking the stand.

About the Key Witness:

Sundiata Acoil was born January 14, 1937 in Decatur, Texas. He is a member of the Black Liberation Army and was previously a member of the Black Panther Party in Harlem, NY. Both organizations were primary targets of the government's COINTELPRO campaign that began against Black organizations in the 60's.

On May 2, 1973, Sundiata and 2 comrades, Assata Shakur and Zayd Shakur, were traveling the NJ Turnpike. At that time Assata Shakur was the main focus of a COINTELPRO-orchestrated nationwide "womanhunt." The implications were that she was to be "shot on sight." NJ State Troopers stopped the auto in which the 3 were traveling and subsequently opened fire on Assata while she was in the car with her hands in the air. Zayd was killed, Assata was wounded and captured, 1 state trooper was killed and another wounded, and Sundiata was captured. The state then unleashed a hysterical mass media campaign to create an atmosphere that guaranteed a legal lynching. Sundiata and Assata were convicted for the death of the state trooper in separate trials. Both were sentenced "Life plus 30 years consecutive" in the NJ State Prisons.

Due to their political background, both were immediately subjected to the harshest prison conditions possible. After 6 years of inhumane confinement, the Black Liberation Army liberated Assata from the Clinton's Woman's Prison, NJ. Sundiata was confined to the MCU Behavior Modification Isolation Unit at Trenton State Prison for almost 5 years in a cell smaller than the SPCA space requirement for a 90 lb. German Shepard dog. He was then secretly transferred over 1,000 miles to Marion, IL to the maximum security federal concentration camp located deep in the Shawnee National Forest near the banks of the Mississippi River. He is currently confined there as a means of isolating him from all friends, family and attorneys, even though he is a state prisoner with no federal convictions, warrants or charges pending. *(at the time of the 2nd printing, bro. Sundiata has just recently been moved to the Federal Prison in Allenwood PA.)*

A medical examination confirmed that Sundiata has been heavily exposed to tuberculosis since entering prison. At Marion, the prisoners are locked down all day except for 1 hour exercise periods each day. There is no work, no pay, no schools (academic or vocational), no prison programs or organizations, no state law books in the legal library, no freedom of movement, and all mail and other forms of communication are heavily censored. Each of its 8 housing units are kept strictly separated from the other. A prisoner from 1 housing unit is never allowed to come in contact with a prisoner from any other housing unit. Families are only allowed to visit for 1 hour on 4 occasions during a month; these visits are in booths dividing the prisoner from the family by glass and communication must be done with the use of a phone.

Sundiata's conditions of confinement are similar to those meted out to other BLA P.O.W.'s who are confined in various prisons throughout the country.

United States vs. Sekou Odinga, et al.

SSS83 Cr. 312 (KTD)

8-15-83

10:15 AM

(Trial resumed)-(Open court; jury not present)

Mr. Berman: Judge, I have one brief request.

The Court: Sure.

Mr. Berman: I do understand that Mr. Odinga's witness is in the pens here. I have but one witness in the witness room now. I expect it will take 15 minutes. He is the last of a series of 9 people from Thursday and my real concern is that the courtroom is quite crowded today, I'm sure in anticipation of Mr. Odinga's witness, and it is going to do more than just merely interrupt the flow of my parade of witnesses all of who are testifying to 1 single subject matter, and I think it is going to have an impact on my client's defense, especially, for example, in the sort of, I don't know, courtroom recognition of Mr. Odinga's witness.

The Court: No.

Look, Mr. Odinga's witness I had originally understood was going to be just another guy. From what I understand he is a security problem, so I am told. I don't know and-

Mr. Berman: I am asking for 15 minutes to finish my defense.

The Court: I understand what you are asking for, and the answer is no.

Anybody else?

Mr. Odinga: Yes, I also need a little more time to prepare with my witness.

The Court: You had 3 1/2 hours with him.

Mr. Odinga: That's not true.

The Court: That's what the records show.

Mr. Odinga: It is totally untrue.

What happened I was woke up on Saturday morning around almost 8 o'clock and was told I would be allowed to meet with him for 2 hours and then I was told that I had to meet with him right then, no brush your teeth, no pad, no papers, no anything. They insisted that if I didn't meet with him then, the 2 hours time would start 6 minutes from after they woke me up. So when I finally did meet with him, which I had to jump right up and get up and meet with him then, I was put in one room and he was put in another, and there were 2 windows between us, thick windows, like bullet proof windows with holes on the top of one side and hole on the bottom of the other where we had to holler through the holes at each other. He was handcuffed all the time. We were not allowed to sit down in any way to pass notes or to take notes. He couldn't take any notes. It was just totally inadequate time, space, conditions and everything.

I tried to reach you Friday because I felt that it was going to happen like that. You refused to talk to me or to prepare it in a way that I could adequately meet with the man to prepare my defense.

Also I asked you would you allow my legal advisor to assist me, which is why I have her, to assist me, and you refused to allow her to assist me where, in fact, you

Mr. Odinga: I'm telling you. You don't know nothing about none of it. That's why I wanted-

The Court: No. They were told that as witness he was to be treated as if he were in his usual place of confinement, in his usual place of confinement. I am told that he is not having contact visits with anyone. Everybody goes through the same thing that you went through.

Mr. Odinga: That's not true, Judge. I am telling you know that the lawyer met with him in different conditions than I met with him.

The Court: What lawyer?

Mr. Sunni-Ali: Mr. Lumumba.

Mr. Odinga: Mr. Lumumba.

The Court: That might be.

Mr. Odinga: They are telling you a lot of lies and you don't want to take the chance to even look into it and see. What you are doing is you are rubber-stamping these lies, Judge.

The Court: Mr. Odinga, it is my understanding, all in all, you had well over 2 hours that you were originally scheduled.

Mr. Odinga: I am telling you that I didn't have 2 hours. They only scheduled for 2 hours to start with and I didn't have those 2 hours. I am telling you that they are lying to you. You won't even take the time to listen to what I am trying to tell you. What you are saying is, basically, whatever they say is the truth.

The Court: The records shows that you had 2 hours.

Mr. Odinga: Do you see my signature on anything? Call the witness, ask him. He's not a part of this. Call the witness. He can tell you and he can tell you how long we had.

The Court: We don't live in a perfect world.

Mr. Sunni-Ali: Oh, man.

The Court: We'll have to work with what we have got.

Mr. Odinga: What has that got to do with what they are telling you in these lies and what I am telling you now?

The Court: I am saying that one way or the other we will have to work with what we have got.

It is my understanding that you are putting this fellow on to prove why you used false names and safe houses.

Mr. Odinga: Among other things.

The Court: No, that's what you told me.

Mr. Odinga: I didn't tell you everything.

The Court: And it was your position that he was with you at the time you became a fugitive in 1968.

Mr. Odinga: That's right.

The Court: That he is going to say why you were using false names and safe houses. Fine. So we'll put him on and he'll testify. That's the way it's going to be. You are not going to get any more meetings or anything else. We'll go ahead and do it.

Ms. Tipograph: I would like to protest for the record the conditions upon which this witness is being forced to testify.

It seems fine for the government to prepare their case for a year and a half with unlimited resources, the resources of the entire Department of Justice and the Federal Bureau of Investigation. When it come to the defense in this case to prepare their cases, the court either refuses to pay them or forces Mr. Odinga to meet with

his witness in conditions that are reminiscent of Nazi Germany and what this court is allegedly supposed to be protecting in terms of people's rights.

I think, if nothing else, it be made clear what your determination is about the guilt or innocence of the defendant versus the government and it is our position that the government is guilty and it has been your position throughout this trial that the defendants have been guilty and we reject that, Judge.

The Court: If we're all set, we'll get Mr. Acoli in and have him sworn and get started.

Mr. Berman: Judge, in my long abandoned role as co-lead counsel, I would urge the court to, in effect, compromise here and allow Mr. Odinga to interview his witness during the recess in the pens here so that they can go over whatever they have to go over.

The Court: I heard you. The answer is no.

Ms. Stewart: Your Honor, you must take cognizance of the fact that interviewing the witness without a legal advisor is tantamount to putting the witness on the stand cold and you permitted other defense counsel in the case to telephone interviews, interviews in the U.S. Attorney's office. To not permit Mr. Odinga to interview his witness with his legal advisor present could conceivably cause a mistrial, your Honor. I think you ought to conceivably consider it.

The Court: It won't cause a mistrial in any way.

Ms. Stewart: It won't cause a mistrial if you have already considered that.

The Court: I don't believe it would.

Ms. Stewart: I call you Honor's attention to the fact that Mr. Lumumba is not here.

The Court: Mr. Lumumba was due here at 10 o'clock.

Ms. Stewart: Yes, your Honor, and he isn't here and other people have been here late as well and we have waited for them. He is the only one who interviewed him on the entire defense team.

The Court: I issued a special order that every defense attorney would have the opportunity to interview this fellow.

Ms. Stewart: And he was brought in late Thursday afternoon, after court adjourned for the weekend.

The Court: Yes, a weekend.

Ms. Stewart: With no notice to anyone.

The Court: For a weekend.

Mr. Odinga: It is clear you don't really want him to testify anyway, Judge. It has become very, very clear and if he testifies you want him to come off as badly as possible.

Mr. Sunni-Alli: I would want to put on the record that the only reason that the only reason anyone even knew Mr. Acoli was here was when we got up Saturday morning and saw the name on the chart. Because even when they brought him up, they kept- where they had the list of names of who was in what room, they had no name next to the room that Mr. Acoli was kept in and they kept it like that until someone was able to get the chart and look at it. Finally they put his name there after he had been there that day.

Mr. Berman: I must say Judge, that I for one did not know the man was here until Mr. Litt told me this morning and I was not aware of your order permitting us to interview him.

(Sundiata Acoli was brought into the courtroom. The audience gave Mr. Acoli

a 3 minute standing ovation. Having been called a witness by the defendant Odinga, having been duly sworn, Mr. Acoli testifies as follows.)

The Court: Would you bring out the jury, please.

Mr. Berman: I would like you to explain to the jury that this is Mr. Odinga's witness and we're going out of order.

The Court: Oh, sure.

(Pause) - (Jury present)

The Court: All right, ladies and gentlemen, Mr. Berman is not complete with his witness yet, but we're taking one witness out of turn. Mr. Acoli has already been sworn.

All right Mr. Odinga.

DIRECT EXAMINATION BY MR. ODINGA:

Mr. Odinga: Good morning.

Q: Good morning Brother Acoli?

A: Good morning brother.

Q: Brother Acoli, how old are you?

A: 46.

Q: 46.

Q: You give the jury a little information on your educational background?

A: I went to Booker T. Washington H.S. in Vernon, Texas. I finished in 1952. From there I went to Prairie View A&M College of TX at Prairie View, TX, and I finished there in 1956 and got a degree in math. From there I went to Harlem and then got my first job working for NASA in the Mojave Desert in CA for NASA. From there I went to the University of So. CA which had a graduate extension school in the desert. I took a graduate course in math and I worked in computers and with experimental airplanes like the X-1, X-1-E, X-1-D, Douglass D-558 and I took classes, with Neal Armstrong, the astronaut, and I helped him with his math a couple times. (Audience: laughter)

From there I came back to Harlem and I went upstate NY and I went to work at Griffith Air Force Base in computers. I attended the University of Syracuse and took graduate courses in math.

From there I came back down to Long Island, worked for Republic Aviation in computers. I attended NY University, took more graduate courses in math and from there I came to NY City and I worked for Computer Applications on Madison Ave. and several other computer companies in NY as a systems analyst and computer consultant.

In all I spent about 13 years working on computers and I had about 30 credits in graduate math and that's basically my educational and professional career.

Q: Do you know me personally?

A: Yes, I do.

Q: When did we first meet?

A: With the Black Panther Party back in 1968.

Q: You say in 1968.

What were the goals and objectives of the Black Panther Party?

Mr. Litt: Objection.

The Court: Yes, sustained.

Q: Did we work in specific programs in the Black Panther Party?

A: Yes. When we first met, you were basically –

Mr. Litt: Objection.

The Court: I'll permit it. Go ahead.

A: When you first met me, you were basically an education instructor in the Black Panther Party and you taught me political education and basically you were responsible for teaching most of the members of the cadre in political education.

Besides political education you also had other duties and programs that were pushed by the Black Panther Party in the community.

Among them were breakfast programs for children and you worked on it and I worked on it, and also for decent housing for the community. In other words, if a person had been in a building and the landlord didn't maintain it, we would go and try to organize a rent strike so that monies could be used to repair the building or put in escrow account and if the landlord still refused to repair the building, eventually the tenants would takeover the building. And that was one of the programs dealing with housing.

We had clothing programs where the community came by and dropped off clothes, excess clothes that they had or clothes that they didn't need anymore and people came along the streets or off the streets and if they needed clothes they took it.

We also had programs that worked for community control of schools. In particular, there was a controversy out in Ocean Hill-Brownsville. I'm talking about 1968 and 1969 where Black people of that community were trying to get control over their own school, schools in their community and we also pushed this theory that each community should control its own school district, principals, teachers, hiring and firing, curriculum of the students and everything about the schools. But later on these type of goals were misconstrued and –

Mr. Litt: Objection.

A: –and were dissolved into things like busing and integration.

The Court: All right.

A: And I think what most people were asking for was control of their own schools.

There were programs against dope pushers in the community. The Black Panther Party campaigned against those pushers in the community and for the elimination of the pushers.

And there were campaigns against police brutality and murder of Black people in the community.

Basically the Black Panther Party program was a very simple program. It had a basic 10 points written so that almost anybody could understand it and some of the points, and it has been 10 years so I can't remember the whole 10 points, but some of the points were basic points like we want freedom, we want the right to control the destiny of our own community, we want decent education that teaches us our true history and role in society, we want decent housing. We want Black men and women exempt from foreign wars because we, as Black people, should not be going to other countries fighting people and oppressing them when we're not free in this

– and that –

Would you speak up a little louder?

– yes, yes.

which is just another word for food, we want justice, peace and freedom.

Q: Did there come a time when you ceased to see me working politically publicly?

A: Yes, I did.

Q: Approximately when was this?

A: At and around the time of the Panther 21 conspiracy arrest.

Q: What was the Panther 21 conspiracy arrest?

A: The Panther 21 conspiracy arrest was a massive round-up on April 2, 1969, where the government and State of NY and the police department attempted to paint the Panthers as terrorists.

Mr. Litt: Objection.

The Court: Sustained.

Mr. Litt: Move to strike the last part.

The Court: Yes, the last part, ladies and gentlemen, is stricken.

A: The Panther 21 conspiracy case was a massive round-up by NY State police of people who were indicted on ridiculous charges, like conspiring to bomb the flowers at the Bronx Botanical Garden, (Audience: Laughter) conspiring to bomb 5 major department stores during the Easter season, when most Black people would be shopping, you know, in the stores, conspiring to bomb police precincts and conspiring to ambush and snipe policemen.

Q: Do you know any reason why I ceased to work publicly at this time?

A: Yes. You were one of the Panthers that was indicted on the conspiracy. 21 Panthers were indicted and I think about 13 were found in their homes on the morning that they rounded up the panthers. Those people who weren't found at their homes, with the amount of hysteria and publicity going on around it the next day, those that weren't available went underground.

Q: Around this time, were there attacks on the Black Panther Party and other political people that were working in the Black Liberation Movement regular, was this an exception or what?

Mr. Litt: Objection.

The Court: Yes. The question is a little to wide open. I don't know what it means. Lead a little bit.

Q: Did you know of any other brothers and sisters who had to cease working publicly here in NY?

Mr. Litt: Objection.

The Court: No, I'll permit that. Go ahead, answer it.

The Witness: Right, the same time.

A: At the same time that you ceased to work publicly your names was on the indictment and they didn't find you at your home. In other words, at 4 o'clock in the morning they went around to everyone's house and kicked in the doors and arrested people, arrested 13 people. They had indictments for 21 people. So that 8 people they didn't find, they didn't find at home, and Sekou Odinga was one of those they didn't find.

Other people they didn't find at home were Kwando Kinshasha, Shaba Om, Larry Mack, Lee Mashinda Berry, his brother William Berry, Zayd Shakur, Assata Shakur and several other people at other times in different places, because this was an ongoing thing. In other words, when they began kicking in doors in New York, they also began moving on other people across the country.

Like in Philadelphia, they ran in there supposedly looking for fugitives or

looking for weapons. They pulled out brothers and sisters 3 o'clock in the morning, stripped them naked, lined them up against the wall, took photos, spread them all over the Philadelphia papers the next day, Panthers butt-naked, brothers and sisters.

In Los Angeles, they ran into the Los Angeles Panther office early in the morning and started a shoot out that lasted until almost the middle of the day. And from this assault on the office, on the Black Panther Party office in Los Angeles, Ceronimo Pratt was forced to go underground.

Other people that were forced to go underground were Albert Noah Washington, Anthony Jalil Bottoms, Herman Bell, Safiya Bukari, Ashanti Alston and several other people I can't remember. Loads of people were forced to go underground because of the oppression of the Police Department, running into Panther offices, saying that there were guns, there were fugitives there, and bringing back a load of indictments, either starting shootouts or either killing people and bringing back indictments on ridiculous charges.

Q: When you say people were running for their lives, what do you mean by that?

A: I mean that—simply, if you are in the community organizing, doing work, you know, that's beneficial, and then all of a sudden some one tells you that, hey, they just ran into the office, just shot up the office, right, and that they are looking for you, it's a normal response to, you know, be afraid and not make yourself too available to go ahead and get killed. A lot of Panthers were getting killed around that time.

Q: Do you know of any Panthers that got killed around this time?

Mr. Litt: Objection.

The Court: No, I'll permit it. Go ahead.

A: Sure. In Los Angeles, Bunchy Carter and John Huggins were killed. In Chicago, Fred Hampton and Mark Clark were killed, and another Panther that I can't think of the name of right now was killed in Chicago. In New Haven, George Sams, a police agent, he killed a Panther named Randy from New York.

Q: So there were many Panthers being killed around this time?

Mr. Litt: Objection.

A: Either killed or—

Mr. Litt: I object to that.

The Court: Yes.

A: Well I think it's common information—

The Court: Wait until a question comes. Okay? Next question.

Q: When people stopped their public work here in New York, do you know if they stopped working completely?

A: Not those that were dedicated, the ones ones that continued working. As a rule, when they stopped their public work, basically they attempted to change their location, change their city, change their town, change their identity, their name, and they continued to work either on the same level that they did in the original place around the same issues—and the issues were almost always food, clothing, shelter, oppression, health, inadequate health care, and things of this nature—or they either would forsake public work all together.

The Court: You might be better off if you hold it a little bit to the side.

A: Some of the people would forsake public work all together, and they concentrated on building the underground, building the underground apparatus and support equipment of building an army.

Q: Let me take you back a minute to when you say that they cease to work publicly. Would you go back through what they do? They change their names you

say?

A: Well, yes. If you're wanted in one area or your being sought after in one area or if the harassment and intimidation has gotten so bad in one area that you wish to avoid that and be able to work in relative freedom in another area, then you change your name, you change your identity papers and you change the place where you work, so that, you know, very few people know you and where you continue working.

Q: You say that some people stop working publicly all together and work on other levels. What other levels are you talking about?

A: Other levels meaning on an underground level of building an army. In other words, if we're going to struggle, and have a successful struggle, we eventually are going to have to deal with the force that's always coming down, and in order to deal with the force you're going to need an army.

So that some people worked on organizing the community, working around issues of food, clothing and shelter, but there are also other people that have to work dealing with the nature of force in this society that always comes down on anyone that attempts to rectify the situation dealing with Black people and oppressed people in general.

Q: Is this why it's called clandestine revolutionary work?

A: Yes, clandestine, underground, yes.

Q: Can you tell me the difference—first of all, is there a difference in revolutionary activity and criminal activity?

Mr. Litt: Objection.

The Court: Yes, sustained.

Q: What is revolutionary activity?

A: Revolutionary activity is activity on behalf of the people, on behalf of the struggle, on behalf of a revolutionary organization.

Q: Can you give me some idea of what type of revolutionary activity is done on an underground level?

A: On an underground level? Defending the community, defending people, defending your institutions, providing protection protection for various people that may be aboveground, that may be pursued or spotlighted, or whatever, and providing means to be able to continue the struggle on an armed basis.

Q: When you say protecting the community, can you give me any particular type of programs that are used to protect the community?

A: Several. One, instituting programs to defend the community by creating a community watch program.

Q: What is a community watch program?

A: Programs where people watch each other, neighborhoods, homes, or whatever, especially in areas where there is a lot of crime, and if there is a burglary going on, to urge someone that doesn't mind apprehending the burglar, stopping the burglar, driving him away, instituting community patrol programs so that people can patrol the neighborhoods, the property and watch for muggers or dope pushers or purse snatchers, or whatever, and defending the community—

Q: Let me stop you a minute. When you say watch out for muggers, how would you watch out for muggers?

A: Basically, if you see somebody mugging an old lady, right, the old lady is not able to run a mugger down, right, or whatever, right. So, you know, you stop him whatever way is necessary to stop him.

You know, you know basically who probably did it, and if you're conscious of what's going on in your community, you have a pretty good idea of who does what or who did what. Eventually you hear about it, right?

And if it's a particularly flagrant case, say if someone got their last rent money mugged or maybe they were going to take a trip to see their kids and they can't go, something like that, you go look up the guy, you know, you ask about who did it, you try to rectify it.

Q: When you say watch out for dope pushers, what are you talking about?

A: I mean mostly the larger dope pushers, you know, dope pushers that are more—that sell in quantity and that usually sell for profit. They don't have a habit and they are not selling to keep their habit up. They are selling strictly to get over, to make money, and to, you know, get theirs. So these forces are destructive in the community and there have to be measures taken to stop this.

Q: Are there any other programs that you know of?

A: Yea. There is always a program where there is a rather powerless people, like people without much power, people that are too weak to defend themselves, and that is a method of retaliation.

Q: Retaliation? What do you mean by retaliation?

A: It means that—say there is a particularly flagrant violation of a person in the community and they are not able to defend themselves. In particular, take cases like 10 year old kids getting killed in the Black community. I think it's common knowledge that—

Mr. Litt: Objection your Honor.

The Court: Yes, common knowledge, we assume the jury has common knowledge, common sense, right?

The Witness: You're right.

A: I'm talking about blatantly flagrant murders, oppression. For instance, cases like 10 year old Clifford Glover being shot by a policeman, I think 11 year old Ricky Bolden, he was shot by a policeman, 12 year old Rita Lloyd over in Brooklyn, she was shot by a policeman, Rabbit Wells over in New Jersey, he was shot by a policeman—he was 12 or 13—incidents like these that are particularly flagrant, where the community is indignant, mad, because of it, and in particular cases where—like Patrolman Shea. HE shot this kid Clifford Glover in the back. He said the kid had a gun and was turning to shoot him, yet the kid was shot square in the back. The kid said, "I'm dying, help me," and he said, "Die you little fuck," and he was acquitted by an all white jury.

Q: So how would this retaliation take place?

A: Well, as the Bible says, "An eye for an eye and a tooth for a tooth." So that if you wait on the courts to dispense justice, and they don't, then any community, and any person that won't defend himself, is only asking to be taken advantage of and to be used and abused by everybody in the world.

So that there are military forces that are available that they take upon themselves to bring justice to the Black community in indictments like this by retaliating on whoever does it, whether they are police, whether they are gangsters, whether they are whatever. Anybody who does things like this, they get off scot-free, then there are forces to retaliate.

Q: Do the same people who do public political work do this same kind of underground military work?

A: No, there is a strict separation between underground military work, and

people that work aboveground, that do public work.

Q: Did you ever work clandestinely in any sort of way?

A: Yes, I did.

Q: What way did you work clandestinely?

A: Simply the thing where I told you I changed my name, changed my location. I was living in New York and I went to Alabama and under a different name I began to organize both at the time aboveground and underground too. Aboveground, organizing people around basic necessities, food clothing shelter.

This was a particular different situation in that I was organizing in rural Alabama, and it was a small town that was mostly an all-Black area for 30, 40 miles around, and I was living on a communal farm.

So that I used to show revolutionary movies, movies like Battle of the Algiers, A Luta Continua, or whatever, as a means of attracting people, and then having discussions in the community, finding out what the problems were in there area, and also organizing the youth of the community to defend the people in the community and to help them to work with them, to kind of look out together for each other.

But really a lot of this is already—a lot of this is really east because there's still a sense of community or togetherness in the South because of conditions they have gone through. So to me it was kind of easy to instill this.

Q: You said you also worked militarily. When you worked militarily, did there ever come a time when you were captured?

A: Yes.

Q: How did it happen?

A: Well, when I was in Alabama I used to come back to New York every now and then to take care of, you know, particular things. So I came back once and I was going back down south. I was driving along the New Jersey Turnpike, me, Assata Shakur and Zayd Shakur, and a state trooper pulled us over. A shoot-out ensued. Zayd Shakur was killed, a state trooper was killed, another state trooper was wounded, Assata Shakur was wounded and captured, and I was captured.

Q: Have you heard of COINTELPRO?

A: Yes.

Q: What is that?

Mr. Litt: Objection.

The Court: Sustained.

Q: In the clandestine formation underground that you say you were a part of, can you tell me what is the main principle of the clandestine formation?

A: The principle? The fundamental principle of any underground formation has to be secrecy. That's basically what makes it underground. If it wasn't secret, it wouldn't be an underground formation.

Q: When you say secrecy, is it permissible to talk to people who are not involved in the work about actual military work that has been going on or is going to be done?

A: No.

Q: Never?

A: Never.

Q: Have you ever heard the term "underground railroad"?

A: Yes.

Q: What does that mean?

A: The underground railroad was the system during slavery where slaves used to escape to the north and into Canada, into a free state, in particular, Philadelphia

or Missouri—I think Missouri was a free state—Boston.

What it was was a series of safe houses, where if a slave made it to this location, then someone would come and transfer him to the next location, maybe walk, maybe ride, or whatever, but get him to the next location.

So that these houses, whatever their locations where the slave would stay on the journey north, were known as stations, and the whole process of escaping from south to north or to Canada or wherever was called the underground railroad.

Q: Does that still exist, an underground railroad?

A: Yes, it does, and it exists now for people that work clandestinely and that have to move around the country, or whichever, in order to accomplish their objectives.

Q: So you have different houses in different areas for the purpose of being able to move from one spot to the other?

A: Yes, and for the purpose of—yes, for the purpose of being able to move, the purpose of being able to rest, live, or whatever, without being apprehended, without everyone knowing your business.

Mr. Odinga: One minute Judge, please.

The Court: Sure. (Pause)

Q: Do you know if I ever went to trial for the Panther 21 case?

A: No.

Q: Did you ever go to trial on it?

A: Yes, I did.

Q: What happened.

A: We were in jail over two years, going to trial and to hearings. Several people were let out on bail after a while. The bail was \$100,000 at that time, which was the equivalent of almost \$500,000 now, because it was 1969.

Some people called the Computer People for Peace eventually raised my bail, but when it came time to be bailed out, the judge said, "Well, I'm not going to bail you out, and furthermore, I'm not going to bail anybody else out."

Mr. Litt: Object to this your Honor.

The Court: Yes. The question is what eventually happened.

The Witness: I was eventually going to get to that.

Mr. Litt: I object to the intermediate steps.

The Court: Don't worry about it. What happened?

A: To make a long story short, we were all in jail for over two years, we went to trial for a solid year and a half, or something like that, and in less than two hours the jury brought back a not guilty verdict, everyone, those that were apprehended and those that were not apprehended.

Q: Thank you Brother Acoli. I don't have anymore questions.

The Court: All right. Anybody else from the defense have any questions?

Ms. Tipograph: One moment, Judge. (Pause)

The Court: Anybody else have any questions?

Ms. Tipograph: Yes, Judge.

The Court: All right.

CROSS-EXAMINATION BY MS. TIPOGRAPH:

Q: Good morning Mr. Acoli.

A: Good morning.

Q: Mr. Odinga was asking you about your capture on the New Jersey Turnpike.

A: Yes.

Q: And the shoot-out that ensued.

A: Yes.

Q: Were you convicted?

A: Yes, I was convicted.

Q: And you're in jail now because of the conviction?

A: Yes.

Q: Could you tell the jury a little bit about the circumstances of how that shoot-out occurred?

Mr. Litt: Objection.

The Court: Sustained.

Ms. Tipograph: Judge, can I be heard?

The Court: No.

Ms. Tipograph: Judge, I am certain the government is going to bring out the fact that Mr. Acoli was convicted of a crime—

Mr. Litt: I object to any discussion.

The Court: The answer is no.

Q: Could you explain what happened on the Turnpike that day, Mr. Acoli?

Mr. Litt: Objection.

The Court: He was convicted, That's as far as we'll go with it.

Ms. Tipograph: Judge, I have the right to ask him about the nature of his conviction. I am certain the government will ask him—

The Court: You can ask him what the conviction was for if you want to.

Ms. Tipograph: Judge, I would like to be heard outside the hearing of the jury.

The Court: No.

Ms. Tipograph: Judge, then I will make a record in front of the jury.

The Court: Miss. Tipograph, you will not. I make rulings and that's it.

Ms. Tipograph: I understand that Judge. I am trying to conduct an examination of Mr. Acoli and I seem to be prevented from doing so by the government and the court.

I would like to speak to the court, Judge, outside the hearing of the jury so that we can resolve this, so that we can precede in a manner—

The Court: All right, I will let you.

You go out ladies and gentlemen, and I will hear this. Go ahead. (jury excused)

The Court: Okay Miss Tipograph, what do you want to say?

Ms. Tipograph: Judge, I assume that when the government has their opportunity to cross-examine Mr. Acoli, among the questions they are going to ask him will have to do with the fact that he was convicted of killing a state trooper and he was, in fact, arrested with Assata Shakur, who was charged as being somebody who the—

The Court: He has already testified that he was with Assata Shakur, that the other person he was with—and I'm sorry, I didn't get the name—

The Witness: Zayd Shakur.

The Court: Zayd Shakur was killed and a state trooper was killed.

Now, if you want to ask him if he was convicted of murder, fine. The government is not going to go any further with it, because if they do, I am going to stop them.

Ms. Tipograph: Judge, perhaps you could explain it to me, because I am at sort of a loss. The government put on as a witness in their case a man by the name of Tyrone Rison, who admitted a countless number of crimes and was promised not to go to jail essentially for testifying on behalf of the government. They were allowed

to extensively go into the background of those crimes, the promise he had been made, for the purpose of, quote, rehabilitating their witness, which is an act I don't even think the government is capable of in this situation.

I think the defense should have the same right, Judge, and particularly with Mr. Acoli, who has very significant testimony to offer on behalf of Mr. Odinga as well as all the other defendants in this case, or at least my client, Judge, in terms of what the revolutionary movement is about and what the nature of the underground movements are versus public movements, and I think he should have the opportunity to do that, an opportunity to explain that to the jury.

The Court: What does this have to do with the shoot-out on the New Jersey Turnpike?

Ms. Tipograph: Judge, I believe that if Mr. Acoli was allowed to testify as to the circumstances of the shoot-out and what happened beforehand, he would talk about the fact that, as a result of the repression and attacks on the Black Panther Party and other organizations and individuals in the Black movement, people were forced to go underground and that shoot-out was, in fact, inspired by "shoot to kill" orders which were issued to police departments all over the country for people like Assata Shakur, who after the shoot-out was tried and acquitted of all charges for which she was apparently hunted on.

I think that's an explanation the jury is entitled to, Judge, because one of the things that the government has done, Judge, is to increase the heinous nature of the alleged escape—excuse me, not alleged—the escape of Assata Shakur, and the alleged participation of Mr. Odinga and Miss Baraldini and that is to characterize the nature of what she was in jail for, being the murder of a state trooper, which I think is serious in the eyes of the jury, and certainly with out an explanation would be very prejudicial to the defendants in the eyes of the jury.

The Court: Now, you want to ask about the circumstances. The answer is no. They don't get to ask him about the circumstances either. So there is no unfairness. He has already testified to it. That's as far as you go.

Ms. Tipograph: Judge, I believe that their witness testified to the circumstances. Peter Middleton went through story after story and tale after tale, Judge, of, quote, training sessions that went on in parks, people running up and down, Mutulu Shakur was telling them, "You do this, and you do that."

The Court: Yes.

Ms. Tipograph: My client is accused of helping Assata Shakur escape from jail. Not only did she deny having any participation in that, but part of the prejudicial nature of that being included in the indictment was the fact that Assata Shakur was characterized in the press as being the soul of the BLA, a leader of the BLA. Here is a man, Mr. Acoli, who was there and could certainly testify as to the circumstances of how the shoot-out took place.

The Court: The answer is still no. He is not going to testify to it. You have made your record.

Ms. Tipograph: One moment Judge. (pause) I have no further questions Judge. The court has prevented me from asking the line of questioning which I had prepared.

The Court: Okay. Anybody else?

Mr. Lumumba: I'm going to examine him.

The Court: You're going to examine also? Okay.

Mr. Mogulescu: Yes, I would request that.

Ms. Tipograph: Judge, can we have five minutes, can we have three minutes?

The Court: Hold on a minute. All right, take ten.

The Witness: Judge, can I get some cigarettes from the lawyer?

The Court: The Marshalls will get you some cigarettes .

The Witness: Judge, they always say that and then when they get me back there by myself, I get nothing.

The Court: I don't have any cigarettes.

The Witness: I know it.

The Court: We will get you some cigarettes.

(The Marshall tugs on the witness' hand.)

The Witness: Get your * /?/ hands off me.

(audience chants: Take your hands off him! Take your hands off him!...)

(The Marshall releases the witness' hand)

(Recess)

(open court; jury not present)

Sundjata Acoli resumed.

The Witness: Judge, they didn't give me any cigarettes.

The Court: I'm told there's a special monitoring situation.

The Witness: Monitoring to smoke a cigarette?

The Court: Yes, we'll have to wait. Bring the jury out.

Mr. Odings: They're afraid you'll make a bomb out of it.

The Witness: They be crazy like that all week.

Ms. Tipograph: Judge, can I approach the witness and say three words to him before the jury comes in?

The Court: Is it going to be something-okay.

(Pause: witness warmly greets Ms. Tipograph.)

(Jury present)

The Court: All right, be seated. All right Mr. Lumumba.

CROSS-EXAMINATION BY MR. LUMUMBA:

Q: Good morning, Brother Acoli.

A: Good morning Brother Lumumba.

Q: I have a few questions I would like to ask you. My understanding is before I came in you shared with us some of the things which happened in the 60's and early 70's in relationship with the Black Panther Party, is that correct?

A: Yes, that's true.

Q: Did there ever come a time when you discovered that there was a specific documented pattern of activities which you were encountering at that time?

A: Yes.

Mr. Litt: Objection.

The Court: It is a late objection. Let the "yes" stand.

Mr. Litt: I was waiting until after the "yes."

The Court: Okay.

Q: Was there some consciousness at that time of the source and the reasons of why these things were taking place?

Mr. Litt: Objection.

A: Yes.

The Court: Yes. Well I'll let the "yes" stand, but I'm not sure what the question meant or the answer, Go ahead.

Q: I'm showing you know what is marked Exhibit Z for identification purposes. Actually it is Sunni-Ali Exhibit Z and I want to ask you if you are familiar with that exhibit?

A: Yes, I have seen this document before, or documents like these.

Q: When would it have been that you have seen documents like these?

A: When I ordered my own Freedom of Information files and had seen other people's in the movement, seeing their freedom of information files, people like Assata Shakur, Freedom of Information files on Zayd Shakur. Dhoruba Moore sent me a copy of his Freedom of Information files and various other people around the country that were in the movement.

Q: Okay, you have now indicated, if I am not wrong and I can be corrected if I am, in terms of your direct examination by Brother Odinga, of things which happened to, I think you mentioned, Fred Hampton and various other persons, is that correct?

A: That's correct.

Q: And you talked about the Black Panther Party, is that correct?

A: Correct.

Q: Now, how do you know that these things are true, that these things actually occurred?

Mr. Litt: Objection. What things are we talking about exactly?

The Court: I don't know. Sustained.

Q: Let's speak to the question of the Black Panther Party which encountered some difficulty in the late 60's and early 70's.

A: Yes.

Q: Their difficulties relate to harassment and oppression from the Federal Bureau of Investigation?

Mr. Litt: Objection.

The Court: Sustained.

Mr. Lumumba: Judge, one thing that I want to make clear, I am cross-examining this witness. This is not my witness.

The Court: Okay.

Q: The repression that you talked about when Mr. Odinga examined you, do you remember that?

A: Yes.

Q: And just to refresh your memory, or my memory because I wasn't there, what were those things that you spoke of?

Mr. Litt: Objection.

The Court: Yes.

Mr. Litt: He wants to know what things?

Mr. Lumumba: I want to make it clear just so I am not misstating anything.

The Court: Go ahead, next question.

Q: Do you remember the things that you spoke of in relationship with repression?

A: Yes.

Q: Well did any kind of internal problems develop in the Panther Party because of repression?

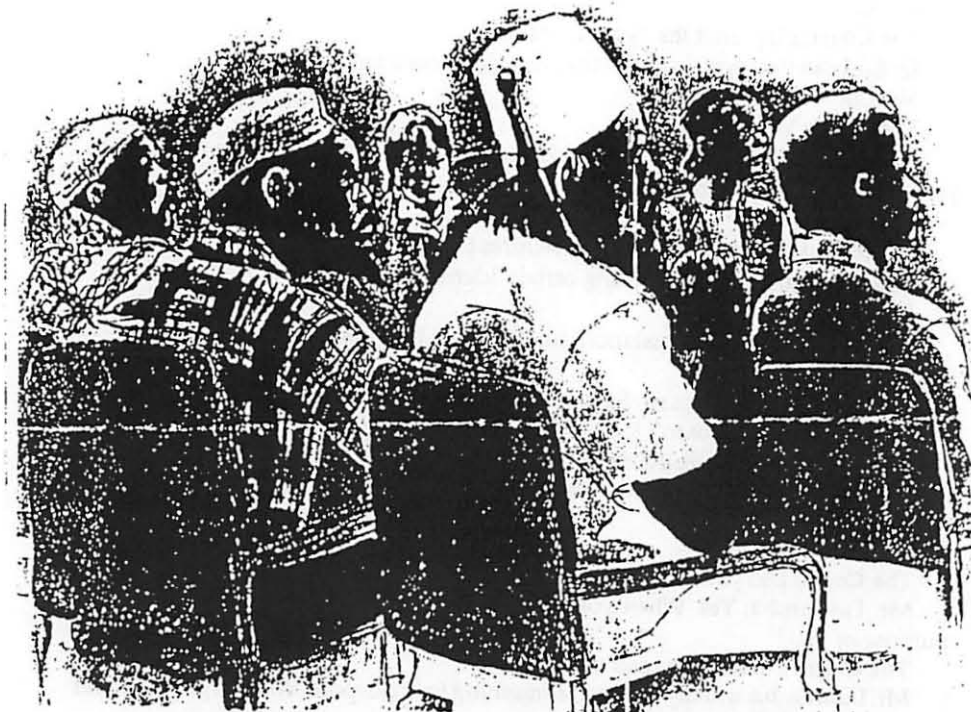
Mr. Litt: Objection.



ODINGA



Fulani Sunni-Ali (right) and Chokwe Lumumba (center) shown at a Brink's case press conference in Harlem, NY.



The Brink's defendants during their 1983 trial in federal court, Manhattan. Seated around the defense table are (clockwise from right) Edward L. Joseph, Chui Ferguson, Sekou Odinga, Bilal Sunni-Ali, Silvia Baraldini and Iliana Robinson. (watercolor by Aggie Whelan)



Sundiata Acoli

A: Yes.

The Court: I'll permit the "yes" to stand.

Q: And can you explain to me the circumstances surrounding it?

Mr. Litt: Objection.

The Court: Yes. Sustained.

Q: Did the internal problems that developed in the Panther Party contribute to persons, I think as you indicated before, going underground?

A: Yes.

Q: And did it contribute to the procedures that you suggested in relationship to not using certain identities or using certain identities?

A: Yes, most definitely.

Q: What were the circumstances surrounding those internal problems?

Mr. Litt: Objection.

The Court: Yes, I guess so. Sustained.

Mr. Lumumba: It doesn't look like they want to know.

Q: Now, Brother Acoli, the documents that you have in front of you, would it be safe to say that those documents in fact confirmed your conclusions as to what was happening at the time?

Mr. Litt: Objection.

The Court: Did you receive the documents or read the documents?

Mr. Lumumba: Yes. When you received them and read them, what was the purpose of that?

The Court: I assume to read them.

Mr. Lumumba: usually you read something for a purpose. You can go home and do your homework—

The Court: Objection sustained.

Q: Were there any groups that became victims to the best of your knowledge of the same kind of activities which contributed to people going underground or was it a problem that occurred to the whole movement?

A: It was a nationwide movement problem, especially the Black Liberation movement.

Q: You say it was a nationwide problem. So who did it occur to besides the Panthers?

Mr. Litt: Objection.

The Court: I'll permit it.

A: It occurred to any organized Black group. In particular the groups that were, some in particular were SNCC, SCLC....

Q: Who's organization is SCLC?

Mr. Litt: Objection.

The Court: Yes, sustained.

Mr. Litt: Could you direct the witness not to start answering until the objection is ruled on.

The Court: Please.

Q: Go on?

A: SNCC. Student Non-Violent Coordinating Committee movement, which was an organization headed by—

Mr. Litt: Objection.

The Court: Just answer to the question of which organization.

A: SCLC. Which was the Southern Christian Leadership Coalition, a southern

organization.

Other groups were Nation of Islam, which were known as NOI, the Black Panther Party and almost any organized Black group that had any kind of organization behind it. Those are the only ones I can think of. RAM. Revolutionary Action Movement, that was one.

Q: Do you remember the Republic of New Afrika?

A: And the Republic of New Afrika, right.

Q: Now, Brother Acoli-

A: Yes.

Q: -at the time that you were in the Black Panther Party, I assume that you testified as to the types of activities that you were about, is that correct?

A: Somewhat.

Q: Would you share those with me, just briefly, in summary form because I was not here.

Mr. Litt: Objection.

The Court: Sustained.

Q: Did there ever come a time when a group was formed called the Black Liberation Army, to the best of your knowledge?

A: Yes.

Q: And the Black Liberation Army, what was its objectives and purposes?

A: Its objective was to defend Black people, to fight for black people, and to organize Black people militarily so that they can defend themselves through a people's army and a people's war.

Q: Did this group ever have as its purpose murder or robbery or anything of that nature?

A: No.

Q: And was this a public group or not?

A: No, it was clandestine, secret group, underground group.

Q: And did this group, to the best of your knowledge, ever participate in any murders or robberies or anything like that?

A: Not that I knew of.

Q: And did that group get formed before or after this repression that you were talking about?

Mr. Litt: Objection.

Mr. Lumumba: It is very relevant, Judge.

Mr. Litt: Objection.

The Court: Yes, it is in poor form. The question is when did the group get formed, that is a direct question.

Mr. Lumumba: Thank You Judge.

A: The Black Liberation Army was formed after the repression began to come down on the Black Panther Party and people in the Party were seeing that there had to be a clear separation between military apparatus and aboveground apparatus and they were waiting on the leaders to make this decision. But by then, it seemed like the leaders had sold-out to get out of jail and for \$100 apartments, such as Huey P. Newton, Eldridge Cleaver, Bobby Seale, so that they weren't interested in making decisions to save the movement. So that people began to take it on their own since they were the ones getting killed in the process, they were getting framed up and getting arrested and driven underground all around the country. They took it upon themselves to do what was necessary so that the organization could be saved and

that they could continue the struggle.

Q: These people being driven underground were the same people doing the breakfast programs and other community service programs?

A: Yes. They were the same people.

Q: Had these people, to the best of your knowledge, ever went out and attacked a police officer or a police station?

A: Not that I knew of.

Q: Now, you talked about some of the problems with the leadership. What was the source of that?

Mr. Litt: Objection.

The Court: I'm not sure where the question is going.

Mr. Lumumba: It's not going much farther.

The Court: Go ahead and answer.

A: The basic problem with the leadership is that the leaders had become victims of COINTELPRO programs, they were afraid and they had been intimidated.

Mr. Litt: Objection.

A: And they decided to save their own skin by selling out.

Mr. Litt: I'll move to strike the answer.

The Court: No, I'll let it stand.

Q: Did there ever become any way in which you were able to confirm the fact that the leaders were targeted by the COINTELPRO program?

Mr. Litt: Objection.

The Court: Yes. Sustained.

Q: You indicated what happens is that certain aboveground activities continued with different people, is that correct?

A: Yes.

Q: Now, did aboveground people, did there ever come times when they also suffered from repression even after the early 70's and late 60's?

A: Yes.

Q: And what sorts of oppression on these people who continued to work aboveground, we're talking about in the 70's, so on and so forth, continued to suffer?

Mr. Litt: Objection.

The Court: Yes, sustained.

Q: Were the courts ever used to the best of your knowledge in this repression framework?

A: Yes.

Mr. Litt: Objection.

The Court: Sustained.

Q: Now, talking about— have you ever heard the term "prisoner of war"?

A: Yes.

Q: Do you know what that means and what it is?

A: Yes. I am a prisoner of war.

Q: And will you explain to me what that means?

A: A prisoner of war is a revolutionary who has engaged in acts of armed struggle who has been captured by various agents in armed struggle against an oppressive state. He has been captured by the state. Therefore he becomes a prisoner

Q: Would you explain that to me?

A: A political prisoner is an individual who has struggled as a means to liberate his people and he has been jailed either for his beliefs or for his speech or for basically his political beliefs and concepts.

Q: So my understanding is that a political prisoner is a person who is in jail for what you say or for what he believes or what he teaches, is that right?

A: Yes.

Q: And probably who he teaches it to, is that correct?

A: Yes.

Q: Whereas a prisoner of war who has engaged in some type of freedom struggle or armed struggle, he's in jail because of that, is that right?

A: Yes.

Q: And because there is some suspicion that he might be?

A: Some suspicion.

Q: And I think you described the Black Liberation Army before, is that correct?

A: Yes. An armed organization to help defend Black people, to fight for Black people and organize the Black people's movement militarily.

Q: Why did Black people need to defend and what was the reason why--

Mr. Litt: Objection.

The Court: Sustained.

Q: But you are familiar with the documents in there, is that correct?

A: Yes.

Q: If my understanding is correct, you didn't write these documents, they came from the FBI themselves?

A: They came directly from the FBI files. They were in the FBI files.

Q: Secret files?

Mr. Litt: Objection.

A: Secret until made--

Mr. Litt: Objection and move to strike such answer as there was.

The Court: Yes, sustained.

Mr. Lumumba: I don't have any further questions at this time Judge.

The Court: Okay. Anybody else? Do you have any questions Mr. Litt?

Mr. Litt: Yes, your Honor.

CROSS-EXAMINATION BY MR. LITT:

Q: Good afternoon now, Mr. Acoli?

A: Good afternoon.

Q: You mentioned in your direct examination a case which you referred to as the Panther 21 case?

A: Yes.

Q: When were the arrests made in that case.

A: April 2nd, 1969.

Q: And you said to your recollection 13 people went to trial in that case, is that correct?

A: Yes.

Q: And you were one of them?

A: Yes.

Q: That was trial before a court and jury, is that right?

A: Yes.

Q: And it was in Manhattan, is that correct?

A: Yes.

Q: Next door to the courthouse here?

A: I don't know. You know—

The Court: It doesn't matter.

A: I came through a tunnel so I don't exactly know where I am.

Q: And you testified that there was an acquittal, is that right?

A: Yes.

Q: When was that acquittal? Do you remember the date?

A: May of 1971.

Q: And so, as of 1971, there had been a trial of this case and an acquittal, is that correct?

A: Yes.

Q: What crimes were you convicted of?

A: Murder of a state trooper, assault with intent to kill, armed robbery and illegal possession of weapons.

Q: And what sentence were you given?

A: Life sentence and 30 years consecutive.

Q: And since that time have you been convicted of any other crimes?

A: I have been convicted of attempted escape.

Q: And when was that?

A: Approximately a couple of months ago.

Q: And what sentence did you receive for that?

A: Five years concurrent.

Q: And that was pursuant to a guilty plea, am I right?

A: That's correct.

Q: It was a guilty plea that you negotiated with the government, is that correct?

A: Yes, basically.

Q: And that is to say that you made an agreement with the government that you would plea guilty in exchange for a commitment of a five-year concurrent sentence?

A: Yes, I was defending myself, right.

Q: Now, you also on your direct examination referred to some children who you said were shot, is that right?

A: Several of them. Rita Lloyd, Ricky Bolden, Clifford Glover, Rabbit Wells and a five-year-old kid out in Los Angeles about six or seven months ago.

Q: But you did refer to those people?

A: Yes, I did.

Q: That was the question I asked you, sir. And you testified that there was some retaliation taken, is that right?

A: No. I testified that there were forces available to retaliate in a situation, blatant situation like that.

Q: What sort of retaliation were you talking about?

A: Retaliation. Whatever the forces decided to do in retaliation.

Q: Can you give us some examples?

Ms. Tipograph: Objection, Judge, asked and answered.

The Court: No, I'll permit it. Go ahead. Answer if you can.

The Witness: Huh?

The Court: Can you answer it better?

Brinks Trial Testimony

The Witness: I can't answer it any better than that. He asked me what I mean by retaliation.

Q: Well, would retaliation include, for example, shooting a policeman?

A: I don't know.

Ms. Tipograph: Objection, your Honor.

The Court: The answer is "I don't know." I'll let it stand.

Q: Do you know if Police Officer Waverly Brown in Nyack ever shot any children?

A: I don't know.

Q: Do you know if Sergeant Edward O'Grady in Nyack ever shot any children?

Mr. Mogulescu: Objection.

The Court: No.

A: I don't know.

Q: Do you know if William Moroney, a Brink's guard ever shot any children?

A: I don't know.

Q: Do you know if Peter Paige who is also a guard with the Brinks company ever shot any children?

A: I don't know. I do know police who have shot children.

Mr. Litt: I move to strike, your Honor, the last part of the answer.

The Court: It is stricken.

Q: Now, you testified also about an organization called the Black Liberation Army?

A: That's correct.

Q: When was this formed, what year?

A: I don't know. I know approximately when it was formed.

Q: Approximately, as best you can?

A: Approximately '71, '70, '71, '72.

Q: Were you a member?

A: I am a member.

Q: You are a member? You mean even as of today?

A: Right.

Q: And this was, you testified, a clandestine organization?

A: Yes.

Q: And you testified at length on direct examination concerning the differences between clandestine work and aboveground work; do you recall testifying about that?

A: Yes.

Q: And you gave some examples of clandestine work, do you remember that?

A: Yes.

Q: And you talked about community watches. Do you remember that?

Q: Yes.

Q: Was that clandestine work?

A: Community watches?

Q: Yes.

A: It could be, some could, some couldn't.

Q: It is like a beat patrol, is that right, people watching over the neighborhood?

A: It is basically people-whichever way they form it.

Q: And you testified that there was a strict separation between clandestine work and aboveground work, is that correct?

A: Yes.

Q: And you testified that one of the things that the clandestine group did, the groups did, was to insure that they had the means to be able to continue their work?

A: Yes.

Q: And by that did you mean financial means?

A: Financial means, material means, whichever means.

Q: Material means would include weapons?

A: Yes.

Q: And you would have to find a way to get weapons?

A: Of course.

Q: Financial means would mean that you would have to find a way to buy things that were necessary and support people if necessary, is that right?

A: Yes.

Q: One of the ways that you would do this is by something called expropriation?

A: It could be.

Q: What's an expropriation?

A: Expropriation is method applied by liberation movements throughout the world.

Q: What is it exactly?

A: Expropriation?

Q: Yes.

A: It is a means of taking from the state, from the people that exploit the masses of people and using it for revolutionary aims.

Q: When you say the state, do you also mean various organs of capitalist society?

A: Most definitely.

Q: Such as banks?

A: That's one of them.

Q: And when you say taking, you mean stealing, is that right?

A: Taking. Taking is taking.

Q: Taking by force, if necessary?

A: Taking is taking.

Mr. Litt: Could you please read back the question, please?— (Record read)

Mr. Odinga: And the answer— (Record read)

Q: I would like an answer to the question whether or not expropriation means taking by force if necessary?

Mr. Odinga: Oh, it has been answered.

The Court: Go ahead, answer it.

A: It can, sure.

Mr. Litt: I didn't hear the answer.

The Court: "It can, sure."

Q: You testified, I believe, that some time after the Panther 21 trial that you went down to Alabama, is that right?

A: Yes.

Q: And you testified that you did some aboveground work and some clandestine work down there?

A: Yes.

Q: There was no strict separation? It was you who was doing both of them, is that correct?

A: Well, yes. In other words—

Q: You did both clandestine work and underground work?

Mr. Odings: Let him finish answering his question.

A: Let me finish.

The Court: Yes.

A: On the work that's basically called clandestine—well, one aspect is because I was operating out of a different identity and different name and in a region where my history was unknown, my background was unknown.

Q: But the point is you, who was the same person who was doing aboveground work, were also doing clandestine work, is that right?

Ms. Tipograph: Objection, already asked three times.

The Court: I'll permit it. Answer it.

Q: Is that correct?

A: If you want to put it that way, yes.

Q: Well, let me see how you would put it. Were you doing clandestine work?

A: Yes. I told you because I was operating under a assumed name, under an assumed identity and in an area where people didn't know me previously.

Q: Well, you were also a member of the Black Liberation Army, is that right?

A: Yes.

Q: And that was also clandestine work?

A: Yes.

Q: And at the same time you were doing aboveground work in the south, is that right?

Ms. Tipograph: Objection. He never said he was doing aboveground work. He was living in Alabama under an assumed name.

The Court: I was here Ms. Tipograph.

Q: Were you also doing community organizing in the south at that time?

A: Yes.

Q: And that was under a name that was other than your own, is that right?

A: Yes.

Q: But you were doing it publicly, is that correct?

A: Yes.

Q: And the people with whom you were doing this community organizing, they were unaware of the fact that you were a member of the Black Liberation Army, is that right?

A: Yes.

Q: You made a point of not telling them about the clandestine work, is that correct?

A: Yes.

Q: Because it is very important to keep this secret, is that correct?

A: Yes.

Q: And to your knowledge were there other people who also did—

A: Let me finish.

Q: I'm sorry, I didn't realize you weren't finished.

A: It is important to keep it a secret with anybody who doesn't need to know. In other words, you can't keep it a secret with people you are working with. But anyone doesn't need to know, and you keep it a secret from them?

Q: To your knowledge, were there also people who did both aboveground and clandestine work?

A: I don't know.

Q: That was because you didn't have a need to know?

A: Because I didn't know.

Q: Well, did you know a man named Mutulu Shakur?

A: Mutulu Shakur?

Q: Yes.

A: Yes, I know him.

Q: Did you know that he was active aboveground politically, is that right?

A: I don't know.

Q: Well, what do you know him as?

A: I knew him as Mutulu Shakur who was working down in Lincoln Hospital. That's all I knew about him.

Q: Did you know a man named Samuel Smith or Mtayari Sundiata?

A: Not personally.

Q: Do you know of him?

A: I know of him from reading about him in the newspapers.

Q: Do you know of him as being a person who was involved aboveground in political activity and organizing?

Ms. Tipograph: Objection, Judge, he said he didn't know him.

The Court: Sustained.

Q: Do you know a man named Kuwasi Balagoon or Donald Weems?

A: I know him very well.

Q: Do you know him as a person involved in aboveground activity?

Mr. Lumumba: Objection to the form of the question. At what point.

Mr. Litt: At any point.

The Court: Any point. Go ahead.

A: I know Kuwasi Balagoon because we were in prison together in Trenton, New Jersey.

Q: Now when did you first go to prison in New Jersey?

A: 1970-

Q: I'm sorry?

A: 1973 or 1974, whichever one it was. I was arrested in 1973. I was sentenced in 1974.

Q: You have been in jail continuously since 1973, is that correct?

A: That's correct.

Q: And you know Assata Shakur or Joanne Chesimard escaped from jail on November 2nd 1979?

A: I read about it in the newspapers.

Q: And do you know where Mr. Odinga was on that date?

A: I don't know. I'm in jail.

The Court: The answer is "I don't know."

Q: And on April 22nd, 1980, when there was a robbery of a Purolator truck in Inwood, New York, do you know where Mr. Odinga was on that day?

A: I'm in jail. I'm out in Marion. I don't have visitors, they won't even let my daughter contact visit me. My mail is censored-

Mr. Litt: I move to strike, your Honor.

The Court: No, Go ahead. What he is trying to say is he doesn't know of anything that happened at those points in time.

Q: It's fair to say that you don't know where Mr. Odinga was during the years 1973-1974, is that correct?

A: That's correct.

Mr. Litt: May I have a moment?

The Court: Yes— (Pause)

Mr. Litt: I have no further questions.

Mr. Odinga: I have a couple.

Mr. Lumumba: So do I.

The Court: Mr. Odinga, you go first.

REDIRECT EXAMINATION BY MR. ODINGA:

Q: Brother Acoli?

A: Yes.

Q: The U.S. Attorney or Assistant U.S. Attorney asked you if certain police officers were known to you as having shot any kids.

I think you mentioned earlier that policemen were shooting children throughout this country. Can you tell me if you know— first of all let me ask you if there is a war going on in this country?

A: There is definitely a war going on in this country. There is a war going on against Black people and it has been going on against Black people ever since they were first kidnapped from Africa and brought over here and enslaved and after this slavery, it is still going on but in a different form.

Q: When you say that you were a member of the Black Liberation Army, do you mean that you are a soldier within that Army?

A: Yes.

Q: Does this army, do they participate in this war that you were just talking about?

A: Yes.

Q: When you talk about retaliation for the murders of young Black children or Black people in general, are you talking about retaliation in the sense—strike that.

When you talk about retaliation, are talking—what are you talking about? Let me put it that way.

A: That is the point. I am talking about an eye for an eye, a tooth for a tooth. In other words, if someone violates you, then you violate them. If you want to violate someone, or if someone violates someone in your community it is someone you love and want to protect, then who violates you should be violated in the same manner or similar manner.

Q: Do you consider policemen soldiers also?

A: They are soldiers for the state. In fact, they are the first line of soldiers for the state.

Q: So when you talk about retaliation, you are talking about against policemen? You are talking about, in fact, soldiers fighting soldiers?

A: Soldiers fighting soldiers. And is not always soldiers, I am talking about the state. The state consists of officials, people that run the state and people that defend the state. In other words, people that defend the people that run the state.

Q: So—

A: I'm talking about soldiers, officials, the government in general, and people that defend these people.

Q: So when Mr. Litt asked you about Waverly Brown, did you consider him—would you consider him a soldier knowing that he was police?

A: Yes, his job was to defend the state.

Q: Would you consider an armed guard of an armored truck a soldier?

A: His job is to defend the interest of the bank or whatever, right. And the banks are one of the foundations of the state.

Q: He asked you about stealing and he also mentioned expropriation. Is there a difference between stealing and expropriating?

A: Yes. In the sense that we use expropriation. Expropriation basically comes from the concept that first of all the oppressed people have been exploited and their wealth exploited and it has been exploited by the state. When an oppressed person or political person moves to take back some of the wealth that's been exploited from him or taken from them, then it is simply expropriation. They are taking back what's theirs.

In other words, we were kidnapped and brought here and enslaved for 200 years, working for free. We had millions of Black slaves working for hundreds of years and never got paid nothing. That is one of the fundamental things that built this country up.

In other words, if I had millions of people working for me for free for hundreds of years, it is no big deal to amount a mass amount of wealth there. And we're still being worked and underpaid and at most times on low jobs and when we take back from the state what has been stolen from us it is an expropriation. Particularly in an oppressive state which still uses slavery, wage slavery through unemployment and handing out welfare to make people dependent, then we're taking back from that; and that is not stealing. It is expropriating, just taking back what was ours.

Q: Would you consider mugging an old lady expropriating?

Mr. Litt: Objection.

A: No.

The Court: The answer is no and I will permit that to stand.

Q: What is stealing?

A: Stealing is quietly taking something that doesn't belong to you. That's stealing. You know, without permission, to take something that doesn't belong to you or belongs to another person or the other—

Q: Would you consider taking America from the Natives stealing?

Mr. Litt: Objection.

The Court: Sustained. Next question.

Q: Would you consider the kidnapping of African from Africa stealing?

Mr. Litt: Objection.

The Court: Sustained.

Q: So when you were talking about expropriating, you were talking about particular targets?

A: Yes.

Q: Any target is not an expropriation then?

Controlled by the state, that supports the state and that

only taking what is yours.

Q: The assistant U.S. Attorney also asked you about whether you worked underground and also did community work. There is a difference between the two, is there?

A: Yes, there is a difference.

Q: Is there a difference between underground military work and clandestine aboveground political work?

A: Yes.

Q: Does one, to the best of your knowledge, does one working in underground military work do the same, at the same time, work in aboveground community work?

A: Yes.

Q: So when you talked about that you did underground work and aboveground community work, you were talking about a different time?

A: Yes. I was talking about the fact that I was clandestine in my location down there because people didn't know my identity, my real identity and I had changed my name.

Mr. Litt: I'm sorry, I can't hear the answer.

The Court: I don't think the jury can either. "People didn't know my identity." And?

A: They didn't know my real background. So that in itself was like clandestine. And I was also doing what you call aboveground work because I related to people. I tried to organize them and I circulated among them and I was working with them.

Q: So at this time you were doing military work also while you were doing this aboveground political work?

A: Well, I was also seeking out people and basically recruiting people for military work, too.

Q: Let me understand what you are saying now. Are you saying that you were doing this work at the same time, the military work, I'm talking about the clandestine military work at the same time as you were doing aboveground community work?

A: Yes. In other words, you know, in the form of recruiting people, yes.

Q: In the form of recruiting. Does that mean like in terms of relations as you mentioned earlier, stuff like that?

A: No.

Mr. Odinga: I don't have any more questions at this point. Thank you Brother Acoll.

Mr. Lumumba: I have a few.

RE-CROSS-EXAMINATION BY MR. LUMUMBA:

Q: Dealing with the first question first, you were asked by the U.S. Attorney as well as by Brother Odinga about underground and overground work. Let me understand something to get it quick.

At the time that you were underground, would it be safe to say that you were in no organization which prohibited underground work—do you understand what I am saying—that said you could not do any underground work?

A: No. No.

Q: So you were not at that time going around the country and speaking at

different universities, is that correct?

A: No.

Q: Would it be safe to say that you were not on TV playing in bands and doing other things with revolutionary music?

A: Of course not, no.

Q: You weren't going around publicly speaking at rallies and talking about how people were oppressed, were you?

A: No.

Q: So when you were working with out your name and doing some community service, basically, that did not put you in any overground formation, did it?

A: No.

Q: It didn't put you in any formation which had written in its rules no underground work because we don't want to intimidate the overground work, is that right?

A: Right.

Q: We don't want to give the state a reason to come and attack us, is that right?

A: Right.

Mr. Litt: Objection.

The Court: Sustained.

Q: So there is a difference. Some people speak, is that right?

A: Right.

Q: And some people do underground work, is that right?

A: Correct.

Q: As a member of the Black Liberation Army you weren't up in Nyack in October 1981?

A: No.

Q: There is a good chance that if you weren't in jail, they probably would have said you were?

A: I probably would have been sitting right out there regardless of where I was.

Mr. Litt: Objection.

Q: Now, as a member of the Black Liberation Army, you weren't in Inwood, some time in April of Tyrone Rison couldn't remember the year.

Mr. Litt: Objection.

The Court: Yes, Sustained.

Q: So you weren't involved in any of these activities, were you, is that right?

A: No, I wasn't.

Q: But you have come up here and told this jury, is that right, this jury right here, that you were a member of the Black Liberation Army, is that right?

A: That's correct.

Mr. Litt: I could not understand that.

Mr. Lumumba: Had enough courage to tell them why.

Q: We talked about expropriation and revolution and all that stuff. Did something like that happen in 1776?

A: I think it did in this country.

Q: Now, those British soldiers that those American soldiers were shooting back in 1776, had those British soldiers shot any babies and children?

A: Not that I know of.

Mr. Litt: Objection.

The Court: Sure. Sustained.

Q: When George Washington would take rifles from the British, would they call it stealing or expropriation?

Mr. Litt: Objection.

The Court: Sustained.

Q: Was the Boston Tea Party an expropriation.

A: It was.

Mr. Litt: Objection.

The Court: Sustained.

Mr. Litt: Your Honor, I move to strike the answer and the question.

The Court: Come on Mr. Lumumba.

Q: Now you indicated something about the state robbing the people blind. Does that deal with just Black people?

Mr. Litt: Objection.

A: It deals with all kinds of people, especially oppressed people.

The Court: He has already answered the question. I'll let it stand.

Q: Let me, without asking why—do you have a basis for saying that?

Mr. Litt: Objection.

Mr. Lumumba: I'm not asking why, Judge.

A: Yes.

The Court: If he's got a basis for saying that.

Q: If we could ask you the question, could you explain it to us?

Mr. Litt: Objection.

A: Yes, I could.

The Court: Sustained.

Mr. Litt: And I move to strike the answer as well.

The Court: Sure.

Q: Now the U.S. Attorney, the Assistant U.S. Attorney here indicated something about the Panther 21 were acquitted, is that right?

A: Yes.

Q: Were there Black people on that jury?

A: Yes.

Q: Were there Black people in Assata Shakur's jury?

A: No.

Mr. Litt: Objection.

The Court: Sustained. Come on.

Q: Now, when you talked about escape, you indicated that you testified or that you plead guilty to trying to escape, is that right?

A: Yes.

Q: Were you guilty of trying to escape?

A: It was my duty to try to escape, as a prisoner of war.

Q: So you did try to escape?

A: Almost made it too. (Audience applause)

The Court: Anything else?

Q: Did you kill a trooper in New Jersey—

Mr. Litt: Objection.

Q: In the case which you were in with Assata Shakur?

Mr. Litt: Objection.

Mr. Lumumba: He opened the door for this.

The Court: No, no. Objection sustained. It was the same question that was

attempted before.

Q: Did you plea guilty in the case that you were convicted of murder?

A: No.

Q: Were you guilty?

Mr. Litt: Objection.

The Court: Sustained. Anything else?

Mr. Lumumba: Just a secon. Judge, please. (Pause)

Q: Now, I have just one last question. You have indicated that you were underground and doing some cc mmunity work as the Assistant U.S. Attorney has pointed out, is that correct?

A: Yes.

Q: Would it be safe to say that there were people in those community organizations who did not know that you were underground?

A: No, almost nobody did. The point was a way for me to move around and relate to people, to get to talk to people, you know, see how they felt and interacted with people in the community.

Q: Would it be safe to say that there were other people who did those community organization with you that had nothing to do with the underground?

A: No. Almost nobody. Nobody had anything to do with the underground but me. In fact, nobody knew that I was a member of the Black Liberation Army except me.

Q: But they still did those community activities, is that right?

A: Yes.

Q: And it would be true from time to time you would hand out leaflets and things in the community activity?

A: No. I wasn't so much doing that. What I did, I showed movies, like, talked to people.

Q: Showed movies?

A: Revolutionary movies. I had a movie projector-

Q: All right. so from time to time you would be in the same room with people who had nothing to do with the underground, is that correct?

A: Almost none of them did.

Q: You would touch the same things, is that correct?

A: Yes.

Q: You would leave your fingerprints on the same things, is that right?

A: Yes.

Q: And they knew you, some of them knew you, at least, they felt, very well?

A: They knew me as good as anybody did down there.

Q: But they still didn't know that you were in the underground, is that correct?

A: Of course. They had no idea.

Q: And if you would have been charged with an expropriation, then maybesome of them would have been charged right along with you?

Mr. Litt: Objection.

Epilogue:

On September 2, 1983, the five month trial ended after three days of deliberation by the jury of eight Blacks and four whites.

Bilal Sunni Ali and Illiana Robinson were acquitted on all counts.

Sekou Odinga and Silvia Baraldini were found guilty on the conspiracy and racketeering counts. The conspiracy and racketeering counts essentially charged the defendants with waging war against the U.S. banking institutions, and with freeing Assata Shakur from prison.

Chui Ferguson and Jamal Joseph were found guilty of accessory after the fact. Accessory after the fact were convictions for assisting Mutulu Shakur after the October 20, 1981 Nyack incident.

Attorney Chokwe Lumumba was summoned before the court after the trial to answer a contempt citation issued against him by Judge Duffy months earlier during the trial for refusing to obey his order to "Sit down and shut up."

Courtroom drama, as it unfolds in the live, no-holds-barred style from the witness stand. The testimony, taken from actual court transcripts, gives brief and penetrating insights into the history of the Black Liberation Movement over the last two decades. It begins with the turbulent '60's, then moves through the Black Liberation Army's freeing of Assata Shakur from prison in the '70's down to the '80's Brinks' Armored Truck \$1.6 million expropriation attempt in Nyack, New York and the resultant trial.
