

FREE GRAHAM AND ALLEN

Graham and Allen Defense Committee

1255 Post, Suite 625

San Francisco, CA 94109

(415) 561-9195



ERNEST GRAHAM



EUGENE ALLEN

Ernest Graham and Eugene Allen are two Black prisoners now facing a fourth trial scheduled for March 2, 1981 in San Francisco, California. They are charged with the murder of a white prison guard at Deuel Vocational Institution in November, 1973. Graham and Allen have already spent many years in California prisons, including three years on San Quentin's Death Row. After three trials, two mistrials and one death sentence conviction by an all white jury which was overturned on appeal, the state prosecutor is still determined to bring Graham and Allen to yet a fourth trial. Because Graham and Allen have been outspoken and have actively organized against racist and inhumane prison conditions and policies, the California Department of Corrections (C.D.C.) has been a primary force in pushing for a fourth trial. Despite public outrage, the prosecution's stance has been to continue trying them until a conviction is obtained.

Who Are Graham and Allen?

Ernest Graham was born in Lake Providence, Louisiana, on a small white-owned plantation. As tenant farmers, Ernest and his six brothers and sisters

started work at an early age, chopping and picking cotton from sunrise to sunset, trying to help the family survive. Searching for a better life, his family moved to California. Ernest joined them in 1963, at the age of twelve. Coming from the racism of the rural South to the situation in Watts, Ernest recalls what he faced as a child; "We lived in the ghetto of Watts, a reality comprised of drugs, crime, gang warfare and the unmitigating whirlwinds of police brutality. Our community was often in a state of turmoil and the destination of each child's destruction was always right around the corner."

In 1965 the Watts rebellion, triggered by police brutality in the community, again revealed the face of racism and the growing anger of the Black community. Living in Watts as a teenager during this time Graham describes what it was like: "I experienced many difficult days in the oppressive community of Watts, but difficult days and hard times was a common thing for young Blacks like myself, growing up in the ghetto because of poverty, unemployment and domestic instability caused by economic instability. Due to the basic composition of our community which was comprised of drugs, prostitution and unemployment, many of us ventured into crime."

The Soledad Brothers: John Clutchette, George Jackson, Fleeta Drumgo.



After two previous arrests by the Youth Authority, Ernest was charged and convicted of a robbery at the age of 19 and was given an indeterminate sentence of 5 years to life. From the processing center at Chino, he was sent to Soledad. At that time, Ernest was briefly affiliated with the Nation of Islam. After arriving at Soledad, he was influenced by other prisoners who had dedicated their lives to exposing the true nature of the prison system and to fighting the beating and murder of Black prisoners by correctional guards and members of white prison gangs who collaborated with the officials in these attacks.

It is important to remember the particular history of that time. On the outside, the government's Counter Intelligence Program (COINTELPRO) had launched its attack on the Black movement. According to a memo by J. Edgar Hoover, then director of the F.B.I., COINTELPRO's purpose was "to expose, disrupt, misdirect and otherwise neutralize the activities of Black Nationalist organizations and groupings, their leadership, spokesmen, membership and supporters." In 1965 Malcolm X was murdered. In 1969 Black Panther Party leaders Fred Hampton and Mark Clark were murdered in their sleep in Chicago. During these years numerous other attacks and murders were carried out against people active in the Black movement.

As COINTELPRO's program moved to accomplish its purpose on the streets, it simultaneously moved in the same fashion inside the prisons, with the direct aim of destroying the prison movement and attacking and isolating its leadership. In January 1970, three Black prisoners, Alvin Miller, Cleveland Edwards and W.L. Nolan, were murdered in the exercise yard by a guard at Soledad. W.L. Nolan was an influential organizer in the prison movement and a close friend of George Jackson. Three days after the murders, the courts ruled that it had been justifiable homicide. Shortly following the court's decision, a white guard was killed in Soledad and George Jackson, Fleeta Drumgo and John Clutchette were charged with the murder. On August 21, 1971, George Jackson was murdered by guards at San Quentin prison. Later, Jackson, Drumgo and Clutchette were all ac-

quitted of the Soledad murder charge.

In this period of increased repression, the Black prisoner movement continued to grow and was a means of survival and resistance. Ernest was motivated by the actions and philosophy of George Jackson, and started to educate himself by reading the works of Che, Malcolm X, Lenin, Kwame Nkrumah and by deepening his understanding of the Black Liberation Movement. Ernest recalls: "As my eyes awakened to the actuality of the prison situation, I immediately commenced to working on trying to bring about a change in the criminal mentality of the young Blacks and to elevate their understanding to the ways of the struggle. By dedicating myself to this type of work, organizing the minds and bodies of other prisoners, I caused the administration to immediately single me out as being a troublemaker."

Because Graham became a leader and an effective organizer in Soledad, authorities had him transferred first to Palm Hall in Chino, and then to Deuel Vocational Institute in 1973. Despite repeated warnings that correction officials were trying to isolate him, Ernest continued to organize against the brutal conditions at D.V.I. During this time he met Eugene Allen.

Eugene Allen was born in Fresno, California in 1953. Both his parents were killed in 1957, so Eugene was raised by his aunt and uncle in Merced. Allen was initially sentenced to the California Youth Authority based upon an incident which occurred after he became romantically involved with the daughter of a white city councilman. The councilman forced the football coach to throw Allen off the team and Allen responded in anger by throwing a molotov cocktail at the councilman's house.

While incarcerated at the Youth Authority, Eugene was involved in a racial incident in which a white inmate was killed during a period of intense fighting in the institution. Eugene was charged with the murder and the trial in 1972 resulted in a verdict of first degree murder under circumstances which maximally should have yielded a conviction of manslaughter.

Sentenced to 7 years to life, Eugene was sent to Deuel Vocational Institute. Eugene describes his arrival at D.V.I.: "It was then during my short stay at Deuel where I began to truly understand the American system, and all that it offered me (nothing). Once or twice a month I would find myself in the captain's office for some type of disciplinary reason. In August of that same year, Ernest

Graham arrived at Deuel and was placed in the same housing unit with me. After a stormy introduction between him and myself, we became close friends as the days and weeks went by. After being seen with Ernest on a few occasions, I became the target of constant harassment. On one of these occasions, I was pulled to the side by a correctional officer, and advised by him that it would be very wise for me to discontinue further association with Ernest if I wanted to live a long time. Naturally I ignored his warning."

What Is the History of the Case?

On November 27, 1973, a white guard was killed at D.V.I. and guards immediately seized the opportunity to charge Ernest Graham and Eugene Allen with the crime. The first trial took place in Stockton, California, a few miles from the prison, amidst an armed camp of local and C.D.C. police armed with shotguns and automatic weapons. Despite the intimidating conditions in the courtroom and the hysterical publicity surrounding the case, the trial ended in a hung jury in 1974, primarily due to the courage of the only Black woman on the jury who refused to convict Graham and Allen on the evidence presented by the prosecution.

Because of the prejudicial climate in Stockton against Graham and Allen, the defense filed a motion for a Change of Venue and the case was transferred to San Francisco. Because Ernest Graham's lawyer was involved with another case at the time, the second trial did not begin until March, 1976.

In the second trial the district Attorney excluded all of the Black potential jurors, fourteen in all, including the alternates, and the defendants were convicted by an all white jury under the California Penal Code 4500 and were given a mandatory death penalty. The California Code 4500 stated that a prisoner undergoing a life sentence who was convicted of assaulting or killing a non-prisoner was automatically subject to death. In February 1979, the Supreme Court of California over-

turned the conviction because of the blatant exclusion of Black jurors. During these three years, Graham and Allen were imprisoned on Death Row in San Quentin, living under the imminent threat of execution.

After the case was sent to Superior Court for a third trial, a motion was filed by Graham and Allen's attorneys to declare the mandatory death penalty unconstitutional. The motion was denied by Judge Perasso, who had presided over the second trial, but a writ was submitted to the court of Appeals, and the death penalty was declared unconstitutional in November, 1979. This ruling established an important precedent in the effort to wipe out the use of the mandatory death penalty and represented a major step forward in the battle to abolish the death penalty altogether in this country.

Because the 4500 Code was found unconstitutional, the District Attorney proceeded to file a new indictment, charging Graham and Allen with 1st degree murder. The third trial was held in San Francisco and started on April 28, 1980 and ended in another mistrial on May 16, the jury deadlocked at six-six. The District Attorney immediately stated that he intended to try the defendants as many times as necessary in order to obtain a conviction.

What is the Prosecution's Case?

Over the last seven years, the prosecution has based its case on the testimony of five alleged eye witnesses, three inmates, one

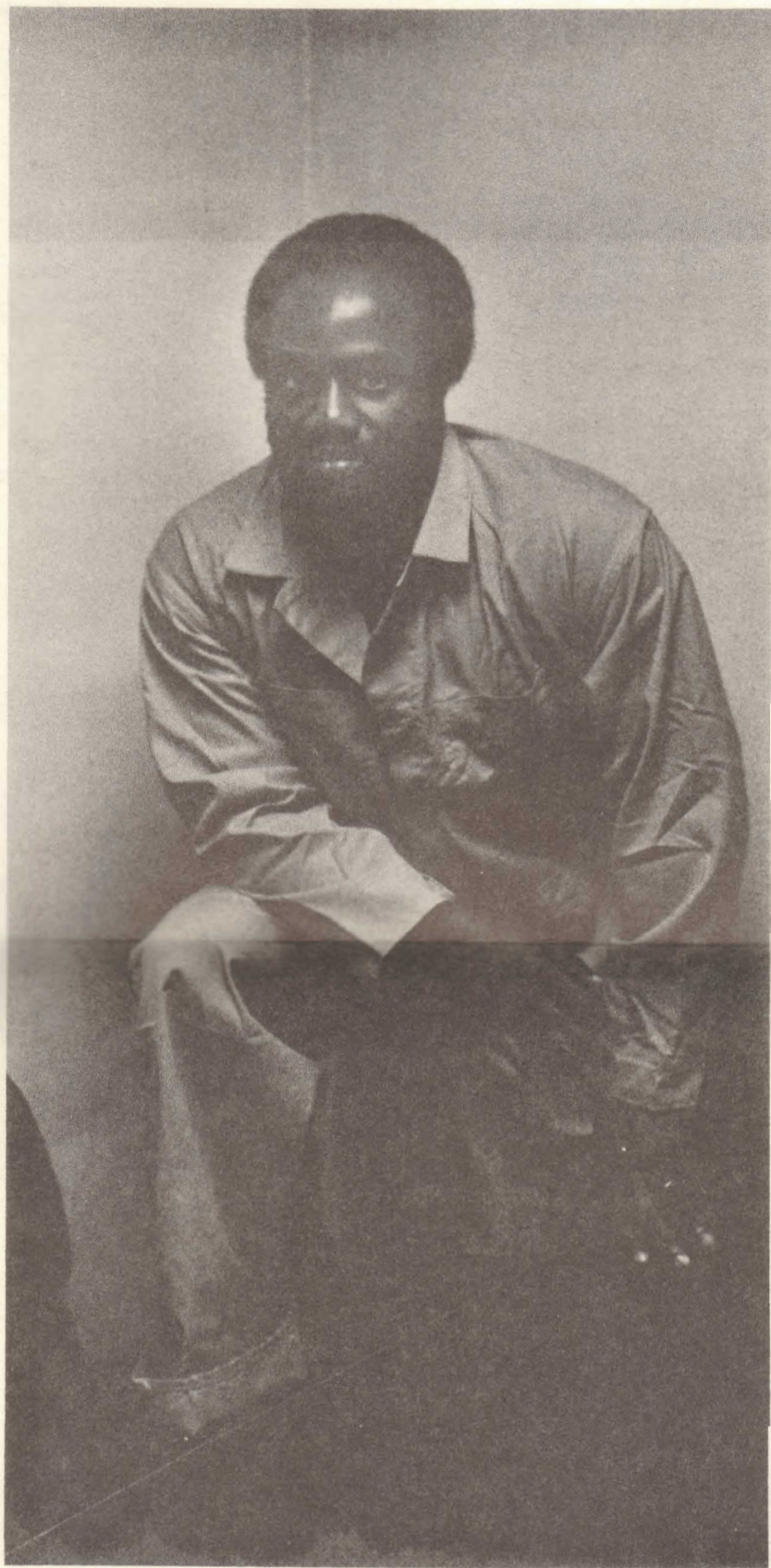
guard and one correctional counselor, all of whom claim to have been in the area of the attack on November 27, 1973 at D.V.I. The credibility of the inmates who testified against Graham and Allen was questionable, since they openly admitted that they had expected early release from prison in return for their testimony in the case. One of the white inmates who supposedly identified Graham and Allen, admitted in his statement that in fact, "all Black people look essentially alike."

During the third trial the District Attorney, John Phillips, called for the first time Art Beltran, former number 3 man in the Nuestra Familia prison gang. Beltran, who has pleaded guilty or been given immunity for as many as thirteen execution-style murders, is currently employed in the Federal Protective Witness Program. He has testified in numerous trials around the State of California against various defendants in exchange for concurrent sentences for one count of second degree murder, protection, and ultimately a new identity, employment and income out of state after he is released on parole. Beltran testified that while incarcerated in the isolation section of D.V.I., he had a conversation with Ernest Graham in which Ernest "confessed" that he had participated in the stabbing of the guard. Beltran also testified that "lying in court is second nature to Nuestra Familia members". On cross examination Beltran was unable to account for the fact that he did not disclose this information until early 1980, even though he had begun "cooperating" with state and federal authorities as early as 1978. *Continued on page 7*



BREAK DE CHAINS

PRISONERS OF WAR



ERNEST GRAHAM



EUGENE ALLEN

Many prison guards assured us that if they were not successful in sending us to the gas chamber through court procedures, they would have to go back to their old traditional way of eliminating blacks, but we don't feel much pain, because we know the people are on the march.

IN TIME WE SHALL WIN

Graham & Allen

Revolutionary salutation

Graceful people of the struggle, servants of humanity, most sacred and noblest creation — the revolution.

I would like to state in general terms, as a prisoner involved in prison politics, I am not just concerned with prison reform and the rights of prisoners, or the building of a national prison organization, because the magnitude of my human concern looms far beyond the diabolical scope of prison destitution. I am concerned with the politics of the world which ominously threaten peace and the salvation of humanity.

I am concerned with the colonialist and oppressive status of African people here in America, the systematic oppression of women and the political, economic and social oppression of all people of the world.

Therefore, in the graceful spirit of humanity, I humbly and respectfully call for political unity, mobilization and cooperation among the people, both tactically and strategically for the purpose of challenging U.S. imperialism and its destructive policies. U.S. imperialism is the fundamental cause of war and human misery in its vicious quest for economic exploitation and territorial domination. It is an incontestable fact that the forces of imperialism, led by the United States of America, is the number one enemy of all oppressed and progressive thinking people of the world who stand for progress and a new social economic order.

Nearly all over the world today, anti-imperialist movements, forces for political, economic and social change are rising up with righteous indignation and leading the oppressed indigenous masses in a tireless struggle for national liberation against the puppet agents of imperialism, colonialism, neo-colonialism and all its evil manifestations.

I say to the peace loving people of America, the progressive and revolutionaries, let us unify our political efforts and aspirations, our resources, our skills, and good intentions, and contribute what we can as an organized political entity to the noble fight against imperialism by struggling from within U.S. borders for the common good of civilization.

History has bestowed this responsibility upon us. If we fail to accept our responsibility in stopping U.S. imperialism and its fascist plots against smaller and weaker nations for the purpose of exploitation and hegemony, we are doomed by the dialectical forces of destiny to suffer the same catastrophic disaster that Germany suffered as a consequence of Hitler's fascist plots against the world. Let us not perish with imperialism as a culprit party to its savage crimes against the oppressed nations of the world.

If we must perish or sacrifice, let it be for peace and progress. Let it be done in the name of a revolutionary cause and not a reactionary one.

African people in America, sons and daughters of former slaves, are living evidence of a people who have suffered all their lives from material deprivation, economic slavery, oppression and inequality. This is so because their lives have been predetermined by an economic and political philosophy that

is based upon racism, oppression and exploitation. The reality of our situation — no jobs, poor wages, lack of proper medical attention and decent education, will remain acute or get even worse, as long as we're without the political mobility or power to make decisions that govern our political, economic and social life in this nation called America.

I feel this to be true, deep in my heart and soul, because there is no logical reason or basis for us as a people to continue to believe with hope, after hundreds of years of being subjected to slavery and neo-slavery, that the present government has any true intentions of ever changing their colonialist attitude toward African people here in racist America. This will only happen if they are compelled to do so by the power and will of the people in question.

To the forces in America that stand for national liberation, I say, let us unite now in the name of revolution and in the spirit of humanity and become one tactical and strategic organized voice for the common good of all, and for the purpose of liberating the people, workers and non-workers alike, from the oppressive elements of capitalist America.

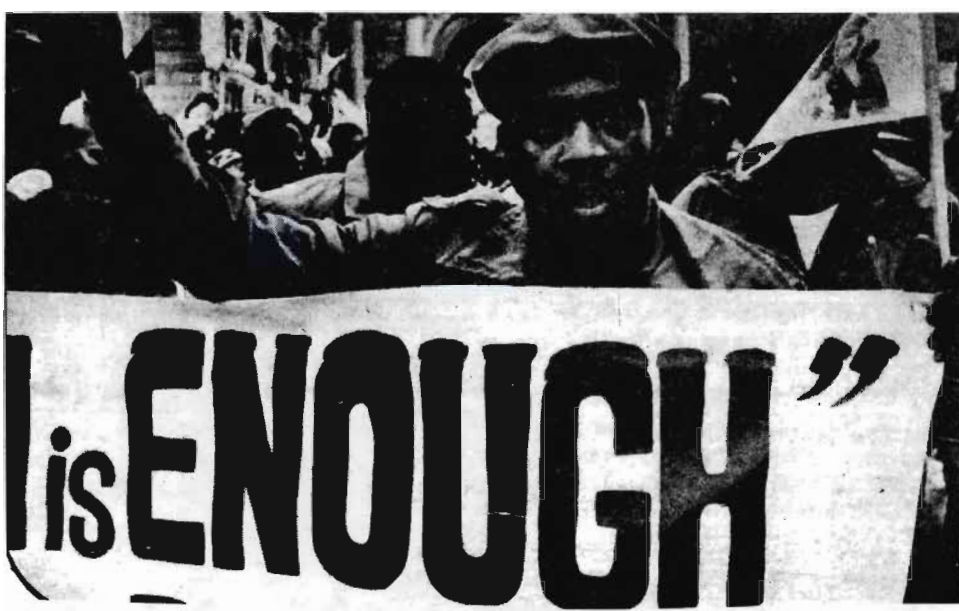
Let us do it now, because each day, each moment that we delay in establishing such a union, such a united front, we inevitably prolong the agony and suffering of those whose hopes of ever enjoying the fruits of their labor depend on our ability to organize a party which is capable of leading and waging a struggle for national liberation.

Our task and responsibility is great indeed. Perhaps we have before our eyes more than we can possibly absorb or handle. However, the noble responsibility remains ours to handle, because we are responsible to history. I believe as Kwame Nkrumah believed, "Time indeed is the crucial factor, for time acts for those who use it with purpose and not for those who let it slip by. Those who do not use time as their agent give the advantage to those who do." Let us seize the time and use it with purpose by challenging the dehumanizing system which has caused humanity so much misery.

In conclusion, I would like to convey, on behalf of us both, our heartfelt feeling of thanks to all the wonderful people and organizations that have given their material and moral support in our continued battle to prove our innocence in this C.D.C. conspiracy against us for being Black and for being concerned with the political reality and dehumanizing conditions of prison. As political activists, we fully understand that our willingness to do what we believe and consider to be right, has placed us on the dark side of the state's heart. However, we remain firm and committed to our revolutionary beliefs and will continue to do what we feel is right because we are on the light side of the righteous people's heart. To us, that means more than anything else, and takes up the difference for being on the dark side of the state's heart.

Peace and freedom

Shujaa (Ernest Graham)
Lateef (Eugene Allen)



(Continued from page 3)

At the end of the third trial, the jury expressed considerable doubt in the prosecution's case for a number of reasons:

First, in spite of the coroner's testimony that the guard had died as a result of deep stab wounds, no blood was found on the clothes of the defendants.

Second, none of the supposed eye-witnesses saw each other during the course of the attack on the guard even though the stabbing took place within a matter of seconds and the area involved is small enough that true eye-witnesses could hardly miss each other.

Third, significant discrepancies in the testimony among the eye-witnesses regarding the escape routes taken by the attackers, the direction in which weapons were discarded, and the location of the initial attack, yielded a substantial inference that the witnesses had not actually observed the attack itself, and the testimony was manufactured after the fact, based upon post-event calculations of what must have happened, radio reports and stories circulated through the prison grapevine.

Fourth, the jury was considerably disturbed by the poor quality of the investigation conducted by the County Sheriff's officers and investigators for the Department of Corrections. Prison guards made up their reports in the same room, at the same time, with ample opportunity for straightening out details. Photo identifica-

tions of the defendants were made with prints bearing their names. Photographs of the scene of the stabbing were so poor that criminalists for both the prosecution and the defense were unable to determine the direction of attack, in order to bolster or discredit the testimony of certain witnesses.

Finally, the credibility of the inmate witnesses, particularly of Art Beltran, was so questionable, that their testimony cast considerable doubt over the entire prosecution's case.

What is the Current Situation?

Both men are still in prison. Since Ernest Graham has completed his time on his original charge, he is presently in the San Francisco County Jail solely on the basis of the 1973 indictment. Recently bail was set for the first time at \$250,000. Eugene Allen is still being held in maximum security in San Quentin prison.

On September 22, 1980, the National Association for the Advancement of Colored People (N.A.A.C.P.), the National Conference of Black Lawyers, the Center for Constitutional Rights and the National Emergency Civil Liberties Committee joined the defense lawyers in a motion to dismiss the case of Graham and Allen, charging that the defendants are being discriminated against because of their race and their political activities.

This discrimination is manifest in the prosecutor's decision to try Mr. Graham and Mr. Allen for a fourth time in this case. Coming at a time when the Los Angeles District Attorney has announced his intention not to retry a white police officer following a hung jury, the fourth trial of the defendants in the instant case would stand in sharp contrast and present to the public and especially to the Black community another instance of an apparent double standard of criminal justice. Following so closely on the heels of the upheavals in the Black communities of Miami and Chatanooga, which occurred in reaction to similar apparent inequities in the treatment afforded Black and White people in courts there, a fourth trial here would do little to dispel such unrest.

From a brief filed by the
N.A.A.C.P.,

Center for Constitutional Rights,
National Emergency Civil Liberties
Committee, National Conference
of Black Lawyers

In the United States, in general, and in the State of California, in particular, retrials of criminal defendants are virtually restricted to Black defendants accused of the murders of White persons, or peace officers such as police and prison guards. In sharp contrast to the prosecutor's stated decision in this case to try the defendants (two Black men) a fourth time or as many times as are necessary to reach a verdict, is the practice in the United States in general, and in California in particular, of not re-prosecuting White peace officers following a hung jury where the victim is not White.

From a brief filed by the
N.A.A.C.P., Center for
Constitutional Rights,
Emergency Civil
Liberties Committee, National
Conference of Black Lawyers

On December 19, 1980, defense attorneys James Larson and Gil Eisenberg argued the motion to dismiss before Judge Claude Perasso in San Francisco Superior Court. During the hearing the defense was able to show that the practice of retrying a case four times was in fact unprecedented in San Joaquin County and that the decision to bring Graham and Allen to yet a fourth trial is clearly discriminatory.

Although there has been no ruling from Judge Perasso on the motion to dismiss, the San Joaquin District Attorney's office has made it clear that they fully intend to have a fourth trial. It is obvious that the State and the California Department of Corrections are desperate to keep Graham and Allen in prison despite public and legal protest at the racism and political discrimination this exposes.

Continued imprisonment is not only a vicious injustice, but puts Ernest and Eugene's lives in constant jeopardy. Ernest recalls, "After being charged with taking the life of the prison guard, the threats on my life intensified. Many guards assured me that if they were not successful in sending me to the gas chamber thru court procedures, they then would have to go back to their old traditional ways of eliminating young Blacks like Eugene Allen and myself".

The case of Ernest Graham and Eugene Allen is not an isolated one, but is part of a continuing history of Black men and women who have refused to be intimidated and continue to fight with strength and courage for the liberation of their people.

At a time when police and Ku Klux Klan members are either acquitted or allowed to walk free after one mistrial, the decision to try the case of Graham and Allen a fourth time is an outrage. Only continued pressure and exposure of the State's vindictive plan can stop a fourth trial.

Mr. Graham and Mr. Allen were found to be "persons who after conviction and incarceration, because they became advocates for prison reform and spokespersons for grievance of prisoners as a class, are selected for additional criminal prosecutions and unusually brutal conditions of confinement."

From Report of International Jurists Visit with Human Rights Petitioners in the United States, August 3-20, 1979, filed with United Nations Commission on Human Rights.



What You Can Do To Help:

If a fourth trial does occur, attend the trial on March 2, 1981, at Dept. 21, Hall of Justice, 850 Bryant Street, San Francisco. It is crucial that people come to the court to show their support for Graham and Allen.

Voice your protest against a fourth trial by writing to:

Joseph Baker
Office of the District Attorney
222 E. Weber, Rm. 202
Stockton, CA 95202

Hon. Claude Perasso
Dept. 21, Hall of Justice
850 Bryant Street
San Francisco, CA 94101

Inform your organizations, your friends about the Graham and Allen case.

Write to local, national, and progressive newspapers about Graham and Allen in order to inform more people, generate a broader support and protest the repeated prosecution of this case.

Contact the Graham and Allen Defense Committee, 1255 Post, Suite 625, San Francisco, CA 94109, (415) 561-9195, to offer your help and support, and to obtain further information about the case.