

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
(CRIMINAL TRIAL DIVISION)

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COMMONWEALTH : JANUARY SESSIONS 1982
:
vs. : 1357-Poss. Instru. Crime Genly
: 1358-Murder
MUMIA ABU-JAMAL : Voluntary Manslaughter
a/k/a WESLEY COOK : 1359-Involuntary Manslaughter

- - -
Philadelphia, Pennsylvania, 11 June 1982
Room 253 City Hall

- - -
Before: HONORABLE ALBERT F. SABO

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APPEARANCES:

JOSEPH MCGILL, Esquire
Assistant District Attorney

ANTHONY JACKSON, Esquire
For the Defendant

MUMIA ABU-JAMAL
Pro Se

- - -
VOIR DIRE

VOLUME V

(The jury panel enters the courtroom at 10:00 A.M.)

THE COURT: Ladies and gentlemen, you have been summoned to this courtroom as prospective jurors in the case of Commonwealth vs. Mumia Abu-Jamal, who is charged with the crimes of murder and possession of an instrument of crime.

There is a pretty good possibility that the jury when the trial actually starts will be sequestered. By that I mean you will not be permitted to go home. You will be sequestered at a local hotel and fed at the expense of the City of Philadelphia. I thought that you should know that. You will not be sequestered once you are selected, but once the trial starts there is a very good likelihood that you will be sequestered.

The jury will be chosen from the members of this panel, or if this panel is exhausted before the required number of jurors has been selected an additional panel will be summoned.

3.

You will undergo a preliminary examination by me and then an individual examination by the attorney for the Commonwealth and defense counsel. This is known as voir dire, which is the French for "see and tell."

We may ask you personal questions. The purpose of these questions will not be to pry into your personal and private lives, but to get 12 jurors who will be fair and impartial. The questions asked will be strictly confined to disclosing qualifications or lack of qualifications of a juror and whether or not any prospective juror has formed a fixed opinion or may be otherwise subject to disqualification for cause.

In addition, the Assistant District Attorney and defense counsel have the right of peremptory challenge, which each lawyer may exercise as he sees fit without disclosing or indicating the reason therefor. Each side is entitled to 20 peremptory challenges.

The jury will be the sole judge of the facts. You will determine all factual

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issues. As to the law in the case, you must take the law as the Court gives it to you and apply that law to the facts as you determine them to be from the evidence presented in this courtroom during the course of this trial. If the Court is mistaken on the law, that will be corrected on review or appeal.

You must approach service in the trial of this case with a clear understanding and acceptance of certain basic principles which are in part the law of every criminal court trial. The defendant was arrested, given a preliminary hearing, and subsequently Bills of Information or formal charges were filed by the District Attorney. Now, this is standard procedure. From it you are not to draw an inference, and certainly not an inference unfavorable to the defendant. You are to ignore it in determining the guilt or innocence of this defendant. The fact of arrest, preliminary hearing, or Bills of Information should not lead you to believe that the defendant must be guilty of something or he

would not be here today for trial. This defendant and every defendant for that matter is presumed to be innocent. The cloak of innocence remains throughout the trial and until and unless you conclude based on careful and impartial consideration of the evidence presented in this courtroom during your deliberations that the Commonwealth has proven him guilty beyond a reasonable doubt.

The Commonwealth has the burden of establishing the guilt of the defendant beyond a reasonable doubt. This does not mean beyond any doubt or all doubt or to a mathematical certainty, but beyond a reasonable doubt. This term will be defined in the course of my charge at the conclusion of this trial. This burden of proof continues throughout the trial and relates to all the elements of the crimes charged against the defendant.

The defendant does not have to take the stand or produce testimony in his own defense. This must be clearly understood and accepted by you. You are to draw no inference

and certainly no unfavorable inference from this.

You will attach no greater weight to the testimony of a police officer or a detective simply or merely because of his occupation as a police officer or a detective. All witnesses called by the Assistant District Attorney and the defendant will be given this same scrutiny and evaluated on an individual basis using the guidelines I shall give you in more detail during my charge at the conclusion of this trial.

Basically what I am saying to you is this: that you give no greater weight to the testimony of a witness simply or merely because of his status in life or his occupation. It makes no difference whether the witness be an elected official, such as the Mayor, or whether he be a professional man, such as a doctor, lawyer, dentist, clergyman or even a judge if he should testify, or whether he be just an everyday-working individual. You will take all witnesses as they appear and you will check them

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individually. You will check the demeanor on the stand, how they testify, what they say and how they say it, whether there's other evidence in the case that may substantiate that which they say.

I will give you more details later on as to the method you are to use to evaluate a witness's testimony, but you do not do it simply or merely because of his status in life or his occupation.

Starting now and regardless of whether or not you are selected as a juror, you are not to discuss the case with anyone, not even among yourselves. Do not permit anyone to speak to you about it. If anyone tries to contact you about this case, you are to let me know immediately.

The defendant is entitled under the law to have his guilt or innocence determined by 12 competent, fair, impartial, and unprejudiced jurors. A fair, impartial, and unprejudiced juror is one who has no feeling or bias, prejudice, or partiality toward the

victim of the alleged crime or toward any other witnesses who will testify in this case, and who has no fixed opinion as to the guilt or innocence of the defendant at this time, and who will determine his guilt or innocence solely upon the evidence presented in this courtroom during the course of this trial and the law applicable to the evidence as expounded by the Court.

I have already given you certain preliminary instructions so that you will better understand the questions which shall be directed to you either as a group or individually. For the purpose of saving time in the selection of the jury from this panel I shall address certain questions to the entire panel as a group. If any of the questions which I ask applies to any member of the panel, I direct such person or persons to rise and give his or her name to the court officer. If no member of the panel rises, I shall conclusively assume that the question does not apply to any member of the panel. If one or

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more members of the panel rises, I shall conclusively assume that the question does not apply to any other member of the panel who does not stand.

It is important therefore that if any of these questions applies to any member of the panel he or she identify himself or herself to the court officer.

(The jury panel is sworn.)

THE COURT: My first general question: Has anyone been unable to understand everything that I have said so far? If so, will you please rise and give your name to the court officer.

Let the record indicate no one has risen.

My next general question: Do any of you have any physical or mental disability which would prevent you from hearing and concentrating upon the testimony of the witnesses, the addresses of counsel, and the instructions of the Court? If so, will you please rise and give your name to the court officer.

Let the record indicate no one has risen.

My next general question: Have any of you or any member of your immediate family, very close relatives, or very close friends ever been the victim of a crime of violence? If so, would you please rise and give your name to the court officer.

COURT OFFICER: Francis O'Connor.

Page 7, Your Honor, No. 79, James Kirk.

Page 6, Your Honor, 124, Donna Petruzzelli.

Page No. 6, Your Honor, No. 116, Francis O'Connor.

Page 7, Your Honor, No. 96, Joan Marcinowski.

THE COURT: My next general question: Have you or any member of your immediate family, very close relatives, or very close friends ever been charged with a crime? I'm not talking about traffic tickets. If so, will you please rise and give your name to the



court officer.

COURT OFFICER: Page 6, Your Honor,
No. 176, Dawn Williams.

Page 7, Your Honor, Juror No. 96,
Joan Marcinowski.

THE COURT: Let me remind you that the
verdict of a jury must be unanimous. Also let
me instruct you that in your deliberations as
jurors you have a duty to consult with one
another and to deliberate with a view to
reaching a unanimous agreement if it can be done
without violence to your own individual
judgment; that is to say that each juror must
decide the case for himself or herself, but only
after an impartial consideration of the
evidence with his or her fellow jurors.

In the course of such deliberations
a juror should not hesitate to reexamine his or
her own views and change his or her opinion
if convinced that it is erroneous. But no
juror should surrender his or her honest
convictions as to the weight or effect of the
evidence or as to the guilt or innocence of the

defendant solely because of the opinion of his or her fellow jurors or for the mere purpose of returning a unanimous verdict.

Therefore, the question which I am now directing to each member of the panel is whether you would follow these instructions of the Court. If any of the member of the panel would not follow these instructions of the Court, will you please rise and give your name to the court officer.

Let the record indicate no one has risen.

My next general question: Are any of you personally employed as a policeman, detective, or law enforcement agent, or have any of you ever been so employed at any time during your life, or are any of you very closely related to or very closely associated with any policeman, investigating or law enforcement agent? If so, will you please rise and give your name to the court officer.

COURT OFFICER: Page 7, Your Honor,
No. 79, James Kirk.

Page 6, Your Honor, No. 70, Regina
Kaznicki.

Page 7, Your Honor, No. 76, Thomas
Kiernan, Jr.

Page 6, No. 42, Donato Gallo.

Page 6, Your Honor, No. 31, Harold
De Orio.

Page 6, No. 74, Vincent Kelly.

Page 6, Your Honor, No. 109,
Christopher Michalski.

Page 6, No. 124, Donna Petruzzelli.

Page 6, No. 129, Joseph Rasiul.

Page 6, Your Honor, No. 83, Carl
Lash, Sr.

No. 66, Henry Jefferson.

Page 6, Your Honor, No. 153, William
Shiver.

THE COURT: The next question is not
only applicable to the ladies and gentlemen who
rose in response to the last question, but to
the entire panel as a whole.

Would you consider the testimony of a
policeman or other law enforcement official more

worthy of belief or less worthy of belief merely or solely because of his occupation as a policeman or law enforcement officer? If so, will you please rise and give your name to the court officer.

Let the record indicate no one has risen.

My next general question: Would any member of the panel suffer any serious hardship in sitting on this jury? If so, will you please rise and give your name to the court officer.

COURT OFFICER: Page 6, No. 116,
Francis O'Connor.

Page 7, Your Honor, No. 87, Margaret
Lemon.

Page 6, No. 74, Vincent Kelly.

THE COURT: Do any of you have any fixed opinion upon the guilt or innocence of this defendant, or do any of you know of any reason why if you are selected as a juror in this case you could not give either this defendant or the Commonwealth a fair and impartial trial? If any of you have any fixed

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opinion upon the guilt or innocence of this defendant or if any of you know of any reason why you could not give him a fair and impartial trial, will you please rise and give your name to the court officer.

COURT OFFICER: Page 7, Your Honor, No. 79, James Kirk.

Page 6, No. 42, Donato Gallo.

Page 6, No. 177, Sally Williams.

Page 6, Your Honor, No. 31, Harold De Orio.

Page 6, No. 124, Donna Petruzzelli.

Page 7, Your Honor, No. 96, Joan Marcinowski.

Page 7, Your Honor, No. 513, Charles Alpert.

Page 6, No. 109, Christopher Michalski.

THE COURT: The defendant is of the black race while the victim of the alleged crime was of the white or Caucasian race. Do any of you who are of the white or Caucasian race have any feelings against the defendant or

any fixed opinion of his guilt because of his race or color? If so, will you please rise and give your name to the court officer.

Let the record indicate that no one has risen.

I told you initially that the mere fact that the defendant was arrested, given a preliminary hearing, and formal charges filed against him, that that was not evidence and you are not to draw any adverse inference from this because this is the normal criminal procedure that must be followed in order to bring a matter to trial so that the guilt or innocence of the defendant can be ascertained by a jury.

My question to you is this: Do any of you feel that merely because the defendant sits here accused of a crime that he must be guilty? If so, would you please rise and give your name to the court officer.

Let the record indicate that no one has risen.

I am first going to introduce the

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parties and give you a list of names for those that may be witnesses or whose names may come up during the course of the trial, even though they may not be witnesses, to ascertain whether or not you know any of the individuals involved.

I want to first introduce myself. I am Judge Albert F. Sabo. Does anyone on this panel know me personally or have any professional or social dealings with me at any time? If so, will you please rise and give your name to the court officer.

Let the record indicate that no one has risen.

I want to introduce you to the Assistant District Attorney Joseph McGill. Does anyone on this panel know Mr. McGill either professionally, socially, or otherwise?

Let the record indicate that no one has risen.

I want to introduce you to attorney Anthony Jackson. Does anyone know him personally or professionally, or socially or

otherwise?

Let the record indicate no one has risen.

I am going to introduce you to the defendant, Mumia Abu-Jamal. Does anyone know him individually or know anything at all about him at all? If so, will you please rise?

COURT OFFICER: Your Honor, Page 6, No. 42, Donato Gallo.

Your Honor, Page 6, No. 116, Francis O'Connor.

THE COURT: Now, the alleged incident for which you are here today allegedly occurred on December the 9th, 1981, at 13th and Locust Street in the City of Philadelphia at approximately 3:56 A.M. when Police Officer Daniel Faulkner of the 6th Police District was allegedly shot to death.

With that brief resume, does anyone on this panel know anything about that case or have you read something about it in the news media or have you heard it over the radio or have you seen anything on television in reference to this

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incident? If so, will you please rise and give your name to the court officer.

Since the greater majority of you have risen, you may sit down and I will ask the question in the reverse order.

Is there anyone on this panel who has not read anything about the incident, heard anything about the incident, or saw anything on TV about the incident, or know anything about the incident? If so, would they please rise.

COURT OFFICER: Page 7, Your Honor, Juror No. 96, Joan Marcinowski.

Page 6, Your Honor, No. 160, Dolores Thiemicke.

Your Honor, Page 6, No. 129, Joseph Rasiul.

THE COURT: I'm going to read off a list of names to you. As I said before, some of them will be witnesses and others, even though they may not be witnesses, their names may come up during the course of the trial; the purpose being to ascertain whether or not you know any of the individuals involved.

If any of the police officers or other witnesses might be in the courtroom when I call the name, would you please stand and come up towards the front so that the jury can see you.

I will take my time as I read the names. As I read the names, if any of you know any of them, please stand immediately and we will make a notation of that.

Inspector Alfonso Giordano from Command Inspection.

Police Officer Gary Bell, B-E-L-L, from the 6th District.

Police Officer Carolyn Chinn, C-H-I-N-N, from the 6th District.

COURT OFFICER: Page 6, Your Honor, No. 31, Harold De Orio.

THE COURT: Police Officer John McGurk, M-C-G-U-R-K.

Police Officer Robert Shoemaker.

Police Officer James Forbes, F-O-R-B-E-S.

Police Officer Roy Land from the

JB

Mobile Crime Unit.

MR. MCGILL: Your Honor, Officer James Forbes is here.

THE COURT: This is Officer Forbes.

COURT OFFICER: Page 6, Your Honor, No. 31, Harold De Orio, knows Officer Land.

THE COURT: Detective William Thomas. Look to your left. You can see Detective Thomas. See if you know him.

Next is Detective James Morton of Homicide.

Sergeant Herbert Gibbons from Homicide. Detective Douglas Culbreth from Homicide.

If you look to your left, the detective is standing there.

Dr. Charles Tumosa, criminalist.

He's not here.

Mr. William Carlin, C-A-R-L-I-N, Ballistics.

Mr. Larry Paul from Ballistics.

George Fassnacht, F-A-S-S-N-A-C-H-T, ballisticians.

Dr. Anthony Colletta from Jefferson
Hospital.

Dr. Paul Hoyer from the Medical
Examiner's Office.

Mr. Robert Chobert, C-H-O-B-E-R-T.

Mr. Albert Magilton, M-A-G-I-L-T-O-N.

Mr. Mark Scanlan from New Jersey,
S-C-A-N-L-A-N.

Ms. Cynthia White from Philadelphia.

Ms. Priscilla Durham, D-U-R-H-A-M,
Philadelphia.

Mr. James LeGrand, L-E-G-R-A-N-D.

Police Officer Gwen Thomas.

Look to your left. That's Police
Officer Gwen Thomas.

Mrs. Maureen Faulkner.

Look to your left.

COURT OFFICER: No. 31, Page 6,
Your Honor, Harold De Orio.

THE COURT: Mr. Thomas Faulkner.

He's not present, but I assume he
lives in Philadelphia.

Mr. Pat Faulkner.

Will you look to your left, please.

COURT OFFICER: Page 6, Your Honor,
No. 31, Harold De Orio.

THE COURT: Mr. Robert Greer, G-R-E-E-
R.

Mr. William Peraneau, P-E-R-A-N-E-A-U.

Mr. Robert Pigford, P-I-G-F-O-R-D.

Desi Hightower, H-I-G-H-T-O-W-E-R.

Dr. Regina Cudemo, C-U-D-E-M-O,

from Jefferson Hospital.

Dr. Bruce Jarrell from Jefferson
Hospital.

Let the record indicate that no one
knows any of those potential witnesses or names
that may be called except the ones that were
indicated at the time.

Now, what we are going to do is you
are going to go outside and we are going to
call you in one at a time, at which time you
will be asked individually certain additional
questions concerning your qualifications to sit
on the jury.

I want to ask you to please not discuss

this case or those you know about it among yourselves while you are waiting to be called.

Before you leave, may I see counsel at side-bar.

(Side-bar conference in the presence of The Court, Mr. McGill, and Mr. Jackson reported as follows:

THE COURT: What is your position if we call out of order, if you agree, this Harold De Orio? He seems to know everybody in this case. I think the sooner we get him out of here the better.

MR. MCGILL: That's fine. I agree.

MR. JACKSON: That's fine.

THE COURT: Call him first.

MR. JACKSON: Judge, I have several motions that Mr. Jamal asked me to make. I would like to do it at some time.

THE COURT: You can do it when we break for lunch. I want to get through as many people as we can.

MR. JACKSON: I am sure that after you hear you will probably deny it right away.

THE COURT: I don't know what it is.

MR. JACKSON: Again for John Africa to be appointed and that you are denying him his rights of self-representation and that he wants you to recuse yourself.

So whenever you want to do that.

THE COURT: Okay.

(End of side-bar conference.)

(The jury panel leaves the courtroom.)

COURT OFFICER: No. 31, Harold De Orio.

...HAROLD DE ORIO...

THE COURT: Commonwealth.

BY MR. MCGILL:

Q Mr. De Orio, you indicated you knew several people.

A Yes, I do.

Q The police officers, in what connection do you know them?

A I'm an ex-police officer.

Q You really couldn't be fair in this case, could you, sir?

A No, I couldn't.

MR. MCGILL: Challenge for cause,

Your Honor.

MR. JACKSON: No objection.

THE COURT: You are excused.

May I say to you also not to discuss
this case with anyone.

COURT OFFICER: No. 18, Georgiana
Calise.

MR. JACKSON: Your Honor, would you
want to entertain the motion now or wait?

THE COURT: I think she won't be long.

...GEORGIANA CALISE...

BY MR. JACKSON:

Q Good morning. Is that Miss or Mrs.?

A It's Miss.

Q Could you tell me in what section of the City
do you live?

A I live in South Philly.

Q For about how long?

A All my life.

Q Are you employed, ma'am?

A Yes, I am.

Q What's your occupation?

A I work for Bell Telephone of Pennsylvania. I'm

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a construction foreman.

Q For about how long?

A It will be 13 years -- 14 years in September,
excuse me.

Q Could you tell me with whom you live, the
relations?

A I live with my parents.

Q Is your father employed?

A Yes, he is.

Q What is his occupation?

A He works for the Government down at Lakehurst.
He's a machinist foreman.

Q Down at Lakehurst?

A Yes, New Jersey.

Q Lakehurst, New Jersey. You said, I believe,
a machinist?

A He's a machinist foreman. I don't know his
exact title.

Q And your mother, is she employed?

A No, she is not. She's a housewife.

Q Has she been employed in the last five or six
years?

A No.

Q Any brothers or sisters?

A One sister.

Q What is her occupation?

A She's a housewife right now.

Q She was employed, I take it?

A Yes. She was employed with the State.

Q Do you know in what capacity?

A She worked for the Welfare Department as a clerk.

Q Now, Miss Calise, you have indicated by standing and by sitting that you have heard something about this case; is that correct?

A Yes.

Q Now, could you tell us the last time that you heard or read something about this case?

A I think it was probably Wednesday on the radio they only had one juror picked for the trial.

Q Now, of course, I assume that you also heard or read something about this at or about December 9 or 10 when this event occurred?

A I believe I read it in the Daily News.

Q Now, as a result of what you have read and heard about this case, do you believe you have developed some fixed opinion about Mr. Jamal's guilt or innocence?

A Possibly.

Q You say "possibly." Is that a result -- or tell me what that is a result of.

A Just from bits and grabs of what you read and what you hear, other opinions, you know, if anybody is discussing the case around you.

Q And the discussions and what you have heard and read have suggested the guilt of Mr. Jamal?

A No, not really.

Q When you said that you possibly have a fixed opinion, what is that opinion?

A I don't really know. I can't honestly tell you. I know that I probably would have some form of opinion.

Q We are not really trying to find if you have some opinion, because we all have some. What we are really trying to find out is whether or not you have an opinion about this matter that could not be changed in any way.

A I have always considered myself an open-minded person.

Q And I appreciate that, and forgive me for being technical. Yes or no, do you have a fixed opinion?

A No, I don't, not as of this moment.

Q So then, I take it, what you are saying is that notwithstanding all that you heard and read you would be willing and able to follow the instructions of the Court that you must rely solely and exclusively on the evidence or the lack of evidence that comes from that witness stand? Could you do that?

A Yes.

Q Is there any doubt in your mind?

A Maybe a little tenth.

Q A tenth of a doubt. I would like to examine that tenth of a doubt if you don't mind. Forgive me, but I am sure you can appreciate the need for us to know that.

Mr. Jamal has been charged and arrested and has gone through a preliminary hearing, as His Honor has just said. The Commonwealth has the burden of proving him guilty beyond a reasonable doubt in this courtroom. If in fact the Commonwealth proves his guilt beyond a reasonable doubt, then you would have an obligation and a duty to find him guilty beyond a reasonable doubt.

Now, from what you have heard and read, we want to be sure that you would not let any of that

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