

# Skyhorse and Mohawk Acquitted

Brint Dillingham

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*Brint Dillingham has reported on the Skyhorse/Mohawk trial on two previous occasions. See American Indian Journal Vol. 3, No. 8 and Vol. 4, No. 2.*

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The mariner as he looks for relief from his weary watch, turns his eyes to the Southern Cross burning luridly above the tempest vexed waters. As the midnight approaches the cross begins to bend, the whirling worlds change their places, and with starry fingered points, the Almighty traces the passage of time upon the dial of the universe. And though no bell may beat glad tidings, the lookout knows that rest and relief are close at hand. So let the people take heart and hope. For the midnight has passed, the cross is bending and joy cometh with the morning.

Eugene V. Debs

Joy came with the morning on May 24 for Paul Skyhorse and Richard Mohawk and their supporters the world over. On that date a Los Angeles jury found the two American Indian Movement (AIM) organizers not guilty of the brutal slaying of a cab driver in 1974 at "AIM camp 13" in Ventura County, California. The verdict, which came on Skyhorse's 33rd birthday, freed the two men for the first time after three and one-half years of incarceration, 13 months of trial and three weeks of jury deliberations. Throughout this time they faced the gas chamber because of a prosecution widely believed to have been a politically motivated frameup from start to finish.

Defendant Paul Skyhorse told the *Journal*: "It was a people's victory. It came because of an awareness of the authorities' abuse of their power. Because of that awareness, all the trickery and hypocrisy engaged in by the prosecution and judge to twist and bend and shape the facts didn't work on

the jury. But we could not have created that awareness without the kind of support we had."

His attorney, Leonard Weinglass, announced that "This was a victory for Native Americans who have not always fared well in the courts. It also is a victory for all people in this country who are concerned about justice." Later Weinglass told the *Journal*: "It's a victory for the American Indian Movement. When the movement goes head to head against the government even in their own arena, when all the facts are known, the government will lose."

Louis Samonsky, Ventura County district attorney who prosecuted the case, reacted bitterly to the verdict: "I'm still positive that the defendants are guilty of murder. I'm disappointed for the public's sake whom I represent." Weinglass told the *Journal* that Samonsky's statement was nothing but "the product of a small mind, but that's what we've come to expect."

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The small-mindedness of the prosecution and the magnitude of the defense struggle for victory became clearer each day of the trial, which was the longest in Los Angeles County history, the third longest in California history and, by all accounts, one of the most bizarre in American history. It featured a judge who prolonged the trial by at least a year to his own enormous financial profit and a prosecutor whose case rested on what one observer described as "a tissue of outrageous lies and half truths from half conscious half-wits."

The verdict represented not only a victory for the two defendants, nor only an "ordinary" movement victory in a political trial. It represented the success of an enormous effort by AIM and its supporters

around the world to recover from and overcome an almost successful attempt by government infiltrators who nearly discredited the men and isolated them even from the movement support they would normally expect.

### The Crime

The events leading to the prosecution of the two men started on October 10, 1974 when five people living at "AIM camp 13" in Ventura County drove to a party at the home of movie actor David Carradine who was not home at the time. At about 10:00 p.m., three of these people—Marvin Redshirt, Marcie Eaglestaff and Holly Broussard, a young white woman engaged to Redshirt—left the party. They called a cab which arrived a few minutes later, driven by 26-year old George Aird. Aird drove them the 27 miles back to their camp in Box Canyon, just north of the Los Angeles-Ventura County line. When they reached the camp, Aird was dragged from the cab, beaten, kicked and stabbed to death.

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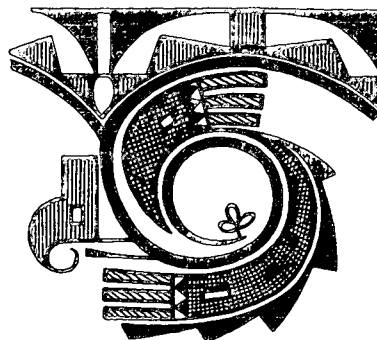
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His brutally beaten body, punctured by 17 stab wounds, was found stuffed in a storm drain.

Several residents of the camp were arrested, but only the three passengers in Aird's cab—Redshirt, Eaglestaff and Broussard—were held for murder. Overwhelming physical evidence supported such a charge. Eaglestaff was arrested while trying to shower away the blood still in her hair, on her feet and under her nails. Broussard had blood on her pants and sprayed across her boots, suggesting she may have kicked Aird's body. A blood-stained knife was retrieved from her pants pocket. Redshirt had extensive bloodstains on his pants, jacket, undershirt and both outside and inside his boots. A knife matching the description of one usually carried by Redshirt was found in an outdoor oven, beneath a pile of Aird's papers which had Redshirt's fingerprints on them.

### The FBI and the Big Lie

Despite such overwhelming physical evidence, Broussard, Eaglestaff and Redshirt were granted immunity in January, 1975 in exchange for impli-



cating Skyhorse and Mohawk, against whom there was no physical evidence. Broussard and Eaglestaff were released. Redshirt pled guilty to assault with a deadly weapon, was sentenced the following July to the time he had already served, and then released on probation. He subsequently received a college scholarship, a part-time job on a U.S. Navy base, and a rent-free apartment owned by Broussard's father, a former high-ranking military officer.

Skyhorse and Mohawk, on the other hand, who had had the apparent misfortune not to be caught armed and bloodied, were arrested a week after the incident and indicted for the murder. Under a "special circumstances" clause in California law, their conviction would carry the punishment of death.

The men insisted on their innocence. They claimed that as second echelon AIM organizers, and as the only two legitimate AIM representatives in Camp 13, they were being singled out in a political prosecution. Such a claim was not illogical in the face of the deal made by the three apparent murderers and in the context of the intensive drive by state and federal agents to stamp out AIM. But as the months dragged by after their arrest, few people would pay attention to their story, and fewer would offer their support.

As it turned out, this lack of support was due to the thorough undercover work of Douglass Durham. A kind of modern day Pinkerton, Durham had served for years as an undercover agent for the Federal Bureau of Investigation, Central Intelligence Agency and Law Enforcement Intelligence Unit. He was especially effective in infiltrating AIM, serving as its national security director, the administrator of its national office, the coordinator of the Wounded Knee Legal Defense office, and chief aide to AIM leader Dennis Banks. By the time Durham's dark deeds came to light—when he was exposed during the Wounded Knee trial of Banks and Russell Means—he had dealt a near death blow to Skyhorse and Mohawk.

By then, he had not only infiltrated the AIM 13

camp (along with Virginia "Blue Dove" Luce who was later exposed as an FBI agent). He had managed, despite his stated belief in the defendants' guilt, to become part of their defense committee. He next posed as a clinical psychologist called by a public defender in a pre-trial sanity hearing for Skyhorse. Although the state knew of this deception, they "decided not to prosecute him for perjury."

But, worst of all, Durham convinced AIM itself not to support the two men. He persuaded AIM leaders that the men were indeed guilty of a brutal murder and that they should be disowned by the movement. At the same time he recommended that AIM support Redshirt, Broussard and Eaglestaff.

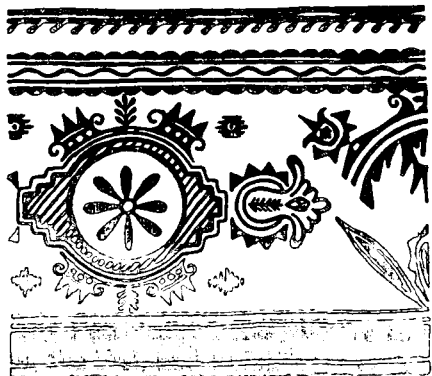
### The Road Back

It was months after Durham's exposure that AIM organizers were able to piece together the damage he had done, not the least of which was the damage to the freedom and future of Skyhorse and Mohawk. Slowly but surely the lies Durham had told about their case were exposed, and confidence in their innocence was restored.

Eventually, as the truth got out, national and then worldwide attention and support began to build. In a support letter, the National Council of Churches wrote:

this extraordinary case weaves together the work of the American Indian Movement to improve the conditions of the Indian people, the strange involvement of a longterm FBI informer and provocateur, and what seems to be a shameful misuse of the courts and destruction of civil liberties.

...you have probably never heard of Skyhorse and Mohawk. Until now neither have we at the National Council of Churches. But, after examining the facts, our governing body decided that we cannot stand by and allow this injustice to



continue without trying to help.

...Not only is two men's freedom at stake, but their work and their hopes are on trial—as well as the work of Indian organizers and the hopes of freedom and justice for Native Americans. . . ."

At the same time the United Nations Non-Governmental Organization's Conference on Indigenous Peoples of the Americas, which took place in Geneva, Switzerland in the fall of 1977, made the case a primary focus of its activities. And a few months later Amnesty International, the 1977 Nobel Peace Prize winner for its efforts to free political prisoners, announced that the case was one of a handful that it would investigate in the United States.

### The Prosecution, the Judge and the Trial

Meanwhile, the Ventura County legal establishment had escalated their open and virulent attack on the men. The height of this attack—and perhaps a turning point in the case—came when judges, prosecutors and defense attorneys participated in a county bar association skit mocking the men and Native Americans in general. The skit was entitled *The People v. Tonto*. It was this skit and other gross incidents of prejudice against the defendants and Native Americans that caused the California Bar for the first time in its history to join in a motion for change of venue in the case. The change was granted, which led indirectly to another precedent set by the case. Despite the change of venue to Los Angeles, a Ventura County judge was assigned to the case. The judge, Floyd Dodson, had won a retired judge appointment. However, Dodson was not just an ordinary retired judge, filling in for a vacationing or overworked judge. Dodson had, in fact, been defeated for reelection by a landslide in the previous election. He had maneuvered himself into position for a retired judgeship only by quitting before the end of his lame-duck term. After an appeal by the defense, the California Supreme Court made the curious ruling that such a maneuver should happen no more, but that Dodson could continue in this one instance. In its motion to have Dodson removed from the case, the defense had charged that Dodson had an obvious financial interest in prolonging this case. Throughout the trial, Dodson's actions did nothing to dispel and everything to prove these and other charges.

Among Dodson's first actions after entering the case was his move to continue to deny the men effective counsel. The men, after learning that one of the public defenders appointed to them was also defending one of the three admitted killers, chose to defend themselves. Their right to do so remained a

point of contention throughout the case. But Dodson brought the issue to its most ridiculous and oppressive point when he decided that the men could not speak to or sit near their appointed attorney advisors who, he ruled, were there only to intervene in case the men became disruptive. Although Dodson soon relented and allowed the men the services of an extraordinarily skillful defense team led by Leonard Weinglass, he ruled that the state would not pay for the team.

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Dodson's most outrageous action, and perhaps the most outrageous action of the case, was his refusal to grant a joint motion by the prosecution and defense that would have ended the case in its first week of trial. The motion, triggered by prosecutor Samonsky's embarrassment over his first and most disastrous witness, would have set the men free after a no-contest plea to second-degree murder charges. A year later, after the final verdict in the case, Richard Mohawk explained the proposed deal: "We agreed to enter this plea, not because of any guilt on our part, but because we were concerned about this judge. His conduct and attitude toward us was the main reason for us signing the document." But Dodson turned down the plea, and although he could have and should have ended the trial at any number of other points, he prolonged it for another year.

During that year he received almost \$50,000 as judge—money he would not have received had he not kept the men on trial and in jail facing the death penalty.

On June 1, 1977, the trial finally began. In his opening statement for the defense, Paul Skyhorse told the jury:

There are really two issues you will have to decide in this case: What is the believable evidence about who committed this crime and what does our resistance to the legal machinery of this prosecution mean. Since the prosecution has no believable evidence of our involvement in the crime, he will attempt to introduce evidence of our resistance to the criminal system as proof of the fact that we committed the crime. This is done presum-

ably on a legal premise that only those who are guilty will resist the system. . . .

The evidence in this case will show that there is no physical evidence linking us to these charges. The three so-called eye-witnesses, all three discredited, will testify here, as they have before, to save themselves from their own deeds. . . . This should not be a difficult case for you to decide if reasonable doubt still has any meaning under the law. Just a reasonable and fair application of the principles of law. . . should result in our complete vindication.

Ordinarily a trial recreates a prior event, usually through physical evidence and testimony. Here there is no physical evidence against us, so the prosecution will be using words and testimony. These words will mainly come from witnesses who they have arrested, harassed, traded their freedom for their testimony, and had answers suggested by the police to their questions.

Skyhorse's statement proved prophetic in two ways: 1) the prosecution's case, and 2) the factors that moved the jury to acquit.

Following Skyhorse's opening statement, prosecutor Louis Samonsky produced his two star witnesses—Redshirt and Broussard—who immediately proved all of what Skyhorse had charged about the prosecution witnesses' motives and reliability. Both were free as a result of testifying against the two defendants. Both admitted they had lied repeatedly about the incident to the authorities.

As the lead witness for the prosecution, Redshirt set what was to become the tone of the state's case—a mixture of the big lie with the bizarre. He testified that "I do not abuse my body with alcohol or drugs." He was arrested the next day on the stand after Samonsky himself told the judge that he was afraid his witness had been drunk on both of the first two days of his testimony. A sobriety test confirmed the prosecutor's fears, showing Redshirt's blood alcohol to be at a high level.



At various points throughout the rest of his testimony, Redshirt admitted that he had lied to prosecutors, police and a polygraph about the circumstances of the stabbing and about events before and after the murder occurred. Eventually he admitted under defense cross-examination that he had lied "approximately 1,000 times."

Broussard also dealt a serious blow to the prosecution case when she admitted that among her many lies was the time two and one-half years earlier when she had told investigators that she had seen the defendants stab Aird four times each. On the stand, she failed to even place the two defendants on the murder scene.

While these two were the major and probably most damaging of the state witnesses, Samonsky seemed eager to destroy his own case even further as he produced witnesses such as Robert Granger, Frank Sexton, Alan Ball and Jeff Hawley.

Both Granger and Sexton testified that they had been in and out of mental hospitals for years. At one hospital Granger was found to be "criminally insane." After hearing testimony from Granger outside the presence of the jury, the judge persuaded Samonsky not to let the jurors hear Granger. They

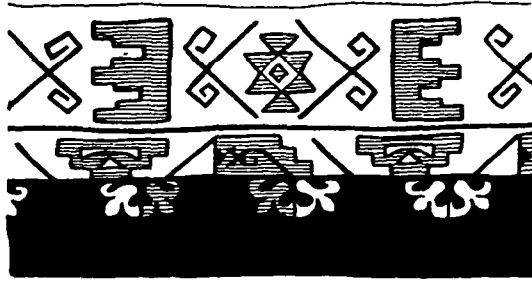
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were allowed to hear Sexton, however, who not only failed to incriminate the defendants but also testified to having been hospitalized because of drug problems seven times since 1970. He testified to extensive use of the drug PCP both before and after the period of the crime—October 10, 1974. Sexton said he didn't know if he has been employed since 1970 or when his last job was.

Samonsky's more believable witnesses, such as Hawley and Ball, also backfired on him. They were called as "flight" witnesses, evidently to bolster Samonsky's assertion that the defendants' flight after the crime indicated their guilt and to support allegations that the defendants had blood on them when Hawley and Ball saw them. Unfortunately for Samonsky, Hawley and Ball both reported they saw no blood on the defendants. And fortunately for the defendants, the jury understood, as one juror explained to the *Journal*, "why Native Americans or other oppressed peoples in this country



would fear the authorities and flee in such circumstances—even when they were not guilty."

### The Jurors

The jurors also understood all too well the overall quality of the state's witnesses. Several jurors interviewed by the *Journal* reported that, although they deliberated for three weeks (eight days at first, before one juror was dismissed because of illness, and then, starting all over again, another 10 days), there was only one ballot taken and that, of course, was unanimous for acquittal. One juror told the *Journal* that she had insisted that out of fairness all of the extensive testimony be reviewed before a vote. But, she was convinced that had the ballot been taken at the beginning of the deliberations, the result would have been the same. The jurors interviewed all agreed that the first and only necessary reason for acquittal was that the state "failed totally to prove the case against the defendants." But the jurors interviewed said other factors entered into their decision. Generally, they echoed the words of one juror who said: "We knew there was no physical evidence linked to the defendants. Prosecution witnesses continually lied throughout the case. Were the prime suspects—Broussard and Redshirt—lying to us? Of course! I wouldn't say that the possibility of a frame-up or of political motives behind this prosecution were the main factors in my decision. But the strong possibilities were certainly there. For instance, why were there informers hanging around these men? Why did the FBI agents act so peculiar in the courtroom? Why were they involved in the first place? And what about the other witnesses? Sexton was obviously crazy. You couldn't believe anything he said. I doubt that any prosecution witness was credible—except for Hawley and Ball. They were believable—in favor of the defense. And for their pains they were treated shabbily by the authorities."

When asked about charges that the judge was prejudiced, another juror agreed, saying: "It was very clear. He was totally prejudiced against the defense. He would get so angry at the defense, and

then soften his tone for the prosecution. He overruled the defense so much more often. He was definitely one-sided. He also delayed the case unnecessarily over and over. I didn't understand why until I heard about his refusal to accept the pleas and then I put two and two together."

Immediately after the verdict, defense attorney Leonard Weinglass told the press: "The real problem with the prosecution's case was that they chose to make a deal with those who took part in the murder to get at Paul and Richard. I don't think any fair-minded juror would go along with that." A week later, juror Tina Gable confirmed to the *Journal* that this prosecution deal with Broussard, Redshirt and Eaglestaff was a key question in deliberations, saying, "why was the prosecution so eager to let them go when so much evidence was found on them?"

After the verdict, defendant Richard Mohawk

said: "Judge Dodson told us we were on trial, not the FBI. I say the FBI was on trial and stands convicted since we were acquitted." Asked if the men's acquittal proves that the system works, a defense supporter noted that the "men had to wait in jail and suffer three and a half years of psychological, judicial and physical abuse before the system worked for them." Asked the same question, Mohawk said, "I don't totally agree that the system works. The people, 12 people from the community, gave us our freedom. It was the people's justice and it came from the heart of the community." A defense supporter summed up the sentiments of many who followed the case when she said: "Mohawk's right. It was *not* the system. And it *was* the people. People all around the world. The system, the FBI, the state, the government—they wanted Skyhorse and Mohawk's lives. The people wanted their freedom. The people won." ■

