

## 2d Doc Says Joanne Could Not Have Shot

A doctor, testifying in Joanne Chesimard's murder trial, said yesterday that she could not have killed a state trooper because she was shot first inside a car while she had her hands raised above her head.

Dr. David M. Stain, head of the pathology department of Brookdale Hospital who examined the 29-year-old alleged leader of the Black Liberation Army last March 14, said Mrs. Chesimard must have had her hands raised inside the car to sustain bullet wounds in her upper right arm and shoulders.

Mrs. Chesimard, often called the soul of the BLA, is charged with the May 1973 murder of State Trooper Werner Foerster during a gun battle on the New Jersey Turnpike in East Brunswick.

The shootout began when troopers stopped a car carrying a woman and two men for a faulty taillight.

Stain testified that had she been crouched on her seat with her arms extended forward, the position the prosecution says Mrs. Chesimard was assuming when the shooting started, she could not have been wounded where she was.

When Mrs. Chesimard took the stand in her own defense Tuesday, she also said she was complying with state police orders to put up her hands when she was shot without warning.

First Assistant Prosecutor Edward Barone cross-examined Stain and suggested that he was aware of the testimony given Wednesday by another doctor, Arthur Davidson.

Davidson, an associate professor of surgery at the Albert Einstein College of Medicine in New York, also supported Mrs. Chesimard's testimony about her position in the car when she was wounded.

Stain's testimony was interrupted for about an hour when it was found that he had apparently been advised by defense attorneys about what Davidson said on the stand.

Superior Court Judge Theodore Appleby said that "there was a violation of a sequestration order" and instructed the jurors to "judge this testimony on its effects on the credibility of the witness."

Under cross-examination, Stain denied specifically discussing Mrs. Chesimard's arms being raised above her head.

Lewis Myers, a defense attorney, said he had no detailed discussion about Davidson's testimony with Stain and that he mentioned Davidson's name to Stain only once.

Stain also testified that James Coston, another BLA member who was killed in the gun battle, could have gotten up and run after he was shot, suggesting the possibility that Coston, rather than Mrs. Chesimard, shot Foerster.