

Rap Brown Resentenced in New Orleans

6/3/72
Special to The New York Times

NEW ORLEANS, June 2 —

H. Rap Brown was resentenced here today to five years in prison and a fine of \$2,000 for violation of the Federal Gun Control Act.

Federal District Judge Lansing L. Mitchell refused to delay the resentencing of the black militant on his 1968 conviction despite the contention by his defense attorneys that Brown had been forced to come to New Orleans from New York at risk to his health.

The attorneys, William M. Kunstler and Carl Broage also asked Judge Mitchell to excuse himself from passing sentence on the ground of "ill feeling toward the defendant," but the judge refused.

Judge Mitchell ordered that Brown not start serving his Federal sentence until criminal charges he faced in New York were disposed of.

New York Case Cited

In asking for a continuance of the resentencing, Mr. Kunstler told the court that Brown's constitutional rights under the Fifth, Sixth, 13th, 14th and 15th Amendments were being violated by making him take "a useless and avoidable trip to New Orleans" while facing serious criminal proceedings in New York.

Brown, 28 years old, has been in custody since his capture in New York in October in a shooting incident with the police. Mr. Kunstler sought to block Brown's removal to Louisiana because of his gunshot wounds.

The judge denied the defense a hearing on a motion requiring the Government to make further disclosure of electronic surveillance that might have been used in gathering evidence in the case.

Brown's attorneys said that



Associated Press

SENTENCED: H. Rap Brown leaving court in New Orleans after receiving five years and fine for gun violation.

they would appeal the resentencing to the United States Court of Appeals for the Fifth Circuit.

Judge Mitchell ordered Brown returned immediately to the jurisdiction of the state of New York, and Brown was escorted out of the courtroom by Federal marshals. The marshals would not comment on his destination.

A battery of attorneys, headed by Mr. Kunstler, appealed to the Court of Appeals for an emergency stay of Brown's removal from New Orleans, but it was denied by Judges John Minor Wisdom, John C. Godbold and Paul H. Roney, who ordered an appeal of the sentence docketed for regular hearing. The defense contended that the motions presented to Judge Mitchell had been improperly denied.

But by the time the appellate judges acted, however, Brown was already airborne.

Kept at Hiding Place

The marshals had taken Brown into the Federal Court Building at 5:40 A.M. amid heavy security. Three automobiles filled with marshals ac-

companied Brown from a secret hiding place, where he had been held since being brought from New York to Louisiana on Wednesday.

Brown, accompanied by his wife, wore blue jeans, a purple shirt, tennis shoes and a purple hat, which Mr. Kunstler said was a symbol of his Muslim religion. Brown was allowed to wear the hat in court.

He was originally scheduled to be resentenced yesterday, but Mr. Kunstler could not appear in court then.

Judge Mitchell first sentenced Brown in absentia in 1970 to pay a \$2,000 fine and to serve five years in jail for carrying a rifle into Baton Rouge, La., his home town, while under indictment of charges of arson and inciting to riot in Cambridge, Md. But the Court of Appeals ruled the sentence was invalid and ordered the resentencing.

Flown to New York

WASHINGTON, June 2 — A spokesman for the Justice Department said tonight that Brown had been flown to New York under tight security.