

U.S. Hearing Asked for Brown

By Jim Mann

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William L. Kunstler, attorney for H. Rap Brown, has asked a federal court in New Orleans to hear evidence to determine whether Brown was improperly indicted for arson in Cambridge, Md., in 1967.

Kunstler's motion was filed Tuesday, and will be considered by a panel of judges in the Fifth Circuit Court of Appeals within the next two weeks.

If it is granted, Kunstler said yesterday, he plans to summon a number of witnesses to the hearing, including Dorchester County State's Attorney William B. Yates II, Howard County State's Attorney Richard J. Kinlein, and Montgomery County Sentinel reporter Robert U. Woodward.

Two weeks ago, both Kin-

lein and Woodward said publicly that Yates, the chief prosecutor in the Brown case, had admitted holding the arson charge to ensure FBI involvement if Brown failed to appear for trial, which he did.

Since then, Maryland Gov. Marvin Mandel has asked the state attorney general to study the Brown prosecution. The attorney general's office has interviewed Yates, Kinlein and Woodward, and is expected to report shortly on the validity of the arson charge.

A spokesman for Yates said yesterday that Yates will have no further comment on the Brown case until after the attorney general's office completes its report.

Brown was indicted in August, 1967, by a Dorchester

County grand jury. He was charged with one felony count of arson and incitement to arson, and two common-law misdemeanor counts of riot and incitement to riot. The charges involve Brown's appearance in Cambridge in July, 1967, on the day that riots broke out in the city's black ghetto area. Brown is a former chairman of the Student National Coordinating Committee (SNCC).

Last March, on the night before Brown's trial was to open in Harford County, a car explosion near Bel Air, Md., killed Ralph Featherstone, Brown's fellow civil rights worker, and William (Che) Payne. Brown never appeared for trial and has not been seen since then.

The case was later moved to

Howard County, where Kinlein assisted Yates in the prosecution. There, Kunstler argued successfully that the incitement to arson language was vague and should be dropped. It was.

Kinlein said earlier this month that he and then-Assistant Attorney General John J. Garrity asked Yates to withdraw the arson count after the incitement language had been dropped. But, Kinlein said, Yates said the charge, as a felony, would ensure that a federal fugitive warrant could be obtained against Brown, ensuring FBI involvement.

All federal charges against Brown were contingent on the Maryland arson indictment. He was convicted in New Orleans in 1968 of a federal gun charge for transporting firearms across state lines while under indictment for a felony.

Kunstler's new motion asks the Fifth Circuit Court of Appeals to remand the Brown case to the U.S. District Court in New Orleans for a hearing.

A statement filed in support of the motion argues, "Rarely, if ever, does a prosecutor admit that he has deliberately and wilfully fabricated criminal charges against a defendant."

The statement says that Woodward and Kinlein are prepared to testify regarding Yates' comments. Kinlein said yesterday that he had not volunteered to testify, but would do so if summoned.

In a telephone interview yesterday, Kunstler said that Brown "hasn't gotten in touch with me . . . I'm pretty sure he's in the country. If he wasn't, he would surface."