

F.P. OR 1/21/71

Rap Brown Case To Be Reviewed

NEW ORLEANS (AP) - An attorney for H. Rap Brown successfully argued in court here Tuesday for a review of a contention that an arson charge lodged in Maryland against the black militant was fabricated.

Attorney William M. Kunstler said in his motion that if the arson charge was fabricated, then other charges filed against Brown were tainted and should be dismissed.

The development further delays Brown's trial here on a charge of intimidating Negro FBI agent William H. Smith and his family in New Orleans in May 1968. Kunstler argued that if there had been no fabrication of the Maryland charge, Brown wouldn't have wound up in New Orleans.

"The government is guilty of dirty business," Kunstler argued before Judge Alvin B. Rubin of U.S. District Court.

Kunstler cited a newspaper article in which Richard J. Kinlein, the state's attorney for Howard County, Md., alleged that William B. Yates II, the state's attorney for Dorchester County, Md., told him that the arson charge had been fabricated.

The purpose of the fabricated indictment, Kinlein quoted Yates as saying, was to get the

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find himself being re-sentenced on this charge.

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FBI into the case if Brown should ever flee.

Yates has denied saying it.

Brown was not in court Tuesday. He has dropped out of sight and his whereabouts are not publicly known.

"If Brown is deceased, the whole issue is moot," Rubin said. "It would terminate all of the federal prosecution."

But Kunstler replied that "I have information he is not deceased."

The judge gave Kunstler and Asst. U.S. Atty. Julian Murray until Feb. 12 to submit memoranda on the necessity for a further hearing. At that time the judge will decide whether to begin the trial or continue the hearing on Kunstler's motion.