

Maneuver Wins Delay In H. Rap Brown Trial

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BALTIMORE, April 21—Attorneys for H. Rap Brown won an other temporary delay of the missing black activist's trial today, over the strong objections of the prosecution.

The delay came not because of any judicial ruling, but because chief defense counsel William M. Kunstler petitioned the case to federal court here from the Maryland Circuit Court for Howard County in Ellicott City.

Kunstler's action, taken under a century-old civil rights law, automatically stopped the proceedings at the state level pending a hearing in federal court.

Brown, 26, who otherwise would have had to appear in the state court this afternoon for the opening of the trial, remains free on \$10,000 bond. He has not been seen in public since March 7.

Brown's lawyers argued before U.S. District Judge Frank A. Kaufman that for Brown to appear for trial in Howard County would endanger his life. More than a year ago, Kaufman rejected a request made by Kunstler on other grounds that the Brown trial be transferred to the federal court here.

Kaufman said he would rule Wednesday on the new request by the Brown defense.

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Kunstler, who urged the judge to take "three weeks or a month" to make up his mind on the matter, said that if Kaufman denies his petition, he will appeal—to the Fourth Circuit Court of Appeals in Richmond and perhaps to the Supreme Court.

Kunstler asked that Kaufman, if he decides against transferring the case to federal court for trial, at least delay sending it back to Ellicott City pending these appeals.

See BROWN, A9, Col. 3

BROWN, From A1

The judge took the request under advisement after Deputy Maryland Attorney General Robert F. Sweeney, assisting in the prosecution, said he was "unalterably opposed to any stay" of the trial.

Dorchester County State's Attorney William B. Yates II, another prosecutor in the three-year-old case that stems from a speech Brown made in Cambridge, Md., said the defense's petition to the federal court was "vicious" and "nothing but a delaying tactic."

Yates had sought to have jury selection begin today in Howard County before Circuit Judge James Macgill, to whose court the trial was sent last month after a series of postponements and jurisdictional transfers.

Required in Court

Had the jury been chosen today, Brown would have been required under Maryland law to be in court. Failure to appear would have resulted in forfeiture of his bond and the issuance of a warrant for his arrest.

Brown, national chairman of the Student National Coordinating Committee (SNCC), faces charges of arson and incitement to riot. The charges grew out of a speech he made in Cambridge, the seat of Dorchester County, on the

night of July 24, 1967.

Following the speech, fires and disorder broke out in the Negro section of the Eastern Shore city, causing about \$300,000 worth of damage.

Separate Charge

Brown also was charged in an indictment with a separate count of incitement to arson, in connection with the burning of an elementary school in Cambridge shortly after he left the city the night of his speech.

Count Is Dropped

But this count was stricken in Ellicott City this morning by Judge Macgill, who said it appeared "vague." Defense attorneys said today they believed Macgill's action made it extremely unlikely the defendant can ever be convicted on the arson charge since he was not actually in Cambridge when the fires broke out. Conviction for arson carries a maximum 10-year prison term.

The crimes of riot and inciting riot carry no maximum sentences in Maryland law except a restriction that punishment not be "cruel and unusual."

Sweeney, arguing in federal court, strongly denied Kunstler's contention that "tension" in Ellicott City and elsewhere in Maryland would prevent Brown from receiving a fair trial.

Change in Status

"For the past two years Mr. Brown has ceased to be a national figure," Sweeney said, and therefore no longer sparks strong passions by his presence.

If Judge Kaufman chooses to send the trial back to How-

ard County without granting a delay to permit Kunstler to appeal, the case could be brought to trial as soon as a panel of prospective jurors is assembled.

Kunstler himself is tentatively scheduled to go to jail early next month to begin serving a contempt of court sentence imposed on him after the controversial Chicago 7 trial, but that sentence too is being appealed.