

# BROWN IS GIVEN NEW SENTENCE

9/25/70  
Five Years, \$2,000 Fine  
Meted in Absentia

Black militant H. Rap Brown was re-sentenced in absentia Thursday by Federal District Judge Lansing L. Mitchell to serve five years and pay a fine of \$2000 under his 1968 conviction for illegally transporting a firearm across state lines.

Brown's whereabouts have been unknown for about a year and William Kunstler, his attorney, told Judge Mitchell Thursday that he does not know where Brown is but "certain people have indicated to me that he is all right."

Kunstler argued against the re-sentencing in absentia but Judge Mitchell said that he would do so "because we must have some sort of order in these United States" and a defendant should not be allowed to avoid sentencing simply by refusing to appear in court.

The sentence imposed was exactly the same one given Brown after his conviction.

Kunstler told the court that he will include the issue of the re-sentencing in an appeal already pending in the U.S. Fifth Circuit Court of Appeals.

Judge Mitchell said that although cases on the subject hold against sentencing in absentia, the Brown case is unique in that the mandate of the Fifth Circuit requiring that a hearing be held to determine if certain government wiretaps in any way affected Brown's conviction has been complied with and Brown has voluntarily absented himself.

Kunstler cited cases to support his opposition and added that as a practical matter sentencing was unnecessary.

He said that Brown has refused to appear in any court because he is apprehensive of his safety.

Judge Mitchell offered him a guarantee of the protection of the court if he surrendered, but Kunstler called this unrealistic.