

Md. Contempt Trial Begins of Figure In Rap Brown Case

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ELLCOTT CITY, Md., Oct. 18 — The contempt of court trial of Howard County State's Attorney Richard J. Kinlein began here today after a two-judge panel ruled that the capture of H. Rap Brown over the weekend has no bearing on Kinlein's case.

Kinlein—who at one time assisted Dorchester County State's Attorney William B. Yates II in the now-delayed prosecution of Brown on arson charges—said publicly last January that Yates had fabricated an arson count against Brown.

Last Spring, after a two-day

hearing, Howard County Circuit Court Judge James Macgill ruled there was no evidence the arson charge had been fabricated.

Now, Kinlein is charged with contempt on grounds that he violated court order of April, 1970, prohibiting all participants in the Brown arson case from talking with the press about the case.

Kinlein's attorney, Georgetown University law professor William W. Greenhalgh, sought repeatedly today to establish that several other people, including Yates and Harford County Circuit Court Judge Harry T. Dyer, had also talked to reporters about the Brown case in violation of court orders restricting such discussions.

Brown, the black militant who had been missing since the eve of his arson trial 17 months ago, was captured by New York City police Saturday after an armed robbery and shootout at a West Side bar in Manhattan.

Brown's capture clearly took Greenhalgh by surprise.

Lawyer's Plan

Greenhalgh had summoned a representative of the FBI to appear at today's trial. He had said he planned to establish that the FBI did not know where Brown was or when Brown could be brought to trial. Greenhalgh had said he would argue that Kinlein's public statements could not prejudice a trial that might never take place.

Today, Greenhalgh conceded

that he was no longer planning to ask the FBI representative to testify.

Instead, Greenhalgh asked for a dismissal of the charges against Kinlein on the basis that Brown is involved in so many different prosecutions it is not clear "when, if ever, Mr. Brown will be tried on the pending (Maryland) indictment." The indictment stemmed from a speech Brown made in July, 1967, in Cambridge, Md., that was followed by disturbances and a fire.

The two-judge panel that will rule on the contempt case denied the motion. "We don't see how that (Brown's capture) has any bearing on the outcome of this case," Anne Arundel County Circuit Court Judge Matthew S. Evans said.

The trial itself had several bizarre aspects. Kinlein sat as a defendant in the same Howard County courtroom where, on most days, he represents the state of Maryland as a prosecutor. A private Howard County attorney, Raymond J. Kane, acted as a special prosecutor.

Panel Brought In

The two-judge panel, composed of Evans and Judge Ridgely P. Melvin, also of Anne Arundel County, had to be brought in to hear the case because the contempt citation against Kinlein was brought by Judge Macgill of the Howard County Court.

The prosecution's case, which was completed today, was based primarily on the testimony of Robert Woodward, a reporter then for the Montgomery County Sentinel.

In an article last January, Woodward quoted Kinlein as saying that Yates fabricated the arson charge and that a section of the indictment against Brown was "phony." Woodward also quoted Kinlein as saying, "Yates is an ass, and you can quote me."

Today, when Woodward testified, Greenhalgh did not challenge the fact that Kinlein had made these statements.

Instead, the attorney concentrated on what he called extenuating and mitigating factors: namely, that Yates and other participants in the Brown case had also talked to reporters about it.

"No pretrial order was ever enforced in this case until this summer (when Kinlein was cited for contempt). Never!" Greenhalgh told the court.

Greenhalgh said that Yates himself had "made several extra judicial statements (to the press), and no one brought him to the bar for prosecution."