

# Protest Leader's Indictment Stands

By Maurine Beasley  
Washington Post Staff Writer

A Superior Court judge refused yesterday to dismiss a felony assault indictment against Bradford Lyttle, a leader of the Mayday antiwar demonstration, who contended that the Mayday-related charge represents political harassment.

Attorneys for Lyttle argued at a heated hearing before Judge William S. Thompson that the indictment represents a "trumped-up charge" brought by the Justice Department's internal security division over the objections of the U.S. attorney's office.

Philip J. Hirschkop and Peter Weisman, Lyttle's attorneys, vainly sought permission to subpoena Robert Nardian, head of the Internal Security Division; Thomas A. Flannery, former U. S. attorney and now a judge of the U. S. district Court and David G. Austern, an assistant U. S. attorney.

The defense lawyers argued that testimony from the three would show Lyttle's indictment was pressed by the Justice Department in spite of a finding by local U. S. attorneys that it had "no merit."

Hirschkop also submitted an affidavit that he had been told

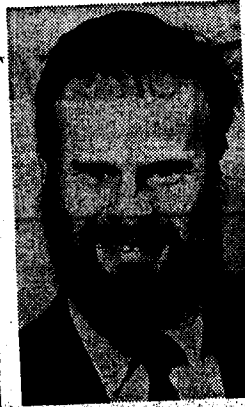
by lawyers in the U. S. attorney's office that Flannery and Austern declined to prosecute Lyttle but had been told to do so by Nardian. The informants were not named.

Refusing to honor the affidavit, Judge Thompson declined to issue the subpoenas, or to dismiss the indictment, the third brought against Lyttle on the same three counts of assaulting a policeman with a portable loudspeaker last May 3. The previous indictments were dismissed on various technical grounds.

The judge said he was "reluctant to order any inquiry into the prosecution or decision-making of the U. S. attorney's office or the Department of Justice in the absence of a prima facie showing of prosecutorial misconduct."

"You have not convinced me that there has been a violation by anyone from the internal security office or the district attorney's office," the judge told the defense.

Repeatedly, Hirschkop asked "what are they doing prosecuting an assault on a police officer (charge) unless it's for political motivation. They want to silence Lyttle because he's in the peace movement."



**BRADFORD LYTTLE**  
... claims harassment

Assistant U.S. attorney Luke C. Moore, representing the government, replied that at any time representatives of the Justice Department may assist United States attorney's offices throughout the country. He said that this is a matter of "prosecutorial discretion," adding, "it is nothing that the government has to answer to the defense for."