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Attica Trial Lying Seen By Kunstler

By William Claiborne

BUFFALO, April 1—William M. Kunstler, the defense attorney in the first murder trial arising from the bloody 1971 uprising at Attica State Prison, charged today that several key prosecution eyewitnesses committed "rank perjury" to gain parole for themselves.

Some of the inmate witnesses have lived a "charmed life" since testifying that they saw John B. Hill, one of the two defendants on trial here, bludgeon correctional officer William Quinn unconscious on Sept. 9, 1971, Kunstler said in a summation in state Supreme Court here.

Quinn was the only guard who died at the hands of inmates during the rebellion.

Four days after he was fatally beaten, state police stormed the prison yard in a fusillade of bullets. A total of 43 guards and inmates died during the riot or its aftermath.

On trial with Hill, 23, is Charley Joe Pernasilice, also 23. On Monday, Justice Gilbert H. King struck down a murder charge against Pernasilice, saying he would instruct the jury that it can find him guilty only of lesser charges, such as attempted murder or assault.

The trial is considered by court observers to be the first real test of the state's attempts to prosecute 62 inmates as a result of the prison uprising.

up its case Wednesday.

Kunstler and Pernasilice's attorney, former Attorney General Ramsey Clark, have suggested that Pernasilice was deliberately brought to trial on flimsy evidence to assure a conviction of Hill by giving the jury a point of compromise.

The defense lawyers have contended since the trial began three months ago that the state's case was fabricated with prejured testimony.

In today's arguments, Kunstler called one prosecution eyewitness, former inmate Leland Spear, an "absolute, undiluted liar." He said Spear testified that he saw Hill strike Quinn for "his [Spear's] own self-preservation."

Spear, Kunstler said, was not being vindictive, but was "weak, destroyed by the prison system that really is at the heart of what happened at Attica."

Another inmate prosecution witness, William Rivers, "had something to sell," and he traded perjured testimony in exchange for parole, Kunstler charged.

"Who can resist it? Who wouldn't want to get out of that place?" Kunstler asked.

Kunstler traced what he termed "a routine" for inmate prosecution witnesses. "A letter goes to the parole office: 'So-and-so has cooperated, we'd appreciate what you can do.' We know what that means," Kunstler said.

All of the inmates had one thing in common, the lawyer said — indeterminate prison sentences that carry vague parole promises. All the inmate witnesses were susceptible to making deals in exchange for testimony, he said.

Twelve prisoners had all charges against them dismissed before trial. One was found innocent by a jury that deliberated less than half an hour, and the case against a fourth was dismissed in mid-trial.

Three accused prisoners have died, and six pleaded guilty to reduced charges, leaving 38 defendants, excluding Hill and Pernasilice, awaiting disposition of their cases.

Although prosecutors deny that a pattern of defeat is emerging and claim that each case is distinct on its own merits, Kunstler predicted in an interview here that "if this case goes down, they all go down."

The prosecution is to sum

All but one of the four key inmate prosecution witnesses ended up with the same parole officer, and none has had his parole revoked even though trial evidence showed each had violated the conditions of parole, Kunstler said.

Kunstler said the state's "cardinal witnesses," correctional officer Donald Melvin, the only guard to testify in the trial as an eyewitness, originally told investigators that the man he identified as Hill had a crewcut and was light-skinned. Hill, a Mohawk Indian, has long hair which he wears in braids.

Saying that Melvin modified his identification weeks after the riots, Kunstler said, "You know human hair won't grow that fast. How could that possibly be... it's impossible."