

DELAY IS DENIED IN ATTICA TRIALS

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Special Prosecutor's Bid
Turned Down in Buffalo

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By FRANK J. PRIAL

A justice in State Supreme Court in Buffalo yesterday rejected a request by Alfred T. Scotti, the state Attica prosecutor, that he delay the trial of 10 former Attica inmates charged with kidnapping guards during the 1971 prison revolt.

Irwin Rochman, Mr. Scotti's chief deputy, asked for a 10-week delay so that Mr. Scotti and his staff could study all Attica-related events, including convictions and sentences already imposed as well as the remaining indictments in the case. Mr. Scotti was appointed to his present job only last month.

Justice Frank R. Bayger said he did not see "the slightest justification" for the delay. "Justice delayed is justice denied," he said.

In his application, Mr. Rochman said Mr. Scotti would move in soon to have charges dismissed in half of the eight pending trials stemming from the Attica revolt.

The prosecution will request dismissal in three cases on the ground that the state could not prove beyond a reasonable doubt the guilt of all those accused. A fourth dismissal will be requested "because we have concluded that the state has failed to provide the accused his constitutional right to a speedy trial."

List of Charges

The indictments Mr. Scotti is asking be dropped include charges ranging from kidnapping to assault to possession of prison contraband. They would involve 11 defendants.

Remaining would be four indictments, including one for murder in which the defendant is a fugitive, two for assault and one against a state trooper on charges of reckless endangerment.

Justice Bayger's denial of the Scotti application came during pretrial hearings for the defendants. He did dismiss a kidnapping charge against one of the defendants, Bernard X. Shipman. Mr. Scotti had requested the dismissal in his application because "we are not satisfied the state could prove his guilt beyond a reasonable doubt."

In denying the application for a delay in the trial, Justice Bayger concurred with the wishes of the remaining 10 defendants. "They're doing nothing but stalling so they can get more stuff against us," Frank Smith told the judge. "We're ready for trial and if they ain't, it's just tough stuff."

'Stalling' Is Denied

Mr. Scotti said later that he was not "stalling or attempting to move anyone out of position."

"We're still going to move to dismiss the indictment," he said. "We just thought it more seemly not to have the trial go on while we studied the whole Attica situation."

Mr. Scotti said he could not

understand the position of the defendants in objecting to the delay. "They had everything to gain and nothing to lose," he said. "I was trying at the same time to prevent the waste of the court's resources."

In addition to the current trial, only four other defendants, including the one declared a fugitive, still face Attica-related charges, if Justice Bayger grants the first four dismissals requested by the special prosecutor.

Sixty-two inmates were

named in 42 indictments relating to 1,289 alleged crimes stemming from the Attica revolt. There have been only two convictions after trial. Eight inmates pleaded guilty to less serious crimes than those with which they originally were charged.

Only one law enforcement officer, State Trooper Gregory Wildridge, has been charged with a crime related to the Attica revolt: recklessly discharging a shotgun.

Forty-three persons, including three inmates, died as a result of the four-day Attica rebellion. On Sept. 13, 1971, the day the rebellion was quelled, 29 inmates and 10 guards were killed and 89 persons injured by gunfire from troopers and correction officers.