

Simonetti Is Ordered Into Court In Inquiry on the Attica Defense

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BUFFALO, April 24—A State Supreme Court justice today ordered the chief Attica prosecutor to appear in court here next Monday in connection with an inquiry into whether the state prosecution received information concerning the Attica legal defense from the Federal Bureau of Investigation.

"There are certain areas that have surfaced that warrant further investigation," Justice Joseph S. Mattina told a nearly empty courtroom after he had examined F.B.I. documents in his chambers for more than four hours.

Justice Mattina said the special prosecutor, Anthony G. Simonetti, would appear in open court on Monday. Last week, Bernard S. Meyer was named special deputy assistant attorney general to review the conduct of Mr. Simonetti's investigation and prosecution of crimes arising from the Attica prison revolt in 1971.

Justice Mattina's order for Mr. Simonetti to testify apparently broadened the scope of a court hearing that began last Monday.

'Almost Nothing' Found

Initially, it was restricted to a determination of whether the undercover activities of an F.B.I. informant had prejudiced the case of Bernard Stroble, a former Attica inmate who is charged with killing two other inmates.

On Wednesday, Justice Mattina reviewed the reports that the informant, Mary Jo Cook, had supplied to the F.B.I. and concluded that they contained "almost nothing" relating to the strategy of the Attica legal defense team.

He refused to turn these reports over to Mr. Stroble's lawyers, but he requested that the F.B.I. supply more documents on the agency's possible involvement with the Attica defenee.

It was after examining the second batch of documents—which apparently were unrelated to Miss Cook—that Justice Mattina declined to call Mr. Simonetti to testify.

2 Others Called

In court today, Justice Mattina said that most of these documents bore only a "general" relationship to the Attica legal defense. But, he said, one statement was relevant to "the issue presented to the court in this matter." He said he would decide on Monday whether that portion of the documents should be turned over to the defense lawyers.

The justice also ordered that James Grabel, an assistant Attica prosecutor, and Omar Jensen, an F.B.I. agent here, appear in court on Monday. Mr. Grabel, a former assistant United States attorney here, had been involved in the preparation of the case of John Hill, an Attica inmate who was convicted earlier this month of murdering William Quinn, a guard.

Citing the "precedent-shattering approach" of Judge John J. Sirica in Federal District Court in the Watergate investigation, Justice Mattina said he had decided to enlarge this week's adversary hearing into a "judicial inquiry."

But, he warned, "no inferences should be drawn from my remarks about wrongdoing by any government agency."