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Motions Delay Attica Killers' Sentencing

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BUFFALO, May 7—The sentencing of two convicted defendants in the Attica murder trial was delayed for at least a day today as defense lawyers made motion after motion to set aside the verdicts.

Like a batter up in the ninth inning with two outs and two strikes who keeps fouling off pitches, William M. Kunstler, the lawyer for John Hill, one of the defendants, spent the day calling on the court to invalidate the decision that the jury reached on April 5.

With a patience that seemed to fray at times, State Supreme Court Justice Gilbert H. King listened and, in all but two instances, denied Mr. Kunstler's applications.

The justice said he saw no merit in Mr. Kunstler's contention that the verdicts of guilty should be vacated because of alleged selective prosecution in all the Attica trials.

Nor did he agree to withhold sentencing until Justice Bernard S. Meyer, the recently appointed Deputy Attorney General, issued his report on charges of unbalanced prosecution.

Justice Meyer has been designated to investigate, among other things, charges by Malcolm H. Bell, a former aide to the chief Attica prosecutor, that the prosecution covered up crimes committed by law enforcement officers during and after the suppression of the Attica prison rebellion.

Justice King said he had seen Mr. Bell's report and that even if all the charges in it were true, the report had no bearing on the case before him. In that case Mr. Hill had been found guilty of murdering William E. Quinn, a correction officer who died of injuries sustained at the outset of the 1971 prison uprising. His co-defendant, Charles Joseph Pernasilice, was found guilty of attempted assault in the second degree after initially having been indicted for murder.

Mr. Hill, who is 23 years old, faces a maximum sentence of life in prison; Mr. Pernasilice, 22, can get a term of up to four years.

Justice King agreed, however, to hear witnesses today in regard to Jr. Kunstler's assertion that a sheriff's deputy, on duty in the courtroom, had told a radio news reporter early in the trial that "four or five jurors" had indicated to him that they were ready to convict

even before they were impeached.

The reporter, Brad Casey of Radio Station WGR, testified with obvious reluctance that he had met with the deputy in question at a bar and that the man had told him of his views on the jurors. Mr. Casey, however, cited his privilege covering the confidentiality of his sources and declined to name the deputy.

Arguments between Mr. Kunstler and judge on the scope of that privilege were cut short and mooted when a lawyer for Erie County came forth saying that he represented the sheriff's department and that he would identify and produce the deputy for questioning.

The deputy, Harold T. Bennett, took the stand scowling at Mr. Kunstler. He acknowledged the conversation with Mr. Casey, but insisted under questioning that he had never spoken to jurors and that all he had said to Mr. Casey was that he "didn't think that four or five of the jurors would acquit."

"On what did you base this

view?" asked the defense lawyer.

"On what I saw in the courtroom," said the uniformed deputy, who had been assigned to maintain order during the five-week trial.

Mr. Kunstler asked that the jury be called and questioned as to whether they had ever discussed the case with Mr. Bennet. Justice King denied this motion as well.

State Church Council Calls for Attica Amnesty

ALBANY, May 7 (UPI)—The New York State Council of Churches today came out in support of a legislative resolution calling for amnesty for all persons involved in the 1971 Attica prison rebellion.

The council, with headquarters in Syracuse, said continued investigations and trials "will not bring justice nor bring back the lives lost."

The Council said it supported the resolution offered by Assemblyman Arthur O. Eve, Democrat of Buffalo.

It also recommended that a special board be created "to study and update the recommendations of all reports related to the Attica situation and make positive recommendations . . . to prevent such a situation developing again."

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