

## Sentence Re-imposed

Rap Brown Gets 5 Years

United States District Judge Lansing L. Mitchell today re-sentenced black militant H. Rap Brown to five years in prison and a \$2,000 fine for a 1969 conviction on charges of violating the federal gun control act.

Judge Mitchell made it clear that Brown's sentence was not to begin until all criminal charges pending against Brown, growing out of a shootout with New York police, are disposed of. He did say Brown would get credit for all time served while in federal custody.

Attorneys for the 28-year-old Baton Rouge native immediately announced their intention of filing an appeal with the United States 5th Circuit Court of Appeals.

Judge Mitchell ordered Brown returned as quickly as possible to the jurisdiction of the state of New York, and Brown was whisked off by U.S. marshals at 12:47 p.m. today. Spokesmen for the marshal's office would not comment on his destination.

In 1970, Judge Mitchell gave Brown the same sentence, but Brown was not present, having jumped bond in Maryland where he was facing charges of arson and inciting to riot in Cambridge, Md.

The 5th Circuit Court of Appeals set aside that sentence and ordered that Brown be present when sentenced again.

Today defense attorneys William Kunstler and Carl Broage asked the court to delay sentencing because it violated Brown's constitutional rights under the Fifth, Sixth, 13th, 14th and 15th Amendments because it forced Brown to come to New Orleans in a "useless and avoidable trip" which endangered his health and came while he faces serious criminal charges in New York.

Judge Mitchell denied that motion.

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and two others, one of which asked that he recuse himself from the case because of "ill feeling toward the defendant." The second was a technical pleading dealing with the use of electronic devices to obtain evidence.

**KUNSTLER ARGUED** that the act of bringing Brown to New Orleans violated two court orders and charged that the government's action in transporting Brown to Louisiana "shows arrogance and unlawful activity on the part of the government."

He told Judge Mitchell that when he

sentenced Brown in absentia "it was an illegal sentence" but he said the judge would not listen. Now he asked that the court "not go through that charade again."

U.S. Atty. Gerald J. Gallinghouse answered that the action was clear and simple and he branded the defense charges as "reckless."

Kunstler pointed out that Brown did not appear for the last sentencing because two of his friends had been killed in Baltimore.

Judge Mitchell said, however, "If Mr. Brown had come above ground, I'd have taken care of him."

Brown answered from his seat, "I'll take care of you, too."

The judge stopped the proceeding to make sure that Brown's remarks were made part of the record, but the defendant said he meant "that no harm would come to you."

Later in the proceeding one of the defense attorneys went out of his way to make it clear that Brown meant no harm to the judge.

Federal marshals slipped Brown into the federal court building about 5:40 a.m. today and then threw up heavy security around the court and the Wildlife and Fisheries Building which houses it.

Three cars of marshals accompanied Brown from the secret hiding place where he has been held since coming to Louisiana Wednesday.

All entrances to the court building were guarded, stairwells were closed

and only one elevator was allowed to operate.

Armed guards were posted in and around the building on Royal Street and others were posted on nearby rooftops.

About 30 marshals were on duty inside the packed courtroom.

**EVERY PERSON** entering the court was searched except Kunstler, who refused, telling the marshals that as an attorney, "I am not going to be searched. I refuse to be searched."

Brown entered the courtroom wearing a green shirt and a purple knit cap which he was told to remove, but refused to take off on the grounds that it was a religious hat.

When Judge Mitchell asked what religion, Kunstler replied "Muslim" and the judge allowed him to continue wearing it.

Brown also wore blue jeans, glasses and tennis shoes.

His wife, who was in the courtroom, also wore purple.

Brown originally was scheduled to appear before Judge Mitchell yesterday, but the hearing was delayed until today when Kunstler could not appear.

Judge Mitchell in 1970 sentenced Brown to pay a \$2,000 fine and serve a five-year jail term, but Brown was not present in the courtroom. He had earlier jumped bond and disappeared while awaiting trial for arson and inciting a riot in Cambridge, Md. An appeals court set that sentence aside and held he must be present for sentencing.

The 28-year-old Baton Rouge native

was captured in October when he was wounded in a shootout with New York police.

Kunstler objected strongly to the transfer of Brown from a New York jail to Louisiana, contending the movement would endanger Brown's health and place his life in danger.

He was to have appeared at a New York court hearing Wednesday but the U.S. marshal there told the court Brown had already been transferred to Louisiana.

Brown has been held in the New Orleans area, but the marshal here has kept his whereabouts secret.



***Bearded black  
militant***

H. RAP BROWN is escorted by federal agents after he was sentenced to a term of five years for violation of the Federal Gun Control Act. (States-Item photo by James N. Pitts.)