

# Lawyer Asks Dismissal Of Rap Brown Charges

By John Hanrahan

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Attorney William M. Kunstler hinted yesterday that fugitive black militant H. Rap Brown might come out from hiding for the first time in 10 months as the result of a Maryland state attorney's allegation that another prosecutor had fabricated an arson charge against Brown in 1967.

At the same time, Kunstler urged that all federal and state charges against his client be dropped "since these charges all stemmed from the original phony arson charge." Kunstler said, "There is a possibility that Rap may want to do something about this himself. There is the possibility that he may surface some-

where. I'm suggesting that these news stories may have an effect on him and that he may want to do something about it."

Asked if he had specific information that Brown might appear somewhere, Kunstler said, "you might it a hunch."

Since failing to show for trial last March, Brown has been variously rumored to be either dead or alive in Algeria, Cuba, Africa and the U.S. This was the first time since last March that anyone close to Brown has suggested that he might make an appearance somewhere.

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# New Twist Seen Aiding Brown

BROWN, From A1

Kunster said he is formally asking U.S. Attorney General John N. Mitchell, Maryland Gov. Marvin Mandel and State Attorney General Francis B. Burch to investigate the allegation that Dorchester County State's Attorney William E. Yates had no evidence on which to prosecute Brown on an arson charge stemming from 1967 disorders in Cambridge, Md.

Yates has said that the arson count was a "good charge" that he could prove.

The allegation came Thursday from Richard J. Kiriern, the Howard County state's attorney, who at one point assisted Yates in the prosecution of the Brown case.

Without the state felony indictment of arson, Kunster said in a telephone interview from New York, federal charges pending against Brown could never have been filed since they were contingent on the Maryland arson indictment.

The first federal charge, carrying a life across a state line, would not have been a crime if Brown had not already been under indictment for a felony, Kunster said. It came four days after his Maryland indictment.

Brown's other federal charge of intimidating an FBI agent grew out of an incident outside the New Orleans courtroom where Brown appeared on the gun charge in 1969.

Brown was convicted in 1968 on the gun charge, but he failed to appear for sentencing last September and his \$15,000 bond was revoked.

Hearing on motions in the intimidation case is scheduled for Monday in U.S. District Court in New Orleans. Lawyers there said he will seek a postponement of the hearing.

## Maryland case

In Maryland, Brown was indicted by a Dorchester County grand jury in August 1967 on charges of arson and incitement to arson riot and incitement to riot.

The charges stemmed from a fire in Cambridge, Brown said, in which Yates was accused but Yates is called for the burning down of a school, which was destroyed by riotous looting.

The riot and incitement charges are common-law misdemeanors. The arson charges are felonies. If there had been no felony charge pending at the time Brown failed to appear for his Maryland trial last year, the state would have been unable to secure a federal fugitive warrant and bring the FBI into the search.

The federal fugitive warrant resulted in the FBI picking Brown on his 19 West Virginia list.

## Chain of Events

"What we have is a chain of events, all stemming from the original fabricated charges," Kunster said. "Without this chain of events, had Brown would not be in jail today. This was part of the conspiracy of a state's attorney and a federal government, the only state anything in its capacity to destroy black militants."

Kunster said that he is now on record as he is seeking through the media to publish both Brown's attorney's charges and the charges to the state's own witnesses and to the state's opinion on the matter. He said he was a so-called "Mandela" to send criminal charges against Yates.

As to the state's charges against the Justice Department to prosecute, he said, "This was a joint venture of the federal government and the state of Maryland in 1967 to do the Brown."

The federal government had been looking into the possibility of asking the U.S. attorney

for Maryland to indict Yates for violating a federal law prohibiting the use of state powers to deprive someone of his civil rights.

In an interview yesterday, Kiriern reiterated his allegation to the Washington Post that Yates filed the arson charges against Brown to assure that the FBI would join in the search if Brown failed to appear for trial.

Kiriern said that he had lunch with Yates and John J. Garrity, a former Maryland assistant attorney general who was assisting in the Brown prosecution last April. The lunch came just after Howard County Judge James McGill had thrown out the indictment of arson against Brown.

## 'Back Off'

At that time, Kiriern said he and Garrity told Yates that he should "back off" from the arson charge because, "You don't have the evidence to substantiate it."

Kiriern said that Yates then said that he put—and I distinctly remember the word put—that he had put the arson count in there in 1967 so that in the event Brown didn't show up for trial he would be able to get a federal fugitive warrant.

"We (Garrity and Kiriern) recognized the defective craftsmanship of the indictment. Judge McGill picked it right up on dropping the indictment to arson charge," Judge Harry E. Dyer (R) had asked it up before and that's what caused him to make the statement that led to the removal of the Howard County."

Brown's trial, after being moved from Dorchester County, was next scheduled for Harford County Circuit Court before Judge Dyer on March 10. Yates demanded that the trial be moved again when Dyer publicly stated that Brown should show up for trial because he stood a good chance of being acquitted.

## Two Killed

Dyer's statement gave ammunition to Brown's friends, former SNCC official Ralph Featherstone and William (Doc) Payne, who were killed in an auto bomb blast two days before the scheduled trial date last March. Brown has not been seen on Maryland that time.

Burch, the state attorney general, yesterday disputed Kiriern's version of the lunch with Garrity and Yates. Burch said he was told by Garrity that Dick Littlejohn must have misunderstood Yates' reason for bringing the arson indictment.

Garrity has told The Post that he had never heard Yates say that his sole reason for bringing the arson charge was to insure federal involvement.

Burch said that he would like to meet with Mandel before determining what to do with Kunster's requests. A spokesman for the governor said he would meet with Burch sometime after Mandel returns from the Super Bowl in Miami. A Justice Department spokesman said that even if a man "take a look" at Yates, it is subject to Mitchell.