

# Ruby<sup>3</sup> Defense Loses 2 Bids for Acquittal

By THEO WILSON  
Staff Correspondent of THE NEWS

Dallas, Feb. 17—District Court Judge Joe B. Brown ruled today that former strip joint operator Jack Ruby must stand trial for the first degree murder of President Kennedy's accused assassin, Lee Harvey Oswald.

Only a few minutes after the opening here one of the world's most publicized trials, the judge rapidly turned down two motions for a directed verdict of acquittal asked by defense lawyers Melvin Belli and Joe Tonahill.

They based their motions on two grounds:

The 52-year-old defendant "did not commit a crime as alleged in the bill of particulars," because he was temporarily insane; he did not know right from wrong, and therefore could not be charged with the commission of a criminal act.

This trial would place him in double jeopardy because an "impartial" medical report, ordered by the court, showed Ruby was a victim of "psychomotor epilepsy" and had suffered organic brain damage. This finding, according to the defense, had already acquitted Ruby, since it showed he was temporarily insane. The court, in effect, was trying him twice with the present trial, the defense argued.

## Proceedings Drag With Maneuvering

In a square courtroom in the Dallas County Criminal Courts and Jail Building, with ceilings 25 feet high, old-fashioned hanging fans whirling lazily above the heads of scores of American and foreign correspondents, Ruby's trial bogged down on its opening day with these and other legal maneuverings.

There was bickering among the defense and prosecuting attorneys, the lengthy process of frisking every person entering the courtroom, the even lengthier process of qualifying the first panel of 150 men and women summoned as prospective jurors.

In all, 900 Dallas County residents have been summoned to stand by for the jury selection. Ruby's attorneys contend they will never get an impartial jury here, because the "climate" of Dallas is one of guilt about Kennedy's murder. This guilt, accord-



(UPI Telefoto)  
Sporting flamboyant coat, chief defense lawyer Melvin Belli enters court for his biggest case.

ing to Belli, will be turned against Ruby "to show the world that Dallas can cleanse itself of unlawful violence."

Today the first 150 prospective jurors were seated in a courtroom temporarily cleared of spectators and newsmen, because of space

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- Belmont
- Mohr
- Casper
- Callahan
- Conrad
- DeLoach
- Evans
- Gale
- Rosen
- Sullivan
- Tavel
- Trotter
- Tele Room
- Holmes
- Gandy

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- The Wall Street Journal \_\_\_\_\_
- The National Observer \_\_\_\_\_
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(Associated Press Wirefoto)  
District Attorney Henry Wade  
leaves court during recess.

reasons. During the mass qualifying of these veniremen, 15 women were excused under a state law which allows mothers of young children to be dismissed if the case requires jurors to be locked up.

#### Remaining Jurors To Undergo Tests

The remaining 135 jurors will return to the court building at 9 A.M. tomorrow, when individual examinations will start. Court was adjourned today at 1:30 P.M., immediately after lunch, so that Judge Brown could attend the funeral of R. L. Thornton Sr., the former mayor known as "Duff

Dallas" and the leader of this city.

Ruby's defense team, headed by the elegantly-dressed, dramatic and brilliant Belli (who came to court carrying a plum velvet "carpetbag" and wearing a top-coat with a brilliant red lining) was on the receiving end today of denials from the judge and protests from the district attorney's men.

Besides losing the directed verdict motions, Belli also lost a request by the defense that all jurors be searched.

"The jurors will not be searched," Judge Brown said. "The record will show that everybody who comes into the courtroom was searched except the prospective jurors."

"Why?" asked defense counsel Joe Tonahill, a 6 foot 4, 245-pounder looming over the defense table.

"I object to his arguing over this," snapped assistant DA Jim Bowie.

Then Belli got into the act, arguing that the "excess of protection" will show the jurors the climate of Dallas towards Ruby.

"The judge will never know it unless you mention it, Mr. Belli," Judge Brown said drily.

The defense has been insisting that the trial should be moved somewhere else in Texas, because Dallasites, according to Belli, are ashamed not only over Kennedy's murder, but over the fact that a small-time operator like Ruby could get into a heavily guarded police station and kill Oswald before millions of TV viewers at a time when the attention of the entire world was focused here.

Judge Brown has reserved decision on this request for a change.

The trial will remain here unless it becomes apparent that getting an unprejudiced jury is absolutely hopeless.

#### Order of Court Is Informality

Before the court was opened at 9 A.M. the judge, in his black robes and puffing on a pipe,

walked around the counsel tables chatting with the defense lawyers and prosecutors. Then he ambled back to his chambers before making his formal entrance on the bench, which is recessed in a huge, ornately carved, 15-foot-high oaken nave.

Judge Brown, 55, his silver hair growing in a widow's peak, wears heavy-rimmed glasses, speaks slowly and deliberately, and runs a court which to New Yorkers is eye-popping in its informality.

The lawyers, reporters and spectators can smoke during sessions. District Attorney Henry M. Wade keeps a big unlit cigar in his mouth.

There is a lot of first-naming among the counsel. The judge is Joe Brown, not Joseph. The assistant DA is Jim Bowie. The defense counsel is Joe Tonahill. The chief assistant D.A. is Bill Alexander, not William.

#### Treats Spectators As Personal Guests

When the judge wanted the courtroom cleared so that the first jury panel of 150 could be brought in to be instructed and qualified, he addressed the spectators and reporters as if they were guests in his living room, telling them he would "appreciate it if you would just step out" for awhile to make room for the jurors.

Although every person coming into the courtroom is frisked, as part of the security presumably needed to safeguard Ruby, during one of the morning recesses reporters clustered around the defendant, separated from him only

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by a low wooden railing. One reporter shook hands with Ruby, who then conducted a chatty interview.

He said he awoke at 6 A.M. today, "an hour earlier than usual" and had oatmeal, milk, toast and instant coffee—"I won't tell you the brand, I don't want to give a commercial."

#### **Guard Interprets The Bible for Him**

He spoke about reading the Bible, which he said is being interpreted for him by a Protestant guard. Ruby said he was reading the Old Testament and, with the guard's "interpretation's" he was getting a "new understanding and love of God."

When the 900 white cards—about twice the size of playing cards—bearing the names of the prospective jurors were brought into the court, Judge Brown personally shuffled them, like a dexterous, oldtime gambler.

After a few minutes of this, the judge asked: "is that sufficient, Gentlemen?" and Belli said: "Yes, Your Honor."

Every newsman entering the big pale green courtroom on the second floor must wear two badges, one showing he has a courtroom seat, the other bearing his photo and identification.

#### **Ruby's Sister Sits In Back of Room**

Reporters were frished every time they left the courtroom and returned. THE NEWS reporter, who was in and out several times during the recesses, was searched by one or the other of the two women deputies about eight times. (Women deputies in Dallas have very cold hands.)

Ruby's sister, Mrs. Eva Grant, a nice-looking, auburn-haired woman, was seated in the back

of the courtroom on one of the wooden benches reserved for spectators. She nervously came up to consult her brother's lawyers several times, once bringing them papers from a briefcase.

Mrs. Grant was one of about 50 spectators who managed to get into the courtroom. The other 150 seats were occupied by reporters from the U.S., England, Czechoslovakia, Poland, France, West Germany, Sweden, Denmark, Australia, Canada and Italy.

All newsmen were locked out of the courtroom while the first jury panel was receiving instructions before the individual questioning was started.

It took almost 90 minutes for this first panel to be qualified, after which the judge called the luncheon recess.

During the morning session, Ruby sometimes consulted with his lawyer, sometimes put on horn-rimmed spectacles and read some of the legal papers.

#### **Appears to Have Lost Weight in Jail**

Reporters who knew him before the shooting say he has become thinner since his imprisonment. He is balding, sallow, sunken-eyed, and although he is close-shaven, his cheeks are blue from his heavy beard.

When he first walked into the courtroom, in a neat dark blue suit, he looked around nervously at the mob of seated newsmen, then stood with his back to them, facing the bench, his hands in his pockets. He is very conscious of the reporters. His eyes flicker towards them during the recesses as they cluster behind the railing near the defense lawyers.

He leaves the courtroom protected by four uniformed but unarmed guards, who form a diamond around Ruby and rush him through the corridors to the prison elevator. The same building where Ruby is being tried has jail cells on the upper floors.

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(UPI Telefoto)

With cameras focussed on him, Judge Joe Brown enters courtroom in Dallas to preside at opening of the Ruby trial.

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