

# COURT DISMISSES 9 FOR RUBY JURY

Defense Gets Through-Day  
Without Using Challenges

By HOMER BIGART  
Special to The New York Times

DALLAS, Feb. 22—Judge Joe B. Brown delighted Jack Ruby's attorneys today by dismissing as prejudiced a prospective juror who looked as sternly righteous as a caricature of a Bible Belt fundamentalist.

The judge's action was a blow to the prosecution. It enabled the defense to get through an ~~unsuccessful~~ ~~attempt~~ ~~to~~ ~~obtain~~ ~~eight~~ ~~arbitrary~~ ~~challenges~~.

All the other eight prospective jurors examined this morning were also excused by the court, six because they opposed capital punishment and two because they had formed a fixed opinion of the case.

Thus, after six tiresome days of processing, only two jurors have been accepted out of 48. They are Max E. Causey, 35 years old, an electronics analyst, who was sworn in Thursday, and Allen W. McCoy, 39, an industrial engineer, who was accepted yesterday.

## 10 More Jurors Needed

Ten more jurors remain to be chosen before Judge Brown can start the trial of Ruby, a 32-year-old Dallas night-club operator indicted for "murder with malice" in the slaying of Lee H. Oswald, the accused assassin of President Kennedy.

"It was a bad morning" said District Attorney Henry Wade after Judge Brown recessed the proceedings until Monday morning. Mr. Wade said he thought it would take about 10 more days to complete the jury.

The chief target of the defense today was M. C. David, an elderly carpenter with a thin, sallow face and a tightly pinched mouth. Mr. David said he was a Baptist who spent so much time on church work that he could not read anything but the Sunday paper.

Mr. David aroused defense suspicions by seeming too eager to qualify. In his prompt answers to prosecution questions, Mr. David used such expressions as "beyond reasonable doubt" and "according to the evidence of the case" in contending that he could render a fair verdict.

The defense handled him roughly. An assistant defense counsel, Joe H. Tonahill, said with sarcasm:

"You know more about the law than I did when I entered law school. Where did you come by your knowledge of the law, 'innocent until proven guilty' and all that sort of thing?"

## 'Heard My Daddy'

Mr. David replied, "I thought it had been our way of life for a long time. I heard my daddy talk about it."

"With your preconceived knowledge of the law," Mr. Tonahill continued, "what do you think your verdict would be if we proved the defendant to be insane?"

"If it's a proven fact that he's insane that should be taken into consideration," Mr. David said.

"I do not have an opinion as to the guilt or innocence of the defendant which you could not put aside?"

"I do not have any opinion whatsoever," Mr. David said.

"Do you have an opinion that Ruby shot Oswald?" Mr. Tonahill asked. The witness had earlier said he had seen a television rerun of the shooting.

"No, sir," replied Mr. David. "May I elaborate? There were so many people around I couldn't even identify the man who shot him."

"Do you have an opinion that Oswald is dead now?" Mr. Tonahill continued.

"They'd have to prove in evidence," the venireman answered.

"Do you have any consideration that Oswald is not dead and is working for the F.B.I.?"

The spectators laughed. The prosecution objected to the question and Judge Brown sustained the objection.

## Views on Drinking Sought

The defense tried to determine whether Mr. David thought a man who committed murder while in a state of drunkenness should be punished as severely as a sober man.

"I suppose if a man was so drunk he didn't know what he was doing, there should be some leniency there," the carpenter replied. "I'd be lenient with anyone who didn't know right from wrong."

When the prosecution objected to further questioning along this line, Mr. Tonahill told the court:

"I want to put him off guard, judge. I want to draw information as surreptitiously as possible to see what lurks in his mind."

Judge Brown upheld the prosecution objection.

Mr. Bell was on his feet. "Obviously," he declared, "this man has a rapprochement with the District Attorney's staff and they want him badly."

"If we take a jury made up of people like this man here, we might as well start our appeal in the Supreme Court," Mr. Bell said. "This man doesn't reckon Oswald is dead. I question this man's credulity and honesty. As a Christian gentleman this man ought to disqualify himself."

He said he would ask Mr. David to submit to a lie-detector test, but Judge Brown said he would not permit one to be taken by any prospective juror.

The judge then surprised the District Attorney by excusing Mr. David.

The defense was jubilant. Mr. Bell said the court's rejection of the biased jury could not be found in Dallas.

There are still 102 veniremen to be examined in the first panel of 120.

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

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