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RUBY'S WORDS DAMAGING

*Defense Faces
Double Job*

By CARL FREUND
Jack Ruby's own words, as related by Dallas police officers, form the most damaging testimony against the 52-year-old slayer.

Defense attorneys concede they must discredit this testimony if they hope to save Ruby from the electric chair or a long prison term.

IF JURORS BELIEVE this testimony, they will convict Ruby of murder with malice. It rips apart the defense contention that Ruby "blacked out" and shot Lee Harvey Oswald without realizing what he was doing.

As a result, defense lawyers Melvin Belli, Joe Tonahill and Phil Burleson face a double task:

—They must convince the jury of eight men and four women that prosecution witnesses distorted or invented statements attributed to Ruby.

—They must prove by "a preponderance of the evidence" that Ruby was temporarily insane Nov. 24, when he shot the Marxist accused of assassinating President Kennedy two days earlier.

THE MOST DEVASTATING prosecution testimony came from Detectives Thomas McMillon, Don Archer, J. R. Leavelle and L. C. Graves, Police Capt. Glen King and Police Sgt. P. T. Dean.

They portrayed Ruby as a sane, cold-blooded killer who planned and carried out an execution of a man who was manacled and defenseless.

McMillon testified Ruby muttered "you rat son of a bitch" before he shot Oswald while millions watched on television.

Both McMillon and Archer said Ruby told them he intended to pump three bullets from his Colt Cobra .38-caliber revolver into Oswald.

ARCHER SAID HE heard Ruby say, "I hope the son of a bitch dies."

Later, McMillon told the jury, Ruby was asked why he shot Oswald; and the balding nightclub manager replied, "Somebody had to do it and you guys (the police) couldn't."

Leavelle, who was handcuffed to Oswald, and Graves, who twisted the pistol from Ruby's grasp, agreed that he tried to fire additional shots. Leavelle said he also heard Ruby refer to Oswald as a "son of a bitch."

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CAPT. KING, who appeared in uniform with his gold shield glistening, testified Ruby told him, "You didn't think I was going to let him get away with it, did you?"

Then Dean swung his sledgehammer blow.

Dean said Ruby told him he "thought about" killing Oswald two days before the Communist sympathizer was shot.

Dean also quoted Ruby as saying he shot Oswald to "let the world know that Jews have guts" and to spare President Kennedy's widow the mental anguish of returning to Dallas to testify against Oswald.

(ACTUALLY, prosecutors say, they would not have needed her as a witness if Oswald had lived to stand trial on a charge of assassinating President Kennedy.)

If jurors believe the testimony of the officers, it would show that Ruby (1) plotted the shooting, (2) was fully conscious of what he was doing and (3) acted with malice.

Belli began chipping at the

testimony during his cross-examination of the officers. He kept McMillon on the stand an entire afternoon, going over and over his testimony.

BELLI NOTED THAT, in his first written report, McMillon did not mention that Ruby had told him of intending to fire three shots. The detective said this was an oversight.

The defense lawyer also emphasized McMillon's testimony that Ruby told him, "You all won't believe this, but I didn't have this planned. I couldn't have timed it as perfectly."

Archer admitted during questioning that he did not tell FBI agents that Ruby stated he planned to fire three shots. The detective said the agents didn't ask him.

BELLI ALSO questioned Dean about a discrepancy between his testimony and a report which he submitted. Dean testified he questioned Ruby about 10 minutes after Oswald was shot, but his report said he interviewed the slayer "approximately at 12 noon." Ruby pulled the trigger about 11:20 a.m.

Prosecutors termed these minor points which had no effect of the basic testimony of the

officers. Belli claimed Wade and his assistants told the officers what to say on the stand and some of them "memorized" their testimony.

Defense attorneys claim Judge Joe B. Brown should have blocked officers from relating anything which Ruby said after he was arrested.

The lawyers claim he was not warned the statements could be used against him and the testimony violated his constitutional rights.

JUDGE BROWN admitted it under the res gestae rule. This allows witnesses to repeat verbal statements made during, or immediately after, the commission of a crime.

There is no specific time limit.

If Ruby receives a severe penalty and his lawyers appeal, defense lawyers will argue that Judge Brown committed a legal error which entitles Ruby to a new trial. But the judge felt, apparently, that Ruby's statements fell well within the limits of the res gestae rule.

DEFENSE LAWYERS will call psychiatric and other witnesses, including Ruby himself, this week in an attempt to prove to jurors that Ruby was an emotional man with a brain disorder—a man who snapped under an emotional strain and pulled the trigger while acting like a robot, unaware of what he was doing.

But they cannot sketch this picture in the minds of jurors unless they succeed in erasing the portrait painted by the officers with words they attributed to the slayer.