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# State Witnesses Strike at Claims Of Ruby Defense

## Attorneys Rest Case Abruptly

By HUGH AYNESWORTH and CARL FREUND

Dist. Atty. Henry Wade spent most of the day Wednesday parading psychiatrists to the stand to demolish ~~early~~ defense claims that Jack Ruby "blacked out" from psychomotor epilepsy before shooting Lee Harvey Oswald.

The day in court had begun with the defense abruptly resting its case only nine minutes after court convened.

Wade then began presenting medical testimony that Ruby was legally sane when he pulled the trigger of his Colt Cobra revolver and sent a lethal bullet into the 23-year-old Marxist accused of assassinating President John F. Kennedy.

The district attorney also presented testimony that "brain wave" tests do not show Ruby suffered organic brain damage.

The testimony struck at the heart of Ruby's defense.

His lawyers claim the 32-year-old manager of a striptease club "cracked up" under a severe emotional strain and shot Oswald without knowing what he was doing.

Dr. Manfred Guttmacher, a Baltimore psychiatrist who became the star defense witness, had testified Tuesday that Ruby was insane when he shot Oswald Nov. 24 while millions watched on their television screens.

Another defense witness, Dr. Martin Towler of the University of Texas Medical School at Galveston, told jurors that Ruby was subject to blackout spells in which he would "perform like an automaton."

Wade challenged this testimony

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1 "The Dallas Morning News" Dallas, Texas

Date: 3-12-64  
Edition:  
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by calling other psychiatrists to the stand.

Dr. John Holbrook, a 40-year-old Dallas psychiatrist who examined Ruby less than 24 hours after Oswald was shot, testified the slayer was sane when he pulled the trigger.

"I felt he did know the difference between right and wrong and did know the nature and consequences of his act at that time," Dr. Holbrook told the jury.

Dr. Robert Stubblefield, chairman of the psychiatry department of the University of Texas Southwestern Medical School here, said he believed Ruby legally sane when he examined him.

Dr. Stubblefield said he could not state positively that Ruby also was sane at the time he killed Oswald. But, the psychiatrist said in reply to a lengthy question, he would assume that Ruby was sane if testimony of prosecution witnesses is true.

**STILL ANOTHER** psychiatrist, Dr. Earle Walter of Johns Hopkins University in Baltimore, said Ruby's electroencephalograms (brain wave readings) showed "no indication of epilepsy."

Peter Kellaway of Houston, who said he supervises more than a thousand electroencephalographic tests a month, and Dr. Sheff Olinger, who gave Ruby two tests at the Dallas Neurological Clinic, challenged the contention that the slayer is a victim of psychomotor epilepsy.

The defense abruptly rested its basic case when jurors filed into the courtroom Wednesday morning.

Melvin Belli, the chief defense lawyer, arose and told Judge Joe B. Brown, "The defense rests, your honor."

**DEFENSE LAWYERS** felt they had fired their big gun with testimony from Dr. Guttmacher. There was little sense, they reasoned, in following it with firecrackers.

The defense announcement gave Wade a chance to attack the defense case. His assistants sent out a rush call for doctors scheduled

to testify as prosecution witnesses.

The state's first rebuttal witness was Ira M. Walker, a technician for WBAP-TV, who testified he was working as a sound man in a mobile unit parked right outside the Commerce Street entrance to the City Hall basement on Nov. 24.

**Q—(BY WADE).** At that time did you see the defendant, Jack Ruby?

**A—Yes sir, I did.**

**Q—Could you tell the jury what time it was when you first saw him?**

**A—Only that it was after 10:30 (a.m.). We were on a standby basis awaiting the transfer of Oswald. I know it was after 10:30.**

**Q—Tell the jury where you saw him and what he said to you.**

**A—All I could see was his face in the window and he said 'Have they brought him down yet?'**

**Q—Did you see him later?**

**A—Yes sir.**

**Q—What did he say then?**

**A—The same thing: 'Have they brought him down yet?'**

**TONAHILL HANDLED** the cross-examination.

**Q—(By Tonahill).** How long have you known Jack Ruby?

**A—I don't know him.**

**Q—Then you could be confused as to Ruby's identity?**

**A—No sir, I don't believe so.**

**Q—Was his voice normal, calm, quiet?**

**A—It sounded normal to me.**

**Q—Do you know who he was referring to when he said, 'Have they brought him down yet?' Was he speaking of Capt. Fritz? Or who?**

**A—No sir, but we were all waiting for Oswald to be brought down.**

**Q—ONCE AGAIN,** when did you see him?

**A—I said that I could only say it was sometime between 10:30 and the shooting.**

**Q—It could have been at 11:20, just before the shooting?**

**A—I don't even know what time the shooting was.**

**More**

**Q—Well, then, it could have been 11:20?**

**A—It possibly could have been.** Frank Johnston, a United Press International photographer who was in the basement at the time of the shooting, was next.

He said the first time he noted Ruby was when Ruby leaped out of the crowd and shot.

**Q—Did you hear him (Ruby) say anything?**

**A—I heard him say, 'You SOB,' and then the gun went off.**

**TONAHILL** cross-examined and asked if Johnston had heard officers about 'SOB' at that time. Johnston said no.

Tonahill asked him if he could state that Ruby actually said that. The photographer said he was but three feet away but that he was facing in the opposite direction and could not swear that it was Ruby.

Dr. Olinger, who had given Ruby electroencephalographic tests, said he was a graduate of the University of Virginia Medical School, took special training in electroencephalography at the University of Michigan and set up practice in 1959.

**DR. OLINGER,** questioned by Alexander, told of several routine tests given Ruby. All were normal, he said.

**Q—Now I ask you, doctor, tell the jury whether the EEG indicates anything significant?**

**A—Not in my opinion.**

**Q—Tell the jury what your interpretation of the EEG is?**

**A—The EEGs were interpreted by me as showing nonspecific changes. In the record there are two questionable factors. The background is normal. There are discharges that are slower and higher in amplitude. The significance of these changes I would call minor.**

**Q—Would these changes support a diagnosis of psychomotor epilepsy?**

**A—They would not establish such a diagnosis. If I had a clinical opinion that a person had epilepsy, this would support it. But not by themselves would they support a diagnosis of epilepsy.**

**Q—DO YOU AGREE** or disagree with Dr. Martin Towler's report?

**A—I disagree.**

Dr. Holbrook and Dr. Stubblefield said Ruby refused to discuss the shooting of Oswald with them.

"He refused on the advice of his attorney," Dr. Stubblefield said.

First Assistant Dist. Atty. A. D. Jim Bowie asked Dr. Stubblefield:

"Doctor, from your conversations with him, were you able to form some opinion whether he was sane . . . whether he knew right from wrong and the nature and consequences of his acts?"

**A. I felt he was competent to stand trial.**

**Q. And legally sane?**

**A. Yes, sir.**

**Q. COULD YOU SAY** whether he knew right from wrong and the nature and consequences of his acts when he shot Lee Harvey Oswald?

**A. I could not express an opinion whether he was sane at that time since he refused to talk about it.**

Bowie then reviewed testimony of Dallas detectives who said they heard Ruby call Oswald a "rat son of a bitch" and express a hope that the assassination suspect would die from his wound.

If this testimony was correct, Dr. Stubblefield replied, he would conclude Ruby was sane when he shot Oswald.

Assistant Dist. Atty. William F. Alexander asked Dr. Holbrook about testimony from Dr. Roy Schafer, a Yale psychologist who said he believed Ruby suffered from psychomotor epilepsy.

**Q. Do you agree or disagree with Dr. Schafer's diagnosis?**

**A. I disagree very strongly with the part of it which says Jack Ruby has brain damage.**

**Q. WITH REGARD TO** determining brain damage from psychological tests, could I not do just as well by flipping a coin? I could not be completely right or completely wrong, could I?

**A. (Over defense objections) That is about right.**

**Q. Doctor, is it your opinion**

that he was sane when he shot Lee Harvey Oswald and that he is sane now?

A. Do you want me to say whether he knew right from wrong and the nature and consequences of his act?

Q. Yes, that is right, doctor.

Dr. Holbrook explained he is convinced Ruby knew right from wrong when he shot Oswald. The psychiatrist noted that he has not examined Ruby since he underwent the laboratory tests in January and cannot make a positive statement about his condition now.

BUT, DR. HOLBROOK said, his knowledge of Ruby's condition leads him to believe the slayer is still sane.

After a few other witnesses, questioned briefly, Wade rested his rebuttal case at 5:22 p.m. and the defense resumed.

First defense rebuttal witness was Lt. Jack Revill, Dallas police officer.

Tonahill asked Revill to examine an exhibit—a picture taken at the time Ruby shot Oswald—and tell the jury where fellow officer Thomas McMillon was standing when the picture was taken.

Revill showed him and Tonahill said:

"NOW I KNOW you wouldn't want to call another officer a liar, but if this man said he was looking at Jack Ruby when he came up there, he's a liar, isn't he?"

The state objected and the judge sustained it.

Tonahill was trying to prove to the jury that McMillon, who testified earlier that he heard Ruby say, "You rat son of a bitch, you killed the President," just as he fired, was not close enough to have heard what Ruby said.

Following Revill was Mrs. Eileen Kaminsky of Chicago, one of Ruby's sisters.

Belli asked her one question: "Has Jack at any time been convicted of a felony?"

"No," she said, and was promptly excused when the state wanted no cross-examination.

MRS. ELEANOR PITTS, who had been Ruby's housekeeper prior to the Nov. 24 shooting, testified next and said, "Jack sure was talking funny" when she called him that morning to make arrangements for her to come and clean his apartment.

She said Ruby rambled on and on and once she said, "Is this Jack Ruby I'm talking to?"

Mrs. Pitts said she always called in advance because she was afraid of Sheba, Ruby's favorite dog. She said Ruby told her to come to work later in the day but "be sure to call first."

Phil Burlison handled the questioning of Detective Billy H. Combest, a vice squad officer who stood about three feet from Oswald when he was shot down.

COMBEST ADMITTED that he belled "Jack, you son of a bitch, don't!" as Ruby sprang toward Oswald.

Q—Did you recognize him?

A—Yes.

Q—Did you see his face?

A—Only a glimpse of it.

Q—Did you hear him say anything?

A—I could see his lips moving but couldn't make out what he was saying.

Q—How loud did you say what you said?

A—I said it, but I don't know how loud.

Q—Were you excited?

A—Yes, I was.

Alexander took over the questioning when Burlison passed the witness to the state.

Q—Was Jack Ruby still talking in the jail office after the shooting?

A—Yes, but I don't recall what he said.

Q—WAS HE TALKING on his way to the elevator?

A—Yes, he was talking.

Q—Just before he shot, were his lips moving?

A—Yes sir.

Burlison again: "Did you see his face? Was he calm?"

A—Best I could recall, he looked determined.

Q—Would you say this deter-

mined look was a calm look? Objection and sustained.

Q—You've seen him many times, haven't you?

A—Yes.

Q—Was his face apparently normal?

A—Possibly more determined than usual.

A SURPRISE WITNESS for the state was pistol expert Alfred Breninger, who said it was not abnormal for a man to fire a

pistol with his middle finger.

The defense claims Ruby used this finger and was "in a spasm" as he shot. Breninger, a retired U.S. Army colonel, said it was common practice to use the second finger.

He called it "instinct shooting" and said it was "much speedier for shooting at short distances."

He demonstrated how in such a case the index finger serves as a guide for the barrel as the middle finger pulls the trigger.