

Ruby May Live

Years Awaiting Appeals

Jack Ruby can look forward to months — probably years — of life even though jurors ruled Saturday that he should die in the electric chair for the murder of Lee Harvey Oswald.

As Judge Joe B. Brown read the death verdict, defense lawyer Melvin Belli shouted, "I assure you we will appeal . . ."

The appeal could go all the way to the U.S. Supreme Court. Defense lawyers had said earlier they would go there "if necessary."

Even if they eventually lose, the attorneys could delay Ruby's date with the electric chair as long as four years while going from court to court.

AN APPEAL IS A COMPLEX procedure with numerous chances open to the defense. Meanwhile, until there is a final life-or-death decision, Ruby will wait behind the bars of the Dallas County jail, or "Death Row" at Huntsville.

Ruby's lawyers can begin their new fight to save his life by asking Judge Brown to grant a new trial.

They must file a request for a new trial within 10 days. Then they have another 30 days in which to file a more detailed plea.

Then Judge Brown would set a date for arguments by prosecutors and defense lawyers.

IF JUDGE BROWN rejects the plea, Ruby's lawyers must turn to the Court of Criminal Appeals in Austin.

Normally, they have 90 days to prepare "bills of exception" stating reasons why they be-

lieve Ruby should get a new trial. Meanwhile, the court reporter prepares a typewritten record of testimony taken during the trial and sends it to the appeals court along with evidence considered by jurors.

Because of the length of Ruby's trial, which produced testimony by 86 witnesses, the appeals court may extend the time for preparing the documents.

Then a date for a hearing before the three judges of the appeals court, and the two commissioners who assist them, is set. A hearing in the Ruby case appears unlikely before October, since the State Constitution requires the appeals court to recess from July through September.

RUBY'S LAWYERS would probably argue among other complaints, that the 32-year-old slayer failed to get a fair trial because:

— Judge Brown refused to transfer the trial to another county despite their contention that Ruby could not get a fair trial here.

— Judge Brown refused to disqualify jurors who had watched television scenes of the shooting.

— Judge J. Frank Wilson substituted for Judge Brown when he became ill during selection of the jury.

— Judge Brown allowed detectives to testify about statements they said Ruby made while under arrest.

— Judge Brown gave improper instructions on legal issues in the case to jurors before they began deliberating.

— Tight security measures in the courtroom prejudiced jurors.

DIST. ATTY. Henry Wade would probably argue that Ruby got a fair trial and the verdict should stand.

"I think Judge Brown was very zealous in protecting Ruby's rights," Wade told reporters after the verdict was announced.

If the appeals court refuses to grant a new trial, defense lawyers could file at least two motions for rehearing — requests that the jurists reconsider their decision. This would allow the defense to present new arguments.

Judges of the Court of Criminal Appeals rule primarily on points of law. They may set aside a conviction if convinced there was insufficient evidence to support it. But they do not substitute their judgment for that of jurors in ruling whether a penalty was proper.

The judges are especially deliberate in cases where the death penalty has been as-



—Associated Press Wirephoto.

Jack Ruby sits impassively as he hears Judge Joe B. Brown read the jury's verdict.

seated. They may spend months studying legal points.

BELLI SAID HE WILL contend that there are at least 40 reasons why Ruby should get a new trial. Some are highly technical.

Another involves a "first" which will make legal history. It involves this question:

Is a juror qualified to serve in a murder case if he saw the slaying itself, or a film of the actual slaying, on television?

The final decision from the Austin court may not come until 1965.

If the court sets aside the conviction, Ruby will stand trial

again — probably in another county.

If it rules he got a fair trial here, it will issue a document known as a mandate — an order directing Judge Brown to carry out the jury verdict.

DEPUTIES WOULD then bring Ruby from his county jail cell, and Judge Brown would set a date for the slayer to walk to the electric chair.

Sheriff Bill Decker's deputies would hustle Ruby to the State Penitentiary at Huntsville, where he would be confined in an isolated area known as "Death Row." He would spend his hours under heavy guard

in a cell only a few paces from the chair in which he had been sentenced to die.

He would be sure of at least one 30-day delay of the execution date. This delay is given every condemned prisoner as a matter of tradition.

Defense lawyers could request additional delays while asking federal courts to consider the case on grounds that Ruby's constitutional rights had been violated.

Customarily, a direct appeal to the U.S. Supreme Court is made. If it is rejected, defense lawyers go to a U.S. District Court and start back toward the Supreme Court.

If the federal courts also refused to grant a new trial, Ruby's lawyers could turn to the State Board of Pardons and Paroles and ask it to recommend that the governor change the sentence to life imprisonment.

THE GOVERNOR may grant clemency only upon recommendation of the board. Although not required to do so, governors have followed the board's recommendations in death penalty cases since the system was adopted in 1836.

The board has a rule that it will not retry a case on legal grounds, but will consider "general circumstances."

Defense lawyers could not appeal to the President. His clemency power is limited to federal cases.

If the federal courts and the pardons board rejected defense pleas, Ruby's lawyers would have one more avenue open.

They could ask a district judge to stop the execution on the ground that Ruby had become insane under the strain of awaiting his appointment with death.

State laws provide that no insane man shall be put to death.