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UPI-65

(RUBY)

AUSTIN, TEX.--THE TEXAS COURT OF CRIMINAL APPEALS TODAY REFUSED TO HEAR THE APPEAL OF JACK RUBY UNTIL THE TRIAL JUDGE IN DALLAS DECIDES WHETHER THE CONDEMNED SLAYER OF LEE HARVEY OSWALD IS SANE.

THE APPEAL WAS SCHEDULED TO BE ARGUED MARCH 10 AND THE DEADLINE FOR FILING WRITTEN BRIEFS WITH THE FIVE-MAN APPEALS COURT WAS MARCH 3. A QUARREL OVER WHAT LAWYERS REPRESENT RUBY FIGURED IN THE LATEST LEGAL TWIST IN THE CASE.

RUBY, NOW 34, REMAINS IN JAIL AT DALLAS, WHERE HE HAS BEEN SINCE THAT SUNDAY MORNING NOV. 24, 1963, WHEN HE SHOT THE ASSASSIN OF PRESIDENT KENNEDY IN FULL VIEW OF A NATIONWIDE TELEVISION AUDIENCE.

THE DEFENSE APPEAL WAS TO HAVE CONSIDERED ONLY ALLEGED ERRORS IN THE TRIAL AND THE QUESTION OF WHETHER RUBY COULD HAVE RECEIVED A FAIR TRIAL IN DALLAS. HIS SANITY, AS FAR AS THE DEFENSE WAS CONCERNED, WAS NOT AN ISSUE IN THE APPEAL.

THE APPEALS COURT SAID THERE WOULD BE NO HEARING UNTIL DISTRICT JUDGE JOE B. BROWN, WHO PRESIDED AT RUBY'S TRIAL JUST ONE YEAR AGO, DECIDES THE SANITY ISSUE.

"NO COMMENT," SAID JUDGE BROWN IN DALLAS WHEN ADVISED OF THE COURT'S ACTION.

THE DEFENSE HAS ARGUED THAT RUBY WAS INSANE AT THE TIME OF THE SHOOTING AND THAT HIS MIND HAS DETERIORATED RAPIDLY SINCE THEN. THE PROSECUTION ARGUED -- SUCCESSFULLY -- THAT RUBY KNEW RIGHT FROM WRONG AND WAS LEGALLY SANE AT THE TIME HE PULLED THE TRIGGER OF HIS 38-CALIBER PISTOL.

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