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# Ruby Lawyers List 16 Points During Appeal

**STAFF SPECIAL**

AUSTIN—The Texas Court of Criminal Appeals ruling in the Jack Ruby case will center on 16 reasons as to why defense lawyers think the convicted slayer should be granted a new trial.

The points were listed in a bulky brief filed by attorneys for the former Dallas nightclub owner.

They included:

—The court erred by not allowing a change of venue.

The contention points to wide publicity on the assassination and murder of Lee Harvey Oswald and states: "These pressures hardly abated from this time (of the assassination) until the trial of Jack Ruby had wound tortuously to its conclusion."

—Publicity and lack of control denies due process.

This concerned what defense attorneys claimed was trial court error in failing to protect Ruby from "inherently prejudicial publicity which saturated the Dallas community" and the court's failure to control disruptive influences in and about the courtroom.

—Jurors were used as witnesses.

In this point, the defense contended the trial court erred in overruling challenges for cause of jurors who watched the crime on television. This, the attorneys claimed, resulted in Ruby

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"The Dallas Times Herald"  
Dallas, Texas

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"being tried by jurors who were witnesses in the case."

—Substitute judges.

The defense contended the trial court erred in permitting a substitute trial judge to sit during jury selection and while a motion for change of venue was pending. This occurred when Judge J. Frank Wilson filled in for Judge Brown because of illness on March 3, 1964. The jury selection was completed under Judge Wilson. Judge Brown returned the next day and overruled the motion for change of venue.

—Alleged res gestae statements.

This involves testimony of Police Sgt. P. T. Dean as to answers Ruby gave to questions asked after the shooting. According to the defense, the only showing of malice in the case "comes from the lips of Dallas police officers." The defense also claimed that too much time elapsed between time of the shooting and the statements.

—No evidence was permitted on a motion for a new trial.

The defense claims the court overruled a motion for a new trial without hearing any evidence and actually refused to hear that evidence.

—Denial and discovery and suppression of evidence.

Ruby's attorneys stated the court erred in overruling a defense request for "papers, reports and documents bearing upon the transaction for use by the defendant in his trial." They said many matters of a "favorable nature" to Ruby's defense subsequently were revealed by the Warren Commission report and should have been made available to them prior to the trial.

—Midnight jury argument.

This pointed out jury argument, after the reading of the charge to the court, commenced about 8:20 p.m. March 13, 1964, and was concluded at 1:07 a.m. March 14. It contends the jury and trial judge were "tired and weary" and the short time consumed by the jury in returning its verdict indicates "little or

no attention was or could have been paid to the forceful arguments of appellant's counsel returning the verdict with the extreme penalty."

—Wrongful exclusion of evidence.

The defense contended the court erred in refusing to admit into evidence that Oswald had been charged with killing Kennedy and denied admission of a taped interview with Dist. Atty. Henry Wade to the effect that Oswald was the assassin.

—False testimony on behalf of the state.

In this point, Ruby's attorneys pointed to testimony of Sgt. Dean in which he first said he and Secret Service agent Forrest Sorrells visited Ruby in his cell 10 minutes after the shooting yet under cross-examination admitted writing a report to the chief of police that it was "approximately noon" when he visited Ruby.

—The trial court erred by not granting a request to file a second motion for a new trial. This, the defense claimed, was "an abuse of discretion on the part of Judge Brown."

—Denial of a pre-trial insanity hearing.

—The trial court erred in charging insanity under the McNaghten rule.

This concerns the defendant's ability to determine the difference between right and wrong, and the defense claimed it was used by Judge Brown in his charge to the jury although it has been abandoned by the U.S. Court of Appeals of the 2nd Circuit in favor of an American Law Institute rule that a person is not responsible for criminal conduct if his actions are the result of mental disease or defect.

—The trial judge disqualified himself by having a financial interest in the case.

The final three points, all included in this category, sought disqualification of Judge Brown and stated his financial interest—a book he is writing—renders "judgment of conviction in the appellant's case void and subsequent proceedings invalid."