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Ruby Attorney Denies Making Appeal Proposal

William M. Kunstler of New York, an attorney for Jack Ruby, denied Friday he ever proposed that Ruby drop his appeal in return for a life sentence.

Kunstler challenged Assistant Dist. Atty. William F. Alexander's version of what took place while prosecution and defense lawyers were in Jacksonville, Fla., last year to argue the Ruby case before the U.S. Fifth Circuit Court of Appeals.

Alexander said Kunstler asked whether Dist. Atty. Henry Wade would oppose commutation of Ruby's death sentence if defense lawyers dropped their appeal.

Alexander said Kunstler sent "several messages" to Wade on this point, but defense lawyers apparently decided later to fight for a new trial instead of asking the Board of Pardons and Paroles to commute the sentence.

Kunstler said this account is "completely false."

"I never made such a proposal and I want to set the record straight," Kunstler said. "as far as I can recall, I have never done anything except exchange pleasantries with members of the prosecution with one exception.

"I attended a meeting more than a year ago in the Dallas office of Phil Burleson (a defense lawyer). Wade was present, but I do not believe Alexander was there. We talked about the Ruby case in general terms. But neither myself nor any other member of the defense staff suggested that Wade agree to a life term in return for a dismissal of our appeal."

Kunstler said he had no conversation with Alexander in Jacksonville.

~~we have~~ a 5-man defense team in this case and we work together

as a team," Kunstler said. "I would not confer with Alexander alone about strategy. And we have never even thought in terms of dropping our appeal.

Wade said last year he would "not oppose" a life term for Ruby if defense lawyers dropped their appeal.

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7A

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Trial on Ruby's Sanity Ordered

Dist. Judge Louis T. Holland ~~ordered~~ Friday that a sanity trial for Jack Ruby must begin at 9 a.m. Monday and told objecting attorneys "you can fold your hands if you want to."

Ruby lawyers asked that the sanity trial be canceled and, when overruled, said they would not present witnesses or participate in the trial.

Judge Holland said the State Court of Criminal Appeals ordered him to determine Ruby's mental condition, although Ruby's sister withdrew her affidavit claiming Ruby is insane.

"A jury will be present and the issue of the sanity of the defendant will be submitted to the jury," Judge Holland declared.

Ruby's sister, Mrs. Eva Grant of Dallas, and a group of Ruby attorneys attempted to head off the unwanted sanity hearing by claiming that with the affidavit withdrawn, there was no sanity issue and could be no trial.

Judge Holland explained that the issue of sanity has been raised and unless he is ordered to cancel the trial it will be held.

The judge's action unified the often disagreed attorneys in the case. Joe Tona-hill of Jasper and Emmett Colvin of Dallas joined Ruby family attorneys in objecting to the trial.

The two and Phil Burleson of Dallas, Sol Dann of Detroit and Sam Houston Clinton Jr. of Austin planned work sessions through the weekend.

Ruby lawyers, who have claimed Ruby has become insane since his 1964 trial for the killing of Lee Harvey Oswald, avoided direct comment on his mental condition during the hearing.

Their reasons for asking cancellation of the trial included attempts to "avoid further legal entanglements." Without the sanity trial, Burleson said, the Austin appeals court could review the main trial record.

If the case is reversed, he added, Ruby could be treated in a private or veterans hospital, rather than a state institution.

Dist. Atty. Henry Wade and assistant Bill Alexander, who insist that Ruby is sane, produced the only statements Friday alleging that Ruby is insane.

They pointed to several insanity allegations included with Ruby court records. These allegations were not withdrawn with Mrs. Grant's affidavit, they explained, leaving the sanity issue before the court.

The state is expected to call several psychiatric experts during the sanity trial. Lawmen and other persons who have observed Ruby are also expected to testify.

The Ruby lawyers filed a motion stating they "will be present in the courtroom but will not actively participate in examining members of the jury panel or present witnesses.

If Ruby testified, they claimed, his testimony could be used against him in a new trial.

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Jack Ruby Hearing Scheduled

A sanity hearing for Jack Ruby will begin at 9 a.m. Monday, but unless his lawyers change their mind it will be a one-sided affair.

Dist. Judge Louis Holland of Montague ordered the sanity hearing Friday over the strong objections of Ruby's attorneys who claimed the hearing would violate Ruby's constitutional rights.

The lawyers were ordered to appear in the courtroom Monday morning but they said they will not call Ruby or any witnesses to testify to his insanity.

IF THEY HOLD to this position, said Asst. Dist. Atty. Bill Alexander, the judge will have no choice but to instruct the jury to find Ruby sane.

A sanity hearing reverses the normal procedure in criminal trials in which the defendant is presumed innocent and must be proven guilty by the state. In a ~~sanity~~ hearing, a defendant

is presumed sane and must be proved insane, so the defense would normally present its case first and the prosecution would answer its arguments.

Alexander indicated the state will produce evidence of Ruby's sanity even if the defense does not try to prove him insane.

PSYCHIATRISTS and people who who have observed him in jail are expected to be called by the state.

Attorneys Phil Burleson of Dallas, Sol Dann of Detroit and Sam Houston Clinton Jr. of Austin did not contend at the pre-trial hearing Friday that Ruby is now sane.

"At this time we are not contesting that fact," said Dann.

The three attorneys, together with Joe Tonahill of Jasper, argued the sanity trial is not necessary since Mrs. Eva Grant of Dallas, Ruby's sister, moved to withdraw her affidavit claiming Ruby is insane.

Judge Holland ruled the withdrawal of the affidavit does not cancel the sanity hearing since other affidavits had been filed with the Texas Court of Criminal Appeals which ordered the hearing.

The defense attorneys indicated they would refuse to present witnesses Monday because any testimony could be used against Ruby in later proceedings.

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Defense Opposes Hearing

By WAYNE KING
Staff Writer

Attorneys for Jack Ruby declared Friday that the sanity hearing scheduled for him next week would violate his constitutional rights. They said they will not offer any evidence of his insanity if the hearing is held.

Judge Louis T. Holland of Montague, hearing pre-trial motions before the sanity hearing scheduled Monday, at one point ordered the lawyers to produce witnesses on Monday, but later continued the hearing until 1 Friday afternoon and said he would announce his decision then.

The lawyers contended that the sanity hearing is a result of an affidavit filed by Mrs. Eva Grant, Ruby's sister, on April 7, 1964, claiming her brother was insane.

MRS GRANT filed a motion Thursday asking that her affidavit be withdrawn and the lawyers said this motion removes the reason for the hearing.

Judge Holland said, however, that the Texas Code of Criminal Procedures requires that any time a reasonable doubt exists as to a defendant's sanity, the doubt must be resolved by submitting the question to a jury. The pre-trial hearing, held in

a courtroom full of spectators disappointed because Ruby was not brought in as expected, was held in a tense atmosphere as attorneys for Ruby and the state exchanged arguments.

EARLY IN THE hearing, Judge Holland overruled a motion to withdraw Mrs. Grant's affidavit, saying, "I think justice requires me to do this."

But attorneys Phil Burleson, Sol Dann, and Joe Tonahill offered numerous arguments to the contrary, saying that the only evidence in the hearing Monday, if it is held, will be evidence of Ruby's sanity, since the defense plans to offer no evidence.

Tonahill introduced the possibility of appealing an unfavorable ruling when he said, "Should you go forward and try the case, I feel it would reach constitutional dimensions."

IN MRS. GRANT'S motion filed Thursday, she asked that her affidavit be withdrawn for three reasons:

1. "To avoid further legal entanglements that have been present in processing Jack Ruby's appeal.

2. "To assure Jack Ruby a speedy review of his main trial record at the next term of the Court of Criminal Appeals.

3. "To assure speedy and adequate psychiatric aid in the event of a reversal, either in a private hospital with doctors of his own choosing, with the help of his family, or in a Veterans Administration hospital under his ~~veteran's~~ benefits."

JUDGE HOLLAND observed that nowhere in the motion does Mrs. Grant say that her brother is presently sane.

"If you could file motions and withdraw them at will," said the judge, "you could file another one before sundown and delay the proceedings indefinitely."

Dist. Atty. Henry Wade argued that the defense's insistence on a sanity hearing has been responsible for the delay in appealing Ruby's conviction for the murder of Lee Harvey Oswald. Ruby was convicted in March, 1964 of murdering Oswald and received the death penalty. His appeal of the conviction is still pending.

BURLESON, HOWEVER, said that if the sanity hearing is called off, the defense will immediately ask the Court of Criminal Appeals to consider Ruby's appeal.

Emmett Colvin Jr., who accompanied Tonahill to the hearing, offered a choice to the judge other than sustaining or overruling Mrs. Grant's motion.

He suggested that Judge Holland continue the matter and consult the Court of Criminal Appeals, which ordered the sanity hearing in the first place.

Judge Holland decided to continue the hearing until Friday afternoon so that he could consider the attorneys' arguments. He immediately began private consultations with them.

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1
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Ruby Hearing Set for Friday

By JOHN GEDDIE

Jack Ruby's sister filed a motion Thursday asking Dist. Judge Louis T. Holland to withdraw her affidavit of April 27, 1964, which claimed Ruby is insane.

If the judge agrees, the action by Mrs. Eva Grant of Dallas will cancel a sanity trial set to begin Monday morning. But a

spokesman for the district attorney's office predicted Judge Holland will turn down the motion Friday and rule that the trial be held.

The surprise request for withdrawal of the affidavit, which claimed Ruby had lost his mind since his trial for murdering Lee Harvey Oswald, was filed at 4:25 p.m. Thursday.

Attorneys for both sides will meet before Judge Holland at 10 a.m. Friday.

Phil Burleson of Dallas, one of the Ruby lawyers, said the new motion was filed to "avoid further legal entanglements."

Burleson said that if Judge Holland grants the request Ruby will get a "speedy review of his main trial record in the Court of Criminal Appeals," and also will be able to receive private or veteran's psychiatric aid—rather than treatment in a state institution—if the case is ~~reversed~~.

A spokesman for Dist. Atty. Henry Wade disagreed with Burleson's opinion that Judge Holland will grant the withdrawal and cancel the trial.

"From our standpoint, the district attorney's office takes the attitude that the trial court will overrule the motion and follow the mandate of the Court of Criminal Appeals."

The appeals court ordered a judicial determination of Ruby's mental condition. The U.S. Supreme Court denied a Ruby request Monday that the sanity trial be delayed pending further appeals.

Joe Tonahill of Jasper, an ousted Ruby lawyer reinstated by the Austin appeals court, said other Ruby attorneys did not tell him of the new motion.

"It's legal and they have a right to do it. As I see it, there is nothing the judge can do," Tonahill said.

The Jasper attorney, who has engaged in lengthy verbal battles over his position in the case with Mrs. Grant, said "She's done it in good faith. I'm in no position to say she's right or wrong."

Tonahill insisted, however, that Ruby needs psychiatric treatment. He told The News last week he would not oppose a sanity trial postponement "in the interest of Jack," if the other attorneys did not want it.

If Judge Holland rules the trial to begin Monday, Ruby lawyers are expected to file further motions in federal court.

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Jack Ruby Sanity Hearing To Start

A sanity hearing for Jack Ruby will get under way Friday with the hearing of pre-trial defense motions by Dist. Judge Louis Holland of Montague.

At issue in the hearing will be the present sanity or insanity of Ruby, who is under a death sentence for the murder of Lee Harvey Oswald, accused assassin of President John F. Kennedy.

The sanity hearing was ordered by the Texas Court of Criminal Appeals on Feb. 24, 1965 and has been repeatedly postponed by appeals to federal courts.

THE LATEST EFFORT by the defense to stay the sanity hearing was stymied when U.S. Supreme Court Justice Hugo Black refused to order a postponement.

If Ruby is found sane by the jury, he will be able to settle the question of who will represent him in appealing his conviction. That appeal is still pending with the Court of Criminal Appeals.

Attorney Joe Tonahill contends that Ruby is insane and thus is incapable of dismissing him as his defense attorney. Ruby has indicated that he no longer wants Tonahill, who together with Melvin Belli and Phil Burleson represented Ruby, in his original trial which began in Dallas on Feb. 24, 1964, and ended on March 12, 1964.

SINCE THE ORIGINAL trial Belli has been fired as Ruby's counsel. Burleson continues to represent Ruby, and attorneys

William Kuntzler, Sol Dann, emer Gertz and Sam Houston Clinton have joined the case.

The Court of Criminal Appeals has ordered that Tonahill also be permitted to participate in the sanity hearing as Ruby's counsel.

Representing the state in the sanity hearing will be Dist. Atty. Henry Wade and Asst. Dist. Attys. Bill Alexander and Jim Zimmermann.

SELECTION OF A JURY to determine Ruby's condition will begin Monday morning. Jury selection will take only a short time, since prospective jurors are questioned individually only in a capital case.

In the event the jury decides that Ruby is sane, the Texas Court of Criminal Appeals will take up the appeal of the original conviction.

If he is found insane, according to the Texas Code of Criminal Procedure, "all further proceedings in the case against him shall be suspended until he becomes sane, except that upon a motion of a defendant's counsel in appeal from a conviction ~~he may be prosecuted.~~"

IF RUBY IS FOUND sane, or if he is found insane and his lawyers want to go ahead with the appeal, a long chain of possible proceedings will be initiated.

If the Court of Criminal Appeals should reverse Ruby's conviction, the state could try him again on the original indictment. If the court upheld his conviction, the attorneys could ask for review by the U.S. Supreme Court.

Failure of the Supreme Court to review the case or a decision to uphold the conviction would not yet end Ruby's legal remedies.

After the "direct review" is completed, a defendant can embark on "collateral attack" on his conviction, which may involve a claim that his constitutional rights were violated.

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Legal Factions Meet Friday To Discuss Ruby Sanity Trial

By JOHN GEDDIE
Another chapter in the continuing controversy over Jack Ruby will begin at 10 a.m. Friday when legal factions meet for a presanity trial hearing.

The sanity trial, not sought by the participants, will begin Monday morning before Dist. Judge Louis T. Holland.

The Supreme Court denied a Ruby family motion that the sanity trial be postponed pending appeal actions.

Joe Tonahill of Jasper, placed back in the case by the Texas Court of Criminal Appeals although told to stay out by Ruby's relatives, said he would approve of a postponement if the other attorneys did not want the sanity issue raised at this time.

Dist. Atty. Henry Wade neither supported nor opposed the request for a postponement.

The Supreme Court, however, denied the request and ordered the case to continue as directed by the Texas Court of Criminal Appeals.

The appeals court ordered a determination of Ruby's mental condition after an argument between

defense lawyers over who is to represent Ruby on appeal.

The Ruby version insists that Tonahill has been fired—by Ruby and his family. Tonahill claims he was hired by Ruby and cannot be fired by a man with an unsound mind.

The state and the defense have indicated they can prove Ruby sane and insane, respectively.

Defense attorneys pointed to Ruby's alleged suicide attempts, his ranting that Jews are being slaughtered in the streets and to Ruby's own rambling statements.

The state is expected to acknowledge that Ruby—under pressure of a death sentence since 1964—is not as normal as the man on the street. They claim, however, that his own statements prove that he knows the situation he is in, realizes where he is and knows right from wrong. By Texas law, they insist, he is sane.

Both sides are expected to call in experts in psychiatry. There are reports that the defense team will present noted doctors from throughout the nation. In addition to other witnesses, the state is expected to call Dr. John Hol-

brook of Dallas, who has examined Ruby several times.

Dr. Louis Jolyon West, a professor of psychiatry at the University of Oklahoma School of Medicine, also has examined Ruby and claimed earlier that he needs care in a mental institution.

The state is expected to confront West with his own claims that Ruby needed immediate hospitalization. They reportedly will call witnesses to prove that West's examinations were more than a year ago and that Ruby still "is not climbing the walls."

Non-expert witnesses who have observed Ruby in the Dallas County jail are expected to be called by both sides.

Ruby has said publicly several times that he is not insane.

Dist. Atty. Henry Wade and assistants Bill Alexander, Jim Zimmermann and several others are preparing the state's case.

Assistant Dist. Atty. James Williamson is continuing with preparation on whether a book by trial Judge Joe B. Brown should Ruby a fair trial.

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Judge Feels Sheppard Ruling Will Cause Texas Crackdown

By CARL FREUND

West Texas Bureau of The News

FORT WORTH, Texas — The U.S. Supreme Court decision in the Samuel Sheppard murder case will force Texas judges to crack down against lawyers and officers who "insist upon trying their cases in the newspapers," a Fort Worth jurist said Monday.

Criminal Dist. Judge Byron Matthews said the ruling also em-

phasizes the need for reporters to show "discretion and a sense of responsibility" when writing about crimes and the arrest of suspects.

The Supreme Court ruled 8-1 that Dr. Sheppard, a Cleveland osteopath, did not receive a fair trial when convicted of the 1954 murder of his wife.

Associate Justice Tom Clark, who wrote the decision, said "bed-

lam reigned at the courthouse" during Dr. Sheppard's trial as reporters crowded into the courtroom. Justice Clark said also that the trial judge should have taken steps to stop policemen, other witnesses, and attorneys from divulging "prejudicial matters" to the press.

Judge Matthews, who was a prosecutor and well-known defense lawyer before donning his judicial robe, said he is "in accord" with the Supreme Court decision.

"I have long been convinced that jurors may be prejudiced by what they have read or heard about a case," Judge Matthews said.

Unlike some Texas jurists, Judge Matthews believes that state laws give courts the power to jail or fine lawyers and officers if they make prejudicial statements before a trial.

"I believe we have the power to punish them for contempt," Judge Matthews said. "But I would much prefer that everyone cooperate to see that defendants get fair trials."

The decision was viewed here also as increasing chances that the courts will set aside the death penalty which Jack Ruby received for the murder of Lee Harvey Oswald.

Judge Matthews said reporters know the type of information which would prejudice prospective jurors and should agree voluntarily not to print it. Many newsmen feel, however, that this policy would put an unfair burden upon them and would keep the public from getting information which it is entitled.

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Ruby Refused Delay in Trial Slated June 13

WASHINGTON (AP) — The U.S. Supreme Court has refused a defense move to delay a sanity trial for Jack Ruby, under a death sentence for the killing of Lee Harvey Oswald.

Justice Hugo L. Black, turning down the plea Friday, said he felt the requested delay would "interfere with the orderly and customary processes of the courts of Texas in attempts to give Ruby a fair and prompt determination of his rights."

The motion was filed Thursday by New York lawyer William Kunstler. It sought to delay the sanity trial set for June 13, contending Ruby's rights were violated as to which attorneys should be allowed to represent him.

The Texas Court of Criminal Appeals last month ordered the sanity trial and allowed Jasper

lawyer Joe Tonahill to participate. Tonahill has been repeatedly dismissed by Ruby's family.

Black noted Friday that the lawyer question could only be settled after Ruby's present mental status is determined.

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Ruby Loses Bid to Stay Sanity Test

Washington Bureau of The News
WASHINGTON—Supreme Court Justice Hugo Black Friday refused to approve a petition to stay a sanity hearing for Jack Ruby scheduled in Dallas on June 13.

"I do not feel justified," Black said, "in granting a stay which would interfere with the orderly and customary processes of the courts of Texas in attempts to give Ruby a fair and prompt determination of his rights."

Attorneys for Ruby, headed by William Kunstler of New York, filed the petition for a stay Thursday, arguing that the Texas Court of Criminal Appeals had erred in ruling that Joe Tonahill of Jasper be recognized as an attorney for Ruby at the sanity hearing.

Kunstler's petition said that Ruby and his family had discharged Tonahill more than a year ago. Ruby is under death sentence for the slaying of Lee Harvey Oswald but the Texas appellate court has not acted on appeal.

The sanity hearing is scheduled to be heard before Dist. Judge Louis Holland of Montague County in Dallas Criminal District Court No. 3.

In his ruling, Justice Black said Ruby's case is "strikingly like" that of Melvin Davis Rees Jr., a convicted murderer of a Virginia family, which the court acted upon last Tuesday.

Rees has said he is prepared to die in the electric chair, but the Supreme Court called for a report from the federal district court on his sanity.

Rees has attempted to prevent his lawyers from pressing appeals on his behalf. They refused to do so, and the court upheld their position. The court called for a report on Rees' mental condition "with all convenient speed."

Black noted that in the Ruby case the sanity hearing was set up "to determine whether petitioner Ruby is mentally competent to choose and discharge his own lawyers."

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State Won't Oppose Ruby Hearing Delay

The state will make no objection to a motion by a lawyer for Jack Ruby to stay the sanity hearing scheduled for June 13, Dist. Atty. Henry Wade has said.

Attorney William M. Kuntzler of New York filed the motion with Supreme Court Justice Hugo L. Black Thursday, asking that the hearing be postponed until the Supreme Court can review the case.

"We have no objections as far as the stay is concerned," said Wade. "The man's presumed to be sane. There's no reason for

us to insist on a hearing on the issue."

Ruby is appealing a death sentence passed against him for the murder of Lee Harvey Oswald, accused assassin of President John F. Kennedy, but that issue was to be put aside until the question of Ruby's present sanity or insanity could be settled.

Defense lawyers want to block further state court proceedings until they can ask the Supreme Court to set aside the death penalty on the grounds that Ruby's rights were violated by the plans of trial judge Joe

B. Brown of Dallas to write a book on the case.

Judge Louis T. Holland of Montague has already denied a writ of habeas corpus sought on these grounds and has been upheld by the Texas Court of Criminal Appeals.

While the state is not opposed to postponing the sanity hearing, Wade said, "we will have something to say about the Supreme Court appeal" if it concerns the question of Judge Brown and the merits of the case.

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Wade, Tonahill Won't Object to Motion

By JOHN GEDDIE

Dist. Atty. Henry Wade and attorney Joe Tonahill of Jasper indicated Thursday they will offer no objections to a motion asking the U.S. Supreme Court to postpone the Jack Ruby sanity hearing.

Tonahill, ordered back in the sanity hearing by the State Court of Criminal Appeals after a prolonged disagreement with the Ruby family and his other lawyers, told The News that a sanity hearing June 13 "might not be good for Jack."

"Their (other Ruby attorneys) attitude in filing the motion indicates a lack of enthusiasm for an adequate sanity trial. It indicates the sanity trial would be a pretty futile thing, because they don't want it."

"I would work with them and bend over backwards to cooperate," Tonahill said, "but if those people don't want him to have a sanity trial it may be difficult to get full-fledged cooperation."

Tonahill has insisted that Ruby is insane. He objected last year that Ruby could not fire him because Ruby is of unsound mind.

"There are a number of ways the Supreme Court could rule," Tonahill added. He said the high court could send the case back and order the state appeals court to hear the appeal from the murder trial, further examine the charge that Judge Joe Brown had a pecuniary interest in the case or consider both issues at the same time.

"Whatever it decides will be right," he said. "I have no quarrel with anything decided by the Supreme Court."

Wade said he had not seen

a copy of the motion filed by other Ruby attorneys.

Dist. Atty. Wade said he was informed of the motion Thursday. He said the state will not support or object to the motion for a stay.

"We're ready for the sanity trial and have been for a long time," he said, "but it's not up to us to ask for a sanity trial."

He added that the state will

not enter into the question of attorneys. Other Ruby lawyers claim Tonahill's presence in the case "offends fundamental due process of law."

"That's a question between the lawyers and courts," Wade said. He added that the state will object to claims that the death penalty conviction should be reversed because of an alleged pecuniary interest by Judge Brown based on a book about the trial.

In the motion to Supreme Court Justice Hugo Black, attorney William Kuntsler again quoted from a letter written by Judge Brown to his book publisher:

"About the book — it perhaps is a good thing that it is not finished, because they have filed a motion to disqualify me on the grounds of having a pecuniary interest in the case. I can refute that by stating that there has been no book published or that I have not begun to write a book."

"We are coming along nicely. We have approximately 100 pages complete."

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Stay Ruby Hearing, High Court Is Asked

By ROBERT E. BASKIN
Washington Bureau of The News
WASHINGTON — Counsel for Jack Ruby Thursday asked Supreme Court Justice Hugo Black for a stay of a scheduled sanity hearing for Ruby in Dallas on June 13.

In a petition filed with the high court, it was contended that Ruby could not be given a fair hearing while a dispute is going on over who should represent him in court.

The petition sharply attacked the Texas Court of Criminal Appeals' action ruling that Joe Tonahill of Jasper should be recognized as a Ruby counsel at the hearing before Dist. Judge Louis J. Holland of Montague County.

SIGNER OF the petition was William M. Kunstler, a New York lawyer.

Kunstler raised the question with the court as to whether Ruby should be forced into a hearing with an attorney he does not want and who has been discharged by Ruby and his family.

It was pointed out that in May,

1955, Judge Holland had ordered Tonahill removed as an attorney, but that on May 11 of this year the Court of Criminal Appeals ruled he should represent Ruby at the June 13 hearing.

The petition also alleged that Tonahill has not acted on behalf of Ruby in more than a year and that he as "criticized, castigated and disparaged" other counsel employed by the convicted slayer of Lee Harvey Oswald.

KUNSTLER ARGUED that the sanity hearing would have a "triangle" legal situation with Tonahill on one side, himself on another and state's attorneys on the third.

"A lay jury," the petition said, "cannot fail to see the division of purpose and procedure and can legitimately consider this in making a determination."

The petition asked the stay pending a subsequent petition to the court for a writ of certiorari under which the high court would review Ruby's death penalty conviction, the appeal on which has not been acted upon yet by the state Criminal Appeals Court.

A "flagrant violation" of Ruby's rights to due process of law was charged in a preliminary bid for reversal of the conviction.

The basis for this charge was the fact that the trial judge, Joe B. Brown, has contracted to write a book about the case.

THE PETITION complained of "the spectacle of a judge in a capital case negotiating and contracting for the sale of a book concerning the very proceedings before him, long in advance of termination and the beginning of the writing thereof."

Included in the petition was a letter from Brown to a New York Publishing firm asking for more time before submitting a manuscript because of new developments in the Ruby case in which he was involved.

The Court of Criminal Appeals on May 18 held that Brown had

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Ruby Case Stay Sought

Supreme Court Asked To Block Sanity Hearing

WASHINGTON (UPI)—A lawyer for Jack Ruby today asked Supreme Court Justice Hugo L. Black to block a sanity hearing scheduled for June 13 until the high court can look into his case.

The sanity hearing for the man convicted of murdering Lee Harvey Oswald, accused assassin of President Kennedy, was ordered by the Texas Court of Criminal Appeals. Judge Louis T. Holland of Mortgage has been assigned to it.

Ruby's main appeal from the conviction for which he drew the death sentence, is in abeyance pending the result of the sanity hearing. The aim of the hearing is to determine whether Ruby is sane enough to choose his own counsel.

Papers filed at the Supreme Court today by New York attorney William M. Kunstler asked for a stay of all state court proceedings pending an appeal of a phase of the case to the federal tribunal.

It was understood the state would not oppose the application.

Defense lawyers are complaining that Ruby's rights were impaired. Plans of trial judge Joe E. Brown of Dallas to write a book entitled "Dallas, Ruby and the Law." They applied for a writ of habeas corpus in state courts to set aside the death penalty on this ground.

Holland refused to grant the writ and was upheld May 11 by the court of criminal appeals. Kunstler wants to appeal this decision to the U.S. Supreme Court before any further state proceedings take place.

Ruby also objects to the participation of attorney Joe Tonahill of Jasper at the sanity hearing. Ruby fired Tonahill, who was severed from the case by Holland. But the Court of Criminal Appeals reinstated him.

A federal district court in Dallas and the 5th U.S. Circuit Court of Appeals already have refused to take the action requested of Black.

(Indicate page, name of newspaper, city and state.)

17A

"The Dallas
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Author:

Editor: Felix R. McKnight

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(Mount Clipping in Space Below)

Wade Heads State Unit in Ruby Trial

Dist. Atty. Henry Wade said Sunday he will head a team of three or four attorneys for the state at the Jack Ruby sanity trial scheduled here for June 13.

Wade said the makeup of the state's team of lawyers probably will be much the same as it was during the 1964 trial when Ruby was convicted of murdering presidential assassin Lee Harvey Oswald.

At that trial, the prosecution was headed by the district attorney, with help from Assistants Bill Alexander, A. D. (Jim) Bowie and Frank Watts. Bowie now is a district judge.

Judge Louis T. Holland of Montague, who replaced Criminal Dist. Judge Joe B. Brown on the case, set the June 13 date in a letter sent to officials earlier last week. At the same time, he notified attorneys he would hear all pre-trial motions at a hearing June 10.

(The sanity trial was ordered held "without delay" by the Court of Criminal Appeals when that body early in the week turned down an application by Ruby's lawyers to free him on the ground that Judge Brown, who presided at the original trial, should have been disqualified because he was writing a book about the case.

The attorneys argued that Brown's decision to write the book amounted to his having a financial interest in the case.

As a part of the trial court decision convicting Ruby of murdering Oswald, the jury ruled that Ruby was sane at the time of the shooting.

Should he be judged sane at the June 13 trial, his lawyers will continue their efforts to have the conviction overturned by an appeals court.

Should he be found insane, he would be committed to a state mental institution and held until such time as he might be judged sane. At that time, he still would face death in the electric chair.

(Indicate page, name of newspaper, city and state.)

3D

"The Dallas
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(Mount Clipping in Space Below)

Ruby Lawyer Dwells On Letter by Judge

By CARL FREUND

Austin Bureau of The News

AUSTIN, Texas—An attorney or Jack Ruby said here Wednesday that Criminal Dist. Judge Joe B. Brown of Dallas wrote "a very revealing and shocking letter" in which he told of his willingness to "state an untruth."

The attorney, Phil Burleson of Dallas, referred to the letter repeatedly as he urged the Texas Court of Criminal Appeals to set aside Ruby's death sentence.

Burleson said Judge Brown had a financial stake in the outcome of the Ruby case since the jurist was writing a book about the case. As a result, Burleson argued, Judge Brown was legally disqualified from taking any action in the case and Ruby should get a new trial on a charge of murdering Lee Harvey Oswald.

Assistant Dist. Atty. James Williamson of Dallas disagreed.

The appeals court said it would study their arguments and the record in the case before announcing its decision.

BURLESON SAID Judge Brown wrote the letter March 12, 1965, to the New York firm which had contracted to publish his book.

Burleson said the second paragraph of this letter stated:

"About the book—it perhaps is a good thing that it is not finished because they (Ruby's lawyers) have filed a motion to disqualify me on the grounds of having a pecuniary interest in the case. I can relate that by stating that

there has been no book published or that I have not begun to write a book."

But in the next paragraph, Burleson said, Judge Brown wrote:

"We are coming along nicely. We have approximately 190 pages complete."

BURLESON SAID Judge Brown told the publishers elsewhere in the letter:

"As you probably read in the papers, the Court of Criminal Appeals tossed the case back to me to determine Jack Ruby's sanity. I have set the sanity hearing for March 29 and don't know the outcome, but it is my opinion they will never prove Ruby insane.

"The case is far from being over. Therefore, I ask your indulgence and patience as actually we may have a much, much better book than we had anticipated, but I do not want to put myself in the position of being disqualified."

Burleson said the letter showed that Judge Brown knew he was disqualified, but that he intended to keep acting in the case even though it required him to "state an untruth."

Burleson said the record shows other "inconsistencies" by Judge Brown, who received \$5,000 advance to write the book.

JUDGE BROWN was not in the courtroom here. He stated during a Dallas hearing last September that he was not actually writing a book at the time he sent the controversial letter.

Instead, Judge Brown said, Paul Crume, a Dallas News columnist, was "ghost writing" the book for him. The judge said he planned to edit and revise sections of Crume's manuscript before sending it to the publishers to carry out the contract.

The contract was not signed until July 21, 1964—four months after a Dallas County jury convicted Ruby of murdering the Marxist who had been charged with assassinating President Kennedy.

Burleson argued, however, that Judge Brown acted on defense motions after the contract was signed. The appeals court could presume he thought about writing a book while the trial was in progress, Burleson added.

ANOTHER defense lawyer, William M. Munstler of New York, said the U.S. Supreme Court has held that the "due process" clause of the Fourteenth Amendment guarantees defendant that all rulings in their cases will be made by judges "who are under no temptation whatever . . . who are above suspicion."

Williamson argued that, since Ruby's appeal is pending, defense lawyers are not entitled to a separate ruling at this time on the question of whether Judge Brown was disqualified. Williamson said state laws require the courts to limit themselves to the main appeal.

The prosecutor emphasized that Judge Brown did not contract to write "Dallas, Ruby and the Law" until after Ruby's trial had ended.

DEFENSE LAWYERS have not shown that the projected book influenced any decision by the judge, Williamson added. And, he said, they have not shown that the decisions themselves were incorrect.

"There is a great difference between a judge pre-judging, before he has heard the evidence, and expressing an opinion after a trial has ended," Williamson declared.

Williamson reminded the appeals court that, while defense lawyers complain about Judge Brown's book, they should remember that Melvin Belli also wrote a book about the case. Belli was chief defense attorney when the jury convicted Ruby.

(Indicate page, name of newspaper, city and state.)

4A

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MAY 20 1966
FBI - DALLAS

(Mount Clipping in Space Below)

Bar Moves To Keep Belli Out of Court

FORT WORTH, Texas (AP) — The State Bar of Texas moved Thursday to keep San Francisco attorney Melvin Belli out of court in connection with two civil suits he filed here.

Belli, who tongue-lashed Dallas after the Jack Ruby death penalty verdict, last month filed two breach-of-contract suits asking that two cousins of the late industrialist Kay Kimbell be given a total of \$148,000 from his estate.

The suits were filed in 96th and 17th District Courts here.

The state bar filed a voluminous petition Thursday in both courts asking that Belli not be allowed to represent the plaintiffs, Mrs. Clara Mae Jones and Mrs. Bessie Edge.

Belli is accused in the petition of violating codes of ethics of both the Texas Bar and American Bar by making "violent and intemperate outbursts."

The outbursts referred to were comments made by Belli after a jury on March 14, 1964, found his client, Jack Ruby, guilty of murdering Lee Harvey Oswald and set Ruby's punishment at death.

The bar's petition ask Judges Fisher T. Denny and Charles Murray, in whose courts the Kimbell cases are filed, to "require Melvin M. Belli to admit or deny the truth of the allegations made in this motion . . ."

The petition also asks that "he be denied the privilege of participating in the trial or hearing of any case before this court."

Belli and Fort Worth attorney Charles Wheeler are acting as plaintiffs' attorneys in the two cases here against the handlers of Kimbell's estate.

A trial date has not been set.

(Indicate page, name of newspaper, city and state.)

14A

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(Mount Clipping in Space Below)

Ruby's Former Place Police Association To Take Over Old Club

By JAMES EWELL
There will be noise and laughter again in the old Carousel Club at 1312½ Commerce.

But first, the new tenants face the task of removing thick layers of dust that have settled over the club since shortly after its former operator, Jack Ruby, went to jail 2½ years ago for the murder of Lee Harvey Oswald, the assassin of President John F. Kennedy.

And, most assuredly, the strippers won't be back to take the spotlight.

The stage that groaned under their bump-and-grind routines will groan again — but to the prancing feet of young amateur boxers.

The new tenants will be the Dallas Police Association.

The association's eight directors, by unanimous vote, leaped at an offer Monday night to take over the former night club on a rent-free basis and convert it into a 'boys' boxing gym.

Directors agreed it would be a suitable training site regardless of what outsiders might think about their taking over Ruby's old place.

"If we get some bad publicity, so what?" exclaimed one DPA leader Tuesday.

"It's a real nice place and very convenient for our purposes. We took the attitude that if we had to run a background check on every building offered us, we'd never get one."

The DPA last month accepted sponsorship of a fledgling boxing team composed mostly of boys from low income districts. With 22 boys already in training and competing against other teams, the DPA hopes to increase the team to 150 to 200.

The team lost its gym in a former beer warehouse two weeks ago when the owner rented it.

(Indicate page, name of newspaper, city and state.)

6D

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(Mount Clipping in Space Below)

Speedup Asked On Jack Ruby Appeal Hearing

AUSTIN (UPI)—Joe Torahill, a trial lawyer in the Jack Ruby murder case, has asked the Texas Court of Criminal Appeals to advance the hearing of Ruby's appeal.

The appellate court has not set a date for a hearing on an appeal based on defense contentions that Dist. Judge Joe B. Brown committed more than 1,200 errors in Ruby's trial at Dallas.

The appellate court will hear on May 11 an appeal from Dist. Judge Louis Holland's refusal to reverse the conviction on the ground that Brown had a personal interest in the case because he was writing a book about it.

(Indicate page, name of newspaper, city and state.)

36A

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Felix R. McKnic

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(Mount Clipping in Space Below)

Ruby's Old Club To Become Gym

Jack Ruby's old Carousel Club, closed for 2½ years, will switch from gals to gloves.

That was the plan Wednesday after directors of the Dallas Police Association, by unanimous vote, jumped at an offer to take over the former night club on a rent-free basis and convert it into a boys' boxing gymnasium.

The offer was made by Houston H. Nichols, owner of the club at 1312½ Commerce. A contract, expected to be signed Friday, provides the association can have the facilities rent free until such time as it might be leased.

Police association officials said they would begin work to convert the club immediately after the contract was signed. They said they intend to set up a ring directly over the three runways on which strippers once cavorted, and adjacent rooms would be used for shadow boxing, training rooms, and dressing rooms.

The association hopes its teenage boxers can begin workouts at the club early next week.

The police association accepted sponsorship of the boxing team in March. The team presently consists of 22 youngsters, mainly from low-income districts, and the association hopes to increase membership to between 150 and 200 youths.

The team lost its facilities in a former beer warehouse when the owner rented it about two weeks ago.

The Carousel Club was closed shortly after its operator, Jack Ruby, was arrested for the murder of accused presidential assassin Lee Harvey Oswald.

(Indicate page, name of newspaper, city and state.)

36A

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Tonahill Asks Court Act on Ruby

By CARL FREUND

Austin Bureau of The News

AUSTIN, Texas—An East Texas lawyer, who helped defend Jack Ruby during his Dallas murder trial, told the Texas Court of Criminal Appeals Tuesday that the condemned slayer should get an early sanity hearing.

The lawyer, Joe Tonahill of Jasper, urged the appeals court to schedule arguments as soon as possible in the appeal which defense attorneys filed after a jury sentenced Ruby to the electric chair.

TONAHILL SAID he is confident the appeals court will grant Ruby a new trial. Then, Tonahill said, Ruby's lawyers could raise the issue of insanity again if the former striptease club manager stands trial a second time on a charge of murdering Lee Harvey Oswald.

If the appeals court should rule that Ruby got a fair trial, Tonahill said, defense lawyers would still have the right under Texas law to request a sanity hearing.

Judges of the appeals court did not rule immediately on Tonahill's request that they set an early date for arguments.

THE REQUEST was included in a lengthy document in which Tonahill sharply criticized the lawyers who are now calling the signals in Ruby's attempts to avoid the electric chair. Tonahill said they include Bill Burleson, Sol Dann, Elmer Katz and William Kuntzler, who were hired by relatives of the slayer.

Tonahill said Ruby needs psychiatric treatment. He could get his treatment, the lawyer said, if a sanity hearing was held.

Tonahill said the appeals court ordered a sanity hearing Feb. 24, 1965.

But, he said, it was never held because of "procrastinations, delays and bewildering conduct" by other lawyers.

BEFORE RULING on Tonahill's request, the appeals court must decide whether he has a legal right to appear before it in Ruby's behalf.

Tonahill teamed with Melvin Belli of Los Angeles and Burleson, a Dallas lawyer, in representing Ruby during his trial. It ended March 14, 1964, with jurors ruling that Ruby committed murder when he fired a single shot from his Colt Cobra revolver into the Marxist accused of assassinating President Kennedy.

Ruby's relatives later said they had dismissed Belli and Tonahill. But Tonahill insisted that he had a "moral, legal and ethical duty" to represent Ruby before the appeals court.

Judge Louis T. Holland of Montague refused May 24, 1965, to permit Tonahill to appear as a defense lawyer in a Dallas hearing. Tonahill contends, however, that Judge Holland's decision applied only to the hearing and that he is still eligible to argue on Ruby's behalf before the appeals court.

THE APPEALS COURT could clear up the confusion, Tonahill said, by designating lawyers "familiar with the record" to represent the slayer.

The appeals court has scheduled a hearing May 11 at Burleson's request. This hearing involves only one point: Was Judge Joe B. Brown disqualified from presiding at Ruby's trial because of the jurist's plans to write a book about the case?

Tonahill wants a hearing on numerous other points raised in the appeal. They involve Judge Brown's refusal to transfer the trial to another county, the question of whether jurors were disqualified if they had seen the shooting on television, and the argument over whether police should have been permitted to relate Ruby's statements after his arrest.

Burleson says the strategy which he is following increases the chances of saving Ruby from the electric chair. Burleson says also that Ruby does not want Tonahill to represent him.

Tonahill charged in the papers filed here Tuesday that Judge Brown committed "1,200-plus errors" during Ruby's trial.

(Indicate page, name of newspaper, city and state.)

7A

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'EGO INTOXICATION'

Foreman Scores Belli's Handling of Ruby Case

DURHAM, N.C. (UPI)—The lawyer who defended Candace Mossler and Melvin Powers in their sensational murder trial in Miami sharply criticized one of his colorful colleagues who lost one of the most widely publicized trials of the century.

Percy Foreman, in an appearance sponsored by the Duke University Bar Association Friday leveled a blast at Melvin Belli, defense counsel for Jack Ruby, who was convicted of slaying Lee Harvey Oswald. Oswald was the alleged assassin of President John F. Kennedy.

Following one of the most dramatic trials in recent times, Ruby was convicted of first degree murder in the slaying of Oswald and given the death penalty. His case is now on appeal.

Foreman charged Belli "did everything wrong that could be done wrong." He accused Belli of attempting to put the people of Dallas, Tex., and the jury on trial for the murder of Oswald.

"The only trouble with Melvin Belli is that he is suffering from intoxication of

the ego and does not know the difference between fame and notoriety," Foreman declared.

Foreman's remarks followed a general indictment of lawyers who tend to specialize in restricted fields such as corporation, tax, labor relations and civil suits.

He labeled lawyers who preferred to specialize as "mechanics" and compared them to assembly line workers who know how to turn just one bolt.

Foreman also said he did not think women should become trial lawyers. "I don't think women should go to court, even as a witness," he said. He later explained he did not want to see women exposed to the "certain odium" that is present around courtrooms and persons with whom defense lawyers must be in contact.

Foreman was asked what could be done to encourage young lawyers to enter the criminal law field.

"I could just send them a ~~copy of my~~ tax return," Foreman snapped.

(Indicate page, name of newspaper, city and state.)

1
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Court to Hear Ruby

Appeal on May 11

Austin Bureau of The News
 AUSTIN, Texas — The Texas Court of Criminal Appeals announced Wednesday that it will hear arguments May 11 in the Jack Ruby murder case.

The appeals court will consider only one point: Was Judge Joe B. Brown disqualified from presiding during Ruby's trial because the jurist had agreed to write a book about the case?

Attorney Phil Burlison of Dallas, who represents Ruby, says Judge Brown had a financial interest in the outcome of the trial since it could affect sales of the book. As a result, Burlison says, Judge Brown should have disqualified himself.

Prosecutors say there is no evidence that plans to write the book influenced Judge Brown's decisions or blocked Ruby from getting a fair trial on a charge of murdering Lee Harvey Oswald.

If the appeals court agrees with Burlison, it could set aside Ruby's

death penalty and grant him a new trial.

If the appeals court rejects the defense argument, Ruby's lawyers could request a hearing before a jury to determine whether the slayer became insane after his trial.

The lawyers could also ask the appeals court to rule on other legal points raised during Ruby's trial. They contend that Judge Brown should have moved Ruby's trial to another county, that he should have disqualified prospective jurors who had seen Oswald shot on television, and that he should not have let police testify about statements Ruby made after the shooting.

(Indicate page, name of newspaper, city and state.)

8A

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Being Investigated

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Appeals Court**Sets May 11****Ruby Hearing**

AUSTIN (AP) — The Texas Court of Criminal Appeals set today a May 11 hearing on a move by Jack Ruby's lawyers to disqualify Dist. Judge Joe Brown and gain a new murder trial for Ruby.

At issue is whether Brown, who presided over Ruby's trial for killing presidential assassin Lee Harvey Oswald, was disqualified because he later decided to write a book on the case.

A ruling by the appeals court that Brown was disqualified would set aside Ruby's death sentence and give him a new trial.

Dist. Judge Louis T. Holland of Montague, who took jurisdiction over the Ruby case when Brown voluntarily stepped out, refused Sept. 10 to rule on whether Brown disqualified himself.

The Court of Criminal Appeals never has ruled on Ruby's conviction. The court said more than a year ago that Ruby first should have a sanity hearing, but Holland has postponed that hearing until the issue of Brown's disqualification has been disposed of.

(Indicate page, name of newspaper, city and state.)

42A

"The Dallas
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 Being Investigated

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(Mount Clipping in Space Below)

Appeals Court Gets Record of Ruby Hearing

Austin Bureau of The News

AUSTIN, Texas—The Texas Court of Criminal Appeals Monday received the long-delayed record of testimony during a hearing in the Jack Ruby murder case.

Defense attorneys argued during the hearing that Judge Joe B. Brown should have been disqualified from presiding during Ruby's trial because the jurist had agreed to write a book about the case.

The lawyers contended that, since Judge Brown had this financial interest in the outcome of the trial, the courts should set aside the death penalty which Ruby received after a jury convicted him of murdering Lee Harvey Oswald.

Dist. Judge Louis T. Holland of Montague rejected this argument and the lawyers turned to the appeals court here.

The delivery of the record clears the way for it to schedule arguments.

Phil Burleson of Dallas, one of Ruby's lawyers, asked the appeals court to give the case a priority over others on its docket. It did not act on this request immediately, but is expected to schedule arguments within the next month.

The appeals court will consider only one point: did Judge Brown's plans to write the book disqualify him from presiding at the trial?

Judge Brown said it did not. He said he presided impartially and the book did not influence his decisions.

If the appeals court agrees with defense lawyers, Ruby would get a new trial. If it rejects their arguments, they could still get a hearing on points which they raise in their main appeal.

This hearing might not take place, however, until after a jury had determined whether Ruby became insane after his trial.

A court reporter forwarded the record of testimony to the appeals court after prosecutors complained that Burleson and other defense lawyers were taking too much time in checking it.

(Indicate page, name of newspaper, city and state.)

16D

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Being Investigated

(Mount Clipping in Space Below)

Court Stated To Consider Ruby Hearing

AUSTIN BUREAU

AUSTIN — The Texas Court of Criminal Appeals is expected to consider Wednesday a request by attorneys for Jack Ruby for a hearing within six weeks on Ruby's appeal from a Dallas habeas corpus hearing.

Ruby's attorneys made the request in a motion filed with the court Monday along with a statement of facts of the Sept. 9-10 hearing before Dist. Judge Louis E. Holland.

Ruby, convicted March 14, 1964 of murder in the death of presidential assassin Lee Harvey Oswald and sentenced to death in the electric chair, contends he should be freed because Dist. Judge Joe Brown's eligibility to preside over the murder trial was removed by Brown's involvement in writing a book on the trial.

(Indicate page, name of newspaper, city and state.)

3A

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Ruby's Attorneys Ordered To Act

Attorneys for Jack Ruby were expected to send an appeal record of a habeas corpus action to Austin Friday by the order of Dist. Judge Louis Holland of Montague.

Judge Holland, after a 2½-hour hearing Thursday, ruled that some of the delay in sending the record to Austin was understandable, but he ordered the defense attorneys to proceed immediately with getting the record to the Texas Court of Criminal Appeals.

Ruby, who shot presidential assassin Lee Harvey Oswald, watched the proceedings with quiet interest but insisted his case was hopeless.

"My days are numbered," he told newsmen. "This is all a farce.

It was set and tried the moment I walked down that ramp."

Ruby was referring to the ramp in the basement of City Hall where he shot and killed Oswald Nov. 24, 1963.

Ruby criticized two of his attorneys—Phil Burleson and Joe Tona-hill—but dealt kindly with Melvin Belli of San Francisco, his chief counsel during the murder trial.

"He (Belli) didn't know the way and means of Texas courts," Ruby told newsmen.

Only one witness, court reporter L. B. Bailey, testified at the hearing Thursday.

After the record reaches Austin, a hearing should be scheduled on a habeas corpus action in which Ruby is seeking his freedom on the grounds that Dist. Judge Joe E. Brown, the original trial judge, was disqualified because he was writing a book about the case and therefore had a "pecuniary interest" in the proceedings.

Ruby is under a death penalty for the slaying of Oswald.

(Indicate page, name of newspaper, city and state.)

24A

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RUBY HEADS BACK TO JAIL

Jack Ruby turns his head sharply to hear a question by a newsman as he is escorted from the courtroom by deputies after a hearing Thursday afternoon before Dist. Judge W. L. Holland of Montague. Ruby is under a death sentence for the slaying of Lee Harvey Oswald. (Story on Page 24-A.)—Staff Photo.

(Indicate page, name of newspaper, city and state.)

4A

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Judge Gets Ruby Appeal Moving Again

By JOHN GEDDIE

Judge Louis T. Holland set legal wheels back to work in the delayed Jack Ruby appeal case Thursday by ordering a hearing record sent to Austin immediately.

Both sides in the case expressed satisfaction with the ruling and two members of Ruby's family, sister Eva Grant and brother Sam Ruby, called it "our first victory."

Ruby quietly watched the 2½-hour proceeding but insisted in his first court appearance since last September that efforts to aid him are "useless."

"It was all set and dried from the moment I walked down that ramp (where Lee Harvey Oswald was shot)," he explained in a discourse to reporters. It included criticism of former Ruby lawyer Joe Tonahill and present attorney Phil Burleson.

He repeated a long-standing claim that he is sane.

The hearing Thursday was requested by the state to determine if Dallas lawyer Burleson had "good cause" in failing to approve records from last fall's habeas corpus hearing based on the allegation that Ruby should be freed because Judge Joe E. Brown, the trial judge, wrote a book on the Ruby trial.

Judge Holland, who took over the case, denied the September plea and ordered the record sent to the Texas Court of Criminal Appeals "with diligence." Although there is a 90-day limit on approval, the statement of facts was not approved by Burleson and the case had been in legal limbo for six months.

Shortly before the Thursday hearing, Burleson asked in a motion that Judge Holland ignore the 90-day limit and agree to send a corrected record to Austin.

The 1-witness hearing found Burleson attempting to prove that there was good reason for the delay and Assistant Dist. Atty. James Williamson, claiming that Burleson's objections were of no importance to the case.

The witness, L. B. Bailey, court reporter for Judge Brown and responsible for completing the statement of facts, testified that he and Burleson had exchanged the record for corrections several times during

Burleson had Bailey point out several wrong references and areas where he asked for corrections and note checking. Bailey said most of the complaints were in spelling, a point cited by Williamson as not material to the case or reason for delay.

Judge Holland ruled, "I think to deny this defendant the right to this record would deny him of a very valuable and substantial right he is entitled to under the law."

The next step in the case apparently will be a ruling in Austin on the habeas corpus attempt at freedom. If denied, the postponed sanity trial is next in line for court action.



—Dallas News Staff Photo.

Jack Ruby . . . calls efforts to aid him "useless."

(Indicate page, name of newspaper, city and state.)

1D

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Victim He's Fine, Ruby Says

By BEN STEVENS
Staff Writer

Jack Ruby, convicted slayer of Presidential assassin Lee Harvey Oswald, Thursday said his mental condition "has never been better," but he believes his "time is running out."

Ruby, making his first appearance in court since last September, was whisked from the old courthouse by car shortly after 9:30 a.m. He appeared at a 10 a.m. hearing in Judge Joe B. Brown's courtroom on the fourth floor of the new building.

REPORTERS TALKED with Ruby briefly before the hearing began.

The hearing Thursday was to question defense lawyers on the reason for their delay in appealing a habeas corpus action.

He told them he was reading quite a bit—"mainly novels and best sellers"—to improve his mind, and his mental condition "has never been better."

He was asked to explain the "time running out" statement.

"I am breathing toward my last breath," Ruby said. "I was all set and tried the moment I walked down that ramp (in the city hall basement where Oswald was shot)."

RUBY SAID he regretted that noted defense attorney Percy Foreman was denied a "chance" to defend him. "Belli California attorney Melvin Belli didn't know the ways and means of Texas courts," Ruby said, "and two people who did me more harm than the prosecutors were Burleson and Joe Tonahill."

Attorneys Phil Burleson and Joe Tonahill represented Ruby during the trial. Tonahill was later dismissed by the Ruby family, and Burleson was representing Ruby in the hearing held Thursday.

Ruby was asked why Mr. Burleson had remained on the case.

"IT'S TOO LATE to do anything about that now," Ruby said.

Ruby said he had regretted shooting Oswald since the moment it happened. He also said Thursday's hearing "was all a farce."

The Thursday hearing, held before District Judge Louis T. Holland, was to determine cause of a six-month delay in sending appeals records on a habeas corpus hearing to the State Court of Criminal Appeals in Austin.

That hearing was held last Sept. 9.

Thursday's hearing began shortly before 10 a.m. with L. B. Bailey, court reporter for Judge Joe B. Brown, as first witness.

HE WAS STILL testifying an hour later.

Four volumes—statements of fact in the September hearing—were introduced through Mr. Bailey. He said there were some minor errors, such as pages being numbered wrong, but no major ones.

Ruby, pale and pasty-faced, appeared bored. He sat with his head cocked and, at one time, almost went to sleep.

Thursday's hearing concentrated on the statement of facts and testimony from the habeas corpus hearing last September during which Ruby's attorneys requested his release on grounds that Judge Brown disqualified himself by writing a book based on the murder trial.

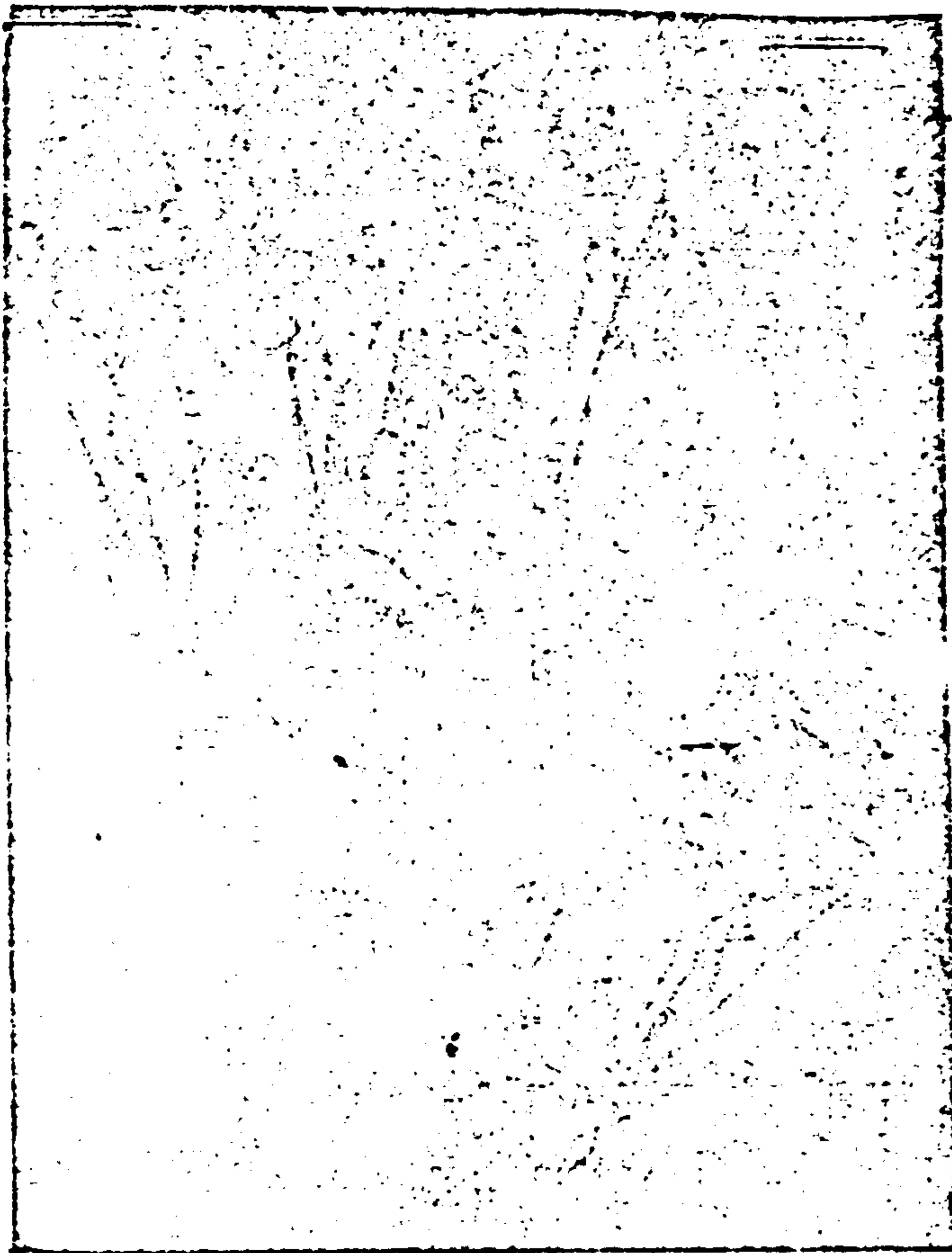
At that time, Judge Brown withdrew from the case and Judge Holland, from Montague County, was appointed in his stead.

(Indicate page, name of newspaper, city and state.)

1
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RUBY MEETS THE PRESS

Jack Ruby appears somewhat bemused as he talks to reporters prior to appearing in court Thursday. The latest hearing was to question defense lawyers on the reason for their delay in an appeal before the Texas Court of Criminal Appeals. — Staff Photo by Russell.

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Ruby Appeal Delay To Be Looked Into

A hearing has been set for next Thursday to determine the cause of a six-month delay in sending the appeals records from the Jack Ruby murder trial to Austin.

Defense attorneys for Ruby, convicted slayer of presidential assassin Lee Harvey Oswald, were told Wednesday to begin preparations for the hearing scheduled by Dist. Judge Louis T. Holland of Montague.

The appeals record involves a statement of fact from a state habeas corpus hearing held last September in Dallas during which Ruby's lawyers asked for his release on the grounds that Dist. Judge Joe Brown had disqualified himself because he wrote a book based on the trial. Judge Brown

was the presiding judge when Ruby was convicted and sentenced to die in the electric chair.

Judge Holland took over the Ruby case after Judge Brown withdrew. He heard the arguments in habeas corpus hearing and turned down the defense request.

At that time Phil Burleson, one of Ruby's attorneys, said he planned to take his protest to the Texas Court of Criminal Appeals in Austin. To date, however, the statement of fact and the appeals records have not been approved by Mr. Burleson, a necessary step before they can be forwarded to Austin.

The state asked that the Thursday hearing be scheduled to determine the cause of the long delay.

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24B

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Ruby Attorneys Rap Judge

Austin Bureau of The News
AUSTIN, Texas — Attorneys for Jack Ruby sharply criticized Judge Joe B. Brown of Dallas in papers which the Texas Court of Criminal Appeals received Monday.

believes he was qualified to preside during the trial, which ended with jurors convicting Ruby of the murder of Lee Harvey Oswald.

til it receives the statement of facts.

If the appeals court rejects their contention, defense lawyers may ask it to rule on other points they raised while claiming that Ruby did not get a fair trial.

The appeals court is not expected to set a hearing date un-

The lawyers contend that Judge Brown should have disqualified himself from presiding during the Ruby trial since he had agreed to write a book about the case.

Phil Burleson of Dallas and other defense attorneys say Judge Brown had a financial interest in the outcome of the trial because of the book. Since he did not disqualify himself, the lawyers say, the appeals court should set aside Ruby's death penalty.

The papers received here include pleas which Ruby's lawyers filed with the clerk of Criminal District Court No. 3 in Dallas. They make up a legal document known as a transcript.

The appeals court has not received another document known as a statement of facts, which will relate testimony during a hearing before Dist. Judge Louis T. Holland of Montague.

Judge Holland refused on Sept. 5, 1965, to set aside Ruby's death penalty because Judge Brown was preparing a book tentatively entitled "Ruby, Dallas and the Law."

Judge Holland said he was "not condemning or condoning" Judge Brown's actions, but was clearing the way for the appeals court to rule on the point.

Judge Brown has stated he be-

(Indicate page, name of newspaper, city and state.)

4A

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State Seeks Hearing On Ruby Record Delay

State's attorneys have filed a strongly worded motion asking Judge Louis T. Holland to call a hearing to look into delays in sending the record of a Jack Ruby hearing to Austin.

The motion, filed for Dist. Atty. Henry Wade by appeals assistant James Williamson, asked for a hearing to determine if Ruby lawyers had "good cause" in not filing the record of a habeas corpus hearing Sept. 9, 1965.

Attorney Paul Burlison said recently that much of the delay has been in correcting the transcript. When completed, he said, he planned to ask the Texas Court of Criminal Appeals to hear the matter immediately.

The new motion states that Judge Holland denied the claim that Ruby should be freed because of Judge Joe E. Brown's book on the Ruby trial. Ruby attorneys gave notice of appeal.

The motion claims that on Nov. 10, 1965, the court reporter prepared a statement of facts and Judge Holland approved it. On the same date, Williamson wrote, the

transcript was delivered to Burlison.

Since then, he said, Ruby attorneys have never submitted the record to state's attorneys for approval, although the district attorney's office was satisfied with the accuracy of a copy.

Williamson said the statute requiring the statement of facts to be filed in the trial court within 90 days applies to appeals from denials of writs of habeas corpus. If the record sent to Burlison was "sufficient to be considered,"

the motion stated, the failure to file it within 90 days was "not legally excusable merely because such statement of facts might contain obvious errors in transcribing or spelling, none of which errors were material."

"The record in this case . . . fails to show the exercise of diligence in that appellant Ruby has not resorted to any means of securing a statement of facts agreeable to him, other than perhaps leisurely nit-picking at the court reporter, himself about various hypercritical and immaterial matters."

The motion points out that, according to the record, Burlison has never applied for "good cause" to extend the time limit.

"If appellant has unduly delayed some six or seven months in filing the statement of facts in this case, then such delay is in no manner excused or extenuated by the fact that appellant may thereafter exhort the Court of Criminal Appeals of Texas to be diligent in carrying out its statutory duty."

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9A

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Tonahill Decries Delay in Ruby Appeal

By JOHN GEDDIE

Attorney Joe Tonahill of Jasper charged Thursday that the delay in the Jack Ruby appeal "is a disgrace to those in New York, Detroit and Dallas handling his affairs."

"Tonahill, one of Ruby's murder trial lawyers, was ordered from the case last year. He said he is still representing Ruby in his appeals and will argue for him when the case is heard by the Texas Court of Criminal Appeals.

"This delay is in contempt of the Court of Criminal Appeals," he said in a telephone interview. He blamed it on commercialism and "amateurs with no conception of responsibility."

The Ruby appeal has been shelved pending other actions. The record of a habeas corpus hearing Sept. 10 is reportedly near completion and will be sent to the appeals court soon.

The appeal from the trial was postponed pending a determination of Ruby's sanity. The sanity trial was postponed pending the outcome of the habeas corpus hearing based on allegations that Judge Joe B. Brown was disqualified because of a book he wrote about the trial.

Judge Louis T. Holland failed to rule on the disqualification issue and ordered it sent to Austin for review.

Ruby attorney Phil Burleson said last week that much of the delay in sending the record to Austin was caused by numerous errors and omissions in the transcript. The testimony—called the statement of facts—had been checked, rechecked and sent back to the court reporter several times, he explained.

Burleson said he planned to file a motion asking that it be acted on immediately in the appeals court. The habeas corpus

and sanity matters must be settled before the original appeal is argued.

"I have nothing to do with the sanity matter," Tonahill said, "but I will be there in Austin when the appeal is heard."

"I was ready to go a year ago and I've been ready ever since."

Tonahill, who has insisted that Ruby is insane, said the appeals court postponed the trial appeal for a determination of Ruby's sanity. The Jasper lawyer said that a prompt determination should have been made so that Ruby could get "humane treatment" in a mental hospital.

Tonahill said his appeal brief is prepared and he alleges that Judge Brown admitted more than a thousand errors into the trial record.

Ruby was convicted March 14, 1964, of the murder of Lee Harvey Oswald, assassin of President John F. Kennedy.

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1D

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Ruby Court Record Nears Completion

A request that Jack Ruby be freed is expected to reach the Texas Court of Criminal Appeals in the near future, Ruby's Dallas lawyer said Thursday.

Phil Burleson said that the statement of facts — the testimony and evidence — of a habeas corpus hearing Sept. 10 is nearing completion.

"The court reporter preparing the record, and I had agreed we would try to have it filed this week," Burleson said.

The filing has been delayed since Sept. 10 when Judge Louis T. Holland refused to rule on whether Judge Joe E. Brown disqualified himself during the Ruby trial because of a book on the case.

All legal proceedings have been halted pending action on the habeas corpus plea.

The appeals court originally postponed a ruling on the appeal from the trial itself until a determination of Ruby's mental condition. The sanity trial was postponed by Judge Holland pending the outcome of the habeas corpus matter in Austin.

Burleson said the long delay was caused by numerous errors and omissions in the transcript. "I wanted the record as complete and correct as possible," he said Thursday.

He recently rechecked the record and sent it back to the court reporter.

Burleson added that part of the delay came from his own absence from Dallas for business reasons.

He said when it does reach Austin, he will file a motion asking that it be acted on immediately. Habeas corpus matters may take priority on the appeals docket, he said.

If the appeals court rules that Judge Brown had a legal right to preside during the Ruby trial, Judge Holland will set a new date for the sanity trial. If the court rules otherwise, the death sentence will be set aside and Ruby will be granted another trial in the shooting of Lee Harvey Oswald.

Both the state and defense are preparing briefs in support of their arguments concerning the disqualification.

Last fall, Judge Brown testified, "The truth is the truth. It never

dawned on me at the time I tried the case that I might write a book."

(Indicate page, name of newspaper, city and state.)

20D

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Ruby Notes Auctioned For \$2,000

Two pencil-written memos produced in the Dallas County jail last year by Jack Ruby, convicted killer of presidential assassin Lee Harvey Oswald, were sold at an auction in New York Monday for nearly \$2,000.

One of the 33-page documents was purchased by owner and publisher of the weekly Midlothian Mirror, Penn Jones; Mr. Jones paid \$950.

The other document was bought for \$1,000 by Walter Ferris of Bristol, Tenn.

The two memos, neither of which has ever been published, were part of a collection of manuscripts and letters which went on the auction block in New York City. The sale of the documents brought a total of nearly \$26,000, the Associated Press reported.

The two Ruby memos were among 10 items by or about the late President John F. Kennedy.

Also sold at the auction were four letters written by Lincoln assassin John Wilkes Booth some 11 years before he fired the shot in the Ford Theater in Washington, D. C., which fatally wounded the 16th president.

The largest sale of the auction was the collection of 1,025 manuscripts on peace written by world leaders of the 1928-1932 era. The collection was sold for \$18,500 to a New York realtor.

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21A

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Circuit Court Ruling May Apply to Ruby

By CARL FREUND

Austin Bureau of The News
AUSTIN, Texas — A decision by the U.S. Fifth Circuit Court of Appeals could have an important bearing on Jack Ruby's plea for a new trial, lawyers here said Tuesday.

These lawyers said the decision would also raise the hopes of other men convicted in trials in which the same judge did not preside from beginning to end.

The federal court said, in effect, that the same judge should preside throughout a trial in a state court unless "extraordinary circumstances" arise. Even then, it indicated, another judge should not take over if the change would prejudice the rights of the defendant.

RUBY'S TRIAL on a charge of murdering Lee Harvey Oswald, who had assassinated President Kennedy, began with Judge Joe B. Brown on the bench. Then, as attorneys questioned members of the jury panel, Judge Brown reported that he had become ill.

Despite objections from defense lawyers, Judge Brown arranged for Judge J. Frank Wilson to preside temporarily.

Prosecutors can point to numerous court rulings that the death or illness of a judge represents an "extraordinary circumstance." The federal court took note of these rulings in its decisions.

RUBY'S ATTORNEYS can re-tort that, even if Judge Brown's illness represented an "extraordinary circumstance," Ruby's rights to a fair trial were prejudiced.

The attorneys can point out that, when Judge Brown became ill, he was considering a defense request that he halt the trial and transfer it to another county.

They can point out also that Judge Brown had agreed to consider the answers of jury panel members in making his decision, but that he missed some of the answers while off the bench.

(Judge Brown eventually rejected the defense request, saying he was convinced Ruby could get a fair trial in Dallas County. Before making his decision, the jurist said, he studied a record of the proceedings he had missed.)

THE TEXAS Court of Criminal Appeals ruled a half century ago that the substitution of judges during a state court trial does not prejudice the rights of a defendant. The appeals court based this conclusion on the fact that state court judges, unlike those in federal courts, cannot comment upon the evidence in their instructions to jurors.

The federal court said it dis-

agreed with this reasoning since state court judges must consider both the evidence and the law in ruling on motions for a new trial.

Instead, its jurists indicated, federal rules governing the substitution of judges may well apply to state courts.

THE FIFTH Circuit Court decision was handed down in New Orleans Dec. 10, but judges here did not receive a copy until last week. The decision resulted from a plea filed by Denis Randel, who is serving a life term on a murder charge.

Randel said his murder trial started June 7, 1948, in Odessa with Judge Cecil J. Collins presiding. On the following day, Randel said, Judge Collins arranged for another judge to preside.

The federal court said the trial record indicates that defense lawyers did not object when Judge Collins asked their permission for Judge Alton B. Chapman to replace him so he could "meet an important political engagement in another county."

Randel insisted, however, that he did not agree to the change and the federal court said there is a question whether the substitution could have been made legally even if he had agreed. It directed a U.S. district judge in Houston to review the matter further.

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Ruby Lawyers Plan Judge Swap Protest

Jack Ruby's lawyer said Wednesday he will base part of his motion for a new hearing on a recent federal appeals court decision which questions the legality of a judge being replaced during trial proceedings.

Attorney Phil Burlison said the decision, handed down recently by the U.S. fifth Circuit Court of Appeals, "most definitely affects the Ruby case."

He said he plans to include the decision in his arguments for a new trial which he will present to the state Court of Criminal Appeals in Austin.

Mr. Burlison said the request for a new hearing will be sent to Austin next week. He said he will ask for an early hearing before the court.

Ruby was sentenced to death March 14, 1964, for killing Lee Harvey Oswald, the assassin of President Kennedy.

The federal appellate court's decision directed a Houston federal district judge to review the case of Denis Randel because the original trial judge was replaced. Randel was sentenced to a life term for murder in Odessa in 1948.

In the Ruby trial, Dist. Judge Joe B. Brown was replaced by Judge J. Frank Wilson for a day because Judge Brown was ill. During Judge Wilson's time on the

bench, jury selection was completed.

According to Mr. Burlison, the federal court decision challenges the replacement of a judge during a trial for any but extraordinary reasons.

Mr. Burlison said he does not feel the brief illness of Judge Brown constitutes extraordinary circumstances.

The attorney said he feels Judge Wilson is highly capable, but he said the substitute judge "did not have the total picture" when he took the bench. The Ruby trial had been underway over two weeks when Judge Brown took his absence.

Mr. Burlison noted that during the phase of the jury selection heard by Judge Wilson, defense attorneys were denied additional preemptory challenges used to qualify prospective jurors.

He also recalled that he and other Ruby lawyers "objected strongly" to the substitution of judges.

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19A

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Fast Action On Jack Ruby Appeal Asked

AUSTIN (UPI) — Jack Ruby's lawyers will ask the Texas Court of Criminal Appeals to give fast consideration to a plea for a new trial.

Defense lawyers for Ruby contend his death sentence for slaying Lee Harvey Oswald, assassin of President John Kennedy, should be set aside because Judge Joe B. Brown was disqualified. Brown presided at Ruby's trial in March, 1964.

Sam Houston Clinton, an Austin attorney, said the appeals court is expected to get the plea in about three weeks.

Ruby's lawyers contend Brown was preparing a book on the case while the trial was in progress and had a special interest in it and thus was disqualified.

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3A

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Ruby Aide Asks for Priority

Austin Bureau of The News
AUSTIN, Texas — An attorney for Jack Ruby said Wednesday he will ask the Texas Court of Criminal Appeals to put a priority tag on a plea that it grant the condemned slayer a new trial.

Ruby's lawyers contend the appeals court should set aside his conviction on grounds that Judge Joe B. Brown, who presided at his trial, was disqualified.

Sam Houston Clinton, an Austin lawyer who represents Ruby, said he expects the appeals court to receive the plea within three weeks.

"Technically, this is an application for a writ of habeas corpus," Clinton said. "Our rules of procedure specify that these applications shall take precedence over others on the docket. We will ask the appeals court to give it that precedence and hear arguments as quickly as possible."

DEFENSE LAWYERS said Judge Brown had a personal interest in the outcome of the Ruby trial since he had agreed to write a book about the case. As a result, they say, Judge Brown was disqualified and Ruby's conviction should be set aside.

After Dist. Judge Louis T. Holland of Montague disagreed, the lawyers announced they would go to the appeals court.

If it also rejects their argument, they could ask Judge Holland to schedule a hearing to determine whether Ruby has become insane since his trial. He would go to the Rusk State Hospital if a jury found him insane.

The defense lawyers could also ask the appeals court to rule on other points they have raised.

THIS WOULD include their arguments that Ruby failed to receive a fair trial because:

—Judge Brown refused to transfer his trial to another county.

—Jurors had seen television and newspaper pictures of Ruby shooting Lee Harvey Oswald, who had been accused of assassinating President John F. Kennedy in Dallas.

—Judge Brown permitted testimony about statements which Ruby made while under arrest.

—Judge Brown scheduled closing arguments after midnight, when both lawyers and jurors were exhausted.

Dist. Atty. Henry Wade of Dallas contends Ruby received a fair trial. But, Wade said last month he is willing to recommend that the State Board of Pardons and Paroles commute the slayer's death penalty to life imprisonment if he drops his appeal.

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94

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Court to Get Judge Brown TV Record

The transcription of a New York television program featuring Dist. Judge Joe B. Brown will be sent to the State court of Criminal Appeals as a Jack Ruby appeal move.

Attorney Phil Burlison filed the 28-page document Wednesday.

Burlison said the defense contention is that statements by Judge Brown on the show were inconsistent with testimony during habeas corpus hearing here Sept. 9-10.

Judge Brown was the television guest of comedian Mort Sahl Nov. 27.

The defense claimed in the hearing here that Ruby should be freed because Judge Brown had a pecuniary interest in the murder trial based on a proposed book on the trial.

Burlison said he believes the television statements should be included in the record because they were unavailable to the defense at the time of the hearing.

On the show, Judge Brown discussed his book and press coverage of the trial.

Burlison said he compared the statements with those in the habeas corpus hearing, sent to Austin by Dist. Judge Lucis T. Holland, and found them inconsistent.

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Ruby Counsel Asks Court To Drop Federal Appeal

Attorneys for Jack Ruby announcing proceedings from Dist. Judge announced Wednesday the withdrawal of Ruby's federal appeal to have a sanity hearing under federal jurisdiction.

The U.S. 5th Circuit Court of Appeals was asked to drop the appeal from a Dallas decision.

The announcement was made through the Texas Civil Liberties Union in Austin. In a statement on behalf of Sam Houston Clinton Jr. of Austin, Sol Dann of Detroit, Elmer Gertz of Chicago, William Kunstler of New York and Phil Burleson of Dallas, the withdrawal was requested because appeals complaints "have been remedied by appropriate action of the State of Texas."

The appeals contended that U.S. Dist. Judge T. Whitfield Davidson should have removed sanity hear-

ing proceedings from Dist. Judge Joc B. Brown's state district court to federal court. Ruby attorneys also complained that Brown refused to allow Ruby lawyers of his choice.

The attorneys' statement explained that Ruby now has his choice of lawyers and Judge Brown has been replaced by Dist. Judge Louis Holland of Montague. "There is no reason for continuance of the present federal appeal," they stated.

Two appeals are still pending in the Texas Court of Criminal Appeals. One is the appeal from the original guilty verdict for the death of Lee Harvey Oswald and the other an appeal of a habeas corpus hearing ruling based on Judge Brown's book on the Ruby trial.

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12A

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Ruby Counsel Ask Voiding Of Own Plea

AUSTIN (AP) — Attorneys for Jack Ruby said today they have asked a federal appeals court to throw out their earlier appeal aimed at transferring the case from state to federal court.

Austin attorney Sam Houston Clinton Jr. announced the action for the legal staff of Ruby, convicted in Dallas last year of murdering presidential assassin Lee Harvey Oswald.

Clinton said the attempt to transfer the case to federal court has been abandoned because the motivations for the attempt — allegations that Ruby had not been permitted to have counsel of his choice at a sanity hearing and that State Dist. Judge Joe B. Brown should have been disqualified from presiding over the sanity hearing — have been removed.

Clinton said the state has permitted Ruby to be represented by the attorneys he desires and Brown has been replaced by Dist. Judge Louis Holland of Montague.

Federal Dist. Judge T. Whitfield Davidson had refused to accept a transfer of Ruby's sanity hearing to his court, and Ruby's attorneys had appealed the order to the Fifth Circuit Court. They asked today that the appeal be dismissed.

The Ruby case is pending in Texas courts on Ruby's petition for habeas corpus, based on the disqualification of Brown. Appeals of the murder conviction and sanity hearing are awaiting outcome of the habeas proceeding.

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36A

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Ruby Admits Trial 'Fair,' Brown Claims

By BILL PERKINS
Special Correspondent

NEW YORK — Judge Joe B. Brown claimed here Saturday that Jack Ruby told him two weeks ago that the condemned slayer's 1964 trial was a fair one.

It was one of many comments the Ruby trial judge made on "The Mort Sahl Show," a television program seen locally in New York City on WNEW-TV.

Judge Brown also said he had talked to the jury since the trial.

"They said they felt that (Melvin) Belli left them no alternative except acquittal or a strong punishment," said the judge.

He also said that Belli, Ruby's chief defense lawyer during the trial, really did not want the trial moved out of Dallas despite the attempts he made to do so.

"Belli just wanted to look good," Judge Brown said. "Belli and attorney Joe Tonahill told me in my chambers that they did not want it moved."

While on the subject of Belli, who was later fired by the Ruby family, Judge Brown said the colorful San Francisco attorney would still be in jail "for contempt of court" if the judge had been in the courtroom when the lawyer made his famous after-verdict remarks.

Belli's calling the verdict the result of a "kangaroo court" would have been enough in itself for contempt charges and jail, said the judge. Brown said he had already left the courtroom, however, when these statements were made.

The judge also denied the story that he read a cartoon book during the trial in the midst of testimony.

"Tonahill got a folder of caricatures some guy was drawing for the newspapers," the judge explained. "He handed it to me and I glanced at it and then laid it on the public address system.

"And they wrote I was reading a funny book."

Judge Brown answered questions from Sahl and also from the audience during the show, which was taped Friday night here.

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Ruby Still Poor, Claims Burleson

Speculation arose Monday that Judge Louis Holland of Montague Jack Ruby no longer considers himself a pauper but his attorney, Phil Burleson, promptly denied this is true.

The speculation came after Mr. Burleson filed for a pauper's oath in order that a transcript of a Sept. 9 hearing on the disqualification of Judge Joe B. Brown be provided at county expense for submission to the Texas Court of Criminal Appeals at Austin.

Ruby did not sign the application for the pauper's oath as required under Texas law. Instead it was signed by Mr. Burleson.

The application asked Dist.

Judge Louis Holland of Montague to waive the necessity of requiring Ruby's signature because an application is on file for a sanity trial. The application indicated that Ruby's signature might create possible prejudice to the application for the sanity trial.

Ruby's failure to sign the pauper's oath application led to considerable speculation among prosecutors that Ruby doesn't consider himself a pauper.

Mr. Burleson, however, said did not ask Ruby to sign the application and did not visit him prior to its filing.

"I thought it best not to ask him to sign it, and that was my decision as his attorney," said Mr. Burleson. Mr. Burleson also said he has not discussed with Ruby Dist. Atty. Henry Wade's offer to reduce Ruby's death sentence for the slaying of Lee Harvey Oswald to life imprisonment.

"I'm sure he is aware of it, but I have not discussed it with him," said Mr. Burleson.

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Board Can't Act In Ruby Case Now

Austin Bureau of The News
AUSTIN, Texas — The State Board of Pardons and Paroles can't consider Jack Ruby's case while his appeal is pending, a member said Thursday.

Dist. Atty. Henry Wade had said earlier in Dallas that he is willing to recommend that the board change Ruby's death penalty to life imprisonment.

A. C. Turner, one of three members of the board, said it doesn't consider cases until convictions have become final.

"As long as Ruby's case is on appeal, we would not have jurisdiction," Turner said. "We could consider it until there was a final conviction and he had been delivered to the custody of the Department of Corrections at Huntsville."

TURNER SAID the board gives considerable weight to opinions of the trial judge and prosecutor deciding whether to recommend a reduction in a sentence, but considers other factors also.

Gov. John Connally would make the final decision on changing Ruby's sentence.

The board cannot set aside a death penalty, but can only recommend that the governor do so. On the other hand, the governor cannot spare the life of a condemned man without a favorable recommendation from the board.

George Christian, press secretary for the governor, said Connally never comments on a case before it is referred to him.

"I DO NOT KNOW what he would do in Jack Ruby's case," Christian said. "I have never heard him mention how he feels about it."

A Dallas jury sentenced Ruby to the electric chair for the murder of Lee Harvey Oswald in the basement of the Dallas City Hall after Oswald had been charged with assassinating President Kennedy in Dallas Nov. 22, 1963.

Ruby's plea for a new trial is pending before the Texas Court of Criminal Appeals here. The court has agreed also to hold a separate hearing on the defense contention that Judge Joe B. Brown should have disqualified himself from presiding at Ruby's trial since the judge was writing a book about the case.

RUBY'S LAWYERS could dismiss their appeal and ask the pardons board to change his sentence to life imprisonment. Even with Wade agreeing to a reduction in the sentence, they would be taking a gamble.

If the board or Connally refused to set aside the death penalty, the defense lawyers might find themselves cut off from renewing their court battle to get a new trial for Ruby.

Ruby's lawyers could follow another course which might keep his fate in doubt for years. They could argue in the state courts for a new trial and, if unsuccessful there, go through the federal courts.

If they also failed there, they could turn to the pardons board.

STATE LAWS also provide another legal route for defense attorneys. If other moves failed, they could ask a jury to rule that Ruby had become insane after he was sentenced to die.

If found insane, he would go to a mental hospital and could not be electrocuted unless his sanity was restored.

A life sentence would require Ruby to spend at least seven years in prison.

State laws require the pardons board to review the case of every convict who has received credit for serving at least 15 years. By compiling an excellent prison record, an inmate could get this credit in seven calendar years. But the board would not be required to release Ruby when it reviewed his case.

If it saw fit, it could require the slayer to spend the rest of his life in prison.

(Indicate page, name of newspaper, city and state.)

3A

"The Dallas Morning News"
Dallas, Texas

Date: 11-5-65

Edition:

Author:

Editor: Jack B. Kruger

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Being Investigated

(Mount Clipping in Space Below)

Wade Offers Move to Save Life of Ruby

Dist. Atty. Henry Wade made public Thursday a proposal to join Jack Ruby's defense attorneys in a plea to save Ruby from the electric chair.

Wade said he will ask the Board of Pardons and Paroles to commute the sentence to life — an 8- to 15-year sentence in many Texas murder cases — if the defense attorneys drop Ruby's appeal and request the move.

Attorney Phil Burleson said he appreciated Wade's move but considered it "premature." He indicated that if all appeal moves fail, he would accept the proposal.

Wade had an afternoon press conference that his change in attitude came because of several reasons.

HE DEFENDED, HOWEVER, that the move concerned a position that he was failing in the race for appointment to a federal judgeship.

"This (the offer to Ruby attorneys) was done six months ago," he said. "There is no connection to that (the judgeship)."

He later said he had talked with Ruby attorneys about a commutation "six months to a year ago." Wade admitted the proposal "off the record" several months ago, but publicly revealed the offer after questioning Thursday.

Wade gave expense as one reason to stop proceedings and let Ruby live. An estimated \$75,000 to \$100,000 has been spent on trying him, he said. He added that Dallas County has a crowded docket and he

work on."

Another reason, he said, is that "some people are still asking questions about the assassination — it is just as well to have him available."

THEN HE ADDED, "Although he is sane, there is no question he has some neurotic tendencies that could be treated in the penitentiary."

Wade indicated he agreed with speculation that Ruby would have received a less severe sentence if his defense attorneys had requested leniency.

Throughout the interview, Wade insisted "there is nothing new" in his offer. He said the Ruby family and lawyers asked for a commutation to murder without malice and a 5-year sentence.

Attorney Burleson later agreed with the statement and added:

"We are still processing our appeals — one from the trial itself and the other on the habeas corpus hearing based on (the allegation of) Judge (Joe B.) Brown's disqualification."

"MY POSITION in the trial was that Ruby was guilty of murder without malice, if he was sane at the time. If we had accepted any compromise, we wouldn't have been proceeding with our appeal, would we? he asked.

He added that as he "understands the law," the pardons board has no jurisdiction while the case is on appeal. He indicated Ruby would take advantage and save his life if the appeals failed, but "I don't think it will come down to that."

Ruby has been in jail since Nov. 24, 1963, when he murdered presidential assassin Lee Harvey Oswald.

(Indicate page, name of newspaper, city and state.)

1
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Being Investigated

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LIFE TERM EYED**Brown Refuses
Ruby Comment**

District Judge Joe B. Brown had a brusque "no comment" Friday to queries on whether he would favor commutation of the death penalty to life for Jack Ruby.

"I don't want to get into that hassle," said the judge. "I'd rather just have no comment."

Dist. Atty. Henry Wade revealed to The Times Herald

Thursday that he has twice offered to recommend commutation of the death sentence.

Defense attorneys have preferred to rely on appeals now pending and have not accepted the offer.

CLAIMS MISQUOTE

Judge Brown also claimed he was misquoted several months ago when he was alleged to have said he felt Ruby would never die in the electric chair.

"What I did say was that I thought the death penalty would be abolished before he would ever die in the chair," Judge Brown said.

Judge Brown was presiding judge for the lengthy Ruby trial held in the spring of 1964. Ruby was found guilty of killing accused presidential assassin Lee Harvey Oswald and sentenced to death.

Judge Brown has since withdrawn from the case and has been replaced in appeals matters by Judge Louis T. Holland of Montague.

FAVORS LEGISLATION

There was also reaction Friday to news of Mr. Wade's life sentence offer from Mrs. Marguerite Oswald, mother of the murdered assassin.

She said in Fort Worth that she agreed with the district-attorney's belief that Ruby should not die, but said special legislation should be passed to keep Ruby from ever being paroled.

"There is no law now that says Ruby would remain in prison for life if the sentence is reduced to life imprisonment," she said. "The lawmakers will have to hold a special session and pass a law that he will not be eligible for

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