

File No: 44-1637-1A

Re: Ruby

Date: _____ (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released	
113	2/9/64	Photographs	2	2	
114	2/10/64	Articles from Spanish language newspaper in Miami. Also Ruby in the copies of Moreno photo by Ruby's attorney	3	3	"
115	-	Item 1197 thru 1229 Chicago letter to Ruby	56	56	"
116	-	Newspaper prepared by Ruby's attorney with photos published in Daily News	76	76	"
117	2/10/64	Items 125 thru 1302 Citizen letters to Ruby	11	"	"
118	-	Items 1303 thru 1393 Citizen letters to Ruby	176	176	"
119	-	Items 1394 thru 1443 Citizen letters to Ruby	226	226	"
120	-	Chicago letter to Ruby	104	104	"
			5		

1950
MAY 1950

File No. 44-1639-1A (113)

Date Received 2-9-64

From El Paso
(NAME OF CONTRIBUTOR)

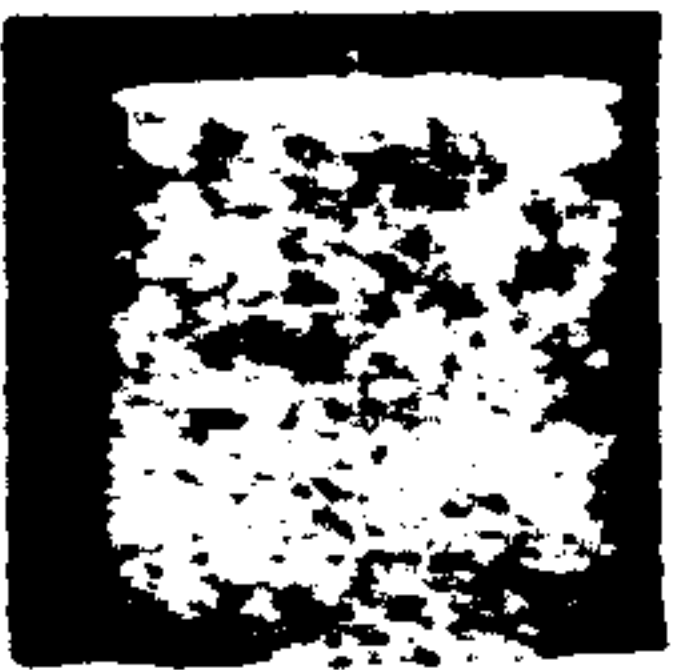
See serial 4247
(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

By Mail
(NAME OF SPECIAL AGENT)

To Be Returned Yes
No

Description: Photograph of
Gene Farkas



File No. 44-1639-1A(114)

Date Received 2-10-64

From C. C. Collins, D.D.S.
(NAME OF CONTRIBUTOR)

De Land Fla.
(ADDRESS OF CONTRIBUTOR)

See serial 4254
(CITY AND STATE)

By Mails
(NAME OF SPECIAL AGENT)

To Be Returned Yes
No

Description: article from
Spanish-language newspaper,
Miami, Fla. re Ruby
in Cuba, 1962-1965.

El Conflicto de Galileo

Por RAY MOSELEY

BOGALÁ (UPPU).—Los jueces de la Inquisición se reunieron en un pequeño edificio cerca del pentón, en Roma, para analizar el caso que había excitado a toda Europa.

El acusado era Galileo Galilei, una de las figuras más distinguidas y discutidas en la historia del hombre, de cuyo nacimiento se suponen en el próximo mes 400 años. Se lo acusaba de herejía, la acusación más grave que se podía formular contra hombre alguno en la Venia de la contrarreforma.

Galileo, un hombre enfermo de 60 años de edad, había precipitado el juicio que lo llevó ante el Tribunal de la Inquisición, al decir que el sol era el centro del Universo y que la Tierra y los otros planetas giraban anualmente en torno a él y a su vez rotaban sobre sus propios ejes.

Durante siglos la Iglesia había predicado exactamente lo contrario. El más grande de los antiguos astrónomos, Ptolomeo, había "probado" hasta 1,600 años que la Tierra era el centro del Universo. Los teólogos del siglo 17 estimaban que dicha afirmación era esencial para los conceptos de la religión.

El juicio secreto se inició el 8 de junio de 1633 y Galileo ante la amenaza de sufrir torturas, se rindió y al segundo día, de rodillas, se retractó de todo lo dicho y

bre la investigación durante en la que buscará la memoria del hombre condenado por sus antepasados.

Las palabras desatadas por Galileo durante su vida así como algunas de sus conclusiones son difíciles de encontrar después de casi 400 años.

Pero en el momento de su nacimiento había muy poco progreso científico en el mundo occidental, que estaba en la vanguardia precisamente tal como lo habían definido los griegos y los romanos. El Renacimiento se había limitado a copiar los libros, sin recordar los errores científicos por su cuenta.

La Iglesia Católica, así como por los impulsos humanistas del Renacimiento y se evidencian por la revolución moderada por Martín Lutero, estaba en la defensiva y en contra de toda idea nueva.

Diffícilmente podía haber ocurrido por en el mundo para un hombre con una mente independiente.

Galileo había nacido en Pisa en la casa de un noble pobre, Vincenzo Galilei.

Atendido por sus que en matemático y músico, fue a presentarse para hacer sus estudios de griego, latín y hebreo. Muchos de los grandes artistas del Renacimiento florentino fueron hombres de ciencias, matemáticas, que ocuparon su talento en la pintura por estar profundamente que

EL ANGLICISMO EN EL ESPAÑOL CONTEMPORANEO

Por el Dr. EDUARDO I. ALZARO

Hay que ajustar el idioma esta gaitado y no etc. son expresiones que se usan con frecuencia a efectos, mecánicos y automovilísticos, reduciéndose a la pieza ensamblar con que se ajustan las llantas desmontables sobre las ruedas, y que forman el base de las mismas, pieza que en inglés se llama rim.

El nombre español es un error.

Mirador

Mi Negro de Panamá

Por GERMAN ARCINIEGAS

El ahora estoy escribiendo esta nota en París, se lo debo a un negro de Panamá. Al negro que hace meses años cuidaba de la plaza en la Asociación de Jóvenes Oriundanos —Y.M.C.A.— de la Zona.

Entonces yo era un muchacho que por primera vez iba de Colombia, que por primera vez había visto al negro. Me había dado las manitas me había dado la palmeta, y traté de salir. Ni entonces ni hoy he podido salir como nadador. Me salió que me daba la llave de

Todas las manitas ponía un empuje particular en atenderme. La palmeta se llamaba. Con é más alegría muchachos salaban como peces. El elemento elemental era yo. La palmeta era bastante sencilla, y él era que pude nadar de un borde al otro me pareció de maravilla. Pero lo había sido gracia, sin calma, sin estilo. Al negro me veía, refiriéndose a ese blanquillo del interior que apenas habla sentido correr sobre su cuerpo el agua de la ducha.

DIARIO LAS AMERICAS

600 N. W. 2ND STREET, MIAMI SPRINGS, FLORIDA
Publicado por THE AMERICAS PUBLISHING COMPANY
P. O. Box No. 281 MIAMI 68, Fla., Teléfono TU 8-7521

FRANCISCO AGUIRRE
Vicepresidente y Editor

HORACIO AGUIRRE
Vicepresidente, Director y Gerente

Enrique J. Rodriguez,
Jefe del Departamento
de Anuncios

Guillermo González,
Jefe del Departamento
de Circulación

Subscriptiones por Correo Costeado: Anual \$24.00, Semestral \$12.00
Trimestral \$8.00. Por Correo Aéreo en los Estados Unidos,
México y Canadá, \$1.00 adicionales por mes.

Subscriptiones by Regular Mail: Yearly \$24.00, 6 months \$12.00
3 months \$8.00. Air mail in the United States,
Mexico and Canada, \$1.00 per month additional.

Subscriptions & Remittances in Washington, Zone A, \$24.00 (1 año)
Class Delivery in Washington, Zone A, \$20.00 per year

Acepted as the Foreign Postage as Correspondence
in Second Class on the Correo de Miami Springs, Florida.
Entered as Second Class Mail at the Miami Springs, Florida
Post Office on February 3, 1964. Additional Entry at Washington, D. C.
ORDER OF MAILING BY CORRESPONDENCE AL APARTADO 281,
MIAMI 68, FLA. TELEFONO TU 8-7521

Miami Springs, Fla., Sábado 19 de Febrero de 1964

La Infiltración Comunista en la Escuela Iberoamericana

Desde hace muchos lustros la educación pública en los países Iberoamericanos ha estado sometida a una constante infiltración comunista en el profesorado. El docente, comprendiendo la importancia de la escuela, da la orden de preocuparse más por envenenar las consciencias de los niños y los jóvenes y por dedicarse más a influir en el ánimo de los que estudian para enseñar, que hacerlo en las organizaciones campesinas y obreras, como ocurría antes.

El Problema Vietnam del con los Ro

Por Beil Sheem

MYTHO, Vietnam del (UPI) —Un mayor delito de los Estados Unidos preguntó a un sacerdote católico por que enarbolará bandera azul rojo y era Vietcong Comunista y el símbolo de su pequeña y el sacerdote le contestó muy simple:

"Usted y las tropas de invierno están aquí, a lo un día por mes. Los del Vietcong están los otros nueve. Yo tengo que estar aquí pues tengo una misión para con el pueblo por eso dejó flamear la bandera del Vietcong en mi casa."

En la mayoría de las de las 14 provincias de producción de arroz del sur del Vietcong, los aldeanos vietcongs viven tal como el sacerdote católico: Bajo un gobierno comunista.

En toda esta área del país, donde la mayoría de la población de Vietnam Sur y la gran mayoría de las zonas económicas

44-1639-1A 115

No. E-4010-J

In the
CRIMINAL DISTRICT COURT NO. 3
IN AND FOR DALLAS COUNTY, TEXAS

THE STATE OF TEXAS

v.

JACK RUBY

**DEFENDANT'S BRIEF IN SUPPORT OF
MOTION FOR CHANGE OF VENUE**

MELVIN BELLI,
Belli Building,
San Francisco, California,

SAM BRODY,
Suite 204, 6505 Wilshire Blvd.,
Los Angeles, California,

JOE H. TONAHILL,
Tonahill Building,
Jasper, Texas,
Attorneys for Defendant.

INDEX

	Page
Subject Index	i
Summary of Argument	1
Statutes Involved	3
Basic Principles Regarding Change of Venue	3
Improbability of Fair and Impartial Trial Within Dallas County	8
Conclusion	16
Appendix	A-1

	Page
Carlile v. State, 255 S.W. 990	7
Coffman v. State, 136 S.W. 779	6
Cortez v. State, 69 S.W. 537	12
Cox v. State, 234 S.W. 72	8
Irvin v. Dowd, 366 U.S. 717, 6 L.Ed. 2d 751	8, 15
Meyers v. State, 46 S.W. 817	5
Pennekamp v. State of Florida, 328 U.S. 331, 66 S.Ct. 1029	5
Randle v. State, 28 S.W. 953	7
Rideau v. Louisiana, ... U.S. ... 10 L.Ed. 2d 663	16
Rogers v. State, 236 S.W. 2d 141	2
Sorrell v. State 169 S.W. 299	6
Streight v. State, 138 S.W. 742	4, 5, 17
Williams v. State, 170 S.W. 2d 482	11
Williams v. State, 283 S.W. 2d 239	8
Statutes	
Code of Crim. Proc. Art. 562	3
Miscellaneous	
12 Tex. Jur.	8

No. E-4010-J

In the
CRIMINAL DISTRICT COURT NO. 3
IN AND FOR DALLAS COUNTY, TEXAS

THE STATE OF TEXAS

U.

JACK RUBY

**DEFENDANT'S BRIEF IN SUPPORT OF
MOTION FOR CHANGE OF VENUE**

SUMMARY OF ARGUMENT

The defendant Jack Ruby's Motion for Change of Venue is bottomed on far more than adverse publicity and prejudgment. The assassination of President Kennedy and the shooting of the assassin, Oswald, intertwine beyond the probability of conceptual separation. The revolting assassination of the President occurred in Dallas—not far from where the assassin Oswald was shot—and close by the County Court House where the defendant, Jack Ruby, is scheduled to go on trial for his very life. Rightfully or wrongfully, the Dallas community has been blamed for the assassination of the President. Rightfully or wrong-

fully, the Dallas community has been blamed for allowing the shooting of the assassin. Representatives of the Dallas community have expressed self recrimination feelings. Within Dallas County, it is the Dallas community, not Jack Ruby, that is on trial. Indeed, within Dallas County the defense of the community from unwarranted outside attacks transcends the importance of giving Jack Ruby what the Constitution decrees, a fair and impartial trial, free from prejudicial influences. But on this motion and to this Court, Jack Ruby's right to a fair trial must be paramount.

Under established legal principles enforced by our State courts and the Supreme Court of the United States, Jack Ruby is entitled to a change of venue. As the Texas Court of Criminal Appeals recently ruled:

"(The) granting of a motion to change the venue of a criminal case is not an indictment against or a challenge to the honesty, integrity, or ability of the citizenship of a county to give one accused of a crime a fair and impartial trial. The Constitution guarantees to every person accused of crime, a fair and impartial trial. It is in the futherance of this guarantee that provision is made for changing the venue of trial." *Rogers v. State*, 236 S.W. 2d, 141 at 143.

The Supreme Court of the United States in upsetting a State court conviction for refusing a change of venue held:

"In essence, the right to jury trial guarantees to the criminally accused a fair trial by a panel of impartial, 'indifferent' jurors. The failure to award an accused a fair hearing violates even the minimal

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100

standards of due process." *Irvin v. Dowd*, 366 U.S. 717, 722, 6 L.Ed. 2d 751, 755 (1961).

STATUTES INVOLVED

Code of Criminal Procedure Article 562:

"A change of venue may be granted upon the written application of the defendant, supported by his own affidavit and the affidavit of at least two credible persons, residents of the county where the prosecution is instituted, for either of the following causes, the truth and sufficiency of which the court shall determine:

1. That there exists in the county where the prosecution is commenced so great a prejudice against him that he can not obtain a fair and impartial trial.
2. That there is a dangerous combination against him instigated by influential persons, by reason of which he cannot expect a fair trial."

BASIC PRINCIPLES REGARDING CHANGE OF VENUE

This motion is urged by defendant, Jack Ruby to secure a fair and impartial trial. He cannot secure a fair trial in Dallas County because of a general animosity against him incited and aided by an adverse publicity and particularly because Dallas itself is on trial before the world.

On the 22nd day of November, 1963, President Kennedy was assassinated while riding in his open car through the streets of Dallas. The people of the world, of the United

States and, above all, the citizens of Dallas were stunned and shocked. It was a heinous crime, but even more revolting for those who lived in Dallas. Then the assassin, Lee Harvey Oswald, was killed while being transferred from the City Jail to the County Jail. Again the Dallas citizens were stunned. The defendant Jack Ruby has been charged with the murder with malice of Oswald.

The principles warranting a change of venue are well recognized by Texas cases. The Court recognizes that change of venue is not indictment of the community nor is it to be decided merely because the possibility exists of the selection of twelve fair men within the community. The cardinal requirement is that the defendant be given a fair trial.

"Many people have a wrong conception of an application for a change of venue, construing it as a reflection upon the citizenship of a county. This is not a correct view, because juries are selected under the rules of law; and while it possibly and doubtless is true that among the citizens of McLennan county twelve men, yea, possibly hundreds of men, could be found who would give to this defendant a fair and impartial trial, but that is not the question. The question to be decided is, Do we know as near as mortals may, when we take into consideration the mode and method provided by law for the selection of juries, that a jury will be obtained that will not be influenced by the passions of the hour, by public sentiment, who have not prejudiced the case in their own minds, or any consideration other than the evidence in the case * * *" *Streight v. State*, 138 S.W. 742, 744-745.

The intensity of publicity with its concentration directed toward Dallas County fosters trial by newspaper rather than trial by impartial jury.

"Trial by newspaper, like all catch phrases, may be loosely used, but it summarizes an evil influence upon the administration of criminal justice in this country." *Pennekamp v. State of Florida*, 328 U.S. 331, 66 S.Ct. 1029 at 1043. "Cases are too often tried in newspapers before they are tried in court, and the case of characters in the newspaper trial too often differ greatly from the real persons who appear at the trial in court, and who may have to suffer its distorted consequences." 66 S.Ct. 1045.

And Texas recognized that a change of venue cannot be denied merely because of a sworn testimony that a fair trial can be obtained within the county.

"In such a contest a great many men swear that they believe a fair trial could be obtained in the county, but their opinion as to what constitutes a fair trial is frequently at war with principles of law and justice. They believe that a fair trial consists in the conviction and punishment of the accused." *Meyers v. State*, 46 S.W. 817.

The prospective jurors may believe that they can disregard anything they might have read, heard or seen and give the defendant a fair and impartial trial; however, " * * * When the popular mind is inflamed and popular indignation is ready and clamorous to become the executioner of its own vengeance, it is part of an honest, fearless, manly judiciary to uphold the standard of the law, and to vindicate its majesty and integrity regardless of all consequences." *Streight v. State*, 138 S.W. 742, 744.

The cases recognize that the nature of prejudicial influences which deprive an accused of a fair trial is not limited to prejudice solely against the accused.

Coffman v. State, 136 S.W. 779:

"They had prejudged his case and pronounced him guilty, and the expressions toward him were bitter. The prejudice even extended to the lawyer defending him, and especially to one of them." 136 S.W. at 780.

* * * * *

"It does not matter under questions of this character whether the prejudice is against the defendant or against his case. If the prejudice is against him personally, he cannot get a fair trial. If there is a prejudgment of a case, the reason is equally as strong why the change of venue was granted." 136 S.W. at 781.

The language in the Court of Criminal Appeals is particularly significant in *Sorrell v. State*, 169 S.W. 299:

"The Bill of Rights, under the head of 'Guaranties' (article 1, § 10, Constitution), provides: 'In all criminal prosecutions, the accused shall have a speedy public trial by an impartial jury.' This is intended to be a guaranty. It doesn't mean that 11 of the jury should be fair and impartial. It doesn't mean that the district judge shall force the defendant to trial with the hope of securing a fair and impartial jury. But it does mean that he must not put him to trial in a county unless the circumstances and conditions of the public sentiment are such that he feels able to give an absolute assurance that neither by accident or design will any sentiment against the accused creep into the jury box, except such alone as is raised by the testimony heard upon the trial. The verdict of the jury should reflect the testimony in

the case. The reflection should be a perfect one, not a distorted or imperfect one. One crack in the mirror, one ripple upon the surface of the pool, is sufficient to destroy the trueness of the reflection. One improper juror destroys the integrity of the verdict. Where the great majority of the citizenship of a county is shown to be conversant with a case, and their minds have been poisoned with wild rumors against the accused, which possibly might not be admissible as evidence, where they have heard of his former conviction, and where general public sentiment is in the condition as the testimony in this case indicates, we think it indeed a risky thing to undertake to guarantee an impartial jury under such conditions.

“* * * As was held in the Randle Case, prejudice, referred to in the statute, does not necessarily mean the prejudice against the defendant, but may and often with equal force does mean prejudice against his case.” 169 S.W. 299 at 303. See also *Randle v. State*, 28 S.W. 953.

The power and duty of the trial court in passing on a change of venue was established by the case of *Carlile v. State*, 255 S.W. 990.

“The burden is upon the appellant to prove the existence of such prejudice, and, where evidence is heard, the issue is to be determined by the trial court. The discretion is upon the trial court to weigh the evidence, and, if from it there arises two conflicting theories, the trial court has the discretion to adopt either. In the absence of the abuse of this discretion, the judgment will not be disturbed on appeal. If, however, the evidence is such that it leads to the conclusion that the bias, prejudice, or prejudgment of appellant or his case is such as renders it improbable that a fair and impartial trial can be

given him, the trial court is without discretion to refuse the application."

Twelve (12) Texas Jurisprudence, p. 461, states that the defendant does not need to show that the prejudice against him or against his case is such as to render a fair trial impossible; only that it is such as renders it improbable that he will get a fair trial, citing *Cox v. State*, 234 S.W. 72.

The nature of the news accounts and publicity must be considered. *Williams v. State*, 283 S.W. 2d 239, commented:

"The nature of the news accounts must be specifically noted."

IMPROBABILITY OF FAIR AND IMPARTIAL TRIAL WITHIN DALLAS COUNTY

The Dallas Morning News of November 25, 1963, Section 4, page 2, under the title, *Dallas Has a Conscience*, stated:

"* * * Right now there is urgent need for the whole community to settle down to the business of normal living, to relieve its tensions, and to banish any feelings of guilt."

The paper's November 26th issue, page 27, headlined, "Europe's Press Indicts Dallas Police Conduct" for the death of Lee Harvey Oswald. The London Daily Express said, "The disgrace of the Dallas police is complete * * *"

A
ask

E
Mc
Ca

(
wit
Am
Da
it
kn
Ne
col
"T
stei
'id
AF
Dal
wil
of

As District Attorney Wade said after stating he would ask jurors to convict Rubenstein of murder with malice,

"Our whole judicial system will be on trial. This trial will determine whether Dallas has a government based on the orderly process of law or a government in which an individual can take the law into his own hands." Dallas Morning News, Nov. 27, p. 1.

Section 4, page 1, December 4th issue of the Dallas Morning News refers to the Attorney General, Waggoner Carr's, probing the Dallas crimes:

"There was speculation that the Dallas civic leaders asked Carr to hold the investigation elsewhere because of the notoriety Dallas has already received as a result of the assassination of President Kennedy."

On January 8, 1964, in Section 1, page 12, in an interview with Mr. William Gaudet, editor and publisher of *Latin American Report*, The Dallas Morning News said, "The Dallas image has suffered more in Latin America than it has in the United States"; and further, "Dallas is known down there as a 'hate city'." The Dallas Morning News, Sunday, November 24, 1963, Section 1, page 6, column 4, reports the City still stunned after JFK's death. "The City has sired a terrible offspring, and like Frankenstein, has lost control over the monster." "Dallas is a 'sick city'," said Maley, Secretary-Treasurer of the Dallas AFL-CIO Council. Maley continued, "I speak for all of Dallas' organized labor when I say we are ready to work with everyone in an effort to lift Dallas from the ashes of a great city to restore a little sanity to make Dallas

once again a great place where people can disagree agreeably." The same article reports comment by H. L. Hunt: "As one who has worked in the Southwest for good will and brotherly love among members of all religious faiths, I have been shocked and grieved by the recent attack upon Ambassador Adlai Stevenson and now by the murder of our great President and others."

The same page of the above paper inquires, "Why did it happen here? Residents of Dallas asked"; "How deep is the city's guilt?"; What a town, said one man in our downtown street Friday, I've lived here three months, but I'm going to look for job some place else * * *; at Love Field, an angry grim faced person boarding a plane had said, "They ought to take a regiment down there to Dallas and wipe those idiots out."

Cabell urged Dallas residents to "resist hysteria." November 25 Dallas Morning News, Sec. 1, p. 8 and at the bottom of the page in capital type: "*Majority condemns slaying of Oswald*".

The press attack on Ruby has been vicious, containing many statements and inuendos not admissible in evidence. From a Joe Bonds, who is serving a prison sentence in Huntsville:

"That Ruby was a tough guy around the club * * * he even had his own little jail. He had a back room in the club and after he would beat up the guy, he would throw him in the back room and lock the door." Dallas Morning News, Dec. 5, Sec. 1, p. 9.

Another story commented:

"Meanwhile investigators are compiling a big file on Ruby's past. It includes data about reports that he had visited Cuba shortly before Fidel Castro seized control of the island." The Dallas Morning News, December 10, 1963, Sec. 4, p. 2.

Page 8, Section 3, of the November 30th News headlined, "*Jack Ruby Linked to Operators in Chicago Underworld.*"

"* * * have found that Ruby's night spot at one time was a haunt of Chicago hoods who came to Dallas to 'case it'."

Ruby's bond hearing received great publicity. A woman's purse revealed a pistol, and she was jailed. In *Williams v. State*, 170 S.W. 2d 482, the trial at the courthouse was guarded, and the courtroom was jammed. All doors to the courtroom were guarded closely by officers.

"Only such spectators were admitted to the courtroom as received the approval of the court or the sheriff. From one spectator who was searched a large dagger was taken * * *

"According to the testimony of the sheriff, no such precautions as used in the trial of this case had ever before been employed or found necessary to secure the safety of one upon trial for crime in Bowie County. These precautions, the sheriff insisted, were for the purpose of protecting the appellant and of seeing that he received a fair trial.

"* * * the necessity of the precautions here employed by the sheriff to secure that safety militates against the idea of a fair trial, for, as we said in *Mickle v. State*, 85 Tex.Cr.R. 560, 213 S.W. 665, 666, 'It appears to us that if public sentiment was such as to necessitate the course of conduct above

outlined on the part of the officers of the law, it is difficult to believe that at that time and under those circumstances the accused could obtain that fair and impartial trial which is the proud boast and the guaranteed right of all of our citizens'."

The November 26th issue of the Dallas Morning News, in Section 4, page 2, quotes a law enforcement officer who knew Jack Ruby:

"Jack Ruby—that's the name by which I know him—was a man with a persecution complex. He had a chip on his shoulder. He came up the hard way, and he thought the world looked down on him. I know Jack was hot tempered and quick with his fists, but I never had dreamed he would do anything like this."

The Dallas Morning News of November 27, 1963, in Section 1, page 8, reports:

"Chicago Police Knew Ruby as Union Organizer, Gambler

"Jack Rubenstein was known to Chicago policemen years ago as a labor organizer, gambler and a man who had associates on the fringes of the West Side Chicago mob."

In discussing the insidious nature of prejudice, *Cortez v. State*, 69 S.W. 537, 538 holds:

"These acts * * * do not show the existence in that county of a sentiment calculated to guarantee the appellant a fair trial by impartial jury * * * Prejudice is a sinister quality; and the very persons whom it actuates may be unconscious of its existence."

The appendix to this Brief contains partial excerpts from the many, many newspaper articles published within Dallas County that would affect a fair trial for Jack Ruby. The thrust of the publicity supports amply the reasons for change of venue. Prejudice is a combination and blending of many ingredients. The extensive combination of prejudicial factors exists in Dallas County alone. The following factors have so simmered in Dallas County to preclude the probability of a fair trial for Jack Ruby.

1. Assassination of President Kennedy on Dallas street;
2. Assassination site close to the courthouse where Jack Ruby will be tried;
3. Assassination site still visited and flowers are still placed near by;
4. Assassination and shooting of Oswald are conceptually intertwined;
5. Dallas blamed directly and indirectly for the assassination of the President;
6. Dallas blamed for allowing the shooting of Oswald;
7. Dallas representatives have expressed feelings of recrimination publicly;
8. Dallas County's deprivation of prosecuting Oswald could find atonement in the persecution of Ruby;
9. Revulsion over Stevenson spitting and efforts to blame Dallas for such incidents;
10. Dallas blamed for promoting extremism;

11. Dallas County cannot judge Ruby fairly, while State, Nation and World judge Dallas;
12. Publicity regarding fear of political and economic reprisals against Dallas;
13. Subliminal effort on Dallas jury of the publicity against the Dallas community;
14. Dallas District Attorney published pre-trial demand for the death of a citizen who is charged with killing the vicious assassin of the President;
15. Adverse publicity concerning Ruby's legal counsel and clearance by Grievance Committee of District Attorney's press releases;
16. Such extreme pressure and publicity that trial judge needed services of public relations expert;
17. Necessity of taking extreme security precautions for transfer of Ruby to County Jail, newspaper's for transfer to County Jail, undisclosed location of jail cell, newspaper's own security precautions, and protection of courtroom for bail bond hearing;
18. Adverse local press stories carrying inuendos of conspiracy between Ruby, Oswald, and Communists;
19. Threats of physical violence against other citizens of Dallas after assassination of President and shooting of Oswald;
20. Adverse local press referring to Ruby as "tough guy, Chicago mobster and strip joint owner";
21. Anti-Semitism against Ruby sparked by publicity that name had been changed from Rubenstein;
22. Such strong local prejudice that Parkland Hospital, which treated the avowed Marxist, Oswald, initially refused to permit Ruby to undergo tests that were to be made available to defendant's counsel, the State and the Warren Commission.

The Separate Opinion of Mr. Justice Frankfurter in *Irvin v. Dowd*, 366 U.S. 717, 6 L.Ed. 2d 751, is particularly compelling:

"Of course I agree with the Court's opinion. But this is, unfortunately, not an isolated case that happened in Evansville, Indiana, nor an atypical miscarriage of justice due to anticipatory trial by newspapers instead of trial in court before a jury.

"More than one student of society has expressed the view that not the least significant test of the quality of a civilization is its treatment of those charged with crime, particularly with offenses which arouse the passions of a community. One of the rightful boasts of Western civilization is that the State has the burden of establishing guilt solely on the basis of evidence produced in court and under circumstances assuring an accused all the safeguards of a fair procedure. These rudimentary conditions for determining guilt are inevitably wanting if the jury which is to sit in judgment on a fellow human being comes to its task with its mind ineradicably poisoned against him. How can fallible men and women reach a disinterested verdict based exclusively on what they heard in court when, before they entered the jury box, their minds were saturated by press and radio for months preceding by matter designed to establish the guilt of the accused. A conviction so secured obviously constitutes a denial of due process of law in its most rudimentary conception.

"Not a Term passes without this Court being importuned to review convictions, had in States throughout the country, in which substantial claims are made that a jury trial has been distorted because of inflammatory newspaper accounts—too often, as in this case, with the prosecutor's collaboration—exerting pressures upon potential jurors before trial and even during the course of trial, thereby making it

extremely difficult, it not impossible, to secure a jury capable of taking in, free of prepossessions, evidence submitted in open court. Indeed, such extraneous influences, in violation of the decencies guaranteed by our Constitution, are sometimes so powerful that an accused is forced, as a practical matter, to forego trial by jury. See *Maryland v. Baltimore Radio Show, Inc.*, 338 U.S. 912, 915, 94 L.Ed. 562, 564, 70 S.Ct. 252. For one reason or another this Court does not undertake to review all such envenomed state prosecutions. But, again and again, such disregard of fundamental fairness is so flagrant that the Court is compelled, as it was only a week ago, to reverse a conviction in which prejudicial newspaper intrusion has poisoned the outcome. *Janko v. United States*, 6 L.Ed. 2d p. 846 see, e. g., *Marshall v. United States*, 360 U.S. 310, 3 L.Ed. 2d 1250, 79 S.Ct. 1171. See also *Stroble v. California*, 343 U.S. 181, 198, 96 L.Ed. 872, 885, 72 S.Ct. 599 (dissenting opinion); *Shepherd v. Florida*, 341 U.S. 50, 95 L.Ed. 740, 71 S.Ct. 545 (concurring opinion). This Court has not yet decided that the fair administration of criminal justice must be subordinated to another safeguard of our constitutional system—freedom of the press, properly conceived. The Court has not yet decided that, while convictions must be reversed and miscarriages of justice result because the minds of jurors or potential jurors were poisoned, the poisoner is constitutionally protected in plying his trade." 6 L.Ed. 2d at 760-761. See also *Rideau v. Louisiana*, 10 L.Ed. 2d 663 (overturning Louisiana, conviction for refusal to change venue because of prejudicial television program).

CONCLUSION

The motion for change of venue should be granted. Such change of venue will not in any way thwart the District Attorney's duty to enforce the law. "The State

cannot be hurt, for all it desires is a jury of twelve men who will receive their first impressions from the evidence aduced at the trial." *Streight v. State*, 138 S.W. 742.

Respectfully submitted,

.....
MELVIN BELLI,
Belli Building,
San Francisco, California,

.....
SAM BRODY,
Suite 204, 6505 Wilshire Blvd.,
Los Angeles, California,

.....
JOE H. TONAHILL,
Tonahill Building,
Jasper, Texas,
Attorneys for Defendant.

APPENDIX

	Page
Partial excerpts from Dallas Newspapers illustrating improbability of fair and impartial trial for Jack Ruby in Dallas County, Texas	
I. Censure and Defense of Dallas for Assassination of President and Death of Oswald.	A-1
II. Comments and Inuendoes Linking Jack Ruby and Oswald and Suggesting Communist Conspiracy.	A-7
III. Adverse Publicity Against Jack Ruby.	A-9
IV. Prejudicial Publicity Directed Toward Jack Ruby's Attorneys.	A-13
V. Miscellaneous Statements Affecting an Impartial Trial in Dallas County.	A-14

APPENDIX

PARTIAL EXCERPTS FROM DALLAS NEWSPAPERS ILLUSTRATING IMPROBABILITY OF FAIR AND IMPARTIAL TRIAL FOR JACK RUBY IN DALLAS COUNTY, TEXAS

I. Censure and Defense of Dallas for Assassination of President and Death of Oswald.

- (a) "Let us Search Our Hearts, * * * Terrible history has been made in Dallas, and the magnitude of our city sorrow can only be measured against the enormity of the deed." Dallas Times Herald (hereinafter referred to as "DTH"), p. 1, Nov. 23, 1963.
- (b) "City Sad, Silent Still" * * * DTH, Nov. 24, 1963, p. 1.
- (c) "DALLAS LEADERS EXPRESS GRIEF:" * * * "Dr. White * * * Thousands of school children in our schools all over Dallas were very disturbed when they heard the news. Our teachers did a marvelous job in calming them down until they could go home."
- (d) No tears at Oswald's death, DTH, Nov. 25, 1963, A-10.
- (e) "DALLASITES FLOOD CHURCHES IN SEARCH OF ANSWERS," * * * "The ministers told the Times Herald that the sermons were equally applicable to the latest death still another renunciation of the principles of orderly government and God's laws." DTH Nov. 25, 1963, A-40.
- (f) "Dallas pictured as grim, silent." DTH, Nov. 25, 1963, A-27.
- (g) Doctor Walter A. Bennet, pastor of the Westminster Presbyterian Church said "We know * * * that there has been brought forth in our

town the last few weeks a force of hatred that has erupted like a flame in two different instances. Each has been caused by the opposite extremes.

"One is the Adlai Stevenson incident. In one instance, it is the right winger and the other the left winger." "We may have contributed to the extremists by what we have said or done to incite the ultimate act of hatred—murder."

The Reverend Marshall S. Pinkerton, pastor of St. Andrews Presbyterian Church said, "Hatred is what produced this tragedy. The proper response is one of penitence * * * for our own feelings of hatred."

Reverend Russell Muller, pastor of St. Paul's United Church of Christ and President of the Dallas Pastors Association said "We have allowed hate to fill the political philosophy and what happened is the consequence of that * * *"
DTH, Nov. 25, 1963, A-40.

(h) "PRESS RAPS DALLAS POLICE, * * * The misguided, degraded citizens who fired the shot that killed Lee Oswald * * * has placed a serious block on the record of American justice." Said the editorial in a special edition of the Las Vegas, Nev., Review-Journal.

"The New York Times charged that the Dallas authorities abetted and encouraged by the newspaper, T.V., and radio press, trampled on every principle of justice in their handling of L. H. Oswald * * *"

"The immediate blame rests with the municipal police force which could not protect the prisoner on its premises, and which incredibly violated one of the first rules of police custody, the rule that said the moving of a controversial prisoner

must not be told in advance to the public."
"But a deeper fault, a fault we cannot in honesty and decency fail to face, lies in a diseased spot of hate somewhere in our society." DTH, Nov. 25, 1963, A-43 (Quoting the Baltimore Sun).

- (i) Arthur Krock of the New York Times wrote, referring to President Kennedy being assassinated and in the place "where the intensity there of the controversy of his policies". Then he wrote about Oswald being a Marxist, "This is certainly not the dossier of the 'right wing extremists,' a stigmatic label of Dallas". Dallas Morning News (DMN), Nov. 27, 1963, Sec. 1, p. 3.
- (j) "EUROPE'S PRESS INDICATES DALLAS POLICE CONDUCT" for the death of Lee Harvey Oswald. The London Daily Express said "The disgrace of the Dallas police is complete." DMN, Nov. 26, p. 27.
- (k) "WORLD CRITICAL OF POLICE" DTH Sec. 8, p. 1, Nov. 27, 1963.
- (l) The St. Louis Globe Democrat said "Only a further blot is added by his street slaying and Dallas police protection should be investigated." DTH, Nov. 25, 1963, A-43.
- (m) "The Yorkshire Post (conservative) is critical in the way in which Oswald, a man who had not yet stood trial was placed before television cameras and presented to the press for questioning. The paper said Oswald's strange life history, his political record, and the evidence against him had been given out for all to read and hear by the Dallas police. Under these circumstances, the Yorkshire Post asks, "What chance would the man have had in a fair trial?" DTH, Dec. 1, 1963, B-4.

(n) **"IS A FAIR TRIAL POSSIBLE FOR RUBY?"**

"Since Kennedy and Oswald were both killed in Dallas * * * it would be a poor Dallas citizen who didn't have an interest in the events and what Ruby did."

"Ordinarily where there are unusually strong feelings about a crime or where the people have unusual interest or knowledge if it, the defense lawyer can ask for a change of venue." DTH, Dec. 1, 1963, B-4.

(o) **"CENSURE AND DEFENSE OF DALLAS FOR ASSASSINATION OF PRESIDENT KENNEDY AND LEE HARVEY OSWALD"**

"Castro also said the slaying of Oswald while in police custody was part of the same plot. "Those guilty of Kennedy's death wanted at all costs to eliminate the accused to keep him from talking." DTH, Nov. 20, 1963.

(p) " * * * Dallasites must have faith and truth and wisdom. The people, he (Dr. Willis Tate) said, must not seek the refuge in silence." DTH, Dec. 4, 1963, A-25.

(q) John McKee speaking at the Oak Cliff Lions Club said that more business men wanted to become active in politics as a result of the assassination of President Kennedy. "Hate groups," he said, "have granted conservatives or liberals in an effort to smear them and reserve to name calling in place of their political comment on issues." DTH, Dec. 4, 1963, A-25.

(r) Dorothy Killgallen's column "Communication Paris"; "People here and in Rome were appalled at the haphazard security measures taken during Kennedy's visit to Texas." DTH, Dec. 4, 1963, A-64.

(s) "Europe's non-communist press turned Tuesday from eulogys from John F. Kennedy to criticism

of the way police handled the case of the slaying of Lee H. Oswald," DMN, Nov. 27, 1963, Sec. 1, p. 3.

- (t) From the Editorial pages of the Dallas Times Herald, Nov. 26, 1963, Sec. B, p. 6, " * * * What rankles is the fact that no one seems to think or care of the heartbreak and sorrow that Dallas in general and the people of Dallas particularly have suffered, for it is a terrible thing to bear and a shameful thing to admit that our President was shot and killed while on a good-will tour in our city."
- (u) "DALLAS HAS A CONSCIENCE", * * * Right now, there is urgent need for the whole community to settle down to the business of normal living, to relieve its tensions and to banish any dwellings of guilt." DMN Nov. 25, 1963, Sec. 4, p. 2.
- (v) "The city has sired a terrible offspring and like Frankenstein, has lost control over the monster," "Dallas is a 'sick' city," Maley said, he is Secty.-Treas. of the Dallas AFL-CIO Council, "I speak for all of Dallas' organized labor when I say we are ready to work with everyone in an effort to lift Dallas from the ashes of a great City to restore a little sanity to make Dallas once again a great place where people can disagree agreeably." DMN, Nov. 24, 1963, Sec. 1, p. 6.
- (w) "CITY TOLD TO SEARCH INNER LIFE", * * * "Dallas, the object of scorn elsewhere and shame locally over weekends, tragic events, must do more than simply wallow in remorse or attempt to diagnose its trouble." DTH, Nov. 28, 1963, A-1.
- (x) Wade says "Our whole judicial system will be on trial. This trial will determine whether Dallas has a government based on the orderly process

of law or a government in which an individual can take the law into his own hands." DMN, Nov. 27, 1963, p. 1.

(y) "There was speculation that the Dallas civic leaders asked Carr to hold the investigation elsewhere because of the notoriety Dallas has already received as a result of the assassination of President Kennedy." DMN, Dec. 4, 1963, Sec. 4, p. 1.

(z) "DALLAS CITIZENS STILL STUNNED." "District Attorney, Henry Wade called it the most dastardly thing that has ever happened in Dallas. The electric chair will be too good for whoever did it. I think the hate-mongers who have been spreading hate in Dallas for some time, must share the blame."

"It is a damnable crime, said Sheriff Bill Decker, who was less than two car lengths away when the President was shot. DTH, Nov. 23, 1963, A-5.

(aa) "I have felt as a public official that I had an anxiety over the President's safety because of the previous Adlai Stevenson incident." Quoting Councilwoman, Elizabeth Blessing, DTH, Nov. 23, 1963, A-5.

(bb) "I've lived here three months, but I'm going to look for a job some place else * * *" "I never thought we had those kind of nuts in Texas," said another person. At Love Field, an angry grim faced person boarding a plane had said "They ought to take a regiment down there to Dallas and wipe those idiots out." Last column 9, same article "The radio said that Texans in the service over in Frankfurt, Germany, were catching it on the account of what happened to the President. Every city has some screwballs * * *" DMN, Nov. 24, 1963, Sec. 1, p. 6.

- (cc) "Dallas and Texas came under heavy fire from the European press—"the city of assassination". "City of oil, cattle and violent death," The Dallas police are receiving a great many letters from out of state "the majority of the critical letters and telegrams * * * came out of state." DMN, Nov. 28, 1963, Sec. 1, p. 20, 21.
- (dd) "The Dallas image has suffered more in Latin America than it has in the United States * * * Dallas is known down there as a 'hate city'," said William Gaudett, editor and publisher of *Latin American Report*. DMN, Jan. 8, 1964, Sec. 1, p. 12.

II. Comments and Inuendoes Linking Jack Ruby and Oswald and Suggesting Communist Conspiracy.

- (a) "JACK RUBY MAY HAVE SEEN OSWALD BEFORE, FBI SAYS:" " * * * a performer at Ruby's Carousel Club who said he was 'almost sure' that Lee Harvey Oswald, accused killer of the President, was at Ruby's club about a week ago'." DTH, Nov. 26, 1963, p. 85, Sec. A-5.
- (b) "OAK CLIFF SLOWLY PICKING UP PIECES" * * * "The liberal radio and television commentators seem to avoid the fact that Oswald was an avowed Communist, a resident of Moscow for 2 years. They all seem to ignore that there may be ties between Oswald and his self-styled executioner, Night Club Owner Jack Ruby." Oak Cliff Tribune (hereinafter referred to as OCT), Dec. 2, 1963, p. 8.
- (c) "It has been increasingly clear that the FBI was aware of Oswald's record and his activities and his whereabouts." "Since an admitted Marxist was involved in what will be the biggest crime of the 20th century," OCT, Dec. 2, 1963, p. 8.

- (d) "Because a transient Marxist shot President Kennedy on the streets of Dallas and was in turn gunned down by a Chicago hooligan, are we racists in Dallas?" OCT, Dec. 12, 1963, p. 7.
- (e) "It is not inconceivable that the whole plot could have been hatched in Russia." OCT, Nov. 28, 1963, p. 9.
- (f) Referring to Oswald as a Marxist: "While the conspirators were among the huge crowd offering the President and his party a cordial * * * reception * * * a maniacal Marxist shot him down and wounded our governor."
* * * Oswald, the Marxist fanatic * * * OCT, Dec. 9, 1963, p. 7.
- (g) "SOVIETS GIVE U.S. FILE ON OSWALD," (Front Page) DTH, Dec. 1, 1963, Col. 7 and 8.
- (h) "Oswald's papers may tell much." * * * voluminous notes written in longhand describe Oswald's activities in a pro-Castro group contained names of persons in various locations in the U.S.—including Dallas, who might have been contacts in pro-Marxist work."
- (i) According to Senator John G. Tower, R-Tex., in his remark referring to Oswald, "He was a man who had changed from a normal American into an advocate of the diabolical concepts of Marxism * * *" DTH, Dec. 1, 1963, A-1.
- (j) A former marine corps lieutenant said that Oswald had served in the Marine Corps and knew the radio frequencies, call signals and authentication codes. John E. Donovan said, "He knew the location of every unit on the West Coast and the radar capability of every installation. We had to spend thousands of man hours changing everything." DTH, Dec. 4, 1963, A-21.

- (k) " * * * rumor has tried to tie the two principals, Lee Oswald and Jack Ruby, into some kind of sinister network. From across the nation have come furtive misses hinting that the writer knows of gambling connections, of political and racial conjunctions between them. Here again the FBI has found nothing to connect the two men except for the inflamed emotions both shared which led to death." DTH, Dec. 4, 1963, A-54.
- (l) Referring to an 18 year old "self styled Nazi from Arlington, Virginia, who marched in the Dallas police department carrying a near life size dummy of Cuban Strong-man, Fidel Castro, "A sign affixed to the Castro effigy blamed the Cuban dictator for President John F. Kennedy's assassination and urged an invasion of the Communist-controlled island." DTH, Dec. 8, 1963, A-8.

III. Adverse Publicity Against Jack Ruby

- (a) "RUBY WAS A TOUGH GUY around the club * * * he even had HIS OWN LITTLE JAIL. He had a back room in the club and after he would beat up the guy, he would throw him in the back room and lock the door." DMN, Dec. 5, 1963, Sec. 1, p. 9. (Quoting Joe Bonds who is serving a prison sentence in Huntsville).
- (b) "JACK RUBY LINKED TO OPERATORS IN CHICAGO UNDERWORLD." "I have found that Ruby's night spot at one time was a haunt of Chicago hoods who came to Dallas to 'case it'." DMN, Nov. 30, Sec. 3, p. 8.
- (c) "DANCER PICTURES RUBY AS HOT-HEAD WOULD-BE HERO." "Jack Ruby is an unsaddled hot-head with hero ambitions." "He is a paranoid." DHN, Nov. 25, 1963, A-14.
- (c) "EXPLOSIVE, ENIGMATIC: THAT IS JACK RUBY." The article by Dick Hitt trying to ana-

lyze what kind of a man the assassin of the assassin was. He referred to his first brush with the law in Chicago, the fact that he lived in a Jewish ghetto on the west side of a neighborhood in Chicago." " * * * Jack Ruby, the man who thought two wrongs make a right, a swaggering, fat-fingered, sapphire-ringed man; a health fad-dist and a preener * * * a man whose eyes resemble cold, dark grapes and whose hair has receded into the V-shaped style of the Mohawk Indians." DTH, Nov. 25, 1963, A-24.

- (d) "Jack Ruby would hardly be classified with a rightest." "So many of the leftish news media and their staffs are still using every journalistic device known to connect Lee Oswarld and the horror of the crime with the Dallas Ultra-conservatives." OCT., Dec. 12, p. 1.
- (e) Arab newspapers seized on the fact that Jack Ruby, charged with killing Oswald, is a Jew. They hinted that Arab nations favorite target world of zionism was mixed up in the events in Dallas. DMN, Nov. 17, 1963, Sec. 1, p. 3.
- (f) "Cocky killer of the alledged assassin * * * " DMN, Jan. 4, 1964, Sec. 1, p. 16.
- (g) "Chicago police knew Ruby as union organizer, gambler." "Jack Rubenstein * * * was known to Chicago policemen years ago as a labor organizer, gambler, and a man who had associates on the fringes of the West Side Chicago mob." DMN, Nov. 27, 1963, Sec. 1, p. 3.

Numerous references have been made to the effect he was a "strip-tease club owner, "down town strip joint"; DMN Sec. 1, p. 7; Nov. 27, Nov. 26, Sec. 4, p. 3, Dec. 3, Sec. 4, p. 1, Dec. 4, Sec. 4, p. 1, Dec. 5, Sec. 1, p. 5, Nov. 28, Sec. 1, p. 3, Nov. 30, Sec. 4, p. 1, Dec. 10, Dec. 4, p. 2.

- (h) "Jack Ruby—that's the name by which I know him—was a man with a persecution complex.

He had a chip on his shoulder. He came up the hard way, and he thought the world looked down on him. I knew Jack was hot tempered and quick with his fists, but I never had dreamed he would do anything like this."

They quote from a law enforcement officer who knew Jack Ruby. DMN, Nov. 26, 1963, Sec. 4, p. 2, col. 3.

- (i) The IRS claims that Ruby owes over \$2,000 in taxes. DMN, Dec. 4, Sec. 4, p. 1.
- (j) Referring to a letter writer who expressed shame about Jack Ruby's murder. "He is no credit to our faith, the writer wrote, and we hope that the overwhelming majority of law abiding Jews of Dallas are not condemned for this great humiliation * * *" OCT, Dec. 9, p. 1.
- (k) "Dallas burlesque show operator, Jack Ruby * * *" DTH, Dec. 1, 1963, A-29.
- (l) Referring to Ruby writing his memoirs, Sheriff Bill Decker said, "I guess he is trying to be another Flo Ziegfield." DTH, Dec. 1, 1963, A-30.
- (m) "A Dallas police officer said Saturday that he saw self-appointed executioner, Jack Ruby, coming through the Main Street entrance of the City Hall basement minutes before he fired a fatal, point-blank shot into the body of Lee Harvey Oswald. The officer said, "Jack Ruby, Oswald's assassin, came from the North (Main Street) entrance down the ramp."
"Ruby jumped out of the crowd as Oswald passed and fired one shot point-blank at Oswald." DTH, Dec. 8, 1963, A-1.
- (n) "A Dallas psychiatrist who examined night club operator, Jack Ruby, found no traces of insanity in the man * * * responsible sources told the Times Herald Thursday."

Ruby's attorneys have said that they will plead temporary insanity in his defense." DTH, Dec. 12, 1963, A-25.

- (o) "Although the District Attorney shyed on comments" Dec. 12, 1963, A-25.
- (p) Reciting the transfer of Ruby from the City to the County Jail, they quote one woman, "They must have a crazy man there," one commented as she observed the officer holding Rubenstein against the seat. DMN, Nov. 26, 1963, p. 1.
- (q) "NIGHT CLUB MAN TAKES ROLE OF AN EXECUTIONER," * * * Officers recalled that Rubenstein kept a .38 caliber pistol in his club. They described him as a balding, fifty-two-year old bachelor who liked to wear flashy clothes and date strippers." DMN, Nov. 25, 1963, Sec. 1, p. 3.
- (r) Ruby, manager of the Carousel, a downtown strip joint," DMN, Nov. 25, 1963, Sec. 1, p. 7.
- (s) Picture of Ruby with caption "Jack Ruby guns down accused assassin, Lee Harvey Oswald." DMN, Nov. 25, 1963, front page, "Club Owner Kills Oswald."
- (t) There is a half page picture of Ruby supposedly shooting Oswald. Caption underneath reads, "The President's accused killer as executioner's bullet pierces body." DTH, Nov. 25, 1963, p. 1.
- (u) "Ruby was also known to several members of the Dallas police force," DTH, Nov. 25, 1963, A-21.
- (v) The Cleveland Plain Dealer said that "Jack Ruby should be hailed as our national fool," DTH, Nov. 25, 1963, A-43.
- (w) "Jack Ruby, he runs a girly show." DTH, Nov. 25, 1963, A-46.
- (x) "Ruby, who has a record of several arrests," * * * The people of Dallas should be told why a known

police character was allowed in the basement," said Councilman, Joe Moody. DTH, Nov. 26, 1963, p. 20-A.

(y) "• • • in 1947 Rubenstein's name was officially changed to Ruby in a Dallas Court." DTH, Nov. 27, 1963, p. 1.

IV. Prejudicial Publicity Directed Toward Jack Ruby's Attorneys

(a) Reference that the State Bar's Code of Ethics was violated by Ruby's attorneys by discussing the case with newsmen. "One usually reliable source said that both District Attorney Henry Wade and Mr. Howard had been notified by a letter Monday that the grievance committee was looking into their actions. DTH, Dec. 4, 1963, A-21.

(b) Wayne Woodruff (Grievance Committee Chairman, denied being the source of published reports which indicated that Mr. Howard and Mr. Wade would be called on the carpet because of statements made to the press. "It must be a figment of his (the reporter's) imagination to specify what the committee will discuss at its regular monthly meeting tonight," fumed Mr. Woodruff. DTH, Dec. 5, 1963, A-28.

(c) "BAR WARNED ATTORNEYS ON CONDUCT." "Grievance panel says no charge leveled at Wade." "Tom Howard, Chief Defense Counsel for Ruby, and Jim Martin, another Ruby attorney, left the hearing and declined to comment to newsmen. Both men were grim." "• • • three hours behind closed doors." DTH, Dec. 6, 1963, A-25.

(d) "Belli said he probably is more noted for the whopping judgments he has won in damage suits than for his practice in criminal law." Then it refers to who else he represented including Errol

Flynn, Mae West and Perry Mason. "Mr. Belli and Paramount Studios currently is basing a film on his life under the working title of "King of Torts," and Bobbs-Merril Publishing Co. is bringing out his latest book, "Russian Life and Law."

"The attorney visited Russia two years ago." DTH, Dec. 11, 1963, A-39.

- (e) "Ruby's flamboyant attorney, Melvin Belli." DTH, Dec. 13, A-29.
- (f) "Edward W. Kuhn of Memphis, Tennessee, a candidate for President of the American Bar Association, accused Belli of accepting the Ruby case, "just for the publicity." DMN, Dec. 14, 1963, Sec. 4, p. 1.
- (g) "The exotic Mr. Belli didn't get his man out of jail," Alexander's comment. DMN, Dec. 24, 1963, Sec. 6, p. 1.
- (h) "ATTORNEY HOWARD LAUDS D. A.'s HANDLING OF RUBY HEARING WHILE TWITTING BELLI." "Attorney Tom Howard Wednesday lauded the District Attorney's handling of Monday's Jack Ruby bond hearing while twitting Melvin Belli, who had supplanted him as Ruby's chief defense counsel."

"I think the big-city lawyer from out of state (Belli) found out that Texas District Attorneys can hold their own in a court room." Howard said, "and I think it came as quite a shock to him, too." DMN, Dec. 26, 1963, Sec. 4, p. 1.

V. Miscellaneous Statements Affecting an Impartial Trial in Dallas County

- (a) "ETEX LAWYERS GET CALLED TO AID RUBY." Referring to Sheriff Bill Decker's stringent visitor procedure and relaxing it a bit, he said, "The reason for allowing visitors now

is the 'morale' purposes." DTH, Dec. 1, 1963, Sec. A, p. 26, Col. 5.

- (b) "From the dozens of letters this office has received concerning the wife and children of Lee Harvey Oswald, we know that many people of this nation feel compassion for this woman and her children who must grow up in the shadow of their father's deed." DTH, Dec. 4, 1963, A-54.
- (c) "Another horror" the recent case of Mrs. Elenor Cullum adds but another to the consecutive series of horrors this community has experienced within the last two weeks." Letter to the Editor by Evertt L. DeGolyer, Jr., Dallas, Texas. DTH, Dec. 12, 1963, B-20.
- (d) "Cabell received three threats on his life, and the airliner which was to take him to Washington left without him." (This was referring to his visiting Washington for the President's funeral). In his statement he said, "Mayor Earle Cabell told Dallas citizens Sunday that "now is the time for all of us to come to our senses." DMN, Nov. 25, 1963, Sec. 4, p. 1.
- (e) "ALL THE PITY IN THE WORLD WON'T HELP". letters to the editor; letter from Irene Bradley of Dallas in which she expresses the hope that the trial will be televised. "Texas laws leave such matters as this to the lawyers and judges and as the Dallas officials have already made some serious errors since the death of the President, one more error won't cause any more spectacle than any of the spectacles that have happened." DTH, Dec. 15, 1963, front page.
- (f) "The paper quotes Mr. Wade "Right now I am worried about Jack Ruby getting a fair trial * * * I think it is highly unlikely that the inflamed public feeling will permit such a trial until about mid-February." Same page in the Oak Cliff

A-16

Tribune; this is in reference to the handling of the Oswald transfer. "There were top officers predicting that Oswald would never make the 25-yard walk down the City Hall driveway to an armored car after the suspect was removed from the jail elevator." OCT, Dec. 2, 1963, p. 8.

- (g) "World thinks Dallas has been loose and informal, wait till they see Judge Brown" DMN, Nov. 30, 1963, Sec. 1, p. 4.
- (h) "An angry Dallas began to show its collective temper in other ways. Mayor Earl Cabell suddenly postponed his plans to fly to Washington for President's funeral when a threat on the mayor's life came through the telephone switchboard at City Hall." DTH, Nov. 25, 1963, A-24.
- (i) "The Dallas Morning News set up its own security system, requiring employees to show identification upon entering the building after a bomb threat was received through the newspaper." DTH, Nov. 25, 1963, A-25.
- (j) "Attorney, C. A. Droughby, one of several lawyers who called at police headquarters to consult with Jack Ruby, told police his wife had received two "threatening" telephone calls. Both times, Droughby said his wife was warned that they would be next 'if he defended Ruby.'" DTH, Nov. 25, 1963, A-25. The complete pictures of Oswald before and after the shooting.
- (k) "Yugoslavia's biggest newspaper, Politika, said, 'Are the political murders in Texas the result of broad preparations of evil powers of reactionary forces?'" DTH, Nov. 26, 1963, A-14.
- (l) "Fidel Castro said, 'JFK shot by rightist.' Castro also said that the slaying of Oswald while in police custody was part of the same plot." DTH, Nov. 28, 1963, A-8.
- (m) "Now who gave the order to transfer Oswald in the circus glare of television cameras at an ap-

pointed date and hour. Veteran officers like Homicide Director, Will Fritz, and Police Chief Jesse Curry and the other experienced officers involved certainly knew better." OCT, Dec. 12, p. 4.

- (n) "SOURCE OF RUBY FUNDS MYSTERY."
"District Attorney, Henry Wade, said Friday that 'Somebody with lots of money' wants Jack Ruby found innocent at a murder charge."
DMN, Dec. 14, Sec. 4, p. 1.
- (o) Cabell urged Dallas residents to "resist hysteria."
DMN, Nov. 25, 1963, Sec. 1, p. 3.
and at the bottom of that page in capital type:
"MAJORITY CONDEMNS SLAYING OF OSWALD." DMN.
- (p) "Ministers asked residents to examine their hearts." DMN, Nov. 25, 1963, Sec. 1, p. 13.
- (q) "People with the name of Rubenstein alias Ruby's name got threatened phone calls and messages." DMN, Nov. 23, 1963, Sec. 1, p. 8.
- (r) "A Dallas public relations and advertising executive, who helped arrange for President John F. Kennedy's visit to Dallas, will serve as press advisor to Judge Joe B. Brown for the Jack Ruby murder trial." DMN, Dec. 19, 1963, Sec. 4, p. 1.
- (s) "Bodyguard protects attorney." DMN, page 1.
- (t) "The very fact that Judge Brown had retained a press advisor drew criticism from the President of the Dallas Criminal Bar Association.
"Judge Brown Thursday announced that Dallas Public relations and advertising executive, Sam Bloom, will act as a "buffer" between his court and news media representatives assigned to cover the widely publicized trial of Ruby." DTH, Dec. 19, 1963, A-25.
- (u) Councilman, Joe Moody, said "The whole nation and world is watching us, they will judge us if

we do not judge ourselves." DTH, Nov. 27, 1963, p. 1.

- (v) "District Attorney, Henry Wade, admitted it would be tough to find a jury anywhere which could give Ruby a fair trial after the dramatic television coverage of the Oswald killing." OCT, Dec. 2, 1963, p. 8.
- (w) "Stripper charged with carrying gun." There is a picture of Karen Lynn Bennett being fingerprinted. Apparently she had a tiny automatic pistol in her purse at the Jack Ruby bond hearing. DMN, Dec. 24, 1963, Sec. 4, p. 1.
- (x) "Baptists urge to give help to Oswald." DTH, Jan. 3, A-5.
- (y) "Both parties puzzled, THE SUDDEN CHANGE IN DALLAS POLITICS". It has been said that Lee Harvey Oswald's bullets killed two men that day, President Kennedy in a literal sense and Senator Goldwater in a political sense. Now may be too early to make this an assertion, but it is a valid observation, I would say. Regardless of how devoted his followers may be still, the Goldwater boom in Dallas has definitely been muscled at this point." DTH, Jan. 5, B-4.
- (z) "What's right with Dallas?" An editorial by Stanley Marcus. He quotes from the St. Louis Post-Dispatch, "What should concern Dallas and every other city is that the extremists of far right and far left have this in common, that they alienate themselves from the main stream of American democracy than absolutism of political temper which is fundamentally hostile to our principles." Finally, we think that Dallas should forget about its "civic image" as such. The best public relations comes from doing good things and by not doing bad things. Let's have more "fair play" for legitimate differences of opinion
* * * DMN, Jan. 1, 1963, Sec. 4, p. 1.

In the
CRIMINAL DISTRICT COURT NO. 3
IN AND FOR DALLAS COUNTY, TEXAS

No. E-4010-J

THE STATE OF TEXAS,

v.

JACK RUBY.

**AFFIDAVIT SUPPORTING APPLICATION FOR
CHANGE OF VENUE**

To the Honorable Judge of Said Court:

We, and
and and and
....., do solemnly swear that we are residents of Dallas County,
Texas, that we are informed by the contents of the Application for Change of Venue this
date filed by the Defendant, Jack Ruby, in the above entitled and numbered cause, and we
are cognizant of the matters therein stated to this extent, to-wit:

That there exists in Dallas County, Texas, where the prosecution is commenced, so
great a prejudice against Jack Ruby that he cannot obtain a fair and impartial trial. That
there exists especially within Dallas County various conditions as set forth in the Appli-
cation for Change of Venue which precludes the probability of a fair and impartial trial in
this Dallas County. That there is a dangerous combination against him instigated by in-
fluential persons by reason of which he cannot expect a fair trial.

By reason of the foregoing we think the Defendant, Jack Ruby, cannot reasonably ex-
pect a fair trial of said cause in this Dallas County.

.....
.....
.....
.....
.....

Subscribed and sworn to before me by
.....,
....., and
on this day of, 196....., to certify which witness my hand and seal of office.

In the
CRIMINAL DISTRICT COURT NO. 3
IN AND FOR DALLAS COUNTY, TEXAS

No. E-4010-J

THE STATE OF TEXAS,

v.

JACK RUBY.

APPLICATION FOR CHANGE OF VENUE

To the Honorable Judge of Said Court:

NOW COMES JACK RUBY, the Defendant in the above-entitled and numbered cause, and states under oath that there is in Dallas County, and there exists in this Dallas County where the prosecution is commenced, so great a prejudice against him that he cannot obtain a fair and impartial trial. Besides such general prejudice, there exists especially within Dallas County the following conditions which preclude the probability of a fair and impartial trial in this Dallas County, to-wit:

1. Assassination of President Kennedy on Dallas street;
2. Assassination site close to the courthouse where Jack Ruby will be tried;
3. Assassination site still visited and flowers are still placed near by;
4. Assassination and shooting of Oswald are conceptually intertwined;
5. Dallas blamed directly and indirectly for the assassination of the President;
6. Dallas blamed for allowing the shooting of Oswald;
7. Dallas representatives have expressed feelings of recrimination publicly;
8. Dallas County's deprivation of prosecuting Oswald could find atonement in the persecution of Ruby;
9. Revulsion over Stevenson spitting and efforts to blame Dallas for such incidents;
10. Dallas blamed for promoting extremism;
11. Dallas County cannot judge Ruby fairly, while State, Nation and World judge Dallas;
12. Publicity regarding fear of political and economic reprisals against Dallas;
13. Subliminal effect on Dallas jury of the publicity against the Dallas community;
14. Dallas District Attorney published pre-trial demand for the death of a citizen who is charged with killing the vicious assassin of the President;
15. Adverse publicity concerning Ruby's legal counsel and clearance by Grievance Committee of District Attorney's press releases;

- 18. Adverse local press stories carrying inuendos of conspiracy between Ruby, Oswald and Communists;
- 19. Threats of physical violence against other citizens of Dallas after assassination of President and the shooting of Oswald;
- 20. Adverse local press referring to Ruby as "tough guy, Chicago mobster and strip joint owner";
- 21. Anti-Semitism against Ruby sparked by publicity that name had been changed from Rubenstein;
- 22. Such strong local prejudice that Parkland Hospital, which treated the avowed Marxist, Oswald, refused initially to permit Ruby to undergo tests by eminently-qualified doctor that were to be made available to Defendant's counsel, the State, and the Warren Commission.

Further, the Defendant says that there is a dangerous combination against him instigated by influential persons, by reason of which he cannot expect a fair trial. And further, the Defendant says that the failure to grant a change of venue will result in the denial of a fair trial, and thus violate the Defendant's rights under the Fourteenth Amendment to the Constitution of the United States. And further, the Defendant says that there are several counties in Texas where he could receive a fair trial.

WHEREFORE, PREMISES CONSIDERED, your Defendant asks and prays the Court to change the venue of this cause to some county that is free from this and other objections.

.....
JACK RUBY, Defendant

.....
MELVIN BELLI,
 Belli Building,
 San Francisco, California,

.....
SAM BRODY,
 Suite 204, 6505 Wilshire Blvd.,
 Los Angeles, California,

.....
JOE H. TONAHILL,
 Tonahill Building,
 Jasper, Texas.
Attorneys for Defendant.

SWORN TO AND SUBSCRIBED BEFORE ME by JACK RUBY, the Defendant in the above-entitled and numbered cause, on this, the day of, A.D., 19....., to certify which, witness my hand and seal of office.