

RUBY IS REBUFFED BY JUDGE BROWN

Defense Now Can Take Plea
to Texas's High Court

NY 8/8/64

DALLAS, Aug. 7 (UPI) —

Judge Joe B. Brown rejected today defense contentions that he had made errors in the trial of Jack L. Ruby. Ruby was convicted of murdering Lee Harvey Oswald, the accused assassin of President Kennedy, and sentenced to death.

The judge's action cleared the way for consideration of the case by the Texas Court of Criminal Appeals.

Turning down the defense's main charge that a police sergeant had perjured himself on the witness stand—Judge Brown said the chief of Ruby's defense, at the trial, Melvin Belli, had opened the line of questioning under which the sergeant testified.

All told, Judge Brown rejected 15 bills of exception (claims of error on his part) which defense lawyers filed July 28 as the first step in appealing Ruby's conviction to the state's highest appellate court.

Ruby's lawyers now have five days in which to file "bystanders' bills" —affidavits support-

ing their exceptions from persons who attended the trial.

The bill of exceptions, Judge Brown's disapproval, bystanders' bills, the record of testimony in the trial and other documents will be sent to Austin, the state capital, when the appeals court will hear a request for a new trial.

A jury in Judge Brown's court found Ruby guilty and set his punishment at death last March 14. The appeals court should hear the case in January or February.

If it refuses a new trial, the recourses left to Ruby are the United States supreme court and, finally the Governor of Texas, John Connally, who was seriously wounded in the Kennedy slaying.

The defense's main contention is that Police Sgt. Patrick Dean perjured himself when he said that Ruby, 10 minutes after Oswald was shot, said he had thought about it two days.

The defense also charged that defense lawyers had not been permitted to ask prospective jurors whether they were Democrats, Republicans or members of the John Birch Society; Ruby had been refused a pre-trial sanity hearing; that the defense had not been allowed to present evidence that Ruby's relatives had been treated for mental disease, and that two jurors had been witnesses because they had seen the shooting on television.

Judge Brown said all the defense allegations were "incorrect, and incomplete and deficient."

He refused to acknowledge that the two jurors were witnesses, saying they were not "witnesses as a matter of law."