

Ruby Case Due Back in Open Court

Judge to Rule on
Lawyers to Serve
at Sanity Hearing

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DALLAS (AP) — The Jack Ruby case returns to open court Monday, this time so that a judge can determine which lawyers will represent Ruby at a subsequent sanity hearing.

Judge Louis T. Holland of 97th District Court, Montague, Tex., will be on the bench. He replaces Judge Joe B. Brown, who presided over the murder trial in the spring of 1964 in which Ruby was given the death sentence for his slaying of Lee Harvey Oswald, the man charged with the assassination of President John F. Kennedy.

Judge Holland told the Associated Press that he also might rule on a change of venue motion at the Monday hearing. That motion asks that the sanity hearing be transferred away from Dallas.

"But I certainly think the first order of business should be this: Who should be counsel for Mr Ruby?" the judge said.

Appeal Delayed

Ruby's appeal of his death verdict has become bogged down over the question of who should be his attorney.

Contenders are Joe H. Tonahill of Jasper, Tex., who has represented Ruby since before his murder trial, and a group of out-of-state lawyers preferred by the Ruby family. These include the New York firm of Kunstler, Kunstler & Kinoy; Sol Dann of Detroit and Elmer Gertz of Chicago.

Tonahill maintains that Ruby signed a binding contract with him a month after his conviction. He says Ruby was sane then but has since become insane. Therefore, he reasons, the contract is still in effect, because an insane man can't legally break a contract for counsel. Tonahill also points out that Judge Brown appointed him and Dallas lawyer Phil Burleson at February hearing to be Ruby's attorneys through his appeal.

Affidavit Claimed

But the group engaged by the Ruby family counters that Ruby recently signed an affidavit to the effect that Tonahill be fired as his lawyer and the others be hired.

They said Ruby's constitutional rights would be violated unless the affidavit were honored, in that his right to choose his own counsel would be infringed.

They went to federal court

on this basis but U.S. Dist. Judge T. Whitfield Davidson remanded the case back to the state court.

The Kunstler group then appealed to the Fifth U.S. Circuit Court of Appeals but without success. They have also asked that court for a stay of the Monday hearing.

The Texas Court of Criminal Appeals had set a hearing date on the appeal of the conviction for earlier this spring. But as the counsel skirmish intensified, the appellate court ordered Judge Brown to hold a sanity hearing for Ruby.

Tonahill Could Stay

This order was interpreted to mean that if Ruby was found sane, the Kunstler group would proceed with the appeal. If he were found insane, then Tonahill would remain as his lawyer.

Judge Holland pointed out that the lawyer he decides on Monday will handle Ruby's case in the sanity hearing.

"After the sanity hearing," he said, "the Court of Criminal Appeals could most likely assign counsel from then on, depending on its outcome."

Judge Brown temporarily stepped out of the case earlier this month.

"In all fairness, I think another judge should preside," he said.

Tonahill, had charged that Judge Brown had a pecuniary interest in the case because he was writing a book about it. **END**