

Ruby Was Condemned by Lie, Attorneys Assert

Dallas Policeman Accused of Perjury in Testimony Leading to Conviction

AUSTIN (UPI) — Defense lawyers told the Texas Court of Criminal Appeals Friday that perjured testimony condemned Jack Ruby to the electric chair for murdering Presidential assassin Lee Harvey Oswald.

"We cannot murder Ruby judicially in the same manner he gunned down Oswald," attorney Charles Kunstler of New York said in summing up for Ruby's five lawyers. "We don't justify that act here. But it was the act of a sick man."

The court recessed for summer vacation after the Ruby hearing ended. The court will either reject Ruby's appeal or grant him a new trial when it reconvenes in October.

Head of Security

Kunstler and attorney J. H. Tonahill of Jasper, Tex., contended that perjured testimony came from Dallas Police Sgt. Patrick T. Dean, who was in charge of security in the basement of police headquarters when Ruby, 55, killed Oswald on Nov. 24, 1963.

Dean testified that Ruby told him and Secret Service agent Forrest Sorrels he did it to spare Mrs. Jacqueline Kennedy the agony of coming back to Dallas for a trial, and to show the world that "Jews have guts."

Dean had said Ruby told him he had been thinking about killing Oswald since Nov. 22, the day President John F. Kennedy was

shot. Dean thus established for Dist. Atty. Henry Wade of Dallas both motive and premeditation.

Although Ruby fired him after a recent sanity hearing, Tonahill argued at the invitation of the court. When Ruby was tried for the Oswald killing in February and March, 1964, Tonahill was his No. 2 defense lawyer.

Five lawyers approved by Ruby cited U.S. Supreme Court reversals in the convictions of Dr. Samuel Sheppard of Cleveland and Billie Sol Estes, the West Texas farm promoter, because of heavy

Ruby trial was even worse, they said, with 350 newsmen present.

Lawyer Elmer Gertz of Chicago told the court: "The Supreme Court said in the Sheppard case that it is the duty of the trial court judge to prevent this kind of monkeyshine."

Gertz, Sol Dann, of Detroit, Phil Burleson of Dallas and Sam Houston Clinton Jr. of Austin, arguing for Ruby, also asked the court to look closely at Supreme Court reversals in the Danny Escobedo murder conviction and the Ernesto Miranda rape conviction.

With those cases, the court established the precedent that a man suspected of crime must have a lawyer before he can be questioned. Burleson said the testimony of Dean obtained by his questioning Ruby 30 minutes after the shooting.

Asst. Dist. Atty. B.H. Alexander of Dallas County said the prosecution does not feel it necessary