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Ruby Sanity Hearing Set Monday May Be Unique

DALLAS (AP)—Jack Ruby's fight to escape the electric chair for killing Lee Harvey Oswald goes back into the courtroom Monday for a sanity hearing that may be unique. For nearly two years, a parade of lawyers representing Ruby, 55, have insisted the former night club and strip joint operator was unbalanced in November, 1963, when he shot Oswald. The Warren Commission named Oswald as President Kennedy's assassin.

The Court of Criminal Appeals said May 18 that a sanity hearing must be held before it could consider Ruby's appeal from his 1964 conviction.

In a surprise move, Ruby's current lawyers asked Thursday for the withdrawal of a 1964 affidavit filed by Ruby's sister, Mrs. Eva Grant, in which she said he was insane. The lawyers assert that the May 18 ruling was based on the affidavit and that its withdrawal would in effect remove the necessity of a sanity hearing.

They said their reason for the request was that a sanity hearing would violate Ruby's constitutional rights because they would have to call the same witnesses that they would call if a second murder trial is granted. They also said Ruby no longer wanted a sanity hearing.

Dist. Judge Louis Holland turned down the request Friday. He said that he was under orders from the appellate court to conduct the sanity hearing and that not to do so would deprive Ruby of his constitutional rights.

Here is the situation on the eve of the sanity hearing:

Defense lawyers say they will not place Ruby on the stand and that they will present no witnesses and no evidence to back up earlier contentions that he

is insane. They say they will not fight the state's contention that he is sane.

The state says that the sanity hearing should be held and that it will be ready Monday morning to present witnesses and evidence to show that Ruby is sane.

Ruby will be represented by two rival sets of lawyers, each of which claim they should be his counsel. One group is headed by Phil Burleson of Dallas, currently Ruby's head counsel. The other group is headed by Joe Tonahill of Jasper, who was fired by Ruby but was designated by the Court of Criminal Appeals, Texas' highest court for criminal cases, as his attorney in the sanity hearing.

Holland said he will recognize both Burleson and Tonahill, along with all the other defense lawyers, Monday.

Although they have disagreed over the procedure for handling Ruby's case, Burleson and Tonahill say they agree that no witnesses and no evidence will be offered at the sanity hearing.

A jury will decide whether Ruby is insane or sane. If they find him sane, the Texas Court of Criminal Appeals is expected to consider the appeal of his conviction. If found insane, he will be sent to a state mental hospital.