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Sanity Hearing Tomorrow But Ruby Won't Testify

DALLAS (AP) — Jack Ruby's fight to escape the electric chair for killing Lee Harvey Oswald goes back into the courtroom tomorrow for a sanity hearing that may be unique in Texas judicial history.

For nearly two years a parade of lawyers representing Ruby have insisted the 55-year-old former strip-joint operator was mentally unbalanced in November 1963 when he shot Oswald.

The Warren Commission named Oswald as President John F. Kennedy's assassin.

The Texas 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 attorneys Thursday asked for the withdrawal of a 1964 affidavit filed by Ruby's sister, Mrs. Eva Grant, in which she said he was insane. The lawyers claim that the May 18 ruling was based on the affidavit and that its withdrawal would in effect would 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 that Ruby no longer wanted a sanity hearing.

State Dist. Judge Louis T. Holland Friday turned down the request. He said that he was under orders from the Court of Criminal Appeals 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 tomorrow to present witnesses and evidence to show that Ruby is sane.

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RUBY WILL be represented by two rival sets of lawyers, each of which claim they should be his counsel. One 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 all the other defense attorneys, when the Monday sanity trial opens.

Although they have disagreed over the procedure for handling Ruby's case, Burlison and Tonahill say they are in agreement 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.