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THE NEW YORK TIMES

## Ruby's Counsel Argue Appeal Of Sentence

Austin, Texas, June 25 (AP)—The Texas Court of Criminal Appeals considered opposing arguments today that Jack Ruby either was an "avenging angel" or "a man gripped by a rage that overwhelmed him."

The State's highest court for criminal cases heard 3½ hours of arguments yesterday from nine attorneys on Ruby's appeal of the death sentence given him for killing Lee Harvey Oswald, named by the Warren Commission as the assassin of President Kennedy.

The court's decision on the Ruby appeal will not be known until fall. The court goes into summer recess today until Octo-

ber 3. Attorneys will be allowed until late August to submit additional written briefs.

### Ruby Not Present

Ruby was not present. He has been confined in the Dallas county jail since a Dallas District Court jury sentenced him to death in Texas's electric chair following his trial in March, 1964.

Television viewers saw Oswald shot on November 24, 1963, as he was being transferred from the Dallas City Jail to the County Jail. Oswald died just two days after he was charged with fatally shooting President Kennedy and seriously wounding Texas Gov. John Connally with a high-powered rifle.

Defense Attorney Elmer Gertz, of Chicago, based much of his argument on the unpublished manuscript of a book about the trial written by the trial judge, District Judge Joe Brown.

"Judge Brown had the strange notion he could not control news reporters and television people in and around the Dallas County Courthouse to eliminate what he himself called the "circus atmosphere," Gertz said.

"We of the district attorney's staff did not pick the audience before which this crime took place," said Assistant Dallas District Attorney William Alexander. "Jack Ruby picked the audience, before the TV cameras with 140,000,000 viewers. But the fact that he did this on TV does not lessen his guilt."