

Ruby Lawyers Working on Deal

The End of the Trial?

Inez Robb covered the Jack Ruby trial in February and March, 1964. Her talk with a member of Ruby's counsel, Phil Burleson, reveals that the ultimate outcome now could be.

By INEZ ROBB



JACK RUBY, the forgotten man in the presidential assassination tragedy in Dallas on Nov. 22, 1963, may never again stand trial for the murder of John F. Kennedy's alleged assassin, Lee Harvey Oswald, IF:

If his attorneys can work out an agreement as to Ruby's eventual fate that is satisfactory to the State of Texas, the courts and to Ruby himself.

"I am very hopeful that such an agreement can be reached," says Phil Burleson, young Dallas attorney and the only one of Ruby's six lawyers who has been on the defense case from the beginning.

"It remains to be seen," Mr. Burleson said in a lengthy interview by phone to his Dallas office. "Much depends on whether the state is reasonable in its demands."

Certainly, neither the defense nor Ruby will settle for life imprisonment in return for a plea of guilty of murder, as suggested by District Attorney Henry Wade of Dallas, who successfully prosecuted the case in 1964.

Mr. Burleson believes the state's case against Ruby was shattered completely last week when the Texas Court of Criminal Appeals reversed Ruby's conviction and death sentence and ordered a new trial.

Ruby was convicted of murder with malice largely on the testimony of Detective Sergeant Patrick T. Dean, a Dallas police officer. Mr. Dean swore that Ruby, minutes after he killed Oswald in the basement of Dallas's City Hall on Nov. 24, told Mr. Dean that he had planned to kill Oswald, if he got the chance, after seeing Oswald in the police lineup the night of the presidential assassination.

It is this testimony, vital to the state's charge of murder with malice, that was struck down as inadmissible evidence by the appeals court.

"This means that Dean and his testimony are completely out of the case in any future trial," Mr. Burleson said. "There are serious doubts that Ruby ever made any such statement. Forrest Sorrells, a Secret Service Agent, was with Dean when Ruby was supposed to have made that statement.

"Sorrells subsequently testified before the Warren Commission that Ruby was not warned of his rights to counsel or that whatever he said might be held against him. Sorrells also told the commission that if Ruby made any statement of premeditation or malice, he — Sorrells — didn't hear it."

The Secret Service agent was not called to testify at Ruby's trial.

Mr. Burleson's cautious optimism about the possibility of an out-of-court settlement of Ruby's fate gains some support



JACK RUBY

from an interview with District Attorney Wade, Ruby's prosecutor, in the Dallas Times-Herald. Mr. Wade, a bulldog prosecutor, virtually said he doubted the state had much chance in a second trial.

However, Mr. Burleson and the five other lawyers now defending Ruby without fee must consider the possibility of a second trial.

No decision has been made as to a plea, but Mr. Burleson said "my intention is to consider a plea of murder without malice." He seriously doubts that the elaborate and extremely erudite medical plea of psycho-motor epilepsy, on which the defense based its case in 1964, will be considered.

The Criminal Appeals Court not only ordered a new trial for Ruby, but ordered that it be held outside Dallas County. Ruby's counsel has not yet considered just where in Texas it would prefer to try the case again, if necessary.

"I think Ruby might even get a fair trial in Dallas today," Mr. Burleson said. "Certainly, Ruby can get a fair trial some place in Texas."

If a second trial is necessary, Mr. Burleson's best guess is that it will be called some time between Jan. 15 and March 15, 1967.

There are a number of "IFs" for Jack Ruby in the immediate future. One big "IF" is that Ruby could walk out of court a free man "IF" convicted of murder without malice during a second trial and "IF" he should be given credit for time already served in the county jail.