

Post 6/25/66

Retrial Asked for Ruby; Excessive Publicity Cited

AUSTIN, Tex., June 24 (UPI) — A defense lawyer fired by Jack Ruby told the Texas Court of Criminal Appeals today the star witness in Ruby's murder trial lied and Ruby should get a new trial in the Lee Harvey Oswald killing.

Attorney J. H. Tonahill of Jasper, Tex., said Sgt. Patrick Dean of the Dallas police force lied when he testified that Ruby said he killed presidential assassin Oswald to spare Jacqueline Kennedy the agony of having to return to Dallas to testify, and to show "Jews have guts."

Although Ruby fired him after a recent sanity hearing, Tonahill argued at the invitation of the court.

Five lawyers approved by Ruby cited U.S. Supreme Court reversals in the convictions of Dr. Sam Sheppard of Cleveland and Billie Sol Estes, the West Texas farm promoter, because of heavy publicity. Publicity in the Ruby trial was even worse,

they said—it had 350 newsmen present.

Attorney Elmer Gertz of Chicago said, "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 Bann 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 was obtained by his questioning Ruby 30 minutes after the shooting, before Ruby had benefit of counsel.

Whether Ruby's death sentence will be affirmed or a new trial ordered will not be known until October. The court began a three-month summer recess today.