

Court Battle Opens for Jack Ruby's Gun

By DAVID MARGOLICK

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DALLAS, Oct. 28 — Millions of Americans still benumbed by the killing of President John F. Kennedy two days earlier caught a fleeting glimpse of the gun 27 years ago, when a short man in a hat darted from the corners of their television screens, ran up to Lee Harvey Oswald and fired it into his stomach.

Ever since, the .38-caliber Colt Cobra revolver that Jack Ruby used to assassinate an assassin — a macabre piece of American history, a bizarre collectible and perhaps the last artifact of that traumatic weekend still at large — has sat in a \$20-a-year safety deposit box here. Now it is the subject of a legal tug-of-war, one that will land in a court of law Monday morning.

On one side of Judge Robert E. Price's courtroom in Dallas County Probate Court, across the street from the Texas School Book Depository Building, will be 81-year-old Jules F. Mayer of Dallas, whom Jack Ruby named his executor in a will he wrote 40 years ago. On the other, representing the Ruby heirs, will be Jack Ruby's younger brother Earl, 75, of Boca Raton, Fla. In between them will be the lawyers.

\$32,387.40 in Fees

Technically, the legal status of the Ruby estate, why it remains open nearly 24 years after Jack Ruby's death, will be at issue and whether Mr. Mayer or Mr. Ruby should control it. But what is really at stake is which of the two men will sell the fateful gun — for which, Mr. Mayer says, he has been offered as much as \$100,000 — and which set of lawyers gets to pocket the proceeds.

"It's not a very fertile source of information on Ruby, but it's a first-class example of the legal system screwing things up more than you can imagine," the Ruby family's lawyer, James M. Simons, of Austin said of the case. Mr. Simons himself stands to receive a



Peter Yates for The New York Times

Earl Ruby, brother of Jack Ruby, represents the Ruby heirs in an attempt to gain possession of the gun Ruby used to kill Lee Harvey Oswald. The hat he held was Ruby's, and the flag covered Ruby's coffin.

third of whatever Mr. Ruby and his family collect.

Court documents show that Mr. Mayer is seeking \$32,387.40 from the estate for his services, which have in recent years included time spent talking to reporters as well as to a researcher from the television game show "Jeopardy." Two lawyers he hired say they are owed an additional \$23,151.75.

Mr. Mayer called his fee request "minute," adding, "I have never received a dime from anybody in that estate."

Mr. Simons countered that Mr. Mayer was "real close to being senile," and said he was not raising the issue of his mental competency purely as a matter of courtesy. "It's very clear

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he's not on top of the situation and is confused on many things," he said. "This man is just setting there doing nothing but writing up slips for the time he's supposedly spending on this estate. The time has come to wind this thing up."

Mr. Mayer called the charge of incompetence "a damned lie." He said that all offers for the gun had either been withdrawn, were made subject to conditions to which he could not agree, or had been blocked by the Ruby heirs.

Earl Ruby, who has retired from his dry-cleaning business, called the assertion of blocking the gun's sale ridiculous. "I could never stop him from selling it," he said. "He told me, 'You can't stop me, and neither can anyone else,' and then he hung up on me. As far as I'm concerned, the man is an idiot."

At one point, Mr. Ruby said, the family had hoped to donate the gun to the National Archives — to show he said "that the Ruby family was O. K., they're not moochers." But his late brother had cost him so much in legal fees — \$59,000 for lawyers in his murder trial, \$10,000 and counting in the probate case — that he now plans to sell the gun just to recoup his costs.

Jack Ruby's gun now sits in the vault of the North Dallas branch of the Texas Commerce Bank, where it has been viewed by a steady stream of reporters in recent months. Beyond that and a few pieces of jewelry — a Le Coultre

watch and diamond-studded gold ring, which are in Mr. Mayer's office safe — the Ruby estate consists almost entirely of the clothes Jack Ruby wore when he was taken into custody after shooting Oswald on the morning of Nov. 24, 1963. They sit in two boxes, sealed with twine, atop Mr. Mayer's law books.

The inventory includes one charcoal-colored Neiman-Marcus suit, a pair of Florsheim "imperial quality" wing-

The gun could bring thousands of dollars.

tipped shoes with "Jack Ruby" in the lining, a French-made alligator belt, a white shirt, a gray silk tie, some Pilgrim underwear from Sears-Roebuck & Co., a Cavanagh hat, and an athletic supporter.

The precise worth of these objects, or the demand for them, is unclear. In 1968 Mr. Mayer tried to peddle Mr. Ruby's personal effects to a variety of places: Madame Tussaud's wax museum, Christie's, and the Smithsonian Institution, as well as to the manufacturers of the hat, the gun and the shoes. There were no takers.

On the advice of friends when he arrived here from Chicago in 1947, Jack

Ruby looked up Mr. Mayer, an Indiana native who had been practicing law in Dallas since the 1930's. The two became close, and Mr. Mayer did legal work for Ruby's various night clubs.

In his deposition, Mr. Mayer described how he and his wife were vacationing in Galveston in 1950 when Ruby came to see them. The drive had been harrowing, and around 4 in the morning, shortly after awakening the couple in their hotel room, Ruby asked Mr. Mayer to write a will for him.

Mr. Mayer Drifted Away

"I said, 'Well, when we get back to Dallas, I'll draw up a will for you,'" Mr. Mayer recalled. "He said, 'No, I want a will now, today.' So I said, 'Well, I'll tell you, Jack, I'm a little tired.'" But the following morning he complied with Ruby's wishes.

In the intervening years, the two men grew apart and, according to Earl Ruby, Mr. Mayer took no role in Jack Ruby's personal affairs after the Oswald shooting. Mr. Ruby said his brother drafted another will, which substituted him for Mr. Mayer as executor, as he lay dying of cancer in Parkland Hospital, the same place where both Kennedy and Oswald had died three years earlier. (Ruby had been convicted of murder and sentenced to death for killing Oswald.)

The new will was never signed, Mr. Ruby said.

Over the next few years, Mr. Ruby said, he called Mr. Mayer periodically to ask about the status of the estate. Each time, he said, Mr. Mayer hung up on him.

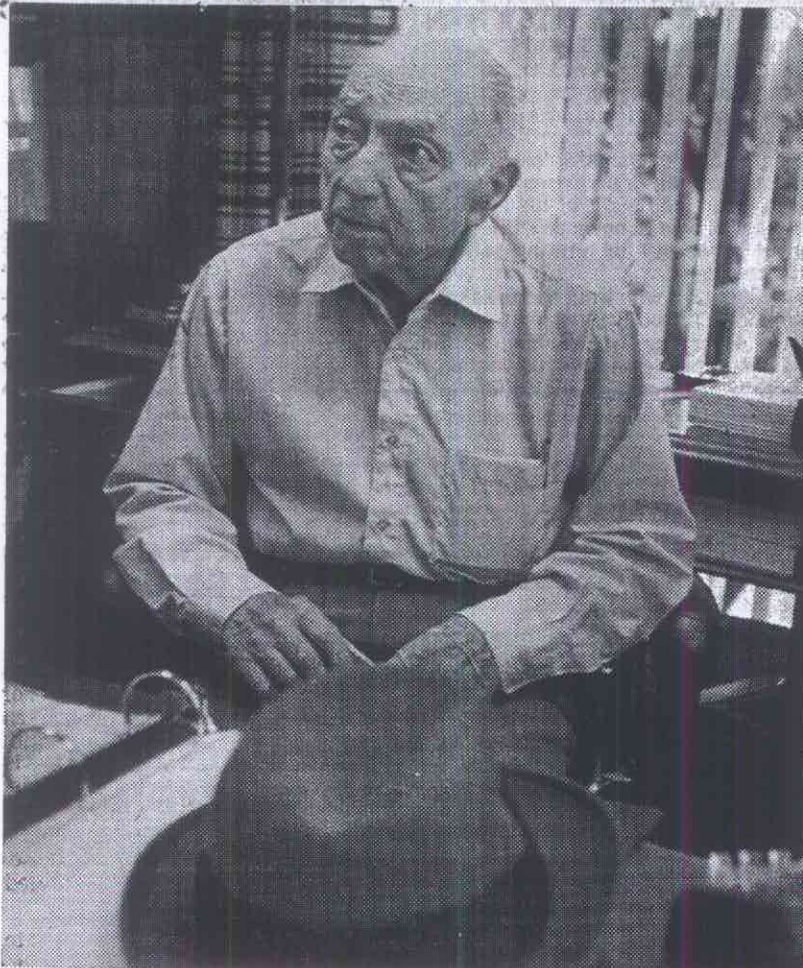
Finally, in November 1988, as the airwaves were filled with commemorations of the 25th anniversary of the Kennedy assassination, Mr. Ruby said he heard Mr. Mayer tell a reporter that he planned to sell the weapon. At that point, he contacted him again and asked that it be returned. In May 1989 the family then took him to court.

Last September the Ruby family's local counsel, Douglas Larson of Mesquite, Tex., questioned Mr. Mayer. Both then and in an interview with a reporter today, Mr. Mayer was alternately halting, rambling, cantankerous and belligerent. He appeared to have trouble differentiating between hundreds and thousands, as well as between months and years. Only the gentle questioning of his lawyer, Peter Bargmann of Dallas, elicited any information.

Despite the troubles and high fees, Mr. Ruby said he welcomed the court case, for it has given him a forum for defending his older brother, of whom he said he had never been ashamed, then or now.

Mr. Ruby is particularly incensed at charges that his brother was part of a Mafia conspiracy to silence Oswald. "Sure, they came into his club; he had a plush strip-tease place and they were big spenders," he said. "But he never was really personally associated with any of them."

Why, then, did his brother kill Oswald? Mr. Ruby said he was grief-stricken over the death of Kennedy, whom he considered a friend of Jews. That mattered to Ruby, a man who, according to his brother, had broken up meetings of the German-American Bund in Chicago before World War II and grew so upset over reports of the



Mark Perlstein for The New York Times

Jules F. Mayer, the executor named in Jack Ruby's will, is in a legal tug-of-war over the revolver used to kill Lee Harvey Oswald.



Jack Beers/The Dallas Morning News

The Colt revolver being used by Jack Ruby to kill Lee Harvey Oswald in 1963.

slaughter of European Jews that, even though on leave from the Army, he vowed to travel to Germany to assassinate Hitler.

"He was a very impulsive person," Mr. Ruby explained. "I told him he might never come back, and he said, 'I don't care.'"

"That's why he wanted to shoot Oswald: for killing someone he loved," he continued. "But he told me he didn't mean to kill him; he wanted to make him suffer. If he was trying to silence Oswald, he wouldn't have shot him in the stomach."