

# Judge's order halts Oswald exhumation

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Staff Writer

A clandestine plan to open the grave of Lee Harvey Oswald, away from the eyes of the world, stalled Thursday when Oswald's brother learned of the scheme, rushed to court and won a temporary restraining order.

Medical forensic pathologists from throughout the country had planned to exhume the body around dawn today and then attempt to determine — within hours — whether the body is that of Oswald, who is believed to

✓ Page 5-A: Officials scoff at claim, call exhumation a publicity stunt.

✓ Page 1-B: Columnist ponders: who's buried in Oswald's grave?

have killed President John F. Kennedy in Dallas in 1963.

Michael Eddowes, who has argued in a book that the assassin was not Oswald, but a Soviet spy, convinced Oswald's widow to sign an affidavit last Friday allowing the exhumation.

In a flurry of secret negotiations, he

recruited the Dallas County medical examiner and the other national experts to participate. He set up a trust fund to pay expenses and arranged for a funeral director to officially witness the event to comply with state codes.

When a United Press International reporter discovered the scheme, the reporter was sworn to secrecy in exchange for the promise of an exclusive when it was all over.

But the plan fell apart Thursday when news leaked out and Oswald's brother, Robert, rushed to Fort Worth

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from his home in Wichita Falls. Less than an hour before the Tarrant County Courthouse closed, he filed for an injunction, claiming the disinterment was being done solely for publicity.

His suit contended he would suffer severe pain and anguish if the body were taken from the vault, and asked for \$100,000 in damages from Marina Porter, Oswald's widow, Eddowes, the cemetery, Dallas County and Dallas County Medical Examiner Charles Petty.

A temporary restraining order was granted by Judge James Wright, and a full hearing was set for Aug. 22.

Although Oswald's attorneys say they are optimistic the injunction will be upheld, one expert said although the cemetery plot belongs to Oswald's brother, Texas courts tend to rule the body legally belongs to the next-of-kin, in this case, Oswald's widow.

Just as Robert Oswald claimed he had no knowledge of the plans for exhumation, his sister-in-law, Mrs. Porter, said through a spokesman she had no knowledge of the plans for the lawsuit.

The spokesman, who lives in Mrs. Porter's neighborhood in Rockwall,

east of Dallas, said Mrs. Porter agreed to the exhumation last week when Jerry Pittman, Eddowes' attorney, convinced her it was the only way to settle all doubts about the identity of the body.

Oswald was buried in Rose Hill cemetery in Fort Worth on Nov. 25, 1963, after he was shot to death by nightclub owner Jack Ruby in the basement of the Dallas police station. The coffin was placed in a steel-reinforced vault beneath tons of concrete and an iron plate.

The super-vault has led some experts to believe the body, even though interred for almost 17 years, will be basically intact. Others, however, say water may have leaked into the coffin, decomposing the body.

"After all this time, they could open it up and find nothing there," said Bob Dambacher of the Los Angeles Medical Examiner's Office.

This quest for exhumation has been brewing since October 1979, when Petty, the Dallas County medical examiner, agreed to order exhumation because of questions raised by Eddowes. Later he changed his mind be-



cause of possible legal complications, mainly that he and his office could be held responsible by any members of the family who objected.

Eddowes then filed a lawsuit in Tarrant County, attempting to force the exhumation. The plea was rejected by a district court and the State Court of Civil Appeals.

After the rejection by the appellate court on May 15, Pittman, Eddowes' attorney, tried repeatedly to convince Mrs. Porter to request the exhumation, believing her permission would be sufficient in the absence of objections from other family members.

"He kept calling and calling, but she wouldn't return his phone calls," said the neighbor. Mrs. Porter was in the room during the interview, but she refused to comment directly.

"He finally got her a week ago Wednesday; she decided enough was enough. She wanted the speculation to end. She knows that it's Lee Harvey Oswald and wants it proven once and for all. She thought she'd give Mr. Eddowes a chance to prove his theory.

"There's not a doubt in her mind

that it's Lee Harvey, but this thing never seems to go away. She just wants it to end," the neighbor said.

Mrs. Porter signed an affidavit last Friday allowing the disinterment, and plans were quickly made. She stipulated there be no publicity but word leaked out Thursday morning.

The story made worldwide headlines. Newspapers and television stations across the country began making plans to cover the latest chapter in the endless series of conspiracy theories of the Kennedy assassination.

Before the day was out, the first curiosity-seekers were drawn to the quiet, rolling hills of Rose Hill Cemetery on the outskirts of Fort Worth.

Guards were placed at the wrought iron gates to turn away the gawkers, who wanted to peer at the simple granite stone bearing the inscription "Oswald." The cemetery was closed two hours early and police put a helicopter in the air to try to make sure the grave was not disturbed.

At first Petty tried to avoid the controversy that surrounds any new development about Kennedy's death. Eventually he issued a statement saying his office was not officially involved, but that he was assisting because of his expertise.



— Staff photo by Rebecca Skelton

### *Neil Retburg, owner of cemetery where Oswald is buried, talks with Fort Worth police*

He refused to elaborate but told county officials he and Dr. Linda Norton, also of his office, would conduct the investigation on their own time, and taxpayers would pay none of the bill.

Petty asked prominent pathologists and an anthropologist to participate in the examination, which would look at three points that Eddowes raised:

✓ U.S. Marine records list Oswald's height as 5 feet 9 while Dr. William

Rose, Dallas County medical examiner in 1963, put the height at 5 feet 11.

If the body is exhumed, it will be measured. But national experts say this will give no firm identification, since decomposition may make the



height difficult to attain. In addition, there is no way of determining the accuracy of the Marine Corp measurement.

✓ Medical records indicate that as a child in 1946 Oswald underwent a mastoidectomy, a procedure in which a small part of a bone in the ear is removed to stop ear infections, but the 1963 autopsy does not mention this missing piece of bone.

Experts say nothing found would be definitive because the bone could have healed or decomposition may make it impossible to detect.

✓ Dental X-rays of Oswald taken by the Marines in 1958 have been discovered but have never been compared to the corpse.

The X-rays would be the most reliable method of determining whether the body is actually Oswald.

Eddowes has studied the Oswald case for 16 years and written a book called "The Oswald File," in which he alleges a Soviet intelligence agent named Alek James Hidell masqueraded as Oswald.

Members of the Oswald family have ridiculed the theory.

Neighbors said Robert Oswald, employed at Norriss Brothers Lumber Co. in Wichita Falls, is a "very, very private person" as a result of his brother's notoriety.

"He's been through hell," said one friend.