

by 288-288 margin

Dallas

FRIDAY,

Oswald exhumation

By JULIA WALLACE
Staff Writer

FORT WORTH — Dist. Judge James Wright today rejected an attempt by a British author to open the grave of Lee Harvey Oswald to determine whether the body buried there is that of the accused presidential assassin.

"The normal treatment of a corpse, once it is buried, is to let it lie," Wright said in his written order, issued at 8:30 a.m.

He also disputed Marina Oswald

Porter's contention that a widow has a paramount right to determine if a body is disinterred.

Quoting from an earlier case involving a widow's rights, he said an exhumation order "cannot be assertive in favor of a change without giving due regard to blood relatives in particular and the community sense of decency in general. Disinterment is never viewed as a trivial thing."

Craig Fowler, atty for Robert Oswald, said "This is decision we've been looking for."

The quest for exhumation has been

brewing since October 1979, when Charles Petty, Dallas County medical examiner, agreed to order exhumation because of questions raised by Eddowes. Later he changed his mind because 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

Times Herald

SEPTEMBER 19, 1980

25 Cents

tion denied

court on May 15, Jerry Pittman, Ed-dowes' attorney, tried repeatedly to convince Marina Oswald Porter to request the exhumation, believing her permission would be sufficient for ex-humation.

He received her permission on Aug. 8, and exhumation was planned for Aug. 15. A day before the exhumation Robert Oswald rushed to Fort Worth to request a temporary restraining order blocking digging up his brother's grave.

The restraining order was granted, and a slew of legal maneuvers began.

The original order was filed against Mrs. Porter, Eddowes, Petty, Dallas County Judge Gary Weber and Rose Hill Cemetery. Mrs. Porter and Weber were dropped from the suit, attorneys said, because they were not pushing for exhumation.

Petty's case was dropped in Tarrant County, because as a resident of Dallas County, he had a right to court there. This action was rescinded because Petty failed to appear, even though he received a subpoena 30

See OSWALD on Page 4



Lee Harvey Oswald

Oswald exhumation denied

OSWALD — From Page One
minutes before the hearing began.

Petty, on Oct. 20, faces a contempt of court charge for not answering the subpoena. He maintains he did not appear because the notice came so late he was unable to contact his attorney.

Hearings on the petition for a temporary injunction were held on Sept. 5 and 8. At them, Mrs. Porter testified that she wants the body of her deceased husband exhumed because of rumors that no body is now in the grave. She said if a body is in the grave, she knows it will be Oswald. "The man I married is the man I buried," she said.

If the body is exhumed, experts plan to look at three points raised by Eddowes:

✓ U.S. Marine records list Oswald's height as 5 feet 9 inches while Dr. William Rose, Dallas County medical examiner in 1963, put the height at 5 feet 11.

✓ 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 the missing piece of bone.

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

Dr. Linda Norton, a Dallas County medical examiner, testified that forensic pathologists should be able to make a positive identification because the X-rays are of excellent quality, and teeth seldom decay rapidly on a corpse.

A complication to exhumation is that the Dallas County Commissioners Court ordered that the county's medical examiner's office not be used for the exhumation. Petty told the commissioners he was handling the case as a private one, not as medical examiner, because there was no public interest, just an interest by the widow.

The commissioners said if there was no public interest, public facilities should not be used. They said it would have an "adverse effect" on the county.

Dallas Times Herald

101st Year—No. 263

Published daily by The Times Herald Printing Co., (USPS 147-760), 1101 Pacific Avenue, Dallas, Texas 75202. Entered as a second-class matter at the post office as of March 3, 1879.

Subscription Rates: Dallas County: By carrier, daily and Sunday, \$5.25 per month; weekend only, \$3.00 per month; By mail: United States and Canada, daily and Sunday \$6.00 per month; Sunday only, \$3.00 per month. Second-class postage paid at Dallas, TX.

POSTMASTER: Send address change to the Dallas Times Herald, P. O. Box 225445, Dallas, Texas 75265.

(All mail subscription paid in advance.)