

ederrick Post

GOOD MORNING!

Study without thought is vain;
thought without study is dan-
gerous.

(Confucius)

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Ruby To Stand Trial Again, Death Sentence Is Unlikely

AUSTIN, Tex. (AP) — A Tex- as appeals court on Wednesday overturned Jack Ruby's conviction for the slaying of Lee Harvey Oswald and ordered that the pudgy, former nightclub operator be given a new trial outside of Dallas County.

The Warren Commission found that Oswald was the man who assassinated President John F. Kennedy in Dallas on Nov. 22, 1963.

Ruby shot Oswald before live television cameras two days later. A Dallas jury convicted Ruby of murder with malice and set the penalty at death in the electric chair when it return its ver-

dict March 14, 1964, after a month-long trial. Henry Wade of Dallas, the original prosecutor, said Wednesday that the state would again ask the death penalty for Ruby in a new trial. Defense lawyers expressed confidence, however, that Ruby would not receive another capi-

tal punishment verdict. The conviction and death sentence were reversed by the Texas Court of Criminal Appeals, the highest state court in criminal cases. The reversal was based on two key elements: 1. That Ruby should not have been tried in Dallas; 2. That the trial court should not have allowed certain testimony by police officers which implied that Ruby killed Oswald with premeditation. Wade said he would not agree to Ruby's now entering a guilty plea unless the penalty would be a life sentence. "The defense attorneys have indicated they wouldn't plead

him to anything unless there was a five-year sentence, and we are not interested in that," Wade said.

Joe Tonahill of Jasper, Tex., one of Ruby's original lawyers, had this comment: "Ruby can walk free on a plea of guilty to murder without malice."

A murder-without-malice conviction carries an imprisonment term of two to five years. Ruby has been in jail nearly three years already.

The court said Ruby's statements to police soon after the shooting — such as "I hope I killed the s.o.b." — were not spontaneous and therefore were not legally admissible at the trial.

Trial testimony brought out that such statements were made at least 10 minutes after the shooting. This proves he was "not speaking spontaneously," the appellate court said.

Ruby's chief attorney, Phil Bursleson of Dallas, gave Ruby the news in the Dallas County Jail and described Ruby's reaction:

"He's very, very happy."

State Dist. Judge Louis Holland of Dallas will decide the site of any new trial.

Ruby's attorneys said the high court opinion means the state cannot prove malice and premeditation — necessary for a death sentence — without testimony about Ruby's statement

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after the killing, which took place during a jail transfer and in sight of millions of television viewers.

However, state's attorneys said they will ask the court to reconsider the opinion and approve the original verdict.

Since Ruby has served nearly three years in jail and normally would get the standard three-days-for-one credit for good behavior, he would already have served more than enough time under the maximum murder-without-malice sentence—five years, Tonahill said.

The court said the admission of the officers' testimony was sufficient to reverse the case and therefore it was unnecessary to go into detail on its second reason for reversal, the refusal of the trial court to transfer the case to another county.



REVERSE RUBY CONVICTION — These are members of Texas Court of Criminal Appeals who reversed the death-penalty conviction of Jack Ruby, slayer of presidential assassin Lee Harvey Oswald. Left to right are: Judges

W. A. Morrison, K. K. Woodley, and W. T. McDonald. The court reversed the conviction on grounds of inadmissible testimony and sent the case back for retrial in a county other than Dallas.