NEW TRIAL PLEA SET

Ruby May File Pauper Affidavit

Jack Ruby, who craved to be seen with the rich and the famous, may swear Friday that he is a pauper.

A defense attorney, Phil Burleson, said Thursday that Ruby may sign a pauper's affidavit and attach it to his plea for a new trial.

The affidavit would free Ruby from the legal requirement that he pay for the record of his month-long trial.

Clerks and court reporters must prepare the record before the Court of Criminal Appeals can rule on the defense plea that it set aside the slayer's death penalty. The record is expected to cost at least $4,000.

"We're considering filing a pauper's affidavit, but haven't reached a decision," Burleson said.

Prosecutors could contest the affidavit, but indicated they would not do so.

Burleson said he plans to file the new trial plea Friday. If Judge Joe B. Brown overrules it, the defense will go to the Court of Criminal Appeals and, if turned down there, into the federal courts.

Percy Foreman of Houston, who replaced Melvin Belli as the chief defense lawyer, said he will stress these contentions:

—Judge Brown should have disqualified prospective jurors who "witnessed" the slaying of Lee Harvey Oswald on their television screens.

—Judge Brown should not have allowed officers to testify about statements which Ruby made while under arrest.

"I think it was especially prejudicial to allow a detective to testify that Ruby stated he shot Oswald to show Jews have guts," Foreman continued.

(Prosecutors say they are convinced the higher courts will rule Ruby got a fair trial and uphold his conviction.)

Foreman declined to discuss his fee, except to say it is "reasonable." He said he does not know where Ruby's sisters and brothers will get the money to pay him.

A brother, Earl Ruby, told reporters, "We may have to borrow the money, but we will get it."

Texas