

Rby

14 APRIL 1964

NY TIMES

RUBY IS REFUSED DELAY IN HEARING

Judge Sets Session on New Trial Motion for April 29

DALLAS, April 13 (UPI)—Judge Joe B. Brown refused today to grant Jack Ruby's lawyers more time to find ground for a new trial.

The judge ordered a hearing on their present motion for a new trial held on April 29.

He told Ruby's lawyers he would do everything possible to make available to them records made by court stenographers during Ruby's trial for the murder of Lee Oswald; the accused assassin of President Kennedy.

Ruby made his first public appearance since he was convicted and sentenced to death on March 14.

He looked alert and took a keen interest in the proceedings. He even managed a wan smile for Assistant District Attorney William F. Alexander, whom he passed as he walked into the court.

More Time Asked

Phil Burleson, the appeals specialist on Ruby's legal staff, told Judge Brown he wanted more time to "develop evidence that a state's witness told a falsehood under oath."

He said this was in addition to an incident that occurred outside the courtroom during the trial and could have affected the jury. He did not elaborate.

What had been expected to be a routine hearing on two minor motions turned into a full-blown court session with three witnesses — Mr. Burleson; Dr. Hubert Winston Smith, Ruby's new head lawyer; and Mrs. Shirley Stinebaugh of Houston, a court reporter who had taken about half the transcript of the trial.

"I know how to get the facts out of Ruby if they will let me," Dr. Smith testified.

He did not say how he would go about it. However, he said that last December he advised Ruby's former chief lawyer, Melvin M. Belli of San Francisco, to look into the psychomotor epileptic aspects of the case.

"They did, but they did not go far enough," he said.

Is a Physician, Too

Dr. Smith is a physician as well as a lawyer. He is on leave without pay as chairman of the University of Texas Law-Science Institute. He also chancellor of the Law-Science Academy of America.

"At no time have I been supplied with any kind of reports by the doctors," Dr. Smith said. "I don't know what they testified; all I get is a bunch of rumors. I don't think Dr. [Martin] Towler or Dr. [Earl] Walker examined the patient."



Associated Press Wirephoto

SEEKS A NEW TRIAL:
Jack L. Ruby at court in Dallas yesterday. He has been convicted of slaying Lee H. Oswald, the accused killer of President Kennedy.

"Dr Towler did examine him just seven hours," Mr. Alexander said.

Dr. Smith said he did not even have a newspaper record of the trial.

Judge Brown interrupted, saying:

"I would say this, Mr. Smith — if I had one, I would not depend on it."

In cross-examination, Assistant District Attorney A. D. Bowie asked Dr. Smith if he considered himself a more expert witness than some of the psychiatrists who testified.

Dr. Smith said he felt he could have done a better job of pulling together the legal and medical aspects of the case.

"I don't claim to be an outstanding authority on anything," he said.

"I feel there is a lot of newly discovered evidence that is not cumulative," he said.