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NIGHT LEAD RUBY (330)

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DALLAS, TEX., OCT. 18 (AP)-THE TEXAS COURT OF CRIMINAL APPEALS IS EXPECTED TO RULE WITHIN A MONTH ON WHETHER JACK RUBY SHOULD RECEIVE A NEW TRIAL BECAUSE OF DEFENSE CLAIMS THAT THE TRIAL JUDGE WAS PREJUDICED.

THE ESTIMATE OF WHEN THE APPEALS COURT WILL RULE CAME TODAY WHEN A SANITY HEARING FOR RUBY WAS POSTPONED UNTIL THE APPELLATE COURT ACTS ON THE LIMITED QUESTION OF PREJUDICE.

THE COURT OF CRIMINAL APPEALS HAS REFUSED TO REVIEW THE ENTIRE TRIAL AND DEATH SENTENCE AT THIS TIME, PENDING A SANITY HEARING.

RUBY, A FORMER DALLAS NIGHTCLUB OPERATOR, HAS BEEN IN JAIL IN DALLAS SINCE NOV. 24, 1963, WHEN HE KILLED LEE HARVEY OSWALD. OSWALD ASSASSINATED PRESIDENT KENNEDY TWO DAYS EARLIER.

A DALLAS JURY SENTENCED RUBY TO DEATH MARCH 14, 1964.

DEFENSE LAWYER PHIL BURLESON ARGUED THAT THE SANITY HEARING SHOULD BE POSTPONED UNTIL THE APPELLATE COURT RULES ON THE APPEAL OF A WRIT OF HABEAS CORPUS MOTION THAT WAS IN EFFECT DENIED BY JUDGE LOUIS HOLLAND THIS SUMMER.

HE SAID THE APPEALS COURT SHOULD ACT IN THREE TO FOUR WEEKS.

THE HABEAS CORPUS ACTION WAS BASED ON THE ALLEGATION THAT DIST. JUDGE JOE B. BROWN SR., WHO PRESIDED OVER RUBY'S MURDER TRIAL, SHOULD BE FORMALLY DISQUALIFIED BECAUSE HE PLANNED TO WRITE A BOOK ABOUT THE TRIAL.

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THE WRIT OF HABEAS CORPUS MOTION WAS PROPER BECAUSE BROWN, BURLESON CLAIMED, MADE RULINGS PREJUDICIAL TO RUBY, AND THEREFORE THE DEATH CONVICTION WAS VOID.

THE STATE DID NOT OPPOSE THE DEFENSE MOTION FOR THE SANITY HEARING DELAY.

HOLLAND SAID THAT SHOULD THE COURT OF CRIMINAL APPEALS RULE FOR THE DEFENSE ON THE HABEAS CORPUS ACTION, RUBY WOULD GET A NEW TRIAL.

IF THE APPEAL IS TURNED DOWN, THE JUDGE ADDED, THEN THE SANITY HEARING WOULD BE RESCHEDULED.

IN THIS NEW DEVELOPMENT, THE COURT OF CRIMINAL APPEALS IS EXPECTED TO DEAL ONLY WITH THE HABEAS CORPUS MATTER, NOT THE USUAL APPEAL OF A CONVICTION BASED ON THE ENTIRE TRIAL RECORDS. THE APPELLATE COURT WOULD HAVE TO RULE ON THE CONVICTION IF A SANITY HEARING IS HELD AND RUBY IS FOUND SANE.

A VERDICT OF INSANITY WOULD RESULT IN RUBY'S BEING COMMITTED TO A STATE HOSPITAL UNTIL HE WAS DECLARED SANE BY DOCTORS.

IN AUSTIN, THE CLERK OF THE CRIMINAL APPEALS COURT SAID HE HAD NOT YET RECEIVED AN APPEAL ON THE HABEAS CORPUS ISSUE.

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