

RBY

8 DEC. 1963
621 ACS

EB36NXT

EB36DN

(ADVANCE FOR USE AFTER 9 A.M. CST, WEDNESDAY, DEC. 8)

(220)

AUSTIN, TEX., DEC. 8 (AP)-ATTORNEYS FOR JACK RUBY SAID TODAY THEY HAVE ASKED A FEDERAL APPEALS COURT TO THROW OUT THEIR EARLIER APPEAL AIMED AT TRANSFERRING THE CASE FROM STATE TO FEDERAL COURT.

AUSTIN ATTORNEY SAM HOUSTON CLINTON JR. ANNOUNCED THE ACTION FOR THE LEAGL STAFF OF RUBY, CONVICTED IN DALLAS LAST YEAR OF MURDERING PRESIDENTIAL ASSASSIN LEE HARVEY OSWALD.

CLINTON SAID THE ATTEMPT TO TRANSFER THE CASE TO FEDERAL COURT HAS BEEN ABANDONED BECAUSE THE MOTIVATIONS FOR THE ATTEMPT--ALLEGATIONS THAT RUBY HAD NOT BEEN PERMITTED TO HAVE COUNSEL OF HIS CHOICE AT A SANITY HEARING AND THAT STATE DIST. JUDGE JOE B. BROWN SHOULD HAVE BEEN DISQUALIFIED FROM PRESIDING OVER THE SANITY HEARING--HAVE BEEN REMOVED.

CLINTON SAID THE STATE HAS PERMITTED RUBY TO BE REPRESENTED BY THE ATTORNEYS HE DESIRES AND BROWN HAS BEEN REPLACED BY DIST. JUDGE LOUIS HOLLAND OF MONTAGUE.

FEDERAL DIST. JUDGE T. WHITFIELD DAVIDSON HAD REFUSED TO ACCEPT A TRANSFER OF RUBY'S SANITY HEARING TO HIS COURT, AND RUBY'S ATTORNEYS HAD APPEALED THE ORDER TO THE FIFTH CIRCUIT COURT. THEY ASKED TODAY THAT THE APPEAL BE DISMISSED.

THE RUBY CASE IS PENDING IN TEXAS COURTS ON RUBY'S PETITION FOR HABEAS CORPUS, BASED ON THE DISQUALIFICATION OF BROWN. APPEALS OF THE MURDER CONVICTION AND SANITY HEARING ARE AWAITING OUTCOME OF THE HABEAS CORPUS PROCEEDING.

(END ADVANCE FOR USE AFTER 9 A.M. CST, DEC.9)

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