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first lead Ruby hearing

~~By~~ By Raymond Holbrook

Dallas, Tex., June 10 (AP)- Jack Ruby's lawyers said today they will not present a defense -- for technical reasons -- at his sanity hearing scheduled to begin Monday.

They claimed that Ruby's constitutional rights would be jeopardized should a second murder trial be held after they had presented a sanity defense.

The statements came at a pre-trial sanity hearing for Ruby, sentenced to die for killing Lee Harvey Oswald, identified by the Warren Commission as the assassin of President John F. Kennedy.

The state criminal appeals court has ordered that a sanity hearing be held before it will consider an appeal of Ruby's conviction and death verdict.

The defense, which said that the Texas Court of Criminal Appeals action was based on Mrs. Eva Grant's affidavit, contended that the application for withdrawal should be certified to the high court and then allow it to make a decision on whether a sanity hearing should be held. She is a sister of Ruby.

In their appeal, Ruby's attorneys contended numerous reversible errors were made during the original trial, and they are seeking to have the conviction set aside. Today's action was apparently an attempt by the defense to secure a new trial without having to present at a sanity hearing witnesses who would be called if the second trial is granted.

Ruby lawyer Phil Burleson told Judge Louis T. Holland that the defense will not offer witnesses or other evidence as to Ruby's mental condition.

Ruby did not appear in court -- the first time he has not been present at the many court sessions in Dallas involving his case.

Judge Holland quickly turned down an appeal by Mrs. Grant that her original motion claiming that Ruby is insane be withdrawn.

Judge Holland adjourned the hearing until afternoon, when he was to hear arguments.

Dist. Atty. Henry Wade and assistant Bill Alexander said they had not asked for the sanity trial but that the state is ready to proceed and offer evidence that Ruby is sane.

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U.S. Supreme Court Justice Hugo Black denied a defense plea for a postponement ~~for~~ of the ~~sanity~~ sanity trial, scheduled Monday.

The Texas Court of Criminal Appeals ordered May 18 that Ruby's present mental state be judicially determined "without delay." Judge Holland then scheduled it for next week.

Ruby, now 55, whiles away the hours and the days in the Dallas County Jail by reading the Bible, playing dominoes and doing pushups, deputy sheriff Allen Sweatt said.

"He's living as usual a life as could be expected," Sweatt said. "Three meals a day, visits by his family, that sort of thing."

Oswald was handcuffed and in police custody when Ruby shot and killed ~~him~~ in the city hall basement Nov. 24, 1963, two days after Oswald allegedly assassinated President John F. Kennedy.

A Dallas jury returned a death verdict against Ruby, a former night club operator, March 14, 1964.

Defense lawyers argued at the trial that Ruby suffered from temporary insanity when he shot Oswald.

His case has been appealed to the Court of Criminal Appeals but the higher court has yet to act.

The appellate court is expected to take up the appeal if the sanity trial jurors find Ruby sane. If adjudged insane, he would be committed to a state hospital at Rusk, Tex., until he should regain his faculties.

His lawyers, if they chose, could press the appeal while he was in the state hospital, which is for the criminally insane.

If the conviction should stand and Ruby should be committed and then cured, he still could face death in the electric chair.

It would then require executive clemency to save his life.

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