

NIGHT LEAD RUBY (310)

AUSTIN, TEX., NOV. 16 (AP)-THE PROSECUTION'S MOTION FOR REHEARING IN THE JACK RUBY CASE WAS TURNED DOWN BY THE TEXAS COURT OF CRIMINAL APPEALS TODAY. A SPOKESMAN FOR THE DALLAS DISTRICT ATTORNEY'S ~~OFFICE PREDICTED IT WOULD BE JANUARY OR FEBRUARY BEFORE RUBY CAN BE TRIED AGAIN IN ANOTHER COUNTY.~~ *office predicted it would be January*

RUBY'S DEATH SENTENCE FOR THE SLAYING OF LEE HARVEY OSWALD WAS OVERTURNED BY THE APPELLATE COURT, THE HIGHEST FOR CRIMINAL CASES IN THE STATE, OCT. 5.

THE COURT SAID CERTAIN POLICE TESTIMONY SHOULD NOT HAVE BEEN PERMITTED AT THE TRIAL AND THAT THE CASE SHOULD HAVE BEEN TRIED ELSEWHERE BECAUSE PREJUDICIAL CONDITIONS EXISTED IN DALLAS.

THE COURT DENIED THE STATE'S MOTION FOR REHEARING WITHOUT A WRITTEN OPINION.

THE CASE NOW RETURNS TO THE DALLAS DISTRICT COURT, WHICH WAS INSTRUCTED IN THE OCT. 5 DECISION TO TRANSFER ANY NEW TRIAL OF RUBY TO ANOTHER COUNTY.

ASST. DIST. ATTY. BILL ALEXANDER SAID IN DALLAS, "WE HAVE NO ALTERNATIVE BUT TO SET THE CASE DOWN AND TRY IT AGAIN." ALEXANDER SAID HE WAS DISAPPOINTED THAT THE COURT "DIDN'T AMPLIFY AND EXPLAIN" THE OCT. 5 DECISION.

"THEY HAVE LEFT US ADRIFT ON AN UNCHARTED LEGAL SEA AFTER THEY CREATED CHAOS IN CERTAIN PARTS OF THE LAW," ALEXANDER SAID, "CONCERNING CHANGE OF VENUE AND WHETHER A PERSON WHO SAW A RERUN OF A TELEVISION PROGRAM IS AUTOMATICALLY DISQUALIFIED TO SIT AS A JUROR."

RUBY SHOT OSWALD IN THE BASEMENT OF THE DALLAS POLICE STATION NOV. 24, 1963, AS MILLIONS WATCHED ON TELEVISION. THE WARREN COMMISSION IDENTIFIED OSWALD AS PRESIDENT KENNEDY'S ASSASSIN.

RUBY'S CHIEF DEFENSE ATTORNEY, PHIL BURLESON, SAID IN DALLAS HE WAS "VERY GLAD THE COURT STAYED WITH THEIR ORIGINAL OPINION AND DIDN'T FEEL IT WAS NECESSARY TO WRITE ANYTHING FURTHER ON THE MATTER."

THE STATE'S MOTION FOR REHEARING SAID THE COURT "OBVIOUSLY SHIRKED FROM ITS DUTY TO SET OUT IN ITS OPINION IN INTELLIGIBLE LANGUAGE" THE SIMILARITY BETWEEN THE RUBY CASE AND THE U.S. SUPREME COURT CASES THAT THE TEXAS COURT SAID WERE CONTROLLING.

THE STATE DID NOT USE ITS OPPORTUNITY TO MAKE ORAL ARGUMENTS ON THE MOTION.