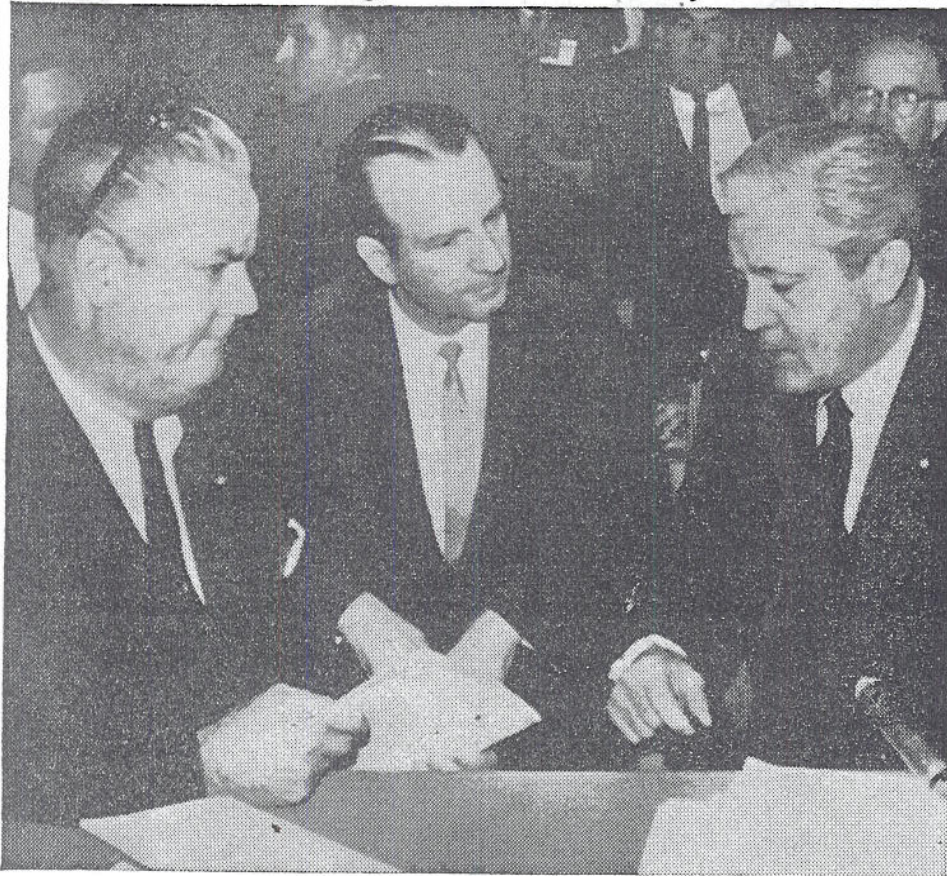


Court Delays Ruling on Bail for Ruby Until Jan. 10

RBY 24 DEC 1963



Jack Ruby, center, confers with lawyers, Joe H. Tonahill, left, and Melvin M. Belli, before hearing. Mr. Belli is from San Francisco, Mr. Tonahill is from Jasper, Texas.

Associated Press Wirephoto

By JACK LANGGUTH

Special to The New York Times.

DALLAS, Dec. 23—A bail bond hearing for Jack Ruby was continued until next Jan. 10 after three hours of sparring today by defense and prosecution attorneys over

Ruby's state of mind when he shot Lee H. Oswald. As the session ended, Melvin M. Belli, the chief defense attorney, said he would ask that Ruby's murder trial be moved out of Dallas. "It is utterly and completely impossible to

have a fair trial in Dallas due to the statements that have been made and are being made by The Dallas News," Mr. Balli said. He added that he would also ask that the

beginning date for the trial be set back one week, to Feb. 10.

Ruby, a 52-year-old nightclub manager, was heavily guarded at the hearing, his first public appearance since he shot President Kennedy's accused assassin last Nov. 24.

Ruby had been brought from the jail to a jury room in the court of Judge Joe B. Brown at 7 A.M., three hours before the bail hearing began.

It was while Oswald was being transferred from City to County Jail that Ruby stepped from a crowd of newsmen and onlookers and shot him before a nationwide television audience.

Special press credentials had been issued for today's hearing by a Dallas public relations firm. All reporters and spectators were searched by sheriff's deputies before they were permitted in the small courtroom.

During the search, a pistol was found in the handbag of a defense witness, Karen Lynn Bennett, a 19-year-old striptease dancer at the Carousel Club, which Ruby managed.

Miss Bennett was carrying no ammunition for her pistol, a .635-caliber Italian model with a pearl handle, Sheriff's deputies said. Dallas County Sheriff Bill Decker filed a misdemeanor complaint against her for carrying a concealed weapon and she was released in \$1,000 bail.

Held Unaware of Pistol

An investigator for the defense, R. B. Denson, reported that Miss Bennett, who dances under the name "Little Lynn," said that she had not been aware that her pistol was in the handbag she was taking to court.

Ruby was dressed in a charcoal gray suit with a light gray necktie and a white shirt, crumpled slightly at the collar. His thin dark hair was combed in strands over the top of his head; at the back, his hair curled on his neck. He did not appear to have lost weight during a month in jail.

Ruby smiled and shook hands with his attorneys and with two Dallas photographers he had known before the shooting. When Sheriff Decker addressed a pleasantry to him, Ruby answered, "Thanks, Bill."

As he listened to the testimony, Ruby sat cradling his chin in his left hand, wetting his lips often and sighing deeply on several occasions.

The prosecution, led by District Attorney Henry Wade called two witnesses, Capt. J. W. Fritz, Chief of the Dallas Police Department's Homicide and Robbery Bureau, and James R. Leavelle, the police officer who had been handcuffed to Oswald when he was shot.

Mr. Belli, a San Francisco attorney, said he would try to prove that Ruby's mind was inflamed and agitated at the moment he fired at Oswald.

'But for Grace of God'

Establishing Ruby's impassioned condition, Mr. Belli said, would rule out his acting "deliberately and with the malice required under Texas law" for a finding of guilty.

Gesturing toward Ruby, Mr. Belli said, "there but for the Grace of God go I or someone else, but for a stronger constitution or a stronger mind."

On several occasions, Mr. Belli reminded the court that Captain Fritz had said, before the shooting on Nov. 24, that the President's assassination was solved and that Oswald was guilty. He also cited Mr. Wade's statement at the same time that Oswald was a fit subject for capital punishment.

Arguing that the mood of Dallas residents after the assassination was relevant to his defense, Mr. Belli tried repeatedly to question the two police officers about their own reactions.

"Were you agitated?" he asked Captain Fritz. Each time, the prosecution objected and was sustained.

At one point, Captain Fritz quoted Ruby as having told him, a few hours after Oswald was shot, that he had seen Oswald's black eye at a news conference Friday night, Nov. 22.

"Ruby said, 'When I saw him coming from the jail with that shiner, I knew who I'd be going for,'" the captain continued.

In the cross-examination that followed, the defense attempted to interpret the statement as meaning that Ruby decided to kill Oswald Sunday morning,

when he saw the black eye again. The prosecution implied that Ruby had begun to plan the killing after the Friday night news conference.

The defense called three witnesses and then requested that that hearing be continued until defense psychiatrists could complete their reports. Two psychiatrists examined Ruby Saturday and yesterday.

The defense witnesses were George Senator, Ruby's 50-year-old roommate; Miss Bennett, who had asked Ruby to wire her a \$25 advance on her salary; and Doyle E. Lane, a Western Union clerk who handled the transaction minutes before Ruby left the telegraph office, crossed to the jail and shot Oswald.

Mr. Senator, a native of Gloversville, N. Y., said that he had lived in Dallas for nine years, had known Ruby for eight years and had shared an apartment with him for about 20 months. Mr. Senator said he was in the postcard business.

Defense objections cut off most questions about Mr. Senator's marital status, but he testified that he had been divorced for six or seven years.

Mr. Senator gave this account of Ruby's actions during the period between the President's assassination and the shooting of Oswald: He said that Ruby woke him up at 3 o'clock on the morning of Nov. 23. The first thing Ruby asked him was whether Mr. Senator had seen Ruby's advertisement announcing that his night club would be closed that Friday, Saturday and Sunday.

Cried Over Assassination

"He [Ruby] said it was a terrible thing that anyone would drink or listen to music or anything of that nature with the President shot," Mr. Senator said.

"He cried about it [President Kennedy's assassination]," Mr. Senator said. "He sure did. He had a look in his eye I've never seen before—a stony look—a stony look. He looked like he was out in space."

Mr. Senator said Ruby had previously seen posters calling for the impeachment of Chief Justice Earl Warren and had also noticed an advertisement, edged in black, in The Dallas Morning News of Nov. 22, which accused the President of weakness toward Communism.

Ruby had decided that the posters and the advertisement, either the work of the John Birch Society or the Communist party, must be linked with the assassination, Mr. Senator said.

Although it was before dawn on Saturday morning, the two men drove out to photograph the impeachment poster. They also stopped at the Central Post Office to check the box listed in the anti-Kennedy advertisement.