

AGODN (RUBY)

RBY

8 FEB 1964

405 P/CS

NIGHT LEAD RUBY (320)

DALLAS, FEB. 8 (AP)--JACK RUBY'S LAWYERS WILL START TRYING AGAIN MONDAY TO CONVINCE A DALLAS JUDGE THAT THE KILLER OF ACCUSED PRESIDENTIAL ASSASSIN LEE HARVEY OSWALD CAN'T GET A FAIR TRIAL HERE.

PROSECUTORS SAID IN ADVANCE THEY'LL ARGUE STOUTLY AGAINST DEFENSE DEMANDS FOR THE MURDER CASE TO BE HEARD SOMEWHERE ELSE IN TEXAS.

IT WILL BE UP TO DIST. JUDGE JOE B. BROWN TO DECIDE. FIRST, HOWEVER, THE RIVAL LAWYERS WILL QUESTION AT LEAST PART--AND POSSIBLY ALL--OF 176 WITNESSES SUMMONED BY COUNSEL FOR RUBY. ON THE LIST ARE CIVIC, BUSINESS AND CHURCH LEADERS, PUBLIC OFFICIALS, EDUCATORS AND NEWSMEN.

UNLESS THE JURIST GRANTS A CHANGE OF VENUE, RUBY IS DUE TO GO ON TRIAL JUST A WEEK LATER, ON FEB. 17. HIS LAWYERS SAY HE'LL PLEAD TEMPORARY INSANITY.

RUBY, 52, IS THE DALLAS STRIP JOINT OPERATOR WHO SHOT OSWALD BEFORE A NATIONWIDE TELEVISION AUDIENCE NOV. 24. OSWALD, 24, A COMMUNIST SYMPATHIZER, WAS ACCUSED OF FIRING THE SHOTS WHICH KILLED PRESIDENT KENNEDY AND A DALLAS POLICEMAN TWO DAYS EARLIER.

RUBY'S LEGAL STAFF--HEADED BY MELVIN BELLI OF SAN FRANCISCO AND JOE H. TONAHILL OF JASPER, TEX.--CONTENDS THAT "DALLAS COUNTY CANNOT JUDGE RUBY FAIRLY WHILE THE STATE, THE NATION AND THE WORLD JUDGE DALLAS."

AMONG OTHER THINGS, THE DEFENSE CONTENDS PROSPECTIVE DALLAS JURORS ARE TOO WELL INFORMED ABOUT THE CASE TO RETURN AN IMPARTIAL VERDICT.

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DIST. ATTY. HENRY WADE SAID HE WAS CONFIDENT THE COURT WOULD ORDER THAT RUBY STAND TRIAL IN DALLAS AND HAD NOT GIVEN ANY THOUGHT TO THE POSSIBILITY OF SOME OTHER SITE.

THE STATE HAS SUMMONED NO WITNESSES FOR THE CHANGE OF VENUE HEARING. WADE SAID HE WILL CROSSEXAMINE THOSE CALLED BY THE DEFENSE AND INTRODUCE AFFIDAVITS SUPPORTING A CONTENTION THE CASE SHOULD BE HEARD HERE.

PROSECUTORS MAINTAIN THAT AS PROVIDED BY STATE LAW, A DEFENDANT SHOULD BE TRIED IN THE SAME COUNTY WHERE HE IS ACCUSED OF AN OFFENSE.

RUBY'S COUNSEL WITHDREW A REQUEST FOR HIS RELEASE UNDER BOND AT A JAN. 21 HEARING AND SUBSTITUTED A MOTION FOR CHANGE OF VENUE. THIS WAS DONE AFTER JUDGE BROWN ORDERED PSYCHIATRIC TESTS OF RUBY SOUGHT BY THE DEFENSE. RESULTS OF THESE TESTS ARE EXPECTED TO BE MADE PUBLIC AT THE MURDER TRIAL.

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