

RUBY (320)

DALLAS, FEB. 9 (AP)-DIST. JUDGE JOE B. BROWN OPENS A HEARING TOMORROW ON A DEFENSE REQUEST TO TRANSFER THE MURDER TRIAL OF JACK RUBY TO A STATE COURT OUTSIDE DALLAS.

RUBY, 52, IS THE DALLAS STRIP JOINT OPERATOR WHO SHOT LEE HARVEY OSWALD BEFORE A NATIONWIDE TELEVISION AUDIENCE ON NOV. 24. OSWALD, 24, A COMMUNIST SYMPATHIZER, WAS ACCUSED OF FIRING THE SHOTS THAT KILLED PRESIDENT JOHN F. KENNEDY TWO DAYS EARLIER.

DEFENSE LAWYERS, HEADED BY MELVIN BELLI OF SAN FRANCISCO AND JOE H. TONAHILL OF JASPER, TEX., HAVE SAID RUBY WILL PLEAD TEMPORARY INSANITY.

IN ASKING THAT THE TRIAL BE MOVED FROM DALLAS, THEY SAID THAT PROSPECTIVE JURORS ARE TOO WELL INFORMED ABOUT THE CASE TO RETURN AN IMPARTIAL VERDICT.

THEY ALSO ARGUED THAT "DALLAS COUNTY CANNOT JUDGE RUBY WHILE THE STATE, THE NATION AND THE WORLD JUDGE DALLAS."

DIST. ATTY. HENRY WADE SAID HE IS CONFIDENT THE COURT WILL ORDER RUBY TO STAND TRIAL IN DALLAS ON FEB. 17.

THE DEFENSE HAS SUBPOEANED 176 WITNESSES, INCLUDING CIVIC, BUSINESS AND CHURCH LEADERS, PUBLIC OFFICIALS, EDUCATORS AND NEWSMEN.

TONAHILL SAID THE DEFENSE "FULLY INTENDS TO CALL ALL THE WITNESSES SUBPOENAED FOR THE HEARING" AND IS PREPARED TO PRESENT EVIDENCE THROUGHOUT THE WEEK "AND LONGER IF NECESSARY."

THE DISTRICT ATTORNEY HAS NOT SUBPOENAED ANY WITNESSES, BUT WADE SAID HE WILL PRESENT AFFIDAVITS FROM CIVIC AND BUSINESS LEADERS TO SUPPORT HIS CONTENTION RUBY CAN RECEIVE A FAIR TRIAL HERE. HE ALSO PLANS TO CROSS EXAMINE DEFENSE WITNESSES.

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IF JUDGE BROWN MOVES THE TRIAL, THE DECISION WOULD AUTOMATICALLY CANCEL THE TRIAL DATE AND THE NEW JUDGE WOULD SET ANOTHER DATE.

TOMORROW'S HEARING WILL BE THE THIRD COURT APPEARANCE FOR RUBY SINCE HIS ARREST. HIS TWO PREVIOUS APPEARANCES WERE AT A BOND HEARING WHICH ENDED JAN. 21 WITH HIS LAWYERS WITHDRAWING THEIR REQUEST THAT RUBY BE FREED ON BOND AND SUBSTITUTING A MOTION FOR A CHANGE OF VENUE.

SUBSEQUENTLY 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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