

A10DN

258 PCS

URGENT

SECOND NIGHT LEAD RUBY

BY JAMES MANGAN

ASSOCIATED PRESS WRITER

C.A. DROBY A236

DALLAS, FEB. 11 (AP)-THE PRESIDENT OF NEIMAN-MARCUS AND OTHER LEADING CITIZENS TESTIFIED TODAY A FAIR TRIAL IN DALLAS FOR JACK RUBY IS UNLIKELY OR IMPOSSIBLE.

SOME OF THEM SAID DALLAS IS FULL OF RESENTMENT AGAINST THE KILLER OF LEE HARVEY OSWALD, ACCUSED ASSASSIN OF PRESIDENT JOHN F. KENNEDY. THEY SAID RUBY WOULD HAVE TO BE CONVICTED FOR THE CITY TO FEEL ITS REPUTATION HAD BEEN CLEARED.

BUT A METHODIST MINISTER SAID RUBY COULD GET A JUST TRIAL IN DALLAS. THE PASTOR IS THE MAN WHO, THE DAY OSWALD WAS KILLED, SAID IN HIS SERMON AND LATER ON TELEVISION THAT SOME DALLAS SCHOOL CHILDREN CHEERED WHEN TOLD PRESIDENT KENNEDY HAD BEEN SHOT.

RUBY'S LAWYERS SEEK TO PROVE IN THE COURT HEARING THAT RUBY'S MURDER TRIAL SHOULD BE MOVED TO ANOTHER CITY.

STANLEY MARCUS, PRESIDENT OF NEIMAN-MARCUS STORE AND A CIVIC LEADER, SAID HE HAD "GRAVE RESERVATIONS" WHETHER RUBY COULD GET A FAIR TRIAL.

FORMER MAYOR EARLE CABELL, NOW A CANDIDATE FOR CONGRESS, CONFIRMED HE HAD SAID PUBLICLY THAT "CIVIC RESENTMENT" MIGHT INFLUENCE A DALLAS JURY AGAINST RUBY.

BEN HENDERSON, AN ATTORNEY, TESTIFIED THAT "RUBY CANNOT GET A FAIR TRIAL HERE BECAUSE LEE HARVEY OSWALD WOULD HAVE TO BE PROVED INNOCENT IN ORDER TO CONVICT RUBY . . . IF OSWALD WAS GUILTY OF KILLING PRESIDENT JOHN KENNEDY, THEN RUBY IS INNOCENT . . . IF OSWALD WAS INNOCENT OF THE ASSASSINATION, THEN RUBY IS GUILTY."

A NUMBER OF LESSER-KNOWN CITIZENS--A HOSPITAL PATHOLOGIST, A NIGHTCLUB COLUMNIST, A FORMER PART-TIME WAITRESS IN ONE OF RUBY'S CLUBS, A DRUMMER IN ANOTHER RUBY CLUB AMONG THEM--ALSO TESTIFIED THEY THOUGHT IT WOULD BE DIFFICULT OR IMPOSSIBLE FOR RUBY TO RECEIVE A FAIR TRIAL HERE.

A11DN

THEY WERE SUMMONED BY THE DEFENSE IN AN EFFORT TO PROVE DALLAS IS SO ANXIOUS TO BURNISH ITS IMAGE AS AN UPRIGHT CITY THAT LAWYERS COULD NOT FIND 12 MEN IN THIS COMMUNITY OF MORE THAN A MILLION WHO WOULD TRY HIM IMPARTIALLY.

RUBY, 52, A BALDING STRIP JOINT OPERATOR, SHOT OSWALD ON NOV. 24 BEFORE A NATIONAL TELEVISION AUDIENCE AS OSWALD WAS BEING TRANSFERRED FROM CITY JAIL TO COUNTY JAIL.

OSWALD HAD BEEN CHARGED WITH MURDER IN THE ASSASSINATION OF PRESIDENT KENNEDY TWO DAYS EARLIER. HE ALSO WAS CHARGED WITH MURDER IN THE SHOOTING OF PATROLMAN J. D. TIPPIT AND WITH ATTEMPTED MURDER IN THE SHOOTING OF GOV. JOHN CONNALLY OF TEXAS THAT SAME DAY.

THE STATE CHARGED RUBY WITH MURDER IN OSWALD'S DEATH, AND DIST. ATTY. HENRY WADE SAID HE WOULD SEEK THE DEATH PENALTY. THE DEFENSE, HEADED BY MELVIN BELLI OF SAN FRANCISCO, SAID IT WOULD PROVE RUBY WAS INNOCENT BECAUSE THE SHOCK OF THE PRESIDENT'S DEATH MADE HIM TEMPORARILY INSANE.

THE TRIAL IS SCHEDULED TO BEGIN MONDAY--UNLESS DIST. JUDGE JOE B. BROWN GRANTS THE DEFENSE MOTION TO TRANSFER IT.

RUBY, PALLID FROM TWO AND A HALF MONTHS IN JAIL, SAT NERVOUSLY IN THE HEARING TODAY, WIPING HIS FOREHEAD, HOLDING HIS HEAD IN HIS HANDS AND OFTEN STARING AT THE FLOOR.

MARCUS TESTIFIED FIRST FOR THE DEFENSE TODAY.

"I HAVE GRAVE RESERVATIONS WHETHER THE DEFENSE OR THE PROSECUTION CAN GET A FAIR TRIAL IN DALLAS," HE SAID.

CABELL, MAYOR AT THE TIME OF THE SHOOTING BUT NOW A CANDIDATE FOR CONGRESS, CONFIRMED HE HAD SAID PUBLICLY THAT:

"RUBY BROUGHT, ETC., 12TH GRAF NIGHT LEAD (A224DN)

(EDS: ABV: A11DN , 2ND GRAF

RUBY, 52, A X X X)

JS448PCS NM

A224DN (BJT ONLY)

AMS BUDGET (680)

NIGHT LEAD RUBY

BY JAMES MANGAN

ASSOCIATED PRESS WRITER

DALLAS, FEB. 11 (AP)-THE PRESIDENT OF NEIMAN-MARCUS, THE FORMER MAYOR AND A SERIES OF LAWYERS TESTIFIED TODAY THAT DALLAS IS FULL OF BITTER RESENTMENT AGAINST JACK RUBY, THAT HE SHAMED THE CITY BY KILLING LEE HARVEY OSWALD--AND THAT HE WOULD HAVE A HARD, UPHILL CLIMB FINDING A FAIR JURY HERE.

BUT A MINISTER SAID RUBY COULD GET A JUST TRIAL IN DALLAS. THE METHODIST PASTOR IS THE MAN WHO, THE DAY OSWALD WAS KILLED, PREACHED IN HIS CHURCH AND REPEATED LATER ON TELEVISION THAT SOME DALLAS SCHOOL CHILDREN CHEERED WHEN TOLD PRESIDENT KENNEDY HAD BEEN SHOT.

THEY WERE WITNESSES SUMMONED BY THE DEFENSE IN AN EFFORT TO PROVE DALLAS IS SO ANXIOUS TO BURNISH ITS IMAGE AS AN UPRIGHT CITY THAT IT WOULD BE IMPOSSIBLE TO FIND 12 MEN IN THIS COMMUNITY OF MORE THAN A MILLION WHO WOULD TRY RUBY IMPARTIALLY.

RUBY, 52, A BALDING STRIP JOINT OPERATOR, SHOT OSWALD ON NOV. 24 BEFORE A NATIONAL TELEVISION AUDIENCE AS OSWALD WAS BEING TRANSFERRED FROM CITY JAIL TO COUNTY JAIL.

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THE TRIAL IS SCHEDULED TO BEGIN MONDAY--UNLESS DIST. JUDGE JOE B. BROWN GRANTS THE DEFENSE MOTION TO MOVE IT TO ANOTHER CITY.

THROUGH THE TESTIMONY TODAY, RUBY, HIS USUAL TAN PALLID FROM CONFINEMENT, SAT NERVOUSLY. HE WORE HIS USUAL DARK BLUE SUIT AND SILVER-GRAY TIE. HE WIPED HIS FOREHEAD, DROPPED HIS HEAD INTO HIS HANDS AND FREQUENTLY STARED AT THE FLOOR.

STANLEY MARCUS, PRESIDENT OF NEIMAN-MARCUS STORE, TESTIFIED FIRST FOR THE DEFENSE TODAY.

"I HAVE GRAVE RESERVATIONS WHETHER THE DEFENSE OR THE PROSECUTION CAN GET A FAIR TRIAL IN DALLAS," HE SAID.

EARLE CABELL, MAYOR AT THE TIME OF THE SHOOTING BUT NOW A CANDIDATE FOR CONGRESS, CONFIRMED HE HAD SAID PUBLICLY THAT:

"RUBY BROUGHT DOWN SHAME ON THE PEOPLE OF DALLAS."

THERE IS "A LOT OF ANIMOSITY DIRECTED TOWARD RUBY" IN DALLAS.

"CIVIC RESENTMENT" AGAINST RUBY MIGHT BE A FACTOR IN HIS TRIAL.

AND CLAYTON FOWLER, PRESIDENT OF THE DALLAS COUNTY CRIMINAL BAR ASSOCIATION, SAID, "IT WOULD BE MOST DIFFICULT" TO GIVE RUBY A FAIR TRIAL "WHILE THE NATION IS TRYING DALLAS."

THEY HELD TO THESE VIEWS UNDER QUESTIONING BY WADE AND OTHER PROSECUTORS, ALTHOUGH FOWLER CONCEDED THAT, AS TO FINDING A FAIR JURY: "YOU CAN TELL ONLY WHEN YOU HAVE CONFRONTATION AND EYEBALL-TO-EYEBALL EXAMINATION OF PROSPECTIVE JURORS."

THE DEFENSE CALLED THE REV. WILLIAM A. HOLMES OF NORTHAVEN METHODIST CHURCH TO TELL WHAT HAPPENED AFTER HE PREACHED ON NOV. 24 AND SAID LATER ON TELEVISION THAT: "DALLAS IS THE CITY WHERE FOURTH GRADE CHILDREN IN A NORTH DALLAS PUBLIC SCHOOL CLAPPED AND CHEERED WHEN THEIR TEACHER TOLD THEM OF THE ASSASSINATION . . . IN THE NAME OF GOD, WHAT KIND OF CITY HAVE WE BECOME?"

THE REV. MR. HOLMES SAID HE WAS GIVEN POLICE PROTECTION AND MOVED HIS FAMILY TO ANOTHER HOME UNTIL THE CITY'S TENSION EASED.

IN THE MIDST OF ARGUMENTS WHETHER A COPY OF THE SERMON SHOULD BE ADMITTED IN EVIDENCE, DEFENSE ATTORNEY PHIL BURLESON ASKED THE MINISTER WHETHER HE THOUGHT RUBY COULD GET A FAIR TRIAL HERE.

"IN MY OPINION," SAID THE REV. MR. HOLMES, "HE CAN GET A FAIR TRIAL IN DALLAS COUNTY."

DEFENSE ATTORNEYS BEGAN TO QUESTION THE MINISTER ABOUT HIS ANSWER UNTIL THE STATE OBJECTED THAT THE DEFENSE WAS ARGUING WITH ITS OWN WITNESS.

IN QUESTIONING FOWLER, THE DEFENSE ASKED WHAT THE PRESIDENT OF THE COUNTY'S CRIMINAL TRIAL LAWYERS THOUGHT OF THE FACT A PUBLIC RELATIONS FIRM WAS REPRESENTING THE JUDGE IN SOME DEALINGS WITH THE PRESS.

FOWLER SAID IT WAS UNPRECEDENTED AND AT FIRST HE THOUGHT IT WAS A STEP IN THE WRONG DIRECTION--BUT, QUESTIONED BY THE STATE, HE SAID HE NOW THINKS IT IS "A WORKABLE THING AND THAT THE JUDGE HAS DONE AN EXCELLENT JOB."

THE PUBLIC RELATIONS FIRM, THE BLOOM ADVERTISING AGENCY, HAS MADE COURTROOM SEATING ARRANGEMENTS FOR THE PRESS. THE JUDGE HAS SAID THAT IS ALL IT HAS DONE FOR HIM.

DEFENSE ATTORNEY JOE TONAHILL SUGGESTED THE IDEA WAS TO EXCLUDE CERTAIN NEWSMEN FROM THE COURTROOM AND ADMIT OTHERS WHO WOULD BE SYMPATHETIC TO DALLAS' IMAGE.

JUDGE BROWN INTERRUPTED, SAYING THAT WAS NOT THE IDEA--THAT HE HAD NOT EXCLUDED NEWSMEN.

TONAHILL SUGGESTED A PUBLIC RELATIONS FIRM COULD NOT MAKE THE JUDGE'S IMAGE "ANY GREATER THAN IT ALREADY IS."

"MY IMAGE DOESN'T ENTER INTO IT AT ALL," BROWN SAID.

THERE HAVE BEEN MORE THAN 300 APPLICATIONS FOR PRESS SEATS FOR THE RUBY TRIAL. THE COURTROOM SEATS ABOUT 62, AND THE JUDGE ANNOUNCED LAST WEEK THAT HE HAS ALLOCATED 48 TO THE PRESS, WITH THE REST FOR THE PUBLIC.

A236DN

A237DN (ADD BURY BJT ONLY)

(550)

DALLAS--FIRST ADD NIGHT LEAD RUBY (A224DN) X X X FOR THE PUBLIC.

C. A. DROBY, A DALLAS ATTORNEY WHO HAD REPRESENTED RUBY UNTIL HE WAS CHARGED WITH MURDER, TESTIFIED HE RECEIVED A TELEPHONE THREAT ON HIS OWN LIFE THE DAY OSWALD WAS SHOT AFTER RUBY'S ARREST.

HE SAID THE THREAT WAS IN A CALL TO HIS WIFE AND WHEN DROBY CALLED HER "SHE WAS CRYING . . . AND SHE SAID I WOULD BE NEXT TO DIE."

WHAT ARE HIS CONCLUSIONS ABOUT THE FEELINGS OF ATTORNEYS AND OTHER PERSONS WITH WHOM HE HAS TALKED SINCE THE SHOOTING? "THEY JUST FEEL LIKE JACK RUBY MUST BE CONVICTED TO CLEAR DALLAS' NAME," DROBY SAID.

"IF I WERE TO DEFEND HIM I WOULD WANT IT MOVED OUT OF DALLAS COUNTY."

SAM DONOSKY, ANOTHER DALLAS ATTORNEY, TESTIFIED: "THE IMAGE OF OUR GOOD CITY HAS BEEN BESMIRCHED . . . I WOULD TRANSFER THIS TRIAL TO GET US OUT FROM UNDER THE SPOTLIGHT."

HE SAID IT WOULD BE A "HARD HILL" FOR RUBY TO GET A JURY HERE BECAUSE A DEFENDANT IS PRESUMED TO BE INNOCENT UNTIL PROVED GUILTY.

"RUBY IS NOT PRESUMED TO BE INNOCENT IN DALLAS," HE SAID.

IN THE MIDST OF A DEFENSE QUESTION, MARCUS STOPPED BELLI, SAYING:

A. I PRESUME YOU ARE ASKING ME IF RUBY CAN GET A FAIR TRIAL IN DALLAS.

Q. THAT'S THE ULTIMATE QUESTION.

A. I HAVE GRAVE RESERVATIONS WHETHER THE DEFENSE OR THE PROSECUTION CAN GET A FAIR TRIAL IN DALLAS.

Q. DO YOU THINK A FAIR TRIAL IS POSSIBLE FARTHER AWAY FROM WHERE IT (THE CRIME) OCCURRED?

A. I HAVE RESERVATIONS AS TO WHERE HE CAN GET A FAIR TRIAL BUT THINK IT MORE LIKELY SOME OTHER PLACE THAN HERE.

Q. DO YOU THINK IT WOULD BE DIFFICULT TO FIND SOMEONE IN DALLAS INDIFFERENT TO THE CASE?

A. I WOULD THINK THAT IT WOULD BE DIFFICULT.

UNDER CROSS-EXAMINATION BY WADE ABOUT THE POSSIBILITY THAT WHILE DALLAS JURORS MIGHT BE UNCONSCIOUSLY PROTECTING THE IMAGE OF DALLAS, JURORS IN SOME OTHER TEXAS CITY MIGHT BE UNCONSCIOUSLY TRYING TO PROTECT THE STATE IMAGE, MARCUS SAID:

"I DON'T THINK SO. TEXAS DOESN'T TAKE THIS AS A PERSONAL MATTER AS DALLAS DOES."

FOWLER RESPONDED TO DEFENSE QUESTIONS AS FOLLOWS:

Q. WHAT IS THE LIKLIHOOD THAT A JURY COULD BE SELECTED IN DALLAS THAT WOULD GIVE JACK RUBY A FAIR TRIAL?

A. IT WOULD BE MY IMPRESSION THAT MR. RUBY IS GOING TO HAVE A DIFFICULT TIME GETTING A FAIR TRIAL IN DALLAS OR ANYWHERE HE IS MOVED.

DONOSKY TESTIFIED:

Q. DO YOU FEEL THAT THE PEOPLE OF DALLAS ARE NOT INDIFFERENT TO RUBY?

A. DALLAS IS A GOOD CLEAN CITY...DALLAS IS UNDER THE GUN. THE IMAGE OF OUR GOOD CITY HAS BEEN BESMIRCHED...WE'VE GOT TO SHOW THE WORLD THAT DALLAS IS A CLEAN CITY. RUBY WILL HAVE A HARD HILL TO CLIMB IF HE IS TRIED IN DALLAS.

Q. IS A FAIR TRIAL POSSIBLE FOR RUBY IN DALLAS?

A. IT IS POSSIBLE, OF COURSE, BUT HE'LL HAVE A HARDER HILL TO CLIMB...I THINK IT WOULD PUT AN ONEROUS BURDEN ON THE DEFENDANT TO BE TRIED SO CLOSE TO THE SPOT WHERE THE CRIMES OCCURRED."

DROBY TESTIFIED:

Q. DO YOU BELIEVE RUBY CAN OBTAIN A FAIR TRIAL IN DALLAS?

A. LET ME PUT IT THIS WAY--IF I WERE TO DEFEND HIM I WOULD WANT IT MOVED OUT OF DALLAS COUNTY.

Q. BECAUSE OF THE CONCERN ABOUT THE IMAGE OF DALLAS DO YOU FEEL HAT A JUROR WOULD BE INFLUENCED IN HIS DECISION?

A. I THINK THE ONLY WAY THEY CAN VINDICATE DALLAS IS TO CONVICT THIS MAN."

FORMER MAYOR CABELL TESTIFIED:

Q. DID YOU SAY ON TELEVISION LAST NIGHT THAT JACK RUBY BROUGHT DOWN A LOT OF TROUBLE ON DALLAS?

A. YES.

Q. DID YOU SAY THAT A LOT OF ANIMOSITY WAS DIRDCTED TOWARD RUBY?

A. YES.

Q. DO YOU FEEL DALLAS IS ON THE DEFENSIVE?

A. I THINK THAT'S RIGHT.

Q. DO YOU KNOW OF ANY OTHER TEXAS CITY WHICH HAS BEEN CRITICIZED AS HAS DALLAS IN THE LAST TWO YEARS?

A. NO, I CAN'T SAY THAT I DO.

Q. DO YOU THINK IT WOULD BE A REFLECTION ON DALLAS IF THE TRIAL IS MOVED?

A. I DON'T THINK SO.

JS255PCS NM ASKT