

15/2/64

PLEA TO FREE RUBY DENIED BY JUDGE

Ruling of Insanity Refused
—Choosing of Jury Starts

By HOMER BIGART

Special to The New York Times

DALLAS, Feb. 17—Preliminary defense motions for acquittal of Jack L. Ruby on the ground of insanity were denied today.

The court then began the tedious and thorny task of selecting a jury for the trial of the man who shot Lee H. Oswald, the accused assassin of President Kennedy.

Brain-wave tests ordered by the court confirmed that Ruby suffered psychomotor epilepsy, defense attorneys argued in moving for an acquittal.

They contended that the prosecution had agreed to drop the case if neurological tests showed that the former night club operator had suffered organic brain damage.

The process of finding a jury seemed as deliberate as the old-style rotary fans that were drowsily whirring on the ceiling of the courtroom.

After disposing of the defense motions, Judge Brown ordered the courtroom cleared. He explained that he wanted to provide seats for the first panel of prospective jurors, who were to be given a preliminary qualification test.

"Go out and get a cuppa coffee or a slug," Judge Brown advised some newsmen.

First Panel Called

The judge shuffled a stack of several hundred cards bearing the names of individual veniremen. Wetting his thumb, he peeled 125 cards from the top of the stack and then added 25 more for the first panel.

The veniremen began filing in through hallways thronged with photographers, who obeyed the judge's orders not to take pictures of the group. Only one or two Negroes were in the panel.

Presently about 15 women emerged from the courtroom. They had been excused because they had children under 15.

Judge Brown also asked whether any of the prospective jurors wanted to be excused for physical disabilities. None did, and that ended the day's business. The prospective jurors have yet to be challenged by defense and prosecution on their views and prejudices. They will return at 9 A.M. tomorrow.

Mr. Belli, the chief defense counsel, elegant in a light gray suit of Italian silk with a blue shirt, dark tie and hand-tooled boots, complained mildly to reporters. He said that his hotel room had been found bugged and that someone had tampered with the briefcase of one of the defense psychiatrists. A spokesman for the Statler Hilton said, however, that no complaints of wiretapping equipment had been made.

After Ruby was returned to his cell, policemen disarmed a 39-year-old Oregon man near the courtroom, Sheriff Bill Decker disclosed. He said that a loaded .32-caliber automatic had been taken from a man he identified as David Conrad Glass of Beatty, Ore.

Mr. Decker filed charges of illegally carrying a pistol and said he would ask for a psychiatric examination. Mr. Decker described the Oregon man as "incoherent."

"I personally do not believe that he intended to try to harm Ruby," Mr. Decker said.

Judge Arrives Early

Judge Brown, who likes to run a relaxed, even rather folksy court, arrived early to supervise the final preparations for the jury selection.

"Water. That's what I need is water," Judge Brown announced as he plumped his ample frame into a high leather chair under flags of the United States and Texas, which, hung on poles, over the bench.

Beyond his left ear, past the emblem of the Lone Star State, was a painting of a woman in white robes, sitting by a creek, gazing across the plains. Obviously she was justice, but several of the foreign press thought she bore a singular resemblance to Mrs. Lyndon B. Johnson.

"Can I have some fresh branchwater?" asked the judge and a new pitcher was brought. The judge said that he had "felt lousy over the weekend" and took a pill with the water. Then he lit his pipe and settled back.

"Biggest chair I ever sat in," he said.

It is also the biggest trial of his 21 years as a judge, his most important since the case of Candy Barr, a locally celebrated striptease artist. She was convicted of possession of narcotics a few years ago and is now out of jail on parole, although she is barred from Dallas for the rest of her life.

Cameras Barred

During that trial the judge left the bench to snap a picture of the defendant.

Greater decorum will mark this trial, the judge has promised. This time no cameras are allowed in court. The courtroom, on the second floor of the Courthouse, is a large high-ceilinged chamber with overhead fans and walls that are painted a pistachio green.

Texas Rangers carefully searched all who entered and, as an extra security measure, the venetian blinds were shut against anyone who might try to shoot from a nearby building.

Green cuspidors were arrayed stategically in the well, one for the prosecution table, where District Attorney Henry Wade sat, grimly chewing an unlit cigar, and one for the defense table. A third cuspidor was beside the judge's left heel on the bench.

Rbx

FOUR ARE BARRED AS RUBY JURORS

Defense Uses Up 2 of Its 15
Arbitrary Challenges

By HOMER BIGART

Special to The New York Times

DALLAS, Feb. 18 — Jack L. Ruby's lawyers forestalled the selection of any jurors today for his trial as the killer of Lee H. Oswald, accused assassin of President Kennedy.

But it was a costly day for the defense. In their struggle to prevent the trial from opening in Dallas, where they contend Ruby cannot find an impartial jury, the defense lawyers had to use two of their 15 arbitrary challenges.

They forced the dismissal of the first two prospective jurors after Judge Joe B. Brown refused to dismiss them "for cause."

A third prospect was discharged because he had qualms about capital punishment. A fourth was dismissed on a defense challenge that met no objection from the prosecution.

So, after two tedious days of processing potential jurors, not one has been selected. At the present rate it may be another week before the chief defense counsel, Melvin M. Belli, exhausts the remaining 13 peremptory challenges.

Causes Overruled

Then he can continue to challenge the jurors for cause. But the causes Mr. Belli cited today, including the argument that those who saw the killing of Oswald on television had a fixed notion of Ruby's guilt, were all overruled by Judge Brown.

On this basis, District Attorney Henry Wade could predict that a jury would be completed within two weeks.

Judge Brown ruled this morning that a juror could not be disqualified simply because he had witnessed the shooting on television. This seemed to puncture defense hopes of moving the Ruby trial to another county.

All the prospective jurors who appeared today had seen television films of the shooting of Oswald by Ruby in the basement corridor of the Dallas Police Department on Nov. 24.

In the arguments, defense lawyers contended that a person who saw an event on television was no less a witness than an observer at the scene.

A Heated Debate

They argued heatedly with the judge and the district attorney in an effort to dismiss the first two prospective jurors, Hilliard M. Stone, a 35-year-old illustrator, and Mrs. C. C. Cherry, the middle-aged wife of a railroad clerk.

It seemed to the defense lawyers that both Mr. Stone and Mrs. Cherry were too eager to get on the jury.

Mr. Belli has charged that the leading citizens of Dallas, anxious to "restore Dallas's image," wanted a quick trial and conviction of Ruby.

18 Feb 1964

19 Feb 1964

But neither Mr. Belli, in his questioning of Mr. Stone, nor his assistant, Joe H. Tonahill, in his interrogation of Mrs. Cherry, could get them to say they had formed a bias against Ruby.

The fact that Mr. Ruby is a Jew was touched on lightly by Mr. Belli.

"Do you have any prejudice about his belonging to a minority race?" he asked Mr. Stone.

"None whatsoever" Mr. Stone said firmly.

The third prospective juror, J. E. Saunders, an advertising salesman, was quickly excused by Judge Brown when he expressed scruples against the death penalty.

He was followed on the witness stand by Mrs. Sherry Lundberg, a pretty brunette librarian who had a fresh permanent and wore a gold-leaf pin on her blue dress.

She was dismissed on a challenge for cause by the defense when she said she had seen the shooting on television and had formed the opinion that Ruby shot Oswald.

This challenge raised no objection from Mr. Wade, who told newsmen he thought Mrs. Lundberg was "too young."

At the defense table, Ruby listened tensely, his hands clasped tightly on his lap. He was considerably less animated than he was yesterday, when he chatted volubly to his lawyers and the press.

His face had a waxy pallor and occasionally beads of perspiration appeared on his brow. The courtroom was clammy, with the overhead fans left off because they had emitted a wheezing, faintly derisive noise.

At the end of the day, Mr. Belli said the questioning of the prospective jurors "provided absolute blackboard proof of what we had in mind when we asked for a change of venue."

"I don't see how anybody could think we could get a fair trial here," he declared.