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RUBY'S ATTORNEYS FAIL IN MANEUVER

Judge Stops Move to Call Venireman as Witness

By HOMER BIGART

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DALLAS, Feb. 19—Attorneys for Jack L. Ruby attempted today to subpoena a prospective juror, who saw the shooting of Lee H. Oswald on television, as a witness at Ruby's trial.

The maneuver threw the courtroom into an uproar.

Judge Joe B. Brown ordered the subpoena quashed. The defense was then obliged to use the third of its quota of 15 peremptory challenges to dismiss the prospective juror.

The chief defense counsel, Melvin M. Belli, threatened to subpoena all veniremen who "witnessed" on television Ruby's shooting of Oswald, the accused assassin of President Kennedy. Mr. Belli is fighting to have the trial moved from Dallas. He contends that Ruby cannot obtain a fair trial here.

If the defense succeeded in subpoenaing potential jurors to be witnesses at the trial, those subpoenaed would have to be removed from the list of veniremen because a prospective witness cannot serve as a juror. end insert 4th graph of lede "The wearisome..."

Lawyer Grabs Writ

The wearisome and so far fruitless search for jurors acceptable to the defense was dragging through the third day when Joe H. Tonahill, a 265-pound lawyer from Jasper, Tex., rose suddenly from the defense table, grabbed a subpoena from the court clerk and lumbered toward the witness box.

He tried to thrust the subpoena into the hands of prospective juror No. 10, H. C. Connally, saying:

"As an officer of the court I serve you—"

"Don't take it" yelled District Attorney Henry Wade.

Judge Brown, who had surreptitiously bitten off part of a cigar a few minutes earlier, shifted his chew and said: "Just a minute. You can't serve it here."

Mr. Connally kept his hands folded in his lap.

'He Was Served'

"I touched him!" Mr. Tonahill declared. "He was subpoenaed! He was served!"

Judge Brown sustained a motion by District Attorney Wade to quash the subpoena.

Mr. Wade told reporters during the noon recess that Mr. Belli's threat to subpoena television witnesses of the Oswald shooting was "a legal joke, just another attempt to delay the trial."

This was denied by Mr. Belli. He said that Jack Ruby, who had watched Mr. Tonahill's maneuver with open-mouthed bewilderment, was under severe strain from imprisonment—"like a caged animal"—and needed treatment.

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"This man is not going to last much longer if he has to go through with this," Mr. Belli said. "I think if we have a change of venue we will have bail."

Then the defendant could get treatment for the brain disorders alleged by defense doctors, Mr. Tonahill said.

10 Veniremen Dismissed

Up to the midday recess, 10 prospective jurors had been dismissed since the proceedings began on Monday. Not one juror had been accepted. Judge Brown warned of night sessions and a possible Saturday session unless the jury selection was speeded up.

The defense had been willing to accept only one of the 10 veniremen. He was Frank Meza, the ninth man called. Mr. Meza, a warehouseman in a carpet factory, pleased the defense table by saying that he thought Ruby was "emotionally disturbed" at the time he shot Oswald.

Mr. Meza was dismissed on an arbitrary challenge by the prosecution. District Attorney Wade refused to say why he found Mr. Meza unacceptable.

The first two veniremen called today were quickly excused when they said they had nalty. The third was dismissed by Judge Brown when he said he had formed a fixed opinion about the case.

Mailman Stirs Dispute

Then came Charles S. Toon, a mailman, who conceded that "in my opinion Ruby is still guilty." Mr. Tonahill immediately moved that Mr. Toon be dismissed for cause.

When assistant District Attorney A. D. Jim Bowie objected, saying that Mr. Toon might be able to set aside his opinion, Mr. Tonahill shouted:

"Heaven help the court, the nation and every person in this courtroom who has to live under these standards."

He accused District Attorney Wade of "trying to exercise the laws of Soviet Russia in this court."

Judge Brown put a stop to this quarrel by dismissing Mr. Toon.

Relative of Governor

H. C. Connally, the morning's last prospective juror, said he was a distant relative of Gov. John B. Connally Jr., who suffered gunshot wounds while riding in the same car with President Kennedy on Nov. 22.

He said he had not discussed the case with the Governor.

Intensive questioning by the defense failed to elicit from Mr. Connally, who is an installer of telephone equipment, any acknowledgment that he had formed an opinion about Ruby.

Finally, Mr. Tonahill, seizing upon the fact that Mr. Connally had seen the shooting of Oswald on television, resorted to the subpoena maneuver, and when this failed the defense was obliged to use a peremptory challenge to get rid of Mr. Connally.