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20 FEB 1964
854 PCS

PMS BUDGET

RUBY TRIAL (500)

BY RELMAN MORIN

DALLAS FEB.20 (AP)-LEGAL DUELLING OVER SELECTION OF A JURY FOR JACK RUBY'S MURDER TRIAL GOES INTO THE THIRD DAY TODAY, INTENSIFIED BY NEW DEFENSE CONTENTIONS THAT 12 IMPARTIAL MEN AND WOMEN CANNOT BE FOUND IN DALLAS TO HEAR THE CASE.

NOT A SINGLE JUROR HAS BEEN ACCEPTED FROM THE FIRST 16 PERSONS QUESTIONED ON THE STAND.

IN THE RECORD TODAY IS A DRAMATIC PLEA BY MELVIN BELLI, CHIEF DEFENSE COUNSEL FOR RUBY, TO MOVE THE TRIAL TO SOME OTHER CITY IN TEXAS. HE PAID DALLAS A HIGH COMPLIMENT IN URGING DISTRICT JUDGE JOE B. BROWN TO GRANT HIS MOTION FOR A CHANGE OF VENUE. BELLI SAID:

"YOU CAN'T FIND A CITY WITH FINER MEN OF INTEGRITY THAN IN DALLAS. THEY ARE MEN OF FAMILY, MEN OF GOD, MEN OF THE CHURCH. THEY ARE WILLING TO DO THEIR CIVIC DUTY."

BUT, HE ARGUED, "SO MUCH HAS HAPPENED HERE," THAT IT IS DIFFICULT FOR SUCH MEN TO DO THIS CIVIC DUTY CONSCIENTIOUSLY.

BROWN OVERRULED THE MOTION.

RUBY KILLED LEE HARVEY OSWALD IN DALLAS, TWO DAYS AFTER PRESIDENT KENNEDY WAS ASSASSINATED HERE. OSWALD HAD BEEN CHARGED WITH MURDERING THE PRESIDENT.

BELLI'S RENEWED PLEA FOR MOVING THE TRIAL AWAY FROM DALLAS CAME DURING QUESTIONING OF HUGH O'NEAL DANCER, AN ACCOUNTANT.

DANCER, INTENT AND SERIOUS-FACED, SAID HE HAD FORMED AN OPINION ABOUT RUBY'S GUILT OR INNOCENCE AFTER SEEING A RE-RUN OF THE TELEVISED SCENE OF THE SHOOTING.

"I WOULD TRY TO LAY IT ASIDE IF I AM SELECTED AS A JUROR," HE SAID, "BUT AS TO WHAT EFFECT MY SUBCONSCIOUS FEELINGS WOULD HAVE, I JUST CAN'T SAY."

BELLI SHOOK HANDS WITH DANCER AND SAID, WARMLY, "I WANT TO THANK YOU." THE DEFENSE ATTORNEY THEN ASKED BROWN TO GRANT THE MOTION FOR A CHANGE OF VENUE.

DIST. ATTY. HENRY WADE, ASKED WHETHER HE BELIEVES THE DEFENSE IS TRYING TO OBTAIN A JURY IN DALLAS, REPLIED, "NO, I DO NOT."

AFTER YESTERDAY'S FRUITLESS SESSION, WADE TOLD REPORTERS THE DEFENSE LAWYERS THINK JUDGE BROWN WILL TRANSFER THE CASE FROM DALLAS "IF THEY CARRY OUT THE TRIAL LONG ENOUGH."

RUBY WAS MORE ANIMATED IN THE LATEST SESSION OF THE TRIAL.

THREE TIMES, HE TURNED IN HIS CHAIR AND SMILED OR WHISPERED "HELLO" TO REPORTERS ON THE BENCHES BEHIND HIM. HE TALKED WITH HIS ATTORNEYS AND OTHER MEN AT THE DEFENSE TABLE. THROUGH THE MORNING, HE CHEWED GUM. HE SEEMED TO BE FOLLOWING THE PROCEEDINGS WITH CLOSE ATTENTION.

THE BREAK-DOWN ON REJECTION OF THE FIRST 16 PROSPECTIVE JURORS NOW IS THIS:

DEFENSE PEREMPTORY CHALLENGE--4

STATE PEREMPTORY CHALLENGE--1

AGAINST DEATH PENALTY--5

"FOR CAUSE" (FORMING AN OPINION ON GUILT OR INNOCENCE, ETC.) 6.

A PEREMPTORY CHALLENGE PERMITS AN ATTORNEY TO REJECT A JURY CANDIDATE WITHOUT STATING ANY REASON. DEFENSE AND PROSECUTION EACH HAVE 15 PEREMPTORY CHALLENGES.

CHALLENGE "FOR CAUSE" REQUIRES STATING A REASON WHY THE CANDIDATE SHOULD NOT BE CONSIDERED QUALIFIED FOR THE JURY. THE JUDGE RULES AS TO WHETHER THE ARGUMENT IS VALID.

HAVING USED FOUR PEREMPTORY CHALLENGES--WHICH BELLI DESCRIBES AS "SOLID GOLD"--THE DEFENSE IS NOW DOWN TO 11. SOME OBSERVERS IN THE COURTROOM BELIEVE THE DEFENSE WILL USE ALL 15 BEFORE A JURY IS SELECTED.

BELLI POINTED OUT, HOWEVER, THAT HE ACCEPTED YESTERDAY A CLERK, FRANK MEZA, AND THAT THE PROSECUTION REJECTED MEZA ON ITS FIRST PEREMPTORY CHALLENGE.

MEZA HAD SAID HE THOUGHT RUBY WAS EMOTIONALLY DISTURBED WHEN HE SHOT OSWALD. (RUBY'S DEFENSE IS BASED ON TEMPORARY INSANITY.)

JUDGE BROWN SAID HE WAS NEITHER "DISCOURAGED NOR ENCOURAGED" BY THE SITUATION RESPECTING THE JURY. "IF IT'S POSSIBLE TO GET A FAIR AND IMPARTIAL JURY IN DALLAS, I WANT TO TRY THE CASE HERE," HE SAID.

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