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Ruby Seeks to Bar Jurors Who Viewed The Killing on TV

By JACK LANGGUTH

Special to The New York Times

DALLAS, Feb. 18—Was every person who watched on television as Jack L. Ruby shot Lee H. Oswald last Nov. 24 an eye-witness to the event?

As Ruby's attorneys began examining prospective jurors today, they argued that anyone was a witness who either saw the actual telecast of the killing or rebroadcasts of the film strip.

Article 616 of the Texas Code of Criminal Procedure states that a person is not qualified for jury duty if it is established that "he is a witness to the crime."

The prosecution is contending, however, that watching the shooting on television should be considered "heresay" evidence, little different from reading about the event in the newspapers.

Judge Joe B. Brown has not made a direct ruling on the issue. But when the defense moved to challenge candidates for the jury on the basis of what they had seen on television, the judge ruled against them.

Only two of the four jurors examined and excused today gave a detailed account of what they had seen on television. Both said it had not been possible to make a positive identification of Ruby from the slow-motion rerun of the shooting that they had seen.

'A Lot of Confusion'

"I could see a man in a hat move forward and then a lot of confusion," said Hilliard M. Stone, an industrial illustrator who was the first witness.

Mrs. Sherry Lundberg, a young librarian, said she saw a figure who "just sort of appeared and moved out around people." She said she had a "vague impression that he was wearing a khaki-like coat." She added, "I could be mistaken."

The announcer's commentary identified the man as Ruby, Mrs. Lundberg said.

In the prosecution's view, seeing the broadcast would be grounds to eliminate the juror only if it could be established that what television had shown would influence him in finding his verdict.

In a conversation with reporters, Melvin M. Belli, Ruby's chief attorney, said that the law was "archaic" in not taking notice of the development of television.

"There was a time when telephone conversations could not be introduced as evidence," Mr. Belli recalled. "No," the judges ruled, "that's hearsay because you couldn't identify a voice." As the equipment improved and voices could be recognized, telephone conversations were ruled admissible."

"Now," he continued, "all of the witness stuff in the Texas laws was written before television. The fact that television has produced more witnesses doesn't mean that they are each less of a witness."

The effect of television on the jurors was raised with Mr. Stone in another connection.

"Would you please search your conscience," Mr. Belli asked him, "and tell us whether you feel the way they sometimes do on television shows that an insanity plea is a sham of the defense?"

"I'm not too influenced by television," Mr. Stone replied.

"Fair enough," Mr. Belli commented.

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FIRST RUBY JUROR CHOSEN AT TRIAL

Engineer Accepted After 23 on Panel Are Rejected

By HOMER BIGART

Special to The New York Times

DALLAS, Feb. 20—The first juror was selected today for the trial of Jack L. Ruby.

The prosecution and Melvin M. Belli, chief defense counsel, accepted Max E. Causey, 35 years old, an electronics engineer with a master's degree in education.

But at least another week may pass before a 12-man jury is completed and Ruby's trial begins. The former night-club manager is under indictment for the murder of Lee H. Oswald, the accused assassin of President Kennedy.

The acceptance of Mr. Causey came after 23 prospective jurors had been rejected. The proceedings began on Monday.

Mr. Belli still insisted that an impartial jury could not be found in Dallas. It is his contention that the people of Dallas, shamed by the assassination of President Kennedy here on Nov. 22 and the slaying of Oswald in a police station corridor two days later, feel that Dallas's "image" can be restored only by sending Ruby to the electric chair.

Must Stay in Courthouse

Mr. Causey, a solemn, round-faced man with reddish crew-cut hair, will remain in the courthouse until the trial ends.

Twelve tightly guarded rooms have been prepared for the Ruby jurors. During their stay in these quarters the jurors will be allowed newspapers from which all news of the trial has been deleted, but they will not have access to radio or television.

Selection of the first juror came after defense attorneys huddled for five minutes around their balding, 52-year-old client. Ruby listened with a taut expression.

He had heard District Attorney Henry Wade say to the man in the witness box:

"The state accepts you, Mr. Causey."

Mr. Belli asked permission to approach the bench. The District Attorney objected, demanding that the defense lawyer either accept Mr. Causey or use a peremptory challenge.

5 Challenges Used

The defense had already used up five of its 15 peremptory challenges. When these challenges are exhausted the defense will be unable to forestall the selection of jurors regarded as qualified by the prosecution and by Judge Joe B. Brown.

In the tense group around the defendant, acceptance of Mr. Causey was backed by Joe H. Tonahill and Sam Brody, assistant defense attorneys.

They argued that Mr. Causey' keducational background would enable him to understand the significance of the psychiatric reports on which the defense will base Ruby's insanity plea. Mr. Belli, according to a defense source, was dubious. He thought Mr. Causey looked too cold and unemotional.

"What do you think?" Mr. Belli asked his client.

"He looks pretty good to me," said the defendant.

Defense's 5th Challenge

The defense was forced to use its fifth peremptory challenge to eliminate the 23d prospective juror, L. E. McBride, 58 years old, a tall, graying aircraft inspector.

Mr. McBride was questioned for more than two hours. Joe H. Tonahill, assistant defense counsel, failed in all efforts to elicit some admission of having prejudged the case.

With patience and good humor, Mr. McBride replied "No" to such questions as "You have a prejudice against Jack Ruby, do you not?", "Did what you hear, read in the papers or see on television lead you to believe that Ruby should receive the death sentence?" and "Do you feel that Ruby was not alone but part of a conspiracy?"

Mr. McBride resisted all efforts to trap him into saying flatly that Ruby had shot Oswald.

Judge Brown finally allowed Mr. Tonahill to ask:

"If you have to decide now, would you vote Jack Ruby innocent or guilty?"

"My verdict would be based on the evidence only," said Mr. McBride firmly.

Belli Charges 'Filibuster'

"I think the answer is a filibuster," protested the chief defense counsel, Mr. Belli. But Judge Brown told the defense to go on to another line of questioning.

Mr. McBride insisted he had no fixed opinions on the case. Well, did he not have an opinion about who pulled the trigger that killed Oswald? Mr. Tonahill asked.

"No sir," said Mr. McBride. Of course he had read in the papers that Ruby shot Oswald, but "I don't believe half of what I read in the papers."

Mr. Belli protested that Judge Brown was favoring the prosecution in the selection of jurors by "limiting us to stupid questions."

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The judge had ruled out as irrelevant many questions by the defense designed to trip up prospective jurors who said they could lay aside impressions they had received from seeing the shooting of Oswald on television.

'Taxes the Credulity'

"It taxes the credulity," Mr. Belli said, "to hear a man say he read in the papers that Ruby shot Oswald and then hear him say he doesn't believe it."

Mr. Tonahill began again: "You read repeatedly that Ruby shot Oswald," he told Mr. McBride. "Are you saying you don't know Oswald was shot to death?"

"They say he's dead" al-

lowed Mr. McBride.

At this point Mr. Belli protested that the defense table was "surrounded by police" and that the prosecution lawyers were sitting so close they could eavesdrop.

He complained also that the security measures were more rigid than at the Nuremberg war crime trials and that he lacked the freedom of confidential exchange with his assistants and with Ruby.

Judge Brown allowed the defense to move its table forward.

In their questioning the defense sought to prove that many prospective jurors felt the city of Dallas was on trial because of the November events and that the city's "image" could be cleansed only by the conviction of Ruby.

Question Disallowed

At one point Mr. Tonahill asked Mr. McBride: "If Ruby had shot Oswald at the scene of the assassination, would he be a hero or a criminal?"

Judge Brown, upholding a protest from the prosecution bench, told Mr. McBride not to answer. The judge also overruled Mr. Tonahill's next question: "If a Secret Service man had shot Oswald, should he be tried for murder?"