

RUBY MAPS APPEAL ON TV 'WITNESSES'

May Ask High Court to Bar Jurors Who Viewed Killing

By HOMER BIGART
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DALLAS, Feb. 27—Attorneys for Jack L. Ruby laid the groundwork today for asking the United States Supreme Court to uphold their contention that anyone who saw Ruby shoot Lee H. Oswald on television should be barred from his jury.

They went through the formality of asking the Texas Supreme Court to reconsider its 4-to-0 decision Monday against hearing a defense plea for an extraordinary writ.

The writ would have prevented Judge Joe B. Brown from accepting as jurors television "witnesses" of the Oswald shooting.

Ruby's lawyers conceded there was no chance that the state court would reverse its unanimous decision. But they had to ask a rehearing if they were to carry their plea to the Federal court.

9th Juror Chosen

Meanwhile, the ninth juror was chosen for the murder trial of Ruby, the 52-year-old Dallas night-club operator who shot Oswald, the accused assassin of President Kennedy, in front of television cameras last Nov. 24.

Acceptance of James E. Cunningham, 34, an electronics engineer, came near the end of a day-long search for the ninth juror. Three more jurors must be found. There is still hope that the taking of testimony may begin on Monday.

In the morning session, the defense used its 12th peremptory challenge to reject a prospective juror who had indicated reluctance to accept a plea of insanity in a murder case.

Only Three Left

That left the defense with only three more arbitrary challenges. Melvin M. Belli, chief defense counsel, was certain to renew his request to Judge Brown for extra ones.

Texas law allows both sides 15 peremptory challenges but gives the judge discretion to grant more.

Judge Brown said he had never had a case where either side had exhausted all its peremptory challenges. He refused to say if he would grant extra challenges in this case.

The defense used its 12th arbitrary challenge to reject Mrs. Elizabeth B. James, a middle-aged housewife.

"Do you think the insanity plea is hogwash?" asked Joe H. Tonahill, assistant defense counsel.

"I think I could go along with it," Mrs. James said doubtfully.

"If you were in Ruby's place, would you want your case to be heard by a jury who felt as you do about the defense of insanity?"

"No, I wouldn't," Mrs. James said, with a nervous laugh.

Rephrased by Judge

Assistant Prosecutor A. D. Jim Bowie protested that Mrs. James had misunderstood the question. Judge Brown then asked her, "Do you feel you could be a fair and impartial juror?"

"I think so," she said.

Judge Brown refused to dismiss her for cause and the defense was obliged to use an arbitrary challenge.

The prosecution used the fifth of its 15 challenges to remove Lawrence O. Greer, a 25-year-old graduate student of North Texas State College. Mr. Greer was the first prospective juror who had studied psychology and the first who was not identified with a religious group.

The defense had been eager to accept Mr. Greer. Mr. Belli had named some psychologists that the defense hopes to call as witnesses, and Mr. Greer had said he was familiar with some of them.

District Attorney Wade, apparently fearing that Mr. Greer would be easily influenced by the testimony of defense psychologists, forced his dismissal.

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