

RUBY'S COUNSEL DENIED MISTRIAL

Outburst Flares Over 'Fact Sheet' by Epilepsy League

By HOMER BIGART
Special to The New York Times.

DALLAS, March 2 — Attorneys for Jack L. Ruby moved for a mistrial today, charging that an official of the National Epilepsy League was trying to "contaminate" prospective jurors. The motion was denied by Judge Joe B. Brown.

The defense threw the hot, stifling courtroom into tumult with a shouting denunciation of Maurice A. Melford, national director of the league.

Mr. Melford, who had come from his headquarters in Chicago, was circulating to newsmen a "fact sheet" denying any connection between epilepsy and criminal behavior.

Ruby's defense is based on the contention that he was suffering from a seizure of psychomotor epilepsy at the time he shot Lee H. Oswald, the accused assassin of President Kennedy, last Nov. 24. The defense plans to submit medical evidence that Ruby suffered organic brain damage.

Doctor Is Quoted

The fact sheet quoted from a book by Dr. Frederic A. Gibbs of the University of Illinois School of Medicine, whom the defense had hoped to use as a witness.

Dr. Gibbs was quoted as saying in "A Modern View of Epilepsy":

"You don't have to worry too much about a patient in a psychomotor seizure. You will read in novels and see in the movies all kinds of dramatizations, spiced-up stories about what psychomotor epileptics do: murders, criminal activities, etc. That is nonsense."

Melvin M. Belli, chief defense counsel, said that the quotation was "10 years old" and that "Gibbs has completely changed."

Judge Brown recessed the court as soon as Mr. Bell moved for a mistrial.

Subpoenas Issued

The defense, however, obtained subpoenas for Mr. Melford and two employes of a local public relations concern that had helped him distribute the material.

Mr. Melford acknowledged phoning the District Attorney's office last Friday about his plan to distribute the material to newsmen at the courthouse press room.

He said he feared that arguments made during the Ruby trial would further prejudice the public against Americans "who suffer from epilepsy but who are honorable, deserving and, in most cases, capable citizens."

Meanwhile, the 14th day of jury processing failed to pro-

duce the last two jurors needed. Sixteen prospective jurors were examined.

Defense Attorney Fined

An assistant defense counsel, Joe H. Tonahill, was fined \$25 for contempt by Judge Brown when he hurled a blue ballpoint pen to the floor in an angry exchange with the prosecution at the morning session.

Mr. Tonahill became angry when Assistant District Attorney A. D. Jim Bowie objected to defense attempts to draw an admission of prejudicial opinion from a prospective juror.

Last Challenge Used

Mr. Belli had to use the last of his peremptory challenges. It was the 18th dismissal of a prospective juror by the defense. At the beginning of the trial Judge Brown gave 15 peremptory challenges to both sides, and then awarded the defense three extra ones.

When the last challenge was exhausted this morning, Mr. Belli again asked for more, but Judge Brown refused.

Jack Ruby was examined for an hour this morning by Dr. Manfred Guttmacher, a Baltimore psychiatrist called by the defense. Dr. Guttmacher said afterward that Ruby seemed "more tense, anxious and depressed" than when he last saw him in December.

The prosecution used its ninth peremptory challenge to dismiss Mrs. Ronelia Allen, the sixth Negro to be called as a jury candidate and the first who did not oppose capital punishment.

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