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28 APR 1964  
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EB56DN (RUBY)

NIGHT LEAD RUBY (380)

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ASSOCIATED PRESS WRITER

DALLAS, TEX., APRIL 28 (AP)—ATTORNEY JOE TONAHILL TODAY FILED AN AMENDED MOTION FOR CONDEMNED SLAYER JACK RUBY ASKING A NEW TRIAL FOR THE SLAYER OF PRESIDENT KENNEDY'S ACCUSED ASSASSIN.

THE AMENDED MOTION, WHICH CAME AS A SURPRISE LATE TODAY, SAID THAT THE PROSECUTION SUPPRESSED VITAL INFORMATION CONCERNING A PSYCHIATRIC EXAMINATION ADMINISTERED RUBY AS CHILD.

THE PETITION SAID THAT THE PROSECUTION AND THE FEDERAL BUREAU OF INVESTIGATION KNEW OF THIS INFORMATION BEFORE RUBY'S MURDER TRIAL FEB. 17 THROUGH MARCH 14.

THE NEW MOTION ALSO CLAIMED THAT "MATERIAL PREJUDICE WAS INJECTED INTO THIS CASE" BY A SATURDAY EVENING POST ARTICLE PUBLISHED PRIOR TO THE TRIAL ABOUT MELVIN BELLI, THEN CHIEF COUNSEL FOR RUBY.

THE MOTION SAID THE FEB. 8 ISSUE OF THE POST PORTRAYED BELLI AS A "VAIN AND CONCEITED PERSON MORE INTERESTED IN . . . EXHIBITIONISM AND SELF-GLORIFICATION THAN IN CONSCIENTIOUS REPRESENTATION OF HIS CLIENT."

"SUCH ARTICLE . . . TENDED TO INFLAME ALL PROSPECTIVE JURORS AND TO AROUSE FEELINGS OF HOSTILITY AND CONTEMPT TOWARD BELLI," TONAHILL'S PETITION CONTINUED.

EARLIER TODAY, TONAHILL SAID THAT NEW EVIDENCE WOULD BE REVEALED TOMORROW WHEN JUDGE JOE B. BROWN HOLDS A HEARING ON AN EARLIER MOTION FOR A NEW TRIAL.

TODAY'S MOTION SAID THAT RUBY HAD BEEN SEEN WHILE A CHILD BY PSYCHIATRISTS AT THE ILLINOIS INSTITUTE FOR JUVENILE RESEARCH IN CHICAGO.

"THIS EVIDENCE IS HIGHLY RELAVANT AND MATERIAL," THE MOTION SAID, CLAIMING ALSO THAT IT WOULD HAVE GREATLY STRENGTHENED THE DEFENSE' CLAIM OF MENTAL ILLNESS DURING RUBY'S MURDER TRIAL.

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"DEFENDANT ALLEGES THAT SAID VITAL INFORMATION WAS KNOWN TO THE STATE THROUGH THE FBI PRIOR TO TRIAL BUT WAS SUPPRESSED AND NOT COMMUNICATED TO DEFENSE COUNSEL AS THE PROSECUTION HAD A DUTY TO DO," THE MOTION SAID.

THE MOTION ALSO CONTENDED THAT JUDGE BROWN ERRED "IN FAILING TO MORE RIGIDLY CENSOR ACCESS AND ACTIVITIES OF NEWS REPORTERS, PHOTOGRAPHERS, TELEVISION CAMERAMEN AND TECHNICIANS WHOSE PRESENCE AND SENSATIONAL NEWS RELEASES . . . DESTROYED THE DIGNITY AND DECORUM WHICH SURROUND A TRIAL."

"THE TRIAL WAS CONVERTED INTO A PUBLIC PAGEANT AND SPECTACLE CALCULATED TO ENTERTAIN THE PUBLIC," THE MOTION ADDED. THE LATEST MOTION TABULATED 205 ASSIGNMENTS OF ERROR ON THE PART OF THE COURT, INCLUDING THOSE IN THE MOTION WHICH RESULTED IN TOMORROW'S SCHEDULED HEARING.

THIRTY WITNESSES HAVE BEEN SUBPOENAED FOR TOMORROW'S HEARING. TEXAS JUDGES USUALLY OVERRULE MOTIONS FOR NEW TRIALS UNLESS MATERIAL EVIDENCE IS BROUGHT TO LIGHT AT THE HEARING.

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