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Ruby Lied to Warren



At time of the trial . . . a haggard Jack Ruby
UPI Photo

Why He Didn't Take the Stand

The assassination—the verdict is in. After 10 months of hearing testimony and sifting evidence, the Warren Commission Report is about to be made public. See story by Warren Rogers, Chief Washington Correspondent, Hearst Headline Service and The N. Y. Journal-American, on what the verdict will be—Page 17, Other Stories, P. 18, 19.

By DOROTHY KILGALLEN

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Jack Ruby, convicted killer of President Kennedy's alleged assassin, lied in his testimony to the Warren Commission.

Under oath, he told Chief Justice Earl Warren and the other investigators that he had begged to testify at his trial for the murder of Lee Harvey Oswald, but was prevented by chief defense counsel Melvin Belli.

Actually both Mr. Belli and his Texas associate, Joe Tonahill, tried to persuade Ruby to take the stand, but the defendant refused.

On July 7, in the Dallas County Jail, Ruby told Chief Justice Warren:

" . . . When I sent to say that I wanted to get on the stand and tell the truth what happened that morning (of Oswald's death), he (Mr. Belli) said, 'Jack, when they get you on the stand, you are actually speaking of a premeditated crime that you involved yourself in.'

"But I said I didn't care, because I wanted to tell the truth.

"He said, 'When the prosecution gets you on the stand, they will cut you to ribbons.'

"So naturally, I had to retract."

Several times in his official testimony before the President's Commission, Ruby emphasized his frustration at not being called to the witness stand in his own defense. One of his attorneys, Mr. Tonahill, who was present at the interrogation, did not interject any objections to Ruby's statements on this point, although he knew they were untrue.

From an unimpeachable source, The New York Journal-American has learned that members of Ruby's defense staff wanted to put him on the witness stand.

Although they claimed—and still do claim—that he was insane at the time of the Oswald shooting, they felt that his mental deterioration was so obvious that if he were to be exposed with all his peculiarities and tendencies to ramble, perhaps even if he collapsed or ranted on the stand, it would be to his advantage. It might not have saved him from the fatal decision of the Dallas jury, but it certainly would have given a clearer picture of him to the press of the world assembled in the courtroom.

The defense has in its files notes in Ruby's handwriting stating that he refused to testify.

This is in direct contradiction to his sworn testimony on Page Six of the Warren Commission document of his 102-page interrogation.

It will be interesting to discover, when the Commission report is released tonight, whether the investigators checked Ruby's allegations against the presumably more rational recollections of his lawyers.

There was a major disagreement between the two principal attorneys in the case, Mr. Belli and Mr. Tonahill, over the handling of the autopsy of Oswald.

At the trial, the official cause of Oswald's death was given as a bullet wound through the aorta and other vital organs. However, a study of the autopsy report caused speculation that Oswald might have died, not from Ruby's single gunshot, but from an "air embolism" discovered in his body after his death.

Howard Wilcox, a pathologist attached to St. Elizabeth's Hospital in Beaumont, Texas, was inclined to support this theory of death from "air embolism"—which, if accepted, would have removed Jack Ruby completely from the shadow of the electric chair.

It was believed that expert Wilcox would have been willing to testify, and in the opinion of some of the defense lawyers, Mr. Belli—with his spectacular record of victories in cases involving forensic medicine—would have been able to present to the lay jury a medical reason for doubt.

But, to quote one reliable source, "Mel didn't want to go into it." Therefore the jurors never were told that Oswald might have died because of an air embolism, and not because of Jack Ruby's bullet fired after a miraculously timed entrance into the basement where the alleged assassin was being transferred to the county jail under maximum security precautions.

CONSPIRACY WITH POLICE?

In his final argument to the jury, Mr. Tonahill illustrated dramatically that unless Ruby was somehow involved in a conspiracy with the Dallas police—which he, the lawyer, disclaimed—the killing of Oswald in the basement was "that great coincidence of all times."

Mr. Tonahill averred:

"The State has the burden to prove to you that there was a conspiracy in the Police Department with Jack Ruby." District Attorney Henry Wade immediately interrupted with:

"Judge, we object to that. Did you hear what he said? He said there was..."

Mr. Tonahill: "I hope he heard what I said. And I sure hope the jury heard it."

Mr. Wade: "Judge, he's just told the jury that we had to prove that Jack Ruby was in a conspiracy with the Dallas Police Department."

Mr. Tonahill: "That's right."

The defense attorney was referring, with what seemed to observers to be great validity, that it was amazing how Jack Ruby happened to walk through armored cars and policemen to a few feet within Oswald in the police basement, at 11:19 a.m. on Nov. 24, 1963, unless the prosecution would accept that his arrival was "a great coincidence" or "a conspiracy" with the police department.

On the day of the Oswald slaying, the press had been informed that Oswald's transfer would be made at 10 a.m. Yet the police had been notified of threats against the prisoner's life, so there were delays, and members of the news media were still hanging around after 11 a.m. to record the historic moment. There was a crowd of newspapermen, radio broadcasters and television crews. They were not told exactly when the prisoner would be brought out.

While they waited, Ruby, a nightclub owner, went to a Western Union office two blocks from the frantic scene and sent a money order to a girl who had worked as a stripper at his Carousel Club. The Western Union man on duty, Doyle Lane, stamped the wire: 11:17 a.m.

AND 2 MINUTES LATER...

When Lee Oswald was shot, the clock in the police basement read 11:19...just two minutes later, or less.

Therefore, lawyer Tonahill's plea to the jury on this point becomes impressively important. He said:

"Jack Ruby, to have gotten in there deliberately under those coincidental aspects that he got in there, had to have information somewhere to the appearance of Lee Harvey Oswald for there to be premeditation. Don't you agree?"

"He left this telegraph station at 11:17, and it could have been 11:17:59, which was almost 11:18. And there was evidence here that the shooting took place at 11:19, and after Jack had walked the 300 and some steps. Yet he went out of there in a casual manner.

"He went down there casually, over 300 feet.

"Bob Walker of WFAA pointed out on the clock, on the film, it was 11:20 after they got him inside the station, in the jail office. It was 11:20 then—just three minutes after Jack left the Western Union. So this business took place possibly a minute before 11:20."

Then the high drama, laid on the jurors by Mr. Tonahill:

"There would be no other way in the world except pure unexpected coincidence for Jack Ruby to have arrived there simultaneously with Oswald coming out of there, unless there was a two-way radio between him and Capt. Fritz, telling him. No human, no possible way.

"Captain Fritz or somebody, somebody in the know when that Oswald was making his move through that door. If Jack shot with malice and premeditation, he would have had to have been tipped off by somebody in the police station, when Oswald was coming and when to make the move."

Mr. Tonahill, the big flamboyant lawyer from Jasper, had quite a point there, even if the jury didn't pay it much mind.

How DID Ruby happen to slip into the wildly crowded police basement—unnoticed, although he was well-acquainted with the police and a known gun carrier—just in time to

shoot Oswald, but not in time to be checked out, as the reporters were?

According to the official police chronology of that day, two armored cars were pulled up to the driveway of the police basement, awaiting Oswald's transfer, and policemen were stationed on either side of them to close any gap between the armored cars and the sides of the driveway entrance.

The question then becomes: Who stepped aside to let Ruby pass through without pause at that great moment of coincidence? Or did he have some magic way of penetrating armored trucks?

Obviously Captain Pat Gannaway of Special Services in Dallas pondered the matter. He had virtually every man at his command pace the distance between the Western Union office and the scene of the Oswald killing. They were clocked, efficiently. There was not more than a five-second difference in the time any of them took to walk Ruby's route.

There were oddities in Ruby's behavior that Mr. Tonahill did not take pains to emphasize to the jury, because he was, after all, a defense lawyer. But the oddities are interesting, and should be explained by the Warren report:

- Ruby left his car parked opposite the Western Union office, but after completing his business at the office he "just happened" to stroll toward the police basement, on foot.

- Ruby always claimed he carried his gun to protect his payroll. Yet when he entered the scene of the Oswald slaying, he carried only the gun—no money. Hundreds of dollars were left in his wallet in the car in the parking lot while he took his unpremeditated stroll toward murder.

- His beloved dog, Sheba, which he often called "my wife," also was left in the car.

DIDN'T NEED A GUN

- Since Ruby made it clear in his own testimony to the Warren Commission that he did not know Oswald was yet to be transferred from the police basement when he went to Oswald with the gun in his right hand, and that was just at the moment when everyone was concentrating on Oswald's exit from the elevator, and no one noticed—or at any rate stopped or questioned—Ruby.

Why the gun? Perhaps, if you could X-ray the minds of the Dallas jurors, that question convicted Jack Ruby of murder in the first degree.

Despite Mr. Tonahill's eloquence, there was no avoiding there, and since he was not protecting either his money or his dog, why the gun? Photos prove that if he did not enter the basement with the gun drawn, he certainly took it out immediately after he gained admission, because the famous television pictures of Oswald's killing show Ruby walking up

the fact that Ruby had left his car, left his dog, left his money, but taken his gun with him when he went on his "casual" walk toward the police basement and his annals of history. Why did he take the gun?

He never explained on the witness stand. He said his lawyers wouldn't allow him to go into the box, they contend they asked him to testify but he refused. One member of the defense staff, asked recently why he thought Ruby had lied to the Warren Commission, replied:

"I think his sisters—his family—have had a great deal to do with influencing him. I think he follows their advice. I think they are eccentric and their advice is not always good."

THE OTHER CHARACTERS

Presumably the long-awaited Warren Report will explain what has happened to characters who were important in the Kennedy-Oswald-Ruby drama in November, but have since vanished like ripples on water.

There is Bill DeMarr, the personable master of ceremonies at Ruby's Carousel Club, who also did a memory act and appeared on television shortly after Ruby shot Oswald. When asked by a television interviewer whether he had ever seen Oswald in Ruby's club, DeMarr said yes, as a matter of fact as soon as he had seen Oswald's picture after his arrest he had recognized him as a customer who had participated in the memory act a night or so before the assassination.

There was no reason for DeMarr to invent this story; he would have been on television anyway, getting publicity which might be valuable to him, because the newscasters and reporters were grabbing anybody who knew anything about Jack Ruby, and DeMarr would have been shoved on camera just to tell what Jack Ruby was like as a boss, regardless of whether he had ever seen Oswald.

And what has it profited DeMarr He was last reported working in a Bayonne, N. J., nightclub, and that place does not have his current address and no one can find him. His union, AGVA, will not reveal his address—anyone who asks about him is told to “write to him in care of the union, and we will forward the letter.”
