

Ruby Appears Before U.S. Court

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Staff Writer

Jack Ruby, handcuffed and under heavy security guard, was taken from his county jail cell Friday afternoon to appear at a hearing in federal court.

Appearing talkative and jovial, Ruby called out to newsmen as he headed for the latest phase in the appeal of his conviction for the slaying of Lee Harvey Oswald.

The former night club operator was escorted into Judge T. Whitfield Davidson's U.S. District Court at 1:30 p.m. for a hearing 30 minutes later.

FEDERAL ACTION

The hearing was to consider moving Ruby's case to federal court because of allegations that his constitutional rights have been violated in state court.

Ruby was led from Dallas County Jail shortly after 7 p.m. Sheriff Bill Decker and three other deputies drove him to the federal building at Bryan and Ervay where they were met by another sheriff's deputy and four U.S. deputy marshals.

As Ruby appeared in the Houston street exit of the county jail, he was asked by newsmen what he thought of the latest developments.

"I don't know what it's all about, but I intend to find out," he called back.

Entering the federal building, Ruby shouted, "Hello, boys," as he passed another throng of reporters and photographers.

He was taken first to the U.S. marshal's office on the third floor of the federal building, and newsmen were barred from entering.

Later, as Ruby was led into the courtroom, he told reporters of what he called a conspiracy against him.

"You'll be amazed with the con-

spiracy when the true facts come out. There's a complete conspiracy against me."

Earlier Friday a group of attorneys who were seeking to remove the Ruby case from the state to federal jurisdiction asked the court to delay the hearing because of conflicting commitments for the afternoon. They said they would not have time for the hearing.

The Dallas district attorney's office was prepared to fight the removal of a sanity hearing for Ruby to the federal court from the Texas criminal district court.

An unusual defense maneuver transferred the pending Ruby sanity issue and the question of who is to represent Ruby in further hearings and trials from the court of Dallas Judge Joe B. Brown to the northern district federal court Thursday.

Judge Davidson heard Austin attorney Sam Houston Clinton Jr., the general counsel of the Texas Civil Liberties Union who filed the federal petition, and First Asst. Dist. Atty. A. D. Bowie in closed chambers late Thursday. The judge recessed the hearing on the petition for transfer of the case to federal court until Friday afternoon so defense lawyer Joe H. Tonahill of Jasper and New York lawyer William Kunstler could be present.

Mr. Clinton said his only interest in the case is Ruby's right to having an attorney of his choice.

But there was little question the case was now a federal matter, and would be until the petition urging that Ruby be remanded to federal custody of U.S. marshals is settled.

"The Ruby case is a federal matter now—at least temporar-

ily," said Chief Prosecutor William F. Alexander of the Dallas district attorney's office.

NO JURISDICTION

Judge Brown agreed that the Ruby case was out of his jurisdiction. "Judge Davidson has it," he said.

A hearing in state court scheduled for Friday morning to determine if Ruby wanted to discharge attorney Tonahill, who has been in the case since before the March, 1964, trial, was canceled by the federal move.

Judge Brown appointed Mr. Tonahill and Phil Burleson of Dallas as Ruby's attorneys of record at a pre-trial hearing March 8 preparing for the sanity trial, which the Texas Court of Criminal Appeals urged before it would consider the appeal.

But Ruby's family and Detroit attorney Sol Dann contend Ruby does not want Mr. Tonahill.

Attorney Dann along with Elmer Gertz of Chicago, Clinton of Austin, and the firm of Kunstler, Kunstler and Kenoy of New York brought the federal action to transfer the case to federal court.

They contend that Mr. Tonahill's appointment over Ruby's objection, Judge Brown's refusal to disqualify himself and move the sanity hearing from Dallas, and refusal to recognize them as Ruby's chosen lawyer deprive him of his constitutional right. These issues are the basis for removing the case to the federal court.