

EA156MH (ADV)

ADVANCE FOR AMS OF MONDAY APRIL 19

JACK RUBY (600)

JACKSONVILLE, FLA., APRIL 18 (AP)-JACK RUBY HAS MARKED TWO BIRTHDAYS SINCE A JURY SENTENCED HIM TO DEATH FOR KILLING LEE HARVEY OSWALD. BUT THE LEGAL APPEAL OF HIS CONVICTION HAS NOT PROGRESSED BEYOND THE TRIAL COURT IN WHICH THE VERDICT WAS RENDERED.

THE LATEST DEVELOPMENT IN THE COMPLICATED, STRIFE-RIDDEN CASE IS SET FOR TUESDAY IN JACKSONVILLE.

JUDGES OF THE 5TH U.S. CIRCUIT COURT OF APPEALS WILL BE ASKED BY LAWYERS HIRED BY THE RUBY FAMILY TO PROHIBIT PROCEEDINGS IN THE TEXAS STATE COURTS PENDING THE FEDERAL APPEAL OF A SIDE ISSUE.

THE DALLAS DISTRICT ATTORNEY'S OFFICE, WHICH PROSECUTED RUBY, WILL ARGUE AGAINST SUCH A STAY.

ANOTHER RUBY DEFENSE LAWYER, JOE TONAHILL OF JASPER, TEX., SAID HE WILL ASK THE FEDERAL APPELLATE COURT TO BAR THOSE LAWYERS HIRED BY THE RUBY FAMILY FROM FURTHER PARTICIPATION IN THE BIZARRE CASE.

HERE IS THE SEQUENCE LEADING TO TUESDAY'S PROCEEDINGS:

-- NOV. 24, 1963: RUBY KILLS OSWALD IN DALLAS CITY HALL BASEMENT AS THE PRESIDENTIAL ASSASSIN IS BEING TRANSFERRED TO COUNTY JAIL.

-- MARCH 14, 1964: RUBY TRIAL ENDS WITH DEATH VERDICT.

-- APRIL 29, 1964: TRIAL COURT JUDGE JOE B. BROWN DENIES MOTION FOR NEW TRIAL; DEFENSE GIVES FORMAL NOTICE OF APPEAL TO TEXAS COURT OF CRIMINAL APPEALS.

-- FEB. 17, 1965: RUBY FAMILY SAYS RUBY SIGNED AFFIDAVIT REMOVING TONAHILL FROM DEFENSE; TONAHILL SAYS RUBY INSANE.

-- FEB. 24, 1965: TEXAS COURT OF CRIMINAL APPEALS ORDERS JUDGE BROWN TO DETERMINE WHETHER RUBY SANE OR INSANE BEFORE APPEALS PROGRESSES; HAD SET APPELLATE HEARING FOR MARCH 10.

-- MARCH 8, 1965: JUDGE BROWN GRANTS DEFENSE MOTION AND SETS SANITY HEARING TRIAL FOR MARCH 29; ALSO FORMALLY APPOINTS TONAHILL AND DALLAS LAWYER PHIL BURLESON AS RUBY'S ATTORNEYS FOR APPEAL.

-- MARCH 18, 1965: LAWYERS (EXCLUDING TONAHILL AND BURLESON) FILE WRIT OF HABEAS CORPUS IN FEDERAL DISTRICT COURT, DALLAS, CLAIMING VIOLATION OF RUBY'S CONSTITUTIONAL RIGHTS; PETITION ASKS FOR REMOVAL OF TONAHILL FROM DEFENSE STAFF, DISQUALIFICATION OF JUDGE BROWN, AND FOR REMOVAL OF ENTIRE CASE TO FEDERAL JURISDICTION.

-- MARCH 19, 1965: U.S. DIST. JUDGE T. WHITFIELD DAVIDSON DENIES DEFENSE MOTION, REMANDS CASE BACK TO STATE COURTS; DEFENSE GIVES NOTICE OF APPEAL FROM THIS RULING TO 5TH U.S. CIRCUIT COURT OF APPEALS.

A MEMBER OF THE NEW YORK LAW FIRM OF KUNSTLER, KUNSTLER AND KINOY, HIRED BY THE RUBY FAMILY, THEN FILED A MOTION WITH THE 5TH CIRCUIT COURT TO STAY PROCEEDINGS IN STATE COURT -- INCLUDING A SANITY TRIAL -- UNTIL THE APPEAL FROM JUDGE DAVIDSON'S REMAND ORDER WAS RULED ON BY APPELLATE COURT.

IT'S THAT MOTION THAT WILL BE ARGUED IN JACKSONVILLE.

HOWEVER, SAM HOUSTON CLINTON JR. OF AUSTIN, TEX., ALSO HIRED BY THE RUBY FAMILY, SAID THE 5TH CIRCUIT COURT MIGHT TAKE UP THE APPEAL POINTS THEMSELVES TUESDAY IF IT SAW FIT, NOT LIMITING ITSELF TO THE STAY ISSUE.

SHOULD THE CIRCUIT COURT DENY THE STAY, DEFENSE LAWYERS MIGHT TAKE A SIMILAR MOTION TO THE U.S. SUPREME COURT.

MEANWHILE, JUDGE BROWN HAS SAID HE WOULD INSTITUTE NO STATE COURT ACTION TILL FINAL DISPOSITION OF THE FEDERAL APPEAL.

THE FEDERAL COURTS WERE TURNED TO UNDER A SECTION OF THE 1964 CIVIL RIGHTS ACT REGARDING CONSTITUTIONAL RIGHTS. CLINTON ARGUED THAT RUBY'S RIGHTS WERE BEING VIOLATED IF HE COULDN'T CHOOSE HIS OWN ATTORNEY AND FIRE TONAHILL.

TONAHILL, WHO HAS BEEN WITH THE CASE SINCE IT BEGAN, SAID HE COULD NOT "LEGALLY OR MORALLY QUIT" SINCE RUBY WAS INSANE AND DOESN'T KNOW WHAT HE'S DOING.

IN ALL, SOME 20 ATTORNEYS HAVE GOT INTO AND THEN GOT OUT OF THE CELEBRATED MURDER CASE. THE DEFENSE HAS BEEN WRACKED BY INTERNECINE FIGHTING AMONG THE LAWYERS AND THE FAMILY AND THE LAWYERS THEMSELVES.

AND THROUGH IT ALL, JACK RUBY SITS IN THE DALLAS COUNTY JAIL PLAYING DOMINOES AND WAITING. HE WAS 54 YEARS OLD MARCH 25 AND APPEARED IN GOOD HEALTH AT HIS LAST PUBLIC APPEARANCE A MONTH AGO.

END ADVANCE FOR MONDAY AMS, APRIL 19; MOVED APRIL 17

SM958PES NM