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WASHINGTON, APRIL 24 (AP)-A NEW YORK ATTORNEY SAID TODAY HE WILL RECOMMEND THAT THE UNITED STATES SUPREME COURT NOT BE ASKED TO DELAY A SANITY HEARING FOR JACK RUBY IN TEXAS COURTS.

HE HAD INDICATED YESTERDAY A DECISION WOULD BE FORTHCOMING TODAY ON WHETHER TO APPEAL A DECISION BY THE U.S. FIFTH CIRCUIT COURT OF APPEALS BY JACKSONVILLE, FLA., YESTERDAY REFUSING TO DELAY THE SANITY HEARING.

RUBY IS UNDER A DEATH SENTENCE FOR CONVICTION OF MURDERING LEE HARVEY OSWALD, ACCUSED ASSASIN OF PRESIDENT JOHN F. KENNEDY.

KUNSTLER, ONE OF SEVERAL ATTORNEYS INVOLVED IN THE CASE, SAID HIS RECOMMENDATION ON THE SANITY HEARING ISSUE WOULD BE MADE TO RUBY'S FAMILY.

HE SAID HE WILL ALSO RECOMMEND THAT AN APPEAL BE FILED IN THE TEXAS COURT OF CRIMINAL APPEALS TO GRANT RUBY HIS OWN CHOICE OF ATTORNEYS, AND ASKING THAT JUDGE JOE B. BROWN OF THE CRIMINAL COURT OF DALLAS COUNTY, TEX., BE DISQUALIFIED FROM HANDLING THE CASE.

RUBY'S PENDING SANITY HEARING IS PRESENTLY BEFORE BROWN. SO IS THE ISSUE OF WHETHER IT SHOULD BE REMOVED TO FEDERAL COURT JURISDICTION.

THE FIFTH CIRCUIT COURT OF APPEALS, IN REFUSING TO DELAY THE SANITY HEARING YESTERDAY, SAID THIS ACTION WOULD HAVE NO BEARING ON WHETHER THE HEARING SHOULD BE REMOVED FROM STATE TO FEDERAL COURTS.

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