

EB42DN

(TEX.OUT) (200)

DALLAS, TEX., SEPT. 8 (AP)-JACK RUBY'S LAWYERS WILL ASK TOMORROW THAT DIST. JUDGE LOUIS T. HOLLAND DISQUALIFY DIST. JUDGE JOE B. BROWN, THE MAN WHO PRESIDED AT RUBY'S MURDER TRIAL.

RUBY, WHO WAS CONVICTED AND SENTENCED TO DIE FOR KILLING PRESIDENTIAL ASSASSIN LEE HARVEY OSWALD, REMAINS IN THE DALLAS COUNTY JAIL.

IN ADDITION TO THE REQUEST THAT BROWN BE DISQUALIFIED, DEFENSE LAYWERS WILL ASK THAT BROWN'S RULINGS BE VOIDED BECAUSE OF A PROPOSED BOOK ABOUT THE TRIAL.

PROSECUTORS WILL COUNTER THAT BROWN MADE NO RULINGS IN THE RUBY CASE WHICH WOULD AFFECT SALES OF THE PROPOSED BOOK AND THAT, SINCE HE HAD NO DIRECT MONETARY INTEREST IN THE CASE, HE SHOULD NOT BE DISQUALIFIED.

THE DEFENSE SEEKS TO OVERTHROW A GUILTY VERDICT ON THE GROUND THAT BROWN'S RULINGS WERE PREJUDICED BY THE BOOK, STILL UNPUBLISHED.

STATE'S ATTORNEYS FILED THEIR BRIEF YESTERDAY. THEY QUOTED A RECENT TEXAS SUPREME COURT CASE WHICH ALSO EXAMINED PECUNIARY INTEREST.

THE COURT STATED:

"IF HIS INTEREST IN THE QUESTION IS INDIRECT, UNCERTAIN OR REMOTE AND THE RESULT OF THE SUIT WILL NOT NECESSARILY SUBJECT HIM TO A PERSONAL GAIN OR LOSS, HE IS NOT DISQUALIFIED TO SIT IN THE CAASE."

THE STATE'S BRIEF SAYS THE CONTRACT BETWEEN BROWN AND A PUBLISHING COMPANY WAS SIGNED JULY 21, 1964, AND ANY FINANCIAL INTEREST MUST BE AFTER THAT DATE. THIS WAS AFTER THE TRIAL.

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