

EB71 (250)

AUSTIN, TEX., MAY 10 (AP)-THE TEXAS COURT OF CRIMINAL APPEALS IS TO HEAR ARGUMENTS TOMORROW ON THE ALLEGED DISQUALIFICATION OF JUDGE JOE B. BROWN, WHO PRESIDED OVER THE JACK RUBY MURDER TRIAL.

RUBY'S ATTORNEYS CONTEND THAT BROWN SHOULD BE DISQUALIFIED BECAUSE HE IS WRITING A BOOK ABOUT THE TRIAL, WHICH CONCLUDED WITH A DEATH SENTENCE FOR RUBY MARCH 14, 1964.

RUBY WOULD GET A NEW TRIAL IF BROWN WERE DISQUALIFIED.

THE STATE COUNTERS THAT SINCE THE BOOK IS TO BE ABOUT THE TRIAL ONLY, IT CAN HAVE NO BEARING ON THE APPEAL OF THE CELEBRATED CASE.

RUBY, FORMER DALLAS NIGHTSPOT OPERATOR, WAS CONDEMNED TO DEATH FOR HIS KILLING OF LEE HARVEY OSWALD, THE MAN THE WARREN COMMISSION IDENTIFIED AS THE ASSASSIN OF PRESIDENT KENNEDY.

ATTORNEYS FOR RUBY CENTER THEIR CONTENTION ON THE ALLEGATION THAT BROWN HAS A PECUNIARY INTEREST IN THE FINAL DISPOSITION OF THE CASE BECAUSE OF THE BOOK.

JUDGE LOUIS HOLLAND OF MONTAGUE DID NOT RULE EITHER WAY ON A WRIT OF HABEAS CORPUS MOTION BROUGHT ON RUBY'S BEHALF LAST SEPTEMBER. THE DEFENSE ARGUED THEN THAT RUBY SHOULD BE FREED BECAUSE OF THE ALLEGED DISQUALIFICATION OF BROWN.

BROWN VOLUNTARILY STEPPED DOWN FROM THE CASE LAST SUMMER AND HOLLAND WAS NAMED TO HEAR FURTHER TRIAL COURT DEVELOPMENTS.

TECHNICALLY, THE DEFENSE IS APPEALING HOLLAND'S REFUSAL TO GRANT THE HABEAS CORPUS MOTION.

AFTER THE HABEAS CORPUS MATTER IS DISPOSED OF, RUBY WILL EITHER GET A SANITY TRIAL OR A NEW MURDER TRIAL. THE COURT OF CRIMINAL APPEALS HAS SAID IT WOULD NOT CONSIDER THE APPEAL OF THE CONVICTION UNTIL A SANITY HEARING WAS HELD.

RL836PCS