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11 MAY 1966  
353 PCS

EB176DN (RUBY)

NIGHT LEAD RUBY HEARING (410)

BY ROBERT HEARD

ASSOCIATED PRESS WRITER

AUSTIN, TEX., MAY 11 (AP)--A LAWYER FOR JACK RUBY CHARGED THAT THE JUDGE WHO PRESIDED AT HIS TRIAL FOR KILLING LEE HARVEY OSWALD HAD A MONETARY INTEREST IN THE CASE AND THIS VOIDS THE HEARING AT WHICH RUBY WAS ASSESSED DEATH.

OSWALD IS IDENTIFIED BY THE WARREN COMMISSION AS THE ASSASSIN WHO KILLED PRESIDENT JOHN F. KENNEDY.

PHIL BURLESON, A DEFENSE ATTORNEY, MADE HIS ARGUMENT BEFORE THE TEXAS CRIMINAL APPEALS COURT, READING A LETTER FROM <sup>(Dist. Judge Joe B.)</sup> BROWN TO A BOOK PUBLISHER, PROVING, BURLESON SAID, THE MONETARY INTEREST.

THE STATE'S LAWYERS CONTENTED SUCH A BOOK, EVEN WHEN PUBLISHED, COULD HAVE NO EFFECT ON THE CASE.

A RULING BY THE COURT IS NOT EXPECTED FOR A CONSIDERABLE TIME.

THE LETTER WAS DATED MARCH 12, 1965--MORE THAN THREE MONTHS BEFORE BROWN STEPPED DOWN IN THE CASE--AND SAID, IN PART:

"ABOUT THE BOOK--IT PERHAPS IS A GOOD THING THAT IT IS NOT FINISHED BECAUSE THEY HAVE FILED A MOTION TO DISQUALIFY ME ON THE GROUNDS OF HAVING A PECUNIARY INTEREST IN THE CASE. I CAN REFUTE THAT BY

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HAVING A PECUNIARY INTEREST IN THE CASE. I CAN REFUTE THAT BY STATING THAT THERE HAS BEEN NO BOOK PUBLISHED OR THAT I HAVE NOT BEGUN TO WRITE A BOOK.

"WE ARE COMING ALONG NICELY. WE HAVE APPROXIMATELY 190 PAGES COMPLETE...."

"I THINK THAT YOU WILL FIND THAT THE WORK THAT PAUL (BROWN'S GHOST WRITER, PAUL CRUME, DALLAS NEWSMAN) AND I HAVE DONE WILL BE VERY INTERESTING."

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BURLESON SAID BROWN LATER TRIED TO ARGUE THAT HE HAD NOT WRITTEN ANYTHING AT THIS TIME, THAT CRUME HAD DONE ALL THE WRITING. BUT BURLESON SAID THE USE OF THE WORD "WE" IN THE SECOND PARAGRAPH QUOTED AND THE WORD "I" IN THE THIRD PARAGRAPH INDICATED OTHERWISE.

FOUR DAYS BEFORE THIS LETTER WAS WRITTEN, BURLERSON SAID, BROWN OVERRULED FOUR MOTIONS IN THE CASE "WITHOUT READING THEM."

ACCORDING TO COURT RECORDS, BROWN DECIDED IN THE SUMMER OF 1964--FOUR MONTHS AFTER RUBY WAS CONVICTED--TO WRITE A BOOK ENTITLED "DALLAS, RUBY AND THE LAW."

ARGUING FOR THE STATE, DALLAS ASSISTANT DIST. ATTY. JAMES WILLIAMSON SAID THE EVIDENCE CLEARLY SHOWED THE \$5,000 ADVANCE GIVEN TO BROWN WOULD NOT HAVE TO BE PAID BACK IF NO BOOK WERE PUBLISHED.

THE ONLY PEOPLE THE BOOK COULD AFFECT ARE THE MEMBERS OF THE APPEALS COURT, WILLIAMSON SAID, AND "I DON'T BELIEVE THIS HONORABLE COURT WILL CONSIDER ANYTHING NOT IN THE RECORD OF THIS CASE."

DIST. JUDGE LOUIS HOLLAND OF MONTAGUE, TEX., WAS APPOINTED JUDGE IN THE CASE AFTER BROWN WITHDREW.

HOLLAND DENIED A WRIT OF HABEAS CORPUS SOUGHT ON THE GROUND OF BROWN'S ALLEGED DISQUALIFICATION BECAUSE OF THE BOOK. THE MATTER BEFORE THE APPELLATE COURT WAS AN APPEAL FROM THE DENIAL OF THAT WRIT.

AN APPEAL OF THE MAIN TRIAL HAS NOT BEEN HEARD BY THE COURT.

IF THE HIGH COURT RULES BROWN WAS DISQUALIFIED, RUBY WILL GET A NEW TRIAL. IF IT RULES BROWN WAS QUALIFIED, THE CASE WILL BE RETURNED TO DALLAS FOR A SANITY HEARING.

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