

TEXAS HIGH COURT HEARS RUBY'S PLEA

His Lawyers Attack Judge's Contract to Write Book

Special to The New York Times

AUSTIN, Tex., May 11—The Texas Court of Criminal Appeals heard arguments today on whether a judge's \$5,000 advance for writing a book had prevented Jack L. Ruby from receiving a fair trial.

The court has been asked to order a new trial before a judge other than District Judge Joe B. Brown of Dallas, who presided at the trial of Ruby for the murder of Lee Harvey Oswald, the assassin of President Kennedy.

Two lawyer, Phil Burleson of Dallas and William M. Kunstler of New York, urged that Ruby be granted a writ of habeas corpus, setting aside the death penalty imposed March 14, 1964.

They contended that Judge Brown had stepped over the legal line when he began negotiations with Clint Murchison Jr. of Dallas that led to a contract and a \$5,000 advance with Holt, Rinehart & Winston, Inc., to write a book to be called, "Dallas, Ruby and the Law." Paul Crume, a Dallas newspaperman, was to help Judge Brown write the book.

Cites Letter by Brown

Mr. Burleson cited a letter Judge Brown wrote to the publisher March 12, 1965, in which the judge mentioned a motion made to disqualify him. He wrote:

"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."

In the same letter, Judge Brown referred to the fact that the Court of Criminal Appeals had ordered him to hold a hearing on Ruby's sanity. Judge Brown wrote that he did not know the outcome of the hearing, scheduled for March 29, "but it is my opinion they will never prove Ruby insane."

The fact that the conviction had been entered, and the main case was on appeal, did not make the book contract permissible because Judge Brown was still ruling on important motions, Mr. Burleson said.

Assistant District Attorney James M. Williamson of Dallas argued the state's case. He contended that the effect of the habeas corpus proceeding was to take a second road to appeal, not authorized by Texas law, while the main appeal was before the appellate court.

Contention Is Disputed

Mr. Williamson said that the book contract was not worked out until July 21, 1964, long after Ruby's conviction on March 14, the overruling of the motion for a new trial and the appeal to the Court of Criminal Appeals. Thus, the prosecutor contended, the Ruby case was for all practical purposes out of Judge Brown's hands.

Mr. Williamson disputed the argument that sales of the book would be influenced by whether the conviction stood or was reversed. There was no showing that Judge Brown would gain a dollar from the outcome of the case, he said.

Mr. Kuntzler, in rebuttal, declared that the court's decision must be whether Judge Brown's actions "will satisfy the appearance of justice."

A decision from the three judges of the appellate court, the highest in Texas, normally comes within three or four weeks after oral arguments are heard.

The case heard today is an appeal from a refusal of District Judge Louis T. Holland of Montague, transferred to Dallas to replace Judge Brown, to grant the writ of habeas corpus.

NYTimes, May 20 1966

Early Sanity Trial For Ruby Ordered By Appeals Court

AUSTIN, Tex., May 18 (UPI)

—The Texas Court of Criminal Appeals ordered a lower court in Dallas Wednesday to "proceed without further delay" in holding a sanity trial for Jack Ruby.

The appellate court declined to rule on a defense claim that Joe B. Brown, the trial judge in the Ruby murder case, had disqualified himself by contracting to write a book, "Dallas, Ruby and the Law."

The court indicated that it would rule on Judge Brown's qualifications when it took up an appeal on the case's merits; that is, defense contentions that Judge Brown made 1,200 legal errors. But the appellate court made plain that it would consider no appeal until after a sanity trial for Ruby, who was convicted March 14, 1964, of the murder of Lee Harvey Oswald, the assassin of President Kennedy.

District Judge Louis T. Holland of Montague, Tex., has taken over for Judge Brown in the Ruby case in Dallas. Judge Holland said he would confer with defense attorneys and District Attorney Henry Wade and decide upon a date for a sanity trial.

If a jury decides Ruby has become insane since his conviction, Ruby will be sent to a hospital for the criminal insane. Ruby, in recent court appearances, has insisted he is not insane and that legal maneuvers to save him from the electric chair are a "farce."

If a jury decides Ruby is sane, then the State Court of Criminal Appeals will consider the appeal on the case's merits.