

LAWYERS FOR RUBY DISPUTE 'ERRORS'

Texas Appeals Court Gets Many Pleas for New Trial

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AUSTIN, Tex., June 24 — Reasons why Jack Ruby should have a new trial were given today before the three-man Texas Court of Criminal Appeals by his lawyers.

Ruby is appealing the death penalty for the shooting of Lee Harvey Oswald, President Kennedy's assassin.

The judges had their two commissioner assistants sitting in, but the decision will be up to the presiding judge, William T. McDonald, along with Judges William A. Morrison and Kenneth K. Woodley. A decision is not expected until Oct. 5, when the court returns from its summer recess. Briefs may be filed as late as Aug. 20.

A new trial was required by court decision, the Ruby attorneys argued, because public opinion was so inflamed in Dallas that the trial should have been moved elsewhere and because 11 of the 12 jurors had been witnesses to the killing on television. Oswald was killed Nov. 24, 1963, in the basement of the Dallas City Hall by a single shot from Ruby's pistol.

'Murder With Malice'

A major argument concerned testimony by Sgt. Patrick T. Dean of the Dallas police as to what Mr. Ruby had said on the question of motive.

The conviction was for "murder with malice," and Sergeant Dean testified that Ruby said he had decided two days earlier, when he saw Oswald at the city police assembly room, to kill him if he got the chance.

Sam Houston Clinton Jr., Joe Tonahill (a Jasper attorney Mr. Ruby had dismissed who was allowed to argue as a friend of the court) and Elmer Gertz of Chicago were among those who argued for Ruby.

They maintained that they had learned from the Warren Commission report that a Secret Service agent, Forrest Sorrel, who quizzed Ruby with Sergeant Dean present, had testified that Ruby had said nothing to show premeditation.

The Ruby team hammered on the location of the trial and the "circus" atmosphere in and around the courtroom. They also argued that Judge Brown had hurried the trial.

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The manuscript of a book on the trial by the judge was quoted at length by Mr. Gertz. Judge Brown wrote that the corridors and streets outside the courtroom resembled a circus and that if he had to try the case again, he would have admitted only a dozen reporters to the courtroom on a pool basis.

Phil Burleson, a lawyer from Dallas, pointed out that of the 162 Dallas citizens considered for jury duty, only one had not seen the slaying of Oswald on television.

Sol Dann of Detroit attacked the fact that the trial went on though Judge Brown was ill one day, with District Judge J. Frank Wilson substituting while two jurors were chosen. He also argued that Judge

Brown had committed errors by refusing to hear witnesses on their motion for a new trial. These witnesses, he said, would have brought in evidence from Mr. Sorrell that Sargent Dean had testified falsely.

Mr. Tonahill presented a brief with 46 points of error, but he, like the others, felt that the Dean testimony, with no warning to Mr. Ruby that what he said might be used against him, was the key point for possible reversal.

He also filed a report by two University of Texas sociologists on interviews with Dallas residents that he had showed the way the press, radio and television had inflamed the Dallas public opinion so much that a fair trial there was impossible.