

... But Not in Dallas

RUBY GETS A NEW TRIAL

Oswald Case Errors Cited

By The Associated Press and
United Press International

AUSTIN (Tex.) — The Texas Court of Criminal Appeals today reversed the conviction of Jack Ruby on charges of murdering Lee Harvey Oswald — the assassin of President Kennedy — and ordered a new trial.

The court said Ruby should have been granted a change of venue in his March, 1964, trial and it said Ruby's oral admission to police that the killing was premeditated should not have been used as evidence.

Defense attorneys indicated they would try to get Ruby off on a conviction of

murder without malice, which carries a penalty of two to five years. Ruby already has spent nearly three years behind bars.

COP TESTIMONY

A policeman testified that Ruby told him he had seen Oswald in a police lineup and that when he saw the expression on Oswald's face he decided he would kill Oswald if he got the chance.

"Obviously this statement constituted an oral confession of premeditation made while in police custody and therefore was not admissible. The admission of this testimony was clearly injurious and calls for reversal of this conviction," the opinion said.

ASKS REHEARING

The court's order by Presiding Judge W. A. Morrison said that the reversal on grounds of the inadmissible testimony made it unnecessary to discuss in detail "the error of the court in failing to grant (Ruby's) change in venue."

Phil Burleson, one of several lawyers the Ruby family employed in the trial two years ago, said:

"The state is left with a murder without malice case, a point I argued at the trial.

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The punishment in this type case is less."

Ruby's main trial lawyer was Melvin Belli of San Francisco, who shouted out after the verdict that his client had been convicted by a "kangaroo court."

Belli was fired shortly after the verdict.

'BITTER ROAD'

Joe Tonahill of Jasper, Tex., another of Ruby's at-

torneys, said it was "the end of a long hard-fought battle."

"I'm going to tell Jack to get him a law school graduate because that's all he's going to need from now on," Tonahill said.

"This has been a bitter road. I'm glad it's ended and my obligation to Jack Ruby is ended."

Tonahill said he thought Ruby now will get two to five years. "What he ought to do, if he gets 2-5 years, is serve it and then go on to a VA hospital and stay until he is properly treated, and then go take his place in society. He could get psychiatric care which he has been needing all the time," Tonahill said.

In Dallas, Dist. Atty. Henry Wade, who led prosecution in the Ruby trial, said:

"We don't think there was an error."

He said he would seek a rehearing adding "we hope to get them to change their



THE MEN WHO REVERSED THE JACK RUBY CONVICTION

Judges W. A. Morrison, K. Woodley and W. T. McDonald, who handed down ruling

—AP Wirephoto

opinion. This is not final yet."

The appeals opinion said recent U.S. Supreme Court decisions in the cases of Billie Sol Estes and Dr. Samuel Sheppard as well as the record in the Ruby trial make it "abundantly clear" that the trial court "reversibly erred in refusing (Ruby's) motion for a change in venue" (to a trial site other than Dallas).

Estes' state conviction for fraud was reversed and a new trial ordered. He is in prison on a 15-year Federal conviction for the same sort of fraud — selling fertilizer tank mortgages when the tanks did not exist.

In the Sheppard case the U.S. Supreme Court reversed the Cleveland physician's murder conviction on grounds that extensive newspaper coverage had created such climate of opinion that he was denied a fair trial. The high court reversal of the Estes case concerned television coverage.

Mel Belli Forecast Decision

Bombastic Melvin M. Belli, San Francisco's self-proclaimed King of Torts and Jack Ruby's chief defense counsel, accurately forecast today's action by the Texas Court of Criminal Appeals.

Belli was ousted as Ruby's counsel after the verdict by the trial jury in Dallas was announced and had little to do with the appeal.

But after he had resigned from the case at the request of Ruby's family, Belli said:

"The testament I left for Jack is the trial record. That is the document that is going to save his life and give him a reversal."

BELLI OUTBURST

The San Francisco lawyer filed a brief of his comments on the trial along with the legal briefs prepared by Joe Tonahill and Phil Bureson, the Texas lawyers who tried the case alongside Belli.

It was Belli's outburst at the conclusion of the trial that led to his resignation under fire from the American Bar Association.

He called the verdict the "greatest railroading" in the history of American jurisprudence and called the Dallas court a "kangaroo court."

The Texas Supreme Court rejected an attempt to bar Belli for life from the practice of law in Texas and he was trying a case in Houston today when the reversal was announced.

STILL BITTER

His bitterness against the American Bar Association has persisted and on several occasions he has belittled the association as "a rich man's insurance society."

Today he was more philosophical and less bitter.

He said he felt vindicated by the reversal.

"We knew we couldn't win when we lost our plea for a change of venue," he said.