

New Trial Ordered For Ruby

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The Texas court of criminal appeals yesterday reversed the conviction and death sentence of Jack Ruby on charges of murdering presidential assassin Lee Harvey Oswald, and ordered a new trial somewhere "other than Dallas."

The three-judge court unanimously held that District Judge Joe B. Brown should have granted a chance of venue in Ruby's 1964 trial in Dallas.

And the opinion said testimony about Ruby's statements to police showing premeditation was admitted in "obvious" violation of the U.S. Supreme Court's guidelines on confessions.

'ADVERSE'

"Jack Ruby was forced to trial under the most adverse, unusual, and extraordinary circumstances that this member of this court has yet had to consider," said presiding Judge W. T. McDonald in a special concurring opinion.

Defense attorneys indicated they now would try to get Ruby off on a charge of murder without malice, which carries a penalty in Texas of two to five years. Ruby already has been in jail nearly three years.

Oswald was shot to death in the basement of Dallas police headquarters on November 24, 1963, two days after Oswald assassinated President Kennedy with a high-powered rifle from the Texas School Book Depository Building.

MALICE

Dallas District Attorney Henry Wade, who directed

the prosecution, said he thought Ruby should be tried again on a charge of murder with malice, on which a jury convicted him March 14, 1964.

Wade said he would file a motion with the appeals court within two weeks for a rehearing.

The 14-page, 4000-word opinion was written by Judge W. A. Morrison and concurred in by Judges McDonald and K. K. Woodley.

McDonald noted that the change of venue hearing took place in the same building to

See Page 14, Col. 1

From Page 1

which Oswald was being moved when he was shot, and the trial was held 100 yards from the scene of the Kennedy assassination. McDonald said the assassination site could be seen daily by jurors.

"The feeling and thought had been generated that Dallas county's deprivation of prosecuting Oswald could find an atonement in prosecution of Ruby," he wrote.

"It is fair to assume that the citizenry of Dallas consciously and subconsciously felt Dallas was on trial and the Dallas image was uppermost in their minds to such an extent that Ruby could not be tried there fairly while the state, nation and world judged Dallas for the tragic November events.

"The press had a field day with stories stating directly, indirectly, by hints and innuendos, that a Communist conspiracy existed between Oswald and Ruby. Ruby was referred to as a 'tough guy,' a 'Chicago mobster,' a 'strip joint owner.' Anti-Semitism against Ruby was sparked by pre-trial publicity that Ruby's name had been changed from 'Rubenstein' 'Ruby.'"

STRENUOUS

He said "strong local prejudice" was further reflected by Parkland Hospital's refusing to allow Ruby to undergo neurological testing. Kennedy was pronounced dead at Parkland.

The trial judge retained a public relations man to handle courtroom seating, and "soe 300 members of the news media occupied most of the seats in the courtroom," McDonald said.

Morrison, who wrote the general opinion for the court, noted that the defense made "strenuous objection" that Ruby's statements to police were inadmissible oral confessions.

Despite this, he wrote, Dallas police sergeant Patrick Dean was allowed to testify that Ruby told him he thought of killing Oswald after seeing the "sarcastic sneer" on the assassin's face.

"Obviously this statement constituted an oral confession of premeditation made while in police custody and therefore was not admissible," Morrison wrote.

"The admission of this testimony was clearly injurious and calls for a reversal of this conviction."

Defense attorney Phil Burleson broke the news to Ruby in his Dallas jail cell.

"Jack, you won; you got a reversal today," Burleson said he told Ruby.

'VINDICATED'

He said Ruby was "very pleased."

Melvin Belli, the San Fran-

Belli's Reaction To Court's Decision on Ruby

Jack Ruby's ousted defense counsel, San Francisco attorney Melvin Belli, yesterday termed the reversal of Ruby's conviction a "complete justification" of his defense tactics.

"All those bastards that took me on — including the American Bar Association — ought to get out pencils and paper and send me an apology forthwith," the bellicose Belli said.

cisco lawyer who was the chief defense counsel and who was later fired by the Ruby family, said at Houston that the ruling "completely vindicated" the defense position.

In his supplemental opinion McDonald said that all 12 members of Ruby's jury entertained some concepts of his guilt one way or the other. Woodley also said:

"In view of another trial and future trials, it should also be clearly understood that the majority does not hold that a juror who saw the shooting of the deceased on television is, for that reason alone, disqualified or subject to challenge."

The killing of Oswald was seen nationwide on TV.