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June 25, 1969

CIVIL RIGHTS DIVISION

ASSASSINATION OF MARTIN LUTHER KING, JR.

XXX (F) REL:jmv

Enclosed is one copy of each of the following documents: Prayer for Appeal, Petition of James Earl Ray for Writ of Certiorari, and Memorandum Finding of Facts and Conclusions of Law.

6/23/69

AIRTEL

TO: DIRECTOR, FBI (44-38861)

FROM: SAC, MEMPHIS (44-1987) (P)

SUBJECT: MURKIN

Enclosed for the Bureau are 2 copies each of the following three documents:

1. Prayer for Appeal filed by the subject's attorney, RICHARD J. RYAN, in the Shelby County, Tenn., Criminal Court, asking the Court's permission to file an appeal in the Court of Criminal Appeals for the Western District of Tennessee.

2. Petition of JAMES EARL RAY for Writ of Certiorari (first application).

3. Memorandum Finding of Facts and Conclusions of Law, prepared by Judge ARTHUR C. FACQUIN, JR., 6/6/69, explaining his denial of the subject RAY's motion for a new trial.

Airtel _____

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A.M. 2 - Bureau (Encs. 6)
2 - Memphis

A.M.S.B. JCH:jap
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Spec. Del. _____

Reg. Mail _____

Registered _____

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE

STATE OF TENNESSEE

VS

JAMES EARL RAY,

Defendant

NO. 16645

FILED 6/10/69
J. A. BLACKWELL, CLERK
BY [illegible] D. C.

PRAYER FOR APPEAL

Comes now the defendant, James Earl Ray, by and through his attorney of record, Richard J. Ryan, having heretofore respectfully excepted to Your Honor's ruling upon his Motion for a New Trial, now moves this Honorable Court for permission and leave to file his Appeal from this Court to the Court of Criminal Appeals for the Western District of Tennessee.

Richard J. Ryan

RICHARD J. RYAN,
ATTORNEY FOR DEFENDANT

TO THE HONORABLE CRIMINAL COURT OF APPEALS WESTERN DIVISION OF THE STATE OF TENNESSEE, SITTING AT JACKSON, TENNESSEE, OR TO ANY OF THE JUDGES THEREOF:

STATE OF TENNESSEE	FROM THE CRIMINAL COURT
VS	OF
JAMES EARL RAY	SHELBY COUNTY, TENNESSEE

PETITION OF JAMES EARL RAY FOR WRIT OF CERTIORARI

Your petitioner would respectfully show to the Court that he is much aggrieved by the judgment of the Criminal Court Division II of Shelby County, Tennessee, the Honorable Arthur C. Faquin, Judge, presiding, said judgment being rendered on the 26th day of May, 1969, and sustaining the State of Tennessee's Motion to Strike the petitioner's Motion for a New Trial.

YOUR PETITIONER STATES:

1. That the Court erred in the hearing of May 26, 1969, in allowing the introduction of testimony by Mr. J. A. Blackwell, Clerk of the Criminal Court of Shelby County, Tennessee, and the introduction of other evidence by Mr. Blackwell to show that the confession of James Earl Ray, petitioner, was freely and voluntarily given at a prior hearing.

2. That the Court erred in not sustaining the objections to testimony of Mr. Blackwell and the introduction of documents in this cause on May 26, 1969.

3. That the Court erred in not holding that the letters and amendments as presented by petitioner-defendant do not constitute a Motion for a New Trial

4. That the Court erred in holding that the petitioner, James Earl Ray, waived his right to a Motion for a New Trial and an appeal.

5. That the Court erred in holding that a guilty plea precludes the petitioner from filing for a Motion for a New Trial.

6. That the Court erred in holding that the petitioner-defendant, James Earl Ray, knowingly, intelligently, and voluntarily expressly waived any right he might have to a Motion for a New Trial and/or Appeal.

7. That on June 16, 1969, the Court ruled erroneously in denying petitioner-defendant's prayer for leave or permission to file an appeal holding (a) that your defendant had waived his right of appeal, (b) that the sustaining of the State of Tennessee's Motion to Strike your defendant's Motion for a New Trial was an Interlocutory Order, and that, therefore, there was no appeal from the same.

To all of the above citations of error the petitioner-defendant has heretofore reserved his exceptions.

8. That the Court erred in not granting your defendant's Motion for a New Trial pursuant to and in accordance with Code Section 17-117 of the Tennessee Code Annotated.

Petitioner would state that notice was served on the Attorney General of Shelby County, Tennessee, more than five (5) days before the filing of the Petition for

Certiorari; and that the Petition would be presented to the Criminal Court of Appeals Western Division of Jackson, Tennessee, or one of the Judges thereof on June 25, 1969; and that a copy of the Petition was presented to the Attorney General of Shelby County, Tennessee, as well as a copy of the Brief filed herein; a copy of the Notice and receipt thereof is attached hereto.

PREMISES CONSIDERED, PETITIONER PRAYS:

1. That a Writ of Certiorari issue by this Honorable Court to the Criminal Court Division II of Shelby County, Tennessee, directing that Court and the Clerk thereof to certify and transmit to this Court the entire record and proceding in this cause including the opinion and judgment of the Trial Judges, consisting of the late Honorable Judge Preston W.Battle and the Honorable Judge Arthur C. Faquin, Judge of Division II of the Criminal Court of Shelby County, Tennessee.

2. That the judgment of the Criminal Court Division II in sustaining the State of Tennessee's Motion to Strike the Motion for a New Trial be reviewed and error complained of corrected; that your petitioner be granted a new trial and this cause remanded to the Courts of Shelby County, Tennessee, for a new trial and for further handling.

3. That petitioner have all such other, further, and different relief to which he is entitled, and he prays for general relief.

THIS IS THE FIRST APPLICATION FOR A WRIT OF CERTIORARI IN THIS CAUSE.

Richard J. Ryan

STATE OF TENNESSEE
COUNTY OF SHELBY

RICHARD J. RYAN, who being first duly sworn, states that he is one of the attorneys for the petitioner, James Earl Ray; that he is familiar with the facts set forth in the foregoing Petition for Certiorari, and that the statements contained herein are true, except those made as upon information and belief, and these he believes to be true.

Richard J. Ryan

Subscribed and sworn to before me this the 19 day of June, 1969.

Barry Lee Lawson
NOTARY PUBLIC

My commission expires:
10-9-71

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE

DIVISION THREE

STATE OF TENNESSEE

VS

JAMES EARL RAY, Alias ERIC STARVO GALT, Alias JOHN WILLARD, Alias HARVEY LOWMEYER, Alias HARVEY LOWMYER

NO. 16645

MEMORANDUM FINDING OF FACTS AND CONCLUSIONS OF LAW

Indictment No. B-16645 charges the Defendant, James Earl Ray with the offense of Murder in the First Degree in the murder of Dr. Martin Luther King. On March 10, 1969, the defendant, James Earl Ray, while represented by an Attorney of his own choosing, Mr. Percy Foreman, and by Court appointed Attorneys, Messrs. Hugh Stanton Sr. and Jr., came into Division III of this Court and before the Honorable W. Preston Battle, then Judge of this Court, entered a Plea of Guilty to Murder in the First Degree as charged in this Indictment. A Jury was empanelled, sworn, evidence of witnesses presented, stipulations heard, and a plea of Guilty to Murder in the First Degree was entered in the presence of this Jury. The Jury approved the Guilty Plea and accepted and approved the agreed upon State's recommendation of Ninety-Nine (99) Years Confinement in the State Penitentiary, at Nashville, Tennessee. The Defendant, James Earl Ray was sentenced by Judge Battle, and, at that time, he waived any right to a Motion for a New Trial and Appeal as shown by the minutes of this Court for that day. Judge Battle signed these minutes which are marked exhibits two (2) and three (3) to today's hearing.

On March 31, 1969, Judge Battle died.

On April 1, 1969, two letters purporting to be from the defendant, James Earl Ray and dated March 13, 1969, and March 26, 1969, respectively, were filed with the Clerk of this Court.

On April 7, 1969, a Petition entitled "Amended and Supplemental Motion for a New Trial" and incorporating therein by reference "letters asking for a new trial, especially that communication addressed to Judge W. Preston Battle, dated March 26, 1969," and "he hereby amends and supplements said letters to the effect that he moves this Honorable Court to set aside his Waiver, his Plea of Guilty, and his Conviction and grant him a New Trial pursuant to and in accordance with Section 17-117 of the Tennessee Code Annotated." Seven Exhibits were attached to this amended and supplemental motion, which exhibits were withdrawn this morning before the hearing. This motion was further amended on May 19, 1969.

It is obvious from the wording of the Petition, that the defendant and his privately employed attorneys, Mr. Richard J. Ryan, Mr. J. B. Stoner and Mr. Robert W. Hill, Jr., intended for this Petition to be a Motion for a New Trial. Such was their statement in open Court today.

Tennessee Code Annotated, Section 17-117 reads as follows:

> "New Trial after death, or insanity.- Whenever a vacancy in the office of trial Judge shall exist by reason of the death of the incumbent thereof, or permanent insanity, evidenced by adjudication, after verdict but prior to the hearing of the Motion for a New Trial, a new trial shall be granted the losing party if motion therefor shall have been filed within the time provided by the rule of the Court and be undisposed of at the time of such death or adjudication."

No rule of Court has been introduced into evidence in this case.

On May 13, 1969, the District Attorney General for the Fifteenth Judicial Circuit for the State of Tennessee, filed a Motion to Strike the "Motion of the Defendant, James Earl Ray, entitled 'Amended and Supplemental Motion for a New Trial' and any incorporates therein purporting to be a Motion for a New Trial." Five exhibits were attached.

The "Motion to Strike" as shown on its face and attached exhibits, as well as the accompanying "Memorandum of Authorities", is based on the theories:

(1) that there is no Motion for a New Trial from a Guilty Plea; and

(2) that the defendant waived any right he had to a Motion for a New Trial and an Appeal.

The State filed on May 23, 1969, a Motion to Strike the "Amendment to Motion for a New Trial," based on the same grounds as cited in the original Motion to Strike.

Each party has filed a Memorandum of Authorities. The Motion to Strike has come on to be heard on this the 26th day of May, 1969. The State is represented at this hearing by Executive Assistant Attorney General, Robert K. Dwyer, Administrative Assistant, Lloyd A. Rhodes, and Assistant Attorney General, Clyde Mason. The defendant is represented by Mr. Richard J. Ryan, Attorney-at-law of the Memphis Bar, Mr. J. B. Stoner, Attorney-at-law from Georgia, and Mr. Robert W. Hill, Jr., Attorney-at-law of the Chattanooga Bar. All are privately retained counsel of the defendant's own choosing.

The statement has been made that I, as successor Judge, cannot hear this Motion or Petition of the Defendant, which purports to be a Motion for a New Trial, and not being able to hear a Motion for a New Trial in a case disposed of by another Judge, I cannot approve and sign a Bill of Exceptions in the case.

The further contention of the defendant, James Earl Ray is, that without the approved and signed bill of exceptions, he is denied his constitutional right of Appellate Review, without fault of his own.

In answer to these questions, I find that:

(1) I do not, as a successor Judge, have the right to hear a Motion for a New Trial or approve and sign the Bill of Exceptions. Allison vs State, 189 Tenn 67; Darden vs Williams, 100 Tenn 414; Dennis vs State, 137 Tenn 543; O'Quinn vs Baptist Memorial Hospital, 182 Tenn 558; and McLain vs State, 186 Tenn 401.

(2) The defendant had a constitutional and statutory right to have his case reviewed in the Appellate Courts and relief would be awarded if he was deprived of such right without fault of his own. Dennis vs State, supra; State ex rel Terry vs Yarnell, 156 Tenn 327; Tenn Central Railway Co. vs Tedder, 170 Tenn 639.

I emphasize the phrase "Without fault of his own."

Since I, as successor Judge, cannot hear a Motion for a New Trial in this case, do I then have the power to hear and rule on a Motion to Strike a Petition that purports to be, and the defendant insists is, a Motion for a New Trial?

The defendant says that I do not.

I am of the opinion that I do have that power just as I would have the power to hear a Petition for Writ of Habeas Corpus or a Petition filed under the Post Conviction Act in this case; provided the defendant did not have a right to file a Motion for a New Trial, or, if the defendant's Motion for a New Trial had already been disposed of by Judge Battle by Defendant's Waiver of such right.

> "It is well established in this State, that a Motion for a New Trial is nothing but a pleading, and cannot be looked to as establishing facts that it alleges." Monts vs State, 214 Tenn 171.

> "A Plea may be stricken on motion on the ground that the pleading is not authorized by the procedure of the forum, or that the issue to be raised has already been determined conclusively of record." Wharton's Criminal Procedure, Sec. 1907, Page 775, Vol. IV.

This is a unique case because, to test TCA Sec. 17-117, it appears that, the defendant would have to file what he would allege to be a Motion for a New Trial. If this Court did not act upon such a Motion, possibly a Writ of Mandamus could issue, or a Petition for Writ of Habeas Corpus, or a Petition under the Post Conviction Act could be filed and heard, citing this statute. I feel, however, that the proper procedure is for me to act upon the Motion to Strike the Petition that purports to be a Motion for a New Trial, and if the Motion to Strike is granted, then a Petition for a Writ of Habeas Corpus or a Petition under the Post Conviction Act could be filed. The Motions and Petitions filed so far by the Defendant, do not contain the necessary elements required by statute, to allow the Court to act upon them as either a Petition for Writ of Habeas Corpus or a Petition under the Post Conviction Act; especially since the defendant has made it clear that they are to be treated as a Motion for a New Trial.

Two main questions present themselves to be decided today. The first question is: whether the defendant, Ray, had a right to a Motion for a New Trial in a case disposed of on a Guilty Plea based upon an agreed upon settlement and submission. I have been unable to find that this precise question has been decided before in Tennessee.

The second question is two-fold: (1) Can a defendant expressly waive his right to a Motion for a New Trial in Tennessee; (2) if he can, did the defendant, Ray, effectively waive that right in this case?

If the defendant, Ray, did not have a right to a Motion for a New Trial, in his case, because it was disposed of on an effective guilty plea based upon an agreed uponssettlement and submission, or, if he could expressly waive his right to a Motion for a New Trial, and, in fact, did effectively waive that right, then, in either event, TCA 17-117 could not apply since the Motion for a New Trial had already been disposed of. Consequently, the State's Motion to strike would have to be granted.

I

I will now discuss the first question, and dispose of it.

Tennessee Code Annotated, Section 40-3401, gives either party to a criminal proceeding, except the State upon a judgment of Acquittal, the right to pray an appeal in the Nature of a Writ of Error as in civil cases.

On Page 901 of Caruther's History of a Lawsuit (Eighth Edition) under the section heading of "Motions for New Trial and in Arrest of Judgment" is found the following statement:

> "If the Defendant is acquitted, the State cannot obtain a New Trial. But if he is convicted, he is entitled to a New Trial upon all the grounds heretofore stated as sufficient in a civil suit. A Motion for a New Trial is not a prosecution by the State, but a proceeding in error brought by the accused to reverse a judgment rendered against him by the Trial Court."

The purposes of a Motion for a New Trial are stated in Adams vs Patterson, 201 Tenn 655, as follows:

> "Motions for New Trial serve two purposes to-wit:
>
> (a) to suspend the judgment so that the trial judge may have time to correct his errors by the grant of a new trial; and
> (b) to set out the error as a ground and as prerequisite to an Appellate review where such error depends upon a bill of exceptions. Memphis Street Railway Co vs Johnson, 114 Tenn 632, 88 S.W. 169."

In Tennessee, there are various proceedings for the correction of errors. They are enumerated in Tennessee Code Annotated, Section 27-101.

> TCA 27-101. "Methods of correcting error.- Errors not embraced by the provisions of this Code, in regard to amendments, may be corrected in one or more of the following modes: (1) By Writ of Error Coram Nobis; (2) By Re-hearing, Review, or New Trial; (3) By Certiorari; (4) By Appeal; (5) By Appeal in the Nature of a Writ of Error; (6) By Writ of Error."

The next Section of the Code provides that certain actions release errors.

> TCA 27-102. "Release of Error by Confession or Injunction. - A Judgment by confession, or the suing out of an injunction against a defendant at law, is a release of errors."

It has been held that a judgment properly entered on a guilty plea is, in effect, a judgment by confession.

> "A Judgment in a criminal case which has been properly entered on a plea of guilty is, in effect, a judgment by confession, and ordinarily cannot be reviewed by appeal or error proceedings." 4 Am. Jur. (2d), Appeal and Error, paragraph 271.

> And, "In a criminal case a party cannot, as a general rule, have a judgment properly entered on a plea of guilty reviewed by appeal or error proceedings, since such judgment is in effect a judgment by confession." Wharton's Criminal Procedure, Volume 5, Section 2247, page 498.

Caruthers History of a Law Suit (Eighth Edition) Page 688, says:

> "A judgment by confession cannot be appealed from, either in a civil or criminal case."

Our Supreme Court said in the case of McInturff vs State, 207 Tenn 102:

> "Now, we think it is axiomatic that the defendant, having confessed judgment for the fine and costs, had no right of appeal, nor did the Court have the power to grant such an appeal, because no one can appeal either in a criminal or a civil case from a verdict on a plea of guilty or a judgment based upon confession of liability."

Since it appears that the Court in the McInturff case has recognized in Tennessee that a defendant in a Criminal case cannot appeal from a verdict on a plea of guilty, it must next be determined whether a defendant in a criminal case has a right to a Motion for a New Trial from a verdict on a plea of guilty.

In Bradford vs State, 184 Tenn 694, the Court said:

> "An appeal from a conviction in the lower Court is analogous to a motion for a new trial in the lower court to set aside the verdict of the jury in that in both situations the prodeedings are commenced and prosecuted by the defendant in an effort to show cause why his conviction should not be set aside and a new trial granted."

In 24 Corpus Juris Secundum, Criminal Law, Section 1418, Page 3, is found the following paragraph:

"A new trial can be granted only after a trial, and hence a motion therefor is properly overruled where there has been no trial, as where the original proceedings consisted merely of an arraignment and a plea of guilty. A Motion for a New Trial right after a plea of guilty and trial by Court to determine question of mercy has been held properly overruled."

The Supreme Court of Tennessee in several cases has recognized that there is a difference between a trial and a plea of guilty.

"Defendant did not go to trial but chose instead to enter a plea of guilty" State ex rel, Hall vs Meadows, 389 S.W. (2d) 256; State ex rel Wood vs Johnson, 393 S.W. (2d) 135.

"It must be remembered also that this man entered a plea of guilty to the charge and received a reduced sentence. There was nothing from which he could logically appeal." State ex rel Reed vs Heer, 403 S.W. (2d) 310.

As cited above in Tennessee Code Annotated, 27-101, Motions for New Trial and Appeals are modes of correcting errors. Since a "Judgment properly entered on a plea of guilty" is, in effect, a judgment by confession, and a judgment by confession is a release of errors (Tennessee Code Annotated 27-102), the need for a Motion for a New Trial is not present.

The question now arises as to what constitutes a judgment properly entered on a plea of guilty.

In discussing the principle that a judgment properly entered on a plea of guilty cannot be reviewed by appeal or error proceedings, Wharton's Criminal Procedure, Section 2247, Volume 5, page 498 says:

"Before proceeding to make such a plea the foundation of a judgment, however, the Court should see that it is made by a person of competent intelligence, freely and voluntarily, and with a full understanding of its nature and effect, and of the facts on which it is founded."

Judge Oliver, in State ex rel, Lawrence vs Henderson, 433 S.W. (2d) 96 (1968), Certiorari denied by the Supreme Court of Tennessee on November 4, 1968, cited the law concerning the entering of a plea of guilty as follows:

"A guilty plea induced by promises or threats or other coercion is not voluntary and is a nullity, and a conviction based on such an involuntary plea of guilty is void. Machibroda vs U.S., 368 U.S. 487, 82 Supreme Court 510, 7 Lawyer's Edition (2d) 437;" (citing other cases). In State ex rel Barnes vs Henderson, 220 Tenn, 719, 423 S.W. (2d) 497, our Supreme Court recognized this universal rule: 'It is recognized in this State, as in all jurisdictions, that a plea of guilty must be made voluntarily and with full understanding of its consequences.' And in Brooks vs State, 187 Tenn 67, 213 S.W. (2d) 7, the Court said: 'Out of just consideration for persons accused of crime, Courts are careful that a plea of guilty shall not be accepted unless made voluntarily after proper advice with full understanding of the consequences.'"

The United States Supreme Court, in McCarthy vs United States, supra said:

"Consequently, if a defendant's guilty plea is not equally voluntary and knowing, it has been obtained in violation of due process and is therefore void. Moreover, because a guilty plea is an admission of all the elements of a formal criminal charge, it cannot be truly voluntary unless the defendant possesses an understanding of the law in relation to the facts."

In order to determine whether or not a judgment was properly entered on a plea of guilty by Ray in this case, it will be necessary to apply the above rules of law to the facts presented at this hearing. This will be done later in this memorandum.

Therefore, for the reasons cited above in this opinion, I find as a matter of law, that a defendant in a criminal case, cannot have a judgment properly entered on a plea of guilty reviewed by a Motion for a New Trial.

II

The next question to be decided is: Can a defendant expressly waive his right to a Motion for a New Trial in a Criminal Case in Tennessee?

In deciding this question, it is necessary to discuss several principles concerning appeals and waivers.

In Tennessee, a defendant in a Criminal case has a constitutional and statutory right to have his case reviewed in the Appellate Courts and relief would be awarded if he was deprived of such right without fault of his own. Dennis vs State, supra; State ex rel Terry vs Yarnell, supra; and Tennessee Central Railway Co vs Tedder, supra.

Since a defendant does have this right, can he waive it? The Supreme Court of Tennessee has held that he can.

In the case of the State of Tennessee ex rel Doyle vs Henderson, 425 S.W. (2d) 593, (1968), on page 596, the Court held:

> "It seems to us whether or not a defendant, and particularly this Petitioner, has been deprived of his constitutional right to Appellate review depends upon the facts and circumstances of his case. The legal principles as announced in each of the cases cited above merely furnish guidelines in the application of this protected right. As said above no court that we can find has held that a defendant must appeal his case or that a waiver will not be recognized."

And later on the same page, the Court says:

> "We think, after careful consideration, that under a factual situation as here presented, this amounts to an oral waiver of appeal and none of the constitutional rights of this Petitioner has been violated by not granting him a New Trial from which he could perfect an appeal."

Further evidence that he may waive this right is shown in the case of State vs Simmons, 199 Tenn 479 (1956), in which Chief Justice Neil in his concurring opinion, quotes from perhaps the leading case on the subject of waivers in Tennessee, State ex rel Lea vs Brown, 166 Tennessee 669, 692, 693, Certiorari denied 54 Supreme Court Reporter, 717, 292 U.S. Supreme Court Reports 638, 78 Lawyers Edition 1491 as follows:

> On Page 491- "A party may waive any provision of a contract, statute, or constitution intended for his benefit." On Page 492. So, it was said in a leading case, In Re: Cooper, 93 N. Y. (507), 512, 'It is very well settled that a party may waive a statutory and even a constitutional provision made for his benefit, and that having once done so he cannot afterwards ask for its protection.'

This quoted principle is set out in Wallace vs State, 193 Tenn, on page 186, and in State ex rel Barnes vs Henderson, 423 S.W. (2d) 497 (1968).

In State ex rel Barnes vs Henderson, supra; the Court said:

> "As a general rule, subject to certain exceptions, any constitutional or statutory right may be waived if such waiver is not against public policy."; AND "Where a constitutional right accorded the accused is treated as waivable, it may be waived by express consent, by failure to assert it in apt time, or by conduct inconsistent with a purpose to insist upon it."

It appears then that not only can the right of appeal be waived but any other statutory or constitutional provision, made for his benefit, may likewise be waived, and that once this right or provision has been waived the defendant cannot afterward ask for its protection. This being true, it must then follow that a Motion for a New Trial can likewise be waived.

Further proof that the right to a Motion for a New Trial can be waived is shown by the following quotations and authorities:

In Hall vs State, 110 Tenn 365, the Court said:

> "In his work on General Practice, Judge Elliott (Volume 2, Section 995) says: 'The right to move for a New Trial may be waived by agreement in advance or by inconsistent acts, or by neglecting to take the proper steps. Thus it has been held moving in arrest of Judgment before moving for a new trial is a waiver of the latter motion.'; AND

> "The practice in this State is well settled that a Motion in Arrest of Judgment made before a Motion for a New Trial waives the latter motion." This last statement is quoted and cited in Palmer vs State, 121 Tenn. page 489. Almost the identical quote is found in Green vs State, 147 Tenn 299.

In Bradford vs State, supra, where the defendant was not present when his Motion for a New Trial came on to be heard, the Tennessee Supreme Court held:

> "We are accordingly, of the opinion that the defendant by his own act has waived the right to have his Motion for a New Trial considered and determined. His conduct was in legal effect an abandonment of the prosecution of his motion. We think, therefore, that the Court did not commit error in ordering the dismissal of that motion. It's judgment so ordering is affirmed."

The Supreme Court of Missouri in the case of State vs Pence, 428 S.W. (2d) 503 (1968), said:

> "Appellant cites no case in which it has been held that the waiver of the right to file a Motion for a New Trial is, as a matter of law, involuntary when the defendant is not specifically advised of the rights which he will be afforded on appeal. Maness vs Swenson, 8th Circuit, 385, Fed. 2d 943, does hold that the right to appeal must be knowingly and intelligently waived. However, the Court there considered the issue as a factual one to be determined in the light of all of the circumstances."

Since a defendant may waive his right to a Motion for a New Trial and to an Appeal, the next question is: What constitutes a Waiver?

The most cited case appears to be Johnson vs Zerbst, 304 U.S. 464, 58 Supreme Court 1019. It says:

> "It has been pointed out that 'Courts indulge every reasonable presumption against waiver' of fundamental constitutional rights and that we 'do not presume acquiesence in the loss of fundamental rights'. A waiver is ordinarily an intentional relinquishment or abandonment of a known right or privilege. The determination of whether there has been an intelligent waiver of right to counsel must depend, in each case, upon the particular facts and circumstances surrounding that case, including the background, experience, and conduct of the accused."

Part of this last quoted statement is cited in McCarthy vs U.S., 89 Supreme Court 1166 (1969).

A further discussion of waiver is found in State ex rel Lea vs Brown, supra:

> On Page 691- "Waiver is concisely defined as 'the voluntary relinquishment of a known right', 27 Ruling Case Law 904. Waiver is a doctrine of very broad and general application. It concedes a right, but assumes a voluntary and understanding relinquishment of it. 'It is a voluntary act, and implies an election to dispense with something of value, or to forego some advantage which he might at his option have demanded and insisted on.'"

III

With the above rules in mind for a "judgment properly entered on a plea of guilty" and the elements necessary for a proper "waiver", it is now necessary to discuss the facts presented at this hearing and to apply these rules to the facts.

Most of the evidence presented was by the introduction of certain parts of the Court's minute entries, by Mr. J. A. Blackwell, Clerk of the Criminal Court of Shelby County. The defendant declined to offer any evidence. In considering these minute entries the Court applied the following principles of law:

> "It is well settled in Tennessee that a trial Court speaks only through its minutes. McClain vs State, supra; Jackson vs Handell, 327 S.W. (2d) 55; Howard vs State, 217 Tenn 556.

In the Howard case, the Court said:

> "The rule in this State for generations has been, and is, that 'minutes' are indigenous to Courts of record; and when they are signed by a Judge, they become the highest evidence of what has been done in the Court. So far as they are records of judicial proceedings, they import absolute verity, and are conclusive unless attacked for fraud. The rule has been stated otherwise that a 'Court of Record' is a Court where acts and judicial proceedings are enrolled in parchment for perpetual memorial and testimony. These rolls are called the 'record' of the Court and are of such high and transcendent authority that their truth is not to be questioned."

Introduced into evidence at this hearing by Mr. Blackwell, were the following exhibits:

Exhibit #1, is a minute entry of November 12, 1968, signed by Judge Battle, allowing Attorneys, Hanes Sr. and Jr., to withdraw from the case, and allowing Attorney Percy Foreman to substitute as counsel in this case; and further resetting the case to March 3, 1969, upon application of the defendant.

Exhibit #2, is the Petition for Waiver of Trial and acceptance of Plea of Guilty, signed by James Earl Ray and by his Attorneys.

Exhibit #3, is the minute entry made on March 10, 1969, and signed by Judge Battle, which was an order authorizing waiver of trial and acceptance of a guilty plea.

Exhibit #4, is a part of the transcript of Judge Battle's questioning of the defendant, Ray.

Exhibit #5, is the Minute entry on March 10, 1969, which was the actual judgment and sentencing by Judge Battle.

The Order authorizing the 'Waiver of Trial and Acceptance of Plea of Guilty,' and made Exhibit #3 in this case, shows that Judge Battle heard statements made in open Court by the defendant, his Attorneys of record, the District Attorney General, the Assistant Attorney General; and that he questioned the defendant (as shown by Exhibit #4) and his Counsel in open Court. This Minute entry is on the Court's Minutes for March 10, 1969, and was signed by Judge Battle. It further shows, that the Petition of the defendant, James Earl Ray, for Waiver of Trial by Jury and Request for Acceptance of a Plea of Guilty, which was made Exhibit #2 at this hearing, was attached and incorporated by reference in this Order. This Petition was signed by the defendant, Ray and witnessed and signed by his privately retained Attorney, Percy Foreman and his Court appointed Attorneys, Hugh Stanton, Sr. and Jr.

Judge Battle, using the evidence set out above, in this Court's opinion, had ample evidence to find as he did in Exhibit #3, to-wit:

> "It appearing to the Court after careful consideration, that the defendant herein has been fully advised and understands his right to a trial by jury on the merits of the Indictment against him, and that the defendant herein does not elect to have a jury determine his guilt or innocence under a plea of Not Guilty; and has waived the formal reading of the Indictment; AND it further appearing to the Court that the defendant intelligently and understandingly waives his right to a trial and of his free will and choice and without any threats or pressure of any kind or promises other than the recommendation of the State as to punishment; and does desire to enter a Plea of Guilty and accept the recommendation of the State as to punishment, waives his right to a Motion for a New Trial and/or an Appeal.
>
> It is therefore Ordered, Adjudged and Decreed that the Petition filed herein be and the same is hereby granted."

At the time of the guilty plea, Judge Battle fully questioned the defendant as to his understanding of the charges and proceedings against him, the sentence being recommended, and whether or not the defendant had been induced to plead guilty by any promise other than the agreed sentence. The defendants' answers left no doubt that he fully understood the circumstances surrounding his guilty plea.

It is obvious that Judge Battle's finding complies with the law for acceptance of a Guilty Plea as stated above in the discussion of a properly entered guilty plea in State ex rel Lawrence vs Henderson, supra; McCarthy vs United States, supra; and Wharton's Criminal Procedure, Section 2247, Volume 5, page 498, supra.

It is also obvious that Judge Battle's finding that the defendant intelligently and understandingly waived his right to a Motion for a New Trial and an Appeal, complies with the law of Waivers as set out above in State vs Pence, supra; Johnson vs Zerbst, supra; State ex rel Lea vs Brown, supra; and McCarthy vs United States, supra.

It is therefore the opinion of this Court, based upon the evidence presented at this hearing, that the Guilty Plea entered by the defendant, James Earl Ray, before Judge Battle, was properly entered. This Court finds as a matter of fact that it was knowingly, intelligently, and voluntarily entered after proper advice without any threats or pressure of any kind or promises, other than that recommendation of the State as to punishment; and, that the defendant, Ray, had a full understanding of its consequences, and of the law in relation to the facts.

This Court finds that such Guilty Plea precluded the defendant from ~~finding~~ filing a Motion for a New Trial in this case.

Further, this Court finds that the defendant, James Earl Ray, knowingly, intelligently and voluntarily expressly waived any right he may have had to a Motion for a New Trial and/or Appeal.

Either one of these two decisions showing that the defendant could not file and have a Motion for a New Trial heard renders Tennessee Code Annotated, Section 17-117 inapplicable in this case. His Motion for a New Trial had already been disposed of by Judge Battle before his death when he allowed the defendant to waive his right to a Motion for a New Trial.

Consequently, this Court after a full evidentiary hearing on this matter, finds that the State's Motions to Strike are well taken and should be granted and that the defendant's Motions, as amended, regardless of what he calls the Motions, should be stricken and dismissed without further hearing.

These motions cannot be treated as a Motion for a New Trial, because the defendant had already waived his right to a Motion for a New Trial as determined by Judge Battle in his minute entry for March 10, 1969, which has been marked Exhibit #3 to the present hearing. Neither can they be treated as a Petition for Writ of Habeas Corpus or under the Post Conviction Act because the elements necessary for the latter two Petitions are not present.

It is therefore Ordered, Adjudged and Decreed that the State of Tennessee's Motions to strike are granted and that the defendant's Motions as amended are stricken and dismissed.

It is further ordered, adjudged and decreed that the Writ of Habeas Corpus issued to return this defendant for hearing, is hereby quashed, vacated and held for naught; and the defendant, James Earl Ray, is hereby ordered to be returned to the State Penitentiary at Nashville, Tennessee, under the authority of the original judgment and orders of this Court, to all of which the defendant, James Earl Ray, has noted his exception.

Arthur C. Day, Jr.
JUDGE
By Interchange
6/6/69

(Rev. 7-16-63)

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Murkin P.R. Folder

Trial On Ray Suit Will Be Written

Chancellor Charles Nearn has scheduled testimony by deposition for a trial Aug. 8 on a suit by private investigator Renfro T. Hays for an $11,046 judgment aginst James Earl Ray.

Testimony will be written, rather than oral. Any statements from Ray are to be taken from him in his maximum security cell at the state prison at Nashville where he is serving a 99-year sentence for the murder of Dr. Martin Luther King Jr.

Hays filed suit for $11,046, claiming this was the amount due him for investigations he made in the Ray case for Ray's former attorney, Arthur Hanes of Birmingham.

The private investigator filed attachments against a deer rifle police said was used in the sniper slaying of Dr. King and the 1966 white Mustang held as evidence as the escape car.

Ray's attorneys filed an affidavit in February, disclaiming Ray's ownership of the rifle and automobile. They also said Ray owes Hays no money for the work because the investigator's employment was not authorized by Ray himself.

Testimony in Chancery Court may be either submitted in written depositions or given orally in person at the discretion of the chancellor. Chancellor Nearn did not explain his ruling requiring depositions.

(Indicate page, name of newspaper, city and state.)

PAGE 47

COMMERCIAL APPEAL

MEMPHIS, TENN.

Date: 6-19-69
Edition:
Author: GORDON HAINES
Editor:
Title:

Character:
or
Classification:
Submitting Office: MEMPHIS

☐ Being Investigated

FD-350 (Rev. 7-16-63)

Murkin
P.R.
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Depositions Only In Ray Civil Suit

Chancellor Charles Nearn decided today that a civil lawsuit against James Earl Ray will be tried by deposition rather than oral testimony.

The suit was brought by Renfro Hays, a private detective, who claims that Ray owes him $11,146 for investigative services performed under one of his former attorneys, Arthur J. Hanes of Birmingham. Hays asked the court to attach and sell Ray's car and a rifle to satisfy the alleged debt.

Chancellor Nearn set Aug. 8 as the trial date. He did not state his reason for trying the case by deposition but it was presumably based on security. In trials by deposition, witnesses are not required to appear in court but give sworn statements which are read into the record.

Ray's deposition will be taken at the penitentiary at Nashville, where he is serving 99 years for the Martin Luther King killing.

(Indicate page, name of newspaper, city and state.)

PAGE 5

Date: 6-17-69
Edition:
Author:
Editor:
Title:

Character:
or
Classification:
Submitting Office:

☐ Being Investigated

FD-350 (Rev. 7-16-63)

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Ray's Appeal Plea Denied

Criminal Court Judge Arthur Faquin Jr. today refused to grant an appeal of his May 26 ruling in which he denied James Earl Ray's motion for a new trial.

The request for an appeal was presented by two of Ray's attorneys, Richard J. Ryan of Memphis and J. B. Stoner, Savannah, Ga.

Following the brief hearing, the lawyers said their request was a "simple formality" and it was discretionary with the judge to sign the order of appeal.

They said their next step would be to file a petition asking the Tennessee Criminal Court of Appeals to review Judge Faquin's decision in the case.

Ray pleaded guilty March 10 to the murder of Dr. Martin Luther King and is now serving a 99-year sentence in the state penitentiary at Nashville.

(Indicate page, name of newspaper, city and state.)

PAGE 22

MEMPHIS PRESS SCIMITAR

MEMPHIS, TENN.

Date: 6-6-69

Edition:

Author:

Editor: CHARLES H. SCHNEIDER

Title:

Character:

or

Classification:

Submitting Office: MEMPHIS

☐ Being Investigated

FD-350 (Rev. 7-16-63)

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Review Is Sought By Ray Lawyers

Attorneys for James Earl Ray indicated yesterday they will ask the state Court of Criminal Appeals to intervene and review a decision rejecting Ray's motion for a new trial for the murder of Dr. Martin Luther King Jr.

Criminal Court Judge Arthur C. Faquin Jr. yesterday refused to clear an appeal to the higher court on his ruling which turned down Ray's bid for a new trial.

Judge Faquin said he declined to approve the appeal because Ray — when he pleaded guilty — waived his right to move for a new trial or to appeal a ruling on a motion for new trial.

Ray may still file an appeal under laws that permit petitions for a writ of habeas corpus or for a hearing on post conviction relief, said the judge.

The request for the right to appeal was a legal formality, the lawyers, Richard J. Ryan of Memphis and J. B. Stoner of Savannah, Ga., said.

Mr. Stoner said he expects a legal challenge will be filed "shortly" on Ray's confinement under maximum security conditions at the state prison at Nashville.

The Georgia attorney said a suit seeking Ray's transfer from maximum security to normal assignment at the prison will be filed in federal court in Nashville by Robert Hill Jr., Ray's third attorney.

"He (Ray) is being penalized when he has not violated any (prison) rules," said Mr. Stoner. "He's in no danger."

The two attorneys were accompanied by Jerry Ray, younger brother of the prisoner, at a brief hearing before Judge Faquin.

Ray, who pleaded guilty to the murder of Dr. King, is serving a 99-year sentence at the prison.

(Indicate page, name of newspaper, city and state.)

PAGE 1

COMMERCIAL APPEAL

MEMPHIS, TENN.

Date: 6-16-69

Edition:

Author: GORDON HANNA

Editor:

Title:

Character:

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Classification:

Submitting Office: MEMPHIS

☐ Being Investigated

FD-350 (Rev. 7-16-63)

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Senator To Urge Ray Inquiry

By BETH J. TAMKE

A complete investigation covering the entire James Earl Ray case will be proposed by Senators Ed Gillock (D-Memphis) and Avery Brown (R-Knoxville) in January.

In a statement yesterday, Senator Gillock said he would make three proposals to the Senate after traveling to the penal institutions of the state as a member of the Senate State and Local Government Committee.

"First, I am going to propose the takeover of the Shelby County Penal Farm by the state. Secondly, I propose that a juvenile institution be built in Shelby County for first offenders. And thirdly, I propose the Senate look into the treatment of the convicts in the penal system. I want to look over the entire James Earl Ray case and the association and handling of all prisoners in the state of Tennessee.

"I am going to ask former Commissioner Harry Avery to testify before the committee and hire a staff to carry out a complete investigation so people will know the facts of the case."

Senator Brown was the only other member of the committee who knew of the proposal about James Earl Ray, but Senator Gillock indicated the two other proposals met with committee agreement.

The committee tourned the Shelby County Jail and Fort Pillow Prison yesterday. It will view the Shelby County Penal Farm at 9:30 this morning. Senator William Farris (D-Memphis) said the committee was gathering facts "so a knowledgeable program could be involved in the appropriations for the penal system next year.

"We found Fort Pillow very clean," he said. "We talked with inmates and officials and we learned that Fort Pillow needed a new cannery and bulldozer. It is very likely that money will be appropriated for these needs next year.

"The tour is a step by the independent legislature taking an independent look at corrections institution problems.

"We need the law inforcement concept in handling of penal systems. We don't need a trip over sociological and psychologicap cover, but an administration that considers the dollars and cents and tries to have human values, too.

"We don't need the Milque-

(Indicate page, name of newspaper, city and state.)

PAGE 17

COMMERCIAL APPEAL

MEMPHIS, TENN.

Date: 6-17-69

Edition:

Author: GORDON HANNA

Editor:

Title:

Character:

or

Classification:

Submitting Office: MEMPHIS

☐ Being Investigated

toast approach, but we should not eliminate the human values either."

Sheriff William N. Morris Jr. said the state should take over the Shelby County Penal Farm. He said his department would even take it over if the state prisoners were removed and he could have a chance to work with the inmates.

County Commissioner Lee Hyden, asked about the proposal of a state take-over of the farm, said, "We're not going to give up our Penal Farm. We're going to make it into a model community.

"I'd be very much in favor of the state taking over after the revamping of the state system."

0-19 (Rev. 7-17-68)

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6/17

Judge Again Bars New Trial for Ray

MEMPHIS, Tenn. (AP) — Shelby County Criminal Court Judge Arthur Faquin Jr. today again denied James Earl Ray a new trial.

The action was ~~the latest~~ step in an increasingly complicated effort by Ray to take back a guilty plea he entered March 10 to the slaying of civil rights leader Dr. Martin Luther King Jr.

J. B. Stoner and Richard Ryan, two of Ray's new lawyers, asked Faquin for permission to go into an appellate court in an attempt to overturn his denial May 26 of a new trial for Ray.

Faquin held that his earlier decision was an interlocutory decree—one that is not finalized — and that defense lawyers should file a bill of exceptions. He gave them 60 days to do this.

The Washington Post
Times Herald
The Washington Daily News
The Evening Star (Washington)
The Sunday Star (Washington)
Daily News (New York)
Sunday News (New York)
New York Post
The New York Times
The Sun (Baltimore)
The Daily World
The New Leader
The Wall Street Journal
The National Observer
People's World
Examiner (Washington)

Date

0-20 (Rev. 7-27-67)

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RAY 6/16 AJ
NIGHT LD
MEMPHIS, TENN. (UPI)--ATTORNEYS FOR JAMES EARL RAY SAID MONDAY THEY WOULD ASK THE TENNESSEE COURT OF CRIMINAL APPEALS TO ORDER RECONSIDERATION OF THEIR REQUEST TO APPEAL HIS MURDER CONVICTION.
CRIMINAL COURT JUDGE ARTHUR C. FAQUIN JR. LAST MONTH REFUSED TO ALLOW THE DEFENSE ATTORNEYS TO APPEAL THE CASE. HE DENIED ATTORNEYS J. D. STONER AND RICHARD RYAN A MOTION FOR A NEW TRIAL, TELLING THEM RAY HAD ADMITTED THE SLAYING OF DR. MARTIN LUTHER KING JR. AND WAIVED HIS RIGHTS TO A NEW TRIAL.
HOWEVER, FAQUIN TOLD RAY'S COUNSEL MONDAY THEY COULD PREPARE A BILL OF EXCEPTIONS OR PETITION THE APPELLATE COURT FOR A WRIT OF CERTIORARI. THE BILL OF EXCEPTIONS WOULD BE THE FIRST STEP IN A HABEAS CORPUS PROCEEDING TO FREE RAY. BUT STONER SAID THE DEFENSE WAS NOT READY TO ENTER A HABEAS CORPUS PROCEEDING.
THE WRIT OF CERTIORARI WOULD ASK THE APPEALS COURT TO ORDER FAQUIN TO RECONSIDER HIS DENIAL FOR A NEW TRIAL.
FAQUIN DENIED THE DEFENSE APPEAL IN OPEN COURT, BUT THERE WAS NO FORMAL HEARING. HE SUCCEEDED THE LATE JUDGE W. PRESTON BATTLE AS TRIAL JUDGE IN THE RAY CASE.
RAY PLEADED GUILTY MARCH 10 TO THE MURDER OF KING IN EXCHANGE FOR A 99-YEAR PRISON TERM. HE WROTE BATTLE THREE DAYS LATER REQUESTING A REVIEW.
BATTLE HAD A SECOND LETTER FROM RAY WHEN HE DIED ON MARCH 31. RAY'S ATTORNEYS BASED THEIR ARGUMENTS FOR A NEW TRIAL ON A TENNESSEE LAW WHICH AUTOMATICALLY GRANTS ANY MOTION PENDING BEFORE A JUDGE WHO DIES.
FAQUIN HELD THAT BATTLE, IN SPECIFICALLY ASKING RAY IF HE WAIVED HIS RIGHTS OF APPEAL, SAID THE QUESTION HAD BEEN SETTLED BEFORE BATTLE'S DEATH.
F9OEPED...

WASHINGTON CAPITAL NEWS SERVICE

The Washington Post

AN INDEPENDENT NEWSPAPER MONDAY, JUNE 9, 1969 PAGE A24

Contempt of Law

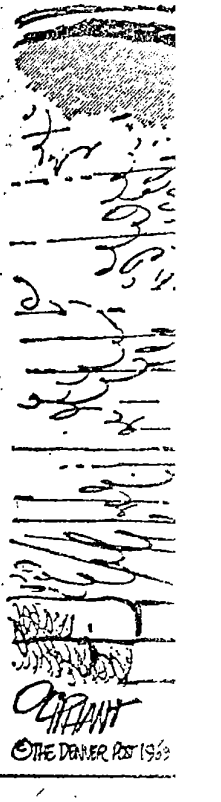
Why did the Federal Bureau of Investigation tap the telephone of the late Dr. Martin Luther King Jr.? The tapping was disclosed, beyond any contradiction, in testimony given on Wednesday in a Federal District Court. It violated an Act of Congress, the Federal Communications Act. It violated the repeated assertion by FBI Director J. Edgar Hoover that his agency tapped telephones only in national security cases.

John S. Martin, an attorney in the U.S. Solicitor General's office, acknowledged in court that the civil rights leader had been under FBI electronic surveillance in 1964 and 1965 and that the four FBI wiretaps made of telephone conversations in which he participated were illegal. There can be no doubt whatever as to the illegality of these wiretaps. In point of fact, the Government did not choose to contest their illegality.

Mr. Hoover has said many times that his agency taps no telephones without express authorization from the Attorney General. Did Nicholas deB. Katzenbach, a distinguished champion of civil rights, authorize surveillance, in clear violation of law, of the country's most respected civil rights leader?

Mr. Hoover has said many times, in congressional hearings and in public statements, that his agency taps no telephones except in cases affecting the country's security. Will he assert that he believed the Rev. Dr. Martin Luther King presented a peril to national security? He has indicated on past occasions that he takes an elastic, and sometimes a very confused, view of national security. But Martin Luther King?

It is no light matter to have the law flouted by the country's foremost investigating agency. Contempt for the law by public agencies and public officials breeds contempt for the law by the public itself. Worse still, a contemptuous disregard for the privacy and the essential freedom of American citizens strikes dangerously at the foundations of American life. The American people cannot afford to let J. Edgar Hoover be a law unto himself, no matter how valuable his past public service. A people careless of fundamental rights can hardly be said to deserve those rights at all.



St. Elizabeths and the Numbers Game

Appointment of a blue ribbon committee of experts on the future of St. Elizabeths Hospital apparently will signal the end of the curious numbers game that has impeded intelligent discussion of the hospital's fate. The Nixon Administration decided to speed the proposed transfer of the once famed hospital to city control after discovering that the action would take 4000 employes off the Federal payroll. At best, this was a bookkeeping notion since the cost of their salaries was largely underwritten by the city which is charged for local residents sent to the institution.

Dr. Howard P. Rome, Mayo Clinic senior psychiatrist, will be in charge of the study. Whether the hospital is kept with the National Institute of Mental Health or turned over to the city is secondary to the urgent need to elevate the quality of service and the prestige of the 115-year-old facility whose physical plant is rundown and whose staff is overloaded. Worth studying are proposals to turn it over to a mental health board similar to ones that have a say in the operation of mental hospitals in 39 states but containing both Federal and local representatives. Although it is generally undesirable to create additional governmental units, there is much to be said for an arrangement that would enable the hospital to retain the benefits of a continuing Federal connection, while giving the city which must pay most of the hospital's bills a say in its operation. Before the hospital is turned over to a new administrator, however, priority attention should be given to the modernization of its plant. It would be unfair to ask a new hospital administration to deal with the hospital's plant in its present condition.

Watered-Down Spanish Agreement

The latest version of the agreement with Spain for continued use of the military bases the United States maintains there may afford the easiest exit from a sorry bargain. As tentatively approved, this version would allow the agreement to run only to any potential attack. Some have read such a commitment into the vague language of the agreement itself. The matter was further confused when Gen. Earle G. Wheeler, Chairman of the Joint Chiefs of

'Anti-Military' Em

The Outlook Section of Post of Sunday, May 25, military articles under the

1. Leashing Military Co
2. Defense Budget and ture.
3. Formula for Harnes ing Military.
4. Toward a Society Military.

There were also four cartoons highlighting the rid of the military."

Your extraordinary e struction of the confidenc their defense establishme forces perplexes me. I ca reasons why a rational want to destroy the milit that we now live in a pea longer need defense for course, is the knowledge t power is destroyed there bar to a world dominated one sympathetic with or dominated world could b ward that end by enlisiti to destroy U.S. military fo

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FD-350 (Rev. 7-16-63)

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Ray Whisked Back To Prison Cell As Lawyers Ponder Next Move

By ROBERT KELLETT

James Earl Ray was back in his cell in Tennessee State Penitentiary at Nashville last night and his trio of attorneys left behind were creating a wake of promises that the man who confessed killing Dr. Martin Luther King Jr. would get a trial yet.

The attorneys said they will appeal to the Tennessee Court of Criminal Appeals as their next maneuver to get a new trial for Ray, now serving a 99-year sentence.

"We have lots of steps open to us, but we will continue in this manner just now," said attorney J. B. Stoner of Savannah, Ga., after Criminal Court Judge Arthur C. Faquin Jr. granted a state motion that struck down the defense's request for a new trial.

Sheriff William Morris said Ray was taken from the jail at 3:30 p.m. through the front door and walked to the sheriff's car. He was taken just outside the city for a rendezvous with a Tennessee Highway Patrol caravan which returned him to Nashville.

The sheriff said none of Ray's lawyers knew of the transfer and Ray was not in his cell when Mr. Stoner and Ray's brothers, John and Jerry, were refused admittance later in the afternoon.

The next trip Ray will take appeared to be before an appellate court.

"We're in real good shape for an appeal now," said Robert W. Hill Jr., a Chattanooga attorney who conducted most of the defense arguments in the hearing in the Division III courtroom where Ray pleaded guilty March 10.

Legal observers said various petitions and appeals could keep the case in courts for years.

Ray's attorneys contended in yesterday's hearing that letters which their client sent to the late Judge W. Preston Battle on March 13 and March 26 constituted a motion for a new trial and that under a Tennessee statute a new trial should be granted because the judge died while the motion was being considered.

In an opinion that took almost 30 minutes to relate, Judge Faquin agreed with the prosecution that Ray waived his right to a new trial when he pleaded guilty.

After citing decisions in numerous related cases, Judge Faquin said:

"It is the opinion of the court that the guilty plea was properly, knowingly, intelligently and voluntarily entered and such a guilty plea precluded the defense from filing a motion for a new trial in this case."

When Judge Faquin announced his decision, Ray swallowed hard twice, leaned his head on his left arm briefly and then was escorted quickly from the room.

If the Court of Criminal Appeals upholds Judge Faquin's decision, Ray's attorneys can appeal to the Tennessee Supreme Court and if rejected there can seek review in federal courts.

There also are two other avenues the defense could follow. Ray could seek to have his sentence overturned by filing a petition for a writ of habeas corpus, which would challenge some phase of his arrest, interrogation and trial. The attorney's also could seek a post-conviction hearing in an effort to have the conviction overturned.

Mr. Hill said during yesterday's hearing, however, that defense attorneys feel that both of these approaches would be "detrimental" to their client's case.

Presumably, Ray's attorneys, including Memphis lawyer Richard J. Ryan, will base part of their appeal of yesterday's decision on their objection to admission into testimony of minutes of previous court actions in the case.

The state's only witness, Criminal Court Clerk J. A. Blackwell, read the minutes that recorded Ray's guilty plea and sentencing.

Although there had been speculation that Ray might take the witness stand for the first time since his arrest in London last June, the defense called no witnesses at the hearing.

Before the state made the motion that struck the new trial motion, the defense withdrew several contentions on its own initiative, including paragraphs which had criticized the handling of the case by Ray's previous attorneys.

In what was a low-key confrontation between defense and prosecution attorneys, J. Clyde Mason, assistant attorney general, argued that the state's new trial provisions did not apply to Ray because "this was not a trial — this was a guilty plea.

(Indicate page, name of newspaper, city and state.)

✓ PAGE 1

COMMERCIAL APPEAL

MEMPHIS, TENN.

Date: 5-27-69
Edition:
Author:
Editor: GORDON HANNA
Title:

Character:
or
Classification:
Submitting Office: MEMPHIS

☐ Being Investigated

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Mr. Hill said later: "If he hasn't had a trial, he probably ought to be turned loose.

"The only man who could have heard this cause has passed away," he told Judge Faquin. "If we argued before Judge Battle we would be put in the position of changing his mind, but Judge Battle isn't here."

"We're convinced that if we put on our proof, it would be overwhelmingly in our favor," said Mr. Hill.

Mr. Mason was joined in the prosecution by Robert K. 'Bussy' Dwyer, executive assistant attorney general, who was named to the Tennessee Court of Criminal Appeals yesterday, and Lloyd A. Rhodes, administrative assistant attorney general. If an appeal is filed with the appeals court, Mr. Dwyer would not participate in any action the court takes.

FD-350 (Rev. 7-16-63)

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RAY'S NEW

TRIAL

MOTION

DENIED

(Indicate page, name of newspaper, city and state.)

PAGE 1

MEMPHIS PRESS-SCIMITAR

MEMPHIS, TENN.

Date: 5-26-69

Edition: CHAS. N. SCHNEIDER

Author:

Editor:

Title:

Character:

or MEMPHIS

Classification:

Submitting Office:

☐ Being Investigated

Criminal Court Judge Arthur Faquin today denied a new trial for James Earl Ray, the convicted assassin of Dr. Martin Luther King Jr. Faquin ordered Ray returned to the state penitentiary at Nashville, where he is serving a 99-year sentence.

THE JUDGE'S decision was a setback to Ray's new legal defense team, which claimed Ray was entitled to a new trial under state law.

Judge Faquin sustained a state motion to strike the new trial motion, holding that Ray had "expressly" waived his rights to appeal and to a new trial when he pleaded guilty March 10 before the late Judge W. Preston Battle.

Faquin said it was his opinion the guilty plea was "knowingly, intelligently and voluntarily" entered, and that Ray fully understood he was waiving his rights.

However, Faquin, who succeeded Battle as presiding judge in the case, agreed that Ray was entitled to appellate review of his case.

He said Ray could seek a new trial through either habeas corpus proceedings or under the post-conviction relief act.

Chief contention of Ray's lawyers — Robert W. Hill Jr. of Chattanooga, J. B. Stoner of Savannah, Ga., and Richard J. Ryan of Memphis — was centered on a state law which says that, in a case where a trial judge dies or is found insane before a new trial motion before him is heard, a new trial must be granted.

The state maintained that the state law on which the defense relied could apply only in the case of a jury trial and not in a case, such as Ray's, where a guilty plea had been made.

THE DEFENSE argument was based on letters which Ray had written to Battle asking for a new trial. Judge Battle died March 31 before ruling on the requests.

Robert K. Dwyer and Clyde Mason, assistant attorneys general, argued that

Ray, in pleading guilty, signed waivers, and is not entitled to a new trial.

At the outset of the hearing, which started at 9:30 a.m., the defense was permitted to delete certain allegations which had been contained in the amended and supplemental motions for a new trial. Among them was Ray's claim that he was pressured into pleading guilty by his former attorney, Percy Foreman.

The state's first and only witness was James A. Blackwell, Criminal Court clerk. He was placed on the stand to support the state's contention that Ray freely and voluntarily waived his rights to a new trial March 10 when he pleaded guilty and was sentenced to 99 years.

Blackwell read from a number of official court records and from the transcript of the March 10 hearing. He also read a waiver signed by Ray, waiving trial by jury; and the state's acceptance of the guilty plea.

HILL objected to introduction of the March 10 minute book. He argued that this court could not go into the previous minutes unless the presiding judge was there.

Judge Faquin said: "That's what you allege . . . but the court does not take cognizance of that."

Wearing a reddish brown-and-black checked sport coat, black trousers, white shirt and gold tie, Ray was led into the courtroom at 9:30 a.m. by Chief H. L.

Parker, the county jailer, and an assistant.

Ray half smiled as he glanced around the courtroom and took his seat in front of Parker. He appeared to have a "jailhouse pallor" and to have gained weight during his stay at the state penitentiary in Nashville.

During the hearing, Ray fidgeted, crossed his legs, bounced his foot up and down and seemed to watch the proceedings with more interest than in past court appearances.

AT ONE POINT in Blackwell's testimony — when Blackwell was reading the transcript of Judge Battle's interrogation of Ray and the explanation of the guilty plea — Ray leaned over and talked with Hill animatedly.

Hill has a nervous and hesitant courtroom manner. Stoner, the more polished of the two, speaks in a twangy Southern drawl. Ryan, the Memphis lawyer, consulted back and forth with Hill and Stoner.

Sitting in the spectator section were Ray's two brothers. Jerry, the younger, was quite tan and said he had been "out in the sun." Both talked with Gerold Frank, author of "The Boston Strangler," Frank is writing a book on the Ray proceedings.

William Bradford Huie, who paid Ray $35,000 for an account of the case, walked into the sheriff's office about 11:20 a.m. When a reporter asked what he was doing there, Huie replied, "What do you think?"

Asked if he planned to confer with Ray, Huie said, "I doubt if I will confer with him in my lifetime."

HUIE SAID his book on Ray would be out in September, and that he was finished with the case.

"I believe Ray decided on March 17, 1968, to kill Dr. King.

"He is a man who tells me lies. What he would tell me in August is not what he would tell me in March. He is somewhat like Caryl Chessman, a man who has read law in prison and is somewhat of a jailhouse lawyer.

"I don't know if Ray had help in the killing, but I do believe that Ray, and Ray alone, decided to kill Dr. King, although he had some underworld connections.

"I THINK Ray yearned for criminal status — wanted to be on the FBI's 10 most-wanted list — and for him the killing of Dr. King was not the normal killing by a Klansman.

"His crime is more like that of Lee Harvey Oswald's, a great seeking for status."

Asked if he though Ray had been coerced into making a guilty plea, Huie said, "I don't think James Earl Ray could be coerced into doing anything."

SECURITY for the Ray hearing today was more informal and relaxed than it had been at previous hearings. Photographers were allowed to sit on the steps of the Criminal Courts Building instead of across the street.

Reporters were permitted to enter the foyer of the building and mill around. There was only an informal shakedown.

Phone room for the press was set up just down the hall from the courtroom for the hearing.

--Press-Scimitar Staff Photo By James R. Reid

RAY'S LAWYERS AND BROTHER AT CRIMINAL COURT BUILDING
From left, Richard Ryan, Memphis, J. B. Stoner, Savannah, Ga., attorneys for Ray, and Jerry Ray, St. Louis, a brother, after the James Earl Ray hearing.

0-19 (Rev. 7-17-68)

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Prison Head Lays Firing To Ray Case

NASHVILLE, Tenn. (AP)— Tennessee Corrections Commissioner Harry S. Avery, fired one day after disclosure of a report lambasting the state's penal system, says he was dismissed because of his dealings with James Earl Ray.

Gov. Buford Ellington announced the firing yesterday and named Lake Russell, 68, warden of the state prison here where Ray is serving 99 years for killing Dr. Martin Luther King Jr., as Avery's successor.

Avery said he is convinced Ray killed King as part of a conspiracy.

"The governor told me he didn't care anything at all about the report," Avery told newsmen. "It was my violation of his instructions in regard to this prisoner, James Earl Ray, which resulted in the dismissal."

Avery, who had been under fire since it was reported he met privately with Ray three times with a view toward writing a book about the Ray-King case, denied any wrongdoing.

Ellington ordered an investigation into Avery's activities with Ray after Avery said he had uncovered a plot to kill Ray and state investigators said he had not reported it to them.

The critical report, prepared for the Tennessee Law Enforcement Planning Commission, condemned political patronage, low wages and other facets of the prison personnel system.

The Washington Post
Times Herald
The Washington Daily News
The Evening Star (Washington) A3
The Sunday Star (Washington)
Daily News (New York)
Sunday News (New York)
New York Post
The New York Times
The Sun (Baltimore)
The Daily World
The New Leader
The Wall Street Journal
The National Observer
People's World
Examiner (Washington)

Date 5-30-69

MURKIN P.R. Folder

OSBORNE

RAY 5/27 NX

NASHVILLE, TENN. (UPI)--JAMES EARL RAY WAS BACK IN HIS MAXIMUM SECURITY CELL AT THE STATE PRISON TODAY, HIS HOPES CRUSHED FOR A QUICK NEW TRIAL FOR THE KILLING OF DR. MARTIN LUTHER KING JR.

~~RAY, 41, SHOWED A DEFINITE PRISON PALLOR AFTER ALMOST A YEAR BEHIND BARS AS HE SAT IN A SHELBY COUNTY CRIMINAL COURTROOM AT MEMPHIS MONDAY TO HEAR JUDGE ARTHUR C. FAQUIN JR. TURN DOWN HIS REQUEST FOR A NEW TRIAL.~~

RAY, 41, SHOWED A DEFINITE PRISON PALLOR AFTER ALMOST A YEAR BEHIND BARS AS HE SAT IN A SHELBY COUNTY CRIMINAL COURTROOM AT MEMPHIS MONDAY TO HEAR JUDGE ARTHUR C. FAQUIN JR. TURN DOWN HIS REQUEST FOR A NEW TRIAL.

IN A THREE-HOUR HEARING, ATTORNEYS J. B. STONER AND ROBERT W. HILL JR. ARGUED REPEATEDLY THAT RAY WAS ENTITLED TO A NEW TRIAL BECAUSE OF THE DEATH OF TRIAL JUDGE W. PRESTON BATTLE.

FAQUIN RULED THAT BATTLE HAD SETTLED THE NEW TRIAL QUESTION WHEN, ON MARCH 10, RAY PLEADED GUILTY TO THE SLAYING OF KING ON APRIL 4, 1968, AND WAIVED HIS RIGHT TO APPEAL FOR A NEW TRIAL.

THE JUDGE SAID WHILE TENNESSEE LAW GUARANTEES A DEFENDANT A FAIR TRIAL, IT ALSO PROVIDES THAT HE MAY WAIVE THAT TRIAL AND PLEAD GUILTY. HE SAID SUCH ACTION INVALIDATES A PROVISION OF STATE LAW THAT AUTOMATICALLY GRANTS NEW TRIAL MOTIONS PENDING BEFORE A JUDGE WHO DIES.

"WE FIND THAT HE KNOWINGLY, INTELLIGENTLY AND VOLUNTARILY PLEADED GUILTY," FAQUIN SAID IN HIS OPINION.

RAY'S LAWYERS AGREED THE NEXT STEP FOR THE DEFENSE TEAM WAS AN APPEAL OF FAQUIN'S RULING TO THE STATE COURT OF CRIMINAL APPEALS.

"WE HAVE LOTS OF STEPS OPEN TO US," STONER SAID, "BUT WE WILL CONTINUE IN THIS MATTER JUST NOW."

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James Earl Ray;
Martin L. King - Victim

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A Memphis Tenn. judge declared that James Earl Ray knew what he was doing when he pleaded guilty in March to the murder of Martin Luther King Jr. and consequently did not deserve a retrial.

The Washington Post and
Times Herald
The Washington Daily News p3
The Evening Star
New York Herald Tribune
New York Journal-American
New York Daily News
New York Post
The New York Times
The Baltimore Sun
The Worker
The New Leader
The Wall Street Journal
The National Observer
People's World
Date 5-27-69

0-19 (Rev. 7-27-67)

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The Law

New Trial for Ray?

CRIMINAL COURT Judge Arthur C. Faquin Jr. will decide in Memphis, Tenn., whether James Earl Ray, convicted killer of Dr. Martin Luther King Jr., should have a new trial. Ray, serving a 99-year sentence, will appear before the judge on a hearing on his motion for retrial.

(1)

The Washington Post
Times Herald
The Washington Daily News 4/3
The Evening Star (Washington)
The Sunday Star (Washington)
Daily News (New York)
Sunday News (New York)
New York Post
The New York Times
The Sun (Baltimore)
The Worker
The New Leader
The Wall Street Journal
The National Observer
People's World

Date 5-26-69

0-19 (Rev. 7-17-68)

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Ray Back in Court

MEMPHIS, Tenn.—James Earl Ray goes back into court today in hopes of eradicating the red ink in which he signed away his rights to draw a 99-year prison sentence for the assassination of the Rev. Dr. Martin Luther King Jr.

Ray signed waivers to his rights of appeal, not only to higher state courts but the U.S. Supreme Court when he pleaded guilty on March 10 to the April 4, 1968, slaying of the Nobel peace prize winner, court records show.

But a quirk of fate—the death by heart seizure of Judge W. Preston Battle—may put Ray back into court to fight anew murder charges in the death of the civil rights leader that has already carried Ray from London to Memphis and to the cold gray walls of the State prison at Nashville.

Criminal Court Judge Arthur C. Faquin Jr., who inherited the Ray case after Battle's death on March 31, will be told that Houston Attorney Percy Forman "pressured" Ray into pleading guilty.

The Washington Post A 6
Times Herald
The Washington Daily News
The Evening Star (Washington)
The Sunday Star (Washington)
Daily News (New York)
Sunday News (New York)
New York Post
The New York Times
The Sun (Baltimore)
The Daily World
The New Leader
The Wall Street Journal
The National Observer
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Examiner (Washington)

Date 5/26/69

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Chance Remark Made It a Federal Case

By FRANK VAN RIPER

Washington, May 25 (NEWS Bureau)—A chance remark by James Earl Ray a month before he shot and killed Dr. Martin Luther King Jr. April 4, 1968, was instrumental in his capture.

When he told a Birmingham, Ala., gun dealer that "his brother" would not approve of a gun smaller than a 30.06 rifle for "what I have in mind," Ray gave the Federal Bureau of Investigation just enough ground to accuse him of conspiracy and bring its massive resources into the case. The subsequent investigation stripped away the mystery surrounding the identity of Eric Starvo Galt and pegged King's assassin as Ray.

Ray's identification triggered a worldwide manhunt that ended on June 8, 1968, in London. Ray was convicted in March of first degree murder and sentenced to 99 years.

A motion for a new trial will be heard tomorrow in Shelby County Courthouse in Tennessee. Despite repeated statements to the contrary from former Attorney General Ramsey Clark, the FBI and other sources close to the case, there still lingers a nagging question as to whether Ray acted alone on that fateful day in April 1968.

One reason for the furor is the fact that the FBI itself raised the possibility that Ray had help when it announced on April 17, 1968, that a federal conspiracy complaint had been filed in Birmingham against "Eric Starvo Galt and an individual who he alleged to be his brother."

But officials point out that the conspiracy complaint represented the easiest way to put the case under federal jurisdiction. In other words, it was merely an excuse for federal investigators to enter the case and didn't mean that probers had hard evidence of a plot.

But other questions about the case remain in the public mind.

One, asked recently by Sen. James O. Eastland (D-Miss.), chairman of the Senate Internal Security subcommittee, was how Ray knew exactly where King would be on that afternoon in April 1968.

The FBI contends that he did not. Ray had a general idea of where King would be since stories of his efforts to help striking Memphis sanitation workers had been in newspapers for weeks. By picking up a paper, Ray was able to find out not only the name of King's hotel—the Lorraine—but also his room.

The mystery radio broadcast minutes after King's murder, describing a frantic chase between Ray and police, was said to be the work of an overimaginative, teenaged ham radio operator who heard early police calls describing Ray's white Mustang.

The Washington Post
Times Herald
The Washington Daily News
The Evening Star (Washington)
The Sunday Star (Washington)
Daily News (New York) 20
Sunday News (New York)
New York Post
The New York Times
The Sun (Baltimore)
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Examiner (Washington)

MAY 26 1969

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Ray's Contention of Being Dupe Is Likely to Be Aired Tomorrow

48

By MARTIN WALDRON
Special to The New York Times

MEMPHIS, May 24—James Earl Ray's contention that he was a dupe in the murder of the Rev. Dr. Martin Luther King Jr. is likely to be thoroughly aired for the first time in a public hearing Monday in Memphis.

Ray is seeking a new trial on the ground that he was coerced into pleading guilty to the slaying of the civil rights leader.

The State of Tennessee, which is opposing a new trial, expects to call as witnesses Percy Foreman, the Houston lawyer who Ray says browbeat him into pleading guilty, and William Bradford Huie, the Alabama author to whom Ray sold a version of Dr. King's murder.

Two-Day Hearing

Prosecutors expect the hearing before Criminal Court Judge Arthur C. Faquin Jr. to last two days.

Meanwhile, agents of the Federal Bureau of Investigation are continuing an inquiry into the slaying of Dr. King, who was shot to death April 4, 1968, at a Memphis motel. The F.B.I. is trying to construct a day-by-day account of Ray's activities from the day he escaped from the Missouri State Penitentiary, April 23, 1967, until he was arrested in London June 8, 1968.

Last month, F.B.I. agents finally located the motel in Birmingham, Ala., where Ray had stayed for two days while he was buying the rifle that Memphis police found at the murder scene. He had registered as Eric Starvo Galt, one of several aliases he was uring.

Ray's brother, Gerald Ray of Chicago, said an F.B.I. agent tried to interview him in Memphis this week about staements he had made about a conspiracy to assassinate Dr. King. Gerald Ray said the agent, Joe C. Hester, told him that he might be called before a Federal grand jury for questioning.

Warrant Still Outstanding

The F.B.I. declined to comment. But officials of the agency said after James Earl Ray pleaded guilty in March that the investigation would remain open. A Federal warrant charging Ray with conspiring with a man "alleged to be his brother" to deprive Dr. King of his civil right is still outstanding.

When he pleaded guilty March 10, Ray said he was guilty of murdering Dr. King, but he refused to stipulate that there was no conspiracy.

Ray fired Mr. Foreman as his lawyer a few days after the guilty plea and asked for a new trial. He said that the Texas attorney had told him that he was sure to be sentenced to death unless he pleaded guilty.

Ray had told his first lawyer, Arthur J. Hanes, a former mayor of Birmingham, that he did not shoot Dr. King. Ray said he went to Memphis April 3,1968, with a "contact" who had said that a group of Cuban refugees wanted to buy black market rifles, presumably to use in an invasion of Cuba. Ray said that the rifle he had bought in Birmingham was to have been a model to show the Cubans.

Ray's request for a new trial was complicated by the death of Criminal Court Judge W. Preston Battle. He died March 31.

Two Major Points

Ray had written the judge a letter in which he said he planned to file a motion for a new trial even though he had waived the right March 10 when he pleaded guilty.

Tennessee law provides that proper motions pending before a judge at the time of his death must be granted.

Thus, Judge Faquin will have two major points to decide at the hearing:

¶Was the letter in itself a motion for a new trial?

¶Was Ray actually coerced into pleading guilty?

Ray's newest attorneys, who are handling the hearing, include J. B. Stoner of Savannah, Ga. He has been an attorney for various KuKlux Klansmen and for the National States' Rights party, a racist political group.

The Washington Post
Times Herald
The Washington Daily News
The Evening Star (Washington)
The Sunday Star (Washington)
Daily News (New York)
Sunday News (New York)
New York Post
The New York Times 48
The Sun (Baltimore)
The Daily World
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The National Observer
People's World
Examiner (Washington)

Date MAY 25 1969

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0-19 (Rev. 7-17-68)

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A-15 Star 5-24-69

FBI Asked About Plot, Ray's Brother Reports

MEMPHIS, Tenn. (AP) — A brother of the man convicted of killing Dr. Martin Luther King Jr. says FBI agents questioned him yesterday about whether a conspiracy was involved in the assassination of the civil rights leader.

Jerry Ray, younger brother of admitted assassin James Earl Ray, said men identifying themselves as FBI agents approached him at the jail where he was visiting his brother.

The elder Ray, who pleaded guilty March 10 to King's death and was sentenced to 99 years, will appear at a hearing Monday on his motion for a new trial.

Asked to Explain

Jerry Ray said he was asked to explain why he said last year there was a conspiracy in King's death.

"I didn't tell them anything," Jerry Ray said he told them, on advice of an attorney.

"They asked a question on the conspiracy statement. I wouldn't answer it and they threatened to bring me before a federal grand jury. They said if I didn't talk then, I would be held in contempt."

Investigators have maintained that a conspiracy was not involved in King's death.

Asked about the younger Ray's report, Special Agent Robert G. Jensen, Memphis FBI district chief, said, "We're making inquiries all the time into all sorts of things."

Jensen declined to confirm that his men questioned Jerry Ray, but said one of the agents named by Ray was under his jurisdiction.

In another development yesterday, Judge Arthur Faquin Jr. of Criminal Court, who will preside at Monday's hearing, dismissed contempt of court citation against seven men in the Ray case.

Cited Under Ban

The late Criminal Court Judge W. Preston Battle, who accepted Ray's guilty plea, had imposed a strict publicity ban on the case. He issued the citations for alleged violations of the ban by Arthur J. Hanes, Ray's first attorney; Renfro T. Hays, a private investigator, and two Memphis newspaper reporters, Charles Edmundson of the Commercial Appeal, and Roy Hamilton of the Memphis Press-Scimitar.

Faquin, who took over the case after Battle's death in March, acted at the recommendation of a special bar association committee on publicity which Battle had created.

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The Washington Post
Times Herald
The Washington Daily News
The Evening Star (Washington) A-15
The Sunday Star (Washington)
Daily News (New York)
Sunday News (New York)
New York Post
The New York Times
The Sun (Baltimore)
The Daily World
The New Leader
The Wall Street Journal
The National Observer
People's World
Examiner (Washington)

Date 5-24-69

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United Press International

James Earl Ray, escorted by two Tennessee patrolmen, is led from the state prison in Nashville for a trip to Memphis and a hearing into his conviction for murdering of Dr. Martn Luther King. Ray seeks a new trial.

7 Ray Trial Contempt Cases Dropped

MEMPHIS, Tenn., May 23 (AP)—The judge who will hear James Earl Ray's bid for a new trial in the slaying of Dr. Martin Luther King Jr. dismissed contempt of court charges against seven persons today in connection with the Ray case.

Ray entered a guilty plea March 10 in the murder of King and was sentenced to 99 years in prison by Judge W. Preston Battle.

Judge Arthur Faquin, who took over after Battle's death, acted at the recommendation of a special bar association committee.

The committee had recommended that, because of Battle's death, four persons whom Battle had held in contempt should either be granted new trials or the charges should be dismissed.

The four were Arthur J. Hanes, Ray's first attorney; Renfro T. Hays, a private investigator, and two Memphis newspaper reporters, Charles Edmundson of The Commercial Appeal, and Roy Hamilton of the Memphis Press-Scimitar.

The committee had recommended contempt proceedings against the three others. They were George Bonebrake, an FBI firearms expert; author William Bradford Huie andthe Rev. James Bevel, a top official of the Southern Christian Leadership Conference.

Ray, bound in chains and escorted by 25 armed guards in an 11-car police caravan, was returned Thursday to the Shelby County Jail cell where he lived from last July until he entered the state prison March 11.

Judge Faquin will hear Ray's appeal for a new trial Monday.

ADVISORY 5/24 NX

EDITORS:

J. B. STONER HAS BEEN A KU KLUX KLANSMAN SINCE BOYHOOD AND REFERS TO DR. MARTIN LUTHER KING AS "MARTIN LUCIFER KING."

ROBERT W. HILL HAS STUDIED JUDO SINCE HE WAS FIVE, CLAIMS TO BE ONE OF SEVEN PERSONS IN THE WORLD WHO CAN BREAK A FLOATING BALLOON WITH HIS KNUCKLES. GRAYING RICHARD J. RYAN ONCE DREW A FLICKER OF ATTENTION WHEN HE RAN FOR A SEAT IN THE TENNESSEE LEGISLATURE.

THESE THREE MEN--APPARENTLY OF TOTALLY DIFFERENT BACKGROUNDS--FORM THE NEW LEGAL TRINITY FOR JAMES EARL RAY, THE SELF-CONFESSED ASSASSIN OF KING WHO NOW WANTS A NEW TRIAL.

THE THREE WILL REPRESENT RAY IN HIS EFFORTS TO WIN A NEW TRIAL AS WELL AS IN A FEDERAL COURT SUIT IN WHICH RAY SEEKS TO VOID CONTRACTS HE HAD WITH NOTED CRIMINAL ATTORNEY PERCY FOREMAN, FORMER BIRMINGHAM MAYOR ARTHUR HAYES AND AUTHOR WILLIAM BRADFORD HUIE.

A SPECIAL DISPATCH ON THE THREE ATTORNEYS HAS BEEN PREPARED BY GLENN STEPHENS OF THE NASHVILLE UPI BUREAU AND WILL MOVE TONIGHT ON AN ADVANCE BASIS FOR MONDAY AMS.

UPI ATLANTA

WN1100PED

(RAY)

MEMPHIS, TENN.--FOLLOWING A 15 MINUTE VISIT WITH HIS BROTHER JAMES EARL RAY, JERRY RAY OF ST. LOUIS BITTERLY CHARGED THAT TWO FBI AGENTS THREATENED HIM FRIDAY FOR HIS REFUSAL TO DISCUSS AN ALLEGED CONSPIRACY IN THE DEATH OF DR. MARTIN LUTHER KING JR.

THE YOUNGER RAY, VISITING HIS IMPRISONED BROTHER AT THE SHELBY COUNTY JAIL, SAID TWO MEN WHO CLAIMED TO BE AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION, QUESTIONED HIM ABOUT A STATEMENT HE MADE LAST YEAR SUGGESTING A CONSPIRACY IN THE CASE.

5/24--TS1100AED

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King Death Probed

MEMPHIS, Tenn. — A brother of the man convicted of killing Dr. Martin Luther King Jr. says FBI agents questioned him about whether a conspiracy was involved in the assassination of the civil rights leader.

Jerry Ray, younger brother of admitted assassin James Earl Ray, said men identifying themselves as FBI agents approached him at the jail where he was visiting his brother.

The elder Ray, who pleaded guilty March 10 to King's death and was sentenced to 99 years, will appear at a hearing Monday on his motion for a new trial.

"I didn't tell them anything," Jerry Ray said he told the agents on advice of an attorney. "They asked a question on the conspiracy statement. I wouldn't answer it and they threatened to bring me before a Federal grand jury. They said if I didn't talk to them, I would be held in contempt."

Investigators have maintained that a conspiracy was not involved in King's death.

Asked about the younger Ray's report, Special Agent Robert G. Jensen, Memphis FBI district chief, confirmed that his men questioned Jerry Ray but would not comment on his charge of threats. "We're making inquiries all the time into all sorts of things," he said.

The Washington Post
Times Herald A-14
The Washington Daily News
The Evening Star (Washington)
The Sunday Star (Washington)
Daily News (New York)
Sunday News (New York)
New York Post
The New York Times
The Sun (Baltimore)
The Daily World
The New Leader
The Wall Street Journal
The National Observer
People's World
Examiner (Washington)

Date 5-25-69