CRIMINAL DIVISION

November 6, 1969

Attention: Mr. Cella

ASSASSINATION OF MARTIN LUTHER KING, JR.

XXX (G) EJM:jmv

NOTE: Enclosed is a copy each of State Department telegrams dated 10-24-69 and 10-28-69. A copy of each is being furnished Civil Rights Division.

Director, FBI (44-38861) 10/29/69

Legat, London (88-72) (RUC)

MURKIN

Attached is one copy each of State Deparment telegrams dated 10/24/69 and 10/28/69 concerning the request by JAMES EARL RAY for documents prepared in connection with his extradition hearings in London.

3 - Bureau (Encls. 2)
1 - Liaison
1 - London
JTM:cm
(5)

Amembassy London

IN TELEGRAM

LIMITED OFFICIAL USE

INFO/ACTION: CGLD

FROM: State

NO: 180320

RECD: OCT 24 1969

4:07 PM

INFO:
CRS-2
AMB
MIN
DAO
E:MIN
CCA
CS-4

POL
POL:INT
POL:EX
POL:EX:E
POL:EX:A
POL:EX:F
POL:EX:N
POL:M
POL:L

E:GEN
E:PN
E:C
E:CI
E:AID
E:SCI
E:AEC
E:TRC
E:FAA
E:AG
E:TCEN
E:CUS
E:IRS
E:LE

ADMIN
A:DEP
A:BF
A:GS
A:TU
A:VIS
A:COMM
A:PER
A:SY
ATO-3

CG:D
CG:P
CG:S
CG:V

EN-2
DAO-3
STRIKE

HPVR
MASTER
CONTROL
2918

....
DE RUEHC 180320 2971501
ZNY CCCCC ZZH
R 241441Z OCT 69
FM SECSTATE WASHDC
TO AMEMBASSY LONDON 0347
BT

LIMITED OFFICIAL USE STATE 180320

SUBJECT: EXTRADITION: JAMES EARL RAY

REF: LONDON'S 7516

DOCUMENTS SUPPORTING EXTRADITION REQUEST INCLUDE AFFIDAVITS NOT REPRODUCED IN TRANSCRIPT. WE UNDERSTAND THAT SUCH AFFIDAVITS NOT AVAILABLE TO PUBLIC IN UK BY COURT POLICY OR PROCEDURE. BOTH RAY AND PRIVATE WRITER HAVE REQUESTED AFFIDAVITS, AND FURNISHING TO EITHER OR BOTH COULD RESULT THEIR PUBLICATION HERE. AFFIDAVITS PART OF INVESTIGATIVE FILES IN JUSTICE AND THEREFORE MAY BE WITHHELD UNDER FREEDOM OF INFORMATION ACT BUT STATE DEPARTMENT HAS NO SUCH BASIS WITHHOLD. BEFORE DECISION, HOWEVER, WOULD LIKE EMBASSY CHECK WITH BOW STREET COURT AND REPORT THEIR AND EMBASSY VIEWS ON RELEASE.

ROGERS

UNITED KINGDOM

LIMITED OFFICIAL USE

OUTGOING AmEmbassy LONDON

LIMITED OFFICIAL USE
Classification

Charge: Control: 8797

Date: Oct 23, 1969
1602Z

E:LE
CRS-2
AMB
MIN
PAO
E:MIN
CCA
POL
POL:IMT
POL:HK
E:GEN-2
E:CJB
E:LE
CG:D
SUPVR
MASTER
18c/dnf

ACTION: SecState WASHDC 3841

LONDON 8797

SUBJECT: EXTRADITION: James Earl RAY

REF: State 180230

1. As far as British law is concerned Bow Street Court is of opinion that Ray has right to have affidavits taken in U. S. and received in hearings at London last year. Bow Street official states he believes copies of these affidavits were given to defense after proceedings here were completed. He assumed documents were transmitted to Banes in U. S. When informed giving affidavits to Ray might result in their publication, he repeated that Ray, as defendant, had every right to the affidavits, which he understood could include Ray's making them available to others if he chose to do so.

2. While Department correct that affidavits not available to public in U.K., this policy does not apply to party in the proceeding who could publish it if he wished. Thus were Ray to have made request for documents, court would have released them. Court would not, rpt, not release to writer or any third party.

Drafted by: Legal Office
Dept. of State: Gelfish

Approved by: CG/D:WWFisher

Telephoned to: CG/D:WWFisher:mts

LIMITED OFFICIAL USE
Classification

ENCLOSURE

Amlitobassy LONDON

LIMITED OFFICIAL USE

8797

- 2 -

3. Embassy has obtained views of Foreign Office and Home Office which concur with those of Bow Street Court. Both agree matter of publication would be up to Ray.

4. Since both Court and Home Office would have granted request by Ray for documents, Embassy of view that it would be awkward not to release documents to Ray. Embassy would not, rpt, not support giving documents to writer.

5. Foregoing has been coordinated with Gaither.

WELD

LIMITED OFFICIAL USE

October 29, 1969

CIVIL RIGHTS DIVISION

ASSASSINATION OF MARTIN LUTHER KING, JR.

XXX (G) EJM:jmv

NOTE: Enclosed is one copy each of a letter from H. Rowan Gaither, Department of State to Mr. Canale and Mr. Canale's reply to Mr. Gaither. A copy of each has been furnished the Criminal Division.

October 29, 1969

CRIMINAL DIVISION

Attention: Mr. Cella

ASSASSINATION OF MARTIN LUTHER KING, JR.

XXX (G) EJM:jmv

NOTE: Enclosed is one copy each of a letter from H. Rowan Gaither, Department of State to Mr. Canale and Mr. Canale's reply to Mr. Gaither. A copy of each has been furnished the Civil Rights Division.

10/27/69

Mr. Tolson
Mr. DeLoach
Mr. Walters
Mr. Mohr
Mr. Bishop
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Tavel
Mr. Soyars
Tele. Room
Miss Holmes
Miss Gandy

Airtel

TO: DIRECTOR, FBI (44-38861)

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

SUBJECT: MURKIN

Enclosed for the Bureau are two copies each of a letter dated 10/13/69 from H. ROWAN GAITHER, Department of State, Washington, D. C., to District Attorney General PHIL M. CANALE, JR., Memphis, Tennessee, and Mr. CANALE's reply to Mr. GAITHER, dated 10/14/69, by means of which Mr. CANALE forwarded to the Department of State the original, certified copy of the transcript of the proceedings in the JAMES EARL RAY extradition case. Other documents which were also forwarded with enclosed letter are described in Mr. CANALE's letter.

2 - Bureau (Encls-4)
2 - Memphis

JCH:lfm

(4)

CRIMINAL-DIRECTOR

DEPARTMENT OF STATE

Washington, D.C. 20520

October 13, 1969

Honorable Phil M. Canale, Jr.
District Attorney General
Fifteenth Judicial Circuit
Shelby County Office Building
Memphis, Tennessee 38103

Dear Mr. Canale:

Regarding our telephone conversation of last week, I wish to request your office to transmit to the Department of State the original certified copy of the transcript of the proceedings in the James Earl Ray extradition case before the Bow Street Court, London, in July of 1968. Insofar as that court is concerned, that transcript was intended for delivery to the Department of State. It was apparently handed to the agents of the United States who escorted Ray from the United Kingdom to the United States.

You have indicated that a certified copy of this transcript is in your possession and I request that it be transmitted directly to the Department of State by registered mail. Upon receipt, I will obtain a photographic copy of the documents which I will transmit to you. This photographic process will not require the breaking of the seals.

Thank you very much for your cooperation in this matter.

Sincerely yours,

H. Rowan Gaither

H. Rowan Gaither
Attorney
Office of the Legal Adviser

LLOYD A. RHODES
EXECUTIVE ASSISTANT

WILLIAM D. HAYNES
ADMINISTRATIVE ASSISTANT

JOHN L. CARLISLE
H. J. BEACH
E. L. HUTCHINSON, JR.
CLYDE R. VENSON
CRIMINAL INVESTIGATORS

EARL E. FITZPATRICK
NON-SUPPORT DIVISION

PHIL M. CANALE, JR.
DISTRICT ATTORNEY GENERAL
FIFTEENTH JUDICIAL CIRCUIT OF TENNESSEE
COUNTY OF SHELBY

SHELBY COUNTY OFFICE BUILDING
157 POPLAR AVENUE
MEMPHIS, TENN. 38103

ASSISTANTS
EWELL C. RICHARDSON
JEWETT H. MILLER
J. CLYDE MASON
SAM J. CATANZARO
LEONARD T. LAFFERTY
ARTHUR T. BENNETT
DON D. STROTHER
DON A. DINO
JOSEPH L. PATTERSON
BILLY F. GRAY
EUGENE C. GAERIG
HARVEY HERRIN
F. GLEN GIBSON
JOHN W. PIEROTTI
JAMES G. HALL
JAMES H. ALLEN

October 14, 1969

Mr. H. Rowan Gaither
Attorney
Office of Legal Advisor
Department of State
Washington, D. C. 20520

Dear Mr. Gaither:

In response to your request contained in your letter to me of October 13, 1969, I am forwarding to you and enclosing herewith the original, certified copy of the transcript of the proceedings in the James Earl Ray extradition case before the Bow Street Court, London, in July of 1968.

There was also delivered to this office three (3) additional official papers of a single page each, two of these being warrants of apprehension, and the third appearing to be a mittimus to the Governor of Her Majesty's prison at Wandsworth. I am also enclosing these three papers in case you have any need for them.

I have made copies of these three single sheets for my file, and will await your sending me a copy of the transcript of the extradition proceedings when you make same.

Sincerely yours,

PHIL M. CANALE, JR.
District Attorney General

PMCJr:MEF
Enclosures

AIRMAIL, REGISTERED
RETURN RECEIPT REQUESTED

10/27/69

Airtel

TO: DIRECTOR, FBI (44-38861)

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

SUBJECT: MURKIN

Re Bureau airtel to Memphis and Savannah, 10/21/69.

Enclosed for the Bureau is one copy of the letter directed to District Attorney General PHIL M. CANALE, JR., Memphis, Tennessee, advising him that there is no basis to the allegations made by J. B. STONER to HAROLD WEISBERG that the FBI had offered persons $25,000 to frame JAMES EARL RAY for the murder of MARTIN LUTHER KING, JR.

(2) - Bureau (Encl-1)
2 - Memphis

JCH:lfm

(4)

Mr. Tolson
Mr. DeLoach
Mr. Walters
Mr. Mohr
Mr. Bishop
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

Dissemination Folder

October 15, 1969

CIVIL RIGHTS DIVISION

ASSASSINATION OF MARTIN LUTHER KING, JR.

XXX (G) EJM:jmv

NOTE: Enclosed is one copy each of a Petition for Writ of Certiorari and a brief filed by attorneys for James Earl Ray with the Tennessee Supreme Court on 10-6-69.

10/9/69

AIRTEL

TO: DIRECTOR, FBI (44-38861)

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

SUBJECT: MURKIN

Enclosed for the Bureau are 2 copies each of a "Petition of JAMES EARL RAY for Writ of Certiorari" and of the defendant's brief filed with the Clerk of the Tennessee Supreme Court on 10/6/69 at Jackson, Tennessee.

Memphis will follow the subject's appeal and will keep the Bureau advised.

2 - Bureau (Encs. 4)
1 - Memphis
JCH:jap
(3)

See Reverse Side

FILED
OCT 6 1969
BESSIE BUFFALOE, Clerk

TO THE HONORABLE SUPREME COURT OF THE STATE OF TENNESSEE, SITTING AT JACKSON, TENNESSEE, OR TO ANY OF THE JUDGES THEREOF:

STATE OF TENNESSEE
VS
JAMES EARL RAY

FROM THE CRIMINAL COURT
OF
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' Motion to Strike the petitioner's Motion for a New Trial.

Your petitioner would further relate that he timely petitioned the Criminal Court of Appeals for a Writ of Certiorari, and that the same was denied, hence this appeal to this Honorable Court.

YOUR PETITIONER STATES:

1. That the Criminal Court of Shelby County, Tennessee, the Honorable Judge Arthur C. Faquin presiding, 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. The letters and Motion for a New Trial are herein exhibited and attached hereto as Exhibits Nos. 1, 2 and 3.

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 Interloc-

utory Order, and that, therefore, there was no appeal from the same.

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.

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

Your petitioner would respectfully allege that he has no other remedy of speedy available appeal other than this Application for Writ of Certiorari.

Petitioner would state that notice was served on the Attorney General of the State of Tennessee, more than five (5) days before the filing of the Petition for Certiorari; and that the Petition would be presented to the State Supreme Court or one of the Judges thereof on October 6, 1969, at Jackson, Tennessee, and that a copy of the Petition was presented to the Attorney General of the state of Tennessee, as well as a copy of the Brief filed herein; a copy of the Notice and receipt thereof is attached hereto.

P EMISES 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 BEFORE THIS HONORABLE COURT.

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 3rd day of October, 1969.

Bessie Lee Turner
NOTARY PUBLIC

My commission expires:
10-7-71

STATE OF TENNESSEE

VS

JAMES EARL RAY

IN THE SUPREME COURT OF
THE STAIE OF TENNESSEE

AT

JACKSON, TENNESSEE

N O T I C E

TO THE HONORABLE GEORGE F. McCANLESS, ATTORNEY GENERAL
and
HONORABLE THOMAS E. FOX, ASSISTANT ATTORNEY GENERAL:

You and each of you are hereby notified that James Earl Ray, by and through his Attorneys of Record, will on the 6th day of October, 1969, present to the Supreme Court of the State of Tennessee at Jackson, Tennessee, or to one of the Judges thereof, his Petition for Writ of Certiorari, seeking to have his case reviewed, and to have reviewed, also the judgment of May 26, 1969, of the Criminal Court, Division II, of Shelby County, Tennessee, the Honorable Arthur C. Faquin presiding, said judgment consisting of sustaining the State's Motion to Strike your petitioner's Motion for a New Trial. This action will seek to have the Motion for a New Trial sustained and the cause remanded for further handling by the Criminal Court of Shelby County, Tennessee.

This the 4th day of October, 1969.

Richard J. Ryan

3-13-69

Dear Sir;

I wish to inform the honorable court that that famous Houston atty. Percy Foreman is no longer representing me in any capacity. My reason for writing this letter is that I intend to file for a post conviction hearing in the very near future and don't want him making any legal moves unless there in my own behalf.

Sincerely,

James Earl Ray

FILED 4-1-69 2[55] P.M.

J. A. BLACKWELL, CLERK

BY J A Blackwell D. C.

Edkibit No. 1

3-26-69

Hon. Judge W. Preston Battle
Judge of the criminal court
Memphis, Tennessee.

I would respectfully request this court to treat this letter as a legal notice, of an intent to ask for a reversal of the 99-year sentence petitioner received in aforementioned court. I understand on one avenue of appeal, I have only 30 days in which to file such notice, to have prison sentence set aside. That is the appeal route to which I address the court.

I also would like to bring to the attention of the honorable court, that Mr. Percy Foreman, the attorney who was supposed to be representing me on this charge, stated in open court:

One, That since he "Mr. Foreman" was receiving no funds to help prepare case for trial, and decided not think he should be required to use his own funds, he requested court to appoint counsel to help defend case. The court appointed public defender to investigate case, and assist Mr. Foreman.

Two, Mr. Foreman said in open court he did not want, or expect to receive, a cent for his efforts.

I think from Mr. Percy Foreman's statement to the press that he had a contract from me and Mr. William B. Huie "negotiating" it's over for $?,000.00, and that he was now to receive $150,000.00, should lay to rest the above two lies Mr. Foreman told the court.

Exhibit #B

There is, I, James E. Ray in testimony, have not personally received, a cent from Mr. William B. Huie.

My only reason for bringing the aforementioned matter to the attention of the court is that I would respectfully move that the court appoint an attorney, or the public defender to assist me in the proceedings. I have no stocks bonds, nor have I received any funds from any source to engage counsel.

Petitioner uses the word "assist", as I hereby request the court, that I be personally present at the hearing, and to assist court appointed counsel so that there be no repetition of Mr. Percy Foreman actions.

Respectfully

James Earl Ray
Station A-West
777 S.B. Hall 3
Nashville, Tenn. 37203.

FILED 4-1-69 56/2 PM
J. A. BLACKWELL, CLERK
BY [signature] D. C.

I, JAMESA. BLACKWELL, HEREBY CERTIFY THAT THE DATE WHICH APPEARS AT THE TOP OF THIS LETTER, ON THE FIRST PAGE, WHICH HAS BEEN OBLITERATED BY PUNCHING THE HOLE FOR INSERTION OF THIS LETTER IN THE JACKET IS 3-25-69

[signature]
J. A. BLACKWELL, CRIMINAL COURT CLERK

[signature]
WITNESS

[signature]
WITNESS

April 10, 1969
DATE

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE

STATE OF TENNESSEE

VS NO.

JAMES EARL RAY

MOTION FOR A NEW TRIAL

Comes now JAMES EARL RAY, the defendant in the above styled cause, through his attorneys J. B. Stoner, Richard J. Ryan, and Robert W. Hill, Jr., and respectfully moves the Court:

To set aside his plea of guilty, to set aside his conviction, and grant him a new trial on the following:

1. He was improperly misled into entering A PLEA OF GUILTY evidenced by Exhibits 1, 2, 3, 4, 5, 6 and 7, attached.

2. That the defendant's plea of guilty and subsequent conviction were violative of the 14th and 6th Amendments to the United States Constitution in that they deprived him of any effective legal counsel as evidenced by defendant's Exhibits 1, 2, 3, 4, 5, 6 and 7, which among other things clearly show that defendant's two previous attorneys of record improperly accepted pay from William Bradford Hule, thus depriving defendant of any constitutional or legal defense.

3. That this Court's rules of secrecy were improperly violated by defendant's two previous attorneys as evidenced by attached Exhibits 1, 2, 3, 4, 5, 6, and 7. Defendant specifically request that he be allowed an oral hearing and allowed to put on affirmative proof.

The attorneys filing this Motion furnished the information in the Motion and the exhibits on the basis of information furnished by the defendant.

J. B. STONER

RICHARD J. RYAN

ROBERT W. HILL, JR.

EXHIBIT No. 3

PETITION NUMBER 1

PETITION FOR CERTIORARI

No. 55 Criminal Chancery-Law Docket of Shelby County

Petition Filed October 6, 1969

Date of Judgment in C. of A. July 15, 1969

45 Days Time Expires From Date of Judgment August 29, 1969

15 Days Time Expires for Filing Reply Brief October 21, 1969

Order Ext. time to Oct. 13, 1969 to file

FILED
OCT 6 1969
BESSIE BUFFALOE, Clerk

IN THE SUPREME COURT OF THE STATE OF TENNESSEE

STATE OF TENNESSEE

VS

JAMES EARL RAY

DEFENDANT'S BRIEF

RICHARD J. RYAN
523 FALLS BUILDING
MEMPHIS, TENNESSEE 38103
527-4715

J. B. STONER
P. O. Box 6263
Savannah, Georgia 31405

ROBERT W. HILL, JR.
418 PIONEER BLDG.
CHATTANOOGA, TENN. 37402

TO THE HONORABLE SUPREME COURT OF THE STATE OF TENNESSEE, SITTING AT JACKSON, TENNESSEE, OR TO ANY OF THE JUDGES THEREOF:

STATE OF TENNESSEE
VS
JAMES EARL RAY

FROM THE CRIMINAL COURT
OF
SHELBY COUNTY, TENNESSEE

STATEMENT OF CASE
AND
MEMORANDUM OF AUTHORITIES
RELIED UPON IN SUPPORT OF
PETITION FOR CERTIORARI

Statement of Facts:

On March 10, 1969, in Division III of the Criminal Court of Shelby County, TEnnessee, before the Honorable Judge Preston W. Battle the defendant, James Earl Ray, entered a Plea of Guilty to the charge of Murder in the First Degree of one JDr. Martin Luther King and was sentenced to the term of ninety-nine (99) years to be served in the State Penitentiary in Nashville, Tennessee. Three (3) days later on March 13, 1969, the defendant wrote to Judge Preston Battle of his intention to file in the near future a post conviction hearing. See Exhibit marked No. 1 attached to Petition.

On the 26th day of March, 1969, at the request of the defendant, James Earl Ray, his attorney, Richard J. Ryan, along with co-counsel, J. B. Stoner and Robert W. Hill, Jr., attempted to gain entrance in the State Penitentiary in order to confer with the defendant, James Earl Ray, but were refused;

that a document was prepared entitled "Motion for a New Trial" (See Exhibit No. 3). This document was given to the Warden who made a copy of the same and later presented it to James Earl Ray, the defendant; that he refused to sign the same without advice of counsel; that same day James Earl Ray wrote another letter to the Honorable Preston W. Battle, (See Exhibit No. 2), and this time stated that he wanted to go the thirty day appeal route.

On March 31, 1969, Judge Battle returned to Memphis from a short vacation period and was met at 9 A.M. of that day by one of the attorneys for James Earl Ray, the defendant herein. On that day Judge Battle exhibited the two letters he had received from James Earl Ray. Shortly thereafter in mid-afternoon of March 31, 1969, Judge Battle died of a heart attack. Shortly thereafter an Amended and Supplemental Motion was filed on behalf of James Earl Ray setting out the death of Judge Battle, and among other things, that the Plea of Guilty extended to Judge Battle was not one of a voluntary nature.

Subsequent to this the State of Tennessee filed a Motion to Strike the Motion for New Trial of the defendant-petitioner. On May 26, 1969, upon a hearing of this cause before the Honorable Arthur C. Faquin, Judge of Division II of the Criminal Court of Shelby County, Tennessee, the Honorable Judge Arthur C. Faquin found for the State of Tennessee and sustained their Motion to Strike.

Subsequent to this defendant-petitioner filed a Prayer for Appeal asking for permission and leave to file his appeal from this ruling, and this was denied by the Honorable Judge Arthur C. Faquin on June 16, 1969.

MEMORANDUM OF AUTHORITIES:

Defendant would allege that at the time the letters of record were written (attached to Petition as exhibits) there was in effect in the State of Tennessee a statute, namely:

T.C.A. Sec.27-201.

> Motion for Rehearing or New Trial. - A rehearing or motion for new trial can only be applied for within thirty (30) days from the decree, verdict or judgment sought to be affected, subject, however, to the rules of court prescribing the length of time in which the application is to be made, but such rules in no case shall allow less than ten (10) days for such application. The expiration of a term of court during said period shall not shorten the time allowed.

Life and Casualty Ins. vs Bradley

In Life & Casualty Ins. Co. vs Bradley 178 Tenn. Page 531 it was found "Any motion to set aside a verdict is in legal effect a motion for a new trial".

Defendant would further allege that at the time of Judge Battle's demise there was a certain Statute in effect in the State of Tennessee, namely:

T.C.A. Sec.17-117

> 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 new trial, a new trial shall be granted the losing party if motion therefor shall have been filed within the time provided by rule of the court and be undisposed of at the time of such death or adjudication.

Jackson vs Handel

tate vs cClain

ouisville N.R. Co. hvs Ray

ennis vs State

'Quinn vs aptist Memo ial Hosp.

Defendant would state that the demise of the trial judge was within the contemplation of the above statute and cites further, "Decisions long acquiesced in upon which important rights are based, should not be disturbed, in the absences of cogent reasons to the contrary, as is of the utmost importance that our organic and statute law be of certain meaning and fixed interpretation.
Jackson vs Handel 327 SW2d 55, citing Pitts vs Nashville Baseball Club 127 Tenn. 292 and Monday vs Millsaps 197 Tenn. 295, and 46 C.J.286 cited in Life & Casualty Ins. Co. vs Bradley 178 Tenn. Page 530.

Defendant further cites under said statute, "Only authority who may approve verdict and overrule motion for new trial by signing the minutes is the judge who heard the evidence and actually tried the case. State vs McClain, 210 S.W.2d 680, 186 Tenn. 401.

Also cites, "Motion for new trial must be acted on by the trial court, before the appellate court will consider it, because such action is indispensable for the purpose of enabling the appellate court to say whether the trial court acted correctly, under this statute, in granting a new trial", Louisville & N.R.Co. v Ray, 124 Tenn. 16, 134 S.W. 858, Ann Cas. 1912 D. 910.

Also cites, "The only authority to approve the verdict and overrule the first motion for a new trial by signing the minutes, was the Judge who heard the evidence and actually tried the case", Dennis v. State, 137 Tenn. 543 and O'Quinn v. Baptist Memorial Hospital, 183 Tenn. 558.

Howard vs. State

Also cites, "This situation has given the Court grave concern; and has led us to an assiduous re-examination of what we believe to be all of the case and statutory authority in Tennessee bearing upon the question of whether the above-mentioned minutes of the Court's actions are valid and efficacious - without authentication by the signature of the Trial Judge. If not, it seems to inescapably follow that (1) there is no valid and effective judgment on the verdict of the jury; and (2) there is no valid and efficacious ruling of the Court on defendant's motion for new trial", Howard v. State, 399 S.W.2d, 739.

Walker vs Graham

Defendant would allege that springing from the Motion for a new trial, if it were denied in the ordinary course, is the Bill of Exceptions, and defendant cites, "In the absence of a properly authenticated bill of exceptions the admission of evidence cannot be reviewed by the Supreme Court", Walker v. Graham 18 Tenn. 231, cited in Dennis v. State, 137 Tenn. 543.

Carpenter vs Wright

Also cites, "The right to a bill of exceptions is made dependent upon motion for a new trial in Circuit and Criminal Courts", Carpenter vs. Wright, 158 Tenn. 289.

Dennis vs State

Defendant also cites, "It seems to be well established as a general rule that, where a party has lost the benefit of his exceptions from causes beyond his control, a new trial is properly awarded. That rule has been recognized and applied more frequently perhaps in cases where the loss of

the exceptions has occurred through death or illness of the judge, whereby the perfection of a bill of exceptions has been prevented", Dennis vs State, 137 Tenn. 554.

That the Plea of Guilty of itself does not forfeit the Motion for a New Trial, and he cites, "By the Constitution of the State (Article I, Sec. 9), the accused, in all cases, has a right to a "speedy public trial by an impartial jury of the county or district in which the crime shall have been committed", and this right cannot be defeated by any deceit or device whatever. The courts would be slow to disregard the solemn admissions of guilt of the accused made in open court, by plea, or otherwise; but when it appears they were made under a total misapprehension of the prisoner's rights, through official misrepresentation, fear or fraud, it is the duty of the Court to allow the plea of guilty, and the submission, to be withdrawn, and to grant to the prisoner a fair trial, by an impartial jury", Swang vs. State, 42 Tenn. 212.

Swang vs State

Defendant would further cite Jake Knowles vs the State, 155 Tenn. Page 181, in which the Court states as follows:

nowles vs State

> "The bill of exceptions shows that when the case was first called for trial on the 22nd of September, a continuance was had upon the agreement that unless settlement should be made before October 2nd following a plea of guilty would be entered. It appears that both the presiding judge and Attorney General understood it to be agreed also that a sentence of from five to twenty years would be accepted, but

upon the calling of the case on October 2nd, counsel for the defendant disclaimed having so understood the agreement and insisted that the determination of the punishment should be submitted to the jury. Thereupon the plea of guilty was entered and counsel for the State and the defendant addressed and the judge charged the jury. Some discussion was had before the jury of the disagreement as to the term of punishment, but the judge properly charged that they were to disregard this matter.

However, as before stated, no evidence was introduced. The jury after hearing the charge returned their verdict assessing the punishment.

Shannon's Code, Section 7174, is as follows:

'Plea of guilty.--Upon the plea of guilty, when the punishment is confinement in the penitentiary, a jury shall be impaneled to hear the evidence and fix the time of confinement, unless otherwise expressly provided by this Code.'

We have no reported case deciding the question thus presented, but the provision that upon a plea of guilty a jury shall be impaneled to hear the evidence and fix the time of confinement in felony cases seems clearly to indicate a purpose to vest in the jury the power to exercise a sound discretion impossible of intelligent exercise without a hearing of at least such of the evidence as might reasonably affect the judgment of the jury as to the proper degree and extent of the punishment. And especially is this true under the maximum (1923) sentence law applicable to this case.

While loathe to reverse and remand in a case of such obvious and admitted guilt, we find it necessary to do so for the reasons indicated. It becomes unnecessary to consider other assignments of error."

Defendant denies that he waived a right that was available to him, and cites:

"Waiver - Existence of Right - To constitute a waiver, the right or privilege alleged to have been waived must have been in existence at the time of the alleged waiver", 56 Am.Jr.13,Page 113. "Thus, one accepting dividends declared by a receiver in bankruptcy without demanding interest on the amount due does not waive his right to interest, where no right to demand interest at the time of dividend payment existed", 56 Am.Jr.13,Page 114, citing State ex rel, McConnell v.Park Bank & T.Co. 151 Tenn.195.

State ex re... McConnell v... Park Bank &...

In an unreported opinion the Court of Criminal Appeals of Tennessee in the cause of State of Tennessee, ex rel. Hermon R. Owens vs. Lake F. Russell, No. 49 Hamilton County, Honorable Campbell Carden, Judge, it was stated:

State ... Russell

"Without in any way criticizing the content and use of these forms for preserving a formal record of guilty pleas of defendants, we hold that execution of these forms by the petitioner and his attorneys and the trial court's acceptance of the petitioner's plea of guilty upon that basis, does not and cannot forever preclude the petitioner from raising any question about the voluntariness of his guilty plea. Surely it

cannot be said that such a procedure permanently forecloses the issue of voluntariness and prevents the accused from ever asserting that his guilty plea was induced by promises of lenient treatment or threats or misrepresentation or fraud, if such was the fact.

State ex rel Owens

"This is true for the plain and simple reason that a conviction based upon an involuntary plea of guilty is void, and, therefore, the question of the voluntariness of a plea of guilty is never foreclosed while any part of the resulting sentence remains unexecuted. The law is no longer open to debate or question that a guilty plea is involuntary and void if induced by promises of preferential treatment or threats or intimidation or total misapprehension of his rights, through official misrepresentation, fear or fraud. Henderson v. State ex rel. Lance, 419 S.W.2d 176; Machibroda v.United States, 368 U.S.487, 82 S.Ct.510, 7 L.Ed2d 473: Olive v.United States, 327 F2d 646 (6th Cir., 1964), cert. den., 377 U.S.971, 84 S.Ct. 1653,12LEd2d 740; Scott v. United States349 F2d 641 (6th Cir.1965)." Said opinion was concurred in by the Honorable Mark A. Walker and was written by W. Wayne Oliver, Judge of the Criminal Court of Appeals. Honorable Judge Galbreath did not participate in this cause.

Boyd v. State

"The voluntary or involuntary character of the confession is a question of law to be determined by the trial judge from the adduced facts", WHARTON ON CRIMINAL EVIDENCE Vol.2, Page 38, citing Boyd v. State, 21 Tenn. 39.

People v. Ramos

Requiring a waiver of right to appeal was held improper in People v. Ramos, 282 N.Y.State 2d 988 (2nd Dept. 1968).

Defendant states that he has lost the benefit of the thirteenth juror through the death of the trial judge. "Trial judge is charged by law to act as the thirteenth juror, and if he is dissatisfied with verdict of jury, it is his duty to grant a new trial", London v. Step, 405 SW2d 598, 34 Tenn. L. R 713. "Federal district court does not sit as thirteenth juror as do Tennessee state trial judges, Sifton v. Clements, 257 F. Supp. 63.

.ondon v. Step

Sifton v. Clements

Respectfully submitted,

ATTORNEYS FOR THE DEFENDANT:

RICHARD J. RYAN

J. B. STONER

ROBERT W. HILL, JR.

HURK
put in dissemination folder

CIVIL RIGHTS DIVISION

September 25, 1969

ASSASSINATION OF MARTIN LUTHER KING, JR.

XXX (G) EJM:jmv

Enclosed is a copy of a letter dated 9-17-69 from Assistant District Attorney General J. Clyde Mason.

DIRECTOR, FBI ~~(44-38861)~~ 9/19/69

SAC, MEMPHIS (44-1987) (P)

MURKIN

Reference is made to the RCMP's inquiry directed to Legat, Ottawa, under date of 8/28/69, asking whether or not it would be proper for them to make mention in a magazine article of commendations given to two RCMP officers for their work in this case.

Enclosed for the Bureau are 2 copies of a letter dated 9/17/69 from Assistant District Attorney General J. CLYDE MASON to the Commissioner of the RCMP at Ottawa.

2 - Bureau (Encs. 2)
1 - Memphis
JCH:jap
(3)

62-35717-
NOT RECORDED
133 SEP 23 1969

ENCLOSURE

ORIGINAL FILED IN 44-38861-5721

LLOYD A. RHODES
EXECUTIVE ASSISTANT

WILLIAM D. HAYNES
ADMINISTRATIVE ASSISTANT

JOHN L. CARLISLE
H. J. BEACH
E. L. HUTCHINSON, JR.
CLYDE R. VENSON
CRIMINAL INVESTIGATORS

EARL E. FITZPATRICK
NON-SUPPORT DIVISION

PHIL M. CANALE, JR.
DISTRICT ATTORNEY GENERAL
FIFTEENTH JUDICIAL CIRCUIT OF TENNESSEE
COUNTY OF SHELBY

SHELBY COUNTY OFFICE BUILDING
157 POPLAR AVENUE
MEMPHIS, TENN. 38103

ASSISTANTS
EWELL C. RICHARDSON
JEWETT H. MILLER
J. CLYDE MASON
SAM J. CATANZARO
LEONARD T. LAFFERTY
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DON D. STROTHER
DON A. DINO
JOSEPH L. PATTERSON
BILLY F. GRAY
EUGENE C. GAERIG
HARVEY HERRIN
F. GLEN SISSON
JOHN W. PIEROTTI
JAMES G. HALL
JAMES H. ALLEN

September 17, 1969

The Commissioner
Royal Canadian Mounted Police
Ottawa 7, Canada

Attention: Inspector J. A. Macauley

Dear Sir:

Your letter of August 28, 1969 to Mr. Moss Lee Innes, United States Embassy, Ottawa, Ontario, has been referred to our office for answer.

This is to advise that the guilty plea in the Ray Case is at this time on appeal. A question of law has arisen due to the death of the trial judge who handled the guilty plea. The appeal has been denied by the Tennessee Court of Criminal Appeals and a Writ of Certiorari is being sought to the Tennessee Supreme Court by defense counsel at this time.

If we can provide any further information, we will be happy to do so.

Very truly yours,

J. Clyde Mason

J. CLYDE MASON
Assistant Attorney General

JCM/bk

SEARCHED ... INDEXED ...
SERIALIZED ... FILED ...
SEP 1_ 1969
FBI — ...

ENCLOSURE 62-35717-

September 5, 1969

ASSASSINATION OF MARTIN LUTHER KING, JR.

xxx xxxxx x

x

The Washington Post
Times Herald

Washington, D. C. 9-5-69

X (A) EJM:jmv

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

Ray Bars Kin

NASHVILLE, Tenn. — James Earl Ray, serving 99 years for the slaying of the Rev. Dr. Martin Luther King Jr., has told state prison officials he wants no more visits from his brother, Jerry Ray of Chicago.

Ray's lawyer, Robert W. Hill of Chattanooga, said the prisoner's action stems from a statement Hill said the brother gave St. Louis newsmen. In the statement, Hill said, Jerry Ray quoted his brother as saying he was working for the federal government when King was slain in 1968 and blamed the death on "two federal agencies."

The Washington Post
Times Herald Page A-6
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 9/5/69

9-2-69

(1) - Mr. McDonough

AIRTEL

To: SAC, Memphis (44-1987)

From: Director, FBI (44-38861)

MURKIN

Enclosed is a copy of a statement purportedly dictated by James Earl Ray to his brother Jerry Ray while at the Tennessee State Prison at Nashville. This statement after editing was broadcast on KMOX-TV, St. Louis, Missouri on 8-14-69.

A copy of this statement has been furnished to the Civil Rights Division for its information and no action should be taken on its contents unless later specifically instructed to do so by the Bureau.

Enclosure

NOTE:

See Memo Rosen to DeLoach, 8-29-69, same caption, EJM:jld.

EJM:jmv
(4)

8-21-69

AIRTEL AIRMAIL

TO: DIRECTOR, FBI (44-38861)

FROM: SAC, ST. LOUIS (44-775) -C-

RE: MURKIN

Enclosed for the Bureau are five xerox copies of a two page statement allegedly dictated by JAMES EARL RAY to his brother JERRY RAY in the Tennessee State Prison at Nashville. Second page of this statement bears the signature of JAMES EARL RAY but this signature was actually written by JERRY RAY.

The above was confidentially made available to the St. Louis Office by AL MANN, News Chief, KMOX-TV, St. Louis, Mo. MANN advised that JERRY RAY read the statement in a taped interview and after editing it, KMOX-TV aired the interview twice during evening of 8-14-69.

MANN further confidentially advised that his station was expending a great deal of time and possibly expense in "developing" JERRY RAY for the purpose of uncovering the "true story" of the assassination of Dr. MARTIN LUTHER KING, JR., and JAMES EARL RAY'S part in it.

(2) Bureau (Encl. 5)
1-Memphis (44-1987) (INFO)
2-St. Louis

JAF:kls
(5)

TRUE COPY

In the spring of 1968 I James Earl Ray was working with Agents of the federal goverment including Raoul. They told me that I was helping them to supply arms and, guns to cuban Refugees to overthrow Castro and, the communest in cuba. The reason why I'v made trips to Mexico was in regard to helping the Agents of the federal goverment to supply arms to cuban refugees there to overthrow Castro. The federal Agents led me to beleave that I was in Memphis in April for the same purpose. I knew that I was working with federal Agents the way they had me passed across the Mexican and, Canadan borders is only one thing that proves they were federal Agents. They got me across the Canadan and, Mexican borders under circumstances which would have been inpossable without the help of federal agents. At a later time if necessary, I will give more extensive proof about the federal Agents with whom I was involved. It is a known fact that Agents of the federal government and, the Mexican Police knew about my trips to Mexico and, protected me there.

Even Whilliam Braford Huie admits that the FBI and, Mexican Police knew all of my movements in Mexico. I knew nothing about King being in Memphis untill after King had been killed. I could not argue with the federal agents I worked for becous they would have put me back in the Missouri State Prision at Jefferson City if I failed to take orders from them. I know that the federal Agents merly used me to be the fall guy when they killed King. I now relize that they had no interest in overthrowing Castro and, their whole purpose was to use me to cover up their own crime. Two federal agencies are guilty and I am fully innocent. We hope that someone higher up in the goverment will come forword and, expose the whole deal so that I will be freed from Prision. If they don't we have more information which we will release in the near future. I don't know what motives the federal Agents had for killing King ask former Attorney General Ramsey Clark maybe he knows.

In closing I want to pass along a little message to Percy Forman, Auther Haynes and, William Bradford Huie you three, got your wish but, it's not over with yet before it is the three of yous will be ruined along with your friend Ramsey Clark. I hope to be able to talk to C.B.S. in person in the near future if the state of Tenn and, the federal goverment don't block it being they don't want being exposed they might not allow it. Sirhan got to talk but, I am innocent so I probley won't be allowed to.

James Earl Ray

TRUE COPY

Assistant Attorney General
Civil Rights Division

September 2, 1969

1 - Mr McDonough

Director, FBI

ASSASSINATION OF MARTIN LUTHER KING, JR.

Enclosed is a copy of a two-page statement allegedly dictated by James Earl Ray to his brother Jerry Ray while at the Tennessee State Prison, Nashville, Tennessee. The second page of the statement bears the signature of James Earl Ray but, according to the individual who furnished copies of the statement, this signature was actually written by Jerry Ray.

This statement was read by Jerry Ray in a taped interview and after editing it, KMOX-TV, St. Louis, Missouri, broadcast the statement twice during the evening of August 14, 1969.

This is furnished for your information and no inquiries will be conducted on the contents of this statement unless specifically requested by the Department.

Enclosure

EJM:jmv
(4)

NOTE:

See Rosen to DeLoach Memorandum 8-29-69, EJM:jld, captioned, "MURKIN."

CIVIL RIGHTS DIVISION

August 18, 1969

ASSASSINATION OF MARTIN LUTHER KING, JR.

XXX (G) EJM:jmv

NOTE: Enclosed are two copies of a "Final Order" in one aspect of this case.

8/14/69

AIRTEL

TO: DIRECTOR, FBI (44-38861)

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

SUBJECT: MURKIN

Enclosed for the Bureau are 2 copies of the "Final Order" handed down by U. S. District Judge WILLIAM E. MILLER on 7/25/69 stating that neither the plaintiff nor the defendants are residents of the Middle District of Tennessee and that the Middle District of Tennessee is [redacted] the judicial district in which this claim arose. The original petition and the amended petition were dismissed without prejudice.

(2) - Bureau (Encs. 2)
1 - Memphis
JCH:mnr
(3)

RECEIVED FOR ENTRY
1:10 P.M
JUL 25 1969
BRANDON LEWIS Clerk
By [signature] D.C.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

JAMES EARL RAY)
vs.) CIVIL ACTION NO. 5380
PERCY FOREMAN, WILLIAM BRADFORD HUIE, and ARTHUR J. HANES)

FINAL ORDER

This cause came on to be heard on the 11th day of July, 1969, upon the original petition or complaint, the amended petition or complaint, and the motions of the defendants to dismiss this action on the ground that the petition or complaint fails to state any claim against the defendants upon which relief can be granted, and the further ground that there is no venue of this action in the Middle District of Tennessee, upon consideration of which and the argument of counsel, the Court finds, as appears from the pleadings and the statements of counsel made in open court, that neither the plaintiff nor the defendants are residents of the Middle District of Tennessee, and the Middle District of Tennessee is not the judicial district in which the claim arose, as required by Title 28 USC, Section 1391(a); and, further, that this is not a proper case for the Court to transfer the action to the Western District of Tennessee, where it appears from the statements of counsel made in open court the claim arose, and that such transfer would

not be for the convenience of the parties and witnesses, in the interest of justice, as provided by Title 28 USC, Section 1404(a).

It is, therefore, ordered that the original petition or complaint and the amended petition or complaint be and the same are hereby dismissed without prejudice.

Robert W. Hill, Jr.,
Attorney for Petitioner and Plaintiff

United States District Judge

Arthur J. Hanes, Jr.,
Attorney for defendant Arthur J. Hanes

HOOKER, KEEBLE, DODSON & HARRIS

By _____
Attorneys for defendants Percy Foreman
and William Bradford Huie

ATTEST: A TRUE COPY

Brandon Lewis, Clerk
U. S. District Court
Middle District of Tennessee
By: _____ D.C.

CIVIL RIGHTS DIVISION

August 5, 1969

ASSASSINATION OF MARTIN LUTHER KING, JR.

Put with T-s

XXX (G) JWH:jmv

PLEASE SEE NOTE PAGE TWO

NOTE:

Enclosed are a copy of the following petitions filed in the appeal of State of Tennessee vs. James Earl Ray:

(1) Ancillary Petition For Certiorari
(2) Petition For Writ of Certiorari
(30 Defendant's Brief
(4) Reply To Petition For Certiorari
(5) Order of the Court Denying Certiorari

DIRECTOR, FBI (44-38861) 7/29/69

SAC, KNOXVILLE (44-696) (P)

MURKIN

Re Knoxville teletype to Bureau, dated 7/15/69.

As set forth in referenced teletype, a Petition for Certiorari in the case of the State of Tennessee versus JAMES EARL RAY was filed in the Court of Criminal Appeals, Knoxville, Tennessee, 7/9/69. This petition was heard before the court at Knoxville, Tennessee, on 7/15/69, and certiorari was denied as not well taken.

There are enclosed herewith for the Bureau and Memphis one copy each of the following petitions and accompanying papers filed in connection with this appeal, to wit:

(1) Ancillary Petition For Certiorari
(2) Petition For Writ of Certiorari
(3) Defendant's Brief
(4) Reply To Petition ForCertiorari
(5) Order of the Court Denying Certiorari

2 - Bureau (Encls. 5)
2 - Memphis (Encls. 5)
2 - Knoxville
JDJ/tsw
(6)