

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

JAMES EARL RAY,]
Petitioner-Appellant,]
vs.] Civil NO. 74-166
J. H. ROSE, Warden,]
Respondent-Appellee.]

OPPOSITION TO MOTION FOR LEAVE TO PERPETUATE
TESTIMONY PENDING APPEAL

The petitioner's attorneys have filed a motion seeking to take William Bradford Huie's deposition, a motion which the respondents oppose.

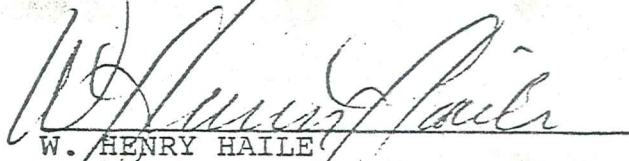
A full deposition of Mr. Huie taken September 20, 1974 pursuant to oral notice given September 9, 1974 and written notice given September 11, 1974. At the time oral notice was given, nothing was said to indicate that petitioner's attorneys would not participate in the deposition and the deposition was started only after sufficient delay as was required to call their offices and find out that they had deliberately determined not to appear. No objection to the notice, the time of taking, or any other matter concerning the deposition was ever made, nor was any objection to the deposition ever made until respondent's attorneys tendered it as evidence. The petitioner's lengthy motion suggest no matter which could

not have been inquired into by them on September 20 and suggest no reason for their decision not to participate in the September 20, 1974 deposition.

When last seen in September 1974, both Mr. Huie and his mother were in excellent health. Mr. Huie is a slim athletic man who lives an active life. His mother must be well into her eighties and lives alone in a house across the street from Mr. Huie. When last seen, she too seemed to be in good health. If longevity is hereditary, Mr. Huie would seem to have quite a few years left.

Since a complete deposition touching on all aspects of the issues between the parties is already in the record, since Mr. Huie is in good health and likely to live a long time, since chances of petitioner's success on appeal seems slim, since the items about which Mr. Huie would supposedly testify would not change the result in any event, and since the petitioner has waived any right to question Mr. Huie by their deliberate premeditative^{ed} refusal to take part in the September 20, 1974 deposition for what appear to be reasons of strategy, the respondent opposes petitioner's motion and prays that it be overruled.

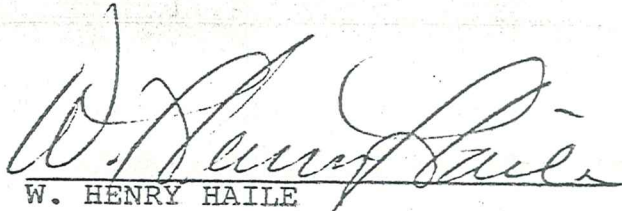
Respectfully Submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been sent this 15th day of May 1975 to Mr. James Hiram Lesar, Attorney at Law, 1231 Fourth Street, S.W., Washington, D.C., 20024, Mr. Bernard Fensterwald, Jr., Attorney at Law, 910 16th Street, N.W., Washington, D.C., 20006 and Mr. Robert I. Livingston, Attorney at Law, 940 Commerce Title Building, Memphis, Tennessee 38103.


W. HENRY HAILE
Assistant Attorney General