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Ray's Bid For New Hearing Is Read As Routine Tactic

By JAMES KILLPATRICK

In rowing for a post-conviction hearing, James Earl Ray is doing what seems to be the usual thing these days among convicts.

Ray announced in a letter to Judge W. Preston Battle that he would seek to have his guilty plea and 99-year sentence for the assassination of Dr. Martin Luther King Jr. here last April overturned.

The action was not unexpected.

"Everybody does it," said Judge Battle last night as he tried to complete a brief vacation. He obviously had referred to the increasing number of post-conviction petitions to have flooded Tennessee courts in the last few years. He also had anticipated Ray's action individually.

At a post-trial press conference, Judge Battle was reluctant to talk about the case. "It would be presumptuous of me to discuss this case too much. It may well come back before me on a post-conviction motion. I understand this man's a pretty good jailhouse lawyer. If I discussed the case I might have to recuse myself and let some other poor judge go through what I have for the last year. Gentlemen, I wouldn't wish that on anybody."

The timing was a bit fast. Ray had been in the state prison at Nashville less than a week when he sent his letter to the judge.

In New York, Percy Foreman, Ray's defense counsel, said he had anticipated Ray's trying to reopen the case, "but in about a year or two."

Ray's letter to the judge also said that he was firing Mr. Foreman as his lawyer. But Mr. Foreman had another version. He said his employment ended when Ray was sentenced last week.

In regards to a possible conspiracy, Mr. Foreman told an Associated Press writer, "In my view, there was no conspiracy. In my view, James Earl Ray decided, and he alone decided, to kill Martin Luther King so that he could claim the glory. I think that James Earl Ray was a racist. He thought he would be a hero. He completely misconceived the thinking of the white race."

It was learned yesterday that Ray has been in contact with Arthur Hanes, the lawyer he fired on the eve of his scheduled trial last Nov. 12. Mr. Hanes is still the most vocal believer that Ray was the dupe of an international Communist conspiracy. Mr. Hanes, reached at his home in Birmingham, affirmed that Ray had contacted him, but

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MEMPHIS, TENN.

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said it was too early to say whether he would again represent Ray.

Meanwhile, another lawyer, Russell X. Thompson, arrived back in Memphis from New York and said he would continue an investigation into the conspiracy. He said the National Association for the Advancement of Colored People, with which he discussed the case in New York, is backing his inquiry, as are "several other groups."

Mr. Thompson, who discussed the case several times with Mr. Hanes but never became an attorney of record for Ray, said he was aware that Ray had been in contact with Mr. Hanes. Mr. Thompson refused to disclose any of the information he has about a conspiracy, except to say that he has "a suitcase full" and that it includes several tape recordings. He was accompanied to New York by Paul Mitchell, a private investigator.

To get his case reopened, Ray must file a petition for a post-conviction hearing with the Criminal Court clerk. In practice, almost any kind of a written plea is considered—it does not have to meet all the legal niceties as far as spelling and form are concerned. But it must cite specific instances in which his rights were damaged to the extent that a new trial is warranted.

If Ray should win a new trial, he could receive no worse punishment than the 99 years he is now serving.

The petition would come up before Judge Battle. If the judge should rule that Ray has not shown sufficient cause to merit a new trial, the decision could be appealed to the higher state courts. It could eventually be taken into federal court, but only after all state remedies are tried.

Perhaps the most expressive comment yesterday came from Sheriff William N. Morris Jr., who was charged with keeping Ray safely confined during the more than seven months he was in Shelby County.

"Oh, no . . ." said the sheriff, throwing up his hands.