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Status Is Argued

Judges Differ On Whether Documents Could Bring New Trial, Appeal

By CHARLES EDMUNDSON

Letters from James Earl Ray, said to be the legal equivalent of a motion for a new trial and an appeal, were filed with Criminal Court Clerk James A. Blackwell yesterday. The letters, one dated March 25 and the other March 26, were found in the desk of Judge W. Preston Battle, who heard Ray's plea of guilty Monday. Judge Battle was seen at his office desk Monday.

The letters were taken for safekeeping by Mr. Blackwell Monday night and were formally filed at 3 p.m. yesterday after he conferred with the other remaining Criminal Court judges over the fate of the confessed slayer of Dr. Martin Luther King Jr.

Ray's letters are written in a neat, cramped hand. References to Percy Foreman, who headed him guilty, are penned in vitriol. He referred in his first letter to "famous Houston ty. Percy Fourflusher."

In his second letter he spoke of "Mr. Percy Foreman, the attorney who was supposed to be representing me." In the next paragraph an intended insult is apparently meant to read "Mr. Forum" or "Mr. Foreman."

Ray cites that although Mr. Foreman said at one time he was not getting paid in fees, he later said he had a contract, in Vol. 1 of the magazine "Life" written by William B. Huie, to get \$10,000.

None of those in the judicial conference would comment for quotation on the legal purport of Ray's letters. But it was learned that the judges decided the letters, which Ray asked to be given legal status, are valid documents under the Tennessee Post-Conviction Relief Act.

But although the letters may be taken as a motion for a new trial, they do not automatically assure it will be granted, said Chief Justice Hamilton Burnett of the Tennessee Supreme Court. In this Justice Burnett clashed with Judge Charles Galbreath of the State Court of Criminal Appeals.

Judge Galbreath said in Nashville that under Tennessee law a motion for a new trial is automatically granted if the judge who presided at the petitioner's conviction dies before the motion is heard.

Chief Justice Burnett said this would be true only if Ray had chosen to have a jury trial and had then moved for a new trial. "But the new trial plea is one of the rights Ray waived in pleading guilty, along with his right of appeal to other state courts."

Judging from the usual outcome in such cases, a new trial motion would be denied. The denial could be appealed all the way to the United States Supreme Court, Chief Justice Burnett conceded.

At the attorney general's office it was said a preliminary hearing on the motions implied in Ray's letters probably will be held in about two weeks. The formal hearing, it was said, would be held probably six to eight weeks later, depending on the wishes of Ray's attorney. Ray would be present at all such hearings.

Who that will be is in doubt. Richard J. Ryan of Memphis attempted to confer last week with Ray in his cell in the State Penitentiary in Nashville, but was denied permission. No notice of his employment as Ray's attorney has been filed here. At his neat, red-brick, split-level home off Covington Pike, Mr. Ryan said, "Sorry, I don't give out interviews."

Although Ray's first letter to Judge Battle dismisses Mr. Foreman as his attorney, nothing is said of dismissing Public Defender Hugh Stanton Sr., whom Judge Battle named to assist Mr. Foreman. One of the letters filed yesterday asked Judge Battle to name "an attorney or public defender to assist me."

This might be interpreted to leave Mr. Stanton in the case. But since he was a party to pleading Ray guilty, it appeared likely another member of the public defender's staff would be named for any further proceedings.

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COMMERCIAL APPEAL
MEMPHIS, TENN.

4-2-69

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Author:
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GORDON HANNA

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"RAY HAS AN amazingly reſentive criminal mind. He can draw an accurate diagram of any place he has ever viſited," Huie writes. "He knows his way around. He may have had aſſiſtance in his eſcape after the murder, but he probably didn't need it, and I now don't believe he had it. He's too proud of having done it alone."

Huie ſaid Ray's finding the rooming houſe in Memphis from which he ſhot Dr. King, the preſiſe timing, his 'knowing where King would be at a certain time,' and his eſcape from a ſcene "crawling with police" has been ſatisfactorily explained by Ray to Huie.

A THIRD miſconception is that the fatal rifle ſhot which killed the Civil Rights leader could only have been fired by an expert marksman. Huie ſaid he bought a rifle like the Remington .30-06 uſed by Ray and reſtructured the conditions under which the murder took place. "I hadn't fired a heavy rifle in 25 years," Huie ſaid. "On my firſt ſhot, I hit a circle the ſize of a

ſilver dollar. Any 12-year-old boy familiar with a .22 could have killed Dr. King from that poſition with that weapon."

The fourth miſconception, Huie ſaid, is that Ray is an inept, ſtupid criminal who could not have carried out ſuch an elaborate crime. Huie ſaid Ray's early crimes were largely bungled, amateurish jobs, but that he "matured as a criminal" during his ſeven years in Miſſouri State Penitentiary at Jefferson City. Huie ſaid his well-planned eſcape from Miſſouri ſhowed that Ray was no longer inept.

THE FIFTH miſconception is that Ray could not have ſupported himſelf financially between April 23, 1967, when he eſcaped, and June 8, 1968, when he was aſſeſted in London — that he muſt have had financial aſſiſtance.

"Ray ſeems to have ſpent about \$12,000 (during that period) . . . There were a number of unſolved robberies of banks, loan companies and ſupermarkets in the areas through which Ray moved. Getting that much money would have been as

easy for him as killing Dr. King from 205 feet," Huie writes.

"I can't prove that no one gave him money to kill Dr. King, but I can prove that he could have gotten it in other ways."

THE SIXTH miſconception is that Ray was not a racist, Huie ſaid. To refute this, Huie reports that Ray was once reſeſed transfer to an honor farm, while ſerving a federal ſentence at Leavenworth in 1957, because he "did not feel he could live in an Honor Farm Dormitory because they are integrated."

A ſeventh miſconception, Huie ſaid, is that Ray is not a "killer" type. Although he had not been aſſeſed of murder before, a ſix-week psychiatric examination of him in 1966 at Fulton (Miſſouri) State Hospital reſulted in a diagnosis of "ſociopathic personality, anti-social type with anxiety and depressive features," Huie writes. Huie ſaid the hospital ſuperintendent, Dr. D. B. Peterson, told him (Huie) that Ray is capable of killing.

Finally, turning to the nagging queſtion as to whether there was a conspiracy, Huie concludes:

"I believe that one or two men other than James Earl Ray may have had foreknowledge of this murder, and that makes a little conspiracy. But if there was a conspiracy, I now believe that James Earl Ray was probably its leader not its tool or dupe."

Why did he do it?

NOTING THAT Ray left evidence wherever he went, Huie concludes: "He purpoſely left his calling card, telling the FBI that James Earl Ray was there. That was his glory. He wanted the FBI and all of us to know that James Earl Ray, that poor, contemptible little man with a price of \$50 on his head, had killed one of the great Americans of this century."

In ſeparate articles in the ſame iſſue of Look, Arthur J. Hanes, Ray's former attorney, tells why he thinks the evidence points toward a conspiracy, and, in another article, Percy Foreman, Ray's attorney when the guilty plea was entered, ſtates that he believes there was no conspiracy. "He (Ray) hoped that by killing Martin Luther King, he could make the reſt of his futile, boring life exciting," writes Foreman.