

(Mount Clipping in Space Below)

Ray Whisked Back To Prison Cell As Lawyers Ponder Next Move

By ROBERT KELLET

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 a.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 brother, John and Jerry, were refused admittance later in the afternoon.

The next day Ray will take the stand before an appellate court.

"We're in a 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 23 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 trial motion, the defense drew several contentions on its own initiative, including paragraphs which had criticized the handling of the case by Ray's late attorneys.

It 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.)

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COMMERCIAL APPEAL

MEMPHIS, TENN.

Date: 5-17-69
Edition:
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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.