

(Mount Clipping in Space Below)

Miller Denies Delay For Ray Hearing

By NELLIE KENYON

U.S. Dist. Judge William E. Miller denied a state motion yesterday to postpone James Earl Ray's Dec. 29 hearing so he could be examined by a private physician.

In making the motion, Asst. State Atty. Gen. Bart Durham said the reason for requesting the examination was that Ray's counsel might seek a long evidentiary hearing over his physical condition. Durham asked that the court appoint the doctor to examine Ray.

"THE BURDEN of proof is on the petitioner (Ray) to establish its case," Miller said in denying the motion. "I don't know why the court should appoint anyone to examine the petitioner."

He noted that Ray had not requested such an examination.

The hearing next week is on Ray's request that the court enjoin state prison officials from continuing to keep

him in a maximum security cell. Ray, serving a 99-year sentence in the State Penitentiary for the confessed slaying of Dr. Martin Luther King Jr., said in his petition he has been in solitary confinement since last March.

Durham said he understood that Ray's attorneys might attempt to subpoena Gov. Buford Ellington, and if this was done he wanted to file a motion to quash the subpoena. The court said that no such subpoena had been received and this would be dealt with when it was.

CHIEF DEPUTY Court

Clerk Guy Cooper said that Ray's attorneys had requested subpoenas for two prison physicians and the matter had been turned over to the U.S. marshal's office for service.

Ray is represented by attorneys C. J. Ryan, Memphis, Robert W. Hill Jr., Chattanooga, and J. B. Stoner, Huntsville, Ala.

Durham, who was accompanied to court by Thomas E. Fox, state deputy attorney general, told the court that he had contacted Ray's attorneys by long distance telephone and that they had no objections to the appointment of an independent physician to examine Ray.

The motion for an injunction asserted that Ray's health was being affected by what was referred to as "solitary confinement" in a maximum security cell.

The state denied this in answer to the petition, asserting that "solitary confinement" was not used at the state prisons, as the term is defined.

(Indicate page, name of newspaper, city and state.)

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