(Mount Clipping in Space Below)

Ruling Seen As Blow To Ray Plea

The motion of James Earl Ray, confessed slayer of Dr. Martin Luther King Jr., for a new trial was dealt a blow yesterday by the United States Supreme Court, in the opinion of Atty. Gen. Phil M. Canale.

In a series of 5-3 decisions the high court upheld the practice of plea bargaining between defense and prosecution and cut back the avenues of appeal open to prisoners who have pleaded guilty.

One sentence in an opinion by Justice Bryon R. White appeared to cut the ground from under one of the claims made by Ray in his motion for a new trial filed in Criminal Court here three weeks ago. Ray claimed his former defense attorney, Percy Foreman of Houston, told him he would be executed if his case were ever brought to jury trial.

Justice White's opinion said a guilty plea cannot be considered involuntary automatically because the defendant entered it to avoid the possibility of being sentenced to death by a jury.

The Supreme Court ruled also that a defendant pleading guilty "voluntarily and intelligently" cannot later try to upset his conviction on grounds that his action was unconstitutionally coerced.

Mr. Canale said both the propositions expressed by the Supreme Court "have prevailed pretty generally for some time. But I don't believe the Supreme Court had ruled on them until today. I'm glad to see the Supreme Court confirm this view."

Criminal Court Judge William H. Williams has set a post conviction hearing on Ray's motion for a new trial for May 15. But if defense attorney Richard Ryan wished to have a full-dress hearing with decision on the new trial at that time, the court would be expected to agree.

Justice White wrote the majority opinion in the case of Robert M. Brady, who pleaded guilty to a federal kidnaping charge in New Mexico. Brady claimed statutory coercion into pleading guilty because in a jury trial he would have been liable to the death sentence.

Justice White held that the coercive effect of the death penalty is not unconstitutional unless the defendant is so afraid he is no longer capable of deciding rationally, with the help of counsel, whether to plead guilty.

Washington observers saw this as a decided retreat from the previous understanding of a 1968 opinion that the death penalty provision of the Federal kidnaping Act was invalid because it imposed an impermissible burden on the exercise of the constitutional right to a jury trial.

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