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Court of Appeals Grants Hearing On Ray's Claim Against Lawyer

James Earl Ray, 41, confessed slayer of civil rights leader Dr. Martin Luther King Jr., today won a review of his guilty plea from the 6th U.S. Circuit Court of Appeals in Cincinnati.

The appellate court, in a 2-1 decision, remanded Ray's petition for review to U.S. District Judge L. Clure Morton in Nashville.

The appeals court accepted Ray's contention that he was given improper legal advice in his 1969 guilty plea. It cited two letters written to Ray by Percy Foreman, then his attorney.

The letters revealed arrangements for Foreman to receive \$165,000 from royalties on publications and movies based on Ray's case. Also, the letters indicated that Ray's share of the money would be delivered only on his plea of guilty with "no embarrassing circumstances to take place in the courtroom."

The ruling of the Appeals Court today was based on an Oct. 9 hearing held in Cincinnati on Ray's appeal of Judge Morton's Nashville decision, which denied Ray an evidentiary hearing.

Morton denied the writ of habeas corpus in March, 1972. Ray's attorney, Robert I. Livingston of Memphis, appealed the denial.

Ray pleaded guilty in 1969 to the April 4, 1968, slaying of Dr. King, but he has since renounced the guilty plea. He is serving a 99-year sentence in the State Penitentiary in Nashville.

Warden Jim Rose of the State Penitentiary in Nashville said Ray "didn't hardly react at all" when notified of the decision.

"He said he didn't want to see anybody, he did not want to talk to anybody, he did

not want to see anyone hanging around," Rose said.

Ray also has filed in Memphis District Court a civil libel suit against Doubleday & Co., Inc. of New York, claiming he was libeled in the book "An American Death," published by Doubleday in 1972. Ray

also has filed another civil suit in Memphis protesting his denial of law library facilities at prison. Both are pending.

Livingston said of the Appeals Court decision: "Why that is wonderful news. I wish I had had it yesterday. Turn to Page 6—JAMES

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Wins Hearing

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when I saw James Earl Ray. It would have cheered him up. He has gotten discouraged. It would have done him good to know we have finally won one."

Livingston said he and Washington lawyers Bernard Fensterwald and James Lesar originally filed the suit in the Nashville District Court on Dec. 4, 1972.

"We never had a hearing on it," said Livingston, who said Judge Morton "just wrote a lengthy opinion denying it."

Livingston said he felt "certain" that the Nashville State Attorney General's office would appeal the decision to the U.S. Supreme Court, "so when we will get our evidentiary hearing is anybody's guess. But when we get it I feel certain the state will have to call Houston lawyer Percy Foreman and he and James Earl Ray will get to face each other in court."

Livingston said the basic contention in their suit was that Ray's guilty plea "was not freely and voluntarily given, but that he was coerced into it by Foreman and, due to his unusual confinement in the Shelby County Jail, he was not in the correct physical or mental condition to make a rational decision."

The three-judge panel today said:

"We hold that Ray is entitled to an evidentiary hearing. It is clear that the allegations which are the subject of Ray's petitions have never been tried upon their merits or resolved by any court — allegations which, if true, plainly negate any notion or idea that his guilty plea . . . was made voluntarily and intelligently.

"The allegations . . . if true would support a finding that Ray's attorneys deliberately compromised their client's interests in order to further the financial success of William Bradford Huie's works in which they themselves had a substantial interest."