

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE

DIVISION III

STATE OF TENNESSEE

VS.

NO. 16645

JAMES EARL RAY,

Defendant.

MOTION FOR CONTINUANCE

Comes now James Earl Ray, the Defendant, and moves the Court for an additional continuance in support of which he would respectfully represent and show the court:

(1) On November 12, 1968, this Court continued this cause until March 3, 1969, having estimated that 101 days should be sufficient time for preparation. That on December 23, 1968, and until January 20, 1969, Chief Counsel for the Defendant, Percy Foreman, was continuously confined to bed with pneumonia, except for a two-day period. That he had a relapse after two days and spent an additional twelve days confined to bed. Thus losing more than 27 days of the original 101 days allowed by the Court for preparation. On January 20th and continuously thereafter, until the date of this report and the filing of this motion, said Counsel for the Defendant has spent from Sunday evening through Friday night in Memphis, Tennessee, working exclusively on preparation for the trial of this case. He proposes so doing until the case is ready for trial.

(2) Likewise, Defendant has applied for permission to take depositions of material witnesses in other states and he anticipates taking of such depositions will be permitted in some instances. The mechanics of taking said depositions, if so permitted, will consume at least 30 days from the entry of the order of their being taken, which, alone, would extend beyond the date of March 3, 1969.

(3) In addition, although Counsel for this Defendant has assiduously pursued an effort to obtain depositions, affidavits, exhibits, and statements, made the basis for the extradition of Defendant, from London, England, to Memphis, Tennessee, he has not been successful.

On November 12, 1968, this Honorable Court directed Arthur J. Hanes, Esquire, former attorney for the defendant, to deliver his files and investigative reports to Percy Fforeman, his successor as defense counsel, and, although said Percy FForeman called on the said Arthur Hanes at his office in Birmingham, Alabama, the following Monday to receive such files, the same were not forthcoming. The said Percy Foreman requested said files and investigative reports of the said Arthur J. Hanes, Sr., in the Courtroom on November 12, 1968, immediately upon the Court stating from the Bench his mandate that such files and reports be surrendered to the successor attorney. The said Arthur J. Hanes, Sr., had therefore been paid \$30,000 by and at the request of the Defendant, and said files and investigative reports had been accumulated through the expenditure of this money derived from this Defendant.

The only writing, report or exhibit of any kind obtained by Percy Foreman from Arthur J. Hanes on his visit to Mr. Hanes' office in Birmingham about the 18th of November, 1968, were pencilled notes reproduced by photocopy of an alleged recording of a police broadcast made in Memphis about 6:00 p.m. on April 4, 1968.

Upon reporting this fact to this Honorable Court, a written order was entered by the Court and served on Arthur J. Hanes, Sr., whereupon, the said Percy Foreman received photocopy of approximately 19 pages, more or less, of interviews with witnesses, most of which interviews consisted solely of impeaching testimony.

Approximately seven to ten days ago, through the intervention and offices of William Bradford Huie, a writer, and friend of Arthfur J. Hanes, Sr., the said Percy Foreman was able to obtain an additional 150 pages, more or less of investigatory effort, which, for the first time, was furnished information upon which to base an investigation.

(4) However, no part of the material mentioned in the first paragraph (3) hereinabove were included in any portions of the files turned over to said Percy Foreman, either directly or through William Bradford Huie.

There is attached hereto a photocopy of a letter dated February 10, 1969, from Michael D. Eugene, 25 Rowsley Avenue, Hendon, N.W. 4, London, England, the attorney who represented James Earl Ray at his extradition hearing in July of 1968, which states categorically that on November 1, 1968, all of this material matter was sent Mr. Hanes from London, England, to Birmingham, Alabama, to-with

"It is obvious from your letter that your main concern relates to the first bundle of documents, referred to above, and also the greater part of the depositions. Copies of these documents were forwarded by me to Mr. Hanes on or about the 1st November last. I did not send a covering letter as it was quite apparent from Mr. Hanes urgent request, that he required these documents with the utmost expedition and I merely sent him a complimentary slip. I therefore regret that I cannot be more specific as far as the date is concerned but I am satisfied that it was around the aforesaid period. This is an extremely bulky collection of documents and in all, they number over two hundred pages."

There is also attached hereto a photocopy the first page of a letter written by present counsel for Defendant to Michael D. Eugene.

A proper preparation of this case, requires that the London depositions, affidavits, exhibits, and testimony be available to Counsel for Defendant in order that he may brief the law of extradition and the Treaties

between the United States and Great Britain, so as to file any preliminary motions revealed as necessary by such testimony from depositions and affidavits as may be included in the 200 pages referred to in Michael D. Eugene's letter of February 10, 1969.

For each and all of the foregoing reasons and because investigators of the Public Defender's Office, Shelby County, have not completed and will not be able to complete an adequate investigation and interview of witnesses, so as to be prepared for trial on March 3rd, this Defendant respectfully prays the Court to grant an additional continuance for such length of time as the Court may deem proper,

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JAMES EARL RAY

AFFIDAVIT

STATE OF TENNESSEE

COUNTY OF SHELBY

Before me, the undersigned Notary Public, in and for Shelby County, Tennessee, on this day personally appeared James Early Ray, through, being by me first duly sworn, on oath, says:

The foregoing allegations in the aforesaid motion for a continuance are true.

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\_\_\_\_\_  
JAMES EARL RAY

Subscribed and sworn to at Memphis, Tennessee, this 14th day of February, 1969.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

01-203 0767

25, ROWSLEY AVENUE,  
HENDON, N.W.4

10th February, 1969

Dear Mr. Foreman,

The reason for my not having replied to your letter of the 31st January is due to my having been away from the office for the past few days and having just returned.

I am therefore replying to you immediately as, obviously, there is some urgency in your request.

The times of your telephone calls to my office and the substance of the conversations between us are confirmed by me.

In order to clarify any confusion that may have arisen with regard to the character of the documents relating to the trial proceedings in London, I would inform you of the following.

These documents may, for the sake of convenience, be divided into three parts.

Firstly, there is the bundle of documents which comprises the Affidavits of approximately twenty Prosecution witnesses (including Bonebrake's), various exhibits attached thereto and also other documents such as the requisition from the United States Ambassador to London, the Certificate of Detention, the autopsy report on Martin Luther King and his death certificate, and also other documents too numerous to detail. These documents form the basis of the Prosecution case in the London Extradition Proceedings and were served on my firm prior to the Hearing.

The second category of documents are those which comprise the oral evidence taken at the aforesaid hearings and which we term "depositions". Included in these would be the oral statements of Ray, to which you refer in your letter. In English proceedings, only the answers of the witness or defendant are noted in the depositions and no note is ever taken of the questions asked.

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01-203 0787

25, ROWSLEY AVENUE,  
HENDON, N.W.4

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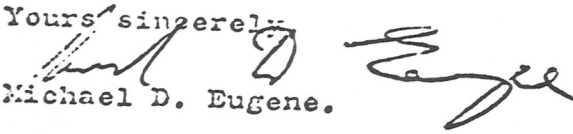
The third category of documents is simply the transcription of the London hearing which I obtained from the Press Associations Special Service and to which, again, you refer in your letter as being in your possession.

It is obvious from your letter that your main concern relates to the first bundle of documents, referred to above, and also the greater part of the depositions. Copies of those documents were forwarded by me to Mr. Hanes on or about the 1st November last. I did not send a covering letter as it was quite apparent from Mr. Hanes urgent request, that he required these documents with the utmost expedition and I merely sent him a complimentary slip. I therefore regret that I cannot be more specific as far as the date is concerned but I am satisfied that it was around the aforesaid period. This is an extremely bulky collection of documents and in all, they number over two hundred pages.

I acknowledge receipt of your cheque in the sum of £14.5s. but unfortunately there appears to have been some sort of clerical error. The equivalent English remuneration for 285 dollars is £118.15s. The balance that I would therefore be obliged to receive is £104.10s. Upon receipt of this sum I shall despatch the required documents by Express Airmail.

I would additionally inform you that there are several letters in my possession relating to this case, the contents of which you may find interesting. Unfortunately, as these were addressed to my firm, I cannot relinquish them but I confirm that I shall bring them with me to show you.

Yours sincerely,

  
Michael D. Eugene.

Percy Foreman Esquire,  
C/O Room 1125,  
Sheraton Peabody Hotel,  
Memphis, Tennessee,  
U.S.A.

LAW OFFICES OF  
**PERCY FOREMAN**  
804 SOUTH COAST BUILDING  
HOUSTON, TEXAS 77002

Sheraton - Peabody  
Memphis, Tennessee  
Room 1125  
February 14, 1969

Michael D. Eugene, Esq.,  
Attorney, Counselor and  
Barrister,  
25 Rowsley, A venue.

Dear Mr. Eugene:

Your letter of the 10th reached me this (Friday) morning.

The mistake in the amount of remittance was that of the banker at the Union Planters National Bank. I have this day written him an additional check \$250.00 (the first one was \$34.05). A cashier's check for 1104.10 is enclosed herewith. I am sure the documents, testimony and depositions will come forward without delay.

You are correct in that we need:

- (1) The affidavits of the 20 prosecuting witnesses furnished you in advance of the hearing. These include that of Mr. Bonebrake. Also, 19 others. Also exhibits attached thereto, requisition from the United States Ambassador to London, the Certificate of detention, autopsy of Martin Luther King, his death certificate and others too numerous to mention.
- (2) A transcription of the oral evidence taken at the extradition hearing in London, when James Earl Ray was ordered into the custody of the United States authorities.

All the above you state you sent Mr. Arthur J. Hanes Sr., on November 1st, without a covering letter. Mr. Hanes has never furnished us a single sheet of any of the above. Nor did he give us the Press Association Special Service account of the hearing. But we did receive a copy of this latter from a writer, William Bradford Huie, about 10 days ago. He stated that he obtained it from Arthur J. Hanes Sr., the preceding Saturday afternoon, upon agreeing to pay him an additional \$5,000.00.