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RAY DENIED PLEA FOR A NEW TRIAL

But Judge Scores Lawyers in Dr. King Murder Case

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MEMPHIS, Feb. 27—A Federal judge today criticized James Earl Ray's attorneys and state officials involved in his case but ruled that the confessed assassin had "clearly and deliberately" elected to plead guilty to murder and was not entitled to withdraw that plea and have a new trial.

Mr. Ray, 46 years old, has sought a new trial since March 17, 1969, less than a week after he pleaded guilty to the April 4, 1968, assassination of the Rev. Dr. Martin Luther King Jr. and accepted a 99-year prison sentence.

Federal District Judge Robert M. McRae said today that testimony last October on Mr. Ray's plea for a new trial did not convince him that the suspect had been coerced or tricked into pleading guilty by his attorneys.

Nor, said the judge, was he convinced that Mr. Ray's rights had been seriously prejudiced by the opening and photocopying of his mail and the installation of listening and viewing devices in his cell by county jail wardens and state prosecutors while Mr. Ray was awaiting trial.

Mr. Ray, who is confined to the Tennessee State Penitentiary at Nashville, was not in court today. One of his attorneys, Robert I. Livingston of Memphis, said that Judge McRae's ruling would be appealed to the United States Court of Appeals for the Sixth Circuit, which ordered last October's hearing. The appeals court said in its order that Mr. Ray was entitled to a new trial if the facts were substantially as he alleged.

Mr. Ray has alleged that his former attorneys were more interested in helping publish books about the case than in defending him and that he pleaded guilty to the civil rights leader's murder from despair.

Judge McRae, in a decision released today, said: "The circumstances include conduct on the part of Ray's retained attorneys that should have been performed different. [But] The total circumstances do not reflect a violation of the constitutional rights applicable to one who voluntarily pleaded guilty

on the advice of competent counsel of his own choosing."

In discussing the activities of Mr. Ray's lawyers, Judge McRae said the following:

That a contract between Mr. Ray and a Birmingham lawyer, Arthur J. Hanes, to share the proceeds of a book about the murder was an apparent violation of the canon of ethics for lawyers.

That Mr. Ray's later attorney, Percy Foreman of Houston, was "arrogant and overbearing" and "a braggart" who pressed Mr. Ray to plead guilty and whose \$150,000 quoted fee was too high.

Nevertheless, the judge said, the evidence indicated that these actions had no bearing on Mr. Ray's plea. Mr. Ray carefully weighed the prospects of a possible death sentence before he agreed to accept the 99-year prison term in return for a guilty plea, the judge said.

The record also indicates, the judge said, that all of Mr. Ray's lawyers prepared skillfully and diligently to defend him should he go to trial. The allegedly overbearing attitude that Mr. Foreman displayed toward Mr. Ray may have been prompted by Mr. Foreman's knowledge that his client frequently tried to second guess his lawyers and some times dismissed them, the judge said.

Mr. Foreman, who was paid \$10,000 toward his expenses but none of his fee, was Mr. Ray's attorney when he pleaded guilty.

Judge McRae pointed out that Mr. Ray has acknowledged being involved in the murder, but the judge said:

"In spite of attempts by his lawyers to explain to Ray that he was mistaken, Ray apparently operated on the assumption that he was not guilty of murder if it could be established that he was not the sole participant. This concept is a thread which runs through the entire account of Ray."