

# Court Considers A Trial for Ray

By Les Payne

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It has been eight years since the Rev. Martin Luther King Jr. was murdered, more than six years since James Earl Ray went to jail after pleading guilty to the assassination. Now, for the first time, the case may come to trial.

The U.S. Sixth Court of Appeals is expected to rule within weeks on whether to grant Ray's request for a trial for the King murder.

"During a trial we will show that there was a conspiracy and that the evidence against James Earl Ray was shoddy or non-existent," said James Lesar, an attorney for Ray. The defense would attempt to destroy the state's case, which has Ray acting alone in the assassination. "The State can't prove that Ray was on the scene when the crime was committed and that he fired a shot from that window with that rifle," Lesar said.

If the Circuit Court orders a new trial, the defense claims that it would answer some major questions that have remained unresolved since Ray pleaded guilty to the King murder in 1969 and was sentenced to 99 years in prison.

Few of the circumstances of the killing, including why and how Ray allegedly committed the crime, or whether there was a conspiracy, emerged during that court proceeding seven years ago. Ray's appeal for a trial is based on charges that he was forced by his former attorney, Percy Foreman, to plead guilty. Ray renounced his plea the day after he entered it and since has claimed that he was merely an unwitting participant in a conspiracy to kill King.

The FBI and the prosecution have maintained that Ray fired the death shot from the sill of a flophouse window across the street from the Lorraine Motel, where King was killed. The alleged rifle used for the assassination, a .30-06 Remington with Ray's fingerprints on it, was discovered in the doorway of a nearby shop shortly after the murder. The windowsill was inspected by the FBI agents, who, according to then-Memphis District Attorney Phillip M. Canale, would have testified that "indentation marks of this windowsill . . . were caused by the recoil of the rifle barrel when the shot was fired."

FBI documents, however, reported no evidence of powder burns on the windowsill, according to Harold Weisberg, an investigator for Ray's defense team, who acquired the bureau's labo-

ratory reports through a freedom-of-information suit. Weisberg said that an expert on criminal evidence would testify that without powder burns and a different location for the "rifle marks," a rifle could not have been fired from the windowsill, as the FBI and the prosecution have charged.

The major point of the defense's case is the identification of the bullet which killed King. One FBI document, acquired by the defense, states that a bullet fragment "could have been fired" from Ray's rifle. However, "due to mutilation . . . it was not possible to determine whether or not" the bullet was fired from that rifle.

The defense claims that the bullet fragment can be linked, through microscopic comparisons, to the rifle which fired it. It maintains that, if granted a trial, it would prove that the bullet was not fired by the rifle linked to Ray.

"The state does not have the evidence to link the rifle to the windowsill, and they don't have the evidence to link the bullet to the rifle," said Lesar. "Ray stands an almost certain chance of being acquitted. The conspiracy itself may not be resolved conclusively, but knowledge about this case would be enhanced by a trial."

In a separate action, the Justice Department is scheduled soon to make its recommendation to U.S. Attorney General Edward H. Levi, following a four-month review of FBI files compiled on King. Some reports say that the department's civil rights division will recommend another investigation of the King case.

The Justice Department inquiry was started after the Senate Intelligence Committee discovered the FBI's six-year harassment campaign designed to discredit the civil rights leader. The Senate Committee uncovered no evidence that the FBI was implicated in King's murder or any coverup. However, committee chairman Frank Church (D-Idaho) urged that a special U.S. prosecutor be assigned to investigate the "many unanswered questions," including whether the bureau's "vendetta" against King had anything to do with his murder.

The Justice Department's Civil Rights Division, for similar reasons, is also expected to call for an independent inquiry. However, Ray's attorneys say that the best way to disclose the facts about the murder is to grant Ray "a full and open trial."