

THE MOST CURIOUS ASSASSINATION

James Earl Ray is innocent, claims his Washington lawyer, of shooting Dr. Martin Luther King. So who's guilty?

By Paul Valentine

The killing of Martin Luther King was just like Watergate—first there was the conspiracy to commit the crime, then the conspiracy to cover it up.

The person speaking is Bernard Fensterwald, 54, Washington lawyer, assassination researcher, ex-Senate investigator and now attorney for James Earl Ray, the confessed assassin of Dr. King.

The recent Senate revelations of FBI harassment of Dr. King have not so much changed Fensterwald's central view of the assassination as confirmed certain peripheral suspicions about it.

With lawyer-like caution, he demurs at theories that the FBI, in its zeal to neutralize the civil rights leader, went so far as to kill him, although the new disclosures do make him wonder about possible behind-the-scenes manipulations that caused Dr. King and his party to make a critical move from one hotel to another just before he was shot in Memphis, Tenn., in April 1968.

A Strange Move

The King Party, in Memphis to support a municipal garbage workers strike, had been staying at the plush Rivermont Holiday Inn which stands isolated on a bluff overlooking the Mississippi River on the edge of town. Because of its remoteness, it also offers no discreet angle or position from which a rifleman could shoot at one of its occupants. After much public comment about the King party stay-

ing at this posh businessmen's pleasure dome, the King party moved to the Lorraine Motel, a more modest, black-owned hotel in the crowded old core of the city.

"There was a lot of flack about King staying in a white motel," says Fensterwald, "and there's been a lot of theorizing about where that flack came from. Well, now with all these new developments, guess who everybody's thinking about?"

Perhaps more important, though, says Fensterwald, is that the Senate disclosures tend to support his long-held presumption that because of the FBI's hostility toward Martin Luther King, its investigation of his murder was at best a lukewarm effort and at worst a deliberate coverup.

Double Conspiracy

Fensterwald's current efforts in court to overturn Ray's guilty plea and win him a trial hinge on a double conspiracy concept: first, the conspiracy by a group of racist ideologues to kill Dr. King, and make Ray the scapegoat, and second, a separate and more loosely defined conspiracy by various government officials, and others scattered from Memphis to Washington to suppress investigation of the first conspiracy, push a "lone assassin" story for political gain and coerce Ray into irrevocable silence by pleading guilty without trial. Ray is now serving a 99-year sentence. His earliest parole eligibility date under Tennessee law is the year 2018 when Ray will be 90.

Fensterwald says he is especially attuned to official bureaucracy's tendency to mask and evade on sensitive issues. His years on Capitol Hill "taught me a great deal about how this government functions . . . The name of the game is cover your ass."

Within 24 hours of Dr. King's death on April 4, 1968, Ramsey Clark (then U.S. Attorney General) was saying there was only one killer," Fensterwald asserts. "That was the official line, and once they said it, no matter what new contradictory evidence came up, they had to stick to it."

From then on, the conspiracy grew, "lie upon lie," says Fensterwald, until now, almost eight years after the assassination, Ray sits virtually mute in the Tennessee State Penitentiary, entangled in a web of manufactured evidence and official deviousness.

Psychology of Murder

Fensterwald says it has been easy for American officialdom to cover up the King conspiracy—as he feels with the John and Robert Kennedy assassinations—because "the American people have been more psychologically prepared to accept a 'lone nut' theory."

"Historically," he says, "assassination has been one of the most frequent ways of changing governments. Look at the Roman emperors, the Russian czars, the Brazilian presidents . . . Two thirds of the czars were murdered and more than half of the Roman emperors.

" . . . But in America, we think we're above that kind of thing. We can't accept that idea. After all, we're not a banana republic. . . . In Brazil, if you want to change the government, you shoot the president. Right? But in the United States, you go to the polls.

" . . . It makes an official coverup of an assassination conspiracy much easier—especially if it has the imprimatur of somebody like Earl Warren."

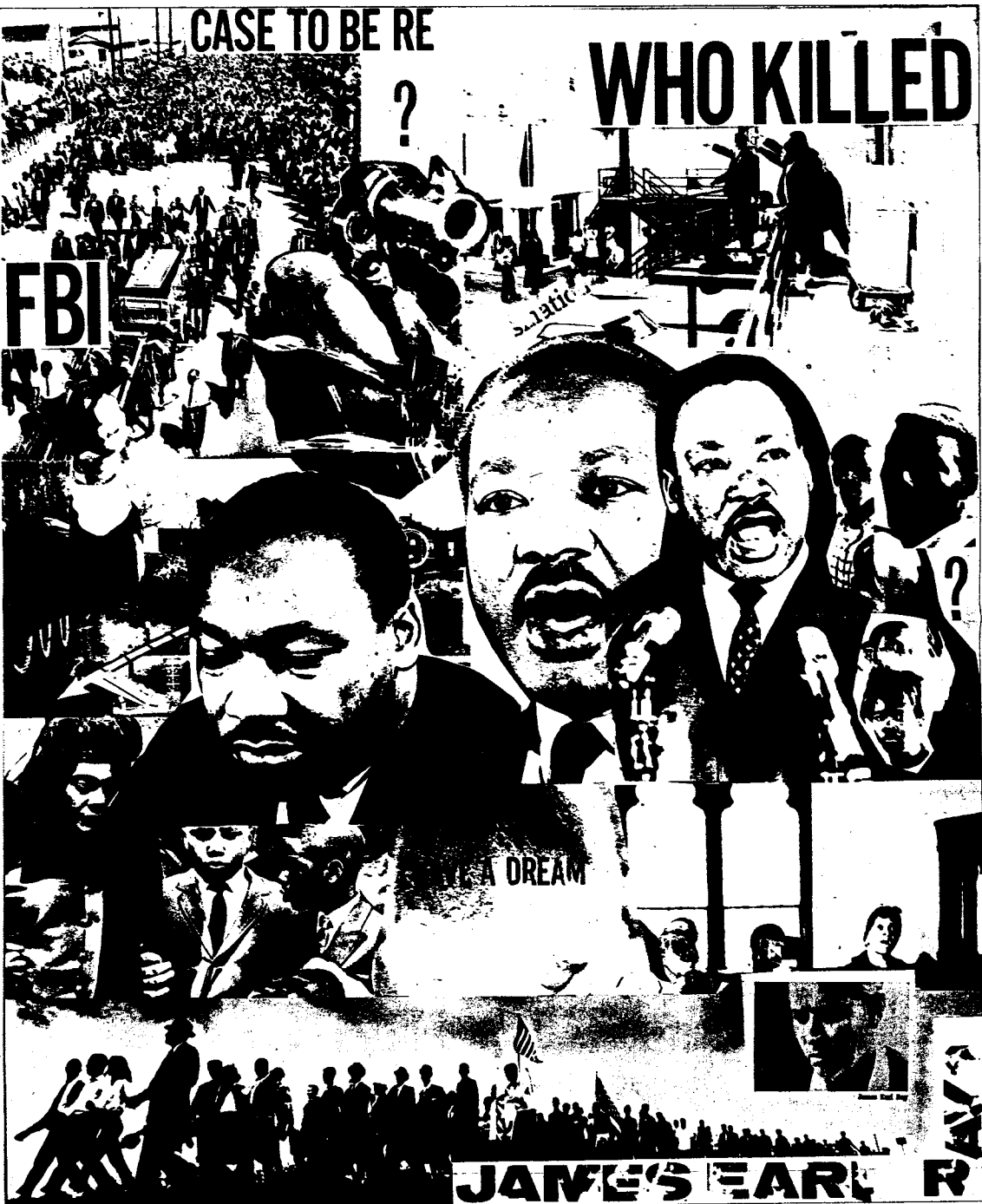
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CASE TO BE RE

?

WHO KILLED

FBI



JAMES EARL RAY



Dr. King

A Letter From James

But there is hope in the Ray case, muses Fensterwald, sitting in his law office in the Christian Science Building on 16th Street NW overlooking the White House and U.S. Treasury building. He and his co-workers have assembled what they view as massive evidence that Ray is innocent and that he was brainwashed by harsh prison conditions and then urged into a guilty plea by his former attorney, Percy Foreman, noted criminal lawyer from Houston.

The U.S. Sixth Circuit Court of Appeals was sufficiently impressed to order an evidentiary hearing into the issue in 1974. The hearing judge, Robert McRae of the U.S. District Court in Memphis, rejected the arguments in early 1975, but Fensterwald & Co. have returned to the Sixth Circuit, confident of gaining reconsideration on the matter.

What drew Fensterwald into this celebrated case in the first place and what caused him to come to his conspiratorial conclusions?

Shortly after his guilty plea in 1969, Ray dumped his attorney of the moment, Foreman, and began trying without luck to overturn the plea with the help of Savannah, Ga., attorney J.B. Stoner, one-time Ku Klux Klan counsellor, and two other Tennessee lawyers.

Independently, Fensterwald and other members of an organization he heads here called the Committee to Investigate Assassinations (known fondly by its acronym CIA), were looking into the Ray-King case, deeply suspicious that there was more to it than met the eye. Harold Weisberg, a longtime assassination researcher and friend of Fensterwald, had contacted a brother of Ray, Jerry Ray, in St. Louis. Jerry Ray learned of Fensterwald through Weisberg, and in 1970 urged his convicted brother to drop Stoner and enlist Fensterwald.

"Sometime in the middle of 1970," recalls Fensterwald, "I received a letter from James asking if I could be of assistance. I went down and visited him in prison. . . . After I talked with him, I became convinced he was not the triggerman . . . and I became his attorney of record."

Since then, it has been a tough uphill battle from court to court as Ray sought various forms of post-conviction relief. Accumulating evidence of the conspiracy, Fensterwald says, has been a slow and tedious task. It has involved not only the conventional defense processes of examining police investigative files and taking depositions of principals in the case but also the job of sifting through countless tips generated by the sensational murder.

The Long Road

Of the many leads and tips phoned or mailed into his office by interested citizens across the country, few were useful. "The rest were from nuts or well intended people who just weren't plugged in right," he said. He traveled extensively, speaking to 25 or 30 contacts and potential sources in New Orleans, Los Angeles and even Mexico City, he said, but only three or four became helpful in any substantive way.

Though a few of the tipsters insisted on using anonymous or code names and met furtively with Fensterwald in hotel rooms or airport concourses, there was little cloak and dagger atmosphere.

"You don't solve cases that way," said Fensterwald. "It's mostly a lot of hard work back in the office . . . like a jigsaw puzzle where you try to put bits and pieces together into some kind of a whole."

Even so, he said, when meeting out-of-town informants, "I usually tried to arrange the meeting in an attorney's office. . . . There is always some risk involved. I am not willing to meet in some bar in a strange city at midnight."

He said he often traveled with Ken Smith, an investigator hired by his law firm and a former Treasury agent (He spent 15 years still-busing, says Fensterwald). "But I never had any close calls or threats" in the Ray case.

In describing how he slowly constructed evidence for his double conspiracy theory, Fensterwald is generally careful not to specify names and places. They will come later, he says.

"If we get a trial for Ray, a lot of it will come out then," he said. In the meantime, he said, "I really think Ray is in considerable danger" of being killed in prison on the instruction of collaborators if specific evidence is disclosed prematurely.

In cautiously generalized terms, Fensterwald describes the origins and development of the double conspiracy this way:

Fensterwald's Theory

Ray escaped from Missouri State Penitentiary, where he was serving a robbery sentence, in April, 1967, a year before Dr. King was shot. Some time after the escape, he joined a group of men who were engaged in smuggling narcotics into the United States from Mexico and Canada. The group was southern-based, probably in Louisiana, and consisted of an undetermined number of men. Ray served as a driver and general errand runner with little authority and no knowledge of the group's possibly larger purposes.

He saw few of his colleagues, and his contact was limited primarily to a man code-named "Raoul." In March, 1968, Ray was given money and instructed to purchase a 30.06 Remington rifle

with telescopic site in Birmingham. On April 2, 1968, two days before the assassination, he met with a contact in northern Mississippi, handed over the rifle and scope and continued on to Memphis.

The Plot, The Deed

On April 4 he was instructed to rent a room at 422½ South Main Street in Memphis, a dilapidated flophouse with a second floor bathroom window overlooking the Lorraine Motel. (The King party's move from the Rivermont to the Lorraine had been widely publicized on the air.)

Ray rented the room in midafternoon, purchased a pair of binoculars at a nearby sporting goods store, met "Raoul" at the room, then left about 5:50 p.m. Eleven minutes later, a single shot was fired from the rear area of the flophouse, killing Dr. King instantly as he stood on the balcony of the Lorraine Motel.

Ray was elsewhere in the city at the moment the shot was fired and has an alibi witness to prove it, says one member of the Ray defense team working with Fensterwald, but he will not specify where Ray was or identify the alibi witness. "Witnesses have a way of disappearing in these kinds of cases," he said, "and we want to keep this one for the trial we think Ray will win."

The death of Dr. King completed the first conspiracy—a conspiracy by a group of racially motivated men to eliminate the power and influence of Dr. King from the civil rights movement. Fensterwald will not further identify the group or specify its size.

Ray was simply an unwitting participant, used by the group as a decoy (his fingerprints were all over the 30.06 rifle found abandoned near the murder scene) while the real killers fled undetected. Ray himself panicked and fled minutes after the shooting when he returned to the scene and saw unusual police activity. Later, when he learned by radio of Dr. King's death, he realized how seriously he might be implicated and decided to flee the country altogether.

The second conspiracy was then set in motion.

Government Reaction

The physical evidence at the flophouse, including the fingerprints on the rifle led police and FBI agents to focus on Ray. Within 24 hours, Ramsey Clark and local police officials were suggesting a lone killer.

"I'm told they put out the 'lone assassin' story to keep riots down," says Fensterwald. The nation had plunged into near social chaos after the death of the civil rights leader with city after city going up in flames. Police and military resources were stretched thinly across the nation. The cores of 100 municipalities were at the brink of anarchy.

Washington officialdom felt the tottering country could not tolerate the additional reality that a well organized cabal, rather than a lone lunatic, had murdered Dr. King.

The search went on for Ray, but for six weeks he evaded police. The nation was just beginning to recover from the King riots.

Then in mid-May, Ray was spotted by Canadian

and Portuguese officials in Lisbon, travelling on a phony Canadian passport. He was followed but not arrested for two more weeks as he left Portugal and flew to England.

Authorities were anxious to see if Ray would lead them to possible cohorts.

The RFK Connection

Then on June 5, 1968, Robert F. Kennedy, liberal standard bearer and Democratic presidential hopeful, was shot by an assassin in Los Angeles. He died 25 hours later.

The nation's leaders feared the country was again moving toward psychological collapse. The Rev. Ralph Abernathy, Dr. King's successor as head of the Southern Christian Leadership Conference, was demanding that the government arrest someone in the still unsolved King assassination. Something had to be done.

On June 8, the day of Robert Kennedy's funeral in New York, the word went out from Washington, and Ray was arrested in Heathrow Airport in London as he was about to board a plane for Brussels.

From that point until he officially pleaded guilty nine months later to the King murder on March 10, 1969, the official story was that Ray was the lone killer. This was the line held consistently by police, prosecutors and politicians from Memphis to Washington.

This line was buttressed by the actions of Ray's defense attorneys at the time. Arthur Hanes and later Foreman entered into lucrative contracts with author William Bradford Huie granting Huie exclusive access to details of the King murder in exchange for Ray's public silence to insure that the sales potential of Huie's magazine articles and proposed book would not be lessened.

During his imprisonment in Memphis before the guilty plea, Ray was subjected to unrelenting "surveillance"; 24-hours-a-day closed circuit television surveillance, constant artificial light with no sunshine and close censorship of his mail, including confidential correspondence with his attorneys. Weakened by this treatment and led to believe by Foreman that he might die in the Tennessee electric chair if he went to trial, Ray submitted to the guilty plea arrangement.

The conspiracy of silence, Fensterwald claims in conclusion, was thus sealed forever.

The Denials

Government officials from Ramsey Clark to former Memphis chief prosecutor Phil M. Canale deny any conspiracy to suppress or ignore evidence pointing to more than one person in the King murder. They say simply no credible evidence suggesting someone other than Ray has come to the surface.

They also say Ray's close surveillance in prison was not calculated to undermine him psychologically but was necessary in light of his substantial history as an escape artist and because of the possibility of outside groups attempting to storm his jail cell, either to free him or kill him. Besides they say, his prison conditions were not as gruesome as he and his attorneys insisted.

Tennessee law enforcement officials acknowledge the evidence against Ray is not of the classic textbook variety. No eyewitness can place Ray in the flophouse bathroom from which police say the fatal shot was fired. The bullet fragment removed from Dr. King's body cannot be matched precisely to Ray's 30.06 rifle to the exclusion of all other 30.06 rifles.

On the other hand, police say, the general pattern of evidence against Ray is convincing, including his movements around the time of the assassination: he appeared to be stalking Dr. King for several weeks prior to the murder and fled as fast and far as he could afterwards.

Hanes and Foreman likewise deny they railroaded Ray into silence and a 99-year sentence for their own financial gain. Hanes contends he believed Ray was in fact innocent and was prepared to go to trial in November 1968, when Ray suddenly fired him and hired Foreman.

Foreman, on the contrary, said that after reviewing the case he found the evidence against Ray overwhelming and saw little alternative to pleading guilty. Both Hanes and Foreman acknowledge signing literary contracts with William Bradford Huie but contend it was done to raise funds for the defense and had no effect on their legal obligations to Ray.

Clues, Questions

Investigator Harold Weisberg cites several major clues that he says suggest Ray was with a group and not by himself:

* His finances. Police have produced little evidence of how Ray lived during the year between his escape from Missouri State Penitentiary and the assassination of Dr. King. Yet he bought a car (an \$1800 second-hand Mustang), traveled coast-to-coast twice, vacationed in Mexico and had comfortable amounts of living expense money for a full year. Weisberg says this support came almost solely from the group Ray was traveling with. Justice Department officials say Ray robbed banks and had a stash available from a robbery prior to his Missouri imprisonment in 1967.

* Ray's movements prior to the assassination. He was following a schedule and taking orders as he moved from city to city, claims Weisberg. For example, he bought a tailor-made suit in Montreal but then instructed the tailor to forward it to an address in Birmingham, Ala., apparently because of a sudden change in plans by Ray's bosses, requiring him to leave Canada hurriedly. The Justice Department says Weisberg's attempt at gauging Ray's reasons for leaving Montreal is pure speculation.

* Ray's search for lodgings in Memphis. Before locating the flophouse room above Jim's Grill at 422½ South Main Street in Memphis, Ray mistakenly went to another establishment called Jim's Place, about three blocks away, thinking he could find rooms there. After a slightly heated exchange, he was told he was mistaken and probably confused by the similarity in names. He then went to the correct address and rented a room. This suggests, Weisberg says, that Ray was *not* looking for a place from which to shoot Dr. King but was under instructions to go to a specific address without realizing the purpose. Again, says the Justice Department, this is pure speculation.



Bernard Fensterwald

* Ray's post-assassination disguises. After he fled to Canada, Ray resorted to an elaborate set of disguises, using as aliases the names of at least four actual Canadian citizens before continuing on to Europe with a passport in the name of one of the four, Ramon George Sneyd. "All of that took more work than one stranger in a foreign country could do by himself," says Weisberg. Justice officials say Ray learned these skills at the knee of various fraud artists during his long years in prison.

* The motive. State and federal law enforcement officials say Ray's killing of Dr. King was racially inspired. Weisberg contends there is "absolutely no evidence of racism" in Ray's history notwithstanding his brief relationship with J. B. Stoner and his longer involvement with the group that allegedly carried out the murder. And there is no evidence in Ray's past as a small-time holdup man that he was a racist demagogue or activist, Weisberg says. In fact, he says, Tennessee prison wardens reported that surveillance of mail written by black inmates incarcerated with Ray showed no negative comments and occasionally protested Ray's innocence.

Fensterwald has not been alone in his defense of Ray. Much of the legal legwork has been done by another Washington attorney, James H. Lesar, 35, a rotund, affably intense researcher who is much more at home staying up all night in a rumpled shirt preparing briefs than presenting them the next day at court in a three-piece suit. And there is Weisberg, now 62, the indefatigable investigator who for years has pursued the King and other assassinations with the relentlessness of a rhinoceros. Finally, there is Robert I. Livingston, of Memphis, a drawing, pistol-packing lawyer who provides local assistance and is also a special deputy sheriff.

Fensterwald says the entire defense team is working without fee and all litigation costs—paperwork, secretarial support, travel to and from Tennessee—are being borne by his law firm, Fensterwald & Ohlhausen.

And Ray? He remains effectively silent. He refuses to discuss details of the case with reporters. Even with his attorneys he is reportedly vague and elliptical. Over the years, he has spoken infrequently and indirectly of his innocence. The guts of the story still remains locked with him.