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Claims force new look

Lawyer rehashes King evidence

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The question from the lie-detector examiner was simple and straightforward: "Did you kill Martin Luther King Jr.?"

"No," James Earl Ray answered

Analysis

June 22, 1977.

Six months later, Ray was strapped to a different polygraph machine and was asked: "Did you shoot Dr. Martin Luther King Jr.?"

Again, Ray said, "No."

Both times Ray was lying, concluded the two men who gave those tests, one for a magazine and one for a television report. So, too, did a congressional panel of polygraph

experts the following year.

The lie-detector results, coupled with other evidence and Ray's sworn admission in court that he fired the bullet that killed King April 4, 1968, should leave no doubt about what happened.

Yet, on the eve of tomorrow's national holiday honoring the slain civil rights leaders, a Memphis court again has agreed to review evidence that someone other than Ray shot King.

Why?

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at verdict



For almost 25 years, Ray has been professing his innocence. Three days after pleading guilty, Ray recanted, saying he did not shoot King and his plea had been coerced by his lawyer.

Through the years, numerous courts and a congressional committee have examined Ray's claims. In every case, the contention that someone else shot King has been found wanting.

Now, however, someone else is claiming responsibility for the slaying.

A Memphis businessman, Loyd Jowers, has come forward saying publicly that he arranged King's assassination and he knows Ray was not the triggerman.

Jowers has said he will tell who was hired to shoot King only if given immunity from prosecution. He cannot be compelled to testify against himself without immunity.

But Ray's lawyer, William Pepper, hopes to coax out the "truth" in court, with or without Jowers' testimony. He has filed a lengthy peti-

KING DAY

- ◆ Holiday closings, on 1B.
- ◆ Events in area, on 3B.
- ◆ "I Have a Dream" speech, on 6D.

tion setting out his evidence.

This falls into two broad categories:

- Statements made by Jowers
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and five acquaintances who Pepper says corroborate what Jowers says.

● Physical evidence that Pepper says tends to point the finger of guilt away from Ray.

Pepper also contends that there is evidence that government agencies, notably the FBI, tried to discredit King and subvert his civil-rights leadership for several years. Pepper suggests these government forces formulated and participated in a conspiracy to kill King in 1968, after he publicly denounced the Vietnam War.

New evidence

On Dec. 16, Jowers went before a national television audience on ABC's *Primetime Live* with this story: A friend, now-dead Memphis produce dealer Frank C. Liberto, asked him to hire someone to kill King in 1968.

When asked if he found someone "to do the killing," Jowers answered "Yes." At the same moment his lawyer, Lewis Garrison, interjected, "I'm not going to permit him to answer that question. He's gone as far as we can."

"Do you know who killed Dr. King?" ABC correspondent Sam Donaldson asked.

"I know who was paid to do it," Jowers replied.

That man was not Ray, he added.

Pepper, an American-educated attorney who practices in London and has represented Ray for several years, says he got his first glimmering of Jowers' strange story more than a year ago.

As he was preparing for a mock trial of Ray to be broadcast on HBO, Pepper sent private investigator Kenneth Herman to interview prospective witnesses.

One of those witnesses, Betty Smith Spates, offered a startling revelation, Herman says.

In 1968, Spates, then 17, worked at Jim's Grill, a Memphis tavern owned by Jowers. The back door of the grill opened onto a bush-filled field across the street from the Lorraine Motel, where King was slain.

Herman says Spates told him, and was prepared to testify at the mock trial, that moments after King was shot Jowers ran in the back door of the restaurant, carrying a rifle.

Spates said Jowers later told her he had been involved in arranging the assassination, Herman says.

The investigator says he interviewed other witnesses — two of them Spates' sisters — who would corroborate her statements.

Additionally, James McCraw, a retired Memphis cab driver who was a regular customer in Jowers' grill in 1968, offered other information, Herman says. McCraw was prepared to say he had a conversation with Jowers the day after King's slaying in which Jowers said he found the murder weapon behind his restaurant, the investigator says.

Armed with this information, Pepper prepared a surprise defense for the mock trial, Herman says, adding:

"We were going to try to trap Jowers on camera" into making an admission of guilt.

But the plan fell apart at the last minute.

"The girls got scared," Herman says.

Another private investigator, Clifton Dates, says



P. Casey Daley ● Staff

William Pepper, attorney for James Earl Ray, discusses aspects of the assassination that have recently come to light.

Spates "became increasingly nervous and fearful" as the time approached for her to testify at the mock trial.

Dates says Spates told him Feb. 2 that she would not testify, "believing the risk to her and her family to be too great."

Spates said Jowers "has harassed her and attempted to kill her and her family in the past. And if her cooperation with us gets out, he will surely kill her," Dates says in a court affidavit. Jowers has refused repeated requests by *The Tennessean* to discuss the case.

Meanwhile, McCraw, 69, "had a heart attack in the witness room" and was not able to testify at the mock trial, Herman says.

The "trap" did not materialize. Without it, Pepper still won a not-guilty verdict from the jury at the mock trial.

But Pepper wanted more than a mock victory — he wanted a real court to hear this evidence, believing it should free his client.

The petition he filed last week in Shelby County Criminal Court seeks to do that, and the hearing is scheduled for Feb. 10. Pepper is also trying to get the Shelby County grand jury to take up the case.

Meanwhile, Spates has refused to talk with reporters trying to see if she will confirm what Pepper and Herman claim she says.

Two days ago, she told *The Tennessean* she is "tired of all the lies" but would not elaborate before slamming her door.

Nonetheless, she is one of five people, including Jowers, for whom immunity is being sought by attorney Garrison.

Shelby County District Attorney General John Pierotti scoffed at this request. He says that from what he knows about the case, Spates and three other witnesses, all but Jowers, have committed no crime and do not need immunity.

Concerning Jowers, the prosecutor says he is not about to grant immunity to anyone claiming a pivotal role in King's assassination.

Moreover, Pierotti says he does not believe the story, branding it a hoax aimed at making money. Tabloid journals and television programs pay very well for marketable stories — provable or not. Screenplays are worth big bucks.

Garrison says Jowers so far has been paid nothing for telling his story.

There are also several puzzling relationships among those involved. Garrison, for example, represents both Jowers and four people who presumably would testify against him.

Investigator Herman, who has a criminal record for mail fraud and cocaine conspiracy, has worked on the case for both Garrison and Pepper, who have opposing interests.

And then there is Willie Akins, one of the five witnesses seeking immunity.

Akins, a longtime acquaintance and former business partner of Jowers, told *The Tennessean* that

Jowers told him many times, over a period of years, that he hired a black laborer named Frank Holt to kill King.

The Tennessean found Holt in Florida. He denied any involvement and passed a polygraph test supporting that denial.

Still, Pepper wants his day in court. What any of the witnesses would say under oath remains to be seen.

Beyond this "new evidence" that someone other than Ray killed King, Pepper argues there is a body of other evidence to support this claim.

Much of that evidence was examined by the House Select Committee on Assassinations about 15 years ago. This congressional investigation was exhaustive, resulting in a 13-volume report. A comparison of Pepper's contentions to the congressional findings and

other previously disclosed evidence is revealing.

The gun

In looking at the physical evidence, Pepper says a rifle purchased by Ray and bearing his fingerprints cannot be proven to be the murder weapon.

This is true.

Ballistics tests cannot prove that the 30-06-caliber bullet recovered from King's body was fired from a Remington Gamemaster rifle Ray purchased five days before the assassination, congressional investigators found.

The congressional committee had a panel of firearms experts fire 12 bullets from Ray's rifle and compare these test slugs to the fatal bullet. None of them matched it under microscopic analysis.

But most of the 12 test slugs did not match each other, either. There were simply not enough identifying markings on most of the slugs to prove that they had been fired by the same gun.

This led the panel to conclude Ray's "rifle inconsistently engraves ... successively fired bullets."

The bullet

Pepper says the bullet authorities say was recovered from King's body might not be the real murder slug. He bases this claim primarily on the statement of a Memphis police officer who says the bullet taken from King was a largely undamaged, "pristine" bullet. The official murder slug is in three fragments, suggesting to Pepper that someone tampered with the evidence.

Dr. Jerry Francisco, who performed King's autopsy, says the bullet he removed was "smashed up" from passing through bones in King's body. X-rays taken before the autopsy show King's upper chest filled with scores of tiny and several larger lead fragments.

The alibi

Pepper says two Memphis men, Ray Hendrix and William Reed, can corroborate Ray's alibi. Ray contends that several minutes before the shooting, he left the boarding house from where officials say the shot that killed King was fired.

Hendrix and Reed gave statements to the FBI saying they were walking down South Main Street minutes before the shooting when a white Mustang passed them and turned onto a side street.

Ray drove a white Mustang, and Pepper contends that this proves Ray's alibi.

But, FBI reports show, Hendrix and Reed also both said they could not identify the man driving the car.

Hendrix told the FBI he did not see who was in the car and could not describe the man. Reed, according to the FBI, did not "recall if this individual had a hat or tie on. He said he had the impression this person was not young, but was not old. He said he would have no way of estimating the age of this person."

The witness

Pepper says a key witness, Charles Quitman Stephens, was so drunk he could not have seen what he

said he did. Stephens told police he saw Ray fleeing the boarding house immediately after the shooting.

Pepper says statements from a cab driver, a journalist and a police officer who saw Stephens either just before or just after King's shooting all support Pepper's contention that Stephens could not identify Ray.

The cab driver says Stephens was passed out. The police officer found him "incoherent"; the journalist found Stephens unable to carry on a conversation.

Challenges to Stephens' credibility are not new. The congressional committee devoted a section of its report to him. The committee was familiar with the statements of the cab driver and police officer that Stephens was drunk. At the same time, the committee found that two other Memphis police officers did, indeed, interview Stephens minutes after the shooting and found him coherent.

Stephens' value as a witness was limited, however, because he had undeniably been drinking, the committee concluded.

The bushes

Pepper says the fatal shot was not fired from a boarding house window, as officials say. Instead, Pepper contends, it was fired from a clump of bushes across the street from the Lorraine Motel. King was slain while leaning over the Lorraine's second-floor balcony talking to someone in the parking lot.

To support this claim, Pepper cites statements from Earl Caldwell, a former *New York Times* reporter, and the Rev. James Orange, a civil rights leader at the Lorraine that day. Orange says he saw a puff of smoke in the bushes. Caldwell says he saw a man crouching there moments after King was shot.

Pepper also cites the statement of another man who says he saw a man in the bushes: Solomon Jones,

King's driver.

Jones' statement was reviewed by the congressional committee, which decided to have a panel of engineers determine if the shot could have come from the bushes.

The engineers' conclusions were ambiguous. They had no way to determine how far King was leaning forward, so they could not say exactly from which angle the bullet came. For this reason, they could not eliminate the bushes as the shooting site.

At the same time, the engineers noted, the bullet that killed King entered his body on a downward trajectory. Eyewitnesses told investigators King was leaning only slightly forward from the waist. Thus, the engineers concluded, the "data tends to favor the second-floor bathroom window at the rear" of the boarding house.

It was toward this bathroom window that every person on the balcony pointed moments after the shooting when police asked from where the shot had come.

The coercion

Pepper says Ray's guilty plea was made at the "urging and as a result of coercion" by his attorney at the time.

The claim has been made before. No court has accepted it.

After Ray recanted his guilty plea, he sought a new trial. When state courts turned him down, Ray went to federal court.

Ray said in U.S. District Court in Memphis that his lawyer at the time, Percy Foreman, had forced him to plead guilty. When the District Court found no merit in this claim, Ray took his case to the U.S. 6th Circuit Court of Appeals. The appeals court upheld the finding "that most of Ray's allegations ... were not supported by the proof."

Ray then took his case to the U.S. Supreme Court. The nation's highest court would not hear it. ■