

Ray's Lawyer Plans to File For New Trial

NASHVILLE (UPI) — An attorney says he will file a motion for a new trial for James Earl Ray, convicted assassin of Dr. Martin Luther King Jr.

Ray is entitled to the action because the trial judge, W. Preston Battle, died before acting on Ray's request for a new trial, lawyer Mark Lane said in a telephone interview with The Tennessean Tuesday.

Ray originally pleaded guilty to the 1968 slaying but later claimed he was tricked into doing so by his former lawyer and he sought a new trial.

Lane said the motion for a new trial would be filed within six weeks to two months.

"We're going to file a motion with the criminal court clerk in Memphis using what is stated in section 17-117 of the Tennessee Code Annotated as the reason Ray should get a new trial," Lane said.

That section of the code says:

"Whenever a vacancy in the office of trial judge shall exist by reason of death of the incumbent thereof . . . after the verdict but prior to the hearing of the motion for a new trial, a new trial shall be granted the losing party if motion therefore shall have been filed within the time provided by rule of the court and be undisposed of at the time of such death . . ."

Battle accepted Ray's guilty plea March 10, 1969 and sentenced him to 99 years in prison. Battle died in his chambers of an apparent heart attack three weeks later.

"The day after Ray was transferred to the penitentiary, he wrote a letter to Battle asking for a new trial," Lane said. "Battle died before acting on Ray's request well within the 30-day time limit."

Jack Kershaw of Nashville, Ray's lawyer until last Tues-

day, said he feels if Lane does it correctly, he will get Ray a new trial based on what is said in the code about a new trial after death or insanity.

Lane and Kershaw were interviewed after Jerry Ray, brother of the convicted assassin, called the newspaper to claim that Kershaw had pocketed \$11,500 from Playboy magazine for arranging an interview with Ray and a lie detector test. He also said Kershaw kept \$2,000 paid by a French television crew filming a documentary.