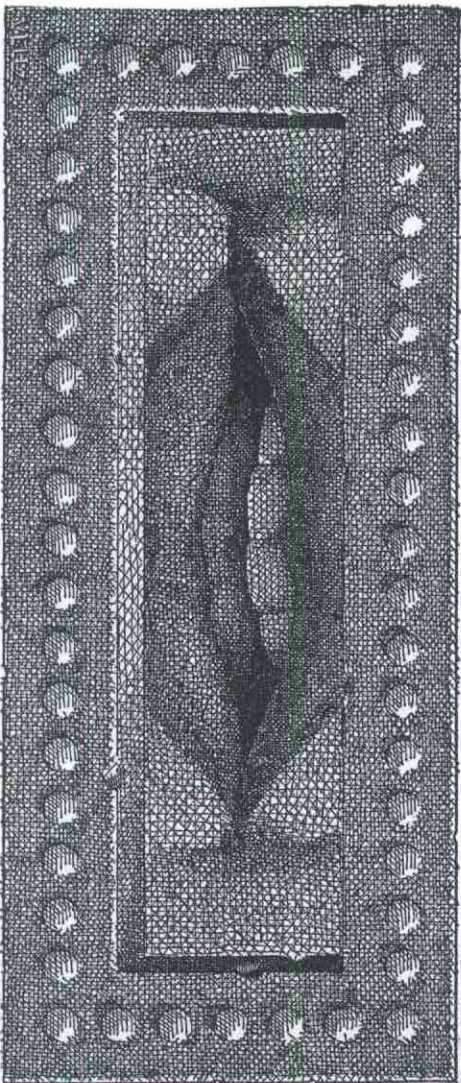


Sealing History Behind Walls and Iron Bars



Miller Velez

By George McMillan

FROMORE, N.C.—For reasons that seem perfectly well-intentioned, Tennessee has announced it wishes to move James Earl Ray from its state penitentiary at Nashville into a Federal prison.

What difference does that make? Who cares what happens to the man who confessed to the killing of Dr. Martin Luther King?

In fact, a transfer of Mr. Ray throws the spotlight on the Federal Bureau of Prisons' stubborn, rigid, arbitrary and unrelenting policy of forbidding any inmate of a Federal prison to have access to the press or for the press to have access to him.

If James Earl Ray is moved into a Federal prison he will never again be able to talk face-to-face to the press, to television interviewers or to authors of magazine articles or books.

Mr. Ray's right to talk to the press must not be lightly forgone. He is part of our national distress. Suspicion and confusion about politics for many of us originated in the political assassinations of the last decade.

Doubts persist about the King assassination, just as they do about the others. It is difficult to find a black person who does not believe that, at most, Mr. Ray was a gunman hired by some still-undiscovered conspirators.

Mr. Ray pleaded guilty in a Memphis courtroom to a persuasive set of stipulated facts about the crime, but he has been insisting ever since that he was coerced into pleading guilty and that he is innocent. A Federal appeals court has found enough in his plea to order that he be given a hearing on the circumstances under which he pleaded guilty, but there is no telling what finding that court will make.

Don't we have a right to know what happened? The Bureau of Prisons says no. It has been sued by The Washington Post, The Boston Globe and The Houston Chronicle and defends itself by the "big-wheel theory." The inmate who is interviewed by the press becomes, the Bureau says, a "big wheel" inside the prison and creates disciplinary problems. What is really at stake is the prisoner's right to complain about prison conditions.

What about the interview that is not about prison conditions? What

about the right of the press, or historians, or biographers, to see the prisoner who has, as Federal inmates often have, special or sole knowledge of some significant historical event?

The subject of that kind of interview is not the bad prison food or the brutality of the guards. The interview for historical facts is not going to make a big wheel of anybody. But the Bureau of Prisons is arbitrary: it does not want to hear about exceptions.

Fortunately, on Dec. 31, 1973, a Federal judge in Boston ruled specifically on these matters, and against the Bureau of Prisons. He ordered it to allow an author to have a confidential and uncensored interview with an inmate to get information that would contribute to the public's understanding and evaluating of a widely publicized tragic political event of the 60's—the King assassination.

The judge was Frank J. Murray of the United States District Circuit. The plaintiff was myself, represented by the American Civil Liberties Union. The suit came about because I am writing a biography of James Earl Ray—that is, an attempt to under-

stand his motive, if he had one. I wanted to talk with Mr. Ray's brother, Jack, who is in the Federal penitentiary at Marion, Ill., for having driven a getaway car in a bank robbery, about the years that the Ray family had spent in the little town of Ewing, Mo., where the brothers grew up, and about their childhood, their mother and father.

The Bureau had allowed me to correspond with Jack Ray and I have been doing so. But he has had very little education, and his letters reflect his inarticulateness. Judge Murray was sensitive to this and other problems of the author, in a ten-page memorandum.

"There is a substantial disparity in essential values," he wrote, "between face-to-face discussion and dialogue, on the one hand, and impersonal communication by correspondence on the other." The author needs the face-to-face encounter "to study the demeanor and behavior of the inmate" and to test "the author's confidence in the reliability of the inmate's information."

"When First Amendment rights of speech are at stake," he concluded, "it is not reasonable to rule that all authors, or even that all inmates, should be treated alike in denying personal interviews. The Bureau's total ban policy is an invalid restriction of First Amendment rights of freedom of speech."

That did not make the Bureau happy. It appealed Judge Murray's decision, but on March 20 the First Circuit Court of Appeals upheld him, upheld my right and the right of other authors to interview prisoners who reasonably may be expected to contribute information toward a subject of widespread interest.

The Bureau may take this decision to the Supreme Court, knowing that to delay is to defeat—and to prevent our seeking an explanation of American history. But we must win if we are to be able to grasp the ironies and absurdities of our time.

George McMillan has been writing on civil rights for 15 years.