King's Assassin Is Given Power Of Subpoena in Bid for New Trial

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ATLANTA, April 15 — A Memphis Criminal Court judge ruled today that James Earl Ray, the confessed assassin of the Rev. Dr. Martin Luther King Jr., will be allowed to subpoena witnesses in support of his assertions of innocence and his request for a new trial.

In what one prosecutor termed a "bizarre" situation, the judge, Joseph Brown, said he was constrained by Tennessee law to deny the new trial being sought by Mr. Ray because the time limit allowed for such appeals had long since expired. Judge Brown is hearing Mr. Ray's ninth appeal since he pleaded guilty in 1968.

But in a telephone interview today, Judge Brown said he would nevertheless allow evidence to be presented so that an appellate court would have available the kinds of evidence that the law prevented Judge Brown's court from considering.

'Record Will Be Illuminated'

"This is not going to be a new trial, but it amounts to the same thing," the judge said. "Dr. King is one of three people for whom we have a national holiday, and everything about the case is a matter of extreme historical curiosity. At least the historical record will be illuminated by the process."

Mr. Ray, who is serving a 99-year sentence for killing Dr. King, has been trying to take back his guilty plea almost since he entered it. His latest appeal involves assertions by a retired Memphis businessman, Lloyd Jowers, who said last summer that he had hired the assassin of Dr. King on orders from New Orleans organized-crime figures and a Memphis grocer who is now dead. Mr. Jowers said that the man he hired was not Mr. Ray.

Local prosecutors who looked into the assertions concluded they were not supported by any known evidence.

John Campbell, an assistant Shelby County prosecutor, said the ruling today would lead to "an open-ended session" in which Mr. Ray's lawyers could put whomever they pleased on the witness stand. It is not the first time since he was imprisoned that Mr. Ray has been allowed to call witnesses, Mr. Campbell said, noting that on at least two other occasions courts had allowed him to question his former lawyers. Mr. Ray had accused them of negligence in his defense.

Mr. Campbell also said Mr. Ray had previously testified himself about what Mr. Ray asserted was a conspiracy by the Federal Bureau of Investigation in the King assassination.

Lawyers for Mr. Ray said they may call as many as 60 witnesses and had no idea how long the testimony would take. Judge Brown has given them until June 6 to indicate when they would be prepared to begin their presentation.

It may turn out, Judge Brown said, that Tennessee's laws prohibiting late appeals is defective because some evidence may not be known or knowable to a convicted person and their lawyer until after the expiration of the time limit for appeals.

Judge Brown is an outspoken and iconoclastic jurist who in recent years has been censured by judicial administrators in Tennessee for publicly criticizing fellow judges. In a ruling two years ago, he allowed a burglary victim to seek restitution by taking five items from the home of the person who burglarized him.

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