MOCK TRIAL BLURS LINE BETWEEN REALITY, TV

James Earl Ray Picks HBO As His Court of Last Resort

By Eric Harrison
LOS ANGELES TIMES

MEMPHIS, Tenn.

A HUSH FELL over the courtroom as James Earl Ray's name was called. Nearly a quarter century after he confessed to killing Dr. Martin Luther King Jr. (and then recanted), the aging Ray, 64, finally was getting his day in court. He would tell his story to a jury for the first time.

Solemnly, he stood up to take the oath when . . . What's this?

A klieg light was visible above Ray's head on the television monitor.

The judge didn't seem to notice. Neither did Ray's attorney nor the prosecutor. Everyone's eyes were riveted to the face on the screen here as Ray, 209 miles away in Riverbend Maximum Security Institution in Nashville, raised his right hand and swore to tell the truth, the whole truth and nothing but.

But, in a makeshift control room tucked away nearby in the judge's chambers, a television production crew had been thrown into a quiet tizzy a few moments earlier when they spotted the offending lamp during a brief rehearsal.

Nothing they could do about it now, though. "We'll do a cut-in shot later," muttered the producer to his assistant. The trial — one quickly learns not to say "show" — must go on.

Everyone involved with the unorthodox HBO special, which finished filming here last week, was quick to exclaim how realistic the whole thing was.

"After a few minutes in that stand, I thought I was in a real trial," said the Rev. Billy Kyles, the Memphis-based civil rights leader who was with King on the balcony of the Lorraine Motel when he was assassinated. Kyles was the first witness in the mock

AP Photo

James Earl Ray, second from right in this 1974 picture taken in Memphis, recanted his original plea of guilty and has no further legal recourse.

trial.

The unscripted drama, which will air April 4, the 25th anniversary of King's death, was being filmed in a real courtroom. Real lawyers asked questions of real witnesses made to seethe or squirm on the stand before a real judge. And a more-or-less real jury was asked to render a verdict — the results of which won't be announced until the telecast of "Guilt or Innocence: The Trial of James Earl Ray."

"It's like a trial," said W. Hickman Ewing, a former U.S. attorney for the Western District of Tennessee, who is serving as prosecutor. Then again, it's not.

For the real-life officers of the court participating in this $3-million effort, the trappings of television are a bit disconcerting.

"We all walk into the courtroom in the mornings, and everybody's getting makeup and microphones," Ewing said, adding that he can't predict how the show-biz aspect will affect the jury.

On the morning of the day Ray was to testify, former U.S. District Judge Marvin E. Frankel, who was presiding, stood in his chambers waiting to enter the courtroom after a recess. The chambers were jammed with 15 television monitors and other television equipment and production personnel.

What manner of beast is this, exactly?

Is it entertainment? Is it an extralegal search for truth, using the rigid rules and trappings of the American judicial system? Or is it, as producer Jack Saltman insists, the dawning of a new form of investigatory journalism, capable of probing important issues of the day in greater depth than ever before?

Whatever it is, the stakes — at least for Ray — are enormously high.

Because he waived the right to a trial when he originally pleaded guilty and has exhausted all legal avenues to get his case reopened, this is the court of last resort for Ray.

He has maintained his innocence ever since he tried to withdraw his guilty plea three days after he entered it in March, 1969. His story, recounted in two books and before the U.S. House Select Committee on Assassinations in 1978, is that he was duped into buying a 30.06 high-powered rifle and bringing it to Memphis at the behest of a mystery man named Raoul, who never told him what it would be used for. (The congressional committee concluded that Ray shot King but that he might have had co-conspirators.)

Now serving a 99-year prison sentence for the murder, Ray hopes the HBO special will raise enough questions about his guilt to spark a call for a new trial, clemency or perhaps appointment of a special prosecutor to investigate King's slaying.

As Ray said in a televised statement to reporters before the start of the trial: "I am aware that this could well be my . . . only opportunity to present the non-government version of the Martin Luther King Jr. homicide in a courtroom."

While authorities concluded that Ray shot King from a window in a nearby flophouse, some witnesses have maintained since 1968 that they saw a man in the bushes near the Lorraine Motel at the moment King was shot. They complain that this never was investigated by the FBI. In addition, there have been questions raised about why police found the murder weapon lying nearby on the sidewalk.

Ray was represented by William Pepper, who has been his attorney since 1985 and who treated these mock proceedings with a seriousness befitting a Supreme Court appearance — and for good reason.

"James Earl Ray has gone, in my judgment and in his, as far as he can go in terms of the judicial process and the conventional habeas corpus and appellate route," said Pepper, who suggested that he believes there was a government conspiracy that might have involved Ray's first two attorneys to blame the murder on Ray alone and to stymie thorough investigation.

It was Pepper who dreamed up the idea of a televised mock trial. He took it to Saltman, a British documentary filmmaker who previously had taped a similar program concerning Kurt Waldheim's alleged war crimes, which, like the Ray project, was presented on HBO and Thames Television in Britain.

Bridget Potter, senior vice president of original programing for HBO, acknowledges that Ray is participating solely because of the program's potential to mold public opinion in his favor. But she insists that the cable network isn't being used to disseminate propaganda.

The participation of an able prosecuting attorney, a fair and respected judge and an objective producer guarantees balance, she said.

"I would never have looked at this for a minute if the whole . . . [package] had come in from James Earl Ray's attorney," Potter said. "We've been in full control from the start." / II

The AM / FM column will return in March.