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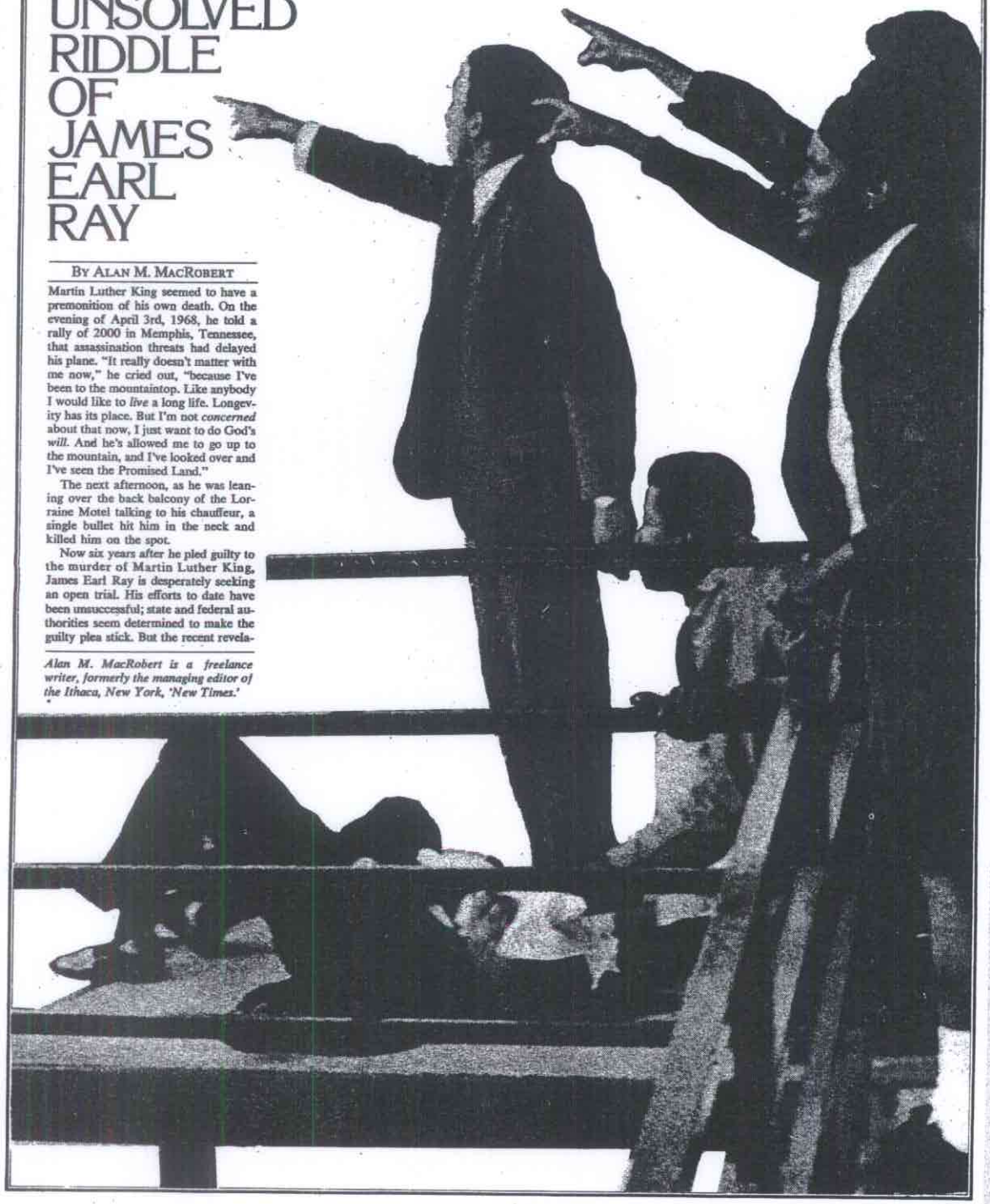
THE UNSOLVED RIDDLE OF JAMES EARL RAY



BY ALAN M. MACROBERT

Martin Luther King seemed to have a premonition of his own death. On the evening of April 3rd, 1968, he told a rally of 2000 in Memphis, Tennessee, that assassination threats had delayed his plane. "It really doesn't matter with me now," he cried out, "because I've been to the mountaintop. Like anybody I would like to *live* a long life. Longevity has its place. But I'm not *concerned* about that now, I just want to do God's *will*. And he's allowed me to go up to the mountain, and I've looked over and I've seen the Promised Land."

The next afternoon, as he was leaning over the back balcony of the Lorraine Motel talking to his chauffeur, a single bullet hit him in the neck and killed him on the spot.

Now six years after he pled guilty to the murder of Martin Luther King, James Earl Ray is desperately seeking an open trial. His efforts to date have been unsuccessful; state and federal authorities seem determined to make the guilty plea stick. But the recent revela-

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Ray has always claimed he did not shoot King. Even at his guilty plea hearing he said that there were others involved in the crime. Three days later he began his campaign to withdraw the plea, saying that he had been coerced into it.

tions of government lawlessness, elaborate CIA assassination plots abroad and ugly FBI sabotage campaigns at home have added fuel to a conspiracy controversy growing around the details of the murder. Did the assassin work alone, or was he part of a conspiracy? Is Ray guilty of killing Dr. King? A trial could help resolve these questions.

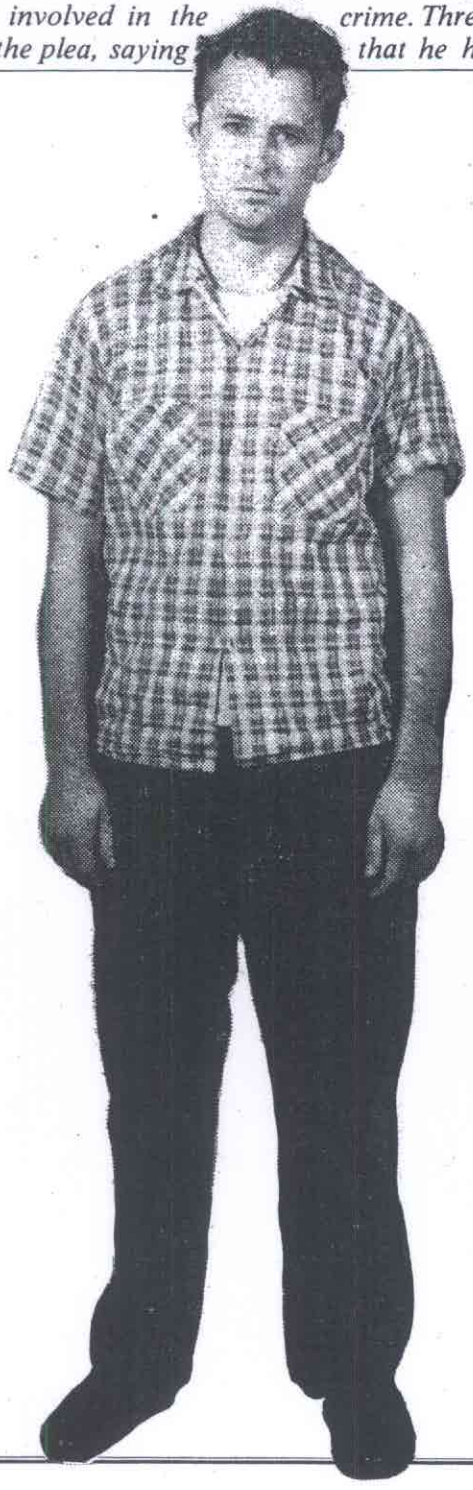
Ray was captured in London in June 1968, two months after the assassination and was extradited back to Tennessee. He had been sought ever since his fingerprints were found on what police described as the murder weapon. In November, two days before he went on trial, he fired his lawyers, Arthur Hanes Sr. and Jr., claiming they had a conflict of interest by owning rights to Ray's biography — a charge he later leveled against his next attorney, Percy Foreman. On March 10th, 1969, he entered a surprise guilty plea in exchange for a 99-year sentence. Except for signing this confession, prepared by the prosecution, Ray has always claimed that he did not shoot King. Even at his guilty plea hearing he couched his confession by saying that there were others involved in the crime. Three days later he began his campaign to withdraw the plea, saying he had been coerced into it.

His attempts are continuing today. "The whole thing is being covered up by the Department of Justice and the State of Tennessee," Robert Livingston, one of Ray's lawyers, insists. "The more we go into it, the more we discover has been covered up. I think the reason is that the Department of Justice knows, or has good reason to believe, who they might catch if they pursued this thing to its fullest extent. I'm of the opinion that there are some people the Department of Justice would just as soon not have to catch. I suspect this thing could be linked up with the CIA, frankly."

Henry Haile, until recently the Tennessee assistant attorney general, takes an opposite view. Conspiracy theories, he says, "are taking advantage of a lot of gullible people. I don't think there's a single loose end anywhere; the guy didn't like black people and he hated Martin Luther King. He came down here and shot him and thought he was going to be a hero and get a million dollars."

If Ray comes to trial, however, some troublesome contradictions will have to be examined. Several witnesses say that they actually saw the assassin shoot King, that the assassin was not in the rooming house window where the state claims Ray was, but hidden in some bushes, and that the assassin they describe does not match Ray. Defense lawyers contend that there is no firm evidence that Ray was on the scene when the crime was committed or that his rifle fired the fatal bullet. According to some witnesses Ray's fingerprinted rifle was lying in a doorway before, during and after the assassination. Other witnesses say that men who did not resemble Ray rented his room, had King's own accommodations changed to where he would be an easier target and fled after the shot was fired.

But before Ray can get a trial where such evidence could be thoroughly aired and examined, he must first get a chance to withdraw his guilty plea. The State of Tennessee has so far prevented this.



Last October, the Sixth Circuit Court granted Ray an evidentiary hearing before U.S. District Judge Robert McRae Jr. in Memphis to argue that he did not receive "effective assistance of counsel," and that he was driven into his guilty plea against his will.

Ray and his three lawyers, Livingston, Bernard Fensterwald and James Lesar, claimed that his lawyer at the time, the legendary Percy Foreman, "badgered and browbeat" him into the plea. Ray testified that Foreman promised he would go to the electric chair if he stood trial and that a guilty plea would guarantee Ray a pardon in about two years. At first Ray resisted but he was afraid that Foreman would merely fake a defense.

Foreman had interests of his own in getting that guilty plea, Ray's lawyers contended. For services rendered, Foreman received a 60% share of the royalties from Ray's biography, *He Slew the Dreamer*, eventually written by Alabama author William Bradford Huie. If Ray had been found innocent, the book would have probably been worthless.

Testimony was presented at the October hearing alleging that Foreman did not attempt to build a sound defense—he neither investigated available information, nor did he attempt to discover evidence later obtained by other attorneys. Ray's two brothers, John and Jerry, charged that Foreman's overriding concern was book profits, not defense, and that Foreman tried to get them to help pressure Ray into a guilty plea.

The sheriff of Shelby County admitted to Ray's lawyers that photocopies of Ray's mail, including correspondence with his defense attorneys, were delivered to the prosecutor.

Ray also contended that the heavy security under which he was held led to a psychological instability that helped weaken his resistance to plead guilty. During those eight months, closed-circuit TV cameras were trained on him at all times, bright lights were kept on around the clock and two guards were never more than five feet from him.

During the final days of the October hearing, Ray himself took the stand. Although details of his alibi have changed over the years, his tale is of interest. He described his role in the assassination as only peripheral. "I personally did not shoot Dr. King," he said, repeating a letter he wrote to Mississippi senator James Eastland in 1969, "but I believe I may be partly responsible for his death." He denied any direct knowledge of what was going on but admitted that he could have been involved without prior knowledge.

Ray said he had been following instructions from a man he knew only as "Raoul," whom he met in Montreal the year before the assassination, after his escape from the Missouri State Penitentiary, where he was doing time for

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What about the bullet? Could the bullet be traced to Ray's rifle? The answer was no. There is no direct evidence that Ray fired the fatal shot. "To get the proper angle, the rifle would have stuck six inches into the wall," one ballistics expert testified.

armed robbery. Raoul kept him supplied with money while Ray smuggled packages and performed other tasks in return. He said Raoul instructed him to buy the rifle that was found at the scene of the assassination, telling him it was to be shown to a gunrunner with whom Raoul was arranging a deal.

Ray twice dropped hints that he thought the plot originated in Louisiana. On one occasion, while arguing that there had been no real investigation for his defense in 1968, he said, "No one went to Los Angeles or New Orleans, where I think much of the evidence lies."

Percy Foreman has said he's convinced Ray acted by himself, and author Huie switched his earlier proconspiracy position to say the same in his book. "I have made a serious mistake," he wrote, after examining Ray's travels in the months before and after the murder. "It's only the story of another twisted nut who kills a man to get on television." County and state officials concurred.

But Ray's first lawyers, Arthur Hanes Sr. and Jr., have other ideas. When he took the stand at the October hearing, Hanes Jr. testified that he had thought there was a good chance to get Ray acquitted. "I felt then, and I still feel now, that there was a conspiracy," said Hanes. He said he had wanted to tell the jury "don't put all the blame on this little fellow Ray. The real bad guys are not apprehended yet."

Ray's lawyers were confident that Judge McRae was going to rule in his favor; so were many of the newsmen covering the hearing.

But on February 27th, McRae's ruling held that Ray knowingly elected to plead and was intelligent enough to know what he was doing. McRae said he was not convinced Ray had really been tricked or coerced into it. He conceded that Foreman was "arrogant and overbearing," "a braggart" who had acted in unethical ways, but denied that Ray's rights had been violated by this or by the reading of his mail or the heavy security.

Ray's lawyers immediately announced that they would appeal. The Sixth Circuit Court, which will get the case next, has looked favorably on Ray's appeals up to now. In ordering the evidentiary hearing in the first place it said in fairly strong language that, if the facts were substantially as alleged, he should indeed get a trial. His lawyers are still optimistic that the case will someday be brought to trial, but they are more guarded in their language now.

As for the appeal, Livingston estimates it will be about six months before the case is argued in the Circuit Court. The losing side of that decision—Ray or the State of Tennessee—is certain to take it to the Supreme Court. The final ruling on whether or not Ray gets a trial might come in the spring of 1976.

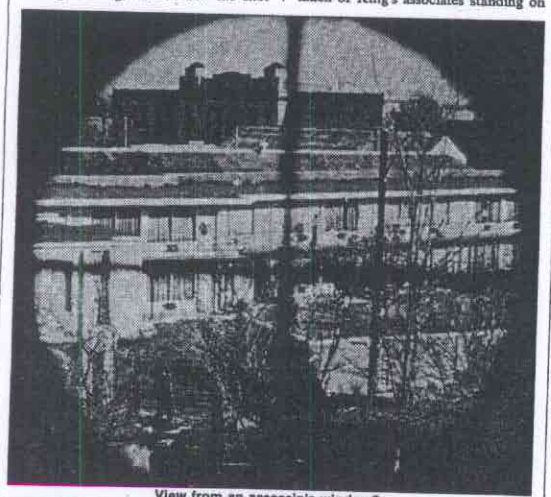
Because Ray was charged with murder and not conspiracy to commit murder, the State of Tennessee would have to prove beyond a reasonable doubt that Ray pulled the trigger. The state's case is this: Ray, acting on motives of racism or egomania, shot King from a sharp angle out of the second floor bathroom window in the rooming house behind King's motel. He then stuffed the rifle in its box, ran to his room, threw the gun, along with other belongings, into a bedspread, and ran down the hall carrying the bundle. He was spotted by a man living in the building named Charles Q. Stephens. He ran outside, panicked, threw the bundle in the doorway of the Canipe Amusement Company one door down, and sped out of town in his white Mustang.

The bundle was picked up by police immediately after the assassination. Ray's fingerprints were discovered not only on the rifle but on a pair of binoculars, some beer cans and other objects. Some items were easily traced to Ray by different means, such as the radio engraved with his Missouri State Prison number which he had not quite scratched out. In the next two months Ray, acting alone, fled through the U.S., Canada and Portugal to England, where he was eventually captured at London's Heathrow Airport.

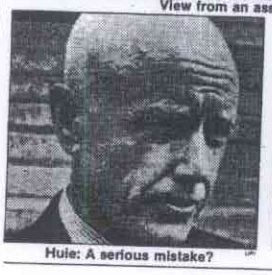
Ray's attorneys question this scenario. For starters, they say there were eyewitnesses who saw the shot come from bushes behind the rooming house —not from Ray's second floor bathroom window. Solomon Jones, King's chauffeur who was below the balcony talking to King, said he saw the shot hit King and lift him slightly before he fell. "I turned around and saw a man with a white sheet on his face in some bushes over there," Jones told reporters within the first half-hour. The man was holding a rifle. When the gunman "hunkered down again" as if to fire another shot, Jones ducked for cover behind a car. When he looked up again the man had gotten up, minus the sheet; he was out of the bushes and joining the frenzied crowd, where Jones lost sight of him. He looked not at all like Ray. Percy Foreman has reportedly said that Jones backed off this account when he questioned him, but Livingston says that the defense would expect Jones to be an important witness if the case ever comes to trial.

Another witness who was near the bushes at the time of the assassination told police a nearly identical version. And at last October's hearing, statements were unearthed from two rooming house residents who also said they thought the shot came from the bushes. Their accounts were among those collected early in the case by the Shelby County Public Defender's office. It took a Supreme Court ruling of 1974 to force county officials to release the file for the hearing.

No witnesses could say the shot came from the window. Shortly after the assassination a dramatic photo was taken of King's associates standing on the balcony pointing toward what was widely assumed to be the assassin's lair. Since they are pointing up, not down to where a man in the bushes would have been, this has been taken as evidence that the shot came from the rooming house window. But another photo, taken moments later, show them pointing in a totally different direction. Later the same evening they said they had no idea where the shot came from.



View from an assassin's window?



Huie: A serious mistake?

Foreman: A braggart?

The testimony of Charles Q. Stephens that Ray was the one fleeing the rooming house has been severely damaged. He initially changed his story several times, making it fit James Earl Ray only after he became the suspect. Stephens was too drunk at the time anyway, said cab driver James McCraw at the evidentiary hearing in 1974, to observe anything at all or even stand up. Nevertheless the state spent $31,000 holding Stephens as its star witness.

The woman living with Stephens, Grace Walden, publicly disputed his story at the time. She said a man did run from the bathroom but that he was much smaller—weighing about 125 pounds—than Ray turned out to be, and that he had different colored hair. The state hustled her off to a mental hospital. Two years later, she charged, according to her lawyer, "that although she was a material witness and she had informed the Memphis police . . . as to the details of her knowledge, such information was deliberately concealed . . . and she was unlawfully shuttled off."

What about the bullet? Could the bullet be traced to Ray's rifle? The answer was no. FBI firearms expert Robert Frazier concluded that "because of distortion due to mutilation and insufficient marks of value, I could draw no conclusion as to whether or not the submitted bullet was fired from the submitted rifle." Publicly the FBI merely said the bullet was "consistent with" Ray's gun. This sounds impressive but is legally meaningless. Also, the state says a dent on the bathroom windowsill is "consistent with" the underside of the rifle barrel and that marks in the dingy bathtub were "consistent with" the shoe scuffs Ray could have left there squirming for a shot out the window.

Herbert McDonnell, a ballistics expert testifying on Ray's behalf at the October hearing, suggested that, if the FBI had performed the test correctly, the gun and bullet could have been matched. He claimed that an identification could have been possible if the rifle was test-fired to examine the slugs. There are other tests, too, that chemically match bullets with gun residues. If the FBI ever performed these tests it never told anyone. There is no direct evidence that Ray's rifle fired the fatal shot.

McDonnell also testified that there was no way the rifle could have been fired from the window at King as the state claims. "To get the proper angle, the rifle would have stuck six inches into the wall," he said. This point has been mentioned ever since the first attempts were made to reconstruct the assassination scene.

At the time of the assassination, the view from the window was blocked by

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Who else may have been involved in the assassination? In the two months following the murder, Ray used three aliases. All were real men strongly resembling Ray. If Ray was working alone he was remarkably resourceful to come up with these false identities.

trees which were cut down a few days later.

Ray himself claims to have signed into the rooming house under the name of John Willard. The manager, Mrs. Bessie Brewer, told reporters she could not identify Ray as this man because Willard was more slightly built, like the man seen fleeing the bathroom by Grace Walden. Bertie Reeves, a rooming house resident who was present at the time, agreed with Brewer. Clothes were later found in Ray's car that were sizes too small for him.

From parts of Mrs. Brewer's description, an FBI sketch of Willard was made and circulated in the days after the murder. It did not resemble Ray.

Ray's own version of his whereabouts during the assassination has changed over the years, though he always has contended (except in his signed confession) that he was not in the rooming house at the time of the shot. For a year after his 1968 capture Ray claimed he was in Jim's Grill below the rooming house. He said Raoul came running out and they drove off together in the white Mustang. After a few blocks Raoul told him to stop the car and fled. Ray never saw him again.

However, in a rare interview from his jail cell in May 1974, Ray said he was at a gas station getting a tire filled when King was killed. "When I got to the rooming house police were swarming all over the place." Fearing that the commotion was because the police had captured Raoul and the gunrunner Raoul had planned to meet, Ray fled south by back roads. He found out what had happened on the car radio. "It wasn't until then that I learned I had been associated with the men who killed Dr. King."

What about the bundle and the gun covered with Ray's telltale fingerprints?

When King was shot a large crew of police stationed in the fire house nearby was watching him through peepholes with binoculars. Most of them immediately ran to the motel. But one deputy sheriff testified that he ran toward the front of the rooming house and found the bundle already in Canipe's doorway. Could Ray have moved so fast?

Guy Canipe and customers in his store made statements to Arthur Hanes Jr. that the bundle was there for at least five minutes before the police arrived.

Could this evidence stand up to cross-examination? Without a trial we'll never know.

The next question is even more open-ended: Who else may have been involved in the assassination? Some evidence suggests that there were others involved.

The day before King was to arrive in Memphis, a man appeared at the Lorraine Motel saying he was a security advance man from King's party and had come to check out the accommodations. The motel's black owners were ardent King admirers and had prepared the best ground-floor suite for him. The man said this would not do at all, that Dr. King insisted on having a room on the second floor overlooking the swimming pool in the back. The arrangements were hastily switched. Did this switch set King up for the shot? When King's entourage arrived, they were completely puzzled by the incident; none of them knew the advance man.

One of the items released last fall to Ray's lawyers by county officials, in compliance with the Supreme Court ruling, was the testimony of another rooming house resident, Harry Locke. Locke said he saw three men in Ray's room two hours before the shooting. He does not identify Ray among them.

Ray's movements from the time he broke out of jail to his capture in London have been carefully examined. Writers who take the no-conspiracy position have drawn a picture of Ray wandering alone and aimlessly during this time.

But in the two months after the murder, Ray used three aliases: Eric S. Galt, Paul Bridgman and Ramon George Sneyd. All are real men in Toronto who bear a strong physical resemblance to Ray. In Galt's case this resemblance even extends to small scars on the right palm and forehead. If Ray was working alone he was remarkably resourceful to come up with these false identities.

Then there's the reported $12,000 or more Ray spent after his jailbreak and before his capture. Where did he get it? The explanation that he might have run a dope ring in prison and smuggled and robbed afterwards came under challenge. And how could he get around so smoothly, fake passport and all? Canadian police were widely quoted saying they thought he could not possibly have done so without accomplices.

After Ray was publicized as the King suspect, one of his former fellow inmates claimed that in 1963, when some prisoners discussed a million-dollar bounty rumored to be on King's head, Ray chimed in and said he was going to get it. This is cited by some as the time his fantasy world first centered on King. But even if that were true, suppose the bounty were real?

While the debate continues, the search goes on for new information (James Lesar was once a member of the privately funded Committee to Investigate Assassinations where Fensterwald is now the executive director).

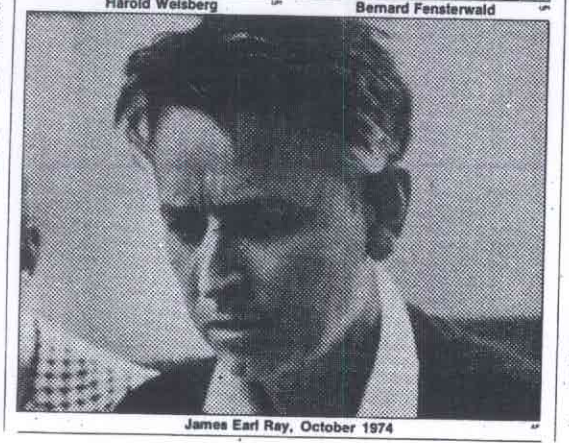
One line of inquiry, the work of former Memphis *Press-Scimitar* reporter Wayne Chastain, concerns a man who some followers of the case suspect was a member of the murder team—if not the gunman, an active accomplice of some kind. To avoid libel, Chastain has referred to him as "Jack Armstrong."

The owner of the grill below the rooming house and the waitress there have identified him, from pictures, as a man who was in the restaurant an hour before the shooting.

Chastain suspects Armstrong was the man who, five days after the shooting, visited Memphis lawyer Russell X. Thompson and two local ministers, all of whom were rattled enough to call the police.

Harold Weisberg

Bernard Fensterwald



James Earl Ray, October 1974

He showed up at Thompson's office early in the morning when only Thompson was there. With an air of bravado he exhibited a gun-drawing stunt and puffed Cuban cigarettes. He claimed his "roommate" had shot King from a bushy area, not the rooming house window as news reports were saying, and that he wanted Thompson to represent him or his roommate. "It will be my lousy luck that the police will arrest me and charge me with King's murder," he said at one point. "They picked me up last Friday." Thompson declined because the man refused to give more detail or even to use his real name.

About four hours after Thompson's visitor left, a man who fit the same description presented a somewhat different story to two ministers in another part of town, but the essence—that his "friend" had shot Martin Luther King—was the same. He also predicted to them that Robert Kennedy, then a presidential contender, would be shot if he won the California primary, which was just what happened two months later.

Ray himself picked Armstrong's photo as a man he saw twice on the afternoon of King's murder and who he suspected was Raoul's gunrunner.

Whatever Armstrong's part in the assassination, he could hardly be typecast in a more appropriate role. According to Chastain, his real life reads like something out of an international spy novel. A Southern-born gunrunner and soldier of fortune, he made his living fighting in, or against, most of the Latin American revolutions from 1954 to the early Sixties, after fighting as a guerrilla behind North Korean lines.

One widely publicized angle to the Ray case involves a man who has been claiming to be an intermediary for the two real killers. This man first contacted Robert Livingston in March 1974. The two hit men, his story went, are now ready to testify against their employers, who never fully paid them off. These employers are supposedly four wealthy, socially prominent individuals who wanted King dead for racist "national security" reasons. In exchange for immunity from prosecution the gunmen would produce enough evidence to convict the four higher-ups and clear Ray.

Ray himself, though, refused any part of such a deal or even to let the "intermediary" near his cell in Nashville.

On April 20th, 1974, Livingston and Fensterwald flew to Detroit for a motel rendezvous with the man. He "scared the hell out of Fensterwald," Livingston later said, with threats of what would happen to them if they betrayed him.

The meeting ended in a stalemate. The lawyers made it clear that they would be putting themselves in a conflict-of-interest situation if they represented his "clients" as well as Ray. They suggested he contact another lawyer or the state authorities.

He also wrote the then Tennessee assistant attorney general Henry Haile,

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who argued the state's side at the October evidentiary hearing. "I think this guy is some kind of fraud," says Haile. "There are a lot of nuts in this thing; they write me all the time with all sorts of different stories from all over the country, and they never check out."

Livingston tends to believe the man's story, but Ray's two other lawyers are more inclined to agree with Haile. Lesar has termed the offer "horseshit." The proposition first came at a touchy time in Ray's legal struggle. Had they accepted the offer, thinks Lesar, they might have found themselves led into a booby trap that would destroy their case.

The question that awakens the most paranoia is that of a high-level coverup.

A case in point was the year-and-a-half-long battle for the supposedly public record of Ray's 1968 extradition proceeding. After Ray's guilty plea, Harold Weisberg asked the Justice Department to see a copy of this record. Weisberg, a former government investigator and a perennial assassination researcher, has been a driving force behind Ray's legal battle.

By law his request for the court record should have been filled promptly. When several months of requests brought no acknowledgment, Weisberg retained Fensterwald as counsel to force some action.

The two got the bureaucratic runaround month after month. It took a Freedom of Information suit to force the supposedly public documents out of the government's grasp.

To Weisberg, it was immediately clear why the Department of Justice put up such determined resistance. Among other things, the file contained FBI fingerprint testimony indicating that not a single print of Ray's was found in his alleged getaway car, in the rooming house, the bathroom, on his furniture or anywhere else he is supposed to have been; a motel registration slip where Ray stayed the day before the murder which shows handwriting other than his filling in his license number; several items of evidence that further destroy the testimony of the state's witness Charles Stephens; and autopsy information on King that allegedly conflicts with the state's version about the fatal bullet and the wounds it caused.

Weisberg has only bitter words for the officials: "They've sworn falsely, they've misrepresented, they've deceived the courts." Weisberg, for one, firmly believes that a coverup is taking place.

Weisberg's charges did not raise much public ruckus, but former FBI officials certainly did when they revealed last March that the FBI ran a program of harassment and sabotage against King for nearly a decade. Former agents said that the FBI routinely planted derogatory stories about King's personal life hoping to prevent colleges and universities from giving him honorary degrees, placed false fire alarms about buildings where King was to speak, and made anonymous phone calls to King's own friends and associates with the intent to sow distrust among them. On one occasion the FBI tried to blackmail King by sending his wife a tape recording of his behavior at a party. Several former FBI officials have written the Senate committee investigating intelligence operations asking it to probe into the anti-King campaign.

One of the former agents making these charges is Arthur Murtagh, a 21-year FBI veteran who participated in both the JFK and King murder investigations. He is quoted as believing right-wing conspiracies were behind them both, and that the FBI "intentionally and deliberately" avoided looking at conspiracy leads in both cases. He says he personally observed the FBI "washing out evidence" in the Ray case.

The dividing line between fact and paranoia shifted considerably in late 1973 with the unearthing of J. Edgar Hoover's now famous COINTELPRO memos. In them Hoover outlined a nationwide counterintelligence program to "expose, disrupt, misdirect, discredit or otherwise neutralize the activities" of black nationalist organizations and their leaders, as well as those of the antiwar movement, socialist groups and others.

Just a month before King was shot, Hoover expanded the COINTELPRO to cover virtually all the civil rights movement. One of the long-range goals Hoover outlined was to "prevent the rise of a 'messiah' who could unify, and electrify, the militant black nationalist movement. [Deleted, presumably Malcolm X] might have been such a 'messiah'; he is the martyr of the movement today. . . . [Deleted, presumably King] could be a very real contender for this position should he abandon his supposed 'obedience' to 'white liberal doctrines' — nonviolence—and embrace nationalism. [Deleted] has the necessary charisma to be a real threat in this way."

If this material has boosted conspiracy theories into new respectability, the FBI can blame no one but itself. But if authorities are convinced that James Earl Ray killed Martin Luther King by himself, that conspiracy notions are mere phantoms of smoke, why not grant Ray the open trial he seeks and clear the air?