

CBS AND THE KING ASSASSINATION

# 'The Best Witness Stands Mute'

BY DICK RUSSELL

The original suspicions have been all but forgotten with the passing years. Even the first FBI wanted bulletin for the killer of Dr. Martin Luther King, Jr. charged "civil rights-conspiracy." Many media, including the New York Times, suggested in the days immediately following the murder that all the clues pointing to James Earl Ray looked like a setup to throw the FBI off the real assassin's tracks.

But after sleuthing through more than \$3.5 million and an estimated 3000 agents on the trail, the FBI came up with only Ray, a country-hopping convict whose trial took a half day for a guilty plea and 99-year sentence. Now, with Senate revelations about J. Edgar Hoover's long, vile harassment campaign against the black leader, the old doubts have surfaced once again.

CBS News, in last Friday's third installment of its four-part inquiry into "The American Assassins," took the media lead in calling for a new investigation either by Congress or an independent commission. However, as Jeff Cohen of the Assassination Information Bureau says, "They asked for reopening, but they really gave no grounds. Except for the lack of a motive by Ray. They left out the real guts of the conspiracy evidence."

If CBS's presentation lacked substance, according to Dan Rather it's because "the best witness stands mute." That is James Earl Ray himself, who says he was coerced into his guilty plea and declared at his evidentiary hearing for a new trial in 1974 that, "I personally did not shoot Dr. King, but I believe I may be partly responsible for his death."

CBS tried, but failed, to interview Ray. One man who succeeded—but whom CBS ignored—is Wayne Chastain, Memphis attorney and former investigative reporter whose third prison interview with Ray since 1973 was released in December by Pacific News Service.

Here, Ray again discusses his complicity with a mysterious French-Canadian named "Raoul," in what he was told would be a lucrative gun-smuggling scheme out of Memphis in April 1968.

"I got my moving order to go to Memphis March 28, 1968, in Birmingham, Alabama," Ray told Chastain. "I was told to drive no more than three hours a day and not to arrive in Memphis before April 3. At that time, those orders could only have come from either someone in King's camp or some high Justice Department official having access to information gained from wiretaps on King's telephones in Atlanta."

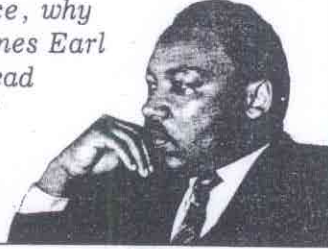
Ray bases this belief on the fact that King didn't announce publicly until April 1 his planned return to Memphis on the 3rd.

"By then, April 1, I was already halfway to Memphis," he says. "I can name a motel I stayed at near Columbus, Mississippi."

In an earlier interview with Chastain, Ray recounted his movements on the evening of the assassination: "Raoul told me he was going to meet this gunrunner

*'With so many leads to conspiracy and so little concrete evidence, why did James Earl Ray plead guilty?'*

Martin Luther King, Jr., April 1968



James Earl Ray, April 1973, asking for a new trial

at 6 p.m. and that the gunrunner would speak more freely if I was not there (in the Memphis rooming house). Raoul gave me \$200 and told me to go downtown and see a picture show."

Ray says Raoul instructed him to leave his Mustang behind, but Ray took the car anyway to get a low tire pumped up. At the gas station, three blocks away from his rooming house and King's Lorraine Motel, he then says he suddenly saw an ambulance pass. His watch said 6:05 (four minutes after Dr. King was shot). "I drove back, but when I got to the rooming house . . . police were swarming all over the place."

As CBS noted, Ray's story has changed enough over the years to cast serious doubt on his credibility. But, according to investigators, a black gas station attendant is willing to back up Ray's alibi in court—and there may be other witnesses, too.

"There are actually three witnesses who were at the gas station where Ray went to have his tire fixed," says assassination researcher Richard Sprague. "Jim Lesar (one of Ray's attorneys) may not have wanted to reveal this to CBS, because they may be scared somebody would murder them before any new trial comes up."

Whatever their ace is, Ray's Washington lawyers—Lesar and Bernard Fensterwald, Jr.—are

convinced they can get Ray acquitted at a new trial. The first motion for one was turned down last February and is currently waiting on a decision from the U.S. Sixth Court of Appeals. Until then, the 48-year-old Ray languishes at Nashville's Tennessee State Penitentiary, where he was recently released from solitary confinement to live among the prison population and work in the laundry.

Ray might never have been extradited from London, his place of capture in June 1968 but for the word of one Charles Q. Stephens. It was Stephens alone, an alcoholic with 155 arrests, who claimed he saw Ray in the rooming house at the time of the assassination. However, Stephens's very first statement to a reporter that night was: "I saw who done it . . . it was a nigger." Now CBS has shown him Ray's photograph and received this reply: "That was definitely not the guy."

Yet during Ray's extradition hearings, Stephens hadn't a shred of doubt about Ray's identity. Of course, according to the FBI's own affidavits later, the bureau did take Stephens into "protective custody" at posh hotels, hide him from the press, and pay his drinking bills. Based on the figures of Memphis police chief Henry Lux, investigator Harold Weisberg computed that it cost taxpayers

\$31,000 to hold the state's "star witness."

It's unfortunate CBS couldn't produce Stephens's common-law wife, Grace Walden. For, on the same day the FBI whisked Stephens into protective custody, someone in the Memphis city government had Grace Walden committed to a mental institution. She, too, was in the rooming house that night, although her story clashed severely with Stephens's. Indeed, her attorney charged that the FBI, county prosecutor, and Memphis police put her away to destroy her credibility as a witness. Three years passed before a judge ruled her commitment illegal—and unorthodox.

Grace Walden's story, as she told it to Chastain and other reporters, never varied. Only moments after the assassination, she said she saw a white man—about five feet six, 50ish, wearing a military field jacket—leave the rooming house bathroom where the shot was allegedly fired. He wasn't carrying anything with him, but rapidly disappeared down the hall where she heard two doors slam.

There was later found, in Ray's Mustang, clothing too small for Ray but fitting someone like Walden described. That description is also a close match for Ray's recollection of Raoul, who quite plausibly may have deposited on the street the incriminating rifle in the bundle of Ray's clothes. Further credence is a recently discovered file among the papers of Ray's first lawyer Arthur Hanes. It notes that Viceroy cigarette butts were discovered both in Ray's car ashtrays and his room 5B. Ray does not, and did not, smoke.

Perhaps the most telling feature of Grace Walden's story, though, is her feeling that the shot sounded like it came from outside her window. This would place it coming from the rooming house yard, where bushes atop an embankment faced King's motel across the street. CBS didn't examine this possibility, although Walden is not alone in her belief.

Solomon Jones, King's chauffeur who was standing below in the motel courtyard as King leaned over the second floor balcony, has told Chastain that King seemed to be lifted upward by the bullet. "I heard the shot and turned around," Jones went on, "and saw a man with a white sheet on his face in some bushes over there." When the gunman "bunkered down again" as if to fire, Jones took cover. Looking up, he thought he saw the same man, without white sheet or rifle, come out of the bushes and casually join firemen running toward the motel.

Two similar stories surfaced that night. The wire services told of an 11-year-old black youth, who has never been identified, seeing a white man jump down from the bushes onto the street. The boy apparently ran to tell his story at the nearby fire station, and was rushed to police headquarters. And a roofer named Harold Carter claimed to have been drinking wine in the bushes when a shot rang loudly in his ear and a man

flew by so close that "he kicked gravel on me."

At Ray's 1974 hearing for a retrial, ballistics expert Herbert MacDonnell testified there was "no way" King could have been fatally struck from the bathroom window. "To get the proper angle, the rifle would have stuck six inches into the wall." Dr. J. T. Francisco, the Shelby County medical examiner originally assigned to determine circumstances and cause of death, said under oath: "From my findings, I could not exclude other sites as the source of the bullet."

MacDonnell also took exception to an FBI ballistics report that stated: "Due to mutilation, no conclusion could be drawn that the submitted bullet (from King's body) came from the submitted rifle (bought by Ray)." An identification, MacDonnell said, could have been possible if the rifle had been test-fired to examine the slugs.

Then, last December at a Washington press conference called by Congressman John Conyers, semi-official King investigator Harold Weisberg released the latest material he'd obtained through Freedom of Information lawsuits against the FBI. Weisberg argued that the lack of powder marks or damage to the outer ledge of Ray's alleged windowsill sniper's nest, plus the absence of any marks on the muzzle of the supposed murder weapon, proved the shot came from elsewhere.

Weisberg then used the FBI's declassified ballistics evidence to go several steps further than CBS did. The bullet advertised for use in the 30.06 type rifle with Ray's fingerprints is made of several different metals and explodes on contact. However, the bullet the FBI says killed King has no such pattern. Weisberg maintains the FBI knows its bullet is only a fragment, also that the bureau has withheld the true results of spectrographic analysis on King. Its tests list only one metal in the clothing around King's fatal wound, while the type of bullet used in Ray's gun always leaves traces of several metals.

In fact, according to Weisberg, there were two bullet wounds, one caused by an exploding bullet hitting King in the throat. FBI documents describing King's tie being blown off are used to support this theory. These documents seem to contradict medical examiner Francisco's testimony that the neck wound was a surgical incision, and that the only bullet struck King up near his cheek bone.

Finally, Weisberg claims personal knowledge of FBI sketches of other suspects and FBI conspiracy warrants originally filed in Birmingham, none of which were provided him despite his lawsuit.

Weisberg says he refused to appear on CBS after the network filed an application for government material about Ray and "accompanied it with allegations quite prejudicial to the defendant." At any rate, it does seem clear CBS could have obtained more hard

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# Assassination

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technical evidence—from either Weisberg or court records.

The program did examine, and justifiably discount, the idea that King might have been taunted by the FBI into residing in the black-owned Lorraine Motel. Not raised was a far more crucial question about King's accommodations, uncovered by Wayne Chastain in an interview with a motel employ-

ee. A day before King arrived in Memphis, according to the employee, the manager of the Lorraine was apparently visited by "an advance security man for Dr. King." Finding that King's suite was arranged for the ground floor, the "advance man" requested a change, saying "Dr. King always likes to stay on the second floor overlooking a swimming pool."

When the man departed, the motel manager scoffed at the employee's suspicion that the fellow had been "a white man imitating a black." King's room accommoda-

tions were changed accordingly. Yet no advance man had ever been assigned for his Memphis trip, and nobody in his entourage could fit the description. The motel manager is not available for comment; she died of a heart attack on the day of the assassination.

Why then, with so many leads to conspiracy and so little concrete evidence linking him directly to King's murder, did James Earl Ray plead guilty? CBS's conclusion was "Motive unclear." From testimony at Ray's 1974 hearing about attorneys Arthur Hanes and Percy Foreman and author William Bradford Huie (author of "The Execution of Private Slovik," "Wolf Whistle," (about the Emmett Till case), and a number of other books and novels)—the three principals involved in getting that plea—their motive is at least as murky as the case itself.

Although Ray's two brothers might logically be expected to defend his innocence, CBS should probably have taken a long look at the 1974 testimony of John and Jerry Ray, who maintain they

were pressured to convince James Earl to confess his guilt.

The confusion over Ray's situation started late in 1968, when Ray began fearing that author Huie was influencing his legal strategy through a lucrative book contract he shared with attorney Hanes, who incidentally was an ex-CIA contract employee and ex-mayor of Birmingham. So Ray fired Hanes, the trial got postponed, and Percy Foreman entered the scene. Foreman was a well-known Texas defender who compared himself to Clarence Darrow, had Jack Ruby as a brief client, and soon negotiated his own 60 per cent royalty agreement with author Huie.

In the interim, Huie had been traveling the country uncovering leads about a "vast conspiracy," which he soon announced in a two-part article for *Look Magazine*. Researcher Richard Sprague recalls Huie telling him that "he'd found three women—one in Atlanta and two in Montreal—who had seen Ray and Raoul together in bars." This fact didn't appear in Huie's

book. Indeed, when "He Slew the Dreamer" was published in 1970, Huie's conspiracy notions had taken a 180-degree turn. Apologizing in his final chapter for once "plugging conspiracy," he concluded that James Earl Ray was "another twisted nut who kills a famous man to get on television."

The Ray brothers recall Foreman as taking the strongest stand against conspiracy. John Ray remembers Foreman first telling him "he'd have Jimmy walking the streets in no time." Not long after, both brothers recall "he didn't want Jimmy to testify because he'd talk about conspiracy." Foreman has defended his reasoning because he felt conspiracy talk would make Ray look even guiltier. As the trial date neared, brother Jerry says Foreman told him the prosecution would choose an "upper-class, blue-ribbon jury" and "if James didn't change his plea, he might get burned."

Two days before the guilty plea was entered, John visited his brother in jail. He remembers: "Jimmy said he was up for three

days because he didn't want to plead guilty, and the judge said he couldn't get no more lawyers and no more continuances. He said Foreman had all his money, and he couldn't hire a lawyer anyway. That Foreman had him boxed in. He said he didn't have no choice."

And so it went—a morning in court, no questions on the evidence, no witnesses for the defense, 99 years. Percy Foreman faded from notoriety until early in 1975, when he was indicted along with two members of the H. L. Hunt oil clan for trying to buy the silence of three private detectives who wiretapped the Hunts in a late 1969 family feud. Late in September, Foreman and both Hunt brothers gained acquittal, after admittedly spending almost \$1 million to defend themselves.

Almost eight years since the King assassination, that case refuses to rest. It is probably the most wide open of the tragedies involving "The American Assassins." CBS, to its credit, seems to agree. □