

Hon. Joseph B. Brown, Judge  
Shelby County Criminal Court  
Memphis, TN.

Harold Weisberg  
7627 Old Receiver Rd.  
Frederick, MD 21702

7/42/97

Dear Judge Brown,

Please excuse my typing. It cannot be any better. I'm 84 and in seriously impaired health. The more serious of my recent hospitalizations were for congestive heart failure, renal failure and exceptionally high blood pressure.

I write you because of what I have read in this morning's New York Times and Washington Post. I have relevant knowledge, as I'll explain.

The Times says you "instructed" both sides "to petition the Government for the return of bullets fired in the initial tests by the F.B.I." It also quotes you as stating, "I'm not going to allow the vicissitudes of somebody's artful cross-examination to keep me, from as the trier of facts, from getting to the bottom of this."

The Post, with Reuters its apparent source, states that you "ordered" both sides "to ask the FBI to unseal the results of the forensic examination of Ray's rifle which they conducted after King was killed."

I have two involvements in this matter that give me what I believe is some unique knowledge. I assume that if what I tell you you regard as pertinent you will inform both sides of it. I may appear to be partisan in this matter but I believe I am not.

First I wrote a book entirely from public domain sources. In it I used the Freedom of Information Act to obtain copies of what the government provided to the British court to get Ray extradited. Although that information was made public in England, I had to sue to obtain copies here in the United States.

Not being a lawyer I cannot be certain but I believe that you should be aware of some of that information at least some of which was perjurious and I believe involved the subornation of perjury. I am aware that the statute has run. I go into this because of what you are quoted as saying and wanting to learn.

The Post story also quotes you as saying that "justice might be served if we were able to examine these bullets (allegedly test fired by the FBI) and the court feels that the state of Tennessee has a claim on that evidence." Unless the FBI lied to federal district court in Washington in my C.A. 75-1996, the FBI either did not do that test firing of that rifle or hid from me the evidence you refer to that under the law and in that lawsuit should have been at least offered to me. In addition, there were nine stuffed cartons of such evidence in the office of Bubba Blackwell in the early 1970s. *He was clerk of your court.*

I was then Ray's investigator. Under discovery we were given a total of but two days to go over the vast amount of information that existed. I could hardly

glance at most of it. As I recall there were none stuffed cartons said to be of evidence provided by the FBI.

I am certain that with any such bullet relevant in my C.A. 75-1996 I was not only not shown such test bullets or offered access to them or what under the law I should have gotten automatically, photographs of them, it is my recollection that I was told the rifle had not been test-fired for the reason given in the affidavit provided by then FBI Laboratory agent Robert Frazier that I obtained in the suit for the extradition records.

Here I must explain why I provide this paragraph of that affidavit in the form in which I do. It is unsafe for me to use stairs and the some 80,000 pages of previously withheld FBI pages relating to the King assassination are in our basement. Along with about a quarter of a million pages of records relating to the assassination of President Kennedy also obtained by FOIA litigation as well as much of my work product.

As a matter of both practice and belief I make and have always made all the information I received under FOIA freely available to all, the almost all of those with whom I do not agree, along with the use of our copier, all unsupervised. The attached page is from my book. In writing it I found this one paragraph of the Frazier affidavit all that was relevant. It is my recollection that he also stated, if not there in the later litigation, that after examining the remnant of bullet removed from Dr. King's body he did no test firing for comparison because he decided that the specimen was not suitable. (Note that he refers to the fragment as a bullet, which it was not.)

My recollection of both the records provided and the testimony in that FOIA lawsuit is that, and on this I am certain, the FBI did not even swab test that rifle to determine whether it had been fired since it was last cleaned. You will find this in the testimony of Quinlan J. Shea, Jr., who was then the FOIA appeals officer of the Department of Justice—their witness in my litigation. I had appealed the seeming withholding of some of the kind of evidence you are quoted as believing is necessary if justice is to be served. That included swab testing. The FBI provided none and under oath Shea testified that it did not exist, was not done.

Many rifles were test fired then, in that case, those known to have nothing to do with the case. This included even the smaller caliber rifle Ray had bought and returned even though it could not be fired because of the encrustation of cosmoline! The FBI removed that cosmoline and test fired that irrelevant rifle. If my recollection is correct it test fired a dozen or more, with meager results given me in that FOIA lawsuit.

This and all the other information I obtained in those FOIA lawsuits



are supposed thereafter to be freely accessible to all in the FBI's public reading room. If that does not apply to the <sup>S</sup>hca testimony and if it is of interest <sup>I</sup> bought the stenographic transcript of it. I gave a copy to my lawyer, James H. Lesar, 918 F St., NW, Suite #509, Washington, DC 20004. I presume it is also on file with the court. The judge was the Hon. June Green.

Because I am not a lawyer I want not to do what might be considered in any way improper. I therefore do not go into what I know, what I have proof of in some instances, with which, the words attributed to you, "justice might be served."

Travel is not safe for me so I cannot offer to go to Memphis but if the court wants me questioned, I waive the hundred mile limitation that I believe exists in some civil cases and am willing to be questioned here, by anyone you may want to send, if you should.

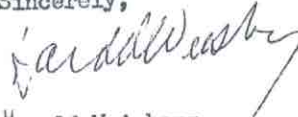
I am ~~old~~, my health is precarious, and I fear that relevant evidence may die with me.

Without the access to our basement I do not have I cannot be certain but I know that the FBI records I obtained include those of headquarters, the Memphis field office and those of the Atlanta, Birmingham, and St. Louis offices plus others.

All FBI Lab records were not duplicated in the "main" <sup>king</sup> assassination file known as "MURKIN."

There may be people in Memphis and the <sup>a</sup>rea who later may have an interest in these records. They will all be part of a public archive at local Hood College. The librarian is Charles Kuhn. The professor of history who has most familiarity with it is Dr. Gerald McKnight. Some of his students have used some of these records for honors papers and McKnight has a book on The Last Crusade, the Poor Peoples Campaign, due about the end of the year.

Sincerely,

  
Harold Weisberg

There is a rule of each House of the Congress unless changed from the 1930s when I was a Senate investigator and editor, to protect privacy <sup>A</sup>ll not made public in proceedings <sup>is</sup> held confidential. But either House can waive this rule as it applies to that house by a simple resolution. So, that material can be made available promptly.

6. 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.

*Robert A. Frazier*  
ROBERT A. FRAZIER

This excerpt from FBI firearms expert Robert A. Frazier's affidavit, used in the Ray extradition, then confiscated and suppressed, says what is false, that a bullet was recovered, and admits there is no proof it came from the "Ray" rifle (see pp. 225ff).

9. Right after the shot, I heard through a broken pane in my kitchen window a lot of voices yelling and hollering across the street from my building near the Lorraine Motel. I looked out my window toward the noise and I saw a lot of people milling around near the motel. Then I went to my door and opened it. I would say that about a minute, not more, passed between my hearing the shot and when I opened the door. First, I looked toward the bathroom and I saw that the door was open and it was empty. Then I went to the banister and looked the other way. When I did, I saw a man running near the end of the hallway. I have put an "O" mark on the floor plan, Exhibit I, to show about where he was when I saw him. He was carrying a bundle in his right hand. From what I could see, the bundle was at least three or four feet long and six or eight inches thick. The bundle appeared to be wrapped in what looked like newspaper. The man turned left toward the stairs when he reached the end of the hallway. Although I did not get a long look at him before he turned left, I think it was the same man I saw earlier with Mrs. Brewer looking at Room 5-B. The man running down the hall had on a dark suit, the same as the man I saw earlier.

*Charles Quintan Stephens*  
CHARLES QUINTAN STEPHENS

Charles Quintan ("Bourbon Charley") Stephens' affidavit, used to get Ray extradited, fails to make positive identification, says other than represented in the affidavit, it actually proof he saw and could have seen nothing of the alleged fleeing man (see pp. 24ff and pp. 154ff).

**CERTIFICATE OF DEATH**  
TENNESSEE DEPARTMENT OF PUBLIC HEALTH  
DIVISION OF VITAL STATISTICS

FIRST NAME Martin Luther King, Jr.		MIDDLE NAME Luther		LAST NAME King, Jr.	
SEX Male	AGE - LAST BIRTHDAY 39	DATE OF BIRTH 1/15/29	PLACE OF BIRTH Atlanta, Ga.	EDUCATION High School	RELIGION Methodist
CITY, TOWN, OR LOCATION OF DEATH Memphis	CITY, TOWN, OR LOCATION OF RESIDENCE Memphis	CITIZENSHIP American	MARRIAGE STATUS Married	DATE OF MARRIAGE 1/1/58	NAME OF SPOUSE Coretta Scott King
STATE OF BIRTH Georgia	COUNTY OF BIRTH Fulton	CITY, TOWN, OR LOCATION OF BIRTH Atlanta	STATE OF DEATH Tennessee	CITY, TOWN, OR LOCATION OF DEATH Memphis	STATE OF DEATH Tennessee
SOCIAL SECURITY NUMBER 253-36-3980	EDUCATION High School	INDUSTRY OR OCCUPATION Minister & Civil Rights Leader	DATE OF DEATH 4-4-68	PLACE OF DEATH 406 Mulberry	CAUSE OF DEATH Gunshot wound to thoracic cord
FATHER - NAME Martin L. King, Sr.	MOTHER - MAIDEN NAME Alberta Williams	INFORMANT - NAME Coretta	SIGNATURE <i>[Signature]</i>		

618 JEFFERSON AVENUE, MEMPHIS, TENNESSEE 38103

For court purposes, what was used could not qualify for court purposes. (See p. 442.)

*[Signature]*  
Sgt. [Name], Deputy Registrar

**REGISTRATION CARD**

NOTE: TO BE FILLED BY THE REGISTRAR OR HIS ASSISTANT. THIS CARD IS TO BE FILED IN THE REGISTRATION DIVISION OF THE TENNESSEE DEPARTMENT OF PUBLIC HEALTH. IT IS A REPRODUCTION OF A COPY MADE IN THE ORIGINAL DIVISION OF VITAL STATISTICS. FEE \$1.00 PER COPY.

NAME: *Coretta Scott King*  
STREET: *2608 Highland Ave*  
CITY: *Memphis* STATE: *Tennessee*

REGISTRATION DIVISION  
138193  
DATE: *4-11-68*  
MADE BY: *[Signature]*

THIS IS YOUR RECEIPT

NEW REBEL MOTOR HOTEL  
3600 VAN CANTER AVE. MEMPHIS, TENN.



Suppressed New Rebel Motel registration card, with handwriting other than Ray's. Pivotal evidence, license number, not in his handwriting. (See pp. 442.)



## Weather

Sunny today with highs in the mid to upper 80s. Complete forecast on A2.

# The Frederick

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6 Sections

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Frede

## The rifle

Test bullets fired from a rifle belonging to James Earl Ray had characteristics different than the slug that killed Martin Luther King Jr.

Specifications	
Caliber	30.06
Capacity	4 in clip magazine plus one in chamber
Barrel length	22"
Overall length	42"
Stock and fore-end	American walnut
Average weight	7 1/2 pounds



760 "Gamemaster" pump action rifle

## Ray's rifle ruled

By MATTHEW BARTAKAT  
News-Post Staff

While a judge in a Memphis courtroom said Friday that the bullet that killed Martin Luther King Jr. doesn't match the rifle linked to convicted assassin James Earl Ray, a Frederick man says he proved that same fact in court more than 20 years ago, but the evidence was ignored.

Harold Weisberg, 84, an author and former Senate investigator,

worked as an investigator for Ray's defense team in the early 1970s. Mr. Weisberg says they proved during a two-week evidentiary hearing that Ray could not have fired the shot that killed Dr. King.

"The butt of his rifle would have had to been in the wall of the bathroom," Mr. Weisberg said.

Jim Lesar, who was Ray's lawyer from 1970 to 1976 and is now president of the Assassination Archives Research Center in Washington, agreed.

# Post

Good morning!

An idea can turn to dust or magic depending on the talent that rubs against it.

- William Bernbauch

my

rick, Maryland 21705

www.fredericknewspost.com

50¢

## out 20 years ago

"We put on evidence that was contradicted that the rifle could not have been fired from the rooming-house window in the manner alleged by the state of Tennessee," Mr. Lesar said. "The whole thing was absolutely ludicrous."

Despite the evidence that was presented, the judge ruled that Ray was not entitled to a trial because he pleaded guilty to the assassination in 1969, ending his right to a trial.

But now that the King family has

requested a trial and said they believe Ray, there seems to be more willingness to question inconsistencies that were overlooked in the '70s.

"The difference now is that the King family has said they want a trial," Mr. Weisberg said. "Unfortunately the King family was silent when their support would have meant the most."

Despite the revival of interest

(Continued on Page A-5)

## Ray's \_\_\_\_\_

(Continued from Page A-1)

and the judge's statement today. Mr. Lesar is skeptical that Ray will be granted a trial.

"Everybody knows they don't have enough evidence to get a conviction. They didn't have it then and they certainly don't have it now. Really the only question is whether they'll do the decent thing and set him free," Mr. Lesar said. "But there should be an investigation. Somebody did it. Ray didn't do it."

Mr. Weisberg, who received and reviewed 80,000 pages of previously classified documents on the assassination under the Freedom of Information Act, said that if Ray played any role in the assassination it was done unwittingly.

"I don't think there's any question that he (Ray) was being manipulated by criminals," he said.

The Old Receiver Road resident remains angry at the actions of government agencies he said deliberately hampered a full investigation of Dr. King's death.

"You have no idea how badly every authority of government behaved," Mr. Weisberg said. "There should be a stink that shakes this country to its roots."



# Tests of Gun in King Killing Are Inconclusive

NY Times 7/11/68  
By KEVIN SACK

MEMPHIS, July 11 — After hearing that initial ballistics tests were inconclusive, a judge today held out the possibility that he might order more testing of the high-powered rifle that prosecutors believe was used by James Earl Ray to assassinate the Rev. Dr. Martin Luther King Jr.

In their crusade to win a trial for Mr. Ray before he succumbs to liver disease, lawyers for Mr. Ray are counting heavily on their ability to demonstrate that the rifle, a Remington .30-06, which was marked with Mr. Ray's fingerprints, did not fire the shot that killed Dr. King on the balcony of the Lorraine Motel in Memphis on April 4, 1968.

The rifle was found in an entryway near the boarding house where Mr. Ray had rented a room, and where prosecutors believe he fired the fatal shot from a bathroom window. Mr. Ray initially pleaded guilty to the killing and was sentenced to 99 years in prison. He then quickly recanted and said his lawyers had pressured him to confess so he would escape the death penalty.

The rifle was tested twice previously, once by the Federal Bureau of Investigation shortly after the shooting and once by the House Select Committee on Assassinations in its investigation in 1977. Both studies failed to conclude definitively whether the fatal bullet, now in three fragments, had been fired by the rifle.

On Feb. 20, Judge Joseph B. Brown Jr. of Shelby County Criminal Court ruled that Mr. Ray's lawyers could have the rifle tested again, on the chance that newly developed electron-scanning techniques might find microscopic markings that could not previously be detected. But at a contentious hearing today, a member of the team of ballistics experts who tested the rifle on May 16 testified that he still could not say whether the weapon had fired the fatal shot.

"We are inconclusive on the findings for what we have done up to this point," said Robert A. Hathaway, one of three experts who were hired by Mr. Ray's lawyers to compare the fatal bullet with the 18 test rounds fired in a Rhode Island laboratory.

What captured Judge Brown's attention, however, was Mr. Hatha-

way's assertion that 12 of the 18 test bullets bore what the expert described as "a reference point," a raised mark that was distinctive but fell short of the kind of groove or striation normally used to match a bullet with a gun. The bullet that killed Dr. King does not show the same marking, Mr. Hathaway said.

Mr. Ray's lead lawyer, William F. Pepper, said this first finding of a distinction between the fatal bullet and test bullets fired by the rifle "was a major breakthrough." But Mr. Pepper's own expert, Mr. Hathaway, said the markings were probably caused by copper deposits left inside the barrel of the gun by heated bullets as they passed through it.

He said he had not taken steps to

## No easy answer on whether a rifle fired a fatal shot nearly 30 years ago.

clean the deposits because he was worried that doing so would alter the inner surface of the barrel, compromising future efforts to use the gun as evidence. Another possibility is that the barrel has a permanent defect that should leave similar markings on any bullet fired through it.

After a nearly four-hour hearing, Judge Brown deferred ruling on the request by Mr. Ray's lawyers for more gun tests. He ordered the lawyers and county prosecutors to return to court next Friday with more information about whether a variety of barrel-cleaning techniques, including the use of brushes and solvents, might clear away the deposits without altering the inside of the gun.

He also instructed them to petition the Government for the return of bullets fired in the initial tests by the F.B.I. Today, ballistics experts testified that it would be useful to see whether the markings found in the May tests were on bullets that were fired shortly after the assassination.

But both Mr. Pepper and John

Campbell, an assistant district attorney, said today that they believed that the F.B.I. test bullets might be part of the House committee's evidence, which was sealed for 50 years after its inquiry was completed.

Today's hearing featured vigorous cross-examination of Mr. Hathaway and two prosecution gun experts by Judge Brown, who demonstrated a detailed knowledge of the science and terminology of ballistics. Asked in his chambers during a recess how he had gained his expertise, the judge pointed to a firing range target hanging on his closet door that had been sprayed with 50 rounds in and around the bull's-eye. He opened the door to display seven hunting rifles.

The judge said he owned nearly 50 rifles and handguns. "I like to shoot," he said. "Been doing it 30 years. I've studied it up, down, all around."

When prosecutors objected to his aggressive cross-examination of witnesses, the judge injected a sense of historical import to an otherwise dry proceeding about bullet markings and gun cleaning.

"Dr. King is dead, in his grave, a national hero, a world hero, a national holiday named after him," Judge Brown said. "And I'm not going to allow the vicissitudes of somebody's artful cross-examination to keep me, as the trier of fact, from getting to the bottom of this. Overruled."

Now 69, Mr. Ray has recently won vigorous support from Dr. King's family, led by Dr. King's 37-year-old son, Dexter Scott King. After being persuaded of Mr. Ray's innocence by Mr. Pepper, Mr. King and his family have asserted that Mr. Ray was uninvolved in the assassination plot, which they contend was hatched by the Federal Government.

Although the King family supports measures that might win a new trial for Mr. Ray, Mr. Campbell, the prosecutor, said after today's hearing that he saw no reason for further testing of the rifle.

"I've seen nothing to convince me that it would solve anything other than run up a bill and increase the controversy," he said. "It will not answer any questions."



7/12/97

Robert Hathaway tells Memphis court that markings from newly test-fired bullet differ from those on bullet that killed King in 1968.



BY JOHN L. FOCHT—ASSOCIATED PRESS

## Ballistic Tests on Ray Rifle Show Inconsistencies, Expert Testifies

### Judge Reviewing King Killing Wants to See FBI Records

By Roberto Suro  
Washington Post Staff Writer

Bullets recently test fired from the rifle belonging to James Earl Ray bore markings unlike those found on the bullet that killed Martin Luther King Jr. in 1968, according to a ballistics expert who testified yesterday in a Tennessee court hearing.

Ray, serving a 99-year sentence for King's assassination, is seeking a trial based in part on claims that technology unavailable at the time of the killing will show that his rifle was not used in the killing. But the test results announced yesterday were inconclusive on this point.

Robert Hathaway, the ballistics expert hired by Ray's lawyers to conduct the tests, testified that build-up of materials in the rifle barrel over the past 30 years might be responsible for some of the differences between the test slugs and the bullet that killed King. But even removing those materials or "plating" would not guarantee a test that recreated the condition of the rifle in 1968, Hathaway said.

The .30-06 Remington hunting rifle, which Ray admits owning and which was found bearing his fingerprints near the assassination scene in Memphis, has been test fired twice before. The tests in 1968 by the FBI and in 1978 by experts working for a congressional investigating committee, like the one conducted this year, failed to reach a conclusion as to whether the bullet that killed King was fired from Ray's rifle.

Ray's conviction has been upheld eight times by state and federal courts without reliance on definitive evidence that his gun was used to kill King. The House Select Committee on Assassi-

nations similarly concluded in 1979 that Ray killed King but also found circumstantial evidence indicating that he acted as part of a conspiracy.

Ray, who pleaded guilty to the King assassination to avoid the death penalty but then recanted, has said he was framed for the murder.

Shelby County Court Judge Joe Brown yesterday ordered defense attorneys and prosecutors to ask the FBI to unseal the results of the forensic examination of Ray's rifles which they conducted shortly after King was killed. Hathaway and other experts have argued that using an electron microscope and other current technology to compare the 1968 test bullets and the one that was used to kill King might produce conclusive results not available to past examiners.

Clearly intrigued by that possibility, Brown said, "the court thinks, amongst other things, that justice might be served if we were able to examine those bullets and the court feels that the state of Tennessee has a claim on that evidence that pertains to this case," according to the Reuter news agency.

An FBI spokesman said the bureau had no immediate comment on yesterday's proceedings.

Ray, 69, is dying of liver disease and a recent court ruling has made it unlikely that he can receive an organ transplant. "Ray is in the same position he was in a year ago, or 20 years ago," John Campbell, the prosecutor in the case, said after the hearing. "The only way he can get back in the courtroom is by finding something that excludes his rifle and there has been no change on that score."