

CBS

Note: This is a press copy
and is not necessarily
air-perfect.

CBS REPORTS INQUIRY
"The American Assassins"

Part III

James Earl Ray and Martin Luther King

as broadcast over the
CBS TELEVISION NETWORK

Friday, January 2, 1976

10:00-11:00 PM ET

REPORTER: CBS News Correspondent Dan Rather

PRODUCER: Ernest Leiser

EXECUTIVE PRODUCER: Leslie Midgley

All copyright and right to copyright in this transcript and in the broadcast are owned by CBS. Newspapers and periodicals are permitted to reprint up to 250 words of this transcript for the purpose of reference, discussion, or review. For permission to reprint more than this, contact Director, CBS News Information Services, 524 W. 57th St., N.Y.C., N.Y. 10019, (212) 765-4321.

RATHER:

The date was April third, 1968. The place was Memphis, Tennessee. The audience was there to hear the familiar soaring rhetoric of Martin Luther King. The words were to prove prophetic.

KING:

We've got some difficult days ahead. But it really doesn't matter with me now because I've been to the mountaintop...

RATHER:

Less than twenty-two hours later, less than a mile away, a single shot was fired as he stood here -- and Martin Luther King was struck down from the mountaintop, murdered by a sniper's rifle.

What followed was fire and looting and terror -- and the shock of an entire nation.

Eleven months and six days later this man -- James Earl Ray -- pled guilty to the killing of Dr. King -- and was sentenced to 99 years in prison.

But almost immediately, and ever since, Ray has backed away from that plea, said he did not fire the shot, and asked for a full trial.

For six-and-a-half years, off and on, the case has been in contention, if not in the limelight. Now, suddenly, it is in both, and there have been public demands that the investigators of the King murder themselves be investigated.

RAMSEY CLARK:

I still think the FBI investigated thoroughly, but that's not important. We have been deceived. The truth has been concealed and we now must do everything to know that the full story is made public.

(ANNOUNCEMENTS)

RATHER:

Good evening.

This is the third broadcast in a series on the American assassins of the '60's.

Five weeks ago, in two programs, we looked into the murder of President John F. Kennedy.

Tonight, we inquire into the assassination of Dr. Martin Luther King, Jr.

Like President Kennedy, Dr. King was killed by the rifle of an unseen sniper. As in the Kennedy case, there have been questions all along in the King murder mystery as to whether the truth came out. But there are differences, too.

James Earl Ray is the only one of the accused assassins to plead guilty, even if he quickly withdrew the plea.

Ray's is the only case still before the courts. Ray is the only accused assassin who was a career criminal. He was, in fact, an escapee from prison and had lived outside the law for a year

before Dr. King's murder. And Ray, of all the accused assassins seemed to have the least obvious motive for a political killing.

Finally, what made the King case different from the Kennedy case was that it never came under the same constant, searching scrutiny. Ray's present lawyers have taken it through the courts. A few assassination buffs have pursued the case.

But it never was really in the public spotlight. Not, that is, until mid-November, when the Senate Intelligence Committee read into the record an anonymous letter the FBI sent Dr. King shortly before he was to receive the Nobel Peace Prize in 1964. The letter said, "King, there is only one thing left to do. You have just 34 days to do it." Committee Chairman Frank Church asked FBI official James Adams what that meant:

ADAMS: I have no idea what it means.

CHURCH: Certainly no Christmas card, is it?

ADAMS: It's certainly no Christmas card.

CHURCH: It reads -- it reads, "You are done. There is but one way out for you." What does that mean?

ADAMS: I don't know. I don't know if it means confession. I don't know if it means suicide, as has been raised. I have no idea.

RATHER: That revelation produced instant and outraged reaction. Congressman Andrew Young, talked to Lee Thornton.

YOUNG: I'm not saying that Dr. King's assassination was a contract job by the Federal Government. I'm saying that there was a climate created, an atmosphere created, that gave the impressions that Martin Luther King was a danger to democracy and to America and that somebody might be doing the Director a great favor or be doing the nation a great favor by getting rid of him.

RATHER: Attorney General Edward Levi is conducting a Justice Department investigation of FBI activities in the King case.

And Ramsey Clark, who was Attorney General at the time of the assassination, has called for an independent blue-ribbon commission to look into the whole affair.

Six months ago, Mr. Clark told us that he remained convinced Ray was guilty and had acted alone. I asked him, after his call for a new investigation, why he feels the way he does now.

CLARK: Well, the revelations coming from Washington about the overall activities of the FBI and the government regarding Martin Luther King, Jr., made it imperative, it seems to me, that the public

know the facts, the full story. I think every stone must be unturned.

RATHER: Surely, those revelations did not come to you, as a former Attorney General, as a surprise?

CLARK: Well, I'm afraid they did, yes.

RATHER: Public reaction to the case has been more skeptical than surprised.

Following the new disclosures, CBS News conducted an opinion poll on the central question:

Do you think James Earl Ray was solely responsible for shooting Martin Luther King or were other people involved?

Of those who expressed an opinion:

20 percent said they thought Ray was solely responsible.

80 percent thought he was involved with others; that is, that there was a conspiracy.

Those are the public perceptions.

Our inquiry into the question, "Did Ray, alone, kill Dr. King," begins in Memphis.

The language he agreed to could hardly have been more specific:

"At approximately 6:01 p.m. April 4, 1968, defendant fired a shot from the second floor bathroom of the rooming house...and fatally wounded Dr. Martin Luther King, who was standing on the balcony of the Lorraine Motel."

So there it was.

The defendant was James Earl Ray. He had put his initials on the pages containing that stipulation and 54 others, the prosecution claimed, tying him to the case.

He had, in court, pleaded guilty when the judge asked if -- "you killed Dr. Martin Luther King under such circumstances that would make you legally guilty of murder in the first degree under the law as explained to you by your lawyers."

On that day, March 10, 1969, it seemed to be an open-and-shut case.

But was it?

Three days later, James Earl Ray retracted his pleas of guilty, and claimed he was railroaded into his stipulation and his answers.

So the case of the State of Tennessee versus James Earl Ray and his aliases, for good reasons or bad, is not closed.

BERNARD
FENSTERWALD:

We've been trying now for five long years to get him a trial. We've been to the Tennessee Supreme Court twice, the U.S. Supreme Court once and now we're on our way, it looks like, for a second try there. And until we can get him a trial in court, I don't know what can be done in that case.

RATHER:

"That case," and the murder of Dr. King, cannot be understood unless they are put in the perspective of the time -- the raw, early spring of 1968 in Memphis.

King came, on March 28th, to a town in bad trouble. Its garbagemen -- almost all of them black -- were in the middle of a bitter strike.

King joined a strikers' march to show solidarity but that day things got out of hand and militants broke his rule of non-violence.

King himself, obviously shaken, had to be hustled out of the crowd.

What followed was the rawest kind of confrontation. A state of emergency, a curfew, pitched battles between police and blacks, then the National Guard called in as the strike and the picketing went on. King left Memphis but returned six days later. He had decided he had to lead another march, to prove his followers could maintain non-violence.

And that night, on what was to be the eve of his assassination, Martin Luther King went to Mason Temple in a driving rain to make his last speech.

KING:

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. I may not get there with you...

RATHER: The first time James Earl Ray is known to have been in Memphis was also the day before the murder. At 7:20 p.m., at the new Rebel Motel, he drove his white Mustang into the entrance of 3466 Lamar and, under the alias Eric S. Galt, signed the register.

The afternoon of the assassination, Ray rented a room at the place on Main Street across from the Lorraine Motel. The landlady, Bessie Brewer, declined after the murder to be on camera. But she did talk off camera.

BREWER: When I first saw him he was -- I just noticed that he was a tall, neatly-dressed guy. And he was smiling. And I showed him Eight, he didn't want it. So I -- he told me that he just wanted a sleeping room, so I carried him over to Five-B. And he said that was all right. And that's the last time I saw the guy.

RATHER: The guy -- James Earl Ray -- went shortly thereafter a few blocks north on Main Street and bought binoculars from a company called York Arms. That was about 4.p.m. April 4. This is information about which there is little dispute.

There is dispute about what happened between the purchase of the binoculars and 6:01 p.m. April 4. About what happened at 6:01 -- at least to Martin Luther King -- there is no question. There were people with him. One was a local minister, a member of Dr. King's SCLC, Reverend Samuel B. Kyles.

KYLES:

My wife had prepared for this day, it was a Thursday, had prepared what we choose to call soul meal and Dr. King and some of the staff was gonna come. Somebody said, Doctor, it's gonna be cold tonight. Get your topcoat. He went back in for his topcoat; couldn't find it. Came back on the balcony and we stood together on the balcony right about where you see that -- where the edge of that -- where that enclosure is, yeah, where the enclosure. He was leaning right in front of the room, leaning over, speaking to Jesse and Ben Branch...And just as I turned to walk to room 305, coming down the steps, before I got at about room 305, I heard the shot. I didn't recognize it was a shot. I thought it was a car backfiring. But when I looked over the balcony, everybody was crouching down, you know, trying to hide.

RATHER: What followed panic and shock, in a matter of hours that night, was a mass explosion of the black communities across the country. In reaction to the assassination, there was an epidemic of arson, and looting.

RAMSEY CLARK: Except for the wars on our soil, the revolution and the civil war, there was never a moment in our history when there was more widespread violence than in the days immediately following the murder of Martin Luther King, Jr.

(ANNOUNCEMENTS)

RATHER: The violent aftermath of the violent death of the champion of non-violence prompted a massive investigation in which the FBI played the leading role.

One of the questions raised, then and now, was:

How could Ray, a stranger to Memphis, have been able on his own to find a location from which he could shoot Dr. King and make a quick getaway?

Our inquiry provided a possible, if not conclusive, answer.

We know Ray arrived in Memphis the night before the murder. We know a local newspaper on the day of the murder, found with Ray's belongings, reported Dr. King was at the Lorraine Motel. We know Ray checked into the rooming house across the street the afternoon of the murder.

Whatever else the FBI did, or did not do, it constructed a carefully-accurate model of the murder scene and we filmed it in the basement of the new J. Edgar Hoover Building.

Using that model, it can be seen that Ray -- or anybody -- could have walked down Mulberry Street in front of the motel that morning and easily observed that windows in the buildings to the west offered a clear shot at the Lorraine courtyard and balcony. By going to the front of those buildings, on Main Street, it could be seen that they were used as a rooming house -- there was a big sign advertising rooms to rent. And we know that Ray looked at at least one room -- which had no view of the Lorraine -- before choosing the one that did.

So our answer to the question, could Ray have found that room on his own?

Quite possibly.

A corollary question has been raised: Why did Dr. King stay at the Lorraine -- which, as events were to prove, was an exposed location?

A staff member of the Senate Intelligence Committee has reported the FBI had plotted to discredit Dr. King by leaking a report to the press that he was staying in a white motel instead of one run by blacks.

CLARK:

I think we really need to know -- was Dr. King caused to move from one motel or hotel in Memphis to another because of a threatened disclosure by the FBI: Is that what really brought him, whether purposely or otherwise, to that balcony at that moment that he was murdered?

ANDREW YOUNG:

The changing of the hotel is not a problem for me because it was always our custom to live in hotels in the black community, especially when we were mobilizing demonstration....

Our staff made the reservations at the Lorraine Motel and if our staff had been making the reservations we probably would have made it there originally.

RATHER:

Our conclusion, after checking with those who made the reservations and who were also staying at the Lorraine:

It was not outside pressures from the FBI that caused Dr. King to stay there.

His staff planned it that way.

Another key question:

How, with so many police on and near the scene -- on riot patrol and surveilling Dr. King -- how could the person or persons involved have escaped? In our inquiry, we listened to tapes of the police radio calls that immediately followed the shooting. This was the first one:

RADIO CALL:

Go ahead, Tac Ten.

We have information King has been shot at the Lorraine. Say again, Tac Ten.

We have information that King has been shot at the Lorraine.

RATHER:

Not until 6:06 p.m., was this call recorded.

RADIO CALL:

Go ahead, Tac Ten.

There's a weapon in front of 424 and the subject ran south on Main Street.

RATHER:

And a minute after that:

RADIO CALL: Any physical description on the subject?
Well, all we know is it was a young, white male,
well-dressed...

RATHER: "Tac Ten" was a three car police patrol -- local
and county sheriff's men -- on riot duty. The
unit's commander was a sheriff's police lieutenant
-- now a civilian investigator for the public
defender's office --- named Judson Ghormley.
We talked to him at the firehouse where he was
when the shot was fired, and when the men of
Tac Ten ran out toward the motel.

You came out these doors?

GHORMLEY: Right. Then we went up towards the front of the
fire station here.

RATHER: Were you running or walking?

GHORMLEY: No sir, I was walking fast. About the pace
that we're going now. And I went out through
this double doors here.

RATHER: This is the way your men came out as well?

GHORMLEY: Yes sir. And then when I got out on the outside I could see them running this way. And I stopped here and I transmitted to the headquarters that Dr. King had possibly been shot.

RATHER: On your radio?

GHORMLEY: On my walkie-talkie, yes sir. Then I proceeded on back to the back of the fire station to see if -- what I could see after my men had already gotten around here...and I could see Dr. King over on the balcony and some of my men on the balcony with him...and I could see two or three blacks were pointing towards the building or one of the buildings on Main Street...and I figured since all the men were here and that possibly whoever had done the shooting might be over here, then at this time I backtracked...

RATHER: Were you running by this time or were you still walking?

GHORMLEY: No sir, I was still walking...pretty fast though. And I walked like we're going now, at this time. And then--

RATHER: The police cars were parked where, right in here?

GHORMLEY: Yes sir. The police cars were parked right where these cars are parked here. And then I come around this corner here and of course, I looked down Main Street, and couldn't see anything.

RATHER: Did you see anybody?

GHORMLEY: No, sir, I didn't see a soul. And I looked up into this lot here, this parking lot where they park cars and didn't see anything.

RATHER: Did you see anybody?

GHORMLEY: No, sir, I didn't see anyone. And then when I get approximately here I could see these bundles. And I walked over here and I could see the end of the gun sticking out of the gun, the case.

RATHER: Then what did you do?

GHORMLEY: This is when I radioed the headquarters that very possibly I found the weapon that was used to kill -- or shoot Dr. King.

RATHER: We timed Ghormley's actions, as he described them, from the moment he heard the shoot until he discovered the bundle at 424 South Main. If he recollects rightly, it took him a little more than three minutes. This raises another question:

Could Ray -- or whoever fired the shot -- have escaped before Ghormley got there?

James Lesar is one of Ray's current team of defense lawyers. He says, in effect, "no way."

LESAR:

He had to, within three minutes, he had to fire the shot. He had to clean the rifle of fingerprints. He had to return to his room, wrap it up in a bedspread with an enormous amount of miscellaneous junk, and then had to go down the hallway, down the stairs out onto the street, dump the bundle, get in his car and take off and disappear from sight by the time Lt. Ghormley is on the scene.

RATHER:

We put that contention to a test. Here's how our re-enactment went.

Out of the bathroom and toilet...down the hall into his room...the one he had rented...gun in the Browning box...suitcase...it was not wrapped well, but wrapped nonetheless, in the bedspread. Out of his room door ... down the hall of the rooming house. The theory is that he walked, but walked quickly, to the main stairway of 418-1/2 South Main, just before going onto the street, onto the sidewalk. Now right down here is where he would have seen that police car with the front sticking out. The theory is that he dropped the material in front of Canipe Amusement...trying not to draw attention to himself...over to his automobile...the white Mustang. Taking off, so the theory goes, quickly, but not so fast as to call attention to himself.

Time elapsed to the first stop light, down the street a quarter of a mile or so. Well under two minutes.

Our conclusion:

It would have been possible for James Earl Ray -- or someone else -- to have fired the shot and made a getaway up Main Street before Ghormley -- the first policeman on the scene -- could have spotted him.

So far as is known, the assassin or assassins were not seen during their getaway.

But there were a few wild minutes -- between 6:35 p.m. and 6:47 p.m.-- when it seemed the police were in radio contact with a blue Pontiac on the tail of a white Mustang, heading north from the murder scene. We have the police tapes and we have tried to re-create the scenes they describe.

The first message comes from a police radio car.

SEQUENCE OF MESSAGES:

160 -- We have one of these mobile units at Jackson and Hollywood -- he states that he's talking to some fellow following a Mustang east on Sumner from Highland that's supposed to have shot King.

160 -- it's North on Mendenhall off Sumner. This car is -- 160 -- this car is speeding over 75 miles per hour.

160, any further information?

Supposed to be North on Jackson now. On the way to Raleigh.

That's a hard top -- he went through the light at Jackson and State Road at 95 miles an hour continuing north on Austin Peay.

160

160 this White Mustang is shooting at the blue Pontiac following him.

RATHER:

What about that alleged false chase? *Say the supporters* of the theory there was a conspiracy, those mysterious messages are evidence someone was trying to draw the police directly away from the logical routes of escape -- and, indeed, in the opposite direction from which Ray said he went in flight after learning of the King assassination. Say Memphis officials: The messages were a hoax. The broadcast, they claim, was made by a teen-age amateur radio operator. He has never been publicly identified or penalized.

Our search for the supposed prankster led us to a law school student in Memphis. He confirms he was an amateur operator, using his father's equipment, but denies having transmitted the calls of the false chase. He says he told the FBI this when they summoned him for questioning.

He says also he was never specifically told he was under suspicion of making the radio calls. We talked to Arthur Hanes, Sr., Ray's original American defense lawyer, about the messages.

HANES, SR.:

This was the most realistic thing you ever heard. This running gun battle between the white Mustang. And you believed every bit of it as you heard it...

RATHER:

But that never took place.

HANES:

Never took place, apparently. Never. And the fact is that the white Mustang that James Earl Ray bought in Birmingham never had any signs of transmitting equipment whatsoever. Anything other than the little custom built receiver that comes with any little Mustang automobile. So I don't know, very strange.

RATHER:

Our conclusion:

The incident was, indeed, very strange. Assuming it was a hoax, permitting it to pass unpunished and investigating it only casually, hardly supports the contention the state nailed down every part of its circumstantial case.

In our inquiry we have examined another question: Could James Earl Ray have managed his escape on his own? His evasion of a massive intercontinental

search for two months and four days is either an odyssey of improvisation or the operation of a conspiracy, depending on your point of view. We know -- from uncontroverted evidence, some of it his own story -- what he did.

He drove the white Mustang to Atlanta and left it there. He made his way to Toronto, where he hid out for a month, under aliases, managing to get a Canadian passport under the name Ramon George Sneyd. He flew from Canada to London early in May, flew on to Lisbon and spent nine days in Portugal, trying to make his way to Angola, purportedly to be a white mercenary. The try failed. So -- back to London, where he hid out for three weeks. On June 8, as he was about to board a plane for Brussels, he was picked up by Scotland Yard.

That's what he did.

How did he manage it?

HANES, SR.:

This, Dan, is what brings me back to the theory that James Earl Ray had assistance...from some people who knew their way around...who had international connections and alliances and this sort of thing.

RATHER: But author William Bradford Huie, who "bought" the rights to Ray's story in 1968, has a different judgment.

HUIE: Ray got his money through criminal activity. What little money he had. Had Ray had enough money, he would have gotten away better. He had to pull little robberies, he ran out -- he didn't have any money in Canada, so he had to pull a robbery, he had to rob a little loan company in London. So there is no evidence that anybody ever paid Ray anything and there is no evidence that any one of these other criminal contacts had the slightest interest in the murder of Dr. King.

RATHER: Our answer to the question: Could Ray have made his getaway on his own?

Quite possibly.

He has admitted committing crimes in Canada to raise money. He was identified as having robbed a bank in London and has never contested that.

He has explained how he got a passport in Canada under a false name.

RATHER: There is no known evidence of a conspirator's help. There is the fact that he was pretty nearly down and out in London and Lisbon when he was finally caught.

(ANNOUNCEMENTS)

RATHER: The trial of James Earl Ray was to have opened in November, 1968, five months after his capture. But two days before the trial date, there was an abrupt, startling and -- it was to turn out -- very controversial development.

Ray fired his lawyers, Arthur Hanes, Sr. and Arthur Hanes, Jr., and replaced them with the famous criminal defense attorney, Percy Foreman. And he got a postponement of the trial.

RATHER: Percy Foreman, how did you get into the James Earl Ray case?

FOREMAN: His brother, Jerry, had written me almost from the beginning asking me to get in the case, and I refused until I had a letter from James Earl Ray himself, and when he asked me to come, I did go from Texas to Memphis and he talked with me and I was employed.

RATHER: You're aware that he now says, James Earl Ray that is, that he never asked you to get into the case.

FOREMAN: No.. I wasn't aware of that. This is the first time I've ever heard it. I have his letter.

RATHER: It is not true that Mr. Foreman has that letter. We asked to see it. We were told it had been lost.

It is true that Ray's brother, Jerry did urge Foreman to enter the case. Ed Rabel talked to Jerry Ray:

RABEL: At the beginning Percy Foreman, according to you, said that he could get your brother off.

JERRY RAY: Well, he took over the case. He said it'd be...easiest case he had in his life. He said he'd be walking the streets in six months and he said they don't have no evidence on him, they don't have nothing on his.

PERCY FOREMAN: That's a complete misstatement of facts. I didn't want this case, I knew I'd...I figured I'd save and I did save this man's life...

I did not ever, and I never do, and I haven't in 48 years of law practice, ever represented any results in any criminal case.

RATHER:

Whatever results Percy Foreman did or did not represent when he entered the case, the expectation was for a bare-knuckle contest in the in the Foreman tradition. It didn't happen. Instead -- and it seemed astonishing -- he pled his man guilty and settled for 99 years. Foreman's activities in the case are far from clear. By his own account, and his professional history, he takes cases for money -- lots of it-- or for publicity, lots of it.

There was certainly publicity potential in the case. The fee, too, was potentially high. It was to be paid by William Bradford Huie out of income from his "inside story" of James Earl Ray. But both potentials were cut off by the guilty plea. Foreman persuaded Ray to accept. Huie's book lost a lot of money when it finally came out. Foreman got some \$9,000 from Huie -- not much by a millionaire lawyer's standards. And the publicity ended abruptly -- until Ray's new lawyers accused Foreman of failing to defend his client properly....

But to go back to March 10, 1969, the day of the guilty plea proceedings.

There was a jury in court, It listened to Foreman plead his man guilty. And the key items of the prosecution's physical evidence were also in the courtroom that day.

Now, they are in the custody of the county criminal court, and under the supervision of Chief Clerk J. A. Blackwell, we were allowed to film them. We started with what the prosecution said was the murder weapon:

RATHER: May I see that?

BLACKWELL: These are the only places there were fingerprints.

RATHER: Where was that?

BLACKWELL: Where the paper is on the gun.

RATHER: Where the paper is...

BLACKWELL: This is a suitcase that was found with a bundle of clothes and so forth, outside of the rooming house.

RATHER: This is marked "Evidence, Federal Bureau of Investigation." You think that's a test shell?

BLACKWELL: Definitely.

RATHER: You see all those marks, FBI Evidence.

BLACKWELL: I believe we'll find in that little brown package the original one. These are the test shells that were used.

RATHER: Yeah, these are test firing....this is the slug actually removed from the victim.

BLACKWELL: That's correct.

RATHER: And then some fragments. There's a lot of that slug left. It seems to be in reasonably good condition. Other things in this bag -- binoculars binoculars... a binocular box the binoculars came in receipt from York Arms Company... the bag in which he carried the binoculars ... 41 dollars and 55 cents looks like he gave for the binoculars... this marked on the date, April 4th. This is an interesting piece of evidence -- a radio, six transistor Channel Master -- now the investigators said that this was a key in tracing Ray to the scene of the crime.

F

In addition to the key items of the prosecution's physical evidence, that FBI mockup was in court to "show and tell" the state's case.

But what really mattered on March 10, 1969, was Ray's written stipulation that he shot and fatally wounded Dr. King.

What mattered were Ray's oral responses to questions by the trial judge, W. Preston Battle. The key question:

BATTLE (AUDIO TAPE): Are you pleading guilty to murder in the first degree in this case because you killed Dr. Martin Luther King under such circumstances that would make you legally guilty of murder in this first degree under the law as explained to you by your lawyers?

RATHER: Ray's answer was barely audible on the recording system used by the court. What he said was:

"Yes, legally guilty, un-huh."

For a case of its kind, the proceedings were extremely brief. Ray's day in court, including jury selection, lasted just one morning.

Only five witnesses -- the state said it had hundreds -- were called. None was challenged by the defense. The physical evidence was not challenged by the defense.

Case opened, case presented, case closed.

Well, not really.

Three days after the guilty plea, Ray reneged.

He wrote a letter to the judge, indicating that he would seek a new trial

James Lesar, one of Ray's present lawyers, maintains his client had no alternative to pleading guilty and then withdrawing his plea.

LESAR: ...Ray saw himself in a box. He couldn't trust the lawyer who was representing him.

He knew that an adequate investigation had not been made and that the attorney was advancing spurious reasons for Ray's pleading guilty. So he concluded that, rather than have a trial at which -- which would be faked, but which would appear to be genuine -- that it would be better for him to go through with a -- a guilty plea proceeding, and then try to overturn that.

FOREMAN: I tried to save a man's life. I don't want to gamble a man's life against the possibility of, as long as there's life, there's hope and to me and to James Earl Ray, the evidence was so overwhelming that we both believed he would be electrocuted.

RATHER: This raises the most fundamental of questions: How strong was the state's case?

Since Percy Foreman chose not to make a contest in court, there is no way to determine how convincing the exhibits and the witnesses might have been to a jury.

We do know the prosecution planned to present one eyewitness to testify he saw Ray fleeing the rooming house after the shooting.

He is Charles Q. Stephens, whose room was next door to the bathroom. And we know Stephens would have been in for tough cross-examination.

RATHER: What about the witness, Mr. Stephens?

HANES, JR: Oh, good gracious, we were looking forward to that one.

RATHER: We were looking forward to that one?

HANES, JR: He was impeachable as many ways as you want him impeached...

RATHER: You think you could have taken him apart on the witness stand?

HANES, JR: No question about it. Furthermore, you had this cab driver, we called him Quick Draw McGraw, I've forgotten his first name, who said he came by some hour or shortly before the shot was fired. Had a call to pick up Charlie Stephens. And then when he showed up, he found that Charlie Stephens was too drunk to ride in a taxi cab. Now think about how drunk you've got to be to be too drunk to ride in a taxi cab.

RATHER: Shortly after the assassination, Correspondent Bill Stout talked to witness Stephens and showed him a picture of James Earl Ray that the authorities were circulating.

STOUT: Mr. Stephens, what do you think of that picture ? Does that look like the man?

STEPHENS: Well, from the glimpse that I got of his profile, it doesn't.

STOUT: It doesn't?

STEPHENS: No sir, it certainly does not. For one thing, he is too heavy, the face is too full, he has too much hair, and his nose is too wide. From the glimpse, as I said, that I got of his profile. But that definitely, I would say, is not the guy.

RATHER: In fairness, it should be noted that the prosecutors say that witness Stephens would not have been critical to their case.

What the prosecution did specify as a key item of physical evidence was a section of a window-sill, taken from the bathroom and sent to the FBI for examination when local investigators found "what appeared to be a fresh indentation on it." Deputy Prosecutor James Beasley told the jurors that "the proof would show through expert testimony that the markings on this sill were consistent with the machine markings as reflected on the barrel of the .30-06 rifle."

That is not precisely the case.

Under the Freedom of Information Act, we asked the FBI for their report on the windowsill. They complied with our request. What their "expert testimony" actually said was: "The dent contains microscopic marks of the type which could be produced by the side of the barrel at the muzzle but insufficient marks for identification were left on the board due to the physical nature of the wood."

The final sentence of that report says: "No wood, paint, aluminum or other foreign material was found on the rifle barrel nor were any significant marks found on the rifle barrel."

The key piece of physical evidence was the rifle -- which the state maintained and maintains was the murder weapon.

Ray admits having bought the gun in Birmingham, Alabama, six days before the assassination. He claims he handed the rifle over -- two days before the assassination -- to a mystery man he says he knows only as "Raoul."

What is also in contest is whether the single bullet taken from the body of Dr. King in fact was fired from the rifle Ray admits to having purchased. The main point of contention is an affidavit submitted by Robert Frazier, then chief of the Firearms Unit of the FBI, after examining the murder bullet, Ray's rifle and bullets test-fired from it.

Frazier, now retired, declined to be interviewed. John Carlisle, chief investigator for the prosecution, did agree to summarize the findings.

CARLISLE: ...The bullet has been distorted due to the mutilation, and insufficient marks of value for identification remained on the bullet making it impossible to determine whether or not the bullet removed from the victim was fired from the .30 aught six Remington rifle found at the scene. However, based upon the physical characteristics of the rifling impressions on the bullet removed from the victim, it could have been fired from the .30 aught six Remington rifle.

HANES, JR: You said the magic word. Could've. Could've come from the rifle. The FBI in a sure match excludes all guns, with the evidence weapon.

HANES, SR: But in this case, despite the fact that they removed from Dr. King's body a perfect evidence bullet --

RATHER: A perfect evidence bullet?

HANES, SR: In my judgment, just as perfect as if it'd been fired in a laboratory under controlled conditions. Yet, with that, they could not take that witness stand and say that that gun James Earl Ray bought here fired the shot taken from Dr. King's body to the exclusion of all other guns in the world....

CANALE:

Well, that's a fallacious argument. The bullet was mutilated to some extent. And I am no ballistics man. And the laboratory man at the FBI who examined the bullet -- we were going on his experience and his examination of the bullet. And if Mr. Hanes thought he could have gotten James Earl Ray free -- by exploring such a situation -- they had every opportunity in the world.

RATHER:

In point of fact, Percy Foreman, who had replaced the Hanes', elected not to take that opportunity. As we noted, he did not challenge the state's evidence.

In our inquiry, we thought that the question -- Did that gun fire that bullet? -- indeed deserved exploration.

In mid-September, therefore, CBS News petitioned the Shelby County, Tennessee Criminal Court --which tried the original case, which is custodian of the evidence for expert examination of the rifle, the murder bullet and the FBI test bullets. The purpose: to check the conclusions of the FBI man, Robert Frazier.

I remind you that we were allowed by the Court to film and show you the evidence. However, our eyeball examination and our filming, since we have no expertise, could lead us to no meaningful conclusions. Our petition was turned down in Shelby County Criminal Court and CBS News has appealed to the Tennessee Circuit Court of Criminal Appeals. That appeal is now pending.

As of now, our answer to the question:

"How strong was the state's case?" It seems by no means as strong as the prosecution claimed.

(ANNOUNCEMENTS)

RATHER:

We have reviewed the state's case. What about Ray's story?

Well, there appears to be two versions -- one he told his initial defense lawyers, one he has told his present attorneys.

Both versions agree up to the point -- two days before the assassination -- when Ray says he gave his rifle to the mysterious Raoul and arranged a rendezvous with him in Memphis for April 4.

HANES, JR:

He indicated to us that he felt like he was involved in a gunrunning transaction of some kind. That, in the course of events, he went to Memphis where he registered at the Rebel Motel the night before April fourth. That he was directed to meet a person -- Raoul, he called him -- at the rooming house. And that he did, in fact, go there. Got lost on the way, arrived somewhat late. Arrived, was directed up to the York Arms Company to get binoculars. That he did that, returned to the rooming house.

HANES, SR:

Then, along about 5:20, Ray says the man told him, "I'm going to shave, I'm going to change shirts. And you go on down and have a beer." This is 5:20-25. And James Earl Ray went on down and had him a beer. Was out in the street, standing there by his car when the shot was fired.

RATHER:

The story Ray has told his current team of lawyers-- and which they say they can document at a trial -- differs substantially.

LESAR:

He was not at the scene of the crime at the time the crime was committed. And had no reason to shoot Dr. King and every reason to avoid the difficulty with the law, which participating in a conspiracy to assassinate Dr. King would entail.

RATHER: As we noted at the beginning of this broadcast, Ray's motive for killing Dr. King has always been a question.

I asked the lawyer who pled Ray guilty what he thought the motive was:

FORMAN: Self-aggrandisement, self-realization, the second most fundamental instinct in human nature, second only to self-preservation. To be a big shot. He thought he would be the biggest man in America.

HUIE:He is also a morbid hater of black people.

RATHER: Is that a fact, Mr. Huie?

HUIE: Well, all you have to do is look at the federal records from Ft. Leavenworth, in federal prison, he became an honor prisoner. And the man could have certain liberties, but he had to move into an integrated cell block. And he refused honor status at Leavenworth because he refused to go into a cell block with black people.

JAMES EARL RAY: Well, what it was, I was in Leavenworth at that time. And you go on a farm after you got so short, six months. Well, a lot of people was getting narcotics charges. There's a lot of narcotics, marijuana out ther. So I didn't think it was worth the chance. And, of course, there was

blacks out there, too, but it was dormitory, you could very easily get a -- find some cigarettes, something, around your bed. Another five or ten years. And I was real short, so I just stayed behind the wall.

RATHER:

Our conclusion: Ray's motive has not been clearly established. From the moment the shot rang out in the motel courtyard, there has been a suspicion of conspiracy -- a suspicion that Ray was either set up as a "fall guy" by others or worked with others. The suspicion was reinforced, rather than laid to rest, by the guilty plea proceeding in 1969. The one point in that proceeding at which Ray rose to dispute his defense attorney was when Percy Foreman said there was no conspiracy. And now, as we have seen, the revelation of FBI harassment of Dr. King has suddenly transformed doubt into outspoken concern.

RATHER:

In this whole case, the truth is harder to come by than the allegations and suspicions. There is no shortage of other suspected plotters and planners of the assassination. Among those we were told about in our inquiry:

First, unnamed "money interests." Why? To prevent Dr. King from leading his scheduled Poor People's March on Washington.

Two, white racists. Their motive for wanting to get rid of Dr. King was obvious.

Three, black militants. Why? Dr. King was too non-violent for their plans and they wanted to take away leadership of the black movement.

Four, the "Communists." Why? To stir up black hatred and foment rebellion. Fidel Castro, it is claimed, had a special interest in this.

Five, the CIA. Why? It had become a "reason of state" to silence Dr. King because of his growingly strong opposition to the war in Vietnam.

RATHER: The truth, of course, could best come from James Earl Ray. We asked ex-defense lawyer, Hanes, Jr. what Ray had said on the subject of conspiracy:

HANES, JR: No hard information. No hard information.

RATHER: Did he ever mention the CIA?

HANES, JR: Never.

RATHER: Black militant organizations?

HANES, JR: Never.

RATHER: The Fair Play for Cuba Committee?

HANES, JR: Never. Or any other list that you could think of. Nobody. No organization. No group. Nothing except Raoul. Raoul, Raoul.

RATHER: In following leads to the mysterious "Raoul," we were steered to an almost equally mysterious figure who sometimes uses the name "Cliff Andrews." He has, from time to time, offered to tell the "real story" of the King murder, and the offers have been publicized. We located "Cliff" in mid-October. He had just been released from jail in Canada.

We paid his air fare to New York, and, in a cloak-and-dagger rendezvous her, he told me his story.

Yes, he said, "Raoul" exists. Yes, Cliff claimed, Raoul and others in their group had been offered a quarter-million dollars to kill King. What group? The Quebec Liberation Front. Why them? They needed the money for their movement. Who offered the money? "Some wealthy men in the South." Had the group contacted Ray? Yes.

We listened and then we checked Cliff out a little more. The Canadians say their records show he was in prison from March 1968 -- a month before the King assassination -- until long after Ray had been captured and sentenced.

We have concluded that "Cliff" is not the most reliable witness in the case.

The best witness, of course, is Ray himself. But, on the repeated advice of his lawyers, he would not talk for this broadcast. So the best witness stands mute.

And so we come full circle. Back to what we know. Back to the scene of the assassination.

RATHER:

Whatever else may be contested about this case, there is no doubt that Dr. Martin Luther King, Jr. was murdered in cold blood on his balcony of the Lorraine Motel April 4, 1968. As perhaps you can tell, they've tried to make a shrine of sorts out of this place, walling off Room 306 -- the room where Dr. King stayed - putting outside a quotation "I have been to the mountaintop," from Dr. King's own address in Memphis the night before he died. And quotation from scripture, Genesis 37: 19 & 20. "They said one to another, Behold, Here cometh the dreamer. Let us slay him and we shall see what will become of his dreams." Not many people come here, an average of perhaps, a couple of dozen a week, but there still are reminders. For example, in the room where Dr. King stayed, behind the squeak of the door, the room where Dr. King spent his last hours and minutes has been made into a kind of miniature museum. On the walls, photographs, memorable moments from the King career -- the bus ride in Montgomery, the march in Atlanta, the last march in Memphis. Behind this case, books by and about Dr. King. Photographs of Dr. King in some

of his best known sermons, eulogies after his death. So we are left with a question, as we stand here at the Lorraine Motel, on the balcony where Dr. King died.

Who slew the dreamer?

(ANNOUNCEMENTS)

Who slew the dreamer?

The answer, in the end, is shrouded in negatives. As we have sought to show in this hour, the case against Ray as the lone assassin was not as airtight as we had been told. There was no smoking gun; no witness saw the shot fired. No one can persuasively identify anyone fleeing the scene. There is plenty of evidence Ray was there earlier the day of the assassination: there is none he was there at the moment of the murder. The question of whether Ray's gun fired the murder bullet remains unproven.

The bathroom windowsill, as a key piece of evidence, seems meaningless.

The question of Ray's motive remains unproven.

What seemed to be unquestionable proof -- an unqualified plea of guilty -- is now in legal contest.

Ray's case is now pending in the U.S. Circuit Court of Appeals. There, his lawyers have submitted a brief arguing that his admission of guilt was not free and voluntary.

A decision on the merits of Ray's case, one way or the other, may come fairly soon.

But there will remain the public's case and the public inquiry. Only then, if at all, can the broader issue -- Was there a conspiracy to kill Dr. King and was government involved in any way? -- be resolved. A Justice Department inquiry, however thorough and honest, is not likely to silence skepticism.

The FBI is an agency of the Justice Department. It is our conclusion that an outside investigation is now needed. It could be conducted by the Congress. Or the public's inquiry might be conducted by an independent commission, appointed by the President, with full powers to examine all aspects of the case. Now, perhaps more now than ever, there is a need to know, "Who slew the dreamer?"

Next Monday, in the final broadcast of this series, we'll examine the assassination of Robert Kennedy and the attempt to assassinate George Wallade.

I'm Dan Rather. Goodnight.

(ANNOUNCEMENTS)