

CHARLES GALBREATH

JUDGE, COURT OF CRIMINAL APPEALS

RETIRED

ATTORNEY AT LAW

901 STAHLMAN BUILDING

NASHVILLE, TENNESSEE 37201

(615) 244-0749

R. RAY GALBREATH  
ASSOCIATE

DEBORAH HONEYCUTT  
OFFICE MANAGER

November 11, 1991

Mr. Geraldo Rivera  
322 W. 43  
New York, NY 10006

Dear Mr. Rivera:

James Earl Ray should have his conviction for the murder of Martin Luther King voided. As an attorney you should understand why upon being made aware of the following:

Ray plead guilty before Judge Preston Battle on advice of his attorney, Percy Foreman. Shortly after submission he regretted having done so and discharged Foreman, who he claimed caused him to enter the plea involuntarily, and wrote a letter to the Judge asking to have the plea set aside. Under any test of legal procedure applicable in the state at the time this constituted a motion for new trial. Judge Battle died of a heart attack in his office shortly after receiving Ray's letter and before taking any official action on the request other than directing the clerk to file it as a motion for new trial.

There was at the time a unique law in Tennessee, a copy of which is attached, that automatically gave a new trial to any losing party (1) if he had filed a motion for new trial, and (2) if the trial judge died before ruling on the motion. All persons convicted of crime in Tennessee who filed motions for a new trial, not ruled upon by the trial judge due to death or insanity before the law was repealed not too long ago were automatically given new trials except James Earl Ray. Some were ordered by me.

I was on the Court of Criminal Appeals at the time here in Tennessee and pointed out then, and later as an associate of Mark Lane the New York lawyer you have probably interviewed as one of the few survivors of the Jonestown suicide-massacre and his best seller criticism of the Warren Commission's conclusion of the J.F.K. assassination, "Rush to Judgment" who raised the issue in a post conviction proceeding that was swept aside by the courts here as having been "waived" by Ray's plea of guilty. Of course, an involuntary plea of guilty waives nothing as the U.S. Supreme Court reminded in Boykin v. Alabama and the whole thing leaves a cover up taste in the mouth suggesting that the powers to be do not want James Earl Ray under oath in a court of law.

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Keep in mind that it makes no difference whether Ray is guilty or innocent, whether he voluntarily plead guilty or was coerced into it. Under the law he had the absolute right to a new trial simply because of a chance occurrence. He had the same right to a new trial as you would have to the 90 million dollar Florida lottery payoff, if you had the winning ticket. Not because you might deserve it or because you are a nice person or a scum bag, but because the law in Florida would support your claim. James Earl Ray got lucky but his prize has been denied him.

I have no interest in publicity or anything else except to relieve the frustration I think I share with you whenever I encounter the suppression of truth by bureaucratic nincompoops. Maybe you can ferret out the answer, or even generate enough heat to get Ray equal protection of law.

Yours truly,



Charles Galbreath

CG,dh



§ 386; mod. Code 1932, § 641; Acts 1933, ch. 141, § 1; mod. C. Supp. 1950, § 641.]

Cited: Condon v. Maloney (1901), 108 Tenn. 82, 65 S. W. 871.

## NOTES TO DECISIONS

## 1. County Judgeship.

Vacancies in the office of county judge may be filled in any manner prescribed by statute. Caldwell v. Lyon (1935), 168 Tenn. 607, 80 S. W. (2d) 80, 100 A. L. R. 1152.

Collateral References. 30 Am. Jur., Judges, §§ 23, 24.  
48 C. J. S., Judges, §§ 31, 32.

17-116. Powers after vacation of office.—Whenever any trial judge shall vacate his office for any cause whatsoever other than the death or permanent insanity of such judge, he shall have and retain, as to cases pending before him, the trial of which has begun prior to his vacation of office, all the powers in connection with said cases which he might have exercised therein, had such vacation of office not occurred, provided that his powers in this respect shall not extend beyond sixty (60) days from said date of such vacation of office. Such powers shall especially include, but shall not be limited to, the right to render judgments, to hear and determine motions for new trial, to grant appeals and to approve bills of exceptions. Such powers may be exercised by such judge either within or without the geographical limits theretofore assigned by law to such judge. [Acts 1945, ch. 21, § 1; C. Supp. 1950, § 9949.1.]

Text Books. History of a Lawsuit (7th ed., Gilreath), § 417.

Collateral References. 48 C. J. S., Judges, § 40.

17-117. New trial after death or insanity.—Whenever a vacancy in the office of trial judge shall exist by reason of the death of the incumbent thereof, or permanent insanity, evidenced by adjudication, after verdict but prior to the hearing of the motion for new trial, a new trial shall be granted the losing party if motion therefor shall have been filed within the time provided by rule of the court and be undisposed of at the time of such death or adjudication. [Acts 1945, ch. 21, § 2; mod. C. Supp. 1950, § 9949.2.]

Text Books. History of a Lawsuit (7th ed., Gilreath), § 417.

Collateral References. 48 C. J. S., Judges, § 56.

17-118. Death or insanity pending appeal.—Whenever such a vacancy arising from death or permanent insanity, evidenced by adjudication, shall occur after disposition of the motion for new trial and appeal prayed and granted, but before the expiration of the time allowed for filing the bill of exceptions, the successor judge shall have and possess the power to approve the bill of exceptions in such case if, after hearing, he shall find that it fairly states the truth of the case. If such successor judge be unable to determine the truth of the case as stated in the bill of exceptions, he shall have power to award a new trial to the losing party. [Acts 1945, ch. 21, § 3; C. Supp. 1950, § 9949.3.]

Collateral References. 4 C. J. S., Appeal and Error, § 843; 48 C. J. S., Judges, §§ 31, 56, 101.

How got plea  
Tennessee 1915, Blumberg