OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

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TO : Mr. DeLoach

DATE: January 16, 1970

FROM : A. Rosen

SUBJECT: MURKIN

1 - Mr. DeLoach
1 - Mr. Rosen
1 - Mr. Malley
1 - Mr. McGowan
1 - Mr. McDonough
1 - Mr. Bishop 1 - Mr. Mohr

This is the case involving the murder of Martin Luther King, Jr. Set forth hereunder is the current status of prosecutive action relative to the subject, James Earl Ray who is serving a 99 year sentence for murder in the Tennessee State Penitentiary, Nashville, Tennessee.

STATUS OF STATE PROSECUTION:

On January 8, 1970, the Tennessee State Supreme Court denied a petition by James Earl Ray for a new trial. In handing down the unanimous (four judges sitting) decision, the court noted that Ray had knowingly pleaded guilty in State Criminal Court to the slaying of King, that he had been represented by competent counsel and had waived all rights of appeal in entering his plea.

SAC, Memphis has advised that on January 12, 1970, Jesse Clyde Mason, Assistant State Attorney General, Shelby County, Memphis, Tennessee, advised that the only other appeal recourse that James Earl Ray has in connection with his conviction in the murder of Martin Luther King, Jr., is to file a motion under the Tennessee "Post Conviction Relief Act." He stated that attorneys for Ray have not filed such a motion to date; however, he anticipates that such a motion will be filed within the next thirty days. He asserted that there is no time limitation for such a motion to be filed in Ray's behalf; however, the longer that Ray waits to file such a motion hinders his chances of having a successful opinion rendered in his behalf. If such a motion is filed and is declined at the Shelby County Circuit Court level, Ray does have recourse through the Appellate Court and State Supreme Court on this particular issue.

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Mason stated that if Ray is unsuccessful in obtaining a new trial under the Tennessee "Post Conviction Relief Act," he then has recourse through the Federal courts by a habeas corpus action claiming that his constitutional rights have been violated in that his plea of guilty to the murder charge was not given voluntarily.

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CONTINUED - OVER
(SEE ADDENDUM ON PAGE 3.)

Memo Rosen to DeLoach
RE: MURKIN

STATUS OF FEDERAL PROSECUTION:

Federal process is still outstanding on Ray charging that he and an individual who he alleged to be his brother conspired to interfere with a constitutional right of Martin Luther King, Jr., namely, the right to travel freely from state to state.

RELEASE OF INFORMATION:

It is noted that consideration was previously given to the release of information regarding the Bureau's outstanding handling of this investigation. Ray currently still has possible avenues of appeals in state courts and through the Federal courts and Federal process is still outstanding on the conspiracy charge which the Department previously declined to have dismissed even though it is within their province to do so. Investigation has indicated that Ray acted alone and no evidence of a conspiracy has been developed and, therefore, the Department is not in a position to proceed on the conspiracy charge. However, inasmuch as he never was tried by a jury and has not exhausted the possibility of an appeal in State court and as Federal process is still outstanding, it is felt that the releasing of any information of a possible evidentiary nature should be taken up with the Department prior to making any such release and assuming such a responsibility.

ACTION:

For information. Any further appellate action by Ray will be closely followed and you will be kept advised.

Rosen to DeLoach Memorandum
RE: MURKIN

ADDENDUM BY C. D. DE LOACH, 1/15/70:

I agree thoroughly that the Department should be consulted prior to any cooperation being given by the FBI to anyone. However, I believe that our chances for good public relations and solid credit in this particular case are being gradually eroded away by those critics who are constantly harping about the wiretap on Martin Luther King as well as his (King's) criticisms against the FBI. Frankly, considerable aspects of this case are already within the public realm. This includes the Reader's Digest article by Jerry O'Leary as well as hundreds of articles which have appeared in the press and programs on radio and television. Consequently, there is not a great deal more that could be said in a book.

Ray can always launch an appeal. He could actually do so ten to twenty years from now. Therefore, we are always faced with this prospect regardless of the circumstances. I believe that a "reasonable time" has elapsed and the consideration should be given at this time to granting the Reader's Digest request that Jim Bishop be allowed to write a book on this case.

Admittedly, Jim Bishop is somewhat pompous, however, he is cooperative, friendly and perhaps the most thorough, exacting author in this particular category of books. As stated above, however, we should get the views of the Department in writing before proceeding.

CDD:amr
(7)

Assistant Attorney General
Civil Rights Division

January 21, 1970

Director, FBI 44-38861-5854

REC-21

ASSASSINATION OF MARTIN LUTHER KING, JR.

EX-118

On March 10, 1969, James Earl Ray pleaded guilty in Shelby County Criminal Court at Memphis, Tennessee, to the murder of Dr. Martin Luther King, Jr. He received a 99-year sentence.

Soon after his arrival at the Tennessee State Prison at Nashville on March 11, 1969, Ray began maneuvering to have his guilty plea set aside and a new trial declared. On January 8, 1970, the Tennessee State Supreme Court denied a petition by Ray for a new trial.

On January 12, 1970, Mr. Jesse Clyde Mason, Assistant State Attorney General, Shelby County, Tennessee, advised that the only action still remaining to Ray under Tennessee law would be to file a motion under the state's "Post Conviction Relief Act." Mr. Mason said that no such motion has been filed on Ray's behalf; however, no time limit exists for such a motion to be filed.

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COMM-FBI

If Ray should file a motion under the state's "Post Conviction Relief Act"--and if the motion were unsuccessful--he, of course, would still have recourse to the Federal Courts. In other words, despite the fact that he openly acknowledged his guilt in court more than 10 months ago, it is conceivable that he could keep his case before various courts for years to come.

Because Ray pleaded guilty, much important information which the FBI gathered in its investigation of the King murder--data clearly establishing Ray's guilt--was not presented in court. The absence of such authoritative facts and information on the public record has contributed in no small measure to the false rumors, the misrepresentations, and the distortions of fact which continue to prevail in the King murder case.

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FEB 6 1970

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See Note Next Page

Assistant Attorney General
Civil Rights Division

Since April, 1968, when we began our investigation which led to the identification and apprehension of James Earl Ray, we have been requested by numerous well-known writers and publications to assist them in publishing a factual account of our investigation. We have declined all such requests for assistance.

As you are aware, the Federal complaint which was filed against Ray (as Eric Starvo Galt) at Birmingham, Alabama, on April 17, 1968, charging him with violating Title 18, Section 241, United States Code, in the King case is still outstanding.

As a result of the Tennessee State Supreme Court's action in denying Ray's petition for a new trial, we have begun to receive more requests for essential facts--facts which would have come out at Ray's trial if he had not pleaded guilty--which will dispel the unfounded rumors and falsehoods that persist in the King murder case and present a potential for exploitation, particularly by individuals and organizations seeking to spread misunderstanding and unrest among Negro citizens.

If you concur, we will consider assisting a reliable writer in preparing a factual account of the King murder case which can serve as an authentic document in refuting the tremendous amount of misinformation about the case which currently exists.

NOTE: See A. Rosen to Mr. DeLoach Memo dated 1/16/70, captioned "Murkin."