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# James Earl Ray's Last Hope

## King's Convicted Killer Stands Before a Jury in HBO 'Trial'

By ERIC HARRISON  
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**M**EMPHIS—A hush fell over the courtroom as James Earl Ray's name was called. Nearly a quarter century after he confessed to killing Dr. Martin Luther King Jr. (and then recanted), the aging Ray, 64, finally was getting his day in court. He would tell his story to a jury for the first time.

Solemnly, he stood up to take the oath when . . . *What's this?*

A klieg light was visible above Ray's head on the television monitor.

The judge didn't seem to notice. Neither did Ray's attorney nor the prosecutor. Everyone's eyes were riveted to the face on the screen here as Ray, 209 miles away in Riverbend Maximum Security Institution in Nashville, raised his right hand and swore to tell the truth, the whole truth and nothing but.

But, in a makeshift control room tucked away nearby in the judge's chambers, a television production crew had been thrown into a quiet tizzy a few moments earlier when they spotted the offending lamp during a brief rehearsal.

Nothing they could do about it now, though. "We'll do a cut-in shot later," muttered the producer to his assistant. The trial—one quickly learns not to say

"show"—must go on.

Everyone involved with the unorthodox HBO special, which wrapped filming here last week, was quick to exclaim how realistic the whole thing was.

"After a few minutes in that stand I thought I was in a real trial," said the Rev. Billy Kyles, the Memphis-based civil rights leader who was with King on the balcony of the Lorraine Motel here when he was assassinated and who was the first witness in the mock trial.

**T**he unscripted drama, which will air April 4, the 25th anniversary of King's death, was being filmed in a real courtroom. Real lawyers asked questions of real witnesses made to seethe or squirm on the stand before a real judge. And a more-or-less real jury was asked to render a verdict—the results of which won't be announced until the telecast of "Guilt or Innocence: The Trial of James Earl Ray."

"It's like a trial," said W. Hickman Ewing, a former U.S. attorney for the Western District of Tennessee, who is serving as prosecutor. Then again, it's not.

For the real-life officers of the court participating in this \$3-million effort, the trappings of television are a bit disconcerting.

"We all walk into the courtroom in the mornings and everybody's getting makeup

and microphones," Ewing said, adding that he can't predict how the show-biz aspect will affect the jury.

On the morning of the day Ray was to testify, former U.S. District Judge Marvin E. Frankel, who was presiding, stood in his chambers waiting to enter the courtroom after a recess. The chambers were jammed with 15 television monitors and other television equipment and production personnel.

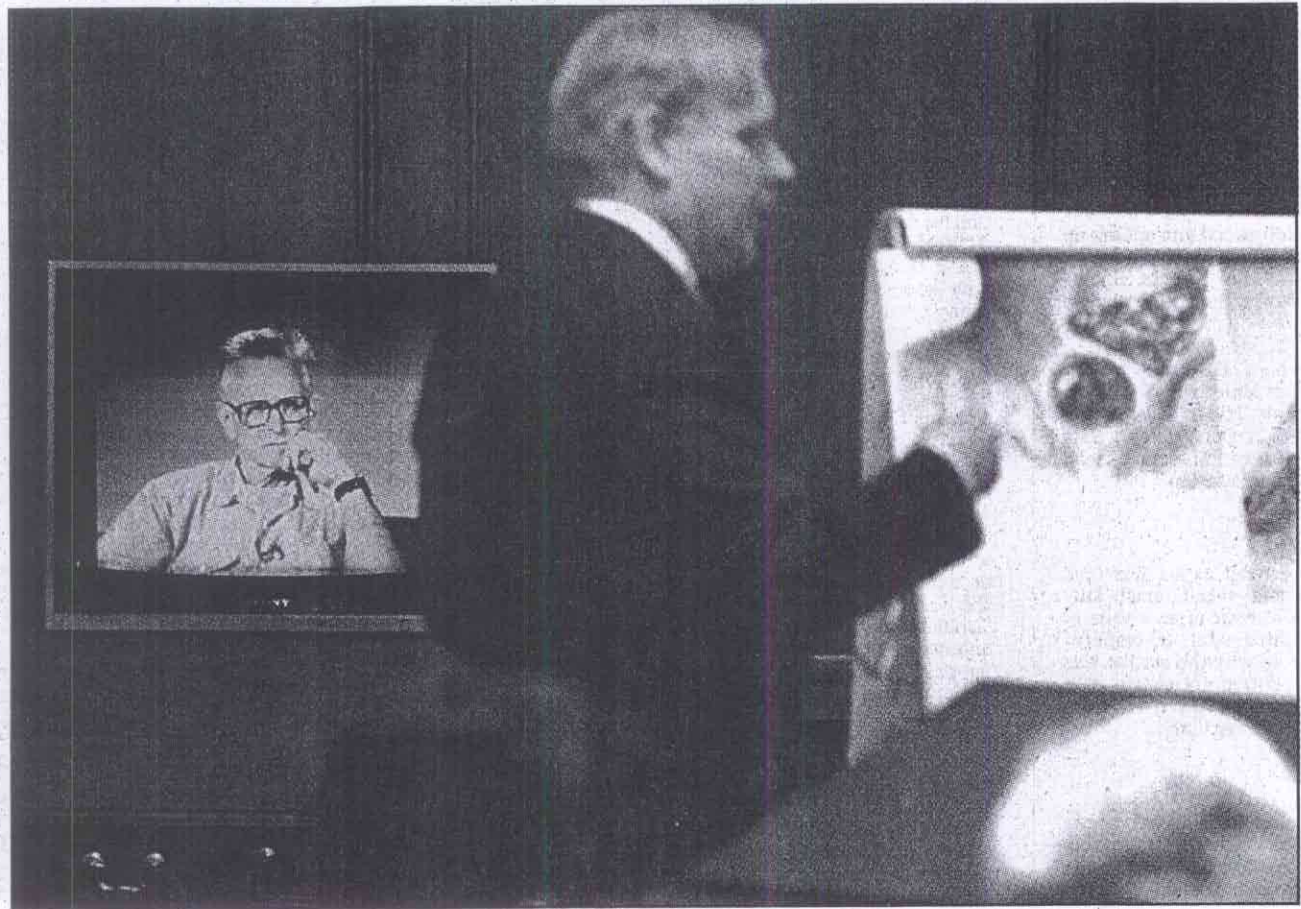
As he awaited the countdown before he could enter the courtroom, Frankel joked with his wife: "I don't think I'll ever be able to walk through a door again without someone first saying, '10-nine-eight-seven-six. . . .'"

What manner of beast is this, exactly? Is it entertainment? Is it an extralegal search for truth, using the rigid rules and trappings of the American judicial system? Or is it, as producer Jack Saltman insists, the dawning of a new form of investigatory journalism, capable of probing important issues of the day in greater depth than ever before?

Whatever it is, the stakes—at least for Ray—are enormously high.

Because he waived the right to a trial when he originally pleaded guilty and has exhausted all legal avenues to get his case reopened, this is the court of last resort for

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CRAIG BLANKENHORN

James Earl Ray, on monitor, listens as lawyer William Pepper explains illustration showing nature of Martin Luther King Jr.'s wounds.



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Ray.

He has maintained his innocence ever since he tried to withdraw his guilty plea three days after he made it in March, 1969. His story, recounted in two books and before the U.S. House Select Committee on Assassinations in 1978, is that he was duped into buying a 30.06 high-powered rifle and bringing it to Memphis at the behest of a mystery man named Raoul who never told him what it would be used for. (The congressional committee concluded that Ray shot King but that he might have had co-conspirators.)

Now serving a 99-year prison sentence for the murder, Ray hopes the HBO special will raise enough questions about his guilt to spark a call for a new trial, clemency or perhaps appointment of a special prosecutor to investigate King's slaying.

As Ray said in a televised statement to reporters before the start of the trial: "I am aware that this could well be my . . . only opportunity to present the non-government version of the Martin Luther King Jr. homicide in a courtroom."

Burt Neuborne, a New York University law professor who served as legal consultant to the program, noted that if Ray and his attorney don't hit a home run in this television production, he probably can count on dying in prison.

"The desire to see the case reopened is shared by many, including a number of civil rights leaders who have been called to testify. Their reasons are different from Ray's, however.

"I think there is enough physical evidence to say that James Earl Ray killed Martin Luther King," said Kyles, who had been one of the leaders of the demonstrations that brought King to Memphis. "But there's never been anything beyond that to tell who hired him. I think he was a hired killer."

In addition, while authorities concluded that Ray shot King from a window in a nearby flophouse, some witnesses have maintained since 1968 that they saw a man in the bushes near the Lorraine Motel at the moment King was shot. They complain that this never was investigated by the FBI. In addition, there have been questions raised about why the murder

weapon was found by police lying nearby on the sidewalk.

Ray was represented by William Pepper, who has been his attorney since 1985 and who treated these mock proceedings with a seriousness befitting a Supreme Court appearance—and for good reason.

"James Earl Ray has gone, in my judgment and in his, as far as he can go in terms of the judicial process and the conventional *habeas corpus* and appellate route," said Pepper, who suggested that he believes there was a government conspiracy that might have involved Ray's first two attorneys to blame the murder on Ray alone and to stymie thorough investigation.

It was Pepper who dreamed up the idea of a televised mock trial. He took it to Saltman, a British documentary filmmaker who previously had taped a similar program concerning Kurt Waldheim's alleged war crimes, which, like the Ray project, was presented on HBO and Thames Television in Britain.

Shanto Iyengar, a professor of political science and communications at UCLA, sees the project as an unfortunate extension of the dominant populist theme of last year's presidential campaign.

"If Ross Perot meant to govern by consulting the people, why not have the American public serve as a jury?" he said, delineating one motive behind the television project. "If the judicial process has not been responsive, maybe the public will be moved to bombard their elected representatives with telegrams and calls demanding that something be done."

The trouble with this sort of participatory democracy, if it can be called that in a mock legal setting, Iyengar said, is that the hue and cry—if there is one—will come not from the general outraged public but from extremists, people who already harbor strong views on the case or on racial issues.

Bridget Potter, senior vice presi-



Los Angeles Times

### Martin Luther King Jr.: Is right man in prison for his slaying?

dent of original programming for HBO, acknowledges that Ray is participating solely because of the program's potential to mold public opinion in his favor. But she insists that the cable network isn't being used to disseminate propaganda.

The participation of an able prosecuting attorney, a fair and respected judge and an objective producer guarantees balance, she said.

"I would never have looked at this for a minute if the whole [package] had come in from James

Earl Ray's attorney," Potter said. "We've been in full control from the start."

Perhaps the greatest check on Pepper's ability to skew the program in his client's favor is Ewing, the prosecutor, who served as U.S. attorney here from 1981 to 1991. He is an experienced litigator who, with a team of six investigators and a combative style, seems intent on proving once and for all that Ray killed King.

He began his cross examination of Ray, for example, with a pointed question: "Do you know what a pathological liar is?"

Ray had just completed more than five hours of testimony in which he'd portrayed himself as a lifelong bungler, a harmless wanderer and petty crook who had used up to 20 aliases and often carried a gun but had never fired one at a living creature since his squirrel-hunting days as a child in downstate Illinois.

Then, through rapid-fire questioning, Ewing suggested that Ray was a liar and a proven racist who'd painted a highly slanted portrait of himself for the jury.

Neuborne, the show's legal consultant, said that by duplicating as much as possible the rigid rules of evidence and procedure of an authentic trial, the show guarantees balance. He and Saltman insist that the investigations that have been carried out by the opposing attorneys and their presentation of evidence and witnesses in a courtroom setting will constitute the most thorough probing ever of King's assassination.

Unlike a real trial, witnesses here cannot be prosecuted for perjury. But Neuborne argues that it doesn't matter because rigorous examination, rather than prosecution, is what keeps witnesses honest.

Ewing and Pepper also do not have subpoena power and cannot

compel witnesses to testify. In cases where crucial witnesses have died or do not wish to appear, their testimony—taken from past FBI statements and congressional testimony—has been read into the trial record.

Unlike a real trial, the producers are keeping tight reins on the 10-day production for fear of revealing too many dramatic secrets before the greatly condensed three-hour program airs in April. Among witnesses known to have made the trek to the Shelby County Courthouse, though, are important participants in the civil rights movement and former inmates who served time with Ray.

Jurors, who were chosen by the attorneys and Saltman from three cities outside of the state of Tennessee (using voter registration and tax records), are being paid an undisclosed amount for their labor, the producer said.

Interestingly, while Saltman and Neuborne extol the virtues of the adversarial system as a method of ferreting out truth, Frankel, a Columbia University law professor and retired U.S. district judge for New York who is presiding over the mock trial, over the years has developed serious reservations about the American judicial process and especially its adversarial system.

The distinguished jurist has written a book that argues for sweeping change in the legal system. So he is philosophical about the inherent artificiality of the televised mock trial. "The American trial process is by its nature artificial," he said.

Before the start of the trial, Frankel said at a press conference: "I don't know whether the ultimate truth in God's sense will emerge from this trial, but I think something closer than what the public has ever known may result from this effort."