

P.J. JUNE 28/78

Attorney for Ray Seeks to Overturn Escape Conviction

MEMPHIS (UPI) — The State Court of Criminal Appeals was asked yesterday to overturn James Earl Ray's 1977 escape conviction on grounds the state committed several technical errors in the trial.

Ray's escape trial in Morgan County Criminal Court last October resulted from his dramatic breakout June 10, 1977, from Brushy Mountain State Prison at Petros, where he is serving a 99-year sentence for the 1968 killing of Dr. Martin Luther King Jr. at Memphis.

Ray and six inmates scaled a back wall of Brushy, touching off what some officials have called Tennessee's largest manhunt ever. Ray and his buddies were back behind prison walls some 54 hours later.

Most of Ray's privileges and all his good and honor time were suspended and he was placed in administrative segregation following his recapture.

Kenneth Krushenski of Oak Ridge, representing Ray in attorney Mark Lane's absence, argued that his 50-year-old client was the victim of double jeopardy in his escape trial because he had already been punished through administrative segregation at the maximum security prison.

It was the same defense Lane used last fall in unsuccessfully moving for Ray's ac-

quittal on the escape charge in which Ray pleaded not guilty.

Krushenski also argued that the state failed to present evidence properly indicating Ray had been sentenced for King's murder. And he challenged remarks made by the prosecution that he said had an inflammatory effect on the Morgan County Criminal Court jury.

Assistant Attorney General William Haynes Jr. argued, however, that Ray's administrative segregation did not amount to double jeopardy and therefore was not grounds for acquittal.

In addition, he rejected Krushenski's claim that the state failed to provide suffi-

cient proof of Ray's murder conviction. He argued that the state followed all the proper legal procedures in presenting its case before Judge Lee Asbury.

Court Clerk John Parker said later he expected the three-man panel of Criminal Appeals judges would release a decision on the motions within a month to a month and a half.

Ray was sentenced to an additional one to two year sentence to be served on top of his sentence for the King murder. His comrades in the breakout, all of whom pleaded guilty in the case, were sentenced to similar terms.