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c The Associated Press

MEMPHIS, Tenn. (July 11) - Most of the test bullets fired from a rifle belonging to James Earl Ray had marks different from the slug that killed Martin Luther King Jr., a judge said this morning.

"This comparison revealed that the gross and unique characteristic signature left on the 12 test bullets by the James Earl Ray rifle was not present on the death bullet," Criminal Court Judge Joe Brown said.

Brown commented at the opening of a hearing where Ray's lawyers asked for additional tests on the rifle to try to reinforce the findings from recent test firings at the University of Rhode Island.

Ray's lawyers hope the tests will pave the way for a trial for Ray, who is serving a 99-year sentence in a Nashville prison for the 1968 assassination of King. Ray confessed, thereby avoiding the death penalty, but recanted days later.

His guilty plea has been upheld eight times by state and federal courts.

William Pepper, one of Ray's lawyers, told Brown the FBI test-fired bullets from Ray's gun shortly after the killing, but never provided them to Ray's legal team. He said they could be key to determining whether Ray's gun fired the fatal bullet.

"Those test-fired bullets are closest to the point in time and they would be the most accurate and visible signs of physical evidence that we could have in this case," he said. "That evidence and those results should be in the custody of the courts."

In Rhode Island, criminalists fired Ray's gun into a tank of water, then had them analyzed under a powerful microscope to compare markings on them to the bullet removed from King.

Robert Hathaway oversaw the tests and was to testify at the hearing. Before he took the stand, Brown shared some of the preliminary findings.

"For ... 12 test bullets ... analysis revealed that there was a unique and gross characteristic that was common to each of these test bullets. This characteristic appears to be the signature of a rare defect in the bore of the James Earl Ray rifle," he said.

Prosecutors said they had not been provided with a written account of the tests, and Pepper acknowledged one had not been made yet.

The .30-06 hunting rifle Ray bought in Alabama and brought to Memphis was found near the murder scene with his fingerprints on it. He contends it was dropped there to frame him.

The rifle and death bullet were tested by the FBI and a U.S. House committee in the 1960s and 1970s, but those tests could not prove beyond a scientific doubt that it was the murder weapon.

The committee concluded in 1978 that Ray killed King but may have been helped by others before or after the shooting.

Meanwhile, a lawyer Ray is planning to ask the governor to release his client from prison because he is dying of liver disease.

"He's got a terminal illness, so he should be allowed to get out," said attorney Andrew Hall, who is preparing a petition seeking clemency from Gov. Don Sundquist.

Hall said the petition argues that Ray is not a danger to society and that he is dying. In the past 10 years, Tennessee governors have exercised their clemency powers four times.

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