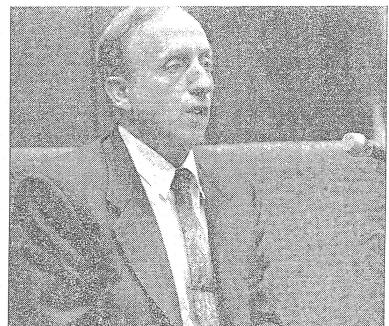
MMAT

Robert Hathaway tells Memphis court that markings from newly test-fired bullet differ from those on bullet that killed King in 1968.



BY JOHN L. FOCHT—ASSOCIATED PRESS

Ballistic Tests on Ray Rifle Show Inconsistencies, Expert Testifies

Judge Reviewing King Killing Wants to See FBI Records

By Roberto Suro Washington Post Staff Writer

Bullets recently test fired from the rifle beonging to James Earl Ray bore markings unlike hose found on the bullet that killed Martin uther King Jr. in 1968, according to a ballistics xpert who testified yesterday in a Tennessee ourt hearing.

Ray, serving a 99-year sentence for King's ssassination, is seeking a trial based in part on laims that technology unavailable at the time of he killing will show that his rifle was not used in he killing. But the test results announced esterday were inconclusive on this point.

Robert Hathaway, the ballistics expert hired y Ray's lawyers to conduct the tests, testified at build-up of materials in the rifle barrel over it past 30 years might be responsible for some the differences between the test slugs and the ullet that killed King. But even removing those laterials or "plating" would not guarantee a test lat recreated the condition of the rifle in 1968, athaway said.

The .30-06 Remington hunting rifle, which ay admits owning and which was found bearing is fingerprints near the assassination scene in lemphis, has been test fired twice before. The sts in 1968 by the FBI and in 1978 by experts orking for a congressional investigating comittee, like the one conducted this year, failed to ach a conclusion as to whether the bullet that lled King was fired from Ray's rifle.

Ray's conviction has been upheld eight times state and federal courts without reliance on finitive evidence that his gun was used to kill ng. The House Select Committee on Assassi-

nations similarly concluded in 1979 that Ray killed King but also found circumstantial evidence indicating that he acted as part of a conspiracy.

Ray, who pleaded guilty to the King assassination to avoid the death penalty but then recanted, has said he was framed for the murder.

Shelby County Court Judge Joe Brown yester-day ordered defense attorneys and prosecutors to ask the FBI to unseal the results of the forensic examination of Ray's rifles which they conducted shortly after King was killed. Hathaway and other experts have argued that using an electron microscope and other current technology to compare the 1968 test bullets and the one that was used to kill King might produce conclusive results not available to past examiners.

Clearly intrigued by that possibility, Brown said, "the court thinks, amongst other things, that justice might be served if we were able to examine those bullets and the court feels that the state of Tennessee has a claim on that evidence that pertains to this case," according to the Reuter news agency.

An FBI spokesman said the bureau had no immediate comment on yesterday's proceedings.

Ray, 69, is dying of liver disease and a recent court ruling has made it unlikely that he can receive an organ transplant. "Ray is in the same position he was in a year ago, or 20 years ago," John Campbell, the prosecutor in the case, said after the hearing. "The only way he can get back in the courtroom is by finding something that excludes his rifle and there has been no change on that score."