

Court Says 2 Judges Exceeded Powers in James

By The New York Times

JACKSON, Tenn., Aug. 29 — A Tennessee appeals court ruled late today that two Memphis judges overstepped their authority in handling James Earl Ray's bid for a trial. The court stopped short of halting proceedings in the case, but clarified its restrictions on how it should be conducted.

The ruling resulted from a convoluted turf battle between Judges Joe Brown and John Colton, both of Shelby County. Judge Brown is overseeing Mr. Ray's latest effort in his 28-year quest to be tried for the murder of the Rev. Dr. Martin Luther King Jr., who was shot in Memphis on April 4, 1968. In 1969 Mr. Ray confessed and pleaded guilty to the kill-

ing, but recanted three days later and has maintained his innocence ever since.

This April, the appeals court gave Judge Brown authority to order ballistics tests on the rifle found near the site where Dr. King was killed. Mr. Ray's fingerprints were found on that rifle, but he has argued that it was not the murder weapon. In July the results of those tests came back inconclusive as they had in two previous tests of the rifle conducted over the years.

But that same month, Judge Colton, who presides over the division of the criminal court where Mr. Ray's original guilty plea was entered, became involved in the case, appointing a special master to investigate

A ruling settles a judicial turf battle involving Dr. King's murder and a trial.

Judge Brown's handling of the files.

The special master issued a report saying the files had been improperly kept in Judge Brown's office and were in "a shambles." Judge Colton then ordered Judge Brown to turn over all the files to the court clerk.

On Aug. 18, Judge Colton gave the special master authority to subpoena

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witnesses and conduct an ex parte investigation of accusations of a conspiracy to kill Dr. King.

Also in August, Judge Brown issued an order to the F.B.I. to bring bullets fired from its 1968 tests on the rifle to his court. In that order, Judge Brown condemned the state as being "vigorously opposed" to finding the "true facts" in the case and mentioned that he might appoint a special prosecutor to investigate.

That night, the State Attorney General asked for and was granted an emergency stay and extraordinary appeal. The state contended that both judges had violated laws of separation of the executive and judicial branches of state government by essentially conducting an inquiry of the Ray case, and taking over the role of the prosecution.

In today's ruling, the appeals court agreed with the Attorney General and declared all of Judge Colton's rulings in the case null and void. It also vacated Judge Brown's directives to the F.B.I. and reprimanded him for his statements about the prosecution.

The court said Judge Brown's authority was limited to ruling on further ballistics testing of the rifle.

Kathy Morante, Deputy Attorney General of Tennessee, said, "We are pleased with the court's ruling today because it clarifies and gives important direction to the trial court about what it can and cannot do."

The King family has supported Mr. Ray's latest effort to win a trial. This morning, Dexter King, the 36-year-old son of Dr. King, sat quietly listening to the debate at one end of the packed appeals court room.

After the hearing, Mr. King told reporters: "I am here to observe, representing the family of the victim in this case. I hope they allow Judge Brown to finish what he started."

Mr. Ray is serving a 99-year sentence in a Tennessee prison. He is suffering from a fatal liver disease, and this week, doctors gave him four to six months to live if he did not get a liver transplant.