

Court Clears Way for Testing of Gun

Chronicle News Services

Memphis, Tenn.

The first barrier to a trial for the man who went to prison for the assassination of the Rev. Martin Luther King Jr. was lifted yesterday when a state appeals court allowed new tests on the rifle and bullet believed to have been used in the killing.

The Tennessee Court of Criminal Appeals said a judge has the authority to order new tests on the bullet and the .30-06 hunting rifle found with Ray's fingerprints on it near the Memphis hotel where King was slain in 1968.

Ray, who is 69 and suffering from liver disease, wants the tests to further his decades-old attempt to reverse his guilty plea in the assassination. He contends that the rifle in court custody since the 1960s is not the murder weapon.

Memphis Judge Joe Brown ruled in February that new technology exists to prove whether Ray's rifle killed King. Ray's lawyers must now formally ask the judge for permission to conduct the tests. Brown tried to give that permission in 1994, but was overruled by the appeals court.

If tests prove Ray's rifle was not the murder weapon, he can ask the court for a hearing on his claim of innocence.

The FBI and the U.S. House Select Committee on Assassinations tested the rifle in the 1970s, but could not establish that it was the murder weapon.

In 1994, Brown gave lawyers for Ray permission to test the rifle and the bullet believed to have caused King's death on the balcony of the Lorraine Motel.

But the state Court of Criminal Appeals blocked that order, saying Ray had already traveled all his legal avenues for

***** San Francisco Chronicle A7

Allegedly Used to Kill King

appeal. The state Supreme Court upheld that appellate court's ruling.

If the Tennessee attorney general does not appeal yesterday's decision, Ray's lawyer, William Pepper, will formally request new tests on the rifle.

Ray contends that the rifle found near the murder scene was put there by conspirators to frame him. Ray said he brought the rifle to Memphis on instructions from a shadowy gunrunner he knew only as Raoul. Authorities have never established that Raoul existed.

New test results alone would not be

enough to overturn Ray's guilty plea, prosecutor John Campbell said. "He was convicted on a lot of other evidence, too," he said.

However, Ray has won the support of King's family. King's widow, Coretta Scott King, and their son Dexter testified before Brown in February, telling the judge they want Ray to get a new trial to resolve whether King was the victim of a conspiracy or a lone gunman.

Dexter King recently met with Ray at a Nashville prison and said he believes Ray was a pawn in a murder conspiracy.