

# JUDGE ORDERS RAY RETURNED TO U.S. IN DR. KING DEATH

## British Magistrate Rejects View of Case as Political —Suspect Will Appeal

By ANTHONY LEWIS  
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LONDON, July 2—A London court today ordered James Earl Ray returned to the United States to stand trial as the accused assassin of the Rev. Dr. Martin Luther King Jr.

The chief metropolitan magistrate, Frank Milton, gave his decision promptly after a second day of legal argument in the case. He said quietly:

"The accused will be put in prison to await extradition to the United States."

Ray will continue the legal fight against extradition. His lawyers made it known that, within the 15 days allowed, they will apply in the Queen's Bench Division of the High Court of Justice for a writ of habeas corpus.

### Appeal to Lords

On that application the lawyers will again be able to make their arguments that Ray should not be extradited. The chief contention is that the murder of Dr. King in Memphis on April 4 was a political act and hence outside Britain's extradition treaty with the United States.

If the application for habeas corpus fails, Ray's lawyers can seek leave to appeal to the House of Lords, which in its judicial capacity is Britain's highest court. Leave would have to be granted by the Queen's Bench Division or the law lords themselves.

The magistrate's decision today was what most legal observers had expected. In the small, crowded courtroom of the Bow Street Court it seemed almost anti-climactic after the extended argument and the dramatic circumstances

The court had actually recessed for lunch, when, 8 or 10 minutes later, policemen came out on the sidewalk and told a few newspaper reporters who were still standing there that the prisoner wanted to say something.

### Conversation Denied

At Ray's request, Mr. Milton came back on the bench. Ray then stood between the plainclothesmen guarding him and made a statement touching on some points not affecting the legal issues.

There was one point of interest in the statement—a possible clue to Ray's political views. This was a comment that the case "will probably be given wide publicity in the United States, especially in the so-called liberal press."

"I would urge this court," Ray said, "to take in the totality of circumstances. One, that I did not sign any kind of statement whatsoever, and also the fact that I said I did not

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want to have the conversation with anybody connected with the United States Justice Department."

The Assistant Attorney General in charge of the Justice Department's Criminal Division, Fred M. Vinson Jr., is here. He, like Ray, has denied that any American representative has interviewed the prisoner.

Ray devoted most of his courtroom statement to a complaint that he had not been allowed to see Arthur J. Hanes, a former Mayor of Birmingham, Ala., whom he said he had retained as a lawyer.

Mr. Hanes flew here June 20 and told reporters that Ray had written asking him to take the case in the United States if extradition occurred. Mr. Hanes said he would have nothing to do with the British proceeding.

"Shortly after I was arrested by the British authorities," Ray said today, "I engaged an attorney in the United States, Mr. Arthur Hanes of Birmingham, Ala.

### A Letter to Heath

"He subsequently made the trip to consult with me. This was denied by the Home Secretary, and I made an application to the Home Secretary and I received no answer.

"I then wrote to Edward Heath [leader of the Conservative party], and I was informed that this was not permissible and he would forward the letter to Mr. [James] Callaghan [Home Secretary]. Evidently the Home Secretary would decide whether Mr. Heath would be permitted to read the letter.

"I think that in view of the seriousness of this case, I should have had a little more freedom to write and be visited in the circumstances. That is all I have to say, and I would like to thank the court."

An official of the Home Office later stated that a petition from the prisoner was received on June 25 asking that Mr. Hanes be allowed to visit him, and that it had been granted.



Associated Press  
David Calcutt, British barrister who represented the U.S. Government, arriving yesterday at court in Bow Street.

But Mr. Hanes never picked up his permit, a spokesman said.

Informed sources indicated that Mr. Hanes had originally asked, through British lawyers, to be allowed to see Ray. This request was turned down because Mr. Hanes had no known connection with the case and no standing in British courts.

### Displays No Emotion

When Ray said he wanted to consult Mr. Hanes on American legal questions, the Home Office agreed. But by then Mr. Hanes had flown home.

In any event, the Chief Magistrate made clear that nothing in Ray's statement could "possibly have any bearing on my decision.

Ray, who wore a white shirt without a tie and the same rather rumpled blue suit, displayed no particular emotion at the handling of his complaint or at the decision that came at the end of the day. From time to time he had a slight smile on his face.

Mr. Milton, in his decision, made the first formal legal finding that the prisoner was James Earl Ray, who escaped from the Missouri State Penitentiary in 1967 after serving seven years of a 20-year term for armed robbery.

When arrested at London Airport on June 8, the accused man was traveling under a Canadian passport that bore the name Ramon George Sneyd. He has made no statement, in

court or otherwise, on his actual identity.

"I find," Mr. Milton said as he began his decision, "that James Earl Ray is the same as the person before me."

The first legal question that Mr. Milton had to answer was whether there was a prima facie case against Ray on the two grounds on which the United States sought extradition—the escape on the robbery conviction and the killing of Dr. King.

That meant that there had to be as much evidence as would be needed to justify binding a British suspect over for trial—"probable cause," in the American phrase, which means something considerably short of preponderant proof of guilt.

The case for extradition, on this point, was based on last

week's statements and affidavits linking Ray to the rifle that killed Dr. King and placing him in the motel from which the fatal shot was fired. There was also fingerprint evidence.

Ray's lawyers did not deny the existence of a prima facie case. Mr. Milton found that there could be "no doubt" of it.

Next, Mr. Milton had to consider whether the two grounds of robbery and murder came within the 1931 extradition treaty between Britain and the United States. Extradition can take place only under the strict terms of the treaty.

#### 'Ridiculous Loophole'

Roger Frisby, the barrister who appeared for Ray, argued that the Missouri crime of armed robbery was not, technically, within the treaty, which refers to robbery with violence.

But Mr. Milton said such a reading of the treaty would open "a very ridiculous loophole in the law." He held that in fact Ray's crime of robbery was an extraditable offense.

The more serious and interesting argument made by Mr. Frisby was on the murder charge. This was the argument that the offense was outside the treaty because it was political.

The treaty provides that "a fugitive criminal shall not be surrendered if the crime or the offense in respect of which his surrender is demanded is one of a political character."

Mr. Frisby argued at length that Dr. King was a "political figure."

From his first emergence to leadership in 1955 in the Montgomery, Ala., bus boycott, Mr. Frisby said, Dr. King was engaged in the political business of "trying to get Government to change its policies."

The Southern Christian Leadership Conference, which Dr.

King headed, organized many boycotts and demonstrations, Mr. Frisby noted. He mentioned Dr. King's connection with the March on Washington in 1963 and his lobbying for civil rights legislation.

"His actions had a moral content," Mr. Frisby said, "Most political activities do. But these were political activities in the normal sense of the term."

"Dr. King was disliked, as it were, by both sides. There were black power people who rather thought Dr. King was not getting on with it fast enough. There were the people on the other side who disagreed completely with what he was trying to do."

Mr. Milton interrupted to say that all of that was beyond dispute. But he asked what there was to show that the motive for Dr. King's murder had been political.

#### No Evidence of Motive

Here Mr. Frisby was in something of a difficulty. The prisoner, to avoid cross-examination on his identity and other points, had not himself taken the witness stand. In an unsworn statement last week he had simply denied killing Dr. King—or knowing him. There was thus no evidence of motive.

In those circumstances, Mr. Frisby argued, without evidence, "a court would be entitled to conclude on the face of it that in all likelihood it was a political murder."

David Calcutt, the barrister who appeared for the American Government, replied that to be a political offense a murder had to be part of some "larger enterprise" to overthrow or use compulsion on a society—and here none had been shown.

"A lone murder of a poli-

tician," Mr. Calcutt said, "still less of a mere public figure, cannot satisfy the definition of an offense of a political character . . ."

"There is not one shred of evidence here to show that the killing took place to further a larger enterprise."

"There is no evidence of any conspiracy. There is no evidence of this man having worked with any other man. There is no evidence of this man being associated with a body."

"It is no doubt said that there is an undertone in this case of a conspiracy, but all the evidence is of a lone assassin."

Mr. Milton, who delivered his decision quickly from the bench, as the highly skilled British trial judges usually do, agreed with Mr. Calcutt's view of the evidence and what it meant for the political offense argument.

"Do you ask me for legal aid?" Mr. Milton asked.

"Yes, sir," Ray replied softly.

The magistrate granted the necessary certificate, and the four plainclothes guards led Ray back to his cell.

The legal aid certificate authorizes payment by the state of the solicitors and barristers who will carry Ray's case on to the Queen's Bench Division, which is the highest court of general jurisdiction in England. It handles important trials and reviews of magistrates' decisions.

The court of last resort in this case is the House of Lords. It exists as one of the two legislative houses of Parliament, but its members include a number of law lords—formally Lords of Appeal in Ordinary—who sit as Britain's highest court of appeal.