

Changes of Pleas Called Realistic and Essential

By LAWRENCE VAN GELDER

Presentencing understandings of the type that led James Earl Ray to enter a plea of guilty yesterday to the murder of the Rev. Dr. Martin Luther King are regarded within the judicial system as essential.

Although the public generally seems to regard "copping a plea" as an act with sinister undertones, judges and lawyers see guilty pleas based on discussion between prosecution and defense as realistic.

"This is the essence of propriety so long as everything is on top of the table and so long as the judge has not committed himself in any final sense in advance," said Judge Warren E. Burger of the United States Court of Appeals in Washington yesterday.

Judge Burger is the chairman of the American Bar Association's Committee on Minimum Standards for Criminal Justice, which has issued several reports on guilty pleas.

A.B.A. Reports Approve

"The A.B.A. reports dealing with this," he said, "have taken the position that there is nothing inherently wrong with plea discussions. The significant thing is that everybody clearly understands what is going on, and we particularly emphasize that the judge should not be a party to a definitive agreement prior to the time of his imposing the sentence."

Judge Burger observed that "it is definitely in the public interest that plea discussions take place."

Experts have noted that system of criminal justice is geared to having a high percentage of persons charged with crimes entering guilty pleas. They note that a declining rate of such pleas in recent years — based on belief that convictions are difficult to obtain and that reversals of conviction on appeal are easier to come by — has helped to clog the courts.

The "deal" or "bargain" that seems to arouse public indignation (the A.B.A. prefers the word "discussion") is actually an understanding between prosecution and defense.

It does not bind the judge, and the American Bar Association recommends that judges refrain from taking part in any discussions with opposing counsel except at the final stage of proceedings, when they are on the bench and the matter of the plea becomes part of the stenographic record.

If the judge is not prepared to act in accord with the understanding between counsel, it is felt that he should permit the plea to be withdrawn. In any trial that may later take place,

evidence of the discussions about entering a plea may not be admitted. Similarly, evidence of discussions about a settlement is barred from a civil lawsuit.

Sirhan Bishara Sirhan, who shot Senator Robert F. Kennedy and is now on trial on a first-degree murder charge in Los Angeles, seriously contemplated changing his plea to guilty last month.

Judge Blocked Plan

Negotiations for a change of plea, between Sirhan's attorney similar to the one made by James Earl Ray in Memphis yesterday, and the District Attorney's office broke down when Superior Court Judge Herbert V. Walker, who is presiding at the trial, refused to go along with the plan.

Under the proposal that Sirhan's attorneys were willing to accept, the young Jordanian immigrant would have pleaded guilty to first-degree murder with the stipulation that the penalty be life imprisonment rather than death in the gas chamber.

Such an agreement is permissible under California law if it is accepted by the defense, the prosecution and the presiding judge. According to reliable sources, Judge Walker said at the time, "We don't want another Dallas."

However, the judge said later that he would have taken a guilty plea on first-degree murder and let the jury decide the penalty.