

Tennessee Court Bars Ray's Plea for New Trial

JAN 9 1970

Special to The New York Times

KNOXVILLE, Tenn., Jan. 8—The Tennessee Supreme Court refused today to hear arguments for a new trial for James Earl Ray, serving a 99-year sentence in the 1968 slaying of the Rev. Dr. Martin Luther King Jr. in Memphis. An eight-page unanimous opinion said:

"The court finds that the defendant willingly, knowingly and intelligently and with the advice of competent counsel entered a plea of guilty to murder in the first degree by lying in wait, and this court cannot sit idly by while deepening disorder, disrespect for constitutional authority, and mounting violence and murder stalk the land let waiting justice sleep."

Opinion by Lawyer

"This well-planned and well-executed killing would indicate the defendant to be of at least or over-average intelligence," the court continued. It concluded that Ray was able to know what he was doing when he "went to the 'bargaining table' to decide his fate—whether to plead as he did or take his chances at the hands of a jury."

"He made the bargain," the judges said.

The opinion was written by a Knoxville lawyer, Erby L. Jenkins, who is sitting as a spe-

Says 'He Made the Bargain Willingly and Intelligently' to Avoid Jury Decision

cial justice. Chief Justice Ross Dyer and Justices Larry Creson and Allison Humphreys concurred. Justice George McCannless did not participate.

The court said that once Ray was sentenced by Judge Preston W. Battle in Shelby County Criminal Court his right to appeal was waived.

"It is well settled in Tennessee," the court wrote, "that when a defendant pleads guilty and fully understands what he is doing, as we believe this defendant did, there can be no legal ground to justify the granting of a new trial."

"Otherwise, the doors of our state prison would remain ever ajar to those who are incarcerated therein on pleas of guilty, and who becoming dissatisfied, seek relief on motions for a new trial."

Earlier Proceedings

Judge Battle died three weeks after he sentenced Ray last March. In the Judge's possession were letters from Ray requesting a new trial and contending that he had not been adequately represented in court.

Ray's petition was denied by the new Shelby judge, Arthur Faquin. Last summer the State Court of Criminal Appeals also denied Ray's appeal.

Ray's attorneys were national figures. Arthur Hanes, former Birmingham Mayor, was the first. He was dismissed later, and Percy Foreman, of Dallas, was employed by Ray. Under Mr. Foreman's counsel, Ray pleaded guilty.

Ray was represented today by Robert Hall of Chattanooga, and J. B. Stoner, of Savannah, Ga. They would not say whether the ruling would be appealed.