

# New evidence in the King case

By Wayne Chastain Jr.

**MEMPHIS** — The testimony of two men — a former Tennessee deputy sheriff and a New York ballistics expert — may prove James Earl Ray innocent of the 1968 assassination of Dr. Martin Luther King Jr.

The two men are Ted Ghormley, former Shelby County deputy sheriff, and Dr. Herbert Lynn MacDonnell, professor of criminology at Elmira College, N.Y., and a ballistics and firearms expert.

This fall Ghormley and MacDonnell, testifying in federal court in Memphis, placed evidence into the record that would shatter the state of Tennessee's theory of how Dr. King was murdered on April 4, 1968.

The federal hearing was held in response to a motion by Ray's attorneys, who argued Ray was denied effective assistance of counsel and due process of law at a mini-trial in Memphis on March 10, 1969. At that time, Ray pleaded guilty to Dr. King's murder in exchange for a 99-year sentence.

Ray said he was coerced into pleading guilty by his former attorney, Percy Foreman of Houston. Ray testified at the recent hearing that he did not kill Dr. King and that he now realizes he was unwittingly ensnared in a conspiracy to kill Dr. King by a mysterious underworld character called "Raoul." Ray's attorneys are confident that evidence presented at the hearing will result in Ray winning a new trial. Judge McRae is expected to rule on the question late next month.

Robert I. Livingston, one of Ray's three attorneys and a 20-year veteran of Memphis court battles, said that Ghormley's testimony at the hearing "shattered the state's theory" of the case. Livingston pointed out that the state has produced no eyewitnesses linking Ray with the rooming house from which the prosecution contends the fatal shot was fired.

"The State based its entire case against James Earl Ray on the bundle — containing the murder weapon and Ray's belongings — that was found at the foot of the stairwell," Livingston said. "And before this evidence could be deemed incriminating against Ray, the state has to assume that the bundle was left after the fatal shot was fired," Livingston added.

Ghormley's testimony, however, indicates the bundle was left at the stairwell *before* the fatal shot was fired.

At the mini-trial hearing in 1969, the state of Tennessee contended that Dr. King was killed by a sniper shot fired from the bathroom window of the second floor of the rooming house about a block away from the Lorraine motel about 6:01 p.m., April 4, 1968.

In the 1969 hearing, Shelby County Assistant Attorney-General James Beasley (now a criminal court judge) outlined the evidence that the state would have presented had Ray pleaded not guilty and gone to trial. According to Beasley, the sniper, after firing the shot, ran from the bathroom to his room — which he had rented under the alias John Willard about 3:30 p.m. that afternoon — to gather his belongings for his escape.

The killer wrapped the murder weapon, a 30.06 caliber rifle, in a sheet, inserted it into the leather sheath, and then placed it in a cardboard box, Beasley said. Then the killer wrapped the box, a suitcase containing clothing, a pair of binoculars, and a radio in a bedspread, and ran down to the foot of the stairwell.

Beasley theorized that although the killer's Mustang was parked only a few feet away, he would have to carry the bundle in plain view across the sidewalk, and set it down in order to open the car door. By this time, the rifle barrel was protruding from beneath the lid of the box. Then, Beasley reasoned, the killer decided to leave the bundle at the foot of the stairwell and casually walk across the sidewalk without it, so he would not attract attention.

By that time, policemen, firemen and deputy sheriffs were rushing toward the rooming house from a fire station less than a block away.

The bundle, Beasley testified at the mini-trial, was found about 15 or 20 minutes later by Memphis Police Inspector N.E. Zachary. The bundle, Beasley contended, incriminated Ray because:

- 1) Ray's fingerprints were on the barrel and other places on the rifle;
- 2) the radio had been owned by Ray when he was an inmate at the Missouri State Prison;
- 3) the suitcase contained Ray's clothing, again with Ray's fingerprints on it (it also contained clothing belonging to a man smaller than Ray, but Beasley did not mention this to the court);
- 4) the binoculars contained Ray's fingerprints and a store clerk in Memphis identified Ray as the buyer of the binoculars about 4:30 that afternoon;
- 5) the bedspread used to wrap the items contained fibers that matched the fabric of the inside lining of the trunk of the Mustang which Ray admitted driving to Memphis from Birmingham, and which he admitted driving from Memphis to Atlanta, Ga., after Dr. King was killed.

At the hearing this fall, however, Ghormley shattered the state's timetable of events by testifying that he, Ghormley, not Zachary, found the bundle — and not more than two minutes after the fatal shot was fired.

"There was not a soul on Main Street when I found it, walking or in a moving vehicle," Ghormley said.

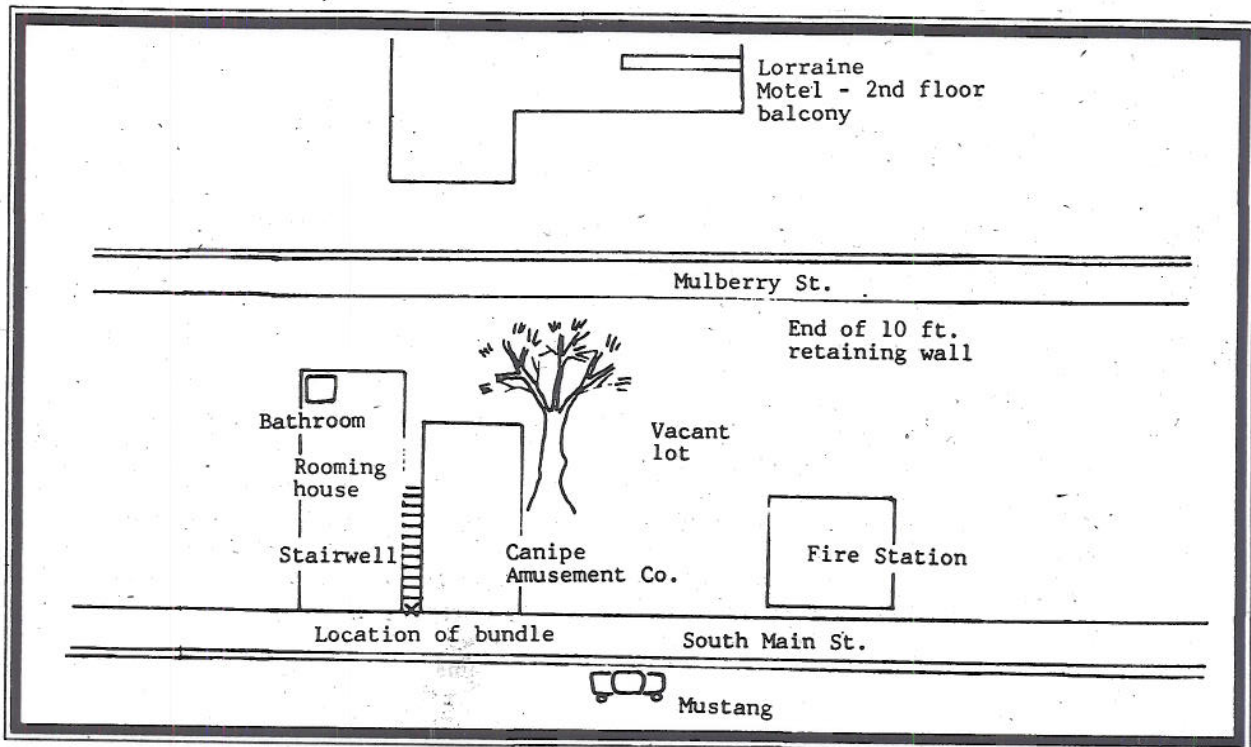
The former deputy told the court that he was with a tactical emergency squad unit assigned to patrol the neighborhood in the wake of riots which had rocked the city less than a week before. About 5:45 p.m., his unit stopped at the fire station and he chatted with a detail of Memphis police plainclothesmen assigned there to monitor Dr. King's movements at the Lorraine Motel through peepholes at the back of the station. "I was there when the fatal shot was fired," Ghormley said.

To get to the motel grounds, the firemen and policemen had to jump about 12 feet from a high concrete wall to the sidewalk below. Ghormley told Livingston that "soft bones" he has had since childhood prevented him from making the jump, so he ran back toward the front of the rooming house, and found the bundle.

"It was probably more than a minute and less than two minutes," Ghormley said. "I was the first law enforcement officer at the scene of the cafe (which is directly below the rooming house)."

Inspector Zachary, in his own deposition, admits he was at the police station — about 15 to 20 blocks away — when he got word of Dr. King's death.

Livingston said: "If Ghormley's testimony is true — and I believe him because he is an honorable man whom I've known for 30 years — then the killer had less than two minutes to run from the bathroom, meticulously wrap the rifle in the sheet, insert it in its leather sheath, gather up the other items, race down



the stairs, leave it, and jump into the Mustang and drive away."

Zachary, who has retired from the police department and is now mayor of Lula, Miss., did not testify at the hearing.

More evidence of Ray's possible innocence came from Dr. H. L. MacDonnell who testified that Ray's rifle could not have been used to fire the fatal shot.

The state contends that Ray crouched in a contorted position, with one foot on the edge of the bathtub and the other foot in the bathtub, to get in a position to fire from the window, which is almost six feet from the floor. Dr. MacDonnell drew diagrams on a courtroom blackboard and made geometrical calculations to prove that a dent in the bathroom's windowsill could not have been caused by the triggerrest of Ray's rifle.

"To have made that mark in the sill, the rifle would have had to be pointing upward and to the left," MacDonnell said. "When the shot was fired, the bullet would have gone into the wall."

MacDonnell also disagreed with an FBI ballistics report and criticized the FBI's conclusion that fragments from Dr. King's body were not large enough to be measured microscopically by modern tests. Ray's attorneys argue the FBI could have conclusively determined that the fatal bullet did not come from Ray's rifle.

Livingston concludes that the testimony of MacDonnell and Ghormley proves three major points:

- Ray's rifle could not have been the murder weapon.
- Ray was not at the rooming house when Dr. King was murdered.
- Ray's rifle was left on the scene in order to frame him.

"It does not take a logician to infer a conspiracy from this evidence," Livingston said. "Somebody went to a lot of trouble to make it look like Ray did it. This spells 'frame-up.' And where there is a frame-up executed with such precision, this in turn spells conspiracy. Ray was framed and framed by professionals, who knew what they were doing."

A former Marine and amateur firearms buff himself, Livingston said he has a welter of other evidence suggesting conspiracy, but he prefers not to dwell on it at this point.

"My major objective as Ray's defense attorney is to get a new trial for my client — not to play Perry Mason."

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Wayne Chastain is a veteran newspaper reporter and author of a forthcoming book: *Who Really Killed Dr. King — And the Kennedys? A Disturbing View of Political Assassinations in America*. Chastain, now an attorney, was one of the first reporters on the scene after Dr. King was shot and has investigated the King death for more than six years. Last spring, he became the first reporter from a metropolitan daily newspaper to interview James Earl Ray, accused slayer of Dr. King, in the Tennessee State Prison.

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Cover: Peter Boyle and Madeline Kahn in "Young Frankenstein"

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