

APRIL 1, 1969

FIVE

NEW TRIAL POSSIBILITY EYED

Judge in Ray Case Dies

MEMPHIS, Tenn. (AP)—Judge W. Preston Battle has died of a heart attack, raising the possibility that Tennessee may have to give James Earl Ray the trial by jury he now says he wants.

The 60-year-old jurist was found dead in his chambers last night. On March 10 he had accepted Ray's plea of guilty to the murder of Martin Luther King Jr. and sentenced him to 99 years in prison.

Later Judge Battle disclosed Ray had written from the state penitentiary advising that he wanted to withdraw his plea and stand trial.

CHARLES GALBREATH, a Tennessee Appeals Court judge, said today that if the letter is construed as a motion for a new trial, the state would have to give Ray one.

Galbreath said such a motion must be granted under state law if the trial judge dies or is judged insane while the case is pending.

In the case of a petition for a writ of habeas corpus—where a prisoner claims his rights were denied—Tennessee Supreme Court Chief Justice Hamilton

Burnett said Battle's death would have no effect on the case.

"IT MAKES no difference at all," Burnett said, adding that a petition of this kind could be filed with another judge.

Criminal Court Clerk James A. Blackwell said that no motion for a new trial nor a writ of habeas corpus was on file in his office. He did not speculate on how Ray's letter might be interpreted.

Blackwell said Ray would almost certainly have been entitled to a new trial if Battle had not signed the minutes of the March 10 hearing where the guilty plea was made. But Blackwell said that was a detail the judge had completed.

BATTLE'S body was found by James Beasley, an assistant district attorney general who was one of the prosecutors in Ray's case.

A heart attack was given as the cause of death after an autopsy by Dr. Jerry T. Francis-co, the same county medical examiner who did the postmortem on King.

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