

SECRET

# RAY FAILS IN MOVE FOR SECOND TRIAL

27 MAY 1969

Judge in Memphis Rules He  
Gave Up Right of Appeal  
When Pleading Guilty

NEW YORK TIMES  
BY MARTIN WALDRON

Special to The New York Times

MEMPHIS, Tenn., May 26—  
Criminal Court Judge Arthur  
C. Faquin Jr. ruled today that  
James Earl Ray gave up his  
right of appeal on March 10  
when he pleaded guilty to the  
murder of the Rev. Dr. Martin  
Luther King Jr.

The judge threw out Ray's  
request for a new trial and  
ordered the pudgy, 41-year-  
old convict returned to the Ten-  
nessee State Penitentiary at  
Nashville to continue serving  
his 99-year sentence.

During the session Ray,  
whose weight has risen from  
170 to almost 190 pounds in  
two months of solitary con-  
finement at the penitentiary,  
sat quietly behind his lawyers.

State prosecutors introduced  
into evidence a signed state-  
ment by Ray requesting that he  
be allowed to plead guilty in  
return for the 99-year sentence  
and agreeing that he would  
neither appeal the sentence nor  
ask for a new trial.

## Legal Technicalities

Judge Faquin said that such  
agreements were legal and  
blinding in Tennessee. He cited  
numerous Tennessee court de-  
cisions in behalf of this position.

Today's hearing, which had  
held the promise of being a  
forum for Ray's story that he  
was nothing more than a dupe  
who pleaded guilty because of  
pressure, never got beyond  
legal technicalities.

At the start of the hearing,  
Ray's three attorneys withdrew  
allegations that Ray's former  
lawyer, Percy Foreman of  
Houston, had browbeaten Ray  
into pleading guilty.

Judge Faquin offered to  
throw open the hearing to  
allow Ray to state his position,  
but the attorneys representing  
him declined the offer. They  
would not explain why the al-  
legations about the pressure had  
been withdrawn.

Robert K. Dwyer, the prose-  
cutor, who just this morning

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Associated Press  
MOTION DENIED: J. B. Stoner, lawyer for James Earl  
Ray, telling newsmen that Judge Arthur Faquin had re-  
jected Ray's bid for a new trial.

THE NEW YORK TIMES, TUESDAY, MAY 27, 1969

## Ray Fails in Plea for New Trial; Judge Orders Him Back to Jail

Continued From Page 14 Col. 2 a full hearing under a post-conviction act that allows Ten-  
nessee convicts to seek leniency  
while they are serving prison  
terms. Mr. Stoner indicated  
that the lawyers planned to fol-  
low all three courses if neces-  
sary.

They contended at today's  
hearing that Tennessee law re-  
quired that Ray be given a  
new trial because he had asked  
for it before the death of W.  
Preston Battle, the judge who  
sentenced him to 99 years. The  
judge died three weeks after  
the sentencing and before the  
time of applying for a new trial  
had expired.

But Judge Faquin ruled that  
Ray's case was not governed  
by this law because he had  
waived his right to appeal or to  
ask for a new trial.  
Ray is expected to be re-  
turned to the penitentiary to-  
morrow morning.

Ray's case was not governed  
by this law because he had  
waived his right to appeal or to  
ask for a new trial.

### May Go to Higher Courts

Judge Faquin told Ray's law-  
yer's, who included J. B. Stoner,  
of Savannah, Ga., an outspoken  
fact, that they could ask higher  
courts to direct him to grant  
Ray a new trial.

Failing that, he said, they  
could file a writ of habeas cor-  
pus seeking a new trial by al-  
leging fraud in the plea.

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