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CLASSIFICATION NO.  
44-1987 Sub C  
Murphy's Clipping

Volume Number  
6  
Serials 697-

(Mount Clipping in Space Below)

# Some see Ray-King teamwork as unholy alliance

By Marc Perrusquia  
The Commercial Appeal

The unusual alliance between the families of Dr. Martin Luther King Jr. and assassin James Earl Ray is troubling to scholars and others familiar with the case who say the media have forgotten history.

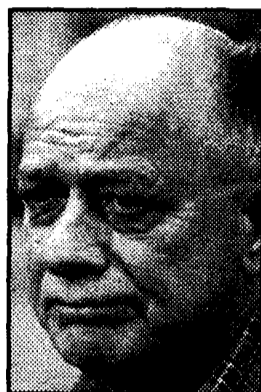
King's son Dexter and Ray's brother Jerry have appeared together publicly at least twice in recent weeks, calling for a trial "that never was."

James Ray pleaded guilty in 1969. Serving a 99-year sentence, Ray, 69, is suffering from an advanced liver disease. Jerry Ray says his brother is innocent and Dexter King wonders if others might have been involved in his father's murder.

"We learned very early on the true spirit of Christian love, a love (requiring) that you forgive your enemies," a solemn and graceful

Dexter King, 36, said recently on the Montel Williams TV talk show.

Later, Jerry Ray, 61, hung his head and hinted that time was running out for his brother.



Jerry Ray

The public's memory may be short, but history has not forgotten Jerry Ray's past, which includes affiliations with racist groups.

Among concerns, Ray served as a bodyguard and campaign manager to white supremacist J. B. Stoner, who was convicted in 1980 of conspiracy to bomb a black church in Alabama.

A Congressional panel also considered evidence in 1978 suggesting Jerry Ray and another brother might have assisted James Ray in carrying out King's murder.

For author David J. Garrow, who won a Pulitzer Prize for his King biography, *Bearing the Cross*, the "almost cheek-to-jowl" image of the Ray and King families is infuriating.

"These guys," Garrow said of the Rays, "have blood on their hands."

"It's a shameful exploitation of the King family, who are genuinely concerned about this," said G. Robert Blakey, a University of Notre Dame law professor who served as chief counsel for the U.S. House of Representatives' Select Committee on Assassinations in 1977 and 1978.

MEDIA REP. 

(Indicate page, name of newspaper, city and state.)

Date: 3/25/97; Page A4  
Edition: COMMERCIAL APPEAL  
MEMPHIS, TN

Title:

SOME SEE RAY-KING TEAMWORK  
AS UNHOLY ALLIANCE

Character:

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Classification:

Submitting Office: MEMPHIS

Indexing:

44-1987-Sub C-697

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FBI - MEMPHIS	

FBI/DOJ

"For people to prey on their concerns and get them involved is shameful."

Blakey said he suspects the alliance may somehow be motivated by a contract between filmmaker Oliver Stone and the King estate.

Phillip Jones, president of Intellectual Properties Management, which manages the King estate, has acknowledged a deal with Stone for a movie on King's life.

But Jones denies any money-making motive behind the King family's support of a trial for Ray. He said it would be a couple of years before there is a King film by Stone, who drew ire from critics for his conspiracy-laden *JFK*, a movie on the assassination of President John F. Kennedy.

Jerry Ray dismisses contentions that he aided his brother James in the King assassination.

"That's a damn joke," Ray said in a recent telephone interview, bristling over recent coverage. "Some of those damn newspapers, boy, they're shook up and scared he's going to get a trial."

But in 1978, Ray admitted to contacts with his brother James in the months prior to the assassination, something he had denied when questioned by the FBI in 1968.

James Ray has long maintained that, in the year between his escape from a Missouri prison and the King assassination, he received funding from a mysterious man he knew only as Raoul, who set him up.

The 1978 House investigation determined that Ray may have received financing from a 1967 bank robbery in Illinois involving his brother John Ray, now 64, of St. Louis. James Ray also may have received money through contacts with Jerry Ray, the investigation found.

Jerry Ray's knowledge of the assassination drew more attention in a 1976 book, *The Making of An Assassin* by George McMillan.

McMillan wrote that Jerry Ray told him the Raoul story was phony and that James called him from Memphis the

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*The public's memory may be short, but history has not forgotten Jerry Ray's past, which includes affiliations with racist groups.*

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day before the assassination to announce, "Big Nigger has had it!"

Jerry Ray now denies that, and McMillan is dead.

Racist J. B. Stoner became James Ray's attorney days after Ray pleaded guilty in 1969, an association that Jerry Ray encouraged. Jerry became campaign manager in Stoner's failed 1970 bid to become governor of Georgia.

"Jerry has turned around and said that his brother's innocent, but in those days Jerry was really cashing in on it around the rednecks," said Conrad Baetz, a retired Illinois sheriff's deputy who once arrested John Ray.

Yet Baetz, who served as an investigator for the 1978 House committee, said he doubts whether Jerry Ray ever actually knew anything about the assassination.

Ray, an ex-convict and laborer now retired in Smartt, Tenn., near Nashville, said a number of false allegations have been leveled at him through the years.

"They had me robbing banks and going and buying guns," he said.

But from 1965 to 1968, Ray said, he worked six days a week as a night watchman at a suburban Chicago country club.

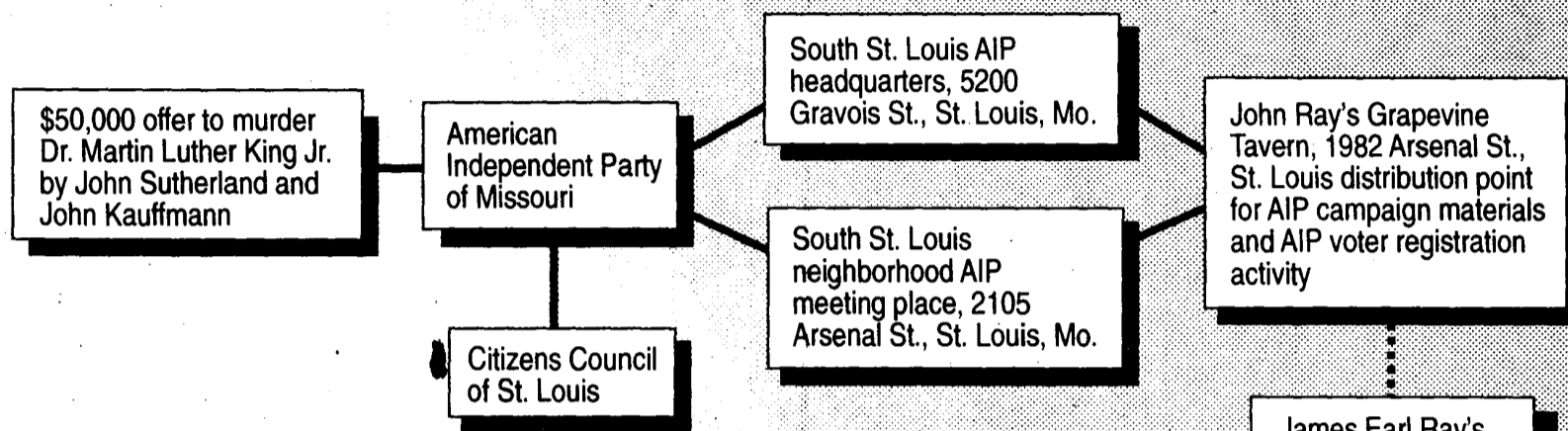
"I did a lot of darn things on that one night off," he said.

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*To reach reporter Marc Perusquia, call 529-2545.*

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## Ray family conspiracy?



A congressional inquiry in 1978 concluded there might have been a conspiracy involving two St. Louis businessmen to kill Dr. Martin Luther King Jr. Staff for the House Select Committee on Assassinations presented four theories of how a \$50,000 offer to murder King could have reached James Earl Ray in 1967 when he was imprisoned in the Missouri State Penitentiary. Two of those theories involved Ray's family. Ray's brother, John, an ex-con and St. Louis tavern owner, was active in George Wallace's American Independent Party and had racist acquaintances.

Source: Flow chart reproduced from government exhibits presented in the U.S. House of Representatives Select Committee on Assassinations's hearings into the Martin Luther King murder.

Staff graphic

(Mount Clipping in Space Below)

# Court's consent paves way to retest King rifle

Decision up to  
Memphis judge

By **Mickie Anderson**  
The Commercial Appeal

A Memphis judge has the right to order convicted assassin James Earl Ray's rifle tested to see if it was the gun that killed Dr. Martin Luther King Jr. in 1968, an appeals court ruled Wednesday.

With the ruling, the state Court of Criminal Appeals paved the way for defense attorneys to ask Criminal Court Judge Joe Brown to order the tests. The three-judge panel denied Ray's request to reopen his case, saying to do so he must have scientific evidence of his innocence.

On the gun-testing question, the judges told Ray, 69, that he can't use the courts to fish for evidence that might clear him. But, they decreed, a criminal court judge has the authority to order such tests as long as the tests don't damage the evidence.

Defense attorney Jack McNeil was pleased with the ruling, saying he expects Ray's defense team in court by the end of this week or early next week, asking Brown to order tests on the .30-06 Remington rifle.

"It's tremendous," McNeil said. "This is just an extremely

(Indicate page, name of  
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COURT'S CONSENT PAVES WAY TO  
RETEST KING RIFLE

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MEDIA REP.

favorable opening. We're not jumping up and down here, but everybody appears to be interested in getting to the truth."

McNeil said Ray, ill with advanced cirrhosis of the liver, wasn't aware of the ruling Wednesday afternoon, but would know of it before week's end.

State prosecutor John Campbell, who had parts of the ruling read to him Wednesday afternoon but hadn't had a chance to study it, said he has no problem with the weapon being tested.

"If they're saying the judge can grant them the tests, like an open-records type thing or a freedom of information request, then I can live with that," he said.

Defense attorneys want the rifle and bullet examined with a microscope they say is far more powerful than the microscopes used by the FBI in 1968 and firearms experts hired by Congress 10 years later. So far, experts have said the bullet that killed King could have come from the rifle, but they could not definitively link bullet and gun.

Campbell, the prosecutor, said testing the rifle and getting the case reopened are worlds apart.

The appeals court said Ray's case could be reopened, but only if the trial court finds the scientific evidence shows Ray didn't commit the crime.

Ray pleaded guilty in 1969 on the advice of his lawyer and was sentenced to 99 years. He recanted within days and has been trying to win a trial ever since.

Campbell said there was plenty of evidence against Ray at the time of his plea, including his fingerprints on the rifle, beer cans and other items wrapped in a bundle and dropped near the Lorraine Motel where King was shot.

"That (the gun) is not the only reason James Earl Ray was found guilty. He even entered a guilty plea," Campbell said. "I think we're a long way away from having this resolved."

Brown, the criminal court judge, said state prosecutors have 30 days to decide whether to appeal to the state Supreme Court.

Campbell said he would not stall a decision about whether to appeal.

"We're not going to just sit on

it and see if he dies," he said. "We would just as soon resolve it."

Ray's illness and the King family's recent call for a trial have shoved the case back into national and international prominence after years of only periodic notice. A special congressional committee decided in 1979 that Ray killed King, but suggested he had help either before or after the assassination.

In February, Brown ruled that new tests might yield new evidence.

He groaned Wednesday afternoon when told of the latest ruling.

"We'll have more of that circus again," he grumbled, referring to the heavy media attention February's hearing drew. "It seems like everything comes to a stop around here with that one."

Brown used a baseball analogy to describe his reaction to the appeals court's ruling.

"I thought I was calling the law the way I saw it," he said. "It's like being an umpire and the instant replay shows you called a ball a ball and a strike a strike."

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*To reach reporter Mickie Anderson, call 529-6510.*

(Mount Clipping in Space Below)

# Judge aims for May 12 on King rifle test decision

By Marc Perrusquia  
The Commercial Appeal

During a sometimes confusing hearing Thursday, Criminal Court Judge Joe Brown set May 12 for a decision on whether to allow new tests on the rifle believed to have killed Dr. Martin Luther King Jr.

The proceedings included allegations that unnamed attorneys were trying to steal the case from James Earl Ray's attorneys and a prosecution attempt to send the case to another judge.

Prosecutors say Ray used the Remington .30-06 hunting rifle to kill King in 1968 in Memphis, but defense attorneys say it was a "throw down" used to frame Ray, 69, who's serving a 99-year sentence.

Brown said a hearing on the testing issue could be held earlier if the state chooses not to appeal a Tennessee Court of Criminal Appeals ruling. The appeals court ruled Wednesday in Jackson, Tenn., that the local court has discretion to order the tests.

The decision to appeal rests with Tennessee Atty. Gen. Knox Walkup. Public information officer Sharon Curtis-Flair said Thursday from Nashville that Walkup is reviewing that matter and should have a decision "soon," possibly next week.

The prosecution and defense differed after the hearing whether high-magnification tests with a scanning electron micro-

scope would add anything substantial to the 29-year-old case.

"We're going to wind up in the same old boat we're in right now," said John Campbell, assistant district attorney general. Defense attorneys have said an Oregon laboratory could do the tests, but Campbell said a representative of the lab told him they could not resolve the matter.

Ballistics tests by the FBI in 1968 and Congress in 1978 could not positively match the bullet retrieved from King's body to the rifle.

In a strange twist Thursday, defense attorney Jack McNeil contended other attorneys he declined to name were trying to take over Ray's defense.

During the hearing, Campbell asked Brown to send the case back to Division 3 Criminal Court Judge John Colton Jr. He said the case should proceed with Colton because Ray pleaded guilty in 1969 in Division 3 and the appeals court ruled the "trial court" has discretion to carry out the tests.

But Brown said the case will remain with him, saying "trial court" referred to his court. "This is specifically addressed to yours truly," Brown said.

Brown became involved in the case when Ray's attorneys filed a petition in his court asking to test the rifle. Brown initially approved the tests in 1994, but was blocked then by the appeals court.

To reach reporter Marc Perrusquia, call 529-2545.

(Indicate page, name of newspaper, city and state.)

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MEMPHIS, TN

Title: JUDGE AIMS FOR MAY 12 ON KING  
RIFLE TEST DECISION

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Indexing:

44-1987 SubC-699

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MEDIA REP.

FBI/DOJ

(Mount Clipping in Space Below)

# Appeal may be sought to block rifle test

## Move considered amid Ray wrangle

By Marc Perrusquia  
The Commercial Appeal

Prosecutors said Thursday they're considering an emergency appeal to block test firing next week of the rifle authorities say James Earl Ray used to kill Dr. Martin Luther King Jr.

The move came amid another day of legal wrangling over who should oversee the tests and, ultimately, decide if there is evidence to grant Ray the trial he's sought for 29 years.

Criminal Court Judge Joe Brown said he intends to go forward with his order to fire 50 rounds Monday from the .30-06 Remington rifle that prosecutors say Ray used to kill King in Memphis in 1968. Attorneys, however, said late Thursday that the test firing may be delayed.

Defense attorneys claim the gun was a "throw down" to frame Ray, 69, who's serving a 99-year sentence.

Brown stood his ground after Criminal Courts Administrative Judge Chris Craft sharply criticized him and defense attorneys in a series of blistering comments from the bench. In a day full of traded accusations of improper conduct, Craft said the handling of the case has been a "mockery of our justice system" and suggested Brown recuse himself from the case.

But Craft sidestepped a prosecution motion asking that the decision to test be made by another judge and instead sent the matter back to Brown, conceding he has no authority over him.

"This is an absolute travesty the way this case has been han-

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COMMERCIAL APPEAL  
MEMPHIS, TN

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APPEAL MAY BE SOUGHT TO  
BLOCK RIFLE TEST

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44-1987

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Indexing:

44-1987 Sub C-700  
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FBI/DOJ

From Page A1

## Ray

dled so far," Craft said. Among his criticisms of Brown, Craft said it was "absolutely improper" for his fellow judge to continue to give media interviews about a matter pending before the court.

Moments later, in an impromptu press conference, Brown suggested it was Craft, a former prosecutor who has worked on the Ray case, who took questionable actions.

"I'm not interested in what Judge Craft said," Brown told reporters.

Brown said he may hold another hearing today to consider arguments about the testing but said the tests should be conducted "expeditiously" because of Ray's poor health. Ray is suffering with cirrhosis of the liver and may not have long to live.

Brown said the test firing likely will be Monday at a time not yet set, although Ray defense attorney Jack McNeil said late Thursday that he had met with Brown and that defense attorneys may be open to delaying the test firing.

Asst. Dist. Atty. Gen. John Campbell said he was at the meeting, too, and got the indication the test firing would be delayed.

Brown did change one element of his Wednesday order, saying Thursday that the tests probably won't be held at the Sheriff's Department pistol range but rather at the Tennessee Bureau of Investigation's crime lab in Donelson.

The lab has specialized equipment and personnel needed to conduct the tests, Brown said.

Brown also contended in a telephone interview that prosecutors want another judge because they fear Brown is more likely to grant Ray a trial.

In a decision last week, the Court of Criminal Appeals in Jackson, Tenn., dismissed a petition to reopen Ray's case, yet said the local trial court has discretion to conduct tests on the rifle.

If the tests produce "new scientific evidence that establishes actual innocence," Ray's petition for trial may be considered again, the appeals court said.

Defense attorneys want bullets fired from the rifle analyzed under a high-magnification scanning electron microscope. Ballistics tests in the past have failed to positively match the bullet retrieved from King's body to the rifle found with Ray's fingerprints on it near the Lorraine Motel.

The question is: Who should decide if the tests produce evidence to merit a new trial?

Brown said he should — and that's what prosecutors fear.

"I don't have any love for anybody who's being a bigot, James Earl Ray included," Brown said. "But I do believe in justice. And I don't care who you are, you will get a fair hearing in front of me."

Campbell denied the state was trying to keep the matter from Brown. "That's not the intention," he said. "But of course he sure has given the impression that he's just chomping at the bit to get in the middle of this thing."

Prosecutors said they don't oppose testing the rifle, but



**"I'm not interested in what Judge Craft said," Criminal Court Judge Joe Brown told reporters. Brown, who said he is sticking with his order to test the rifle Monday, contended in a telephone interview that prosecutors want another judge because they fear he is more likely to grant the ailing Ray a trial.**

have concerns about how it's done.

Prosecutors filed a motion Tuesday asking Craft to return the case to Criminal Court's Division 3, where Ray pleaded guilty in 1969 and where Judge John Colton Jr. now presides. Court rules state, "Once a case has been assigned, all matters in the case shall be heard in that division."

Brown got involved in the case in 1994 when a petition to test the rifle was randomly assigned under a court "rotation" system to his Division 9.

Craft ruled Thursday that Ray's post-conviction petition was properly assigned to Brown, but contended the matter now belongs in Division 3. Craft also found that McNeil violated rules governing the criminal courts when he filed a motion to set conditions for the tests last week in Division 9.

Prosecutors said after the hearing they may ask the Court of Criminal Appeals to block Brown's proposed test firing. They had not filed an appeal by the end of the business day Thursday.

"If Judge Brown proceeds with his plan to go out and have this rifle fired and tested," said Asst. Dist. Atty. Gen. Lee Coffee, "he has put himself in the chain of custody, has made himself a witness and he's au-

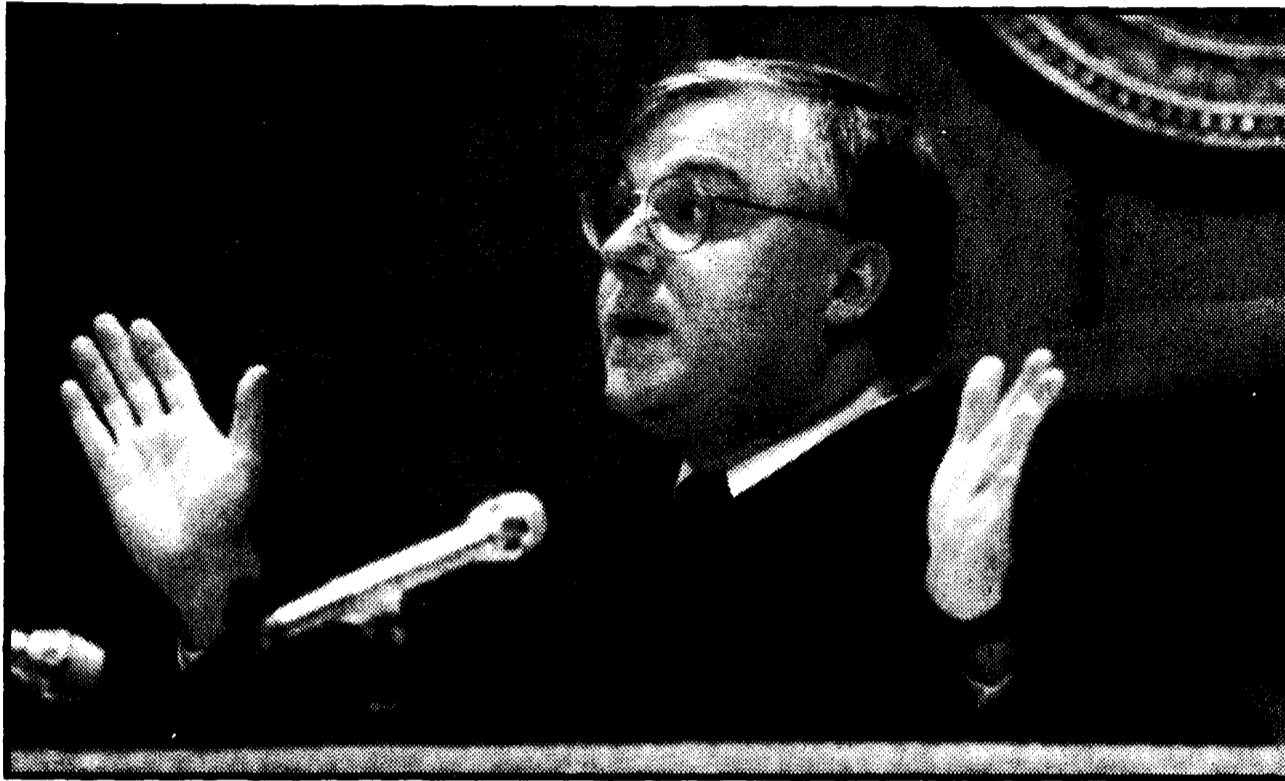
tomatically recused himself at that point, even if he does not voluntarily recuse himself."

"They're full of it," Brown said. Brown said he would not be a material witness but would observe the testing as a "demonstration of proof" to a judge.

Among other controversies, Craft and Coffee said Brown ordered Campbell not to appear at Thursday's hearing, facing possible contempt of court charges if he did.

But Brown denied that.

*To reach reporter Marc Perusquia, call 529-2545.*



Photographs by Karen Pulfer Focht

**"This is an absolute travesty the way this case has been handled so far," Criminal Courts Administrative Judge Chris Craft said Thursday about who should oversee rifle tests and decide if there is evidence to grant James Earl Ray a trial in the slaying of Dr. Martin Luther King Jr.**

(Mount Clipping in Space Below)

## Ray released from hospital, awaits ruling

James Earl Ray was discharged Monday from a Nashville hospital as attorneys awaited an appeals court ruling on testing the rifle Ray allegedly used to kill Dr. Martin Luther King Jr.

The Tennessee Court of Criminal Appeals took no action on an emergency appeal filed last week by Atty. Gen. Knox Walkup.

The state asked the appeals court to block test firing this week of the .30-06 Remington rifle that prosecutors say Ray used to kill King in Memphis in 1968.

Criminal Court Judge Joe Brown had ordered the test firing for Monday, but has indefinitely delayed the matter pending an appeals court ruling.

Among concerns, prosecutors want the appeals court to clarify if the tests should be overseen in Brown's Division 9 or in Division 3, where Ray pleaded guilty in 1969 and where Judge John Colton Jr. now presides.

Defense attorneys claim the rifle was a "throw down" to frame Ray, 69, who is serving a 99-year sentence.

Ray was admitted Saturday to a Nashville hospital because of health complications.

Ray, who is suffering a liver disease, has been in and out of Columbia Nashville Memorial Hospital since December.

Ray's condition quickly improved and he was discharged Monday and sent back to the Department of Correction's Lois DeBerry Special Needs Facility, said hospital spokesman Freda Herndon.

—Marc Perrusquia

**MEDIA REP.**                     

(Indicate page, name of newspaper, city and state.)

Date: 4/22/97; Page B2  
Edition: COMMERCIAL APPEAL  
MEMPHIS, TN

Title: RAY RELEASED FROM HOSPITAL,  
AWAITS RULING

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Indexing:

44-1987 Sub C-701  
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FBI DOJ

(Mount Clipping in Space Below)

# Judge chides Ray lawyers for dragging feet on test

## Oregon lab ready to fire rifle but defense wants Pa. firm

By Marc Perrusquia  
The Commercial Appeal

In yet another twist in the Dr. Martin Luther King Jr. assassination case, a judge admonished James Earl Ray's attorneys Wednesday for not moving quickly enough in their efforts to test fire the murder rifle.

Ray's lawyers claim the rifle, a .30-06 Remington, was planted to frame Ray for King's 1968 murder in Memphis.

Ray, 69, is serving a 99-year sentence and battling an advanced liver disease.

His lawyers have repeatedly contended time is running out for their client as Ray has been moved in and out of a Nashville hospital, once in a coma, since December.

But when prosecutors said Wednesday that they are trying to expedite a defense motion to test the rifle at a federal laboratory in Oregon, defense attorney Jack McNeil hinted at a possible government conspiracy. McNeil said the defense now wants the rifle tested by a private company in Pennsylvania.

He said he doesn't know how long it might take to arrange the tests, but indicated arrangements might not be com-

pleted before June 9.

Criminal Court Judge Joe Brown said that wasn't good enough, ordering attorneys back to court Friday when the defense must provide a more specific timetable.

"It would be a very great shame if the petitioner let this fall through the slots. Let's hurry," Brown said. "The state has its act together. I want the petitioner's act together by Friday."

Brown said he will let the state and defense conduct separate "independent" tests if needed.

Defense attorneys proposed in February that the gun be test-fired and bullets submitted to the U.S. Fish and Wildlife Service's forensic laboratory in Ashland, Ore.

Tests by the FBI in 1968 and Congress in 1978 could not conclusively match the bullet taken from King's body to the rifle found in a recessed doorway April 4, 1968, near the Lorraine Motel where King was shot.

A high-magnification electron scanning microscope may resolve that, defense attorneys contend. The lab in Oregon may be the only one in the country capable of performing

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JUDGE CHIDES RAY LAWYERS FOR  
DRAGGING FEET ON TEST

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44-1987 Sub C-702  
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MEDIA REP.

FBI/DOJ

the tests, a defense expert testified.

In an April 25 letter, Dist. Atty. Gen. Bill Gibbons asked the wildlife service to accommodate the tests "in the interest of justice and history."

Prosecutor John Campbell said Wednesday the lab stands ready. The tests could be completed "in a very short time," possibly by the end of the month, he said.

But McNeil said lead defense attorney William Pepper of London wants the tests

conducted by CamScan USA Inc., a manufacturer of electron scanning microscopes in Cranberry Township, Pa.

To conduct the tests, McNeil said the firm first must assemble portions of the microscope. They could be ready any time between May 19 and June 9, he said.

Of the Oregon lab, McNeil told the court the defense doesn't "want to be in a position to deal with the Department of the Interior." Mentioning other layers of the federal government, McNeil said the defense had "great fears," adding, "We would not be able to control the situation."

Pepper, who was not present Wednesday, maintains elements of the government murdered King.

Asked later if he feared the Oregon lab because of a government plot, McNeil said no. He then seemed to suggest that a number of federal officials could influence or derail the tests.

"These things can get kind of sticky, and don't tell me they can't," he said. "There's more to it than meets the eye."

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*To reach reporter Marc Perrusquia, call 529-2545.*

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(Mount Clipping in Space Below)

# Labs in 2 states will test rifle and bullet from King assassination

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MEMPHIS, TN

Title:

LABS IN 2 STATES WILL TEST  
RIFLE AND BULLET FROM KING

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By Marc Perrusquia  
The Commercial Appeal

## WHEN AND WHERE

The .30-06 Remington rifle allegedly used to kill Dr. Martin Luther King Jr. will be test-fired next week in Rhode Island, a judge said in a tentative ruling Friday.

Final details will be worked out in a hearing Monday, but barring any unforeseen obstacles, the long-awaited tests will start Wednesday at the state crime lab in Kingston, R.I.,

■ **May 14-16:** The .30-06 Remington is to be test-fired and the bullets examined at the Rhode Island State Crime Lab in Kingston.

■ **May 21-23:** The bullet removed from King's body and test bullets will be examined at CamScan USA Inc.'s laboratory in Cranberry Township, Pa., north of Pittsburgh.

Criminal Court Judge Joe Brown said.

Defense attorneys claim the rifle was planted to frame convicted assassin James Earl Ray for King's 1968 murder in Memphis.

But prosecutor John Campbell said he expects the tests, like those in the past, will not exclude the rifle as the murder weapon.

"From all the firearms experts I've talked to, and I've

talked to a lot of them, they indicate that the best that they can expect would be an inconclusive result," Campbell said.

"The prosecution's been saying that since 1969," said defense attorney Jack McNeil. "We feel that certainly this is worthwhile and something that should have been done a long time ago."

Defense attorneys plan to examine test-fired bullets and the slug removed from King's body under a high-magnification scanning electron microscope, or SEM.

Brown's order allows defense experts to fire the rifle at the Rhode Island crime lab, then examine bullets a week later under an SEM in Pennsylvania.

The Rhode Island site is being used because it is the home base of Robert A. Hathaway, a defense expert employed as a firearms and tool-mark examiner at the crime lab there.

Under the order, experts will fire a yet unspecified number of rounds Wednesday morning.

Please see RIFLE, Page A6

MEDIA REP. *[Signature]*

44-1987 Sub C - 703

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FBI-MEMPHIS	

From Page A1

## Rifle

It will be the first time the pump-action rifle has been fired since Congress reviewed King's murder in 1978. The rifle was found April 4, 1968, in a recessed doorway on South Main Street, a block from the Lorraine Motel where King was murdered on the balcony.

The test bullets will be examined in Rhode Island over the next three days under a conventional microscope.

On May 21, the bullet samples will be examined under a scanning electron microscope in Cranberry Township, Pa.

The prosecution intends to send its own firearms expert to Rhode Island to observe the testing. Prosecutors also reserve the right to conduct their own tests in June at a U.S. Fish and Wildlife Service laboratory in Oregon.

"If they come up with something earthshaking, then obviously we'd want to have it looked at," Campbell said. "I don't expect anything . . . earthshaking."

Tests by the FBI in 1968 and the House Select Committee on Assassinations in 1978 could not conclusively match the death slug to the rifle.

The problem involved the idiosyncrasies of the rifle that Ray, now 69, purchased in Birmingham days before the assassination.

Many guns leave unique marks on bullets that, like fingerprints, allow investigators to identify the weapon to the exclusion of others. But occasionally a firearm does not leave consistent markings — and that was the case with the Remington rifle.

Firearms experts working for Congress found that 10 test bullets they fired from the gun had different markings. They could not match the bullets by their markings to the rifle even though they witnessed the bullets' being fired from the gun.

However, the tests showed the bullets had general markings consistent with coming from a Remington .30-06 rifle.

For that reason, Campbell contends, new tests will not ex-

clude the rifle in evidence as the murder weapon.

An SEM can magnify an object more than 100,000 times, while standard light microscopes typically magnify 50 to 100 times. But the device will not resolve the matter, a member of the congressional panel said in a recent interview.

Monty Lutz, unit leader of the firearms forensic identification section at the Wisconsin State Crime Lab in Milwaukee, said the high magnification may reveal only pores and imperfections in the bullet's metal and not the markings left by the rifle.

But McNeil said the scanning electron microscope is worth a try and possibly might exclude the evidence rifle.

"That's up to the experts," he said. "That's up to the new technology."

Although McNeil said this week the SEM may not be ready until next month, it will be ready by the end of next week, said Anthony Owens, vice president of CamScan USA Inc. in Cranberry Township, Pa.

"Nobody's dragging their feet," Owens, 40, said in a telephone interview.

CamScan operates a laboratory about 45 minutes north of Pittsburgh. An SEM has been in place there since August, Owens said. The firm is adding a motorized bullet stage that will grip and maneuver bullet samples inside the microscope's steel chamber, he said.

The bullet stage will cost a "couple thousand" British pounds, or about \$3,200, Owens said. CamScan is a sales and service representative for CamScan Analytical of the United Kingdom, where the microscopes are built. They cost from \$75,000 to \$250,000, Owens said.

The Pennsylvania lab conducts analyses for clients that include steel companies, manufacturers concerned with failure analysis and food companies.

Owens said he has looked at bullets under the microscope before but "not in actual case work." Defense firearms experts will conduct the King bullet analysis.

To reach reporter Marc Per-rusquia, call 529-2545.

(Indicate page, name of newspaper, city and state.)

(Mount Clipping in Space Below)

## Judge gives final OK to test King rifle this week

Approving last-minute details Monday, Criminal Court Judge Joe Brown gave final approval to tests this week on the rifle believed used to kill Dr. Martin Luther King Jr.

Attorneys for convicted assassin James Earl Ray, 69, claim the .30-06 Remington rifle was planted to frame Ray for King's 1968 assassination in Memphis. Under an order by Brown last week, the rifle is to be test-fired and bullets examined at the Rhode Island state crime lab in Kingston.

Examiners hope to begin shooting the rifle Wednesday, but preparations could delay the first shots until Thursday, defense expert Robert A. Hathaway said in a telephone interview.

Using standard microscopes, examiners plan to inspect test bullets and the slug taken from King's body in Rhode Island, where Hathaway is a firearms and toolmark examiner.

The death slug and test bullets also will be examined next week under a high-magnification scanning electron microscope in Pennsylvania.

Among details Monday, Brown said the itinerary for shipping the rifle and death slug from the Criminal Court evidence room will be kept secret for security reasons.

—Marc Perrusquia

Date: 5/13/97; Page B2

Edition: COMMERCIAL APPEAL  
MEMPHIS, TNTitle: JUDGE GIVES FINAL OK TO TEST  
KING RIFLE THIS WEEKCharacter:  
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MEDIA REP.                     

44-1987-C-704

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MAY 14 1997	
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FBI/DOJ

(Mount Clipping in Space Below)

# Ray's rifle to be fired today; 'part of history'

By Marc Perrusquia  
The Commercial Appeal

KINGSTON, R.I. — For most of 29 years the rifle has remained secured in an evidence vault in downtown Memphis, a silent testimonial to one of America's darkest periods.

Today, in this quiet college town, the .30-06 hunting rifle that authorities say was used to kill Dr. Martin Luther King Jr. will roar again.

Whether the test firing unlocks one of our greatest murder mysteries, as confessed assassin James Earl Ray's attorneys contend, or whether it's simply the media circus that critics say it is, the event has generated immense interest.

As nearly 50 reporters and cameramen crammed into a tiny laboratory Tuesday for a media "open house" advancing today's tests at the University of Rhode Island, forensic firearms examiner Robert A. Hathaway spoke of the event's importance not just to history, but to King's family.

King's younger son Dexter

Please see RIFLE, Page A13

MEDIA REP. ✓

(Indicate page, name of newspaper, city and state.)

Date: 5/14/97; Page A1 & 13  
Edition:

COMMERCIAL APPEAL  
MEMPHIS, TN

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RAY'S RIFLE TO BE FIRED  
TODAY; "PART OF HISTORY"

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FBI/DOJ

From Page A1

## Rifle

stirred controversy in March when he met with Ray in prison and told his father's convicted murderer that he believed he was innocent. Ray, 69, has claimed for years he was framed and is trying to take back his 1969 guilty plea and get a trial.

Prosecutors say they have overwhelming evidence of Ray's guilt, but the rifle, found with Ray's fingerprints near the site of King's 1968 murder in Memphis, plays a key role in his alibi.

"We've assured the King family we're going to give it our best effort," said Hathaway, 52, a Rhode Island state crime lab criminalist who is overseeing the tests for Ray's defense. In a demonstration for TV cameras, Hathaway fired two shots from a .30-30 rifle into a 900-gallon water tank in the room where the King rifle will be fired today.

Defense experts plan to fire 18 shots, though testing could be delayed a day if they determine the gun needs careful cleaning and examination. It has not been fired since Congress reviewed King's murder and concluded in 1979 that Ray killed King but may have gotten help from others.

Past tests could not conclusively match the bullet taken from King's body to the Remington rifle that Ray bought days before the assassination.

Ray's attorneys hope to resolve that uncertainty and exclude the Remington as the murder weapon with high-magnification tests of the death slug and test bullets next week under a scanning electron microscope (SEM) in Pennsylvania. But several firearms experts say that is unlikely.

Results will be made public in court after the Pennsylvania tests are completed, Hathaway said. He said defense attorney William Pepper has told him he is interested in the truth, even if that means the bullet is positively matched to the rifle.

Prosecutor John Campbell and a state expert will witness the tests.

The prosecution reserves the right to conduct its own tests, but Campbell said he is not expecting the defense tests to add anything new to the case.

Tests by the FBI in 1968 and Congress a decade later found that the death slug had the general characteristics of having been fired from a Remington rifle, but did not conclusively match the weapon found in a recessed doorway near the Lorraine Motel where King was shot. Although some guns leave unique marks, or striations, on bullets, the .30-06 left differing striations on test bullets.

Hathaway said the scanning electron microscope, which can magnify objects several thousand times, may be able to detect striations that standard microscopes miss, possibly excluding a weapon, but this contention is debated.

An SEM nearly always is used to prove that a weapon fired a certain bullet, not to exclude a weapon, said Mary Jacque-Mann, a senior forensic scientist with the U.S. Fish and Wildlife Service in Ashland, Ore. Prosecutors plan to conduct their tests there if needed.

"I can't currently imagine a situation where an SEM would be used for exclusion," said Jacque-Mann, who uses the SEM to build prosecution cases against poachers.

But Hathaway disagreed, contending experiments last week under an SEM at the CamScan USA Inc. laboratory in Cranberry Township, Pa., revealed striations on test bullets that were not detectable under standard microscopes.

"It's going to depend on the test bullets themselves," he said.

"If we're able to easily identify those (under) the SEM and these markings don't show up on the actual evidence bullet (taken from King's body) at that point we're going to have to start seriously reviewing tests of that actual evidence

bullet."

The evidence bullet and rifle were expected to be delivered here late Tuesday by Criminal Court Clerk Bill Key and a security team.

Forty-two inches long, with a 21-inch barrel and a pecan wood butt, the pump-action rifle manufactured in New York by Remington Arms Inc.

(Mount Clipping in Space Below)

# King rifle roars again in test

1st 6 shots  
start zero-in  
on claims  
by Ray he  
was framed

By Marc Perrusquia  
The Commercial Appeal

KINGSTON, R.I. — George Reich gripped the rifle, bracing it snugly against his shoulder as he took aim.

Holding the gun believed used to kill Dr. Martin Luther King Jr. in 1968, Reich froze momentarily, taking care to hit his mark.

As expected, a deafening roar erupted. But Reich, a forensic scientist participating in tests to examine James Earl Ray's claim that he was framed, got more than that.

Water drenched Reich's tweed jacket and tie as the bullet entered a 900-gallon water tank where examiners fired six shots Wednesday from the .30-06 hunting rifle.

"I felt this strong sense of history," Reich, still dripping, said with an irrepressible smile moments after firing the first test shot about 2:40 p.m. Memphis time. "It's been a very big highlight in my career."

The test shots marked the first time the rifle had been fired since Congress reviewed the case and concluded in 1979 that Ray indeed killed King and that his 1969 guilty plea was proper.

The rifle, in storage in a Memphis evidence vault for

much of the past 29 years, fired without a hitch. Examiners briefly cleaned the rifle bore with a cloth patch on a metal rod, retrieving a small amount of lint and black soot.

The tests ordered by Crimi-

nal Court Judge Joe Brown will continue today on the University of Rhode Island campus and possibly run through Friday. A team of three defense firearms experts began examining the test-fired bullets

Wednesday but had no details or conclusions. They expect to fire a total of 18 shots.

Serving a 99-year sentence, Ray, 69, is suffering from cirrhosis of the liver and says he wants a trial. He claims some-

one framed him by planting the Remington rifle found with his fingerprints on April 4, 1968, near where King was shot on the balcony of the Lorraine Mo-

Please see RIFLE, Page A6

(Indicate page, name of newspaper, city and state.)

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KING RIFLE ROARS AGAIN IN  
TEST

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MEDIA REP. *[Signature]*

44-1987-C-706

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From Page A1

## Rifle

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Defense experts plan to analyze the test bullets and the death slug removed from King's body next week in Pennsylvania, using a high-magnification scanning electron microscope, or SEM.

Ray's lawyers contend the SEM may detect marks on the bullets that will enable them to exclude the rifle as the murder weapon.

Tests by the FBI in 1968 and the House Select Committee on Assassinations a decade later could not positively match the death slug with the rifle, but found the bullet had markings consistent with having been fired from a Remington .30-06 hunting rifle.

The prosecution and defense again debated Wednesday whether new tests will resolve the matter or have any impact on establishing Ray's guilt or innocence.

"From a historical standpoint, I guess everybody is curious," prosecutor John Campbell said at a morning press conference. "From a legal standpoint, I don't think it's going to lead anywhere."

Prosecutors say evidence of Ray's guilt is overwhelming and includes his purchase of the rifle in Birmingham days before the assassination, indications he stalked King and his flight overseas after the murder.

Campbell also said firearms experts tell him the SEM won't be able to exclude the rifle.

But Robert A. Hathaway, a defense expert and Rhode Island state crime lab firearms examiner, said an SEM in Cranberry Township, Pa., has found marks on bullets that standard microscopes failed to detect, opening the possibility of excluding the rifle as the death weapon.

Defense attorney Jack McNeil said the King family, who support a trial for Ray, only want the truth, whatever that is. If the tests show the death slug didn't come from the rifle, the defense would move quickly to seek a new trial, he said.

"The King family have indicated they want the truth to be spread on the minutes of history," McNeil said. "And that could accelerate matters, frankly."

Martin Luther King III, the older of King's two sons, said after a speech Wednesday in Michigan he "frankly did not think they would even allow the gun to be fired."

King, 39, believes his father's death was part of a conspiracy that involved the late J. Edgar Hoover, who was FBI director

at the time.

King made his comments to reporters after speaking to more than 50 high school students from Detroit who were visiting Western Michigan University in Kalamazoo.

In Rhode Island, defense examiners spent most of the day carefully examining the rifle and taking notes.

The examinations also were observed by a prosecution firearms expert, Tommy Heflin of the Tennessee Bureau of Investigation; Criminal Court Clerk Bill Key, who has custody of the evidence; a Shelby County Sheriff's SWAT team member; and a reporter and photographer for The Commercial Appeal, who provided pool services for other media.

The defense team then carried the rifle in a plastic traveling case down the street to a 10-by-18-foot firing room in a converted single-car garage in a two-story Colonial-style house on campus.

The firing room contains a stainless steel bullet retrieval tank, 10 feet long and 5 feet high.

Firearms experts once fired test bullets into traps filled with cotton but found the substance polishes bullet surfaces, making it difficult to examine markings.

Each member of the defense firearms team fired two shots. Reich, 53, a 32-year law enforcement veteran now working with the Suffolk County crime lab on Long Island, N.Y., fired the first two shots.

After Reich was soaked by sloshing water, the next two examiners wore an orange rain coat borrowed from the University of Rhode Island Police.

"The guy from Connecticut chickened out. He doesn't want to get soaked," examiner Marshall Robinson, 58, joked about himself. Robinson retired from the Connecticut State Police in 1985 and now does contract work for the Waterbury and Bridgeport, Conn., police departments.

Hathaway, 52, said later the team was examining the bullets under standard microscopes, but declined to discuss details. Reich said the recently made Remington Arms bullets are the same brand used to kill King.

Five test bullets pulled from the tank were severely deformed. Soft-tipped hunting bullets with copper jackets and exposed lead cores at the tip, they mushroomed or folded back from the impact on the water just as the King death slug mushroomed as it struck bones passing through his body.

The bases of those test bullets and the death slug weren't deformed and contain readable markings.

One bullet, a full-metal jack-

eted slug, emerged undeformed. Used by the military, these bullets are designed to

pierce targets, not fragment like hunting bullets.

"I knew it would be (un-

deformed)," Robinson said with a smile. "That's why I fired that one."

*The AP contributed to this story. To reach reporter Marc Perrusquia, call 529-2545.*

(Mount Clipping in Space Below)

# 6 more shots fired in King rifle testing

KINGSTON, R.I. — Examiners Thursday fired another six shots from the rifle believed used to kill Dr. Martin Luther King Jr., bringing a two-day total of 12 bullets fired from the gun.

Attorneys for convicted assassin James Earl Ray claim he was framed for King's 1968 assassination in Memphis, saying someone planted the .30-06 rifle found with Ray's fingerprints near the Lorraine Motel, where King was shot while standing on the balcony.

The defense plans to submit

bullets from the test-firing at the University of Rhode Island to analysis next week under a high-magnification scanning electron microscope in Pennsylvania.

"The examination is going well," said Dave Lavalley, public information specialist for the university. Examiners plan to fire a total of 18 bullets being examined under standard microscopes here.

The examination is expected to be completed today, Lavalley said.

—Marc Perrusquia

(Indicate page, name of newspaper, city and state.)

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RIFLE TESTING

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(Mount Clipping in Space Below)

## Final shots made from King rifle

The Commercial Appeal

KINGSTON, R.I. — Firearms experts shot the last six of 18 test shots Friday from the rifle believed used to kill Dr. Martin Luther King Jr.

"We're pretty satisfied," said Robert Hathaway, 52, a forensic firearms examiner with the state crime lab here.

Convicted assassin James Earl Ray, 69, claims he was framed for King's 1968 murder in Memphis when someone planted a .30-06 Remington rifle near the crime scene.

Examiners are trying to determine if the bullet taken from King's body was indeed fired from the rifle, which Ray bought in Birmingham, Ala., days before King was shot while standing on the balcony of the Lorraine Motel.

Ray's attorneys plan to submit bullets from the test-firing at the University of Rhode Island for analysis next week under a high-magnification scanning electron microscope in Pennsylvania.

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FINAL SHOTS MADE FROM KING  
RIFLE

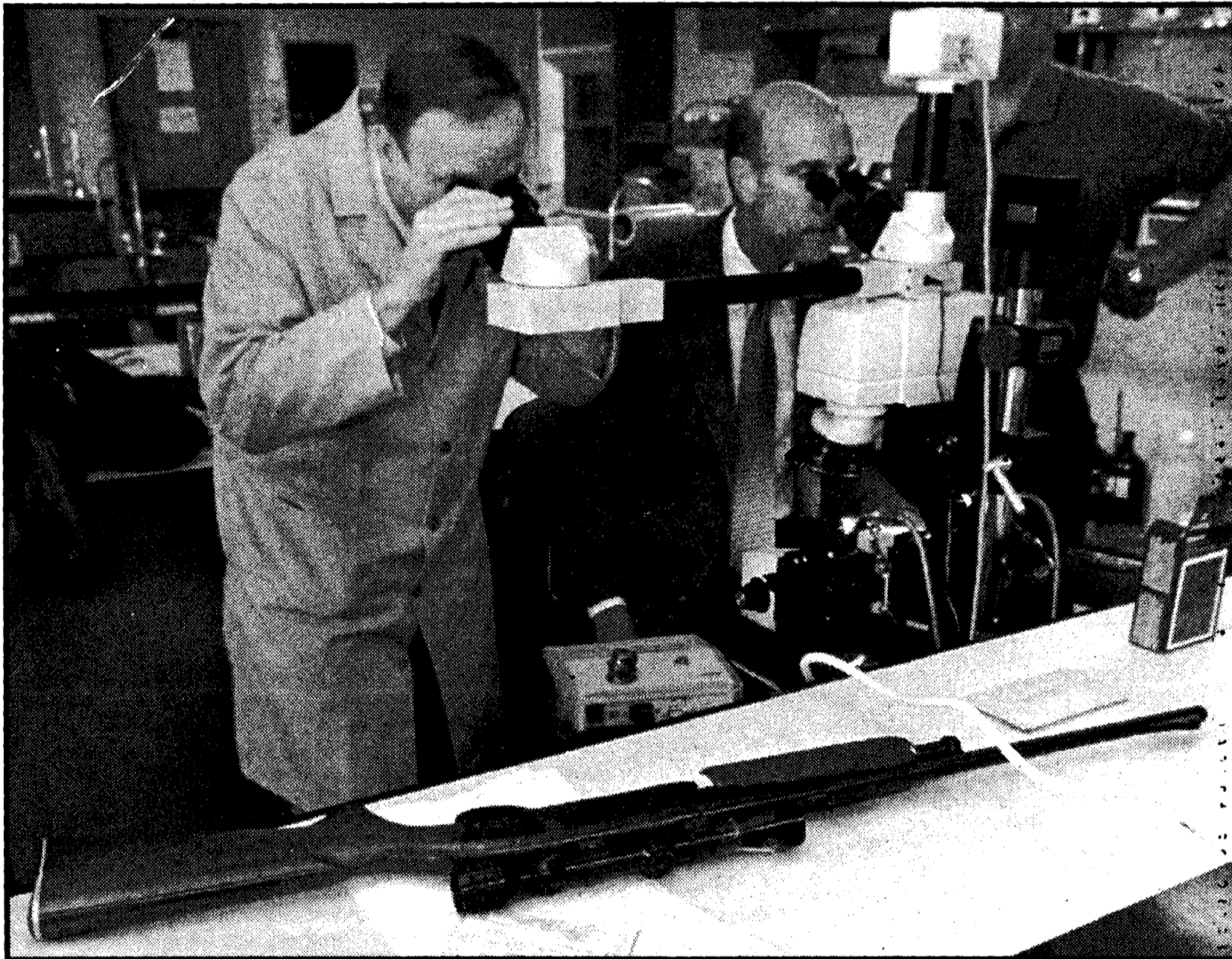
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FBI/DOJ



AP  
Firearms experts Robert Hathaway (left), of the University of Rhode Island, and George Reich on Friday view bullets shot from the rifle believed to have been used to kill Dr. Martin Luther King Jr.

(Mount Clipping in Space Below)

# Rifle's 18 test bullets, 1 from King go under microscope this week

By Marc Perrusquia  
The Commercial Appeal

KINGSTON, R.I. — Convicted assassin James Earl Ray hopes tests this week on a high-tech microscope will spring his release from prison, yet he faces considerable legal hurdles under even the most favorable circumstances.

Claiming he was framed for Dr. Martin Luther King Jr.'s 1968 murder in Memphis, Ray's defense set the stage here last week when examiners fired 18 bullets from the .30-06 Remington rifle believed used to kill King.

The rifle, with Ray's fingerprints on it, was found near the Lorraine Motel where King was shot, but defense attorneys say it was planted.

Starting Wednesday, the test bullets and the bullet taken from King's body will be compared under a high-magnification scanning electron microscope in Pennsylvania to determine if the death slug was fired from the Remington.

Yet even if the tests are favorable to Ray, 69, who's serving a 99-year sentence, his effort to win a trial or freedom would face a stiff challenge.

The Tennessee law Ray is relying on allows a case to be reopened "only if" there is "new scientific evidence establishing" that the defendant "is actually innocent of the offense."

Prosecutor John Campbell contends the law is more applicable to DNA tests that definitely show an accused rap-

ist could not have committed the crime for which he was convicted.

But in Ray's case, other evidence tends to underscore his guilt, prosecutors say. That evidence includes his purchase of the gun in Birmingham days before the assassination, his renting of a room across the street from King in Memphis and his flight overseas after the murder.

And while nearly everyone connected to the case agrees the testing could help clarify history, prosecutors maintain it will not resolve questions important to many observers: Was there a conspiracy to murder King?

"Even if a new trial was ordered, it would not answer the questions that ought to be answered: Who else was involved?" Campbell said. "The trial of Ray would only answer the questions to Ray himself and would not get into a lot of these side issues."

Acknowledging that Ray faces an uphill fight, defense attorney Jack McNeil said the effort to prove Ray's innocence won't end with the testing, even if it shows the bullet indeed came from the Remington.

"That does not prove conclusively that James Earl Ray did it," McNeil said. "The fact remains from the very beginning that James Earl Ray has contended that he was not there" when the shot was fired, he said.

Tests by the FBI in 1968 and Congress a decade later found that the bullet from King's

Please see RIFLE, Page A5

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RIFLE'S 18 TEST BULLETS, 1  
FROM KING GO UNDER

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MEDIA  
WS/jr

44-1987-C-709  
dy dy

From Page A1

## Rifle

body had general characteristics indicating it could have come from the rifle but could not conclusively match it to the gun.

Defense firearms expert Robert A. Hathaway said a scanning electron microscope, or SEM, could resolve that. He said tests under an SEM owned by CamScan USA Inc. in Cranberry Township, Pa., north of Pittsburgh would produce one of three results:

- The bullet definitely was fired by the rifle.

- It definitely was not.

- Another inconclusive finding.

Test bullets from a different rifle examined at CamScan this month found markings not detectable under standard micro-

scopes, said Hathaway, 52, a criminalist with the Rhode Island state crime lab.

Standard microscopes used by firearms examiners magnify objects up to 70 or 80 times, but SEMs can magnify images thousands of times. The findings this month were made above 300-power magnification, Hathaway said.

The CamScan SEM is less than a year old and is equipped with digital imaging and a split screen that allows examiners to look at two bullets at once, he said.

Hathaway said he has never used an SEM before and CamScan vice president Anthony Owens said he has no "actual case work" examining bullets. But Hathaway said the two disciplines will complement each other: The firearms examiners will motion to points on the bullets they want to look at and the SEM operator will take them there.

"He's the driver. He's the

pilot for the airplane," Hathaway said.

Fewer than 3 percent of all police forensic firearm examinations are done under SEMs, Hathaway said.

Some firearms experts question whether SEMs can be used to exclude murder weapons, yet Hathaway said the instrument's limited use was not because it is unreliable but because it is costly and tedious to operate.

The machines cost up to \$250,000 with \$25,000 more in annual maintenance costs, he said. But the King case could cause law enforcement to re-examine its value, he said.

"In these type of cases in the future, I think it's going to become an effective tool," he said.

*To reach reporter Marc Perrusquia, call 529-2545 or send E-mail to perrusquia@gomemphis.com*

(Mount Clipping in Space Below)

# King bullet goes under electron microscope

By Marc Perrusquia  
The Commercial Appeal

CRANBERRY TOWNSHIP, Pa. — In a day of scientific and legal intrigue, firearms experts examined the bullet that killed Dr. Martin Luther King Jr. under a high-tech microscope Wednesday while a lawyer said the King family may help pay for the costly court-ordered tests.

"The King family has offered to assist in any way they can," defense attorney William Pepper said as forensics specialists began three days of examinations in this Pittsburgh suburb.

Pepper declined to discuss details of the test costs or the possible King family financial arrangements. Forensic firearms examiner Robert A. Hathaway, one of four experts conducting the tests for the defense, said his fee alone is \$125 an hour.

Hilda Tompkins, spokesman for the King family at the Martin Luther King Jr. Center for Nonviolent Social Change in Atlanta, did not return a re-

Please see RIFLE, Page A8

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dg dg*

FBI/DOJ

From Page A1

# Rifle

porter's phone call.

Confessed assassin James Earl Ray, 69, claims he was framed for King's 1968 murder in Memphis, and the King family made history recently when they supported Ray's effort to take back his 1969 guilty plea and obtain a trial. King's sons also have said they believe Ray is innocent.

King's older son, Martin Luther King III, said last week he believes his father was murdered by the FBI, although official investigations have discounted that theory. The bullet that killed King, a metal nugget not much larger than a pea, appeared larger than a house Wednesday under a scanning electron microscope, or SEM, at CamScan USA Inc. in this suburb about 45 minutes north of Pittsburgh.

"This is quite impressive," said Hathaway, pointing to a digital image of the King bullet on a computer monitor. Hathaway is more accustomed to inspecting bullets with lower powered microscopes, not the high-magnification SEM.

With the push of a button, a scratch on the bullet just a fourth of a millimeter in width grew so large it could not be contained on the 21-inch viewing screen. Suddenly, the black and white image resembled a photo of a lunar landscape.

It remains to be seen if the testing supports Ray's contention that someone planted the .30-06 Remington rifle that was found April 4, 1968, with his

fingerprints on it near the scene of King's murder. But as nearly 30 reporters and cameramen gathered for a morning press conference, attorneys resumed the debate.

"We don't think this rifle was the murder weapon," Pepper said. "Over the years we've developed a great deal of evidence that indicates that the shot was fired from the brush area."

Prosecutors maintain Ray shot King from the second-story bathroom window of a rooming house that overlooked the Lorraine Motel, where King was gunned down on the balcony. That conclusion was reaffirmed by a congressional investigation a decade later, yet engineers working for the House Select Committee on Assassinations (HSCA) determined that the shot could have come either from the window or a brushy area behind the rooming house.

Prosecutor John Campbell, who says evidence of Ray's guilt is overwhelming, said he doesn't expect the tests to add anything significant.

"The most likely result, based on the history (of the case) is it would be inconclusive," Campbell said.

Tests by the FBI in 1968 and Congress in 1978 could not conclusively match the bullet removed from King's body to the Remington although markings on the bullet were characteristic of coming from that type of weapon. Pepper isn't sure when he will have the final test results, but said they won't be made public until a hearing can be set in Criminal Court in Memphis. The defense experts have signed confidentiality agreements to prevent a leak.

Even if the tests show the bullet taken from King's body was fired from the Remington, the defense likely will still pursue efforts to free Ray. Ray maintains he wasn't at the rooming house when the shot was fired. Pepper also said "new scientific evidence" that's "never been looked at before" has come forward, but he declined to discuss details.

Ray's health could abort efforts to obtain a trial, Pepper said. Ray has cirrhosis of the liver, and Pepper said he's working with several organ transplant centers to try to place Ray on a waiting list.

"James is dying," Pepper said. "His mortality very much circumscribes all of the activity." But for now, Ray's fate is in the hands of science.

A team of defense firearms experts began testing the bullet shortly before noon Memphis time, placing it inside the metal SEM chamber.

More than 6 feet tall, the SEM includes a metal microscope about 3 feet tall resting on a lower cabinet housing a pump to suck air out of the microscope's chamber. After specimens are placed inside the cubic-foot chamber, a vacuum is created to prevent gas molecules from interfering with the SEM process, said Anthony Owens, vice president of CamScan.

Unlike standard microscopes, which use light to observe an object, an SEM shoots a beam of electrons that scan an object's surface. A digital image then is received on a computer screen and can be stored on a disk for future use. That will preserve the historical record and prevent the need to test the bullet again for

## ERCIAL APPEAL

MEMPHIS, THURSDAY, MAY 22, 1997

new controversy.

In the King case, examiners are comparing the bullet against several of 18 test bullets fired from the Remington last week at the University of Rhode Island.

"This is the biggest case I've ever worked on," said Owens,

who has never before examined bullets in a criminal case but has done a number of commercial examinations.

Standard microscopes can magnify up to 70 or 80 times, and forensic firearms examinations generally are run between 10 and 30 magnification,

the examiners said. SEMs can magnify up to 100,000 times, but this test will remain between 300 and 500.

*To reach reporter Marc Perrusquia, call 529-2545 or send E-mail to perrusquia@gome-mphis.com*

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TEST FINISHED ON BULLET THAT  
KILLED KING BUT EXPERTS MUM  
Character: ON RESULTS

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Indexing:

# Tests finished on bullet that killed King but experts mum on results

By Marc Perrusquia  
The Commercial Appeal

CRANBERRY TOWNSHIP, Pa. — A team of firearms experts Thursday completed tests on the bullet that killed Dr. Martin Luther King Jr., but said their conclusions will remain secret for at least a couple more weeks.

Wearing poker faces, the team working for the defense of confessed assassin James Earl Ray called a press conference after a day and a half of scrutiny under a high-magnification scanning electron microscope, or SEM.

They had said the testing could take three days, but lead examiner Robert A. Hathaway said the testing went more smoothly than expected.

Though results are not yet available, those who have long wondered if King was killed in a conspiracy may have some peace of mind, he said.

"I think it's significant (because) for the first time the defense has had an opportunity to review it," said Hathaway, a criminalist with the Rhode Island state crime lab. "To some degree, that may help the American public."

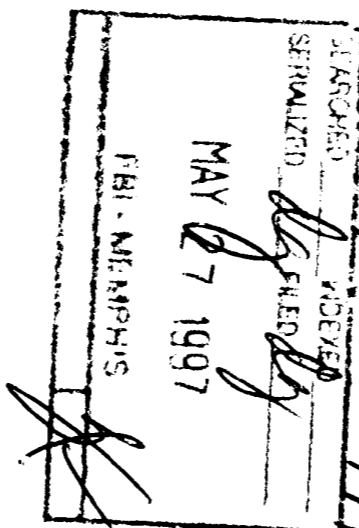
Serving a 99-year sentence, Ray, 69,

claims he was framed for King's 1968 murder in Memphis and is trying to take back his 1969 guilty plea. Defense attorney William Pepper contends someone planted the .30-06 Remington rifle found with Ray's

fingerprints on it near the scene of King's assassination.

Under an order by Shelby County Crimi-

Please see TEST, Page A10



From Page A1

## Test

nal Court Judge Joe Brown, the defense test-fired the rifle last week in Rhode Island, obtaining 18 bullets. Several of those bullets and the one removed from King's body during autopsy were examined here under an SEM.

Hathaway said the team examined six or seven of the test bullets over about 11 hours on Wednesday and Thursday. The team plans to gather again to compare notes and write a report for Pepper that should be completed in about two weeks, he said.

Pepper, who was not present Thursday, said a day earlier that any results will be released in court, noting the examiners have signed confiden-

tiality agreements not to discuss their conclusions.

State expert Russ Davis, a forensic scientist with the Tennessee Bureau of Investigation, observed small portions of the defense testing to ensure evidence was not altered but said he was not privy to the test results.

A hearing date has not been set, but Brown could receive Pepper's report early next month.

Tests by the FBI in 1968 and Congress in 1978 could not conclusively match the autopsy bullet with the Remington rifle. Many guns imprint unique markings on bullets that allow them to be identified to the exclusion of others, but the Remington produced inconsistent markings.

Hathaway has said the problem may be resolved by high-magnification tests at CamScan USA Inc., an SEM sales and service representative here in

this suburb about 45 minutes north of Pittsburgh. The firm sells products of CamScan Analytical, an SEM manufacturer in the United Kingdom.

Using light, standard optical microscopes can magnify images up to 70 or 80 times. Shooting a beam of electrons, SEMs can magnify objects up to 100,000 times with sharp clarity.

"We saw (the bullet) with greater power, greater clarity," said George Reich, 53, a forensic scientist with the Suffolk County crime lab on Long Island, N.Y. "I'm very impressed."

Hathaway said the team came close to wrapping up Wednesday, but returned for a couple hours Thursday morning to confirm their findings.

From the start, Hathaway, 52, said the SEM tests would produce one of three findings: Another inconclusive result, a positive match or evidence the

bullet did not come from the Remington rifle. Hathaway said the team now knows the answer, but said the deadpan expressions were no indication of the result.

"We're going to keep our word to (Pepper) and we're not going to say a word about it," Hathaway said.

(Indicate page, name of newspaper, city and state.)

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Date: 5/24/97; Page A1 & 7  
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PRISON OFFICIALS WON'T LET  
RAY GET PITTSBURGH TRANSPLANT

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Submitting Office: MEMPHIS

Indexing:

# Prison officials won't let Ray get Pittsburgh transplant test

By Marc Perrusquia  
The Commercial Appeal

PITTSBURGH — Tennessee prison officials have rejected James Earl Ray's request to be transferred to a hospital here for evaluation as a liver transplant recipient.

The rejection could lead to further courtroom maneuvering by Ray's attorneys even as a Shelby County judge considers the results of this week's testing of bullets from the rifle believed used to kill Dr. Martin Luther King Jr.

Ray, 69, has cirrhosis of the liver and wants to travel to the University of Pittsburgh Medical Center for an evaluation to see if he is eligible for a transplant. The medical center operates one of the world's leading organ transplant programs.

The proposal by Ray, who is serving a 99-year sentence for the 1968 murder of King in Memphis, is unprecedented for

a Tennessee inmate, state officials say.

In a letter obtained Friday by The Commercial Appeal, Tennessee Department of Correction Commissioner Donal Campbell rejected the request.

"Tennessee law provides no authority for the commissioner of correction to release or transport an inmate to another state for such a purpose," Campbell said in a May 2 letter to Dr. John Fung, chief of the division of transplantation surgery at the University of Pittsburgh School of Medicine.

"... Any such evaluation, if approved, would need to take place in Tennessee," Campbell wrote.

In an interview Friday, Fung said the university's rules might allow Ray to be evaluated in Tennessee and, if he is suitable for a transplant, undergo surgery in Pittsburgh.

"If he would like to come here, we would be willing to give him a shot," said Fung,

who said a liver transplant could cost more than \$100,000. "I imagine he's got a lot of legal loopholes to go through."

Ray's brother, Jerry, said Friday he is considering legal action to force approval of an evaluation in Pittsburgh. Ray and Fung said they've been told that Vanderbilt University in Nashville already has rejected James Ray for a transplant.

"If they don't let him go to Pittsburgh for an evaluation of (his) liver, they just gave him a death sentence," said Jerry Ray, 61, of Smartt, Tenn. "He won't survive without a transplant."

Ray said expenses for the trip would be raised by defense attorney William Pepper of London.

"There's no expense to Tennessee," Ray said. "They wouldn't be out one penny because Pepper would take care of everything, the guards to

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guard him and everything."

The effort comes amid what could be Ray's last effort to take back his 1969 guilty plea and obtain a trial. Testing Ray's claim of innocence, a team of firearms experts this week examined the bullet removed from King's body under a high-magnification microscope in a laboratory about 45 minutes north of Pittsburgh.

Ray claims he was framed when someone planted the .30-06 rifle found with his fingerprints on it near the Lorraine Motel, where King was shot. The team said Thursday they have reached a conclusion on whether the bullet that killed King came from the rifle, but said results won't be made public for at least two weeks.

During the testing, Pepper said he was discussing a transplant with several centers, but did not provide specifics. Back in London Friday, Pepper was unavailable for comment.

Jack McNeil, local co-counsel for Ray's defense, said he was aware of an effort to arrange a transplant for Ray "somewhere in the East" but said he was not privy to details.

Nationwide, nearly 9,000 people are on waiting lists to obtain new livers. The average wait is about five months, but some people wait less than a week and others as long as three years, said Joel Newman, spokesman for the United Network for Organ Sharing. The network contracts with the federal government to facilitate organ procurement.

The University of Pittsburgh does more organ transplants and more different types of transplants than any program in the world, said Lisa Rossi, medical center spokesman.

About 25 percent of the pa-

tients here have been turned down elsewhere, she said.

"The University of Pittsburgh would tend to take the more complicated case, in addition to the straightforward," Rossi said.

Fung said he was approached by Pepper, who explained that Ray had been turned down by Vanderbilt. Fung then asked in an April 22 letter to Campbell that he allow Ray to be evaluated for a transplant.

Asst. Correction Commissioner Jim Rose said Friday that Tennessee does not have authority to let an inmate leave the state. Rose also said no Tennessee inmate has ever received an organ transplant.

Fung, however, said the university has performed organ transplants in the past on Pennsylvania inmates. "I'm not going to go out of my way to campaign to get the guy here," Fung said. "(But) he should at least be given the benefit of knowing where to go."

Fung said the medical center evaluates transplant recipients based on their physiology and condition, and not necessarily their age. The oldest person to receive a liver here was 77.

An evaluation includes blood tests, examining the heart and other organs, and reviewing the patient's psycho-social background. The center has allowed other programs to conduct evaluations, then transfer the patient here if the testing follows the university's standards, he said.

Jerry Ray said he didn't know how Pepper would raise funds for an evaluation or transplant. Pepper said earlier he expects King's family may help pay for part of Ray's legal defense work. The King family supports a trial for Ray.

*To reach reporter Marc Perrusquia, call 529-2545 or E-mail perrusquia@gomemphis.com*

(Mount Clipping in Space Below)

# Ray seeks court OK for liver testing

Seeks to override Tenn. denial of  
travel to Pa. transplant center

By Marc Perrusquia  
The Commercial Appeal

James Earl Ray filed a petition Tuesday asking a judge to send him to Pittsburgh to undergo an evaluation for a possible liver transplant.

Trying to override a Tennessee Department of Correction decision rejecting Ray's travel request, attorneys for the confessed assassin are seeking an order from Criminal Court Judge Joe Brown.

They want Ray to undergo testing at the University of Pittsburgh Medical Center, one of the world's leading organ transplant centers.

Defense attorneys contend Ray, 69, is close to death. Serving a 99-year sentence for the 1968 murder of Dr. Martin Luther King Jr. in Memphis, Ray has cirrhosis of the liver.

"It is not possible to say how long Mr. Ray can live in his present condition but, in my view, it is a matter of months, not years," Nashville physician

(Indicate page, name of newspaper, city and state.)

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Dr. Babu Rao said in a May 13 affidavit. "It is clear to me that only a liver transplant could save Mr. Ray's life."

On a number of occasions, Ray has been in critical condition, suffering "an encephalopathic state," accompanied by delusional, disoriented thinking, Rao said. Encephalopathy refers to diseases affecting the brain and consciousness.

Atty. Gen. Knox Walkup said through spokesman Sharon Curtis-Flair that the state is

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"carefully preparing a response" but declined to discuss details.

Prosecutor John Campbell said Ray's petition may have been filed in the wrong court because state law requires complaints against the corrections department to be heard in Chancery Court in Nashville.

No court date has been set, but a hearing is expected next week, attorneys said.

Correction Commissioner Donal Campbell this month rejected Ray's request, contend-

ing the state has no legal authority to allow an inmate to travel out of state.

Ray's petition asks that Ray "be transferred at the earliest time possible" to the University of Pittsburgh for a period not to exceed 72 hours. Dr. John Fung, chief of transplantation surgery at Pitt's School of Medicine, wrote the DOC last month on Ray's behalf, saying the school could evaluate Ray to determine if he is suitable for a transplant.

Ray's petition says he would be kept under guard by DOC, but "all costs (would) be privately paid so that there is

no charge to the state of Tennessee."

It was not clear how the defense would pay those costs. Lead counsel William Pepper of London could not be reached Tuesday despite calls to his office. Local co-counsel Wayne Chastain said Pepper told him he hopes to meet next week with Dist. Atty. Gen. Bill Gibbons before a hearing is held.

Pepper said last week he expects King's family, who support a trial for Ray, to help cover costs of scientific testing completed last week on the bul-

From Page B1

## Ray

let removed from the civil rights leader's body. Pepper contends someone planted the .30-06 hunting rifle found with Ray's fingerprints on it April 4, 1968, near the scene of King's murder, but test results by a panel of defense firearm investigators have not been released.

"If it was a favorable test for him, he'd be calling a news conference (by now)," prosecutor Campbell said.

A liver transplant in Pittsburgh may be Ray's "only possibility of survival," said Rao, who oversees treatment and care of inmates as part of his relationship with Columbia Nashville Memorial Hospital.

In a May 15 affidavit, Fung said he had reviewed Ray's medical file and urged an evaluation by Pitt. "Since he is being denied life-saving treatment in Tennessee . . . I firmly believe that Mr. Ray's sentence will have been changed from 99

years to death."

Rao said in his affidavit that Vanderbilt University in Nashville had rejected Ray because he did not meet the school's criteria for placement on an organ waiting list. DOC has said Ray could be evaluated in Tennessee, but it was unclear Tuesday whether Vanderbilt actually had evaluated Ray or rejected him out of hand.

John Howser, media director for Vanderbilt Medical Center, said he didn't know why Ray was rejected, but said the school considers several factors, including a patient's age, overall health and support system following surgery.

Liver transplant patients undergo rigorous rehabilitation that includes a special diet and exercise, often receiving a "huge regimen of medicines" to keep the body from rejecting the new organ.

"It probably wouldn't be feasible for him (to receive a transplant) and go back to the joint," Howser said. "It just seems like it would take a Herculean effort to swing all this. There's a huge amount of after-

care."

However, Howser said Pitt may be more liberal in its requirements for transplants, describing Pittsburgh as the "most aggressive liver transplant center in the country."

Pitt performs more types of organ transplants than any center in the world, and about 25 percent of its patients have been turned down elsewhere, said Lisa Rossi, medical center spokesman.

Pitt has performed liver transplants on patients as old as 77, Fung said.

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 RAY ATTORNEYS TO REFILE  
 PETITION FOR LIVER EVALUATION  
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### Ray attorneys to refile petition for liver evaluation

James Earl Ray's attorneys plan to withdraw a local petition and refile it in Nashville, where they will try to get a judge's order to evaluate Ray for a possible liver transplant.

Defense attorney Wayne Chastain said Friday he hopes to have a hearing in Chancery Court in Nashville by the end of next week. Ray, 69, is suffering from cirrhosis of the liver and doctors say only a transplant may save his life.

Ray is serving a 99-year sentence for the 1968 murder of Dr. Martin Luther King Jr. in Memphis.

Ray's attorneys had filed a petition this week asking Criminal Court Judge Joe Brown to allow the confessed assassin to go to the University of Pittsburgh Medical Center for testing to see if he is suitable for a transplant. But state law requires such matters to be held in Nashville, and the defense didn't want to risk a lengthy legal battle, Chastain said.

"It's a life or death matter" requiring expediency, said Chastain, who plans to refile the petition Monday in Nashville.

—Marc Perrusquia

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FBI - MEMPHIS	

FBI DOJ

(Mount Clipping in Space Below)

# Decision today on releasing King gun tests

By Marc Perrusquia  
The Commercial Appeal

A meeting is set today to determine when James Earl Ray's attorneys will release test results on the rifle believed used to kill Dr. Martin Luther King Jr.

Criminal Court Judge Joe Brown said he called the 2 p.m. conference with attorneys in his chambers because of growing concern about the tests concluded two weeks ago by a team of defense firearms investigators.

Prosecutor John Campbell said Tuesday he believes defense attorney William Pepper has had enough time to

Pennsylvania under a high-magnification scanning electron microscope.

Serving a 99-year sentence, Ray claims he was framed for King's 1968 murder in Memphis.

Jerry Little, a volunteer working for the defense, said Pepper was at the Rhode Island crime lab Tuesday. "I think that Pepper has the results," he said.

Pepper will be in Memphis today, Little said. Local co-counsel Jack McNeil said he will be at the conference but he was unsure if Pepper would be there. Little said he was picking Pepper up at a Memphis hotel about 5 p.m. to drive him to Nashville for a hearing later this week on Ray's health.

produce results. "I just want to bring this to a head," Campbell said. "He's got the results. (The firearms investigators) told him what the results are — I know they have."

Pepper could not be reached Tuesday, but told a reporter late Monday he intends to call a surprise witness when he releases the results in court in about two to three weeks. In a telephone interview from a Providence, R.I., hotel, the London-based attorney declined to discuss test results.

Firearms investigators test-fired the .30-06 hunting rifle last month at the nearby Rhode Island state crime lab. Test bullets and the slug removed from King's body then were examined in

A petition filed Tuesday asks Davidson County Chancellor Irvin H. Kilcrease Jr. to allow Ray to travel to Pittsburgh to undergo testing for a possible liver transplant.

Correction Commissioner Donal Campbell last month rejected Ray's request for an evaluation at the University of Pittsburgh Medical Center. Ray, 69, is suffering cirrhosis of the liver.

Pepper said he hopes for a hearing Thursday, but the hearing may not be held until Monday to give the Attorney General's Office time to review the petition, a Chancery Court clerk said.

To reach reporter Marc Perrusquia, call 529-2545.

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# Ray's attorney says he has a surprise witness

By Marc Perrusquia  
The Commercial Appeal

James Earl Ray's lead attorney said Monday he intends to call a "surprise witness" when a hearing is held on test results of the rifle believed used to kill Dr. Martin Luther King Jr.

William Pepper also said he expects to ask a judge to set aside Ray's 1969 guilty plea when the much-anticipated hearing is held in two to three weeks.

Yet Pepper again declined to discuss results of tests conducted last month on the .30-06 Remington rifle that was found April 4, 1968, with Ray's fingerprints on it near the scene of King's murder in Memphis.

Pepper maintains the rifle was planted to frame Ray, who is serving a 99-year sentence. But it's unclear if the tests support that contention.

"I think we're going to argue that the guilty plea should be set aside, because the evidence will warrant that," the London-based attorney said in a telephone interview late Monday from Providence, R. I. "I'm going to put another witness on the stand with respect to other evidence."

A team of defense firearm investigators last month fired test bullets from the rifle at the Rhode Island state crime lab,

then compared them with the slug removed from King's body under a high-magnification scanning electron microscope in Pennsylvania.

Pepper described his surprise witness as a former federal agent, but would not elaborate. Pepper said the new evidence involves another "scientific" development connected to the rifle and bullet, yet going beyond that evidence.

In other developments, Ray's attorneys are requesting a hearing Thursday in Nashville on the confessed assassin's request to undergo testing in Pittsburgh for a possible liver transplant. Ray's defense team failed to file a petition as planned Monday in Chancery Court in Nashville, but Pepper planned to mail the petition by express courier for filing today, a spokesman said.

The defense is seeking an expedited hearing because of Ray's grave condition, said Jerry Little, a Jackson, Miss.-based volunteer for Ray's defense. Ray, 69, has cirrhosis of the liver.

Doctors say only a transplant can save his life. Ray's request to undergo the evaluation in Pittsburgh was rejected last month by Tennessee Correction Commissioner Donal Campbell.

To reach reporter Marc Perrusquia, call 529-2545.

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# King rifle results out on June 18, judge rules

By Marc Perrusquia  
The Commercial Appeal

Test results on the rifle believed used to kill Dr. Martin Luther King Jr. will be released in a hearing June 18, a judge ruled Wednesday.

Criminal Court Judge Joe Brown's decision Wednesday came amid wide speculation about testing completed last month to investigate James Earl Ray's claim he was framed for King's 1968 murder in Memphis.

"There's been no deliberate attempt to disguise or withhold anything," said defense co-counsel Jack McNeil of Memphis.

Scientific tests were completed two weeks ago on the bullet removed from King's body and the .30-06 hunting rifle found with Ray's fingerprints on it April 4, 1968, near the murder scene.

Serving a 99-year sentence, Ray admits he bought the rifle but says he didn't shoot King. Someone planted the rifle to frame Ray, his lead defense attorney, William Pepper, contends.

Pepper, who lives in London, was not present Wednesday but this week said he intends to call a surprise witness when test results are released. Pepper described his witness only as a former federal agent.

McNeil said he doesn't know who the witness is and doesn't know the results of the tests. A team of defense firearm investigators test-fired the rifle and examined bullets under a high-magnification scanning electron microscope. The defense hopes to show the rifle was not the murder weapon.

"The longer it drags out with the results not being released, people are going to start speculating," said prosecutor John Campbell. "And we just don't need any more speculation in this case."

McNeil said the defense may give the results to prosecutors before the June 18 hearing, but Campbell said they may not be obligated to do

that because the hearing may amount to nothing more than an announcement.

Evidentiary rules would require the defense to notify the prosecution if there was an active petition or a legal issue

before the court. The Court of Criminal Appeals dismissed Ray's petition for a new trial in April in a decision that allowed the tests to go forward. If new evidence is uncovered, Ray could refile the petition, Campbell said.

Asked if he thought Pepper would have already released the test results if they were beneficial to his case, Campbell said: "This case has such a weird history, who knows."

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Title: King rifle results out on June 18, judge rules

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Pepper had expected to attend a hearing today in Nashville to see if Ray may travel to Pittsburgh to undergo testing for a possible liver transplant. Ray, 69, has cirrhosis of the liver. But the hearing will be held Monday, said a Davidson County Chancery Court clerk.

To reach reporter Marc Perrusquia, call 529-2545 or send E-mail to perrusquia@gomemphis.com

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# Ray team seeks rifle retest

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or1987  
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## Hints 'last-ditch effort,' says TBI expert

By Marc Perrusquia  
The Commercial Appeal

James Earl Ray's defense team wants to conduct another test-firing of the rifle believed used to kill Dr. Martin Luther King Jr., claiming they were not allowed to properly clean the weapon before firing it.

Chief firearms examiner Robert A. Hathaway said, in an

affidavit obtained Tuesday by The Commercial Appeal, that he wants to again test the .30-06 hunting rifle, this time in secret under a court-ordered seal.

The development provides the clearest indication so far that tests last month may not have uncovered evidence to support Ray's claim he was framed for King's 1968 murder in Memphis.

A Tennessee Bureau of In-

vestigations firearms expert Tuesday likened the proposed retesting to a "last-ditch effort" to prove Ray's claim.

Ray's lawyers contend someone planted the rifle, found with Ray's fingerprints on it April 4, 1968, near the Lorraine Motel where King was shot. They had hoped tests ordered last month by Criminal Court Judge Joe Brown would exclude the evidence rifle as the murder weapon, leading to a

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trial for Ray, 69, who's serving a 99-year sentence and is dying of liver disease.

The rifle was fired in Rhode Island and bullets were examined under a high-magnification scanning electron microscope (SEM) in a highly publicized series of tests that concluded May 22. The test bullets were compared with the bullet taken from King's body, a common method for determining if bullets used in crimes came from a weapon in police custody.

After some claimed the defense was sitting on the results, Brown ordered a June 18 hearing to announce the findings.

Hathaway now contends in an affidavit signed June 6 that a "misunderstanding" caused defense examiners to not conduct extensive cleaning that could have aided the testing. Hathaway said examiners thought the court did not want them to use a copper or bronze wire brush to clean the rifle bore, a "cleaning process (that) could have materially aided us

in our work."

Hathaway wants the Criminal Court Clerk's office to "re-deliver the evidence rifle" and the King death slug to the Rhode Island state crime lab, where he works as a forensic firearms examiner.

Reached by telephone Tuesday, Hathaway declined to discuss his affidavit, citing a gag order issued by Brown.

"How the heck did you get ahold of that?" Hathaway asked, saying, "I owe it to the court" not to talk about it.

Brown confirmed Monday that he orally issued a gag order last week and placed a seal on documents involving the rifle testing. Brown was out of the city Tuesday and unavailable for comment on the affidavit.

Criminal Court Clerk Bill Key, custodian of the evidence and legal documents in the King case, said Tuesday the defense had not filed an affidavit. However, a notation at the bottom of Hathaway's two-page affidavit bears what appears to be Brown's signature, showing it was "received for filing 6/6/97."

Wayne Chastain, a Memphis attorney working for Ray's defense, also declined to discuss the affidavit.

"I'm not going to comment 'cause the judge ordered it sealed," he said. "The judge is going to be very unhappy."

William Pepper, Ray's lead attorney, had hinted to reporters Monday outside a Nashville courtroom that the case may be taking a new twist, but he, too, declined to discuss details.

"There have been some additional protocols that have been imposed on the testing, and that is not over yet," Pepper said to television cameras in what seemed at the time an inscrutable comment.

Pepper declined to clarify his comments, but said results probably won't be released until July. He was speaking outside a hearing at which a judge denied Ray's request to travel to Pennsylvania for testing for a possible liver transplant.

Later Pepper declined to talk about the affidavit with a reporter. He did say he plans to subpoena Loyd Jowers, the former Memphis cafe owner who claims he was involved in a conspiracy to kill King. Jowers claims to have seen a rifle the day of the assassination; that information, coupled with the test results, could be helpful when arguing for a trial for Ray, Pepper said.

Pepper, who lives in Britain, could not be reached Tuesday. Prosecutor John Campbell said he is under the same gag order and could not comment.

Tommy Heflin, a TBI firearms expert who observed the defense testing in Rhode Island, said he was unaware of the development, but said it sounded like "a last resort" by the defense.

The TBI lab uses wire brushes to clean rifle bores only as "a last-ditch effort" when they cannot match a bullet to a gun, Heflin said. The abrasive action can alter the interior of a gun barrel, altering evidence, he said.

Heflin said the development indicated to him that the defense firearms team had reached an inconclusive result.

"Probably what's happening is they're at the same point that all these other examiners have been," he said.

Tests by the FBI in 1968 and

Congress in 1978 found the bullet could have come from the rifle, but those tests could not conclusively prove it did.

Although Hathaway would not discuss the King rifle tests, he said he has used a bronze brush in the past to remove tiny metal debris that bullets have deposited in gun barrels. Those metal bits can impede an accurate test, he said.

"It's usually a situation where you're trying to enhance your test specimens," he said.

Bronze is soft and causes minimal damage to a gun barrel, he said.

In the Rhode Island tests last month, the defense team fired 18 bullets from the King rifle and used a cloth patch and oil to clean the rifle barrel before the test firing and between

three rounds of six shots each.

Brown had prepared a detailed protocol for cleaning the barrel that included use of a bronze brush. But Hathaway said in his affidavit that he believed the court did not want

the examiners to use a bronze or copper brush.

*To reach reporter Marc Perrusquia, call 529-2545 or send E-mail to*  
*perrusquia@gomemphis.com*

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EDITORIALS

# LOONEY TUNES

## Ray case keeps going like a cartoon serial

COULD THE fantasy of James Earl Ray's defense exist anywhere but in courts — or cartoons?

Here we have the mule-headed defense attorneys, so single-minded in their obsession that they can't take "no" for an answer unless hit between the eyes with a judge's two-by-four.

And judges who have trouble finding the two-by-four through the reams of motions and briefs and other lawyerly obfuscations that robotic minions keep dumping on the ever-expandable bench of justice.

And well-meaning members of the public whose mental immune system has become helplessly vulnerable to any suggestion of a conspiracy.

How many times are judges supposed to permit tests of the rifle that authorities say Ray used to kill Dr. Martin Luther King Jr. in Memphis 29 years ago? After winning approval for a series of tests this spring, the defense wants to do it all over again — this time with a bronze brush instead of a cloth patch to clean the rifle.

But Criminal Court Judge Joe Brown had granted permission to use a bronze or copper cleaning brush in his order for the tests. There was a "misunderstanding," says firearms examiner Robert Hathaway, who conducted the tests. He said he didn't think the court wanted him to use bronze or copper. So, he says in an affidavit, he wants another go at it — this time in secret under a court-ordered seal. (One can imagine that the secrecy would inevitably be broken, arming the defense for yet another appeal.)

What does it all mean? One thing it obviously means is that the May tests — the defense fire-arms team fired the rifle 18 times in Rhode Island — didn't prove the defense's contention that the rifle was planted to frame Ray for the killing. Previous tests — by the FBI in 1968 and by Congress

in 1978 — failed, as well, to back up the defense claim.

Ray's fingerprints were found on the rifle, and the rifle was found near the Lorraine Motel, where King was shot. Ray pleaded guilty and was sentenced to 99 years. Now 69, he is dying of liver disease.

The defense maneuvering also means that it will continue to find something to request, to file more papers about and to use in its unquenchable thirst for publicity.

There's a sad sidelight, too: Dr. King's family has been drawn into this charade, with some of the family members supporting Ray in his attempts to win a trial. They seem to have bought the conspiracy theory and, therefore, believe Ray when he says he didn't kill King. What else would Ray say? He's trying to save his skin. In the process, however, King relatives are straining their credibility.

Someone has to stop the craziness. It may be comical, but it's also expensive for taxpayers and destructive of public confidence in the law.

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RAY CASE KEEPS GOING

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At least one judge, in Nashville, has held up his hand. He denied Ray's request to travel from his Tennessee prison cell to a clinic in Pittsburgh to be tested for a liver transplant. Vanderbilt University turned down a similar request for testing, saying that Ray didn't meet its criteria for transplant patients. So Ray's lawyers went to court to get approval for the Pittsburgh trip. They didn't bother to ask the University of Tennessee-Memphis or any private medical transplant practice.

Brown also could slow down the defense. He has ordered a June 18 hearing to announce the results of the rifle firings, which the defense has been sitting on. He could say that the tests gave Ray an adequate chance to prove his claim.

Then maybe we could all find relief in the words of the Great Fantasizer: "That's all, folks."

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**OPINIONS/MICHAEL RAMIREZ**



RAMIREZ THE GAMBINO LANDER  
ART © CRYSTAL NEW SERVICES

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 JUDGE DELAYS HEARING ON RAY  
 RIFLE TEST RESULTS

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## Judge delays hearing on Ray rifle test results

By Marc Perrusquia  
 The Commercial Appeal

A judge Monday said he has postponed a hearing to announce test results on the rifle believed used to kill Dr. Martin Luther King Jr.

Criminal Court Judge Joe Brown originally set the hearing for Wednesday but now says it likely won't be held until next week at the earliest.

"I've got to clam up until we get it together," Brown said, declining to discuss reasons for the delay.

Defense firearms investiga-

tors last month test-fired and examined bullets from the .30-06 rifle that prosecutors say James Earl Ray used to kill King in Memphis in 1968. Serving a 99-year sentence, Ray, 69, claims the rifle was planted to frame him. The defense is trying to show the bullet removed from King's body did not come from the rifle.

An affidavit obtained last week by The Commercial Appeal shows lead defense firearms examiner Robert A. Hathaway wants a second test-firing, contending the rifle barrel was not properly cleaned during testing.

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# Judge rejects Ray's bid for tests

## Confessed King assassin hoped to travel for transplant evaluation

By Leon Alligood and Toni Dew  
BANNER STAFF WRITERS

Saying he must follow state law, Davidson County Chancellor Irvin Kilcrease today refused convicted assassin James Earl Ray's request to travel to Pittsburgh to be evaluated for a liver transplant.

Ray, 69, who is serving a 99-year prison sentence for murdering the Rev. Martin Luther King Jr. in 1968, says he needs a transplant because of cirrhosis of the liver. His lawyer, William Pepper, told the court that refusing his client's request to go to Pittsburgh would be "a death sentence."

But Kilcrease ruled that he could not contradict a state law that bars inmates from traveling outside the jurisdiction of the state Department of Correction.

"This is a court of equity, but I must follow the law," Kilcrease said during a

hearing today. "I find the state's motion to dismiss (Ray's request) does have merit."

Attorneys for Ray plan to appeal today's ruling.

Tennessee Solicitor General Michael Moore argued that Ray's petition did not offer a legal claim on which to base his request.

Correction Commissioner Donal Campbell "does not possess the authority to allow an inmate to leave the state," Moore argued. "What they want is for the state to allow the commissioner to violate the law."

Earlier, Vanderbilt University Medical Center declined to add Ray to its liver transplant waiting list because he was not considered to be a good candidate for surviving the operation. And Pepper said his client has not approached the University of Tennessee Medical School in



James Earl Ray says he needs a transplant because of cirrhosis of the liver.

Memphis about having the operation, after the *Commercial Appeal* newspaper published a letter stating that Ray did not deserve a transplant.

Pepper said that because of the adverse public reaction, he and his client didn't feel Ray would receive a fair assessment at UT-Memphis.

But he said Pittsburgh officials told him that Ray could be candidate for the operation.

Ray's brother, Jerry, testified today that "it won't cost Tennessee one penny for him to go to Pittsburgh, so I don't see what they're scared about."

When asked how Ray would raise the

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BANNER PHOTO: LARRY McCORMACK

**William Pepper** (left) argues today that his client, James Earl Ray, should be allowed to go to Pittsburgh for medical tests. Another of Ray's attorneys, Wayne Chastain, listens.

## Ray

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funds to go to Pittsburgh, his brother said: "I leave that up to Pepper. He's got his ways."

Ray's brother said he spoke to Ray on Sunday and described him as being weak and in a wheelchair.

"But his mind is still pretty sharp," he said.

Earlier, another of Ray's attorneys, Wayne Chastain, said states are obligated to keep inmates alive and healthy, even if that means providing life-saving organ transplants.

"There's a duty of the state to keep inmates in good health," Chastain said, "to keep them alive, if at all possible."

Doctors at the University of Pittsburgh Medical Center are prepared to perform medical tests on Ray to determine if he is a liver transplant candidate, court records show.

But Tennessee corrections officials recently denied Ray's request to leave the state for three days of in-patient testing in Pennsylvania. Instead, they said Pennsylvania doctors would be allowed to evaluate Ray in Tennessee.

Ray then filed suit in Davidson County Chancery Court.

Not only does Ray want his life saved, he's determined to prove he did not kill the civil rights leader.

Ray pleaded guilty to King's slaying but later recanted and has repeatedly lobbied for a trial.

His attorneys persuaded the courts to allow ballistics testing on Ray's rifle — the one police say he used to kill King.

Results of those tests are scheduled to be released later this month and may determine whether Ray gets a trial.

But Chastain said Ray should get the liver transplant, regardless of whether the courts decide to reopen the King assassination, especially since Ray has private financial backing to cover all costs.

"You can't let a man die in your custody, especially when outside resources are willing to be expended at no expense to the state," Chastain said.

But inmates lacking the money for expensive medical procedures also should receive whatever life-saving treatment is necessary, Chastain contended.

However, Chastain admitted that states may be reluctant to fund some medical procedures.

"There's just so much emphasis on the taxpayers," he says.

But adopting such a policy is not unreasonable, said Karl Dean, Metro public defender.

"When we incarcerate someone to punish them, the punishment is the deprivation of liberty, of freedoms. It's not the deprivation of health or life," Dean said. "An inmate should have access to medical care that is sufficient to protect their health and their lives."

Toni Dew may be reached at 259-8267 or by e-mail: [tdew@NashvilleBanner.com](mailto:tdew@NashvilleBanner.com)

Leon Alligood may be reached at 259-8279 or by e-mail: [lalligood@NashvilleBanner.com](mailto:lalligood@NashvilleBanner.com)

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# Show shoots holes in Ray lawyer sniper claim

Army major — claimed slain — denies King plot

By Marc Perrusquia  
 The Commercial Appeal

Credibility questions about James Earl Ray's lead attorney, William Pepper, are examined in a television network news show tonight that explores allegations the government killed Dr. Martin Luther King Jr.

In a rare interview, King's widow, Coretta Scott King, and the couple's four children, tell ABC's *Turning Point* they believe Ray is innocent. Following Pepper's lead, King's younger son, Dexter, also alleges that his father's 1968 murder in Memphis was the work of a plot involving the Army, government intelligence and then-President Lyndon B. Johnson.

But the show, to air at 9 p.m. on WPTY Channel 24 in Memphis, exposes flaws in Pepper's assertion that an Army Special Forces unit was stalking King in Memphis the day of the assassination. Pepper's conspiracy claims are credited with winning the King family's support of a trial for Ray, 69, who's serving a 99-year sentence.

Coretta and Dexter King testified in a February hearing in Memphis that led to recent tests on the rifle Ray claims was planted to frame him.

*Turning Point* interviewed a former Army major Pepper claims had been murdered after briefing a sniper team in Mississippi hours before King's assassination on April 4, 1968. Pepper contends the team had rifles trained on King and former aide Andrew Young the moment King was cut down by an assassin's bul-

let while standing on the balcony of the Lorraine Motel.

Pepper had claimed that Maj. Billy Eidson and two other former members of the 20th Special Forces Group were killed in a "cleanup operation" after the assassination.

In midinterview, reporter Forrest Sawyer brings Eidson out to confront a visibly shaken Pepper.

"I don't want to shake your hand. I just want to look at you," Eidson tells Pepper on a "rough copy" videotape shipped to media outlets this week. On the tape, Eidson asks Pepper to retract statements the lawyer made in a 1995 book implicating Eidson in a plot to kill King.

Reached by telephone Wednesday at his home in Britain, Pepper said he's made some mistakes, but stands by his larger contentions.

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## Ray

"I'm sorry I said he was dead and he's alive," the London-based attorney said. Pepper said he's gone back to his sources, whom he refuses to disclose, and said they insist a sniper team was here to kill King.

"Not only am I sticking by it, but one of my sources is so livid ... that he wants to come into court and testify," Pepper said. Pepper said he's checking out Eidson's contention he was working in Birmingham the day of the assassination. Pepper said he also wants to know why Eidson, who now lives in Costa Rica, left the country.

Pepper, 59, said he felt "a bit blindsided," saying the "decent" thing would have been for Sawyer to tell him up front he had found Eidson so Pepper could prepare and fully discuss the matter.

"I can understand that argument," Sawyer, 48, said in a telephone interview from New York. But Pepper's allegations about the ex-Special Forces members merited the encounter, he said.

"Mr. Pepper made this accusation without ever attempting to contact even one of them," Sawyer said. "Billy Eidson flew all the way from Costa Rica to meet Mr. Pepper and clear his

name." Sawyer confirmed that ABC paid for Eidson's trip.

Also interviewed in the *Turning Point* report is Stephen G. Tompkins, a former reporter for The Commercial Appeal, who first reported in 1993 that a Special Forces team was in Memphis the day King was shot.

Tompkins, now a spokesman for Gov. Zell Miller of Georgia, left the newspaper shortly after his stories on Army spying on the King family were published.

Pepper then consulted Tompkins for his book, *Orders To Kill: The Truth Behind the Murder of Martin Luther King*. Pepper said he paid for several trips to "Latin America" to allow Tompkins to re-interview members of the team, who reportedly had fled the country.

In the *Turning Point* report, Tompkins maintains the team was in Memphis to watch for possible unrest, under orders to shoot leaders only if a riot broke out. The report also quotes Gen. Henry Cobb, commander of the 20th Special Forces Group in 1968, who said there was no team in Memphis that day.

Pepper said Tompkins initially led him to believe the team came to Memphis to kill King, but said Tompkins later amended his story. In the *Turning Point* report, Pepper cites an affidavit signed by Tompkins verifying the accuracy of

aspects of Pepper's book, which alleged the team was in Memphis to kill King.

Tompkins said in a telephone interview Wednesday he had only read a first draft of one chapter of Pepper's book when he signed the affidavit.

"I said, 'You can't use those names. You've got no proof of that,'" Tompkins said.

To reach reporter Marc Perrusquia, call 529-2545 or send E-mail to:

perrusquia@gomemphis.com.

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# Judge rejects Ray travel to Pa. for liver tests

By Marc Perrusquia  
The Commercial Appeal

NASHVILLE — A judge Monday rejected James Earl Ray's request to go to Pennsylvania to undergo testing for a possible liver transplant.

Dismissing Ray's petition to travel to the University of Pittsburgh Medical Center, Chancellor Irvin H. Kilcrease Jr. said there was no legal authority to allow the terminally ill convicted assassin of Dr. Martin Luther King Jr. to leave the state.

Vanderbilt University has rejected Ray for a transplant, but Kilcrease noted Ray's attorneys had not contacted the state's other transplant center, the University of Tennessee, Memphis.

Serving a 99-year sentence, Ray, 69, has cirrhosis of the liver. A Nashville physician has said Ray may have only months to live if he does not receive a transplant.

An emotional William Pepper, Ray's lead attorney, said he expects to appeal Kilcrease's decision but also may contact UT doctors.

"Why are they afraid to let this man live?" Pepper, near tears at times, argued before the court. "To refuse him this treatment will do nothing less than to impose, now in 1997, the death penalty."

Pepper presented the court a letter from King's younger son, Dexter, supporting Ray's petition. Dexter King and other family members say they believe Ray is innocent, despite his 1969 guilty plea. For years Ray has claimed he was framed.

Pepper said he now will seek

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a reversal before the Tennessee Court of Appeals, but also may file action in federal court,

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# Ray

alleging a violation of constitutional protections against cruel and unusual punishment.

Tennessee Solicitor General Michael E. Moore said Kilcrease made the right decision in upholding Correction Commissioner Donal Campbell's ruling last month that state law does not allow Ray to leave the state.

Moore said the state grants inmates out-of-state furloughs on two conditions: to visit a critically ill relative or attend a funeral.

Campbell has said he would be open to an evaluation for Ray in Tennessee.

The state presented an affidavit Monday from UT Dr. Santiago R. Vera, associate professor of the college of medicine's surgery department, stating UT had not been contacted to evaluate Ray.

In arguments before Kilcrease, Pepper contended that "community sentiment" would not support a transplant

in Memphis, where King was shot April 4, 1968, on the balcony of the Lorraine Motel. After the hearing, Pepper said he did not expect serious consideration from UT but may apply.

"Let the University of Tennessee prove me wrong," he said.

Pepper contacted the University of Pittsburgh, popularly called Pitt, this spring after Ray had been admitted on several occasions to a Nashville hospital, once in a coma. In a May 13 affidavit, Dr. Babu Rao said he believes "only a liver transplant could save Mr. Ray's life."

Dr. John Fung, chief of transplantation surgery at Pitt, said the school could evaluate Ray and consider him for a transplant, although some centers may consider him too old. Doctors have performed liver transplants on patients as old as 77 at Pitt, where 25 percent of their patients have been rejected by other centers.

The oldest liver transplant recipient at UT was 66.

An evaluation, which would take three days, includes blood tests, a heart evaluation and an

overall assessment of a patient's health to determine suitability for a transplant.

Nationwide, about 9,000 people are waiting for liver transplants and the organs are in short supply, according to the United Network for Organ Sharing.

Pepper said he would raise private funds for the evaluation, including transportation and the cost of guarding Ray.

Moore said an evaluation in Pittsburgh should not be allowed because Ray's attorneys failed to state a claim on which the request legally could be granted.

Moore further argued that Ray did not have a constitutional claim of mistreatment, which requires that prison officials be "deliberately indifferent" to an inmate's health care. To the contrary, DOC has provided Ray intensive care, Moore said.

Pepper differed.

"What we're arguing about is the most critical aspect of care that the state is not and cannot provide. And that is the care that is required to keep him alive," he said.

"He needs a liver transplant.

The state is not prepared to do that. There is a place where they are prepared to do that."

Jerry Ray, 61, the assassin's brother, said he expected the ruling.

"I don't get surprised no more," he said. "He can hang on maybe another few months and that's the most."

*To reach reporter Marc Perrusquia, call 529-2545 or E-mail perrusquia@gomemphis.com*