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Ray lawyer 'appalled'
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Ray lawyer 'appalled' at release of affidavit

Defends rifle retest, won't discuss May results

By Marc Perrusquia
The Commercial Appeal

James Earl Ray's attorney said Thursday he's "appalled" details were made public from a sealed affidavit that seeks to retest the rifle believed used to kill Dr. Martin Luther King Jr..

Yet William Pepper said the defense request for a second test-firing of the .30-06 hunting rifle does not mean tests last month were inconclusive. Still, he again declined to discuss the results.

"There are a number of hatchets out now to try to undermine the credibility of our efforts in this case," the London-based attorney said in a telephone interview. "People are getting increasingly nervous."

The Commercial Appeal reported Wednesday that the defense's lead firearms investigator, Robert A. Hathaway, asked in an affidavit signed June 6 to conduct another

round of tests on the rifle found with Ray's fingerprints on it April 4, 1968, near the scene of King's murder.

Serving a 99-year sentence, Ray, 69, claims the rifle was planted to frame him.

Hathaway says in the affidavit that a misunderstanding led to inadequate cleaning of the rifle during court-ordered tests last month in Rhode Island. The testing aims to determine if the bullet recovered from King's body was fired from the rifle.

Tennessee Bureau of Investigation firearms examiner Tommy Heflin said the request to retest is an indication the tests were inconclusive. Tests by the FBI in 1968 and Congress in 1978 found the bullet could have come from the rifle but could not conclusively link them.

The newspaper obtained the affidavit despite a seal that Criminal Court Judge Joe Brown said he placed on bullet-test documents. Brown orally issued the seal and a gag order during an in-chambers meeting last week with attorneys.

Pepper said he "shouldn't be surprised, but I am appalled" that the two-page affidavit was released.

Brown had scheduled a hearing Wednesday to announce the test results, but Pepper said he expects the hearing will be canceled. Brown was out of town Thursday and unavailable for comment.

Pepper also said he's asked that Ray's medical file be sent to the University of Tennessee, Memphis, for consideration for a possible liver transplant.

The move comes after a Nashville judge's decision this week denying Ray permission to travel to Pennsylvania to undergo testing for a possible transplant there. Ray has cirrhosis of the liver and his physician says he may have only months to live. Pepper said he expects to appeal the decision to the Tennessee Court of Appeals in "the very near future."

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

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Phony, say experts of claims by Ray's lawyer of King plot

By Marc Perrusquia
The Commercial Appeal

BIRMINGHAM — A former Alabama Green Beret commander calls it a fantasy, and a retired Marine Corps general says it's phony.

They're talking about a document that attorney William Pepper cites as evidence his client, confessed assassin James Earl Ray, was framed by government conspirators who plotted to kill Dr. Martin Luther King Jr.

The former officers and other military experts question the authenticity of the document, which seems to order an Army sniper team to Memphis the day King was shot in 1968.

"This thing is a fantasy. There ain't no way it could have ever happened," said Henry H. Cobb Jr., 77, a Birmingham businessman who in 1968 commanded the 20th Special Forces Group.

Pepper claims that soldiers from the 20th, an Alabama-based National Guard unit, were in Memphis when King

died. Cobb angrily denied an Army sniper team was sent to Memphis on April 4, 1968, but he confirmed that members of his unit provided security for King's march from Selma to Montgomery in 1965 when President Lyndon B. Johnson federalized the Alabama National Guard.

In trying to win a trial for the 69-year-old Ray, Pepper has gained the support of King's family, who say they believe Ray is innocent. King's son Dexter also has said he supports Pepper's claim that the

military, CIA and FBI were involved in a plot to murder his father. But Pepper's conspiracy theories and the credibility of his sources came under fresh fire June 19 in a nationally televised ABC news program. During that program the London-based lawyer was confronted by a former Green Beret who Pepper had said was dead in his 1995 book, *Orders To Kill: The Truth Behind the Murder of Martin Luther King*. That book also contained a

"This thing (alleged document) is a fantasy. There ain't no way it could have ever happened."

— Henry H. Cobb Jr.,
former 20th Special Forces Group commander

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reproduction of the document Pepper claims ordered an Alabama-based Green Beret team on a covert mission to Memphis, where Pepper said military snipers had rifles trained on King and aide Andrew Young the moment King was shot. Yet Cobb and the retired general, as well as a Pentagon officer, a former State Department official and a military historian said in interviews this week they doubt the legitimacy of the document.

"They look phony," retired four-star Marine Corps Gen. Ray Davis, 82, told The Commercial Appeal. "Nothing about it seemed real to me."

Davis and others were asked to examine the alleged 1968 orders by Rudi Gresham. Gresham, 52, investigated Pepper's claims on behalf of the Special Forces Association, an organization of retired and active Green Beret soldiers that maintains close ties to the Army. Gresham, a former aide in Special Forces to Gen. William P. Yarborough, the Army's assistant chief of staff for intelligence in 1968, said his investigation found no evidence to support Pepper's theories.

"This is one of the sorriest hoaxes that's ever been pulled on the American people," he said.

Gresham plans to present his findings today at the Special Forces Association annual convention in Colorado Springs, Colo.

Pepper says he stands by his claim despite the onslaught of criticism two years after his book was published.

"They're coming out big-time to cover this up," the London-based attorney said in a telephone interview from Britain. "I don't think (the orders) are fake and I certainly don't think the source they came from just typed them up."

One of those who has come out is Billy Ray Eidson, a major in 1968 with the 20th Special Forces Group. Pepper's book claims Eidson briefed the sniper team the morning of King's assassination. Pepper said Eidson later was murdered to ensure his silence.

Pepper was visibly shaken on the June 19 ABC program *Turning Point* when Eidson, 68, confronted Pepper and told the lawyer he wants him to retract his story.

In the wake of the televised confrontation, Pepper said a source of his information is a former high-ranking military officer who faked his death and has assumed a new identity.

Pepper also said those with knowledge of the 1968 sniper team may now be too scared to ever talk publicly.

"I'm very much afraid that the ABC program is going to drive some of the people who have come forward underground," Pepper said.

Several people affected by Pepper's claims said they've had enough.

"It's totally ridiculous," Eidson's daughter, Billie Trull, 41,



Dexter King

said this week at her home in Birmingham. "It's put a black eye on the entire Special Forces."

Retired Special Forces Col. Lee Mize of nearby Gadsden, Ala., said Pepper has misled the country and the King family.

"I feel sorry for the King family that they've been roped in by this guy Pepper," said Mize, 65, who received the



William Pepper

Medal of Honor for valor in Korea in 1953 and in 1968 was senior military adviser to the 20th Special Forces Group.

Former officers with the 20th Special Forces Group contend the part-time soldiers could not have been sent across state lines to Memphis without a presidential order federalizing the troops — and that didn't happen.

And Pepper's orders don't pass muster, military authorities said.

"It just doesn't ring true," said Harry Summers, 65, a retired Army colonel and distinguished fellow with the Army War College. The orders appear fraudulent in their structure, said Summers, who edits *Vietnam Magazine* and provides military analysis for several national media outlets.

The document, labeled "top secret," reads in part: "Recon riot site Memphis prior to King, Martin L. arrival." Notations at the bottom show the orders coming from the Joint Chiefs of Staff, with copies going to the White House and others.

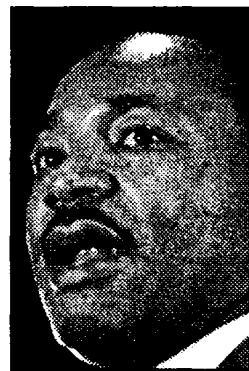
Daniel Ellsberg, the former State Department adviser and consultant on South Vietnam policy who leaked the Pentagon Papers in 1971, said he didn't believe the orders were authentic because they are dated April 30, 26 days after King was killed.

Pepper said the date could be a typographical error, but Ellsberg said crucial information regarding mission dates were never wrong among thousands of orders he examined.

Army spokesman Col. John Smith said, "The orders as they were shown just made no sense."

Pepper said he obtained the document from Stephen G. Tompkins, a former reporter for The Commercial Appeal whom Pepper consulted in researching his book.

In 1993, Tompkins wrote the first account that an eight-man Green Beret team visited Memphis the day King was shot, conducting "an unknown mission." The account was part of a larger piece on domestic Army spying on black Americans and the King family over nearly 75 years.



Dr. Martin Luther King Jr.



James Earl Ray
who said he's interviewed the soldier several times, denied acquiring the document

Tompkins, 45, currently a spokesman for Georgia Gov. Zell Miller, left the newspaper shortly after the article appeared to accept a job offer from the Tennessee governor Ned McWherter.

Pepper said Tompkins told him he obtained the orders from a former Green Beret sniper living in exile in "Latin America."

Tompkins, who said he's interviewed the soldier several times, denied acquiring the document

from the exile, dubbed "Warren" in Pepper's book. Tompkins declined to say where he got the document.

Tompkins confirmed he obtained the document while working for The Commercial Appeal, although he did not use it to support his 1993 article. He said he told Pepper he believed the orders were not legitimate and advised Pepper not to use them.

"I told him the orders were fake," Tompkins said. "The date was wrong."

Pepper said he does not recall Tompkins telling him the orders were fake.

Tompkins and Pepper have disagreed on other issues since the ABC program aired.

Tompkins said he told Pepper not to use Eidson's name in his book because his involvement could not be confirmed.

Eidson, a retired Birmingham firefighter, contends he was working the day King was assassinated. Although Alabama public employee files are not public record, the Birmingham personnel office issued a statement saying Eidson "was not absent from work" between March 1 and May 31, 1968.

Pepper has suggested Eidson, who now lives in Costa Rica, fled the country to avoid a murder charge. But Eidson's daughter said her father was involved in a "self-defense" homicide during a bar fight. Public records show Eidson was convicted of criminally negligent homicide in 1982 and received 12 months probation.

Eidson is living in Central America because he recently married a Costa Rican woman, Trull said. Jefferson County Sheriff's records in Birmingham revealed no arrest warrants for Eidson.

Cobb, the former National Guard commander, said his men never tried to assassinate anyone, despite Pepper's claim that soldiers from the 20th once traveled to Los Angeles to stalk a black militant.

Pepper's book cites his sources for these accounts as "Warren" and "Murphy," both soldiers in exile interviewed by Tompkins at Pepper's request.

Tompkins said this week that



**Billy Ray
Eidson**



**Col. Lee
Mize**

half of "Warren's" information turned out to be wrong.

Pepper this week said he revealed Warren's identity to Gresham, Mize and Cobb during a n u n - televised portion of the ABC confrontation, but Gresham says the man Pepper named is a retired Birmingham firefighter and former National Guard member who still

lives in the United States.

Efforts to reach the man were unsuccessful despite two calls to his North Alabama home.

Pepper said Tompkins initially told him this man was Warren, but said Tompkins now contends he's not Warren.

Tompkins says he never revealed Warren's name to Pepper. The soldier he interviewed lives in exile, not Alabama, Tompkins said. And he stands by his account that a Green Beret team was in Memphis when King was shot despite assertions to the contrary by former Special Forces officers, including Cobb.

The team was in Memphis to watch for possible rioting, Tompkins said, not to assassinate King. Tompkins said he's inspected White House memos that referred to Green Beret teams dispatched to other cities threatened by unrest in the 1960s.

Gresham, Mize and Cobb also said Pepper identified another of his sources as Col. John W. Downie, who once commanded the 902 Military Intelligence Group. According to Gresham, when Pepper was informed that Downie had died 10 years ago, Pepper said Downie has assumed a new identity. Pepper denies he gave the three former military men Downie's name. But he said a confidential source supporting his account of 1968's events is a former military officer who faked his own death.

Pepper said the source "has been involved in so many dirty things over the years... he just wanted to disappear."

Peter Bull, a producer at ABC's *Turning Point*, declined comment, saying Pepper made several comments when the cameras stopped that he took to be in confidence.

Tompkins said he, too, is growing tired of Pepper's increasingly outlandish claims.

"Bill has just gotten this wonderful (deal) here. He can just go off and blame the whole damn thing on me and know that I can't reveal my sources."

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

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Andrew Young backs test on King rifle

Calls for amnesty to solve case

By Quintin Robinson
The Commercial Appeal

Civil rights leader and former UN ambassador Andrew Young said Saturday he supports testing of the rifle believed used to kill Dr. Martin Luther King Jr.

Young, who spoke with reporters following graduation ceremonies for LeMoyne-Owen College held at Mississippi Boulevard Christian Church, also suggested that there be an amnesty for those with information that could solve the case.

Responding to a reporter's question, Young said he didn't know whether the rifle discovered in a recessed doorway on South Main Street, a block from the Lorraine Motel where King was murdered on the balcony, was the actual murder weapon. "That's the purpose for the test. If that rifle is not the rifle," hopefully the test will prove it, said Young, who was among a group of ministers who comprised the inner-circle of King's nonviolent movement.

The .30-06 Remington rifle allegedly used to kill King will be test-fired this week in Rhode Island, a judge said in a tentative ruling on Friday.

Final details will be worked out in a hearing Monday, but the long-awaited tests should start Wednesday at the state crime lab in Kingston, R.I., Criminal Court Judge Joe Brown said.

Defense attorneys claim the rifle was planted to frame Ray, who confessed to the killing and was never tried in court.

But prosecutor John Campbell said he expects the tests, like those in the past, will fail to exclude the rifle as the murder weapon.

Young said the country has been at a standstill since King was gunned down outside the Lorraine Motel on April 4, 1968. Solving the question of who killed King is more important to the United States now than trying to bring further criminal charges, he said.

"We need to open this up and we need to start an amnesty" process, said Young, who received an honorary degree from LeMoyne-Owen College Saturday and was keynote speaker.

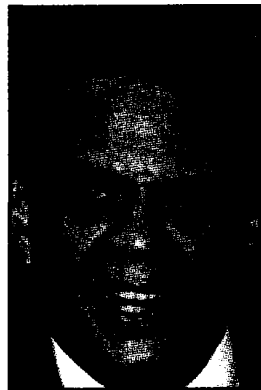
"People who were probably responsible for this — with or without Ray — are probably dead and gone," he said.

Young was U.S. ambassador to the United Nations after resigning from Congress in 1977. He later served as Atlanta mayor.

Lois DeBerry, speaker pro tem of the state Senate, also received an honorary degree from LeMoyne-Owen Saturday. About 200 students received degrees.

Robert Lipscomb, senior vice president of LeMoyne-Owen overseeing fiscal affairs and administration, was honored as the school's Outstanding Alumnus for 1997.

To reach reporter Quintin Robinson, call 529-2780.



Andrew Young

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Ex-Green Beret sues Ray's lawyer over accusations

By Marc Perrusquia
The Commercial Appeal

Former Green Beret Billy Ray Eidson has sued James Earl Ray's attorney for libel, claiming the lawyer falsely alleged that Eidson was part of a 1968 plot to assassinate Dr. Martin Luther King Jr.

The 68-year-old former Birmingham firefighter and member of the Alabama National Guard's 20th Special Forces Group is seeking \$15 million in actual and punitive damages from William Pepper.

The suit alleges Pepper made false accusations in his 1995 book, *Orders to Kill: The Truth About the Murder of Martin Luther King*.

Pepper's claims of a government conspiracy have been endorsed by members of King's family, who say they believe Ray is innocent. Serving a 99-year sentence, Ray, 69, is seeking to reverse his 1969 guilty plea. Eidson's suit names Pepper and Carroll & Graf Publishers Inc. of New York as defendants.

Eidson's attorney, Charleston lawyer David Collins, said Tuesday he was hoping to keep the suit quiet until he served notice on the defendants. The suit, filed June 25 in Charleston County (S.C.) Court of Common Pleas, claims the defendants

were irresponsible in claiming that an eight-man sniper team from the 20th Special Forces was sent to Memphis April 4, 1968, and had rifles trained on King and aide Andrew Young the moment King was shot.

"It seems (Pepper) knew when he published this book that several of his theories were not true," Collins said.

Reached by telephone in Britain, the London-based attorney said he stands by his claim the Army had a sniper team in Memphis that day. Pepper claimed in the book that Eidson, who now lives in Costa Rica, briefed the sniper team the morning of the assassination and later was killed.

Kent Carroll, publisher of Carroll & Graf, said he has not been served and can't comment on the suit. However, he said lawyers carefully examined the contents of the book.

"I'm confident in the book as a whole," Carroll said.

Collins said the suit was filed in South Carolina because an advisory board member of the Special Forces Association, which investigated Pepper's claims, lives there. South Carolina has a two-year statute of limitations on libel actions, Collins said.

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

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Rifle results in, but Ray lawyer is drawing fire

By Marc Perrusquia
The Commercial Appeal

Five months ago, William F. Pepper rode a crest of fame.

Sitting among some of Dr. Martin Luther King Jr.'s closest colleagues and relatives, Pepper was heralded a "hero" by King aide Rev. James Lawson, who hinted King's real killers would soon be exposed.

The London-based lawyer had just accomplished what James Earl Ray's many previous attorneys could not: He persuaded a judge to let the defense test-fire the rifle believed used to murder King in Memphis in 1968.

Pepper claimed the rifle was planted to frame Ray, 69, who has been trying for 28 years to reverse his 1969 guilty plea and get a trial.

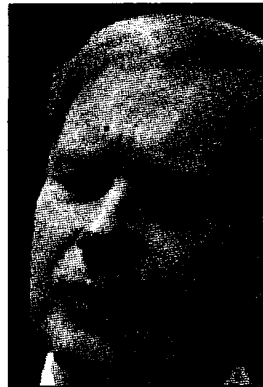
Today, as authorities prepare to release those test results in a

9 a.m. hearing, Pepper's fortunes have reversed. He and his theories of a sweeping government conspiracy seem to come under growing skepticism with each strange development in an already bizarre case.

A former Green Beret soldier whom Pepper had claimed was dead filed a libel lawsuit last month against the lawyer, alleging Pepper falsely implicated him in a plot to murder King.

Pepper claimed in a 1995 book that an Army sniper team had rifles trained on King and an aide the moment he was shot, but military authorities contend Pepper's account is phony.

In response, Pepper said one of his confidential sources is a former high-ranking military



William
Pepper

Please see PEPPER, Page A9

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From Page A1

Pepper

officer who faked his death and assumed a new identity.

On Thursday, a Rhode Island judge raised more questions about Pepper, 59, who is licensed to practice law there.

Jeremiah S. Jeremiah Jr., chief judge of the Rhode Island Family and Juvenile Court in Providence, said that in 1990, he dismissed a 12-year-old criminal case against Pepper involving allegations of indecent conduct with minors.

Nine misdemeanor counts of contributing to the delinquency of two minors were dismissed for "lack of prosecution" by the state Attorney General's Office, Jeremiah said.

Authorities charged Pepper had solicited two teenagers to "engage in lewd and indecent activities."

Jeremiah said he did not know why prosecutors didn't pursue the case. Jeremiah said he dismissed the case, not on its merits, but because it was too old.

He declined a motion to expunge Pepper's record.

The 1978 charges came amid an investigation into a state-funded foster care program that Pepper ran.

A federal audit raised questions about how funds received by Pepper's Rhode Island Youth Services Inc. were spent, the Providence Journal-Bulletin reported in 1979.

Pepper, who was traveling Thursday, could not be reached for comment.

In his book, *Orders to Kill: The Truth Behind the Murder of Martin Luther King*, Pepper said "fabricated charges appeared from nowhere" against him as part a Mafia plot that made him "a marked man" in a "large New England city. . . .

"When it came down to hard facts, however, there were none," Pepper wrote.

"The allegations eventually disappeared into thin air."

Pepper, a New York native who moved to London in 1981, has said in interviews that he left the country to pursue his practice of international law.

Memphis attorney Wayne Chastain, Ray's local co-counsel, said he doesn't believe recent questions about Pepper will hurt Ray's chances at a trial.

"I'm convinced there was a conspiracy," Chastain said.

He said Pepper plans to be at today's hearing.

Criminal Court Judge Joe Brown ruled Feb. 20 that the defense could conduct tests on the .30-06 Remington rifle found in the doorway of a South

Main Street shop April 4, 1968, a block from the Lorraine Motel where King was shot on the balcony.

Ray's fingerprints were found on the weapon.

In May, the hunting rifle, which Ray bought in Birmingham days before the assassination, was test-fired in Rhode Island.

Test bullets and the bullet removed from King's body during autopsy later were examined under a high-magnification scanning electron microscope in Pennsylvania.

Chastain said the defense will call one witness, Robert A. Hathaway, lead firearms examiner for the defense.

Hathaway said in an affidavit obtained last month by The Commercial Appeal that he would like to re-test the rifle because examiners were not allowed to properly clean the rifle's barrel.

That affidavit has led to wide speculation that the defense will ask to test-fire the rifle a second time, but Chastain declined comment, citing a gag order issued by Brown.

At the defense's request, Brown has delayed releasing the results. Meanwhile, the questions about Pepper have mounted.

Retired Alabama National Guardsman Billy Ray Eidson, 68, confronted Pepper last month on the ABC news program *Turning Point*, asking him to retract information in his book.

Pepper alleged Eidson, who in 1968 was a member of the Birmingham-based 20th Special Forces Group, had briefed an eight-man sniper team that Pepper said was sent to Memphis.

Pepper's book claimed Eidson later was murdered to keep him silent.

After the confrontation, Pepper suggested Eidson had fled the country to avoid a murder charge.

"I'm not dead," Eidson said this week from Costa Rica, denying he was part of a plot to kill King.

"I'm not hiding from anyone."

Eidson served 12 months' probation in Birmingham after he was convicted in 1982 of criminally negligent homicide in a death involving a bar fight. He said he now lives overseas because he married a Costa Rican woman.

Eidson's suit, filed June 25 in Charleston, S.C., seeks \$15 million in damages. Pepper and Chastain said they welcome the suit because it opens the Army up to discovery of evidence.

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

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Judge's conduct of rifle hearing

fires up prosecutor

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FBI/DOJ

By Rob Johnson
The Commercial Appeal

Friday's courtroom hearing finally produced findings from the most recent tests of the rifle bearing confessed assassin James Earl Ray's fingerprints, but not until a lengthy round of questions by Criminal Court Judge Joe Brown.

By so dominating the hearing

with observations about rifle barrels, gun cleaning, bullet markings and testing procedures, Brown drew a strong objection from one prosecutor.

"Your honor, I think the record would reflect that his honor's examination of this witness has taken approximately four times longer than the cross-examination," noted Tom Henderson of the Shelby County Attorney General's Office.

Henderson contended that Brown was improperly injecting his own expertise into the hearing.

The judge overruled him.

While careful not to discuss specifics of a case with which they were unfamiliar, two judicial experts pointed out that a judge has wide latitude during an evidentiary hearing.

"The judge should be free enough to ask any question so he could make, or she could



By Michael McMullan

William Pepper, attorney for James Earl Ray, addresses a swarm of media after a court hearing Friday on the rifle Pepper contends was used to frame Ray for killing Dr. Martin Luther King Jr.

make, a proper ruling," said Jeffrey Rosinek, a Miami circuit judge and president of the American Judges Association.

"Now, the prosecutor may get upset and the defense attorney may get upset, but the judge is the finder of fact. And as the fact-finder, that individual must have for his or her availability all the information,

all the facts, all the concepts, to make proper and correct rulings."

Cynthia Gray, director of the American Judicature Society's Center for Judicial Conduct in Chicago, agreed.

"A judge does have the right to ask questions," she said. "The judge can't become an advocate for either side. The

judge in a non-jury setting has more discretion to ask questions than in a jury setting."

After all, a judge always has a court above him, should one side wish to appeal a ruling, Rosinek said.

To reach reporter Rob Johnson, call 529-2465 or E-mail johnson@gomemphis.com

● **Marc Perrusquia**
The Commercial Appeal

Test results on the rifle prosecutors believe killed Dr. Martin Luther King Jr. are inconclusive, a firearms examiner testified Friday.

Yet Criminal Court Judge Joe Brown indicated he will give defense attorneys another chance to prove their claim that the Remington .30-06 found with James Earl Ray's fingerprints on it was planted to frame him for King's 1968 murder in Memphis.

Brown told the defense to come back with a new testing plan in a week, when he may allow them to test-fire the rifle a second time. Brown allowed the defense to fire the rifle in May, then examine bullets under a high-technology microscope in an effort to show the rifle didn't fire the slug removed from King's body.

Brown and defense firearms examiner Robert A. Hathaway stirred some early excitement Friday when they said that 12 of the 18 test bullets contained a microscopic marking not

What happened

■ James Earl Ray's defense revealed testing of the .30-06 rifle believed used to kill Dr. Martin Luther King Jr. was inconclusive.

What's next

■ Judge Joe Brown set a July 18 hearing when defense attorneys will outline a proposal for new tests. He also asked attorneys to locate the original test bullets fired by the FBI in 1968, but that evidence may be unavailable, attorneys said.

found on the King bullet.

"This comparison revealed that the gross and unique characteristic signature left on the 12 test bullets by the James Earl Ray rifle was not present on the death bullet," Brown said as he opened the hearing.

That fueled speculation, noted in early news accounts, that the evidence rifle may not have fired the shot that killed King.

At one point, defense attorney William Pepper asked Brown to toss out Ray's 1969



By Michael McMullan

Criminal Court Judge Joe Brown sternly overrules an objection by the prosecution at Friday's hearing on lab tests of the rifle linked to assassin James Earl Ray. "We're trying to get to the facts . . . And I'm . . . getting to the bottom of this," Brown said, rejecting a suggestion he might have compromised his impartiality. Story/A12

guilty plea and order a trial, a request Brown denied.

Under further questioning, Hathaway said the testing this spring in Rhode Island and Pennsylvania — at a cost of about \$18,000 — did not positively show the King bullet was or wasn't fired from the rifle.

"To this point, sir, our con-

clusion is inconclusive," Hathaway told prosecutor John Campbell under cross-examination. Hathaway described the marking on the 12 test bullets as a "raised point" and a "reference point," distinguishing it from the type of striations examiners use to match bullets to guns.

Tests by the FBI in 1968 and Congress in 1978 also were inconclusive.

Criminal investigators often use rifling marks imprinted on a bullet from a gun barrel to prove the bullet was fired by a specific gun, yet some guns

Please see RIFLE, Page A12

From Page A1

Rifle

leave inconsistent markings that don't allow positive identification.

Hathaway, a forensic firearms examiner for the Rhode Island state crime lab, said the marking question could be cleared with further tests and more strenuous cleaning of the rifle's barrel.

He theorized the problem could be the result of a "plating effect," or buildup of copper in the gun's barrel where soft bullet jackets eroded under high velocity and heat, depositing residue.

But two firearms examiners, called by the state, testified that intrusive cleaning could alter evidence.

That touched off a debate over whether more testing will add anything substantial to the case.

"There has been no revelation today," Campbell told reporters after the hearing. "We're in the same boat. It's all been hyped beyond belief."

"I think there have been some strides made that are useful," Pepper said outside the courtroom. "But there's a long way to go."

Also outside the courtroom, a legal courier handed Pepper notice of a libel lawsuit that a former Green Beret soldier filed against him last month. Seeking \$15 million in damages, Billy Ray Eidson, 68, alleges Pepper falsely accused him of participating in a supposed Army plot to murder King.

Pepper claims the U.S. government killed the civil rights leader because of his opposition to the Vietnam War.

"We'll look at the lawsuit. There is a possibility that it could open up a whole new door for us" for discovery of evidence, Pepper said.

In court, the Ray controversy was every bit as controversial.

At one point, Brown asked firearms examiner Kelly Fite, called as an expert witness by the state, what harm further

testing and cleaning of the gun would do.

Fite, employed by the Georgia Bureau of Investigation, said defense proposals to clean the rifle with a nylon, bronze or copper brush and possible use of cleaning solution could change the gun's bore, altering evidence.

Brown asked why that would matter, if after one more test-firing, the rifle were never tested again.

"All evidence has a certain amount of integrity," Fite said. "And when you take this away, you no longer have evidence, you just have a rifle."

The harder cleaner also could produce markings on test bullets that are significantly different from the King slug, he said.

From the bench, Brown meticulously examined the state's two witnesses, quizzing them on their knowledge of gun cleaning and examination procedures. Brown questioned Tennessee Bureau of Investigations firearms examiner Tommy Heflin for about half an hour.

That drew an objection from prosecutor Tom Henderson, who suggested that Brown, a gun enthusiast, could be violating judicial ethics by employing his own gun "expertise" to both cross-examine a witness and judge a case.

Brown vehemently overruled the objection.

"We're trying to get to the facts," Brown said. "Dr. King is in his grave — a national hero, world hero, a national holiday named after him. And I'm ... getting to the bottom of this."

Brown set a July 18 hearing when the defense is to present a cleaning and testing proposal. Hathaway said scheduling difficulties will prevent the three defense examiners from continuing on the case, but Pepper said he has two new examiners "in mind."

Brown also said he wants to locate the original King test bullets fired by the FBI in 1968 and the accompanying examiner's notes. But attorneys said that evidence may be under a congressional seal and unavailable. The FBI test bullets may provide the best comparison to

determine if the King slug came from the rifle, examiners said.

Reached by telephone late Friday, retired FBI firearms examiner Bob Frazier, 78, who tested the King bullet in 1968, said he didn't know where the evidence was.

"The last time they looked for my notes, the FBI said they couldn't find them," he said.

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

(Mount Clipping in Space Below)

Expert: More tests on Ray rifle would be futile

By Marc Perrusquia
The Commercial Appeal

Two of three defense firearms examiners who test-fired the rifle prosecutors believe killed Dr. Martin Luther King Jr. said Tuesday they doubt more tests will clear up James Earl Ray's contention he was framed.

"It might be an exercise in futility," said George Reich, 54, a forensic scientist with the Suffolk County crime laboratory on Long Island, N.Y. "I doubt if more tests are going to reveal that certainly the rifle didn't kill Dr. King."

Criminal Court Judge Joe Brown has scheduled a hearing Friday when he may allow Ray's defense to conduct a second test-firing of the .30-06 hunting rifle found with Ray's fingerprints on it near the

■ Group rejects account on assassination B2

scene of King's 1968 assassination in Memphis.

Ray, 69, is trying to take back his 1969 guilty plea and get a trial. His lawyers claim the rifle was planted.

Tests on the rifle in May were inconclusive in determining whether it fired the shot that killed King, defense examiner Robert A. Hathaway testified in a hearing last week.

Hathaway declined comment Tuesday, but his two colleagues on the three-member firearms examination team expressed skepticism about more testing.

"Further tests are not going to reveal anything," said Marshall Robinson, an examiner for the Waterbury and

Please see RIFLE, Page B2

From Page B1

Rifle

Bridgeport, Conn., police departments. "It's unfortunate that there were a couple of (markings) on some test bullets that never should have been mentioned because they mean nothing."

Hathaway, an examiner for the Rhode Island state crime lab, testified that 12 of 18 test bullets contained a "reference point" or a microscopic marking that did not appear on the bullet removed from King's body during autopsy. He described the mark as a "raised point," distinguishing it from the type of striations examiners use to match bullets to guns.

Further tests and more strenuous cleaning of the rifle barrel could clear up the matter, Hathaway said. He theorized the problem could be the result of a buildup of copper in the barrel where soft bullet jackets eroded under high velocity and heat.

When test results are inconclusive, Reich said there is a

"I doubt if more tests are going to reveal that certainly the rifle didn't kill Dr. King."

— George Reich,
forensic scientist

philosophy among some examiners to "not mention what you saw that interested you" because it can stir confusion.

"The answer is: In total I cannot tell you (the King bullet) was or wasn't fired from that rifle."

Tests by the FBI in 1968 and Congress in 1978 also were inconclusive.

Ray's lawyer, William Pepper, said he will try to obtain a new, two-man firearms team for another round of tests. Reich said he and his colleagues will not continue on the case, partly because of scheduling conflicts.

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

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

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FBI - MEMPHIS

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(Mount Clipping in Space Below)



**Jack
McNeil**



**James
Earl Ray**

Ray's defense team claims McNeil fired; atty. objects

By Marc Perrusquia
The Commercial Appeal

Memphis lawyer Jack McNeil said Tuesday he has not been fired from James Earl Ray's defense team despite lead counsel William Pepper's claim to the contrary.

Yet McNeil is not pushing the envelope. In fact, he won't even open it.

"Why do I need to open it?" McNeil said of a letter he received Saturday from co-counsel Wayne Chastain, another Memphis lawyer. "I know what's in it."

Ray's lawyers have been squabbling the past week as efforts to win a trial have stalled. Serving a 99-year sentence, Ray, 69, is trying to take back his 1969 guilty plea for the murder of Dr. Martin Luther King Jr. in Memphis. Ray claims someone framed him by planting the .30-06 rifle found with his fingerprints on it near the crime scene.

Disagreements have brewed since recent test-firings failed to exclude the rifle as the murder weapon, and they erupted last week when McNeil visited Ray in prison, apparently without Pepper's authorization or Chastain's knowledge.

At the meeting, Ray signed an agreement acknowledging McNeil as one of his attorneys, said Memphis private investigator John Billings, who attended the meeting. Billings said he needed McNeil's help to get back on Ray's prison visitor's log. Chastain initially filed a motion to withdraw from the case. But Pepper told the Associated Press in an interview from his London office Tuesday that he had dismissed McNeil. However, McNeil said any decision to dismiss him as Ray's counsel was up to Criminal Court Judge Joe Brown.

"I'm not even going to get into that until it gets put to me formally," Brown said. "I've never seen anything like" this.

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

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Date: *July 23, 1997*
Edition: *Commercial Appeal*

Title: *Ray's defense team claims McNeil fired; atty. objects*

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FBI - MEMPHIS	

(Mount Clipping in Space Below)

Author's widow says Ray is lying about innocence

By Marc Perrusquia
The Commercial Appeal

Was James Earl Ray framed? That question brings both a smile and frown to the face of Martha Huie.

"I wish they wouldn't delude and mislead good people," she said at Burke's Book Store, 1719 Poplar this week.

Before her on a table lay copies of *He Slew the Dreamer*, her late husband William Bradford Huie's seminal and controversial book on Ray and the assassination of Dr. Martin Luther King Jr.

Re-released this month amid renewed efforts by Ray for a trial, the book, first published in 1969, appears as relevant today as it was three decades ago.

Like her husband, Huie has a message: Don't be fooled by Ray, 69, the career criminal and drifter who claims he's in-

nocent of King's murder despite pleading guilty in 1969.

"Right now he could just say, 'I made a horrible mess of my whole life and this is the worst (mistake),' " said Huie, 66, who moved to Memphis from Alabama in 1987. "But he's not going to do it."

"Right now he could just say, 'I made a horrible mess of my whole life and this is the worst (mistake).' But he's not going to do it."

— Martha Huie

William Huie, who died in 1986, paid Ray \$40,000 to tell his story, gaining written accounts from Ray when he was awaiting trial in the Shelby County Jail. Huie, who checked out Ray's story and retraced his steps through Canada, Mexico

and the United States, initially thought there was a conspiracy to kill King but came to believe Ray acted alone.

The book is being re-published by Black Belt Press of Montgomery, Ala. It's available in local bookstores.

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

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Even if Tenn. frees Ray he still owes Mo. time

By Marc Perrusquia
The Commercial Appeal

James Earl Ray's fledgling bid for clemency has hit a snag, a lawyer said Friday.

The problem involves Ray's 1967 escape from a Missouri prison, one year before Dr. Martin Luther King Jr.'s assassination in Memphis.

Even if Tennessee released Ray tomorrow from his 99-year sentence for killing King, Ray still faces an unfinished 20-year term for robbery in Missouri. Ray's attorneys are vying for clemency in both states, but Missouri officials say they will not consider releasing Ray from his sentence at this time.

"Missouri kind of let us down," said Andrew Hall, a Wartburg, Tenn., attorney who represents Ray. If Ray, 69, won release from his Nashville prison, he "goes back to Missouri," Hall said. "And he owes them 10 years."

Hall recently received an application for clemency from the Tennessee Board of Paroles. He is trying to get Ray's sen-

tence commuted on grounds Ray is dying of liver disease.

Mark Lane, Ray's former attorney and a noted conspiracy buff, said this week he plans to join the clemency effort for Ray, which the lawyers acknowledge is a long shot. They are hoping for support from King's family, who say they believe Ray is innocent and deserves a trial.

But the lawyers have not received a response from the Kings, Hall said.

In a June 23 letter, Missouri Board of Probation and Parole administrator Cranston J. Mitchell told Hall he could not consider clemency for Ray at this time.

"In the event that Mr. Ray is returned to our custody, it would be appropriate to request clemency at that time," Mitchell said.

Hall said Ray's options now include filing for a sentence reduction in Missouri or moving swiftly for clemency there if he is released from Tennessee.

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

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Ray may bill state for rifle tests

Secret filing of documents in Judge Brown's office questioned

By Marc Perrusquia
The Commercial Appeal

Criminal Court Judge Joe Brown said Thursday he expects James Earl Ray's lawyers to seek payment from the state for the \$18,000 cost of test-firing the rifle prosecutors believe killed Dr. Martin Luther King Jr.

Controversy also is brewing about the secret filing of docu-

ments in Brown's office.

At a 9 a.m. hearing today, Brown is to consider a proposed second test-firing of the .30-06 hunting rifle found with Ray's fingerprints on it near the scene of King's 1968 murder in Memphis. Ray, 69, who claims the rifle was planted to frame him, is serving a 99-year sentence.

Brown allowed the defense to test-fire the rifle in May, but results released last week were

inconclusive in determining if it fired the bullet removed from King's body. Over prosecutors' objections, Brown indicated he may allow more tests.

Now, in a case already packed with controversy, there seems to be room for more.

Brown released to a reporter this week an affidavit of indigency signed by Ray and an itemized bill from lead defense firearms examiner Robert A. Hathaway. Brown said the doc-

uments, which he was holding in his office, indicate defense lawyers may ask the state to cover these costs.

Defense lawyer William Pepper and co-counsels Jack McNeil and Wayne Chastain could not be reached Thursday.

Prosecutor Lee Coffee said Brown has no legal authority to require payment from the state. He also said such documents should be filed in the Criminal Court Clerk's Office,

not held by a judge.

"There's absolutely no provision for anything to be filed with a judge," Coffee said. "They should be filed with the clerk ... The press and the public has an absolute right to know."

Brown disagreed, saying court rules allow documents to be filed with a judge or the clerk. The documents, filed last

Please see RIFLE, Page A6

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From Page A1

Rifle

month, came while a protective seal was still in place, Brown said.

Hathaway's \$7,232 bill for services, dated June 17, shows he's received \$1,667 but is still owed \$5,565. Hathaway testified last week that services of the three defense firearms examiners and a microscope lab came to about \$18,000.

Brown said the documents indicated the defense will seek payment, but declined to say if he would order the state to cover the costs.

As for possible new tests proposed by Pepper, attorneys are expected to come out swinging.

"This is a monumental waste of time," said Coffee, who will represent the state in place of the vacationing John Campbell. "His own experts are telling him" that. Two of three defense examiners said this week that further tests may be futile. Tests by the FBI in 1968 and Congress in 1978 also were inconclusive.

Hathaway stirred some excitement last week when he testified that 12 of 18 test bullets contained a microscopic "raised" mark that didn't appear on the King bullet. Hathaway differentiated the mark from the type of striations that firearms examiners use to match bullets to guns, but said a strenuous cleaning of the rifle's bore could clear up the matter.

But Coffee noted that a six-member team of firearms experts spent 257 hours test-firing and examining the King rifle and bullet in 1978 and could not match them for the House Select Committee on Assassinations.

More tests would require cleaning the rifle bore with a brush and possible cleaning solvent, Hathaway said, but two state firearms experts said that could damage evidence. At last week's hearing prosecutors interpreted Brown's lengthy questioning of state's witnesses as heavy-handed.

But Brown, 50, a hunter and gun enthusiast, said again Thursday that court rules allow him to question witnesses, saying he would take more bold measures today if needed, including suggesting a proper measure to clean the rifle bore.

"I'm not trying to handle this thing with kid gloves like there's somebody that needs to be protected or some deference needs to be made to somebody," Brown said. "You've got to get to the bottom of it, and you've got to handle it vigorously."

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

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Judge seals more Ray data, defers rifle retest

By Marc Perrusquia
The Commercial Appeal

The James Earl Ray rifle court case took another turn Friday, when Criminal Court Judge Joe Brown sealed more documents and delayed a decision on retesting for at least two weeks.

Prosecutor Lee Coffee said he's tired of the secrecy and delays on an issue he said won't resolve Ray's claim of innocence in the assassination of Dr. Martin Luther King Jr..

"We're wasting time," Coffee said after the hearing. "James Earl Ray ... has exhausted every appellate (option) that he has. I think the court and this office might be better served litigating other cases where there is still a presumption of innocence."

But Brown said more time is needed to locate test bullets fired by the FBI in 1968 and allow defense firearms examiners to complete a written report on test-firing conducted in May. He set an Aug. 1 deadline to resolve those issues.

In February, Brown first approved testing of the .30-06 Remington hunting rifle found with Ray's fingerprints on it near the scene of King's 1968 murder in Memphis.

Like past tests by the FBI and Congress, the defense tests were inconclusive in determin-

Please see RIFLE, Page A10

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FBI/DOJ

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Rifle

ing if the rifle fired the bullet removed from King's body.

Ray, 69, claims the rifle was planted to frame him. Serving a 99-year sentence, he is trying to take back his 1969 guilty plea and get a trial.

Defense lawyer Jack McNeil angrily defended the effort for a second test-firing.

"Not one single shred of evidence since 1968 has tied this death slug to this rifle," McNeil told reporters, claiming the recent inconclusive test results as a victory for Ray's case.

Lead defense firearms examiner Robert A. Hathaway testified last week that 12 of 18 test bullets contained a microscopic mark that was not on the King bullet. Two of the three members on the firearms team said the markings appeared insignificant, yet the defense hopes more testing may show that the King bullet did not come from the rifle.

Defense attorney Wayne Chastain presented a written proposal Friday for a second test-firing by a firearms examiner whose name was not revealed. At Chastain's urging, Brown sealed the document from public disclosure.

Chastain told the court any new testing would be in Memphis, with test shots fired into a local swimming pool. Examiners normally fire test bullets into standing water tanks; the water slows down and "traps" bullets before they can strike objects.

Coffee opposed sealing the document, arguing that secrecy has pervaded the rifle-testing issue and made it look like evidence is being covered up.

Brown, however, said state

law allows privacy in some instances dealing with expert witnesses. Brown said the law also allows some *ex parte* communications — information shared between one party and the judge and not shared with the opposing party — regarding expert witnesses.

Among recent prosecution concerns, Brown has held documents in his office suggesting that the defense will ask the state to pay the \$18,000 cost of testing the rifle.

The documents include an affidavit of indigency signed by Ray and an itemized bill by Hathaway.

Coffee said he believed Brown was improperly holding the filings, saying the defense hasn't filed an *ex parte* motion.

McNeil and Chastain indicated after the hearing that they intend to ask for payment of the test costs, although McNeil conceded it may be an unpopular move.

"It's a delicate question," he said. "If you start asking for money, then you're criticized."

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MILKING RAY

Judge grants delay despite test finding

MORE THAN one person may be milking the James Earl Ray case.

Possible motives include these: publicity, money and orneriness.

A few of the players can be excluded. Prosecutor Lee Coffee, for instance, who said Friday that he's tired of secrecy and delays.

"We're wasting time," Coffee said after Criminal Court Judge Joe Brown had sealed more documents and delayed a decision on retesting the Ray rifle for two weeks.

"James Earl Ray ... has exhausted every appellate (option) that he has. I think the court and this office might be better served prosecuting, litigating other cases where there is still a presumption of innocence."

Two defense rifle experts also can be excluded. They said earlier this week that they doubted more tests would clear up Ray's claim that he was framed.

"It (a retesting) might be an exercise in futility," said George Reich, a forensic scientist with the Suffolk County crime laboratory on Long Island, N.Y. "I doubt if more tests are going to reveal that certainly the rifle didn't kill Dr. (Martin Luther) King (Jr.)."

Marshall Robinson, an examiner for the Waterbury and Bridgeport, Conn., police departments, added, "Further tests are not going to reveal anything. It's unfortunate that there were a couple of (markings) on some test bullets that never should have been mentioned because they mean nothing."

Those are the markings that Judge Brown cited last week when he opened a hearing about the test firings. Despite the judge's great interest in the markings, chief defense rifle tester Richard Hathaway said the tests were inconclusive. Tests by the FBI in 1968 and by Congress in 1978 resulted in the same finding.

The defense attorneys, of course, are most eager for retestings and delays. That's their job. Ray's primary lawyer, William Pepper, has written a book about the Ray case. He has devoted a large part of his life and/or career to the proposition that Ray is innocent and that King was the victim of a conspiracy.

And then there's the judge.

What does Brown want? He may be a bigger mystery than the rifle.

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

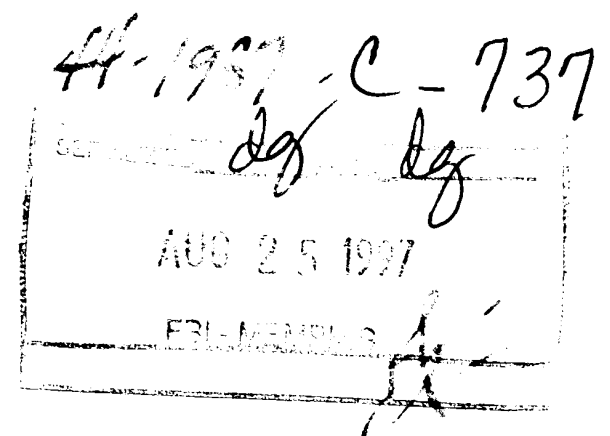
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FBI/DOJ

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Race card again

To The Commercial Appeal:

Criminal Court Judge Joe Brown's initial reaction to Criminal Court Judge John Colton Jr.'s records-seizure order is a perfect example of this city's underlying problem. Instead of defending his handling of the records (of the James Earl Ray case), Brown immediately and defensively plays the race card.

All too often, black leaders and officials of Memphis use racism as their retort. They seem unwilling to concentrate on the merits and facts of critical issues. They prefer to inject race into most debates, especially if the situation puts them on the defensive. The black leaders of this community bear equal responsibility for the reduction of racially motivated confrontation and racially charged rhetoric. Instead they seem to desire a perpetuation of this city's racial conflict. Their motivation is easy to deduce.

While another racially charged debate drones on, another business (Bemis Inc.) closes its doors and flees. The officials of this city expend their energy on protecting their "turf," rather than the future of Memphis.

MARK SHERMAN
Collierville

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Lawyer McNeil sues to find 'real' King killers

By Marc Perrusquia
The Commercial Appeal

Memphis lawyer Jack McNeil claims in a federal lawsuit that prosecutors are not pursuing the "real criminals in the death" of Dr. Martin Luther King Jr.

McNeil, who recently was a defense attorney for convicted assassin James Earl Ray, says he wants a panel of three federal judges to review the state of Tennessee's handling of the King case.

In a rambling 13-page complaint filed Wednesday in U.S. District Court, McNeil seems to suggest a sinister connection

between recent health problems suffered by co-counsel Wayne Chastain and Chastain's representation of Ray.

The suit also alludes to an apparent criminal investigation of McNeil. The lawyer alleges he came under official scrutiny after discussing with officials the possibility of indicting two men for King's 1968 murder in Memphis.

Defendants named in the suit include Bill Gibbons, Shelby County district attorney general, and Al Schmutzer Jr., chief prosecutor of East Tennessee's four-county Fourth Judicial District based in Sevierville.

Gibbons declined comment Thursday, citing the pending litigation. Schmutzer was un-

available.

A Memphis woman's allegations about improper sexual advances by McNeil was turned over to Schmutzer's office after Gibbons recused himself from the investigation.

McNeil, 64, did not respond Thursday to three calls to his home, office and beeper.

The Memphis lawyer joined Ray's defense efforts in January. Ray, 69, claims he was framed for King's murder and is seeking a trial. He also has obtained an application for clemency to be released from his 99-year sentence because of advanced cirrhosis of the liver.

Defense attorneys face a deadline today to present final results of May's test-firing of

the rifle prosecutors say was used to kill King. Criminal Court Judge Joe Brown said he needs the report before he can rule on a defense request for more tests.

McNeil says in his suit that he met March 6 with the Shelby County grand jury foreman and law enforcement officials about presenting evidence to indict former Memphis cafe owner Loyd Jowers and an unidentified New York man. Jowers said in a nationally televised interview in 1993 he received money to have King killed.

On March 12, "the day before McNeil was to return to the grand jury to indict Jowers" and the New York man, McNeil

"was telephoned to come to the courthouse for a confrontation," the suit says.

In one curious passage, McNeil's suit questions whether co-counsel Chastain's recent "stomach medical problems" were related to claims about Jowers.

McNeil also refers to Ray's liver ailment and "medical stomach problems of the late Jack Ruby," who died of cancer-related illness in 1967, four years after murdering Lee Harvey Oswald, the accused assassin of President John F. Kennedy.

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

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Report confirms test-fire of Ray rifle inconclusive

By Marc Perrusquia
The Commercial Appeal

A written report released Friday confirms recent test-firings neither proved nor disproved James Earl Ray's hunting rifle fired the shot that killed Dr. Martin Luther King Jr.

The tests, like those conducted by the FBI in 1968 and Congress in 1978, were inconclusive, according to a two-page report filed by three firearms examiners working for Ray's defense.

It remained unclear if Criminal Court Judge Joe Brown would approve a defense request for more test-firing of the .30-06 Remington deer rifle.

Brown said he may issue an order today, but declined to discuss details.

"This thing does not support retesting," said prosecutor John Campbell.

More tests will not help Ray's

claim he was framed for King's 1968 murder in Memphis, said Campbell, who contends there is plenty of other evidence supporting Ray's guilt.

Serving a 99-year sentence, Ray, 69, is trying to take back his 1969 guilty plea and get a trial. He claims someone planted the rifle found with his fingerprints on it near the scene of King's murder.

Defense attorney Wayne Chastain expressed hope more testing may clear up Ray's claim.

"We're still convinced the rifle didn't fire the bullet," Chastain said. "I was hoping that we might have a decision today to go ahead and retest it," he said after attorneys showed up for a possible hearing Friday morning but were told Brown was on vacation and would get back with them.

Testing already has cost about \$18,000 — most of it unpaid — but Chastain said the defense has lined up two new

firearms examiners for further tests.

Lead defense examiner Robert Hathaway testified July 11 that testing in May was inconclusive, but said more testing could resolve the matter.

Examiners fired 18 test bullets from the rifle at the Rhode Island state crime lab, where Hathaway is a forensic firearms examiner, then examined bullets in Pennsylvania under a scanning electron microscope that can magnify objects to a far greater degree than standard microscopes.

Statements by Hathaway and Brown on July 11 hinted that the evidence rifle may not have fired the bullet recovered from King's body, yet the report Friday indicated there was insufficient evidence for such a conclusion.

"Once again the conclusion of this panel on the re-examination of this evidence is incon-

Please see RIFLE, Page B12

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FBI/DOJ

From Page B1

Rifle

clusive, which is what had been determined in previous examinations by the Federal Bureau of Investigation and the House Select Committee on Assassinations," the report said.

Although firearms examinations often can link a bullet to a certain gun by identifying markings imprinted on the bullet as it passes through the gun's barrel, some guns imprint inconsistent markings. And, as with previous testing, the report said defense examiners could not link their own test bullets to the rifle, let alone the King bullet.

"Due to the inability to match test to test . . . those tests are of no value for compari-

son," the report said.

The report noted 12 of 18 tests bullets had either a microscopic mark or "reference mark that is suitable for indexing those test fires but not for identification purposes."

Campbell said the report added nothing substantial to the case evidence, which includes Ray's fingerprints on binoculars found near the crime scene, evidence Ray had stalked King and Ray's fleeing the country after the murder.

Yet the report also said additional cleaning of the rifle's bore "may help define the cause of this reference mark." The marks could be caused by a buildup of copper in the barrel or by possible damage to one of the rifle barrel's lands (metal ridges designed to put spin on a bullet to ensure accuracy).

If the marking was caused by a damaged land, it could indicate either damage incurred during the rifle's 29 years of storage or possibly the King bullet wasn't fired from the rifle, examiners have said.

Brown said late Friday he planned to review the report today and could issue an order.

"I may do something," he said. "This is my first day of vacation. I need peace."

In addition to the question of re-testing, Brown may consider an order to the FBI to turn over four test bullets fired from the King rifle by that agency in 1968. The FBI said this week it located the bullets in its ammunition archive in Washington.

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

page B 12,

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RCIAL APPEAL

MEMPHIS, SATURDAY, AUGUST 2, 1997

Ex-Ray attorney may face sexual battery charges

By Marc Perrusquia
 The Commercial Appeal

An East Tennessee prosecutor said Friday he will decide later this month whether to press sexual battery charges against former James Earl Ray attorney Jack McNeil.

Prosecutor Al Schmutzer Jr. said he was asked to investigate a complaint against McNeil after Shelby County Dist. Atty. Gen. Bill Gibbons recused himself from the matter.

Schmutzer, district attorney general of the four-county Fourth Judicial District based in Sevierville, said the Shelby County complaint involves allegations by a Memphis woman of improper sexual advances.

"I haven't done one unlawful thing to hurt anybody," McNeil, 64, said Friday, denying the woman's allegations.

McNeil filed a lawsuit Wednesday in U.S. District Court naming Gibbons and Schmutzer as defendants. Alleging that prosecutors are not pursuing the "real criminals in the death" of Dr. Martin Luther King Jr., McNeil's suit claims he came under official scrutiny after inquiring about bringing indictments against two men for King's 1968 murder in Memphis.

Serving a 99-year sentence, Ray, 69, claims he was framed for King's assassination. McNeil has served since January on Ray's defense team, but said he asked Friday to withdraw from the case following differences with other defense lawyers.

McNeil's 13-page complaint seeks review by three federal judges, apparently to inspect the state's handling of Ray's case and the reasons behind the investigation of McNeil.

The suit also suggests a sinister connection between a recent illness suffered by defense co-counsel Wayne Chastain and Chastain's involvement in the case. Chastain, 67, said Friday that doctors removed a malignant tumor in January from below his pancreas.

McNeil's suit notes that "medical stomach problems" also were suffered by Jack Ruby, who died of a cancer-related illness after he was convicted of murdering Lee Harvey Oswald, the accused assassin of president John F. Kennedy.

Chastain scoffed at McNeil's suggestion. "I don't see a sinister connection," Chastain said with a laugh. Chastain said he's recovering, and is grateful to his doctors.

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

MEDIA REP.

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FBI/DOJ

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Halt sought in retest of Ray rifle

By Marc Perrusquia
The Commercial Appeal

New challenges arose Wednesday to Judge Joe Brown's handling of the James Earl Ray case as prosecutors sought to halt Ray's effort to test for the second time this year the rifle suspected of killing Dr. Martin Luther King Jr.

Prosecutor John Campbell filed a motion in Criminal

Court asking Brown to dismiss Ray's latest request to test-fire the evidence rifle.

Campbell contends Brown may have already overstepped an appeals court ruling that allowed the judge to approve test-firing of the .30-06 Remington rifle that Ray claims was planted to frame him.

Test results released last month were inconclusive in determining if the rifle fired the bullet that killed King, but de-

fense lawyers want a second test.

"The proposition that this right to ask for testing is unlimited and can continue until the defense obtains the results it likes is totally unreasonable and would amount to an abuse of discretion by the court," Campbell's motion says.

It marked the second time in as many days that Brown has been challenged on his handling of the Ray case. Serving a 99-year sentence, Ray, 69, is

trying to take back his 1969 guilty plea and get a trial.

Criminal Court Judge John P. Colton Jr. on Tuesday ordered court officials to seize Ray court files from Brown's office. Colton acted on a report that claimed Brown has made a "shambles" of the files through sloppy record-keeping that evidenced "an appearance of impropriety."

Brown is vacationing in Jamaica this week and remained unavailable for comment Wednesday. Criminal Court Clerk Bill Key said he will wait until Brown returns

before acting on Colton's order.

But the author of the critical report on Brown, University of Memphis law professor Mike Roberts, indicated pressure on Brown will likely mount.

Roberts, whom Colton appointed as a special master to review Brown's handling of the Ray case, said he's preparing a final report that, in part, addresses whether the case should be in Brown's court.

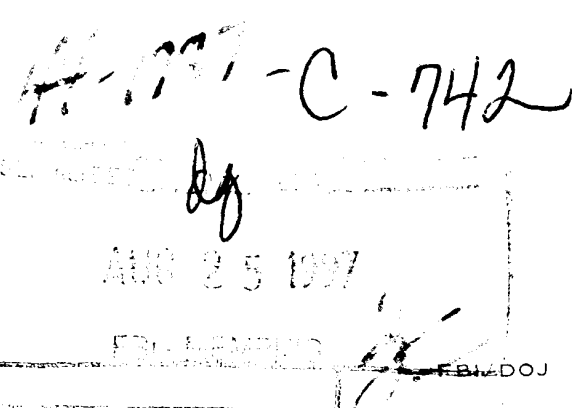
"I've been given my directions by Judge Colton and I am ready to act, but do not want to

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Page A1, A8
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From Page A1

Judges

speculate on various courses of actions," Roberts said.

One possible action, he said, includes asking Probate Court Judge Donn Southern, who serves as presiding judge for all state trial court judges in Shelby County, to resolve a dispute on whether Brown or Colton should be hearing the rifle-testing matter.

Colton claims authority over the Ray files as the presiding judge of the "court having original jurisdiction."

Ray pleaded guilty in criminal court's Division 3, where Colton serves. Prosecutors contend local court rules require a case to remain in the division where it initiated. Brown got involved in 1994 when a petition to test-fire the rifle was randomly filed on rotation in his Division 9, also in accordance with court rules.

Brown held on to the case in April after prosecutors unsuccessfully asked the Tennessee Court of Criminal Appeals and local criminal courts administrative judge Chris Craft to consider removing the case from Brown.

Southern said late Wednesday he hopes to sit down with Brown and Colton when Brown returns from vacation to resolve the matter. "This situation is obviously of great concern," Southern said.

Colton appointed Roberts

under rules governing federal and state courts. Judges may appoint masters to conduct specific judicial duties, such as taking testimony.

Acting at Colton's direction, Roberts inspected Ray court files last week in Brown's presence at his office. Roberts filed a one-page report Tuesday that said "the condition of the files was shocking." Brown is holding hundreds of documents in his office and, Roberts said, is receiving documents from defense attorneys without properly indexing them.

Court documents normally are filed with the clerk, who is the legal custodian of records.

Roberts, 52, teaches courses on trial, pretrial and appellate practice at the U of M, where he has been a law professor since 1976. He represented former governor Ray Blanton in efforts to clear his name following his convictions for conspiracy and extortion. Blanton died this year.

The Court of Criminal Appeals ruled in April that Brown can allow defense test-firing, but Campbell contends that Brown has gone too far in entertaining defense efforts for more tests and in directing Ray's defense to obtain test bullets fired in 1968 by the FBI.

"All that was before this court was a request for testing of evidence that has been complied with, and resulted in inconclusive result," Campbell's motion said.

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

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EDITORIALS

RAY FIASCO

Transfer is a solution; talks also would help

CRIMINAL COURT Judge Joe Brown strongly indicated late Thursday how he intends to deal with the controversy surrounding his handling of the James Earl Ray case: by confrontation.

Speaking from Jamaica, where he's been on vacation, the judge accused his critics of practicing racism and partisan politics. He said he sees no need to meet with Probate Court Judge Donn Southern, the presiding judge for all Shelby County trial judges, to try to resolve the issues. Southern Brown said, "has no authority over me."

The Ray case seems to be hurtling into a morass of personal rivalries and questionable judicial actions. Public posturing has taken the place of judicial restraint. The integrity of the process, right down to the proper indexing of documents, has unraveled.

The best thing that could happen would be for the case to be transferred to another judge — especially to someone who has had no connection with the case up to now.

There are procedures for such a transfer. Criminal Court judges, for example, may transfer cases among themselves by mutual consent. Parties or their counsel don't have to approve.

If the judge handling a case doesn't want to lose it, however, a transfer may not be a practical option. Each judge is supposed to be independent. Individually, the judges are coequal. A presiding judge may have some authority over the others — including the

authority to correct any condition that may adversely affect the administration of justice — but that's a general charge and open to limitless interpretation. Appeals, which may be filed by the parties and attorneys in a case, cover legal errors and other problems that may occur during a trial.

So transfers aren't common, except in cases of sickness, or to even up caseloads, or for some similar administrative reason.

Earlier this week, Criminal Court Judge John Colton Jr., acting on the basis of a report from a special master he appointed, ordered the Criminal Court clerk to seize papers related to the Ray case from Brown's office. The master, University of Memphis law professor Mike Roberts, reported to Colton that Brown had made a "shambles" of Ray court files.

Brown's response was almost inflammatory. The local Republican Party, the judge said, was using Colton to destroy his credibility in a "ridiculous . . . disgusting" exercise of "partisan politics."

Brown said that the Republicans also are worried that he may become a candidate for mayor.

"You have an articulate black man, and they want to stop all this from happening," Brown said.

In this case, charges and counter charges about the judge's conduct have begun to overshadow what should be going on in the courtroom. How is justice going to be served that way?

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Transfer is a solution;
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A transfer would be a straightforward solution, giving Brown the freedom to pursue his political destiny out of the spotlight, as befits a sitting judge, and leading Ray's various motions and petitions to a reasonably quick conclusion. But, with this case, perhaps nothing will ever be straightforward.

The next best outcome would be for Brown to reconsider his objections to talking with Southern and Colton and try to work out their differences. That would at least lower the temperature and might even turn attention back to the legal issues of the case, whatever they are.

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AUG 25 1997

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FBI/DOJ

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James Earl Ray case remarks rile state attorneys

By Marc Perrusquia
The Commercial Appeal

Prosecutors filed a motion Thursday challenging Criminal Court Judge Joe Brown's preliminary finding that the state is not pursuing the truth behind the assassination of Dr. Martin Luther King Jr.

Instead, prosecutors said, Brown should consider a state motion filed last week that seeks to block a second test-firing of the rifle allegedly used to murder King in Memphis in 1968.

Brown said in an order Monday that he may appoint a special prosecutor or investigator in the James Earl Ray case because "the state appears vigorously opposed" to discovering the "true facts."

"The state vehemently denies this charge laid before it by this court," prosecutor John Campbell said in his Thursday motion. "By the court's sudden action, the state has not been allowed any opportunity to answer this charge . . . The state demands the opportunity to address the court about what has motivated the court to make such a rash statement."

Campbell's motion also asks Brown to suspend an order that the FBI produce four test bullets fired from the King rifle in 1968. Brown, vacationing in Florida, was unavailable for comment.

Serving a 99-year sentence, Ray, 69, is trying to withdraw his 1969 guilty plea. Saying he was coerced to confess, Ray says he was set up as a fall guy when someone planted a .30-06 hunting rifle with his fingerprints on it near the murder scene.

Brown allowed Ray's defense to test-fire the rifle in May but results released last month show tests were inconclusive in determining if the bullet removed from King's body came from the rifle.

In a related matter, an Atlanta newspaper reported Friday that marks found on this spring's test-fire bullets aren't mentioned in examiner's notes from the 1968 FBI test-firing.

But FBI firearms expert Paul Schrecker said nothing should be inferred from that. Schrecker, chief of the FBI Firearms-Toolmarks Unit in Washington, was the first FBI official to comment publicly on the latest test results after seeing the evidence, The Atlanta Journal-Constitution said in a copyright story.

He said notes on the 1968 test don't mention reference marks or bubbling found by a firearms expert hired by James Earl Ray and neither does a 1977 congressional investigation. "This is the first time I've heard of this in this case, but there's nothing shocking by this," Schrecker said. "Nothing should be inferred by this."

Call reporter Marc Perrusquia at 529-2545 or E-mail perrusquia@gomemphis.com
The Associated Press contributed to this story.

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James Earl Ray case remarks rile state attorneys

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Return Ray files, court clerk tells Judge Joe Brown

By Marc Perrusquia
The Commercial Appeal

Criminal Court Clerk Bill Key delivered an order Friday to Judge Joe Brown's office seeking the return of court files in the James Earl Ray case.

Key said he doesn't want any differences with Brown and stressed the judge could return the files "at his pleasure." Key said he also left Brown a letter informing him that, by state law, the clerk is the legal custodian of court records.

Brown, still on vacation Friday, said he'll deal with the order when he returns to work next week.

"I will be there Monday and we'll see how things go," Brown said, declining to say whether he'll honor the order. "We'll cross that bridge when we come to it."

On Aug. 5, fellow Criminal Court Judge John Colton Jr. ordered Key to seize Ray files following a report that Brown had made a "shambles" of the files by keeping them in a sloppy manner in his office. Brown denies mishandling the files.

Because Brown was on vacation, Key said he would wait until he returns before acting.

The dispute revolves around Ray's efforts to withdraw his 1969 guilty plea for the assassination of Dr. Martin Luther King Jr. in Memphis. Serving a

99-year sentence, Ray, 69, claims he was coerced to plead guilty and says someone planted the hunting rifle found with his fingerprints on it near the scene of King's murder.

Brown allowed Ray's defense to test-fire the .30-06 Remington rifle this spring, but results proved inconclusive in



Bill
Key

determining if it fired the bullet that killed King. Defense attorneys want to test-fire the rifle a second time, an issue Brown will consider in a hearing Tuesday.

Colton got involved amid contentions that the rifle-testing issue was in the wrong court.

Because Ray pleaded guilty in criminal court's Division 3, where Colton now presides, prosecutors say the case should return there. Local court rules require all matters in a case to be heard in the division they originated.

However, Brown got involved in the case in 1994 when a petition was filed on rotation in his Division 9, also in accordance with court rules.

Colton recently appointed University of Memphis law

Please see JUDGE, Page B12

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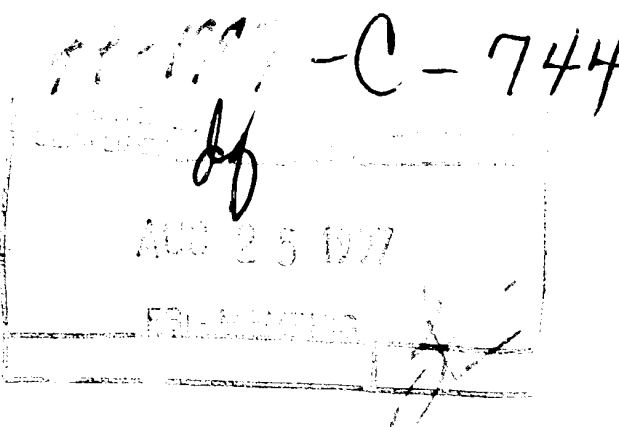
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FBI/DOJ

Judge

professor Mike Roberts as a special master to investigate the matter. Roberts said in an Aug. 5 report that files in Brown's office were in such disarray they created "an appearance of impropriety."

Among concerns, Roberts said Brown held documents apparently filed in his office, instead of the clerk's office, that had no filing stamp. Documents weren't properly indexed or recorded, Roberts said.

Brown on Friday differed with Roberts's descriptions.

"They aren't in shambles," Brown said. He said he briefly received some documents in his office for a couple weeks in July after a document had been leaked to a reporter. The files "appear to be in good order" now, Brown said.

Caught in the middle, Key said the condition of the files was perhaps not as bad as Roberts said, nor as good as Brown suggested.

"That was his choice of words, not ours," Key said, referring to Roberts's "shambles" description. On the other hand, it did take clerks 16 hours to get the files back in order, Key said.

"I do not desire to have an adverse relationship . . . I respect all the judges," Key said. "If he wants to let me have (the files) Monday, fine." Later would be fine, too, Key said.

It remained unclear how Brown and Colton might resolve their larger differences over who should hear the case.

Colton said he still is willing to discuss differences with Brown and Probate Court Judge Donn Southern, who also serves as presiding judge of Shelby County's state trial court judges.

"If it can be done, I'll be glad to talk," Colton said. "I'm always glad to talk."

Colton said he had received a letter from Southern, who tried to arrange a telephone conference with the sparring judges this week. But Colton said he had a scheduling conflict.

Brown, who last week said he believed local Republicans were influencing Colton, said Friday he didn't want to discuss personalities or differences with judges.

Call reporter Marc Perrusquia at 529-2545 or E-mail perrusquia@gomemphis.com

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FBI is willing to release test bullets, says U.S. atty.

The FBI has offered to release its 1968 test bullets fired from the rifle allegedly used to kill Dr. Martin Luther King Jr., U.S. Atty. Veronica Coleman said Friday.

The FBI "stands ready" to release the bullets to Shelby County prosecutors "upon a proper request," Coleman said.

Criminal Court Judge Joe Brown ordered this week that the FBI produce the test bullets for a hearing Tuesday to consider James Earl Ray's claim he was framed for King's 1968 murder. Ray, 69, is serving a 99-year sentence and claims someone planted the rifle found with his fingerprints on it.

The bullets could help clear up Ray's claim, yet questions have surfaced about whether proper legal papers were

served.

Prosecutor John Campbell, who filed a motion this week asking Brown to suspend his order, said Friday the District Attorney General's office would request the bullets on some conditions, including that the defense — not the state — pays for the rifle testings.

Defense test-firing of the rifle earlier this year was inconclusive in determining if it fired the bullet that killed King, but defense attorneys want to conduct more tests. Testing so far has cost about \$18,000.

Local defense co-counsel Wayne Chastain said Friday the defense "probably" will ask the state to cover the costs, but said that was up to lead attorney William Pepper of London.

—Marc Perrusquia

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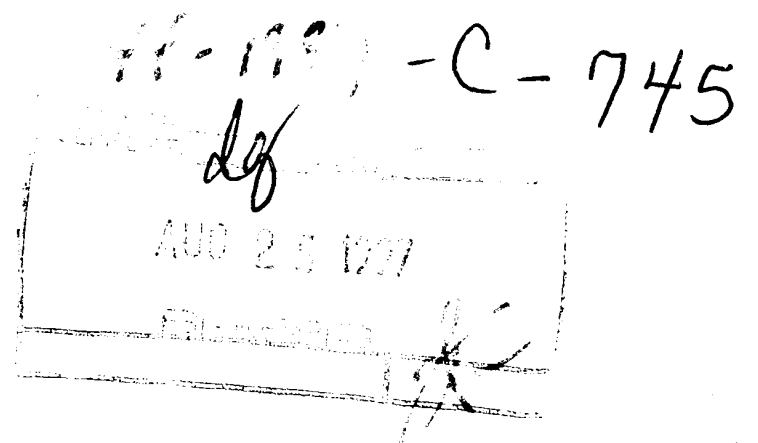
Date: August 16, 1997
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FBI/DOJ

(Mount Clipping in Space Below)

Judge Joe Brown fires back

Judge in James Earl Ray rifle case says he expected 'sneak attack' from Republicans.'

'I went out of town intentionally just to see what they would do.'

by Gale Jones Carson

Tri-State Defender Staff Writer

Partisan politics has entered the halls of the Shelby County judiciary prior to the 1998 primary judicial elections, according to Criminal Court Judge Joe Brown.

While out-of-town last week, Brown came under attack by colleague Criminal Court Judge John Colton Jr. During his absence, Colton ordered Criminal Court Clerk Bill Key to confiscate the James Earl Ray case files from Brown's office. Key stated that he would wait until Brown returned from vacation before following Colton's order.

Colton's order was based on a report submitted to him by a special master he hired to review Brown's files and determine whether the rifle testing should be heard in Brown's Division 9 or Colton's Division 3.

Brown said he expected this sneak attack. "I went out of town intentionally just to see what they would do in my absence. I was advised about three weeks ago that Colton was being pressured by fellow Republicans to appoint a special master who just so happens also to be a long term Republican activist."

Brown, 50, said Colton primarily wanted the files in his office because after performing an inventory of all the evidence he learned that a photograph of the intact bullet was missing. Also, he said information from the files was being leaked.

Brown claims Judge John Colton Jr. ordered Criminal Court Clerk Bill Key to confiscate Ray's case files from his office. At issue: The rifle test and whose court should have jurisdiction.

Special master Mike Roberts, a University of Memphis law professor, reported that Brown had made a "shambles" of the Ray case files and pointed out that there is an appearance of impropriety. In addition to criticizing the order and condition of the files, the 52-year-old Roberts questioned whether Brown has jurisdiction to hear the Ray case.

Records have been filed in Joe Key's office up until July 2, Brown said. "After information was leaked from some files, I decided henceforth, everything would be filed with me. Every thing that is filed has a date and time stamp on it. There have been only eight filings since July 2, everything else has been filed in Key's office. Otherwise, I didn't keep the files, that was the clerk's job. If Key's folks didn't keep the records that's not my fault, that wasn't my job. I've only had them sealed since July 2. Then I unsealed them the middle or end of July. If they are in shambles it's not my fault."

Regarding Roberts concern of whether the Ray case is in the correct court room, the

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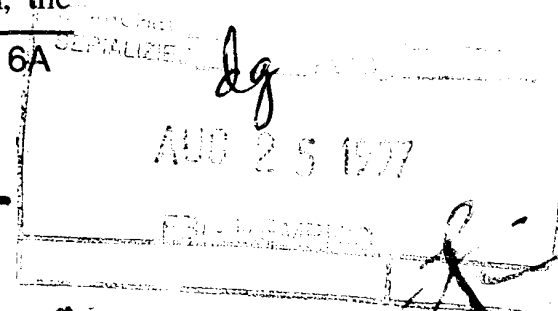
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fires back

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44-1987-C-746

Judge Brown fires back after Ray files confiscated

CONTINUED FROM FRONT PAGE

Tennessee Court of Criminal Appeals and local Criminal Courts administrative Judge Chris Craft already had allowed the case to remain in Division 9 after prosecutors argued that the case should be moved back to Colton's Division 3.

During 1969, Ray entered his guilty plea in Criminal Court Division 3. Also, Colton has heard legal issues in the Ray case in recent years. However, Brown ended up with the case in 1994 through a random rotation process after a defense motion was filed to test-fire the 30-60 Remington rifle prosecutors believe killed Dr. Martin Luther King Jr. The 69-year-old Ray, serving a 99-year sentence, claims the rifle was planted to frame him for the 1968 Memphis murder.

"They want to take me off of this case because I am vigorously trying to get to the bottom of it," Brown said. "In the scheme of things how would it look historically for a Black judge to be taken off this case with what it means to the Black folks in this country and throughout the whole world and all fair-minded people? They don't want to retest the rifle because something may come up, maybe not, but they know what it is that could come up, they are very scared of it. It's a Byron de la Beckwith thing. Three trials later, 35 years later, Beckwith was convicted. There is no statute of limitation on murder, accessory to murder or conspiracy to murder."

Fired up by the prosecution's and Colton's attacks against him, the outspoken judge said he is considering appointing a special prosecutor and special master or investigator to assist the court.

"The State has not done what it ought to have done in terms of protecting the interest of all of the people which in this nonadversarial but fact-finding situation we are in right now not attempting to assist in getting to the bottom of the thing," exclaimed Brown. "What you get to is the political action committee which is Republican in the attorney general's office — all of the prosecutors there are involved in this."

It has been suggested that Probate Court Judge Donn Southern, the presiding judge for all state trial court judges in Shelby County, resolve the matter between Brown and Colton. Brown is totally opposed to this sug-

gestion. He feels there will be no fair outcome from such a meeting.

"Southern and Colton both are Republicans," cited Brown. "How the hell does it look when it's recommended that a Republican resolve a dispute between a Democrat and a Republican?" he asked.

Like former Criminal Court Clerk Sen. John Ford in 1995, Brown will be a primary target of Republicans during the 1998 elections. According to Brown, he is their No. 1 target because he is articulate, dangerous, he doesn't go with their program and "I have a clue as to what the hell is going on. Their main scheme is privatization for profit like they have done down at Juvenile Court. They have completely subverted the whole juvenile justice system. The second thing is because of my treatment of their sacred icon Juvenile Court Judge Kenneth Turner.

"That's what it is — I'm a dangerous Black man. I don't play their game. There are other perspectives in this county than that one. Then I'm trying to bring all of the races in this county together. I'm trying to ensure fair and impartial treatment for everybody. I've developed some innovative ways of dealing with the problems of lawlessness that we have in our community that has become so debilitating that they seem to be turning simply to a profit motive and outlook," added Brown.

On another note, it had been communicated by other local media that Brown plans to run for the city mayor's post. Brown says this won't take place until after the year 2000.

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Colton approves pursuit of King conspiracy

But state's appeal
halts hearings

By Marc Perrusquia
The Commercial Appeal

Criminal Court Judge John Colton Jr. Monday gave a special investigator subpoena power to look into an alleged conspiracy in the assassination of Dr. Martin Luther King Jr.

Colton's highly unusual move triggered an immediate appeal from Tennessee Atty. Gen. John Knox Walkup, and the state Court of Criminal Appeals late Monday called a halt to hearings that had been scheduled for this morning by Colton and fellow Judge Joe Brown. The appeals court will hold a hearing on the appeal Aug. 29.

The appeal alleges Colton and Brown have overstepped their power to investigate James Earl Ray's claim he was framed for King's 1968 murder in Memphis.

Colton's Monday order granted subpoena power to Mike Roberts, whom he appointed last month as special master to investigate Brown's handling of Ray's claim. Roberts, a law professor at the University of Memphis, has told Colton that he's received information others may have been involved in King's death.

"Three people have come to me with information regarding the killing," said Roberts, who

Please see JUDGE, Page A6



John Colton Jr.

From Page A1

Judge

had planned to ask Colton at a 9:30 a.m. hearing to issue subpoenas for three witnesses.

Ray contends someone planted the hunting rifle found with Ray's fingerprints on it near the scene of King's April 4, 1968, murder. Serving a 99-year sentence, Ray, 69, claims he was coerced to plead guilty.

Brown authorized Ray's defense team to test-fire the .30-06 Remington rifle, but results proved inconclusive in determining if it fired the bullet that killed King. Defense attorneys want to test-fire the rifle a second time, a matter Brown was expected to consider at an 11 a.m. hearing today.

Under a broadly worded order July 24, Colton appointed Roberts to "advise the court on matters of proceedings in this cause." That included helping resolve a jurisdictional dispute of whether the rifle testing belonged before Colton or Brown.

Now, Colton has expanded Roberts's inquiry to include an investigation of the assassination itself.

"What I've asked him to do is seek testimony concerning allegations of a possible conspir-

(Indicate page, name of
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of King conspiracy

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acy," Colton said in an interview in his chambers. Colton conceded that his order may be without precedent, but said it was merited in the interests of justice.

"My job as judge here is to see, number one, that the truth comes out," said Colton, who says he has no personal information of a conspiracy. "I hope we find out (the truth). I do. I think the public and the King family need to know."

Colton's order authorized Roberts "to act with subpoena power and take testimony concerning allegations of a conspiracy to kill Dr. King by any person, whether a defendant, co-defendant or unindicted person..."

Any testimony taken by Roberts will be done in secret and placed under seal, Colton said. The judge said he was unsure how the information could be used legally, but said it would be on file to "let whatever parties (or) authorities do with it what they will."

Colton will not examine any of the testimony in order to not prejudice any possible trial for Ray. If a trial were held, Colton said, it would be in Criminal Court's Division 3, where Ray pleaded guilty in 1969 and where Colton now presides. Judge Brown got involved in

MEDIA REP.

the case in 1994 when a post-conviction petition was filed on rotation in his Division 9.

Roberts declined to name witnesses he plans to subpoena. At least part of his inquiry is expected to involve former Memphian Loyd Jowers, who

said in a nationally televised interview that he received money to have King killed.

Roberts confirmed that at least one of the 20 blank subpoena forms he picked up Monday from the Criminal Court Clerk's office will go to ABC News, whose *Prime Time Live* aired Jowers's claims in 1993. In 1968, Jowers, now 70, ran Jim's Grill, a cafe below the second-story roominghouse where prosecutors say Ray fired the shot that killed King. For years, Jowers was considered a minor witness.

Roberts said an April appeals court ruling allowing the local court to test the rifle gives Colton broad powers. "If somebody wants to challenge it, let them challenge it, and it will go up to the Court of Criminal Appeals," Roberts said.

The state did just that.

"Judges Brown and Colton are doing harm to the justice system because of the confusion they have engendered," the appeal said.

"The public can have no confidence in the reliability of any decisions which may eventually be entered in the wake of these orders."

The appeal contends that neither Brown nor Colton "has the authority to enter on a fact-finding mission" because there is no active petition before the

courts.

The appeal challenges Colton's order and another by Brown earlier this month ordering the FBI to produce four test bullets fired in 1968 from the King rifle.

"This court should intervene to halt both proceedings since they lack any legal authority whatsoever and are doing a serious disservice to the system of criminal justice in this state," the appeal said.

However, Shelby County Dist. Atty. Gen. Bill Gibbons on Monday requested in a letter to the FBI's acting assistant laboratory division director, Donald W. Thompson Jr., that the agency turn the bullets over to the local Criminal Court Clerk's Office.

Gibbons also said his office is continuing to investigate Jowers's claims and "every credible lead" suggesting the involvement of others.

"Our position is that James Earl Ray murdered Dr. King and is exactly where he belongs — in prison," Gibbons said. "The one remaining issue is if anyone helped Ray."

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

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Three come forward with tips on alleged plot to kill King

By Marc Perrusquia
The Commercial Appeal

Two private detectives and a cab driver said Tuesday they've offered information to a judge's investigator about former Memphian Loyd Jowers's possible involvement in the assassination of Dr. Martin Luther King Jr.

University of Memphis law professor Mike Roberts, who was granted subpoena power Monday by Criminal Court Judge John Colton Jr. to explore King's murder, declined to discuss details of his probe. An appeals

court temporarily halted the inquiry late Monday, just hours after it started.

But witnesses say at least part of Roberts's investigation involves Jowers, 70, who claimed in a nationally televised interview in 1993 that he received money to have King killed.

"Jowers is a link that needs to be explored," said John Billings, 49, a Memphis private investigator who has worked for confessed assassin James Earl Ray. Billings, fellow private eye Kenneth Herman and cab driver Nathan



Martin Luther King Jr.

Whitlock said they've contacted Roberts and stand ready to provide more details, with or without subpoenas.

Yet Roberts's fledgling investigation largely remained a curiosity Tuesday. Colton said he is intentionally keeping himself in the dark about Roberts's inquiry so as to not prejudice any possible trial for Ray, 69, who claims he was framed for King's 1968 murder in Memphis.

Colton said Roberts is working without a fee, saying the probe shouldn't

cost taxpayers anything.

"The state wouldn't pay for it," Colton said. Although Colton's order Monday gave Roberts power to take testimony from witnesses "concerning allegations of a conspiracy to kill Dr. King," the judge said no court reporters have been used yet. He said he expects such costs to be paid privately.

"He (Roberts) might pay for it himself, I don't know," Colton said.

Roberts's investigation was only hours old Monday when the Tennessee Court of Criminal Appeals in Jackson ordered a stay, setting an Aug. 29 hearing. An appeal by state

Atty. Gen. John Knox Walkup claims Colton and fellow Judge Joe Brown have overstepped their power to investigate Ray's claim he was set up as a fall guy.

Alleging he was coerced to plead guilty in 1969, Ray claims someone planted the rifle found with his fingerprints on it April 4, 1968, near the scene of King's murder. Brown allowed the defense to test-fire the rifle in May. He has considered a second test-firing after results proved inconclusive in determining if the rifle fired

Please see KING, Page B2

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King

the bullet that killed King.

Colton appointed Roberts as special master after Brown's proceedings took months and questions arose about whether the matter should be before Colton or Brown.

Both judges said Tuesday they hope to resolve their differences in a meeting tentatively set for Thursday with Probate Court Judge Donn Southern, who serves as presiding judge for Shelby County's state trial court judges.

The appeals court halted all local proceedings, saying Brown and Colton have "so far departed from the accepted and usual course of judicial proceedings as to require" intervention. Colton conceded his action may be unprecedented but said he wants the truth about King's assassination, which has been the source of numerous conspiracy tales.

Speculation about Jowers has

swirled since he told the ABC news magazine show *Prime Time Live* in December 1993 that he arranged the assassination in return for \$100,000.

In 1968, Jowers ran Jim's Grill, a cafe below the second-story rooming house where authorities say Ray fired the shot that killed King.

Billings and Herman were working with Ray defense attorney William Pepper in 1992 when they began exploring tips about Jowers in conjunction with a mock television trial for Ray. It started, Billings said, when now-deceased cab driver James McCraw said Jowers showed him a rifle box in the cafe the morning after the assassination. Billings said McCraw told him Jowers claimed to have found the rifle that killed King.

When Billings and Herman confronted Jowers, he denied it. But Jowers began telling a different story months later. Examining prosecutors' files, investigators learned of a 1969 tip alleging Jowers's involvement. The source of the tip was

Betty Spates, a waitress at Jim's Grill in 1968. Spates has told conflicting stories through the years about seeing Jowers with a rifle. In 1994 she told the Tennessee Bureau of Investigation that Jowers's story was motivated by an expectation of earning \$300,000 in book and movie deals.

Still, Billings and others point to the *Prime Time Live* interview as evidence Jowers was involved. In the interview, Jowers said he was paid by now-deceased Memphis produce dealer Frank Liberto to have King killed.

A congressional committee investigating King's death examined allegations about Liberto but dismissed them in 1979 for lack of evidence. Still, others contend the case should be looked into again.

One is cab driver Whitlock, 38, who says Liberto once told him he had King killed. Whitlock says he has approached Roberts about that information. The accounts of Whitlock, Billings and Herman are mentioned in Pepper's controver-

sial 1995 book, *Orders To Kill: The Truth Behind the Murder of Martin Luther King*.

In a curious move, former Ray attorney Jack McNeil filed a motion Tuesday asking for a hearing with Colton to consider presenting information to the grand jury regarding Jowers. McNeil contended he represented Billings and Herman, but they denied that.

Jowers could not be reached Tuesday, despite two calls to his attorney, Lewis Garrison.

The District Attorney General's Office began investigating Jowers's claims shortly after the interview aired, but no one has been charged.

"When Loyd Jowers has not been indicted, I don't understand that," Billings said.

However, prosecutor John Campbell said the investigation is ongoing: "If we find something that's credible involving other people, we're definitely going to pursue it."

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

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Date: 22 Aug 97
 Edition: The Commercial Appeal
 Title: McNeil, ex-lawyer for Ray, indicted on sex charge
 Character:
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 Classification:
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 Indexing:

McNeil, ex-lawyer for Ray, indicted on sex charge

The Commercial Appeal

A former lawyer for James Earl Ray has been indicted on charges of sexual battery involving a client he represented in a personal injury suit.

Jack McNeil, 64, surrendered to authorities around noon Thursday and was released on his own recognizance. McNeil, who said he is "tired and emotionally drained," denied any unlawful or improper behavior with the woman.

The incident allegedly occurred on March 7 in McNeil's downtown office. The woman who lodged the complaint

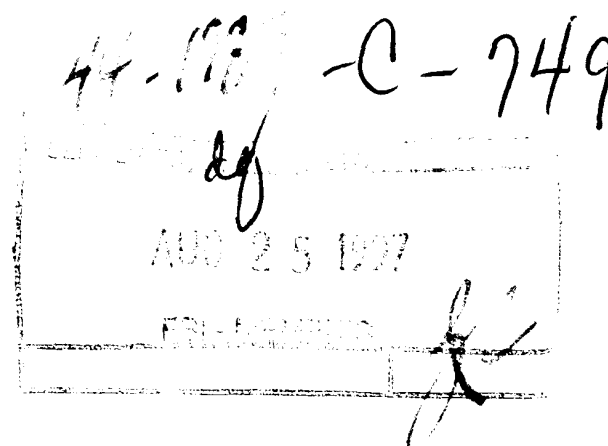
could not be reached.

Sexual battery or unlawful sexual contact is an E felony that, in this case, would carry up to two years in prison upon conviction.

McNeil has been among several lawyers for Ray seeking to reopen the investigation in the 1968 assassination of Dr. Martin Luther King Jr. He said he no longer represents Ray but that he still is pushing to reopen the case.

McNeil filed suit in federal court last month saying authorities are not properly investigating the case and that the sexual battery allegation was trumped up against him as retaliation.

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

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Date: 22 Aug 97
Edition: The Commercial AppealTitle: Colton carries convictions
into assassination cauldronCharacter:
or
Classification:
Submitting Office: ME**TWO NEW PLAYERS ENTER RAY CASE**

Colton carries convictions into assassination cauldron

By Marc Perrusquia
The Commercial Appeal

John Colton Jr. once walked barefoot across hot coals. At the time, he was a middle-age lawyer re-examining his life and spirituality.

Today, Colton is a criminal court judge who has authorized an investigation into whether there was a conspiracy to kill Dr. Martin Luther King Jr.

Now he's facing heat again.

"He will brave the onslaught of public opinion," said Memphis attorney Beth Brooks, 45, a friend who knows Colton as a free-thinking,

fair-minded judge. "I find him someone who will stay true to his convictions and will be brave no matter what others say."

The Tennessee Court of Criminal Appeals in Jackson intervened this week hours after Colton gave a law professor subpoena power to look into an alleged plot to murder King.

The appeals court halted local court proceedings on Ray's claim he was framed for King's murder. The court said Colton and fellow Judge Joe Brown had "so far departed from the accepted and usual course of judicial proceedings as to require" higher court review. A hearing will be Aug. 29.

■ For three years, Judge Joe Brown of Shelby County Criminal Court has been at the turbulent center of James Earl Ray's bid to win a new trial for the 1968 murder of Dr. Martin Luther King Jr. Recently, though, another Criminal Court Judge, John Colton Jr., is making Brown share the spotlight. Colton appointed Memphis law professor Mike Roberts to investigate Brown's handling of the Ray case, and this week he asked Roberts to investigate whether there was a conspiracy to kill King.

■ Brown, Colton meet, agree to cool their feud. **A6**

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Ray

But Colton remains undeterred. A small, soft-spoken man who runs marathons and swims several miles a week, he is described by colleagues as mild-mannered and fiercely competitive.

"The really easy thing would be to sit up there and not do anything about this," Colton, 59, said in an interview this week before he and Brown agreed to stop making public comments on the case.

The King family and the American public deserve an answer to long-standing speculation that Ray did not act alone, Colton said.

"My responsibility is just to preside in (Shelby County Criminal Court's) Division 3," he said with a shrug. "It basically would not be different from any other case."

Since he was elected in 1990 with 75 percent of the vote, Colton has been an enigma to some. The son of a conservative judge, he is a former criminal defense attorney who at times has rankled prosecutors with

JOHN COLTON JR.

Age: 59

Position: Judge, Shelby County Criminal Court

Birthplace: Memphis

Education: Bachelor's degree, University of Memphis, 1961; law degree, 1964

Career: Deputy Shelby County Criminal Court clerk, 1962-64; assistant Shelby County public defender, 1965-1976; private practice, 1978-90

Political experience: Shelby County delegate to 1971 Tennessee Constitutional Convention. Elected Criminal Court judge, 1990.

his decisions. Perceived by observers as a liberal thinker, he says he has voted Republican in recent elections.

He is seen by some as quirky — the hot coal-walking has triggered courthouse snickers — but critics and supporters agree Colton is an unassuming man, a judge so open and accessible he lists his home phone and address in the book.

"If you really want to know who I am, the most important thing about me is the first thing I do every morning: My wife and I pray together," said Colton. "I consider myself a spiritual person and a godly person."

"He's very honorable," said Leland M. McNabb, 54, a for-

mer prosecutor and Colton friend. "I think the world of him."

John Patrick Colton Jr. was born in Memphis on [redacted]. He was one of five children of longtime City Court and Criminal Court Judge John Colton Sr., who died in 1987, and Cleo Carter Colton, who died this year.

He graduated from Christian Brothers High School, where he swam and ran track, and received a bachelor's degree in 1961 and a law degree in 1964 from Memphis State University.

His ascent to the bench came after 11 years as an assistant Shelby County public defender

and another 12 years in private practice.

Colton handily defeated former prosecutor Glenn Wright in 1990, when the Division 3 seat was vacated by retirement.

"He had a good reputation in the community," Brooks said. "Also his dad was a judge, and the name didn't hurt."

"John's father was a hang-'em-high judge," said Memphis lawyer Valerie Corder, 41, who has practiced before both.

And so prosecutors grumbled when the son at times didn't seem to be following suit.

Colton stirred controversy in 1994 when he sentenced a man to probation and three months in prison for the felony sexual fondling a 6-year-old girl. After a storm of protest, Colton reversed himself and ordered the man to begin serving an eight-year prison sentence.

The Court of Criminal Appeals later tossed out Michael J. Howard's aggravated sexual battery conviction, saying Colton should have instructed the jury differently.

In 1995, Colton placed a Memphis teacher on diversion, a legal method to clear the record of a first-time offender, after he pleaded guilty to sexual battery of a 10-year-old stu-

dent.

"I haven't been going light on any sexual offenders . . . I can't stand sexual offenders," Colton said this week.

"If you don't rule for (prosecutors) every single time, they say you're one-sided. I think if you talked to different attorneys, they'd tell you I'm prosecution."

"I personally wouldn't describe him as lenient," said Corder, who estimated she's represented 20 to 30 criminal defendants before Colton. "I've had clients who went straight to jail, did not pass Go."

Raised Roman Catholic, Colton remains active in the church but says he doesn't necessarily express his spirituality through organized religion.

In 1987, Colton appeared in a photo on the front page of The Commercial Appeal, walking barefoot across coals as part of a self-improvement course. Looking skyward, he repeated the phrase "Cool moss."

"I want to know more about myself," Colton told a reporter at the time. "I don't think I'm afraid of the fire as much as I'm afraid of failure."

At the time, Colton was experiencing change. He was divorced from his first wife in 1985. Last year, he married

Barbara Oliver Colton, an administrator in the General Sessions Court Clerk's Office.

Today, Colton battles stress by running 15 to 20 miles a week and swimming another 6. "I really like to compete more than train. I like challenges."

Colton also often keeps three or four books going at a time. History and culture are topics of interest, and he's currently reading Charles Kuralt's *A Life on the Road* and Barbara Tuchman's *A Distant Mirror*.

Colton's decision to re-examine the King case in search of a possible conspiracy is, troubling to some who, though they respect the judge, believe Ray's guilt is established.

"I do not understand why this needs to be revisited," said McNabb, who was an assistant district attorney general from 1970 to 1981. "Ray's as guilty as homemade sin." Recent fighting among lawyers and judges on the Ray case "reminds me of a sack of monkeys fighting," McNabb said.

Colton sees it differently: "I'm not trying to create a controversy. I'm just trying to do what I was elected to do."

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

Ray judges agree to cool their feud

By Marc Perrusquia
The Commercial Appeal

Criminal Court Judges Joe Brown and John Colton Jr. agreed Thursday to halt their public feuding until an appeals court addresses the James Earl Ray controversy next week.

Colton and Brown discussed differences for more than an hour in a closed meeting with Probate Court Judge Donn Southern, who serves as presiding judge of Shelby County's state trial courts.

Both men declined comment when they emerged from Southern's office.

"No comment. I'm on vacation," said Brown, sporting dark sunglasses and loose-fitting silk shirt.

"I've got to go back to work," tweed jacket-wearing Colton said, waving off questions.

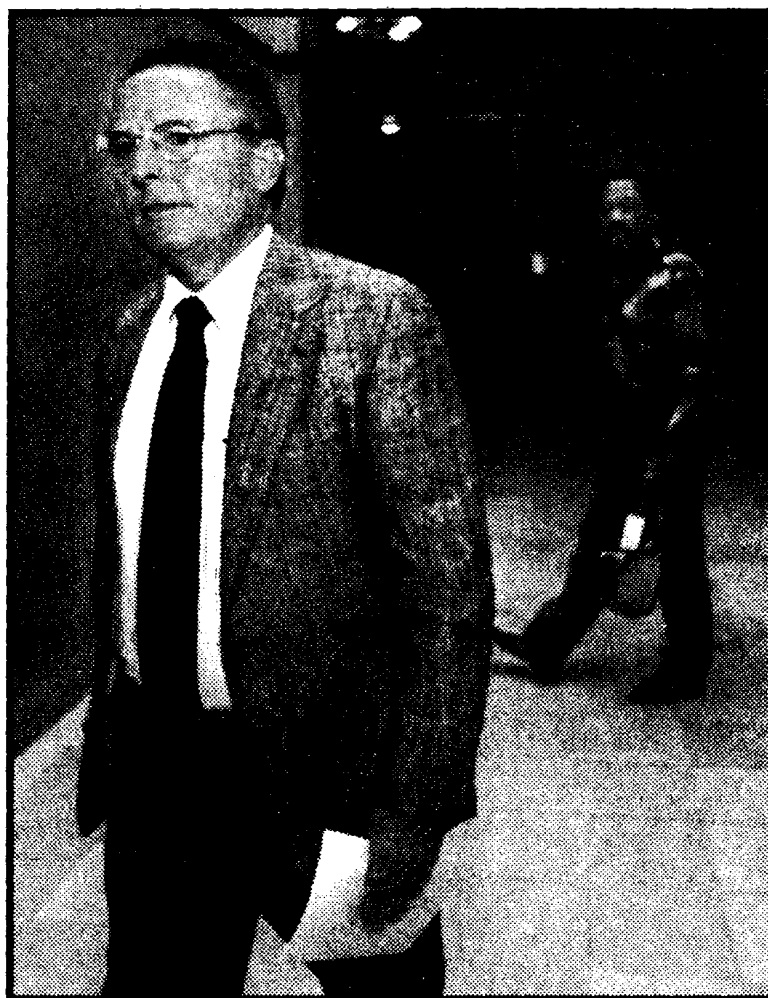
"We're all concerned about the negative impact of some of the things that have been going on and feeling that the system isn't working as well as it should," Southern said. "We're all in agreement that we need to communicate better between ourselves and with the public so that they can understand things are being handled properly."

Colton and Brown have squabbled for control of legal proceedings involving Ray's claim he was framed for Dr. Martin Luther King Jr.'s 1968 murder in Memphis.

Ray, 69, claims he was coerced to plead guilty in 1969. He is trying to withdraw that plea, claiming someone planted the rifle found with his fingerprints on it in a recessed doorway on South Main near the scene where King was shot.

Brown allowed Ray's defense to test-fire the .30-06 Remington hunting rifle in May, but results proved inconclusive in determining if it fired the shot that killed King.

Brown was considering a



By Robert Cohen

second test-firing when Colton appointed a special master to review Brown's handling of the case. Prosecutors have said the case should be before Colton because local court rules require "all matters" in a case to remain in the division where it originated.

Colton presides in Division 3, where Ray pleaded guilty. Brown got involved in 1994 when defense attorneys filed a postconviction petition in his Division 9, also in compliance with court rules.

The controversy heated up recently when Colton ordered court officials to seize Ray case files from Brown's office. Colton also authorized special master Mike Roberts to subpoena witnesses to investigate an alleged plot to kill King.

In turn, Brown claimed Colton had been influenced by local Republicans to attack Brown's handling of the case.

The Tennessee Court of Criminal Appeals on Monday

Criminal Court Judge John Colton Jr. returns to his office without commenting Thursday after a talk with a vacationing Judge Joe Brown (in background) on the controversy surrounding the James Earl Ray case. Presiding trial court Judge Donn Southern, who joined the discussion, said "we need to communicate better between ourselves and with the public."

halted actions by both judges on the Ray case. The appeals court will meet Aug. 29 to consider allegations by Atty. Gen. John Knox Walkup that Colton and Brown have overstepped their authority.

In a related matter Thursday morning, Colton rejected a motion by Roberts to take deposition testimony from four voluntary witnesses about an alleged conspiracy to kill King. Colton said he feared the move would violate the appeals court order.

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

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Date: 22 Aug 97
Edition:

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Title: Brash, brusque Roberts
pleads his own case

Character:

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Classification:

Submitting Office: ME

Brash, brusque Roberts pleads his own case

By Kevin Robbins
The Commercial Appeal

Labels follow Mike Roberts. Now the tall, brash University of Memphis law professor with a reputation for haughty eccentricity and a predilection for straw hats has assumed yet one more title he may or may not deserve: conspiracy buff.

The 52-year-old native of the North has become a collection agency of information about one of the South's great tragedies.

A Shelby County Criminal Court judge this week granted Roberts the power to subpoena witnesses in his investigation of alleged conspiracies

in the assassination of Dr. Martin Luther King Jr. Judge John Colton Jr.'s move drew an immediate appeal from the state attorney general. A hearing to determine whether Roberts retains his authority is set for Aug. 29.

Until then, the Harvard-educated professor will continue to serve as a "special master" in the investigation into Judge Joe Brown's handling of James Earl Ray's claim he was framed in the 1968 slaying of King on a balcony in Memphis.

Colton appointed Roberts as special master, a legal title long used in American courts to describe independent fact-finding specialists. Some spe-

U of M law professor Mike Roberts, in signature straw hat, was named a special master, or independent fact-finder, in the James Earl Ray case, but a hearing on his authority is pending.



By Michael McMullan

Please see **LAWYER**, Page A4

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Lawyer

cial masters are paid; Roberts, however, says he will work for free and even pay a court reporter if he needs deposition testimony from people who say they know something about King's death.

Roberts says he believes in the American Dream and the vigorous pursuit of happiness. He has made a good living; he won't reveal exactly how good, but his salary at U of M is \$68,246 and that's just part of his income. He's served on the boards of publicly owned corporations. He's involved himself in a three-way real-estate partnership in the Southwest. He and his wife of 17 years, tax attorney Teresa R. Hurst, paid \$435,000 in 1990 for their seven-bedroom, seven-bathroom East Memphis home. He drives an old Chevy Suburban when he's not driving an old Benz. He collects art from the Southwest. He wears a Rolex.

He says he believes a law professor should reflect the image of a working — doubtless a *successful* working — attorney. That explains the straw hat he wears atop his 6-2 frame. It explains his affinity for better clothes, which he buys off-season at discount stores.

And he says he believes he owes something to Colton, who pulled him into his chambers on Monday and asked him to look into King's death.

"I believe it's important for law professors to provide public service to the judiciary," Roberts says. "I intend to let the chips fall where they may."

The chips have fallen in Roberts's overall favor since his days in Elkhart, Ind. The older of two sons born to a housewife and salesman, Roberts was the first in his family to graduate high school. He earned his bachelor's degree at Indiana University in Bloomington.

Roberts studied law at the University of Oklahoma, graduating in 1971 near the top of his class. A professor there remembers Roberts as a confident, inquisitive student "who from day one" said he wanted to teach at a law school.

"He would be very good at figuring out if there is any plot, any hidden conspiracy," in King's death, says Osborne Reynolds, 57, a professor and distinguished scholar at the University of Oklahoma College of Law. Reynolds sees in Roberts a "fearless investigator" — one not beholden to the opinions of others.

"Sometimes he can be a little abrasive, rub people the wrong way," says Reynolds.

His students at U of M concur. In his pretrial practice course, Roberts often draws upon his own trial experiences — instead of a law textbook — to prepare his students for practice. He makes up imaginary situations. He requires students to create cases and act them out. He addresses his students as "counsel."

"He expected us to call him the same," says Monika Johnson, 24, who recently took the bar examination and is awaiting the results.

"He dealt with the practical aspect of what it is like to be an attorney in Memphis, Tennessee," says Johnson.

Unlike many full-time faculty members at the U of M law school, Roberts has ventured now and again into the public fray. In 1992 he floated his name as a possible Republican candidate to unseat Democratic congressman Harold Ford. In 1996 he considered running as a Democrat against Republican U.S. Sen. Fred Thompson. Roberts never has run for office.

He taught a gun liability class for the Shelby County Sheriff's Department, became a special deputy and got a license to carry a concealed .40-caliber handgun. He is a training consultant to the county

MIKE ROBERTS

Age: 52

Position: Professor, the University of Memphis Cecil C. Humphreys School of Law; special master, Division 3, Shelby County Criminal Court

Birthplace: Elkhart, Ind.

Education: Bachelor's degree, Indiana University at Bloomington, 1968; law degree, University of Oklahoma, 1971; doctorate, Harvard University, 1975

Career: Professor, University of Memphis, 1976-present; visiting professor, Southern Methodist University School of Law, 1978-80; visiting professor, University of Oklahoma College of Law, 1988-89; chairman, Memphis Gaming Commission, 1992-present

Classes taught: Trial advocacy, pretrial practice, appellate practice

SWAT team.

Roberts is on the national editorial board of *Gaming Law Review*. He also served on the Memphis Gaming Commission, whose sole purpose was to try to get casinos in Memphis. That effort has failed.

He is a lawyer with a private practice. He is a demanding — some would say harshly so, but Roberts calls himself “old style” — professor who teaches litigation classes. He has been a quasi-public figure as assumer of high-profile legal cases. Roberts has put himself in the position to judge. And he has been judged.

People who know him call him brash. Roberts pleads no contest. “It’s better than arrogant,” he says. He pleads guilty to arrogance too.

People call him bright, even brilliant, and a man who earns a postgraduate degree at Harvard should be nothing less. “Hard working,” he says, feigning humility.

Rigid. “Not at all. Controversial, not rigid.”

Self-righteous. “Self-confident, I think. I do rub people

the wrong way.”

Eccentric. “I’ll plead on that.”

Roberts also has a masterly sense of tableau, an affection for drama that leaks into his gait, his posture and his speech. He even has written a published novel about a Castro-Cuban female cocaine gang; it’s called *The Business*.

Former student Edward Stanton III, 25, says Roberts is “not the traditional law professor. He’s very aggressive. . . . He’s probably his own biggest fan. I think he considers himself his own man.”

“Often,” Roberts says, measuring words, “I’m too brusque.” But is that all bad, he wonders, for someone assigned the task of sorting fact from fiction in the death of Dr. King?

But labels aside, if it weren’t for his reputation, he wouldn’t have found himself this week in Colton’s chambers, being asked to investigate one of the truly infamous American crimes of this century.

To reach Kevin Robbins, call 529-2388 or send E-mail to robbins@gomemphis.com

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Court tells judges to return records on King slaying

The Tennessee Court of Criminal Appeals has ordered Criminal Court Judges Joe Brown and John Colton to turn over all court records involving the assassination of Dr. Martin Luther King Jr.

Criminal Court Clerk Bill Key said he got the order Friday and sent a letter to both judges seeking the return of any records "as soon as possible."

The appeals court on Monday halted actions by both judges until it meets Aug. 29 to consider allegations by Atty. Gen. John Knox Walkup that Colton and Brown have overstepped their authority. The court will decide which division of Criminal Court has jurisdiction over proceedings on James Earl Ray's latest claim that he was framed for King's assassination.

Ray, 69, says he was coerced into pleading guilty in 1969.

—Bill Dries

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

Date: *August 23, 1991*
Edition: *Commercial Appeal*

Title: *Court tells judges to return records on King slaying*

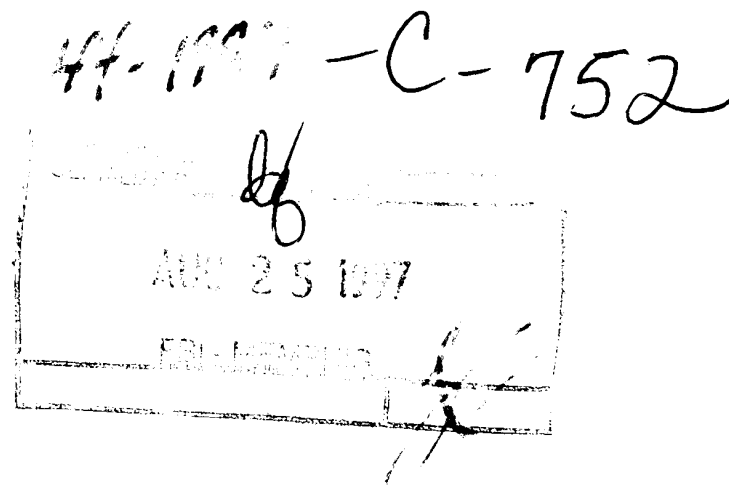
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Date: *July 22, 1997*
Edition: *Commercial Appeal*Title: *Mark Lane joining
Clemency effort for Ray*Character:
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Submitting Office: *ME*

Indexing:

Mark Lane joining clemency effort for Ray

By Marc Perrusquia
The Commercial Appeal

Lawyer Mark Lane said Monday he plans to rejoin James Earl Ray's defense by pressing a plea for clemency.

The move comes amid infighting among the three lawyers who have mounted a separate effort to win a trial for the confessed assassin of Dr. Martin Luther King Jr.

Memphis attorney Wayne Chastain filed a motion Friday to withdraw from Ray's defense team, citing "incompatibility with other counsel." By Monday, Chastain and lead counsel William Pepper of London reportedly were asking that their co-counsel, Memphian Jack McNeil, step down.

Lane, who lived in Memphis briefly during the 1970s, said he intends to join an effort by an East Tennessee lawyer to ask Gov. Don Sundquist to

commute Ray's 99-year sentence. While a long shot, Lane said the move may have a chance with active support from King's family and former colleagues.

"When you have the family of the victim saying they believe the man in prison is innocent, that's a very powerful statement," he said.

Lane, 70, represented Ray during a 1978 congressional investigation of King's 1968 murder in Memphis. In announcing

his intention to re-enter the case, he challenged Pepper's credibility.

Pepper, who has focused legal efforts on winning a trial for Ray, claims the .30-06 hunting rifle found with Ray's fingerprints on it was planted to frame Ray, 69, who pleaded guilty in 1969.

But Pepper came under fire last month when a former Green Beret soldier filed a libel lawsuit, claiming the London-based lawyer falsely impli-

cated him in a plot to kill King. Pepper claimed in a 1995 book that an Army sniper team was in Memphis the day King was shot April 4, 1968.

"I have very strong doubts about Pepper's credibility," said Lane, who has come under his share of criticism for his views on the King case and the assassination of President John F. Kennedy. Lane said from his Washington office that he be-

Please see LANE, Page B2

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