

4-16-69

AIRTEL

AM

TO: DIRECTOR, FBI (44-38861)
FROM: SAC, MEMPHIS (44-1987) P
MURKIN

Re Memphis Airtel 4-15-69, enclosing copies of order filed in U. S. District Court, Nashville, Tennessee.

For the information of the Bureau and completion of its files, there are enclosed two Xerox copies of amended petition submitted in U. S. District Court, Nashville, 4/15/69. The petitioner in this instance adds the name of ARTHUR J. HANES as a respondent. As of 4/15/69, the U. S. District Court Clerk at Nashville had not served the petition on respondents as he is awaiting a correct address from ROBERT W. HILL, JR., Attorney for the petitioner. ✓

2 BUREAU (Enc. 2)(RM)
1 MEMPHIS

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44-1987-Sub-B-115

5-1-69

AIRTEL

AM

TO: DIRECTOR, FBI (44-38861)
FROM: SAC, MEMPHIS (44-1987) P

MURKIN

Enclosed for the information of the Bureau are two copies each of Motion to Dismiss on Behalf of the Defendants, PERCY FOREMAN and WILLIAM BRADFORD HUIE, and Brief in Support of Motion to Dismiss. These were filed in U. S. District Court, Middle District of Tennessee, Nashville Division, on 4-29-69.

2 BUREAU (Enc. 4) (AM)
1 MEMPHIS

RGJ:BN
(3)

44-1987-Sub-O-116
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FILED
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for FBI.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

FILED

APR 29 1969

BRANDON LEWIS, Clerk
By Ray H. Cooper D.C.

JAMES EARL RAY

v.

CIVIL ACTION NO. 5380

PERCY FOREMAN,
WILLIAM BRADFORD HUIE,
and ARTHUR J. HANES

MOTION TO DISMISS ON BEHALF OF THE DEFENDANTS
PERCY FOREMAN AND WILLIAM BRADFORD HUIE

The defendants move the Court as follows:

(1) To dismiss the action because the complaint fails to state a claim against these defendants upon which relief can be granted.

(2) To dismiss the action on the ground that it is in the wrong district because the plaintiff is not a resident of the Middle District of Tennessee and the Middle District of Tennessee is not the judicial district in which the claim arose.

In support of this motion an affidavit of Tom Y. Richardson, Custodian of Records at the Tennessee State Penitentiary at Nashville, Tennessee, is filed as Exhibit "1" to this motion.

HOOKER, KEEBLE, DODSON & HARRIS

BY

John W. Dodson
Attorneys for Defendants
Percy Foreman and William Bradford Huie
900 Nashville Bank & Trust Building
Nashville, Tennessee 37201

AFFIDAVIT

STATE OF TENNESSEE)

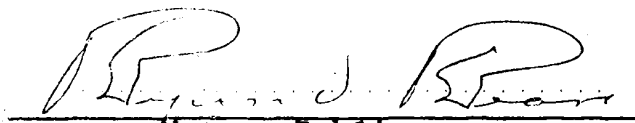
COUNTY OF DAVIDSON)

Mr. Tom Y. Richardson, being first duly sworn, says:

That he is the Custodian of the records at the Tennessee State Prison at Nashville, Tennessee; that according to the records James Earl Ray upon entering the Tennessee prisons gave no legal residence but instead in answer to the questions as to his legal residence gave the answer as unknown; that the only addresses given by James Earl Ray were those of his brothers, John Ray, 1982 Arsenal, St. Louis, Missouri and Jerry Ray, 710 Ann Avenue, St. Louis Missouri.



Sworn to and subscribed before me
this 28th day of April, 1969.

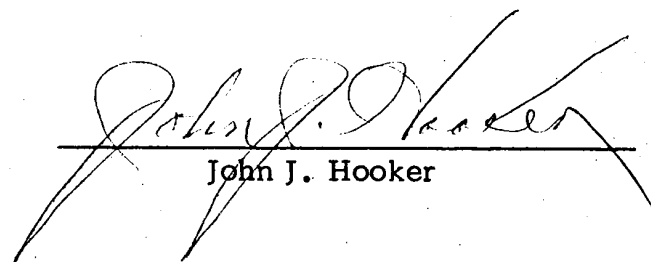

Notary Public

My commission expires: 4-26-1972

Exhibit "1" to Motion to Dismiss

CERTIFICATE OF SERVICE

I, John J. Hooker, hereby certify that the foregoing motion has been served on the attorneys for the plaintiff by mailing a copy thereof to the Honorable Robert W. Hill, Jr., 418 Pioneer Building, Chattanooga, Tennessee 37402; and the Honorable J. B. Stoner, Savannah, Tennessee 38372, by first class mail, this 29th day of April, 1969.


John J. Hooker

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

FILED

APR 29 1969

BRANDON LEWIS, Clerk
By *[Signature]* D.C.

JAMES EARL RAY

v.

PERCY FOREMAN,
WILLIAM BRADFORD HUIE,
and ARTHUR J. HANES

CIVIL ACTION NO. 5380

BRIEF IN SUPPORT OF MOTION TO DISMISS

The venue of this action is not in the Middle District of Tennessee under Title 28 U.S.C., Section 1391(a), which provides:

"The civil action wherein jurisdiction is founded only on diversity of citizenship may, except as otherwise provided by law, be brought only in the judicial district where all plaintiffs or all defendants reside, or in which the claim arose."

According to the averments of the complaint and the amended complaint the claim arose, if the plaintiff has a claim, in the Western District of Tennessee at Memphis.

The plaintiff's incarceration in the penitentiary at Nashville does not make him a resident of this judicial district for venue purposes.

Nobuo Hiramatsu v. Phillips, 50
F. Supp. 167 (S.D. Calif. 1943).

Shaffer v. Tepper, 127 F. Supp. 892
(E.D. Ky. 1955).

Urbano v. New Syndicate Co., Inc.,
232 F. Supp. 237 (S.D. N. Y. 1964).

U. S. v. Stabler, 169 F. 2d 995
(3rd Cir. 1948).

Wendell v. Hoffman, 24 F. Supp.
(N. J. 1938).

Stadtmuller v. Miller, 11 F. 2d 732
(2nd Cir. 1926).

The Restatement of Conflict of Laws, Section 21, provides:

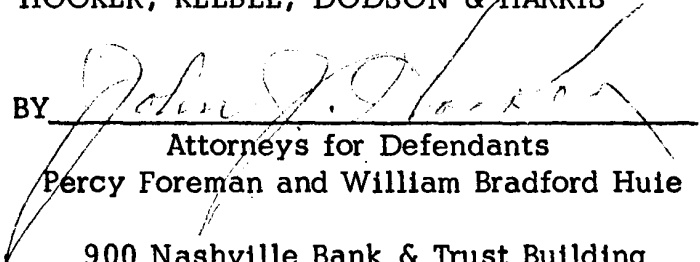
"A person cannot acquire a domicile of choice
by any act done under legal or physical compulsion."

The Proposed Official Draft Part I, of May 2, 1967, of the
Restatement of the Law, Second, Conflict of Laws, Section 17, Subsection
(c), of the Comments, states:

"Under the rule of this section, it is impossible
for a person to acquire a domicile in the jail in which he
is incarcerated."

HOOKER, KEEBLE, DODSON & HARRIS

BY


Attorneys for Defendants
Percy Foreman and William Bradford Huie

900 Nashville Bank & Trust Building
Nashville, Tennessee 37201

CERTIFICATE OF SERVICE

I, John J. Hooker, hereby certify that the foregoing Brief in
Support of Motion to Dismiss has been served on the attorneys for the plain-
tiff by mailing a copy thereof to the Honorable Robert W. Hill, Jr., 418 Pioneer
Building, Chattanooga, Tennessee 37402; and the Honorable J. B. Stoner,
Savannah, Tennessee 38372, by first class mail, this 24th day of April, 1969.


John J. Hooker

5-6-69

AIRTEL

AM

TO: DIRECTOR, FBI (44-38861)
FROM: SAC, MEMPHIS (44-1987)
MURKIN

Enclosed for the information of the Bureau are two copies of "Motion to Dismiss" filed by ARTHUR HANES, JR. on behalf of his father, ARTHUR HANES, SR., in U. S. District Court for the Middle District of Tennessee, Nashville, Tennessee, on May 1, 1969.

2 BUREAU (Enc. 2) (AM)
1 MEMPHIS
RGJ:BN
(3)

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FILED llb

44-1987-Sub-O-117

Hester gls

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UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF TENNESSEE - NASHVILLE DIVISION

FILED

D. MAY 1 1969

BRANDON LEWIS, Clerk

By Ray W. Cooper D.C.

JAMES EARL RAY
Resident of Tennessee

Plaintiff

Vs.

CIVIL ACTION FILE NO. 5380

ARTHUR J. HANES, PERCY FOREMAN
and WILLIAM BRADFORD HUIE

Defendants

M O T I O N T O D I S M I S S

Defendant, Arthur J. Hanes, respectfully moves the Court to dismiss the action and as grounds therefor assigns the following separately and severally:

1. The venue is improper and said action is in the wrong Judicial District because (a) the Plaintiff is not a resident of said Judicial District and is within said Judicial District solely by reason of his involuntary confinement within the Tennessee State Penitentiary. (b) No Defendant is a corporation, alien, or resident of said Judicial District, and (c) Said claim is not alleged to have arisen within said Judicial District.

2. Said Petition fails to state a claim upon which relief can be granted.

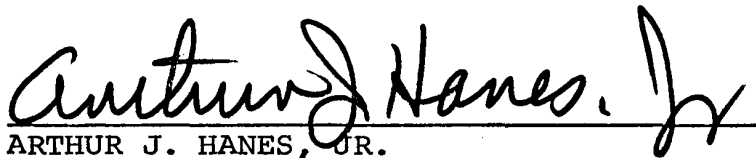
Arthur J. Hanes, Jr.

ARTHUR J. HANES, JR.
ATTORNEY FOR DEFENDANT, ARTHUR J. HANES
617 Frank Nelson Building
Birmingham, Alabama 35203

C E R T I F I C A T E O F S E R V I C E

I hereby certify that I have this day mailed, postage prepaid, a copy of the foregoing Motion to Dismiss to Honorable Robert W. Hill, Jr., 418 Pioneer Building, Chattanooga, Tennessee, 37402, and Honorable J. B. Stoner, Savannah, Tennessee, 38372, Attorneys for Plaintiff.

This is the 30 day of April, 1969.



ARTHUR J. HANES, JR.

ATTORNEY FOR DEFENDANT, ARTHUR J. HANES
617 Frank Nelson Building
Birmingham, Alabama 35203

Assistant Attorney General
Civil Division

May 9, 1969

Director, FBI

**ASSASSINATION OF
MARTIN LUTHER KING, JR.**

44-157-1987

In accordance with the request of Mr. William Arnold, General Litigation Section, Civil Division, on May 5, 1969, an up-to-date summary of the facts concerning this matter is set out below. This request is in connection with the preparation for representation of George J. Bonebrake, a latent fingerprint examiner of this Bureau, who by court order is scheduled to appear in Criminal Court, Shelby County, Tennessee, on May 23, 1969, to show cause why he should not be held in contempt of court. For your information, prior correspondence with former Assistant Attorney General Fred M. Vinson, Jr., was carried under the above caption and under "Criminal-General Crimes Section File #51-72-47."

Mr. Bonebrake presented expert testimony on June 27, 1968, in London, England, in connection with the extradition of James Earl Ray. He testified that three latent fingerprints developed in this case, the fingerprints of James Earl Ray taken by the Los Angeles Police Department, the fingerprints of James Earl Ray taken by the Missouri State Penitentiary, and the fingerprints of the subject of the extradition hearing taken by Scotland Yard were fingerprints of one and the same individual. Such testimony thus became public source information and has since been quoted extensively in news media throughout the world.

On October 25, 1968, W. Preston Battle (now deceased), Judge of the Criminal Court, Shelby County, Tennessee, signed a petition requiring that Mr. Bonebrake appear before that court on December 6, 1968, to show cause why he should not be held in contempt of court. This action was subsequently continued to April 11, 1969, and is set for May 23, 1969, before Judge Arthur C. Faquin, Jr., of that court.

2 - Memphis (see note on page 3)

44-1987-Sub-O-118

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FBI - MEMPHIS

Hester
(follow closely)

**Assistant Attorney General
Civil Division**

The facts which precipitated Judge Battle's action are as follows:

A court order dated July 18, 1968, signed by Judge Battle forbade interviews or press conferences for publicity purposes and enjoined certain individuals from making extrajudicial statements relating to the James Earl Ray trial. This order covered all lawyers, their assistants, associates, staff members, investigators and employees under their supervision, County Medical Examiner, Jury Commissioners, Criminal Court Clerk, County Sheriff, Police Officials and other law enforcement officers.

On September 12, 1968, an article appeared in the Wichita, Kansas, "Beacon" newspaper quoting Mr. Bonebrake extensively concerning the Ray case and intimating that Bonebrake had furnished this information to the press. On October 16, 1968, Charles Edmundson, a newspaper reporter for the Memphis, Tennessee, "Commercial Appeal," learned of the story appearing in the "Beacon" and reprinted portions in his paper. Edmundson and the then defense attorney for Ray, Arthur Hanes, Sr., were under contempt citations issued by Judge Battle accusing them of violating the Judge's order barring extrajudicial statements in this case. This prompted the Judge's action regarding Mr. Bonebrake.

Mr. Bonebrake conducted an Advanced Latent Fingerprint Police School during the five-day period September 9 through 13, 1968, at Wichita, Kansas. This school was sponsored by the Wichita Police Department and seventeen officers from the Wichita Police Department and eight departments in the immediate area attended. This was a closed school for law enforcement officers and representatives of the press and public were not permitted. Mr. Bonebrake has advised that on one occasion during the class, at the instigation of the sponsoring police department, members of the press were briefly invited during a recess period to take photographs and to collect data for a local press story on this school. One member of the class who seemed friendly with the reporter mentioned that Mr. Bonebrake had been the fingerprint expert who had given testimony in London. The reporter commented to Mr. Bonebrake that he thought he recalled Bonebrake's name. No further questions were asked and no other information was volunteered by Mr. Bonebrake.

**Assistant Attorney General
Civil Division**

Mr. Bonebrake states unequivocally that at no time has he discussed his fingerprint testimony with press representatives or unnecessarily aired fingerprint testimony of this case. On one occasion during the latent fingerprint school in Wichita, Kansas, members of the class, in a closed session, attempted to query Mr. Bonebrake as to details of the fingerprint testimony. Mr. Bonebrake states that he gave no facts other than what had already been quoted by the press concerning his London, England, testimony.

On November 8, 1968, Mr. Vinson requested that appropriate steps be taken to assist in the full preparation to oppose the contempt charge should the need arise. As a result, an inquiry was conducted by this Bureau at Wichita, Kansas, during which time attendees at the police school, along with the police official who sponsored the school, were interviewed and the results set forth in the report of Special Agent Raymond B. Howe dated December 13, 1968. Two copies of this report were forwarded to Mr. Vinson on December 24, 1968.

On April 11, 1969, Deputy Assistant Attorney General Nathaniel E. Kossack forwarded to us a copy of a special delivery letter dated April 7, 1969, from the Criminal Court Clerk, Shelby County, Tennessee, directing Mr. Bonebrake to appear in that court on May 23, 1969. Simultaneously, this Bureau's Memphis Office advised that Judge Faquin is still studying the case and while he has set the new hearing date for Mr. Bonebrake on May 23, 1969, he is primarily concerned with matters relating to the appeal of James Earl Ray, and it is believed that a final decision as to what he will do in the Bonebrake matter should be forthcoming before May 23, 1969.

Mr. Bonebrake is available to discuss this matter with Mr. Arnold at any time and can be telephonically contacted on Government code 175, extension 2163, or in Room 6137 at the FBI's Identification Building, Second and D Streets, Southwest, Washington, D. C.

Note for Memphis: Above furnished for your information. While Mr. Arnold is handling necessary preparations for representation of Bonebrake, he indicated actual defense in court, if necessary, will be handled by a representative of the U. S. Attorney's Office at Memphis. You should closely follow this matter and keep the Bureau advised.

5/13/69

AIRTEL

TO: DIRECTOR, FBI
Attention: IDENTIFICATION DIVISION

FROM: MEMPHIS (44-1987) (P)

SUBJECT: MURKIN

Mr. DON OWENS, an attorney at Memphis, Tennessee, who has served as an adviser to the Criminal Court in the matter concerning JAMES EARL RAY advised today that Senior Fingerprint Examiner GEORGE BONEBRAKE will not have to appear in Shelby County Criminal Court, Memphis, on 5/23/69 as previously scheduled. Mr. OWENS said it cannot be said officially at this time but he anticipates that the contempt citation against BONEBRAKE will be dropped and that it will not be necessary for BONEBRAKE to appear in the future.

This matter will be closely followed and should there be any change the Bureau will be promptly notified.

Airtel _____

Teletype _____

A.M. 3-Bureau

2-Memphis

A.M.S.D. _____

JCH:PEH

Spec. Del. (5) *[Signature]*

Reg. Mail _____

Registered _____

44-1987-Sub-C-119

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FILED	<i>llh</i>

[Handwritten initials]

IN THE CRIMINAL COURTS OF SHELBY COUNTY, TENNESSEE

STATE OF TENNESSEE

I

VS.

I

NO. 16645

JAMES EARL RAY

I

Defendant.

I

MOTION TO STRIKE

Comes now Phil M. Canale, Jr., District Attorney General for the Fifteenth Judicial Circuit of Tennessee, and moves the Court to strike and hold for naught the Motion of the defendant, James Earl Ray, entitled "Amended and Supplemental Motion for a New Trial" and any incorporates therein purporting to be a Motion for a New Trial in this cause and in support thereof would show:

I

For answer to the Motion of the defendant herein, State of Tennessee hereby denies each and every allegation of fact as well as the conclusion of facts and law alleged in the said Motion.

II

State of Tennessee would further show that the defendant, James Earl Ray, pleaded guilty on March 10, 1969, in Division III of the Criminal Courts of Shelby County, Tennessee.

That at the entry of the guilty plea and for some time prior thereto, the defendant, James Earl Ray was represented by his personally selected and retained counsel, Percy Foreman, a copy of the minute entry of November 12, 1968, reflecting the employment of Percy Foreman by the defendant, James Earl Ray, is attached hereto as Exhibit 1.

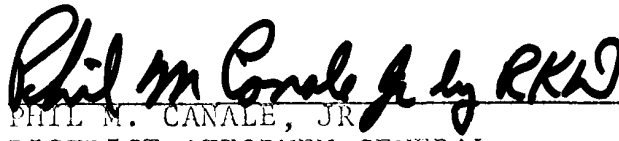
That the defendant, James Earl Ray, in person and through his attorney, filed a Petition for waiver of trial and request for acceptance of plea of guilty, a copy of which is attached hereto as Exhibit 2.

An Order authorizing waiver of trial accepting plea of guilty was entered by Judge W. Preston Battle, the presiding judge on March 10, 1969, a copy of which is attached hereto as Exhibit 3.

The defendant, James Earl Ray, was extensively and comprehensively examined by the Honorable W. Preston Battle, presiding judge, before the entry of the guilty plea, a certified copy of the transcript of the interrogation by Judge Battle is attached hereto as Exhibit 4.

That a jury was empaneled, sworn, evidence of witnesses presented, stipulations, and a plea of guilty was entered in the presence of the jury and the jury verdict approved the guilty plea as to the State's recommendation of ninety-nine (99) years confinement in the State Penitentiary at Nashville, Tennessee, to the offense of Murder First Degree, and the defendant, James Earl Ray, was sentenced by the Presiding Judge W. Preston Battle, a certified copy of the minutes of Division III of the Criminal Courts of Shelby County, Tennessee, so reflecting, is attached hereto as Exhibit 5.

The State of Tennessee moves the Court to strike the defendant's Motion and any incorporates thereto on the grounds that there is no Motion for a New Trial from a guilty plea.


PHIL M. CANALE, JR.
DISTRICT ATTORNEY GENERAL
FIFTEENTH JUDICIAL CIRCUIT
STATE OF TENNESSEE

TUESDAY, NOVEMBER 12, 1968

Thereupon the Hon. W. Preston Battle, Judge, assumes the Bench, whereupon the following proceedings were had to-wit:

STATE OF TENNESSEE
VS B-16645, 16819
JAMES EARL RAY, aka

MURDER FIRST DEGREE & CARRYING A DANGEROUS WEAPON

Comes the Attorney General on the part of the State and the defendant in proper person and by counsels of record, Mr. Arthur Hanes, Sr., & Mr. Arthur Hanes, Jr., whereupon there comes on to be heard the Attorneys' Motion to be allowed to withdraw from the above causes, which Motion having been fully heard and understood by the Court is GRANTED, whereupon it is ordered by the Court that the names of Arthur Hanes, Sr., and Arthur Hanes, Jr., be removed from the Jackets in the above causes, and the name of Mr. Percy Foreman, be substituted in their stead.

STATE OF TENNESSEE
VS B-16645, 16819
JAMES EARL RAY, aka

MURDER FIRST DEGREE & CARRYING A DANGEROUS WEAPON

Comes the Attorney General on the part of the State and the defendant in proper person and by counsel of record, Mr. Percy Foreman, whereupon there comes on to be heard the defendant's Motion for First Continuance, which Motion having been heard and fully considered by the Court is GRANTED, whereupon it is ordered by the Court that the causes be reset to March 3, 1969, for trial. (Order to be entered later).

Whereupon Court adjourned until tomorrow morning at 9:30 o'clock.

W. Preston Battle
J U D G E

EXHIBIT 1

STATE OF TENNESSEE }
Shelby County }

I, J. A. BLACKWELL, Clerk of the Criminal Courts of Shelby County, Tennessee,
do hereby certify that the foregoing ONE (1) pages of writing contain a full,
complete, true and perfect copy of ~~all the proceedings had~~ ^{the first continuance application and changing of attorneys} in the case of the State of
Tennessee, vs. Docket No. 16645

JAMES EARL RAY

Indictment for MURDER FIRST DEGREE

as the same now appears on file, and of record in my office.

WITNESS my hand and the seal of said Court, at office in Memphis,

this, the 12th day of MAY 19 69

SEAL

I. A. BLACKWELL, Clerk
By: [Signature] D. C.

EXHIBIT 2

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE
DIVISION III

STATE OF TENNESSEE

VS.

NO. 16645

JAMES EARL RAY
DEFENDANT

PETITION FOR WAIVER OF TRIAL AND REQUEST FOR
ACCEPTANCE OF PLEA OF GUILTY

That my true full name is JAMES EARL RAY and I assert that all proceedings against me should be had in the name which I hereby declare to be my true name.

My attorney in the cause is PERCY FOREMAN, who was selected and retained by me, /who was appointed by the Court ~~xxxxxxx~~, to represent me in this cause. and Hugh Stanton, Sr., Public Defender,

I have received a copy of the indictment before being called upon to plead, and I have read and discussed it with my attorney, and believe and feel that I understand the accusation made against me in this case and in each case listed herein. I hereby waive the formal reading of the indictment.

I have told my attorney the facts and surrounding circumstances as known to me concerning the matters mentioned in the indictments, and believe and feel that my attorney is fully informed as to all such matters. My attorney has informed me as to the nature and cause of each accusation against me, and as to any and all possible defenses I might have in this cause.

My attorney has advised me as to the punishment provided by law for the offenses charged and embraced in the indictment against me. My attorney has further advised that punishment which the law provides for the crime with which I am charged in the indictment is as follows:

death by electrocution or confinement in the State Penitentiary for

life or for some period of time over twenty (20) years

and if accepted by the Court and Jury my sentence on a plea of guilty will be:

confinement in the State Penitentiary for ninety-nine years (99).

It has been fully explained to me and I understand that I may, if I so choose, plead "Not Guilty" to any offense charged against me, and that if I choose to plead "Not Guilty" the Constitution guarantees and this Court will provide me the right to a speedy and public trial by jury; the right to see and hear all witnesses against me; the right to use the power and process of the Court to compell the production of any evidence, including the attendance of any witness, in my favor; and the right to have the assistance of counsel in my defense at all stages of the proceedings.

In the exercise of my own free will and choice and without any threats or pressure of any kind or promises of gain or favor from any source whatsoever, and being fully aware of the action I am taking, I do hereby in open Court request the Court to accept my plea of guilty to the charges outlined herein. I hereby waive any right I may or could have to a Motion for a New Trial, and/or an appeal.

Witness:

Percy Foreman

Hugh Stanton Sr
Hugh Stanton Jr

James Earl Ray
Defendant

STATE OF TENNESSEE }
Shelby County }

I, J. A. BLACKWELL, Clerk of the Criminal Courts of Shelby County, Tennessee,
do hereby certify that the foregoing ONE (1) pages of writing contain a full,
Petition for Waiver of Trial and Request for Acceptance of Plea of Guilty
complete, true and perfect copy of ~~all the proceedings had~~ in the case of the State of

Tennessee, vs.

Docket No. 16645

JAMES EARL RAY

Indictment for MURDER FIRST DEGREE

as the same now appears on file, and of record in my office.

WITNESS my hand and the seal of said Court, at office in Memphis,

this, the 12th day of MAY 19 69

J. A. BLACKWELL, Clerk

SEAL

By: *J. A. Blackwell* D. C.

EXHIBIT 3

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE
DIVISION III

STATE OF TENNESSEE

VS

NO. 16645

JAMES EARL RAY

DEFENDANT

ORDER AUTHORIZING WAIVER OF TRIAL AND ACCEPTING
PLEA OF GUILTY

This cause came on for hearing before the Honorable W. PRESTON BATTLE, Judge of Division III, of the Criminal Court of Shelby County, Tennessee, on the petition of the defendant, JAMES EARL RAY, for Waiver of trial by jury and request for acceptance of a plea of guilty, said petition being attached hereto and incorporated by reference herein; upon statements made in open Court by the defendant herein; his attorneys of record; the District Attorney General, the Assistant Attorneys General representing the State of Tennessee; and from questioning by the Court of defendant and his counsel in open Court; and

IT APPEARING TO THE COURT after careful consideration that the defendant herein has been fully advised and understands his right to a trial by jury on the merits of the indictment against him, and that the defendant herein does not elect to have a jury determine his guilt or innocence under a plea of Not Guilty; and has waived the formal reading of the indictment, AND:

IT FURTHER APPEARING TO THE COURT that the defendant intelligently and understandingly waives his right to a trial and of his own free will and choice and without any threats or pressure of any kind or promises, other than the recommendation of the State as to punishment; and does desire to enter a plea of guilty and accept the recommendation of the State as to punishment, waives his right to a Motion for a New Trial and/or an appeal.

IT IS THEREFORE, ORDERED, ADJUDGED AND DECREED that the petition filed herein be and the same is hereby granted.

Enter this the 10th day of March, 1969.

W Preston Battle
J U D G E

STATE OF TENNESSEE }
Shelby County

I, J. A. BLACKWELL, Clerk of the Criminal Courts of Shelby County, Tennessee,
do hereby certify that the foregoing ONE (1) pages of writing contain a full,
complete, true and perfect copy of Order authorizing Waiver of Trial and Accepting Plea of Guilty
all the proceedings had in the case of the State of
Tennessee, vs. Docket No. 16645

JAMES EARL RAY

Indictment for MURDER FIRST DEGREE

as the same now appears on file, and of record in my office.

WITNESS my hand and the seal of said Court, at office in Memphis,

this, the 12th day of MAY 19 69

J. A. BLACKWELL, Clerk

SEAL

By: [Signature] D. C.

EXHIBIT 4

VOIR DIRE OF DEFENDANT ON WAIVER AND ORDER

JUDGE "James Earl Ray, stand."

JUDGE "Have your lawyers explained all your rights to you and do you understand them?"

DEFENDANT "Yes"

JUDGE "Do you know that you have a right to a trial by jury on the charge of Murder in the First Degree against you, the punishment for Murder in the First Degree ranging from Death by Electrocution to any time over twenty years? The burden of proof is on the State of Tennessee to prove you guilty beyond a reasonable doubt and to a moral certainty and the decision of the Jury must be unanimous both as to guilt and punishment?"

In the event of a jury verdict against you, you would have the right to file a Motion for a New Trial addressed to the trial judge? In the event of an adverse ruling against you on your Motion for a New Trial, you would have the right to successive appeals to the Tennessee Court of Criminal Appeals and the Supreme Court of Tennessee and to file a petition for review by the Supreme Court of the United States? Do you understand that you have all these rights?"

DEFENDANT "Yes"

JUDGE "You are entering a plea of Guilty to Murder in the First Degree as charged in the Indictment and are compromising and settling your case on agreed punishment of ninety-nine years in the State Penitentiary. Is this what you want to do?"

DEFENDANT "Yes"

JUDGE "Do you understand that you are waiving, which means "giving up", a formal trial by your Plea of Guilty although the laws of this State require the prosecution to present certain evidence to a jury in all cases of Pleas of Guilty to Murder in the First Degree?"

[Handwritten signature] *P.A.*

By your plea of guilty you are also waiving your rights to (1) Motion for a New Trial; (2) Successive Appeals to the Tennessee Court of Criminal Appeals and the Supreme Court of Tennessee; (3) Petition for Review by the Supreme Court of the United States.

By your plea of guilty you are also abandoning and waiving your objections and exceptions to all the Motions and Petitions in which the Court has heretofore ruled against you in whole or in part, among them being:

1. Motion to withdraw plea and quash indictment
2. Motion to inspect evidence
3. Motion to remove lights and cameras from jail
4. Motion for private consultation with attorney
5. Petition to authorize defendant to take depositions
6. Motion to permit conference with Huie
7. Motion to permit photographs
8. Motion to designate court reporters
9. Motion to stipulate testimony
10. Suggestion of proper name"

DEFENDANT "Yes"

JUDGE "Has anything besides this sentence of ninety-nine years in the penitentiary been promised to you to get you to plead guilty? Has anything else been promised you by anyone?"

DEFENDANT "No"

JUDGE "Has any pressure of any kind, by anyone in any way been used on you to get you to plead guilty?"

DEFENDANT "No"

JUDGE "Are you pleading guilty to Murder in the First Degree in this case because you killed Dr. Martin Luther King under such circumstances that would make you legally guilty of Murder in the First Degree under the law as explained to you by your lawyers?"

DEFENDANT "Yes"

1 17

P. 7

Page 3
Voir Dire of Defendant on Waiver and Order

JUDGE "Is this Plea of Guilty to Murder in the First Degree with agreed punishment of ninety-nine years in the State Penitentiary, freely, voluntarily and understandingly made and entered by you?"

DEFENDANT "Yes"

JUDGE "Is this Plea of Guilty on your part the free act of your free will, made with your full knowledge and understanding of its meaning and consequences?"

DEFENDANT "Yes"

JUDGE "You may be seated."

James Earl Ray

Percy Foreman

STATE OF TENNESSEE }
Shelby County }

I, J. A. BLACKWELL, Clerk of the Criminal Courts of Shelby County, Tennessee,
do hereby certify that the foregoing.....THREE (3).....pages of writing contain a full,
complete, true and perfect copy of ^{Interrogation of defendant by Judge Battle}~~all the proceedings had~~ in the case of the State of
Tennessee, vs. Docket No.....16645.....

JAMES EARL RAY

Indictment for.....MURDER FIRST DEGREE.....

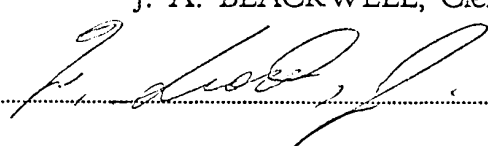
as the same now appears on file, and of record in my office.

WITNESS my hand and the seal of said Court, at office in Memphis,

this, the.....12th.....day of.....MAY.....19 69.....

J. A. BLACKWELL, Clerk

SEAL

By: .....D. C.

MONDAY, MARCH 10, 1969

Court met pursuant to adjournment, the Hon. W. Preston Battle, Judge, presiding; whereupon the following proceedings were had to-wit:

STATE OF TENNESSEE

VS B-16645

JAMES EARL RAY,

alias, ERIC STARVO GALT

alias, JOHN WILLARD

alias, HARVEY LOWMEYER

alias, HARVEY LOWMYER

MURDER IN THE FIRST DEGREE

Comes the Attorney General on the part of the State and the defendant in proper person and by counsel of record, Mr. Percy Foreman and Mr. Hugh Stanton, Sr. When to try the above cause there comes a jury of good and lawful men to-wit: AMOS G. BLACK, JR., JOHN W. BLACKWELL, JAMES N. ABRAHAM, ROBERT S. ST. PIERRE, MILLER WILLIAMSON, J. PAUL HOWARD, RICHARD LEE COUNSELLOUR, JOE STOVALL, JR., JAMES R. PATE, JOHNNY SHAW, GUS CARIOTA, AND JAMES W. BALLARD, who were sworn well and truly to try the issue of traverse herein joined, a true deliverance make and a true verdict render according to the law and evidence. Thereupon the defendant on being arraigned at the bar of the Court and charged on the bill of indictment plead GUILTY to same, and for his trial put himself upon the Country and the Attorney General doth the like. Thereupon the Court proceeds with the hearing of testimony in the above cause, and after completion of testimony of five witnesses, and a lengthy stipulated statement by Assistant Attorney General James Beasley, the Jury upon their oath do say: WE THE JURY FIND THE DEFENDANT JAMES EARL RAY GUILTY OF MURDER IN THE FIRST DEGREE AS CHARGED IN THE INDICTMENT AND FIX HIS PUNISHMENT AT CONFINEMENT FOR NINETY-NINE (99) YEARS IN THE STATE PENITENTIARY AT NASHVILLE.

Thereupon the Court proceeds to pass sentence which is that he be taken by the Sheriff and remanded to Jail, and at the earliest convenience delivered to the WARDEN OF THE STATE PENITENTIARY, therein to be confined at hard labor for a period of NINETY NINE YEARS, and that he pay the cost of this prosecution for which let mittimus and execution issue. O/C 234 days Jail Credit.

Whereupon Court adjourned until tomorrow morning at 9:30 o'clock.

W. Preston Battle
JUDGE

EXHIBIT 5

STATE OF TENNESSEE }
Shelby County }

I, J. A. BLACKWELL, Clerk of the Criminal Courts of Shelby County, Tennessee,
do hereby certify that the foregoing.....ONE (1).....pages of writing contain a full,
complete, true and perfect copy of ^{Guilty Plea}~~all the proceedings~~ had in the case of the State of
Tennessee, vs. Docket No. 16645

JAMES EARL RAY

Indictment for.....MURDER FIRST DEGREE.....

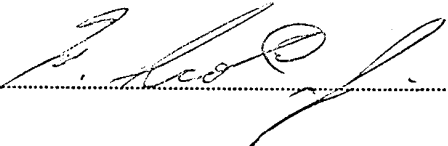
as the same now appears on file, and of record in my office.

WITNESS my hand and the seal of said Court, at office in Memphis,

this, the 12th day of MAY 19 69

J. A. BLACKWELL, Clerk

SEAL

By:  D. C.

44-1987-Sub-D-120

SEARCHED _____

SERIALIZED llh

INDEXED _____

FILED llh

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE
DIVISION II

STATE OF TENNESSEE

X

VS.

X

NO. 16645

JAMES EARL RAY

X

MEMORANDUM OF AUTHORITIES ON MOTION TO
STRIKE DEFENDANT'S MOTION FOR A NEW TRIAL

The defendant, James Earl Ray, having entered into a compromise settlement of the First Degree Murder Indictment pending against him and agreed and stipulated to the recommended punishment of confinement for ninety-nine years in the State Penitentiary and having submitted on a Plea of Guilty to verdict, sentence and judgment as agreed, now seeks review and reversal of said judgment by Motion for New Trial and/or Appeal.

The State feels that no such review is available to the defendant under the law.

The Supreme Court of the State of Tennessee in McInturff v. State 207T102; 338 SW2 561, held as follows: "Now we think it is axiomatic that the defendant, having confessed judgment for fine and costs, had no right of appeal, nor did the Court have the power to grant such an appeal, because no one can appeal either in a criminal or a civil case from a verdict on a plea of guilty or a judgment based upon confession of liability. Therefore, the attempted appeal was a complete nullity..."

Along these same lines it is stated in 4 Am Jur 2 (Appeal and Errors) at paragraph 271: "A judgment in a criminal case which has been properly entered on a plea of guilty is, in effect, a judgment by confession, and ordinarily cannot be reviewed by appeal or error proceedings." It has been held that when a guilty plea is accepted and entered upon the

records, it is a conviction of the highest order. State v. Hamilton 337 Mo. 460, 85 SW2d 35.

In Kercheval v. United States reported at 274 U.S. 220, the Supreme Court of the United States stated as follows: "Out of just consideration for persons accused of crime, courts are careful that a Plea of Guilty shall not be accepted unless made voluntarily after proper advice and with full understanding of the consequences. When one so pleads he may be held bound."

The State further contends that in an over abundance of caution the defendant was fully and completely advised and did expressly waive any right he might have had to a Motion for a New Trial and/or Appeal.

In considering the questions of waiver the Tennessee Supreme Court in State ex rel Barnes vs. Henderson 423 SW2 497 noted at page 502: "As a general rule, subject to certain exceptions, any constitutional or statutory right may be waived if such waiver is not against public policy. In fact the trend of modern authority is in favor of the doctrine that a party in a criminal case may waive irregularities and rights whether constitutional or statutory, very much as in a civil case."

Quoting further from 21 Am Jur 2 Criminal Law, paragraph 219, the Supreme Court noted: "Where a constitutional right accorded the accused is treated as waivable, it may be waived by express consent, by failure to assert it in apt time, as by conduct inconsistent with a purpose to insist upon it."

In a very comprehensive opinion concerning Waivers, the Supreme Court of Tennessee in State ex rel Lea v. Brown 166 T 669 at page 691 defined Waiver as: "the voluntary relinquishment of a known right. It is a voluntary act and implies an election to dispense with something of value, or to forego some advantage which he might at his option have demanded

and insisted upon." Citing from a leading case, In re Cooper 93 N.Y. 512, the court further quoted: "It is very well settled that a party may waive a statutory and even a constitutional provision made for his benefit, and that having once done so he cannot afterward ask for its protection." Speaking further on that subject the Court held "The appellant is in this position. He participated as an actor in procuring the order which he now seeks to set aside, and took his chance... To that end there was not only acquiescence on his part but intelligent and efficient dealing with the matter and consent to the order. By this consent he must be deemed to have made his election and should be held to it."

The State feels that the defendant, James Earl Ray, made his choice to waive Motion for New Trial and/or Appeal, and the State of Tennessee having accepted his waiver proceeded at his request to dispose of his murder indictment under an agreed and stipulated compromise settlement, did call and present witnesses and did disclose by stipulated facts its entire evidentiary case; therefore, such election and estoppel strengthens the waiver by which defendant, Ray, should be bound.

In holding a defendant to be bound by his waiver of Motion for a New Trial and conventional Appeal, the Missouri Supreme Court in State vs. Pence 428 SW2 503 commented on the fact that the decision to waive motion for new trial was made by the defendant while represented by counsel and the record of the inquiry by the Court and Counsel showed the defendant was aware that his choice not to file a motion for a new trial would preclude a conventional appeal.

In Bradford v. State 184 Tenn. 694, the Tennessee Supreme Court in sustaining the trial Courts dismissal of a motion for a new trial where the defendant failed to appear held: "We are, accordingly, of the opinion that the defendant by his own act has waived the right to have his motion for a

new trial considered and determined. His conduct was in legal effect an abandonment of the prosecution of his motion."

It would certainly appear from a review of cases decided by the Supreme Court of Tennessee as well as the United States Supreme Court that the right of waiver in criminal cases is acknowledged. Several such opinions in addition to those heretofore referred to are: State v. Simmons 199 T 479; Adams v. United States ex rel McCann 317 U.S. 269; Patton vs. United States 281 U.S. 276.

There are certain allegations of fact in defendant's Motion which are denied by the State which lend themselves to postconviction relief rather than as grounds for a Motion for New Trial. The allegations and conclusions, even if true, would not be grounds for relief in a postconviction relief. See Richmond vs. Henderson, Tennessee Supreme Court, March 26, 1969. However, as the defendant is attempting to pursue an alleged Appellate remedy, that is, a Motion for a New Trial under Tennessee Code Annotated, Section 17-117, he must exhaust those remedies before proceeding under postconviction relief as provided in Tennessee Code Annotated 40-3802. The defendant has further failed to comply with Tennessee Code Annotated 40-3804 of the postconviction procedures.

On the above grounds it is therefore respectfully submitted that the defendant's Motion entitled "Amended and Supplemental Motion for New Trial and incorporates thereto" be dismissed as a matter of law.

Respectfully submitted,

PHIL M. CANALE, JR.
DISTRICT ATTORNEY GENERAL

NOTICE OF SERVICE

Copies of Petition to Strike and Memorandum of Authorities delivered personally to attorney for defendant, Richard J. Ryan, on May 13, 1969, at _____ p.m.

44-1987-SUB-D-121

SEARCHED _____
SERIALIZED 145
INDEXED _____
FILED 145

5/14/69

AIRTEL

TO: DIRECTOR, FBI (44-38861)
FROM: SAC, MEMPHIS (44-1987) (P)
SUBJECT: MURKIN

Enclosed for the Bureau are 2 copies each of a Motion to Strike and a Memorandum of Authorities on Motion to Strike Defendant's Motion For a New Trial, both of which have been filed in Division II, Criminal Court, Shelby County, Tenn., in connection with JAMES EARL RAY's motion for a new trial.

Airtel _____

Teletype _____

A.M. 2 - Bureau (Encs. 4)

① - Memphis

A.M. JCH:jap _____

(3)

Spec. Del. *jap* _____

Reg. Mail _____

Registered _____

SEARCHED _____

SERIALIZED _____

INDEXED _____

FILED _____

44-1987-Sub-B-122

Hester *qjs*

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE

STATE OF TENNESSEE NOTICE OF SERVICE

VS

NO. 10665

Copy of the Amendment to Motion for a New Trial
delivered personally to the office of the District Attorney
General on May 19, 1969, at 140 P.M.

AMENDMENT TO MOTION FOR A NEW TRIAL

Comes now your petitioner, JAMES EARL RAY, defendant
in the above styled cause, by and through his attorneys,
Richard J. Ryan, J. B. Stoner and Robert W. Hill, Jr., and
amends his Supplemental Motion for a New Trial to add the
following grounds, to-wit:

1. That he was denied effective counsel;
2. That the preponderance of the evidence was not
such as to support a jury verdict of guilty;
3. That there was no evidence introduced upon which
he could be found guilty;
4. That since Judge Battle has died, and he is the
only one who could have tried the above questions, and it
is a matter of law, entitled to a new trial.

Respectfully submitted,

BY: RICHARD J. RYAN

J. B. STONER

ROBERT W. HILL, JR.

44-1987-Sub-D-123

SEARCHED _____
SERIAL _____ llh
INDEXED _____
FILED _____ llh

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE

STATE OF TENNESSEE

VS

NO. 16645

JAMES EARL RAY,

Defendant

AMENDMENT TO MOTION FOR A NEW TRIAL

Comes now your petitioner, JAMES EARL RAY, defendant in the above styled cause, by and through his attorneys, Richard J. Ryan, J. B. Stoner and Robert W. Hill, Jr., and amends his Supplemental Motion for a New Trial to add the following grounds, to-wit:

1. That he was denied effective counsel
2. That the preponderance of the evidence was not such as to support a jury verdict of guilty
3. That there was no evidence introduced upon which he could be found guilty
4. That since Judge Battle has died, and he is the only one who could have tried the above questions, he is, as a matter of law, entitled to a new trial.

Respectfully submitted,

RICHARD J. RYAN

J. B. STONER

ROBERT W. HILL, JR.

5/21/69

AIRTEL

AM

TO: DIRECTOR, FBI (44-38861)

FROM: SAC, MEMPHIS (44-1987) P

MURKIN

Enclosed for the Bureau are two copies of an "Amendment to Motion for a New Trial" which was received at the office of the District Attorney General on 5/19/69.

2 BUREAU (Enc. 2)

① MEMPHIS

JCH:BN

(3)

44-1987-Sub-D-124
SEARCHED _____

SERIALIZED llh

INDEXED _____

FILED llh

Mr. Holt
F.B.I.

Lodged
5-21-69

TO THE HONORABLE JUDGE WILLIAM E. MILLER OF THE DISTRICT COURT,
MIDDLE DIVISION, TENNESSEE

JAMES EARL RAY,	\$
Resident of Tennessee; Legal	\$ NO. 5380
resident of or domicile in	
<u>ILLINOIS</u>	\$
Petitioner	\$
VS.	\$
PERCY FOREMAN, Resident of Texas,	\$
WILLIAM BRADFORD HUIE, resi-	\$
dent of Alabama, and ARTHUR J.	\$
HANES, resident of Alabama	\$

AMENDED PETITION

Your petitioner would respectfully show the Court:

That this cause is subject to federal jurisdiction, in that there is a diversity of citizenship (see caption) and that the subject matter of this suit is in excess of \$10,000; and also that the defendants entered into a conspiracy to violate your petitioner's civil rights and that subsequent to the overt acts stated below, that they did in fact by fraudulent use of the Court process and other matters stated below violate his civil rights; said violation in direct contravention of the rights as protected by 42 U.S.C. 1985. Defendants acted in such a manner as to make a farce and mockery of justice and completely denied the petitioner of his constitutional right to effective counsel.

That he is presently in the Tennessee State Penitentiary at Nashville serving time under a sentence of 99 years imposed by the Criminal Court of Shelby County, Tennessee, the Honorable Judge Preston Battle (now deceased) then presiding.

That he was imposed upon by the respondents in the following manner: Petitioner first consulted with Arthur J. Hanes, an attorney at law in the State of Alabama, and that they reached a tentative agreement for the said Hanes to defend him on a charge of murder. The petitioner charges that he was before and at all

times since in jail without bail and under every restrictive security. Petitioner would show that after the original meeting with Hanes that he and Hanes started a line of discussion relative to Hanes' fee and expenses.

That Hanes revealed to the petitioner that he had been approached by the respondent, Huie, and that Huie would be willing to pay large sums of money for the exclusive rights to the story of your petitioner's life, including any and all facts surrounding the petitioner's alleged involvement in the slaying of Martin Luther King (whom petitioner at that time stood charged with murdering). After being assured by Mr. Hanes that his rights pending the homicide case would not be prejudiced or imperiled, the petitioner entered into a contract with respondent Hanes and with respondent Huie (a copy of which, together with other material contracts and correspondence, is attached to the original petition).

Your petitioner now realizes and so charges that the original and all subsequent contracts were not in any way for the petitioner's benefit; nor were they ever so intended to be. On the contrary, it is charged that respondent Hanes entered into collusion with respondent Huie, each having the specific intent to exploit your petitioner's plight to their own monetary benefit. Your petitioner was under extreme emotional and mental stress, whereby he was made more susceptible to the urgings of the attorney who was allegedly acting in his behalf. Respondent Hanes realized that your petitioner was a stranger to the tangles of the law, and therefore proceeded to "take him in."

Your petitioner would show that he at all times depended wholly upon the advice of Mr. Hanes until such time as Percy Foreman, the lawyer from the Texas Bar, entered into the case. At this point in time, the petitioner released Mr. Hanes and depended fully upon the advice of said Percy Foreman.

Your petitioner would show that he initially entered into a contract with Mr. Hanes, but that through an amendatory agreement induced by Mr. Percy Foreman, he signed a contract by virtue of

which Mr. Hanes was released upon the promise to be paid some \$35,000 by Mr. Huie. Under the amendatory contract, Mr. Foreman was to receive all rights formerly to have been Mr. Hanes'. However, Mr. Foreman was to receive further rights in regard to exclusive stories, motion picture contracts, re-run contracts, television rights, etc. In other words, Mr. Percy Foreman was to receive everything which might otherwise have been the property of James Earl Ray, in return for defending James Earl Ray.

The petitioner believes that the defendant Foreman has some sort of power of attorney so that on the face of said power of attorney, Foreman, if not restrained, will in all probability further act in the name of the petitioner to the petitioner's detriment in these and other matters.

Your petitioner was not versed in the law relative to contracts in general or, more specifically, contracts between attorney and client. Nor was he sufficiently knowledgeable or informed about the peril of his course, as made obvious by the fact that said agreements could and would adversely affect the defense in his criminal case.

Petitioner charges that the respondent Foreman advised, then cajoled, then pressured him into pleading guilty to the aforementioned charge of murder in the first degree. Among other things, the said Foreman told him that this course was the only way to save petitioner's life - all of this in spite of the fact that petitioner had at all times protested his innocence to Mr. Foreman.

Petitioner now believes and charges that neither respondents ever intended for him to have a fair trial and testify in his own behalf, as this would then make the facts and testimony public property and no one would or could have exclusive rights in the matter.

Petitioner charges that Foreman informed him that the only way to raise enough money to pay his fee was to sign over such rights as he had. Petitioner at this time had full faith in his attorney and acted strictly in accordance with his attorney's advice. He did not know that such acts actually prejudiced his rights in the criminal case and caused to arise a serious conflict of interest which rendered it impossible for Mr. Foreman to well and truly

represent him. There was no way for the petitioner to know that Mr. Foreman had, in fact, positioned himself in such a manner as to have a strong monetary interest in having his client found guilty and sentenced to a 99 year term for a crime which he did not commit. Mr. Foreman did not tell the petitioner, nor did the petitioner know, that there have been no executions in this state within the past decade and that the "bargaining" for the 99 year sentence could have easily been done by almost any student fresh out of law school. No ability, experience, or exhaustive research would be necessary to obtain the said results, particularly in view of the fact that petitioner at all times prior thereto proclaimed his innocence.

Petitioner would further show that the presiding judge, Judge Preston Battle, in an effort to keep down unnecessary publicity had enjoined all parties, including the attorneys, from releasing to the Press any statements relating to the petitioner and/or his case. That in spite of this injunction, respondent Foreman released statements to the co-respondent Huie, said statements purported to be from this petitioner. That such statements, even when and if the same were made by the petitioner, were statements of a confidential nature and privileged between client and attorney.

Petitioner charges that there has since appeared in a national magazine an article in which Huie sets forth certain statements purportedly made by the petitioner. Even if such statements were true, which petitioner denies, they could only have been based upon statements made to his lawyer, therefore bringing them under the rule of privilege between attorney and client (a copy of said magazine is filed to the original petition).

Finally, petitioner charges that not only does the above conduct violate the relationship of attorney and client, but also violates Canon No. 6 of the professional ethics set forth by the American Bar Association and which have been adopted by the state. Petitioner avers that the relationship of attorney and client existed at all times whenever he talked with any of his lawyers, but that he was never told, nor did his lawyer explain to him, the

true monetary aspects of the case or that the reception of such money under the conditions of the contract hereto attached would imperil petitioner's rights in the homicide case and violate the mandates of the Honorable Judge Preston Battle, now deceased.

From what he has now learned and believes, petitioner charges that his final attorney, Mr. Percy Foreman, was the agent of the co-respondent William B. Huie and was in fact looking out for his own (Foreman's) and his principal's (Huie) monetary interests, rather than the rights of this petitioner.

The action of the defendants as related above proves not only fraudulent breach of all agreements with petitioner, but also among civil offenses, shows that the defendants entered into a conspiracy to violate petitioner's civil rights, said conspiracy beginning prior to the original trial and continuing up to and until the present and even into the future. Petitioner would show that unless directly restrained by this court, they will further so prejudice the rights guaranteed the petitioner by the Constitution of the United States, of Federal Statute (22-1985), and State law.

Petitioner would show in corroboration of his belief and charge that Percy Foreman, who was allegedly representing him, coerced your petitioner into signing some sort of petition for waiver and other unlawful and unconstitutional petitions attached to the previous amended petition. Among those rights which respondent Foreman attempted to coerce your petitioner to waive were: 1) his motion for a new trial; 2) successive appeals to the Supreme Court of Criminal Appeals of the Supreme Court of Tennessee; and 3) petition for review by the Supreme Court of the United States (see page 2 of Voir Dire of Defendant of Waiver and Order).

Petitioner would point out to the court that there is no precedent for such a waiver in law or equity and that as an experienced attorney, Mr. Foreman must have realized not only the impropriety, but the gross injustice he was fostering upon his own client in direct contradiction to all of those legal rights guaranteed him by the constitution of both this state and the United States.

All exhibits heretofore filed are fully adopted as though filed herewith.

WHEREFORE, PREMISES CONSIDERED, PETITIONER PRAYS:

1. That he be allowed to file this petition and that proper process issue and be served upon the respondents and/or their agents, requiring them to appear at the earliest day convenient to be set by this Court, and to answer this complaint fully, but not under oath, their oath to the same being waived.
2. That a preliminary injunction issue enjoining the respondents from the further exposure of the alleged facts surrounding the slaying of Martin Luther King, insofar as such alleged facts affect the petitioner, or purport to involve this petitioner with said killing. Petitioner prays that upon the final hearing of this cause that said injunction be made final.
3. That any and all contracts entered into by the parties described above be voided or nullified and that all parties respondent be perpetually enjoined from pursuing their course by reason of any alleged contractual agreements or powers of attorney.
4. That all costs pursuant to petition be taxed against the respondents.
5. That he be granted such other general relief as the equities of this cause may demand.

RS
ROBERT W. HILL, JR.
Attorney for Petitioner

JS
J. B. STONER
Attorney for Petitioner

STATE OF TENNESSEE:

COUNTY OF DAVIDSON:

I, JAMES EARL RAY, first having been duly sworn, make oath that the matters and facts stated in the foregoing petition are true to the best of my knowledge, information and belief and that owing to my poverty, I am unable to bear the expense of the suit which I am about to bring.

JS
JAMES EARL RAY

Sworn to and subscribed before me,
this the 107 day of May, 1969.

Jimmy Rase
NOTARY PUBLIC

My commission expires: _____

5/22/69

AIRTEL

AM

TO: DIRECTOR, FBI (44-38861)
FROM: SAC, MEMPHIS (44-1987) P

MURKIN

Enclosed are two copies of Amended Petition
filed in U. S. District Court, Nashville, Tennessee, 5/21/69,
in captioned matter.

2 BUREAU (Enc. 2)
① MEMPHIS

RGJ:BN
(3)

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R

44-1987-Sub-C-126

SEARCHED _____

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INDEXED _____

FILED llh

Hester

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, MEMPHIS (44-1987)

DATE: 5/20/69

FROM : ASAC C. O. HALTER

SUBJECT: MURKIN

Supervisor CHARLIE GANLEY, Identification Division, telephonically informed as follows, May 20, 1969:

Departmental Attorneys BILL ARNOLD and LEATHERS have been in contact with U. S. Attorney TURLEY, Memphis, regarding the possible appearance of Examiner BONEBRAKE in State Court, Memphis.

TURLEY informed the Department that he has been in touch with the Judge's Committee in Memphis and stated he had a very gratifying conversation with the Committee. TURLEY pointed out to the Committee the facts in this case and indicated that he does not feel that BONEBRAKE has been in violation of any orders issued by the late Judge BATTLE. TURLEY also pointed out to the head of the Committee that he would represent BONEBRAKE.

TURLEY volunteered to the Department he thought it might be well for him to write the head of the Committee a letter relating the facts regarding BONEBRAKE and the position taken by the U. S. Attorney. At the suggestion of the Departmental Attorneys, TURLEY dictated such a letter to one of the secretaries in the Department so that the Department could give its approval or disapproval.

The letter is innocuous excepting the ending wherein TURLEY INDICATED he would produce BONEBRAKE in Memphis. The Department does not like such an ending, particularly since they have been trying to do everything possible to avoid the necessity of BONEBRAKE making an appearance in Memphis. The Department is going to instruct TURLEY not to send the letter to the head of the Committee as they don't think such a letter is necessary.

The Department and the U. S. Attorney feel that the local authorities will eventually dismiss the charges against BONEBRAKE, particularly since the appearance date of May 23, 1969 has been canceled.

COH:ME

(1)



5010-108

Hester
(info)

44-1987-Sub-10-127

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 20 1969	
FBI - MEMPHIS	

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

ME# 44-1987

Strictly on a confidential basis, the Department has stated that in the event local authorities don't bring this matter to a logical conclusion in the near future, the Department will move to take the matter from local court into Federal Court, which is their right whenever the Department is defending a Federal employee.

GANLEY wanted you to have the benefit of the above just in the event TURLEY should call you. There isn't any objection to your indicating to TURLEY that you don't feel that the letter to the head of the Committee is necessary.

Of course, we are not to initiate any contact with the U. S. Attorney in this regard but should he seek your advice, the Bureau wanted you to have the benefit of the above.

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE
DIVISION II

STATE OF TENNESSEE

I

VS.

I

NO. 16645

JAMES EARL RAY

I

REPLY BRIEF

The Petitioner in this cause filed an amendment to his Supplemental Motion for New Trial and a Memorandum of Authorities after the State of Tennessee had filed its Motion to Strike accompanied with a Memorandum of Authorities; therefore, State of Tennessee feels it proper to file a Reply Brief.

In essence Petitioner relies on two grounds in his Motion for New Trial. His first ground is based on Tennessee Code Annotated 17-117, and the admitted fact of Judge Battle's death within thirty days of Petitioner's plea of guilty, conviction, and sentencing thereon. In support of this ground the Petitioner cites a number of cases, all of which with the exception of Swang v. State 42 Tenn. 212 and Knowles v. State, which will be discussed later, were cases in which an actual trial was had. None of the cases so cited are applicable to our particular situation; for example, Howard v. State 399 SW2d 739 was a case tried in this same division, and in which Judge Campbell had not signed the minutes of the conviction on the trial and sentencing prior to his death. The cause was of course reversed as a court speaks only through its minutes. In the case of Knowles v. State cited by the Petitioner, a guilty plea was set aside because no evidence was presented to the jury. Of course, in our particular situation evidence was presented, see State of Tennessee exhibits, and further, it