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Legal documents
44-1987-Sub-D
CLASSIFICATION NO.

INVESTIGATION

Bureau File Number 44-38861

Volume Number
Serials 151-

See also Nos.

SEE ~~151~~ VOL 2
FOR LITIGATION

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F B I

Date: 4/21/70

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL _____
(Priority)

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

MURKIN

Reurairtel 4/14/70.

SAC, Memphis should prepare an appropriate affidavit refuting the statement set forth in Jerry Ray's affidavit pertaining to the FBI and furnish the original to the Criminal Court of Shelby County, Tennessee, and furnish copies to the Bureau for dissemination to the Civil Rights Division.

44-1987-Sub. O-150

SEARCHED	INDEXED
SERIALIZED <i>ll</i>	FILED <i>ll</i>
APR 22 1970	
FBI - MEMPHIS	

Hester *Q*

Sub O

(see me)

Sent Via _____ M Per _____

4/21/70

AIRTEL

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MURKIN

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44-1987-Sub-O-150

SEARCHED	INDEXED
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APR 22 1970	
FBI — MEMPHIS	

PW

4/28/70

AIRTEL

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

Re your airtel 4/21/70.

Enclosed are 2 copies of an affidavit prepared and signed by the SAC, Memphis, refuting the allegations set forth in JERRY RAY's affidavit. The original will be furnished to the Clerk of the Criminal Court of Shelby County, Tennessee, on 5/8/70, UACB.

*affidavit furnished
one Clyde Mason state
H+G at he will attach
it to his answer to Ray's
motion. RB 5/8/70.*

[Handwritten signature]

*Boyle BB
(pls handle)*

44-1987-Sub-G-151

2 - Bureau (Enc. 1)
① - Memphis
JCH:jap
(3)

jap 1A-278

SEARCHED

[Handwritten marks]

*Hester
delivered 5/8/70*

IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE

JAMES EARL RAY,
Petitioner

VS

NO. H.C. 661

STATE OF TENNESSEE

and

LEWIS TOLLETT, WARDEN
State Penitentiary at
Petros, Tennessee,

Defendants

FILED *May 7, 1970*
J. A. BLACKWELL, CLERK

BY *J. B. Stoner*, C.

AMENDED PETITION FOR POST CONVICTION RELIEF

Comes now your petitioner, JAMES EARL RAY, by and through his attorneys, J. B. STONER, RICHARD J. RYAN, and BERNARD FENSTERWALD, JR., and respectfully shows to the Court that he is being illegally and wrongfully restrained of his liberty by the Warden of the Penitentiary of the State of Tennessee, located near Petros, Tennessee, in Morgan County.

Petitioner asks that this AMENDED PETITION be substituted for and should replace one filed on April 13, 1970, reserving to the petitioner the exhibits that were made part of the Original Petition herein, and said exhibits the petitioner adopts and refers to them in this Amended Petition as being "Exhibits B through F." Petitioner further hereto enters Exhibit No. 1, an Affidavit of Carol and Albert Pepper, and it is made a part of this Amended Petition.

Petitioner states that his name is JAMES EARL RAY; that his present address is the Brushy Mountain Prison at Petros, Ten-

nessee; that he is under confinement being sentenced on the charge of murder under Criminal Court Docket No. 16645 of Shelby County, Tennessee; that the sentence was pronounced by the late Honorable Preston Battle on March 10, 1969, in Division III of the Criminal Court of Shelby County, Tennessee; that the sentence was for a term of ninety-nine (99) years; that he is confined to the Brushy Mountain Penitentiary at Petros, Tennessee, in the custody of Warden Lewis Tollett who is presently charged with the custody of petitioner; that said custody began on or about March 25, 1970; that prior to that date your petitioner was confined in the State Penitentiary in Nashville, Tennessee, in the custody of William S. Neil, Warden.

Petitioner would show that he heretofore filed a Motion for a New Trial; that prior to the hearing the presiding Judge, the Honorable Preston Battle died; that an Amended Motion was filed suggesting the death of the trial judge; the State of Tennessee filed a Motion to Strike and it was granted by the succeeding Judge, the Honorable Arthur Faquin, said judgment being appealed to the Court of Criminal Appeals and the Supreme Court of the State of Tennessee which was subsequently affirmed and the Petition to Rehear denied.

Your petitioner was represented by the following attorneys at the various stages of his case: in the extradition proceeding in London, England, by Messrs. Michael Eugene (Solicitor) and Roger Frisby (Barrister); while in incarceration from July to November, 1968, by Messrs. Arthur Hanes, Jr., and Arthur Hanes, Sr., of Birmingham, Alabama; from November 12, 1968 through March 10, 1969, by Mr. Percy Foreman of Houston, Texas, assisted by court-appointed Public Defender of Memphis and his staff; on appeal in 1969 by Messrs. J.B. Stoner of Savannah, Georgia, Richard J. Ryan of Memphis, and Robert Hill of Chattanooga; cur-

rently petitioner is represented by Messrs. Stoner, Ryan, and Bernard Fensterwald, Jr., of Washington, D. C.

Your petitioner charges that his rights of "due process" guaranteed him by both the State and Federal Constitution have been grossly violated.

He avers that his rights to counsel guaranteed him by the State and Federal Constitution at all stages of the criminal proceedings against him have been grossly violated.

He also avers that he has not been accorded the "equal protection" guaranteed him by the Fourteenth Amendment to the United States Constitution.

As a result of these violations, petitioner avers that his plea of guilty was involuntary, and offers the following facts and supporting evidence in support thereof:

I. DUE PROCESS DENIED IN PROCEEDING WHEREBY PETITIONER WAS EXTRADITED TO MEMPHIS.

a. Petitioner was not permitted to consult Arthur Hanes, Sr., counsel of his choice, before the extradition hearing in the Bow Street Magistrate's Court, London, on June 28, despite the fact that Mr. Hanes had gone to London for that very purpose.

b. While incarcerated in London, petitioner was denied the right to communicate orally or in writing with persons who might assist him. For example, he was denied the right to communicate with Mr. Heath, Leader of the Opposition in Parliament.

c. Virtually all of the evidence presented in England against petitioner was in affidavit form and hence, not subject to cross-examination. Only one witness from the United States was offered and cross-examined; he was Mr. Arthur Bonebrake, an FBI Special Agent, who testified at greatest length on civil rights matters in the United States, though he repeatedly admitted that he was incompetent to give expert testimony with respect to such matters. [See Exhibit A for Mr. Bonebrake's testimony.]

d. If petitioner had had competent counsel in England, he could not have been extradited for the murder of Dr. King, even if he had perpetrated the crime, because under the Anglo-American extradition treaty of 1931 and the applicable doctrines of international law, extradition is not granted in cases of political crimes.

e. Mr. Ramsey Clark, Attorney General of the United States, refused to permit the petitioner's lawyer, Mr. Hanes, to accompany him on the flight from London to Memphis; therefore, Mr. Hanes was absent and unavailable when petitioner arrived in Memphis. This decision on the part of the U.S. Attorney General was arbitrary and capricious, and it resulted in a denial of due process to petitioner at the hands of U.S. authorities even before petitioner arrived in the United States.

II. DUE PROCESS - TRIAL BY PRESS

a. Petitioner would like to remind the Court that this was a case that attracted international attention due to the prominence of the person murdered, and that the Trial Judge deemed it necessary to take unusual and rigorous steps in an effort to

prevent either the State or this petitioner from being prejudiced by the welter of lurid publicity which attended this case.

b. In order to keep him from being totally indigent and to finance at least a part of the cost of his defense, petitioner made certain agreements between himself, his attorneys, and Mr. William Bradford Huie, whereby he would assist Mr. Huie in the preparation of certain magazine articles, books, etc., re the charges against petitioner. [See Exhibits B through F, attached hereto.]

c. Despite a promise to petitioner that he would not publish anything prior to trial, and despite an order by the Trial Judge that no such pre-trial publication be made, William Bradford Huie did publish two long articles in Look Magazine prior to the original trial date of November 12, 1968.

d. Huie not only broke his pledge to petitioner, he also misquoted and distorted what was told him by petitioner. For example, petitioner told Huie that his principal prior to the date of Dr. King's killing had "dark, red hair;" in Huie's articles, the principal was a "blonde."

e. The substance of Huie's pre-trial articles in Look Magazine [Appendixes G and H] was widely distributed, directly and indirectly. As Huie then stated that Dr. King's murder resulted from a wide conspiracy, the article had the effect of warning potential witnesses that there were powerful conspirators free to wreak vengeance if they said anything.

f. Huie's pre-trial publicity, and the indirect publicity deriving from it, would have made it difficult for an

unbiased jury to be picked for petitioner's trial.

g. For these reasons, the Trial Judge charged Huie with contempt of court; unfortunately, the Trial Judge postponed action on the charge, and he died before Huie could be tried by him on this charge.

III. DUE PROCESS - EXCULPATORY INFORMATION
WITHHELD FROM PETITIONER

a. Petitioner avers that much exculpatory information was withheld from the petitioner. A few of the more crucial items are:

1. the plain fact that no identifiable bullet was removed from Dr. King's body;

2. that Dr. King suffered a second and more damaging wound than the one to the jaw, proving that the missile was frangible or fragmentable; and

3. that, immediately after the crime, the State's chief eye witness, Charles Quitman Stevens could not and would not identify petitioner as the killer.

b. Much of the exculpatory material was contained in 200-odd pages of affidavits and other documents presented to the Bow Street Magistrate's Court in connection with the extradition proceeding. These documents were returned to the United States custody at the completion of the extradition proceeding; they have been sequestered and made unavailable to Ray's lawyers and

to Ray himself, although urgent and repeated requests for them have been made to both the British and U.S. Governments. [See Exhibits I and J].

c. During preparation for trial, petitioner filed a motion for the State to produce ballistic and weapons tests and reports thereof. By order dated September 9, 1968, the Trial Judge denied the motion, thus wrongfully depriving petitioner of information vital to his defense. [See Exhibits K and L for said Motion and Order.]

IV. DUE PROCESS - UNAVAILABILITY OF WITNESSES

a. The State provided the petitioner with a list of 360 "potential witnesses" in various States of the Union and in a number of foreign countries. Although the State made the statement that it actually intended to use only "80 or 90" of these "potential witnesses," it would not give the list of 80 or 90 to petitioner, nor, despite numerous requests, would the Trial Judge order it to do so. Further, Trial Judge refused to permit petitioner's attorneys to take depositions from any witnesses, here or abroad. This combination of factors amounts to a denial of petitioner's right to due process, both under the Constitution of Tennessee and under Articles V and XIV of the U.S. Constitution.

b. Petitioner believes that at least one crucial witness, Mrs. Grace Stevens, was wrongfully incarcerated in the (Tennessee) Western State Mental Hospital solely because she might have testified favorably to petitioner.

V. UNREASONABLE SEARCH AND SEIZURE

Petitioner has reason to believe that an illegal search and seizure was made by the FBI of his rented premises at 107 14th st., N.E., Atlanta, Georgia, and that the fruits of this search and seizure were introduced in evidence at his trial on March 10, 1969. [For a discussion of this matter before Trial Judge on February 7, 1969, see Exhibit M, pp. 16-19 of the transcript for that date.]

VI. RIGHT TO COUNSEL

Under both Tennessee and Federal law, right to counsel means effective right to counsel. Petitioner avers that his effective right to counsel was negated in the following specific ways:

a. During his incarceration in Memphis, he was physically prevented from having private conversations with his attorneys. Not only were there guards present at all times, but also his quarters (where lawyer-client conversations were permitted) were permanently and admittedly "bugged;" it was said that the microphones were cut off during such conversations, but there was no way for either petitioner or his lawyers to verify this. Further, all written communications, even between lawyer and client, was subject to censorship. A motion to grant private communication was made by petitioner [Exhibit O] but denied by the Trial Judge [Exhibit P].

b. A series of conflicts of interests prevented a series of competent attorneys from providing effective counsel to petitioner.

Petitioner first chose Arthur Hanes, Sr., of Birmingham, Alabama, as his counsel-of-choice. At their very first meeting, Hanes required petitioner to sign two documents: 1) a general power of attorney; 2) a fee contract whereby Hanes would get 40% of all future proceeds to be derived from the sale of petitioner's story in the form of magazines, books, movies, etc. [See Appendix]. Lawyer Hanes knew that his 40% might come to a tidy sum, as he had already contracted with Author William Bradford Huie for the magazine and book rights before he departed for London for his meeting with petitioner.

Upon petitioner's return to the United States, Lawyer Hanes presented petitioner with a new contract, whereby a new carving up of petitioner took place:

Huie	40%
Hanes	30%
Ray	30%

but, as Hanes got 40% of Ray's 30%, it came out:

Huie	40%
Hanes	42%
Ray	18%

To finance the deal, Look Magazine advanced Huie \$30,000; Huie paid the \$30,000 to petitioner, who, in turn, signed it all over to Hanes as his legal fee. . .

This contract forced petitioner to provide Huie with what was against petitioner's interest, i.e., falsehoods, as he dared not tell the whole truth if he wished to live.

From Huie's standpoint --- and also from Hanes' standpoint in large measure --- there could be no real income if

all of petitioner's story were told in open court where it became part of public domain. Specifically to Huie, it meant that he had to get part of petitioner's story in print before any trial, hence, he risked contempt of court to publish two articles in Look --- all to petitioner's detriment. Petitioner is informed, and therefore alleges, that the author Huie made the statement that your petitioner "must not take the witness stand in his expected trial, because if he did take the witness stand, then he (Huie) would have no book."

To Hanes, it meant basically the same thing, i.e., although he could try the case on a not-guilty plea, he could not permit petitioner to take the stand and tell his whole story from the witness stand. Thus, Hanes, was protecting his own mercenary interests and those of Huie, rather than protecting the life and liberty of petitioner.

As November 12th and the opening of the trial neared, petitioner and Hanes were unable to agree as to petitioner's taking the stand. At this point, Attorney Percy Foreman entered the case, but improperly. Although he knew that petitioner still retained Arthur Hanes, Foreman was persuaded by petitioner's brother, Jerry Ray, to visit Memphis and petitioner without informing Hanes or receiving any request, either orally or in writing, from petitioner. In fact, Jerry Ray had written petitioner in England as to the acceptability of Foreman as counsel, and he had received an emphatic "no," because petitioner knew Foreman to be very friendly with U.S. Attorney General Ramsey Clark and his father, retired Justice Tom Clark.

However, in Memphis on November 10, 1968, Foreman persuaded petitioner to discharge Hanes and retain him as counsel. Foreman said that he could break the Huie-Hanes contract; whereupon, petitioner agreed orally with Foreman at their first meeting on November 10th, that a fee of \$150,000 should be paid out of future "earnings" for Foreman's legal assistance through the trial and on appeal, all the way to the U.S. Supreme Court if necessary. However, Foreman then turned around and renegotiated the Hanes-Huie arrangement, inserting himself for both Hanes and petitioner; thus, he had a 60% interest and Huie had a 40% interest in petitioner's "earnings" from books, magazines, etc. In short, Foreman rapidly assumed the same conflict of interest that had immobilized Hanes as an effective advocate, with one exception: he was greedier than Hanes, taking petitioner's 18% for himself.

Petitioner alleges that in the establishment of conflict of interest between petitioner and Hanes and Foreman, as evidenced by Exhibits B through F, that the said prior attorneys actually represented Huie and their own financial interests and not his, your petitioner's.

Petitioner further avers that these attorneys entered into contracts with Huie who was desirous of obtaining the exclusive rights to the facts of the petitioner's version of the case, and this could not be accomplished if there was an open trial of the case, as the facts of such a public trial would thereby become public knowledge. Petitioner avers that Attorney Foreman conceived the diabolical idea that if he could induce petitioner to plead guilty, these ends could be thus achieved.

Petitioner charges that attorneys Hanes and Foreman had a responsibility over and above that to their client. As agents

of the court, they had an obligation to see that justice was done. They should have refrained from making sharp financial transactions and then fitting their court performance to their financial interests. They ignored their responsibilities to their client and their profession.

Petitioner's failure to have effective and honest counsel is in reality a greater disservice to him than having incompetent counsel and is a gross denial of his rights under Article I, Section 9, of the Constitution of the State of Tennessee and the 6th and 14th Amendments to the Constitution of the United States of America. This failure to have effective representation made petitioner's plea of guilty, a farce, a sham, and a mockery of justice.

c. As difficult as it may be to believe, the Public Defender and his office aided the prosecution more than the petitioner.

On December 18, 1968, the Trial Judge appointed the Public Defender, Mr. High Stanton, Sr., to assist Foreman in preparing his defense of petitioner, who had been adjudged indigent. At their very first meeting on December 18th, Stanton suggested to Foreman that they should attempt to work out a guilty plea.

Petitioner avers that the Trial Judge appointed the Public Defender to assist in his, petitioner's, preparation of his defense, not to persuade his counsel-of-choice to enter a plea of guilty.

VII. THE DEAL

After Stanton's conference with Foreman on December 18th, he went to work to see what kind of a deal he could work out with the other interested parties for a plea of guilty and a "reduced" sentence.

On December 26th, Stanton phoned Foreman that the best he can do was a sentence of 99 years. When this word was passed to petitioner, he vehemently rejected the deal.

During January and February, 1969, Foreman visited petitioner often. His theme was always the same: accept the deal or go to the electric chair. Eventually, petitioner was persuaded and signed a letter authorizing Foreman to make a deal. On February 21st, Foreman took the formal plea of guilty to District Attorney Canale. On February 28th, Asst. District Attorney Beasley gave Foreman the stipulations which must accompany the plea. On or about February 28th, Foreman returned with petitioner's approval of the stipulations. In early March, District Attorney Canale consulted the U.S. Department of Justice which gave its approval to the deal. Next the District Attorney consulted Mrs. King and the Reverend Abernathy who did not "approve" the "deal" but said that they did not object to petitioner's not going to the electric chair, as they disapproved of capital punishment in general. Mrs. King and the Reverend Abernathy have both consistently expressed the view that they believe that the Reverend King was murdered as the result of a conspiracy.

Finally, Messrs. Foreman and Canale took the deal to the Trial Judge who gave his approval, but only because the deal provided 99 years imprisonment rather than a life sentence. Ironi-

cally, after sentence had been pronounced, Judge Battle proclaimed to the court that it had been a good deal. After all, according to him, it avoided the possibility of acquittal or a hung jury, and, after all, no one has been put to death in Tennessee in over a decade.

VIII. PETITIONER ACCEPTED DEAL UNDER DURESS AND BRIBERY

a. Petitioner charges that his attorney, Percy Foreman, instituted a course of action toward him designed to pressure petitioner into pleading guilty. Your petitioner avers that his attorney's action was not taken for the welfare of petitioner but was done by his said attorney so that he could collect large sums of money from the writer or writers with whom he had contracted.

b. Although petitioner was very loathe to plead guilty to a crime which he did not commit, he was equally loathe to disregard the consistent and persistent advice of his chosen and experienced counsel. Personalities and differences in age and education - petitioner only finished eighth grade - certainly took its toll in the process of persuasion and acceptance.

c. Petitioner avers that attorney Foreman pressured him toward a plea of guilty all during the months of January and February, finally warning him without equivocation that 'the only way to save his life was for him to plead guilty.'

d. Having changed lawyers once, and having been warned by the Trial Judge that he would not be permitted to do so again except under the most exceptional circumstances, and fearful of

ignoring the advice of his chosen counsel and the Public Defender, petitioner finally gave in and consented under extreme duress to a plea of guilty.

e. Petitioner avers that Attorney Foreman told him that chances of conviction were "100%" and chances of the electric chair were "99%."

f. Later, on a national TV program (Dick Cavett, August 9, 1969), Attorney Foreman bragged of his handling of the guilty plea:

Cavett: a lot of people in the legal profession were astounded at how you got him to change the plea.

Foreman: I didn't get him to change the plea. I simply told him that I thought he would be executed if he didn't.
[Laughter.]

g. What Attorney Foreman did not tell the TV audience was that, when the agreement for the guilty plea became unhinged on March 9th, the day before the trial, that he seasoned his duress with a touch of bribery to get petitioner "back in line." Specifically, petitioner desired to change his mind and return to his original plea of "not guilty." When Attorney Foreman heard of this, he rushed to the jail and spent 2-1/2 hours with petitioner, arguing with him to stick with the "guilty plea."

Furthermore, Attorney Foreman said (and confirmed in writing) that if petitioner persisted in his demand for a "not guilty" plea and a trial that he (Foreman) would insist on execution of his contractual rights to all of petitioner's future earnings from literary, movie, etc. rights; Foreman estimated these to be approximately one half million dollars; Foreman had some basis for this estimate as he thought he had worked out movie

rights alone with producer Carlo Ponti for \$175,000, plus 13% of proceeds. Attorney Foreman informed petitioner, however, that if he stuck with the guilty plea "and no embarrassing circumstances take place in the courtroom, I am willing to assign to any bank, trust company or individual selected by you all my receipts under the above assignment in excess of \$165,000.00". It has never been explained as to whom the circumstances were not to be "embarrassing." Foreman? Canale? The United States? [See Exhibits Q and R for two letters of March 9, 1969, from Percy Foreman to petitioner.] Thus, bribery was added to duress.

IX. CRUEL AND UNUSUAL PUNISHMENT

Petitioner avers that he was subjected to cruel and unusual punishment in violation of the Constitutions of Tennessee and the United States, and that this punishment contributed directly to his plea of guilty to a crime which he did not commit. Specifically, petitioner avers that:

a. He was kept in solitary confinement in Memphis for nine months.

b. He was cut off from all fresh air and daylight during this long period of time.

c. He was under constant surveillance, 60 minutes of every hour, 24 hours of every day during that period. The surveillance consisted of bright lights, guards within eye and ear shot, closed circuit TV and concealed microphones at all times.

d. Despite protests, he was subjected almost constantly to radio and TV noises from the guards' radio and TV sets.

e. As a result of this cruel and unusual punishment, he could not get proper rest. He became extremely nervous and suffered from chronic headaches and nosebleeds.

f. The Trial Judge denied a motion by petitioner to correct or ameliorate certain of these conditions.

g. Because of his distress and nervousness, he became incapable of making rational and intelligent decisions with respect to his defense. He became wholly dependent on Attorneys Foreman and Stanton and their judgement. Eventually, his resistance was worn down and he was induced to bow to their insistence on a plea of guilty.

XI. DID PETITIONER IN FACT AGREE IN COURT
THAT HE WAS VOLUNTARILY PLEADING GUILTY?

At the hearing on March 10, 1969, Judge Battle posed this question to petitioner:

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

According to the transcript prepared by the Clerk of Court, petitioner replied:

"No, no one, in any way." [Exhibit Q.]

However, in the only published version of the court proceeding [See Exhibit R, The Strange Case of James Earl Ray, by Clay Blair, Bantam Press, 1969, at p. 210, the exact same question is answered:

"Now, what did you say?"

and the judge, without repeating the question, went on to the next question.

Yet, on this crucial question of duress, still another "official" version of the transcript, that of Miss Marty Otwell, Court Reporter, Memphis, completely omits both the question and answer. [See Exhibit S]. Miss Otwell had been approved by Judge Battle as official court reporter for petitioner.

Petitioner avers that he recalls that the question was asked, but that, because of its importance, he wanted to be sure that he understood it exactly. To the best of his memory, the question was not repeated, and he was given no further opportunity to answer it.

Petitioner further avers that the record on this point, at best, is very unclear, and that, as set out above at some length, continuous and heavy pressure was brought to bear by his counsel. The pressure had been particularly heavy on the previous day, March 9, and it had been supplemented with bribery.

XII. FRAUD ON THE COURT

Petitioner avers that the Court as well as he has been defrauded by the actions of counsel in this case, and cites the following specific examples:

- a. Despite a prohibition against pre-trial publicity, Look Magazine published highly prejudicial articles by author

Wm. Bradford Huie, who had received his information from Attorney Arthus Hanes.

b. On November 12, 1968, when Judge Battle enrolled Percy Foreman to practice before the court as petitioner's counsel, Foreman made no mention of fee. However, when he reported to the court on December 18, 1968, as to progress in his investigation of the case, he made these statements:

"I intend to stay in this case as long as your Honor will permit me so to do and without compensation. If compensation should become available, it will do so without my committing any of what I consider a lawyer's responsibility or a client's rights." [Transcript, p.3]

"... and I will keep this court advised if any contracts of any kind are signed or agreed upon." [Transcript, p. 6]

"If I were willing to sell this man's life for some royalties on a picture and on a book, magazine articles, it would be logical for money but I don't practice law for money now. There was a time when I did." [Transcript, p. 23].

Again, on February 7, 1969, he told the court:

"... because I want it said at the conclusion of this trial that I did not receive anything for my part of this case...." [Transcript, p. 21]

As Exhibits B-F indicate, from the very beginning Foreman had every intention of extracting as much money as possible out of the case. Petitioner avers that at their very first meeting, Foreman demanded and he verbally agreed to \$150,000 if that much could be realized from the sale of literary rights. In time, this sum was increased considerably and, at one point, Foreman had a written contract for all of petitioner's and Hanes' percentage of the future rights.

Petitioner further avers that he knows of no evidence to indicate that these mercenary agreements, so full of conflict of interest, were ever revealed to the court as promised.

c. Attorney Foreman's Motion for Enrollment, granted on November 12, 1968, contained this promise:

"That he will, if admitted, secure the services of a lawyer licensed by the State of Tennessee to associate with him in the defense of said cases."

Yet, petitioner avers, that no such lawyer was ever engaged. The first mention that petitioner heard of a Tennessee lawyer in private practice was on or about March 1st when Foreman said that he wanted Attorney John J. Hooker, Sr., of Nashville, associated with the plea of guilty. Under the circumstances, petitioner declined the services of the eminent lawyer, as he needed no further assistance in pleading guilty.

d. Attorney Foreman stalled the court for months with the argument that he personally needed to interview all 360 of the State's prospective witnesses. Petitioner believes it to be a fact that Foreman personally interviewed less than 10% of these witnesses (if, indeed, that many) and that the extensions of time were sought solely to pressure him into a plea of guilty.

e. Later, on the Dick Cavett show of August 8, 1969, Attorney Foreman discussed petitioner's case and made at least two statements which petitioner urges are further frauds on the court of which Foreman is an officer:

1. He outlined certain serious crimes which he alleges petitioner perpetrated; if petitioner had perpetrated such crimes he could be prosecuted and might

be convicted; and public disclosure of such alleged crimes is a gross breach of a lawyer's responsibility toward a client. Foreman's statement as to petitioner was as follows:

"Well, he [petitioner] ran three packets of narcotics from Windsor down to Detroit. He ran one tire full of jewelry from Laredo, Texas, into Mexico.

2. Attorney Foreman also made this statement on the same show:

"Well, there are few people in my 42 years and not one has committed a murder that ever committed his second one. Of course, there are paid killers, but they are an asset to society usually by the type of people they kill, at least most of them. [Laughter].

Such is the lawyer who persuaded petitioner to plead guilty.

XIII. PUBLIC INTEREST

No two cases are exactly alike and petitioner believes that his case is somewhat exceptional from the viewpoint of public interest.

The public is grossly dissatisfied with the proceeding in Memphis whereby petitioner plead guilty. They do not believe that he killed Dr. King, certainly not by himself. If there was a conspiracy, they wish to know the identity of the conspirators, and why they have not been tried and convicted.

Under our American system of law, all suspects are to be tried in court by an adversary proceeding. Here, due to the duplicity of petitioner's attorneys, petitioner was tried, not in court, but in the press in advance of a trial date. There was no adversary proceeding, only a stipulation of the record.

Petitioner avers further that he has never had a trial and has never been accorded his day in court. By way of being more explicit, petitioner would show to the court that he was induced to plead guilty when, in fact, he was and is not guilty of the crime of murder.

XIV. TRIAL JUDGE INTENDED TO HEAR MOTION FOR
NEW TRIAL AT TIME OF HIS DEATH

Petitioner avers that Judge Battle intended to hold a hearing on petitioner's Motion for a New Trial at the time of his death. In fact, he had on his desk two letters from petitioner which he considered the equivalent of such a Motion. He had promised petitioner's new counsel, Mr. Richard Ryan of Memphis, on that very day that he would arrange for Mr. Ryan to visit petitioner in jail and work out details of the Motion before the thirty-day time limit ran. Unfortunately, Judge Battle dropped dead before he could complete these arrangements on that day.

Your petitioner avers that another Judge, the Hon. Arthur Faquin, serving in place of Judge Battle, ruled that since he had pleaded guilty, there could be no motion for a new trial heard, and refused to set aside the judgment. Yet, in a reply brief of May 13, 1969, District Attorney Canale admitted that Judge Battle, had he lived, could have given petitioner relief

"on a Motion to Withdraw his plea of guilty if the proper and required grounds were present." Also, by an order dated March 13, 1969, Judge Battle ordered all evidence retained by the State, obviously anticipating further legal moves in the case.

The case was carried to the highest appellate courts of this State and finally the Supreme Court of Tennessee affirmed the judgment of the Criminal Court of Shelby County. This was done despite the statutes of Tennessee which require a new trial where the presiding Judge has died before passing on such motions. The prior decisions of the Supreme Court of Tennessee had held this to be a wholesome law since the judge who heard the case was the only judge who could properly and legally authenticate the record in the case for review by the Supreme Court.

XV. DELAY

Your petitioner further charges that this matter was brought to the attention of the Judge who originally presided in this case, and before the death of Judge Battle, and to the attention of the successor Judge and the District Attorney General, within a short time thereafter; the matters contained in this complaint were brought to the attention of the Court and the prosecution promptly, so that delay could not have been petitioner's motive, nor could the passage of such a short period of time have impaired the chances of the prosecution in presenting whatever case they have or may have not had. Petitioner hereby makes his affidavit a part of this petition and is filing the same with this petition.

He would show to the court that the State's case has not been prejudiced, and that he has obtained no unfair advantages by reason of his plea of guilty.

XVI. RELIEF

Petitioner avers that he only pleaded guilty because of the above-stated reasons and not because he was in fact guilty.

PREMISES CONSIDERED, PETITIONER PRAYS:

1. That he be allowed to file this petition;
2. That the Writ of Habeas Corpus issue requiring the warden, Lewis Tollett, to have the person of the petitioner before this Court at such time and place as this Court may require and order, so that the legality of his restraint may be inquired into;
3. He prays that he be allowed to withdraw his plea of guilty and that the judgment upon which he is being restrained be set aside and for nothing held and that he be granted a trial on his plea of not guilty;
4. That the Public Defender be ordered to make all files on this case available to present counsel for petitioner;
5. That an evidentiary hearing be granted under Section 40-3809 of Tennessee Statutes;
6. That for such evidentiary hearing, a Court Reporter be appointed under Section 40-3801 of the Tennessee Statutes;
7. He prays for such other, further and general relief as the equities and justice of the case may demand.

James Earl Ray
by Richard J. Ryan
JAMES EARL RAY
(Petitioner)

J. B. Stoner
J. B. STONER
(Attorney for Petitioner)

Richard J. Ryan
R. J. RYAN
(Attorney for Petitioner)

Bernard Fensterwald Jr.
B. FENSTERWALD, JR.
(Attorney for Petitioner)

And this witness on oath says: George Jacob BONEBRAKE
of 12314 Georgia Avenue, Silver Spring, Maryland.

I have already sworn on affidavit in these proceedings. I am a fingerprint examiner in the Federal Department, Washington, D.C. having held that position since February 1941.

During that time I have made millions of fingerprint comparisons for identification purposes.

On April 5th 1968 I received a Remington Rifle number 461476, a Redfield telescopic sight A 17350 and a pair of Bushnell binoculars BN 408664.

I examined each of these for latent fingerprints. I found one on the rifle and one on the telescopic sight and one on the binoculars.

On April 19th 1968 I compared those three latent fingerprints with the known fingerprints of James Earl Ray from the officials of the Los Angeles Police Department. I found that the print on each of these items had been made by the same individual as had made the prints listed as those of James Earl Ray.

I have prepared comparison photographs. I now produce photographic enlargements, one portion being labelled "Latent finger print 1" as an enlargement of the latent fingerprint on the rifle; another being labelled ink finger print 2 as an enlargement of the left thumb print appearing on the fingerprint card from the officials of the Los Angeles Police Department - this now Street Exhibit 6.

I found 14 characteristic points of identity between these two prints.

I also produce on a similar card a comparison of
/the finger print

the finger print found on the telescopic sight - I found in respect of that eleven points of identity - this Bow Street Exhibit 7.

I did the same in respect of the print found on the binoculars. I found eleven points here. I produce that card - Bow Street Exhibit 8.

I also examined the finger print files in Washington containing the finger prints of James Earl Ray taken in connection with his imprisonment in Missouri Penitentiary in 1960.

I compare the Los Angeles prints with the Missouri prints. They were the prints of one and the same man.

I now identify in the authenticated documents before the Court the Los Angeles prints which are Exhibit 2 to my affidavit. Exhibit 3 to that is the Missouri prints.

I look now at Bow Street Exhibit 5. I have compared these with the Los Angeles prints, with the Missouri prints, with the latent print on the rifle, with the print on the telescopic sight and with the print on the binoculars, - each of these last three being in Bow Street Exhibits 6, 7 and 8 and the exhibits 3, 4 and 5 to my affidavit.

In my opinion these were all of one and the same man.

~~Cross-examined.~~

My duties are confined solely to fingerprint work and have been so confined for the 25 years or more with that department. I therefore am not brought into contact with any political aspects of the Department's work except as may be through fingerprints.

/ I do, however,

I do, however, take a personal interest in the politics of my own country - that of an intelligent man interested in the politics that affect his country.

Dr. Martin Luther King was a nationally known figure. He inspired great affection with some but dislike in others, though I would say rather the former than the latter. I have no doubt there were in the United States people with a hearty dislike of what Dr. King stood for.

For something like 13 or 14 years before his death Dr. King had been active in promoting the causes he believed in. Some of these activities had led to opposition by other people and in connection with some of them I agree there was strong feeling in some of the community.

I recall reading in 1955 of a negro boycott of buses in Montgomery, Alabama. Dr. King was, as far as I recall, presiding over the committee organizing that. The protest was I believe raised over segregation on the buses. I cannot remember whether Dr. King was arrested on that occasion or whether bombs were thrown at his house. I agree that off and on since then Dr. King was in the public eye. I have read about the "Southern Christian Leadership Conference". I know that Dr. King was one of the leaders of that. It was a body taking part in non-violent demonstrations. Some were by students "sitting in" in various places.

Arising out of such demonstrations there were acts of violence because of opposition. I agree that at various times there were arrests and I would agree there was pretty strong feelings on both sides. In the beginning, to the best of my knowledge and belief, this

/body associated with

body associated with Dr. King was uncommitted politically in the sense of party politics.

I would agree Dr. King was active most of the time from the time of the Montgomery bus boycott. There were demonstrations and sit-ins.

I recall reading of the Freedom Ride in possibly 1961. I think it was in connection with de-segregation of inter-state transport.

There were demonstrations against Dr. King during that Ride. There was violence involved in several of these demonstrations. I do not recall the number of arrests made.

I agree that a more militant movement "Black Power" has grown up, but I cannot speak of the timing. I believe that there was some disagreement between the two groups, i.e. Dr. King appeared to be opposed from two sides, i.e. from those who opposed his ideas and from those who thought he was not going far enough.

I recall slightly the March on Washington - maybe it was in 1963. It was a very large gathering - I know there were mixed races in the March, but could not give percentages.

I know of the Civil Rights Act passed in 1964 I believe.

I am sure that the pattern of events must have had some influence on Congress, but I cannot say to what extent.

I recall the Voting Rights Act being passed - maybe in 1965. Between these two Acts I recall a March led by Dr. King from Selma to Montgomery. A large number took part I believe. I do recall two ministers being killed and a lady. I believe the Voting Rights Act

/was passed

was passed after that March.

I would think that Dr. King was the most well-known name in this movement. I believe he was one of the organizers of the Poor Peoples Crusade.

At the time of his death Dr. King was in Memphis at the time that sanitary workers were on strike.

Re-examination

I have expressed purely my personal views and I must not be taken to represent officially any Government view.

I have no knowledge of Dr. King ever being at odds with the Federal Government.

I have never heard of him as a man seeking political office for himself, nor have I heard his name referred to as advocating any violence. In my mind Dr. King is associated with the peaceful bringing about of integration and equal rights for negroes.

Signed: George Jacob Benedrake

Exhibits B-F are
same as those in
original petition
filed 4/13/70

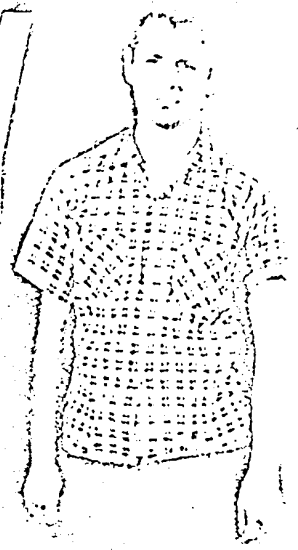
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EXHIBIT 67

50 CENTS NOVEMBER 12 1968

LOOK

THE STORY OF JAMES EARL RAY & THE CONSPIRACY TO KILL MARTIN LUTHER KING



William Bradford Huie's exclusive report on
the accused assassin's escape from prison and his
journey on the lam that led to a fateful trip south

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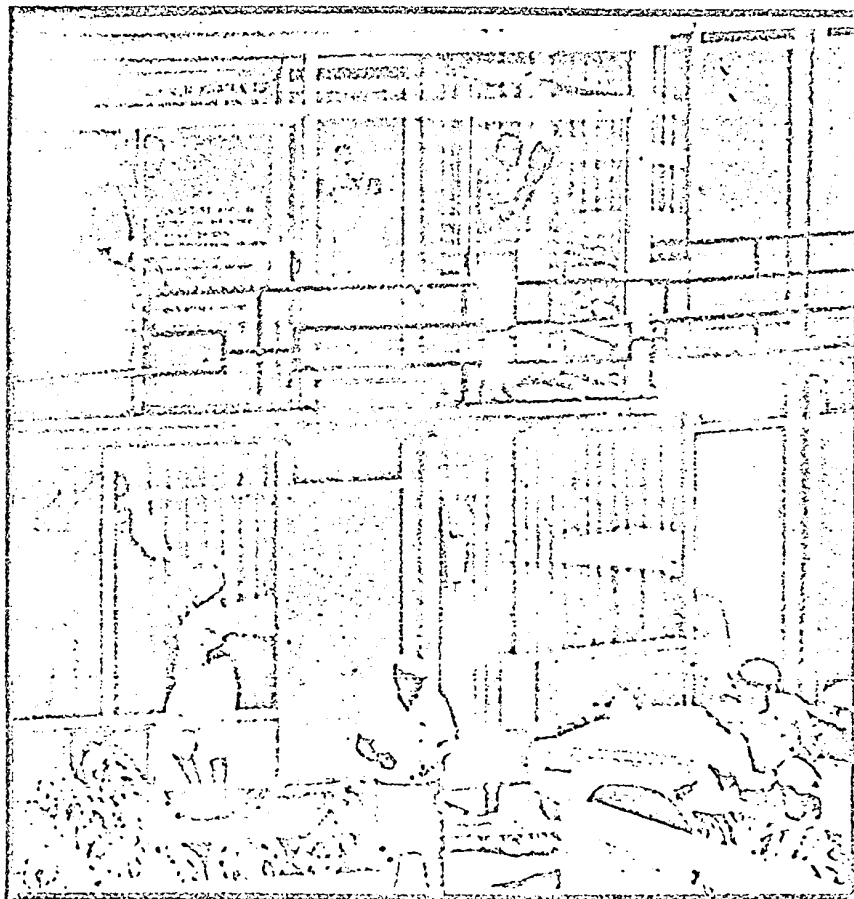
Martin Luther King By William Bradford Huie

The Story of James Earl Ray and the Plot to Assassinate

"I HAD BEEN IN
TROUBLE ALL
MY LIFE,
IN JAIL MOST OF IT"

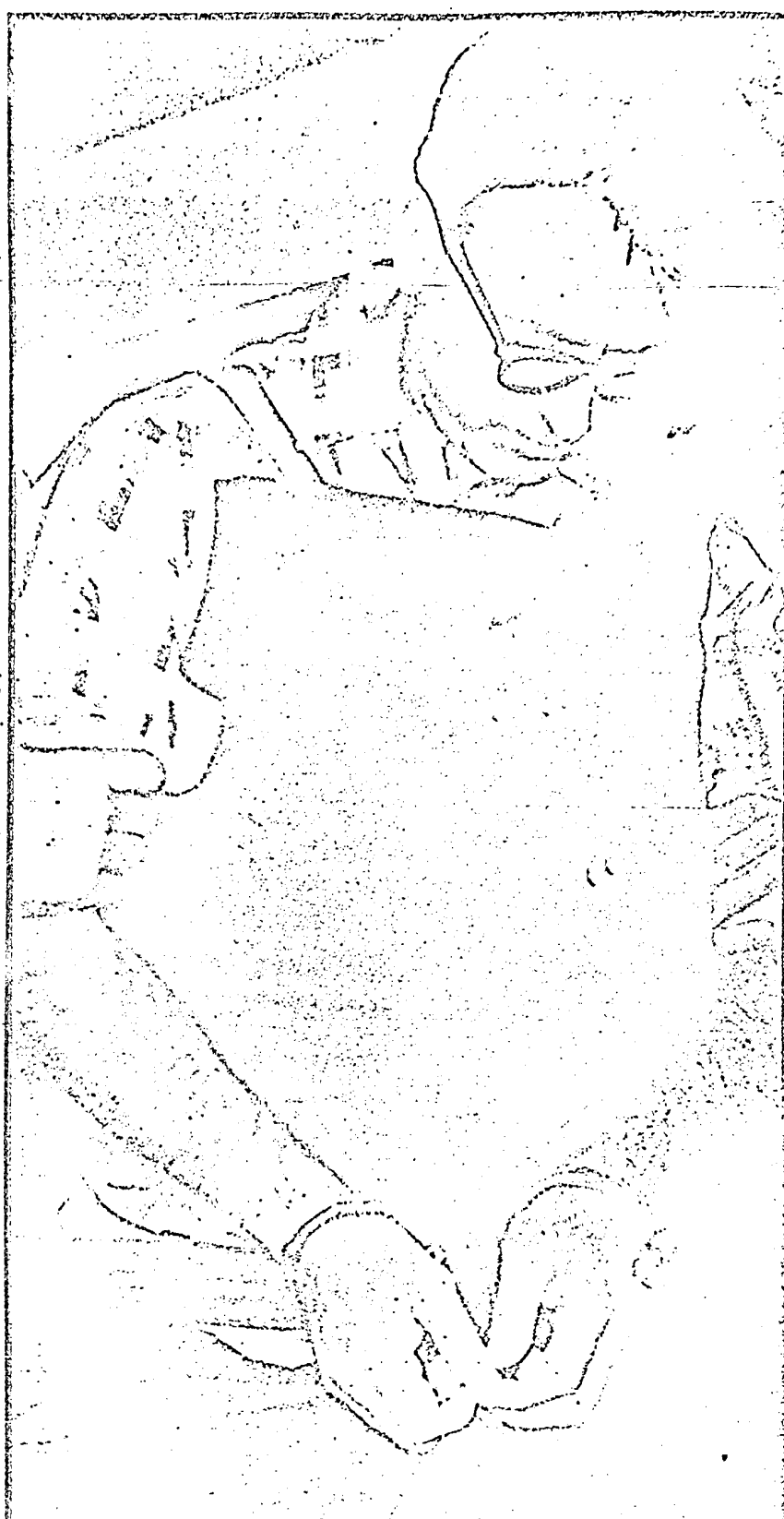
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William Bradford Huie is the author of 16 books, including *The Execution of Private Slovik*, *The Revolt of Mamie Stover*, *The Americanization of Emily*, *The Klansman* and *Three Lives for Mississippi*. *Time* magazine has called him an "aggressive, blunt-spoken reporter" with "a fierce persistence and an equally intense passion for the underdog." In his introduction to *Three Lives for Mississippi*, Martin Luther King, Jr., wrote: "William Bradford Huie writes as a reporter but also as an impassioned man. He writes with clinical detail but not with detachment. And above all, he writes of evil in the South as an eighth generation Southerner. . . . Mr. Huie recognizes that the unholy alliance of violence and 'Southern justice' indicts not only murderers but the larger society that shelters them." LOOK here presents Huie's extraordinary account of the life of James Earl Ray, based upon Ray's own revelations to Huie and Huie's retracing of Ray's erratic journey that led to a fateful trip south.



The motel room occupied by Martin Luther King and the balcony on which he was standing when he was shot have been converted into a shrine. (The balcony is now enclosed.) This photograph was taken from the room from which the shot was fired.

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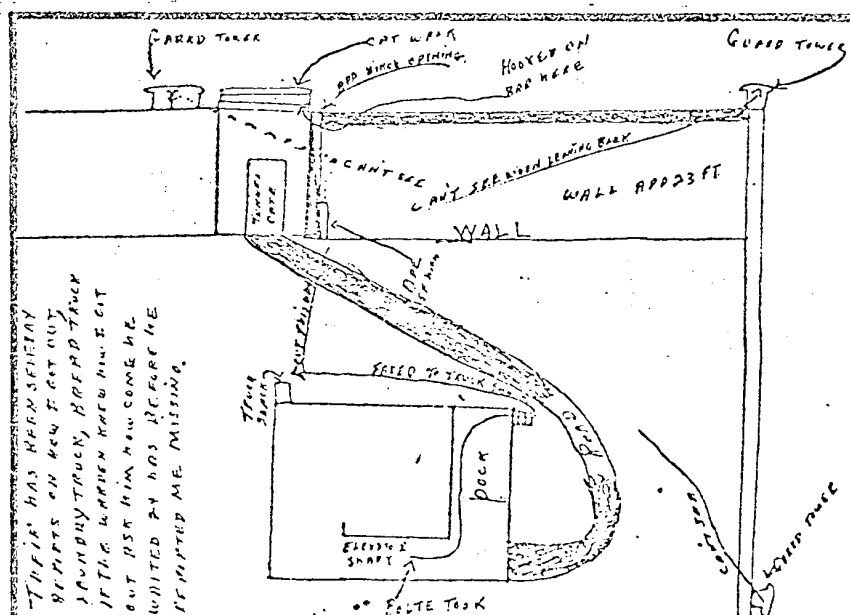


After Scotland Yard turned Ray over to the FBI at Lakenheath Air Base, north of London, the FBI dressed him in a leather girdle and bulletproof shirt and trousers, with his hands manacled to the girdle. This was the last photograph taken of Ray before his trial.

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On April 23 [1967] I was ready to try again to break out. I had nothing to lose since eighteen more years were hanging over me and I had nobody on the outside and no "good behavior" on the inside working for me. I thought I "behaved" all right in prison. I did my work, was quiet and clean, and didn't fight or disturb anybody. I didn't even snore or jerk or holler in my sleep. I don't smoke, so I sold my "commissary" to other prisoners and accumulated cash in my shoes. But I was always trying to break out, and that's marked down as "bad behavior" and adds to your sentence. As long as you keep trying to break out you can never get out legally, no matter how short your original sentence was. I had already tried to break out three times and failed; I was awaiting trial for attempted escape; I had just got out of isolation for the last attempt; and the warden had sent me word what to expect if I was caught trying again. So this time I had to get out! Then I had to use a little self-discipline and not get caught after I got out.



Ray drew this diagram of his escape from prison for Huie. The warden disputes Ray's account. On his drawing, Ray wrote (above): "Their has been severay reports on how I got out, laundry truck, bread truck If the warden knew how I got out ask him how come he waited 24 hrs. before he reported me missing."

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JAMES EARL RAY writes to me because, after his arrest in London, I contracted with him to tell me what he knows. Through his lawyers, I paid him for his promised help. He began by answering my written questions orally and warily to his lawyers. Then he switched to answering in writing. Each week, he seems to write with less effort at deception. If, in time, he tells me all he knows, and helps me find it is true, I'll be satisfied.

What you read here was written by me in September to be published on the eve of Ray's trial in November. It's a pretrial installment of the story. It is written before Ray has been allowed to talk with me, and while his lawyers are trying to obtain such permission for him.

In quoting Ray, I have in spots improved his grammar and spelling. But he expresses himself clearly. His handwriting is easier to read than mine. He has a table in his cell at which, under perpetual light and watched by perpetual television and human eyes, he works at writing, employing a dictionary he asked me for.

Born in 1928 in dirt-floor poverty in southwest Illinois, he was a miserable, hungry, defiant youth, embarrassed by his ignorance, his appearance and his odor. He dropped out of high school and enlisted in the Army in 1946, a month before his eighteenth birthday. He says:

Sure I was expelled from the Army. They put me in the Military Police for two years and I got along fine. I liked to ride around on patrol in Bremerhaven [Germany] and keep order. But when they transferred me to the infantry, I wanted out. Who wants to be in the infantry? The only way I could get out was to buck for a bad conduct discharge. That's what I did and I succeeded.

Out of school and out of the Army, Ray began his in-and-out prison career with a two-bit robbery in Los Angeles in 1949. Then, as did Caryl Chessman and others, he educated himself in prison. The book he values most, and quotes often to me, is *Psycho-Cybernetics* by Maxwell Maltz, a plastic surgeon. The publishers say this book will "help you escape life's dull, monotonous routine—make you look younger, feel healthier, and be more successful!" The author says when you change a man's face, you change his future, and when you change his physical image, you change his personality and behavior.

Ray continues his story of his escape at Jefferson City:
April 23rd [1967] was a Sunday. I was working the 11 a.m. to 7 p.m. shift in the bread slicing room, so I was allowed to eat in the kitchen. When I came for breakfast at 8 a.m. I brought with me in a sack 20 candy bars, a comb, a razor and blades, a piece of mirror, soap, and a transistor radio. The sack attracted no attention: kitchen personnel are allowed to shower and shave in a bathroom in the kitchen. I ate a good breakfast of about 6 eggs since I knew this might be my last meal for a while. Then I went to the bread room where I had hidden a white shirt and a pair of standard green prison pants that I had dyed black with stencil ink. I put these on, then I put my green prison pants and green shirt on top of them. I transferred the items in the sack to my pockets, then stuffed the sack under my shirts. I went down the elevator to the ground floor and out onto the loading dock.

In the kitchen cooks use a 4-foot-long hook to pull pans around. I had one of these hooks in my hand. I stood there on the dock watching the guard on the tower. I had studied his actions. They all act different. Some of them doze, but they must call in every 15 minutes. So if you take any action you must do it right after you see them call in. I watched this guard call in, saw his head drop, then I ran the 75 feet to the wall.

The wall is 23 feet high, but there is a truck tunnel through it, and

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where the wall meets the tunnel there is a water pipe that runs up about 6 feet. I got on top of the elbow of this water pipe, and with that hook, using some cracks and crevices, I got to the top, then swung down and dropped.

I had accumulated about \$300 in prison which I had in my shoes, along with a social security number. [Not a card, only the number of a card issued to him as John L. Rayns about 1951. In 1944, a card was issued to him as James Earl Ray.] I ran around the wall, across the railroad tracks, and along the river [Missouri] until I was out of sight of the tower guards. Then I took off my prison clothes and hid the green pants but kept the green shirt so I could wear it at night when it was cold. I put the shirt and other articles in the sack. I went down the track to a railroad bridge under which I hid out for the day, listening to the radio for the announcement of my escape. I didn't hear anything, and I found out later that the warden didn't report me missing because he thought I was hiding inside the prison.

I had traveled east from the prison, toward St. Louis, but I knew the police would think I would go there [he was born near East St. Louis], so when it was dark I crossed the bridge and headed back the other way toward Kansas City. I walked all that night, except for short rests to eat candy bars. It was a little cold, but I wasn't complaining.

Ray likes to draw diagrams, showing me the location of motels, bars, rooming houses, or where he was standing or running at dramatic moments. So far, his diagrams have proved accurate. He even remembers whether a tree was an oak or a pine. So those who have called him stupid

are mistaken. He doesn't look like a criminal, but he thinks like one. He looks like he belongs: he would go unnoticed in most any crowd. But he prefers not to belong. The only game that interests him is him against police. His impassive, easily forgotten face lights up only when he is told of FBI agents hotfooting down a false trail. He continues:

The 2nd day I hid and slept and listened to radio reports. Then I walked all night. I looked at the stars a lot. I hadn't seen them for quite a while. On the 3rd day I ran out of candy bars. I slept, and since the area is mostly bluffs, I could see a long way along the highway. Now and then I saw highway patrol cars, and naturally I figured they were after me. On the radio I heard the report that I had escaped.

While walking at night, when I approached a house along the railroad track that had strong lights that lighted the track, I had to detour, over rough ground and through creeks. This was causing my feet to swell, and I began having trouble getting my shoes on if I took them off. On the 3rd night I found a trailer sitting by the river. I broke in and took half a bottle of wine and some food. Also a blanket and some pants as it was cold. Then I found a place in the woods and got comfortable.

I ate, and drank the wine, and covered up with the blanket, and when I woke up it was raining on me. The wine must have got me. I got up and walked the rest of the night.

The 4th day I slept and watched, but I couldn't risk taking my shoes off because I'd never get them back on. The 4th night I walked, but on those feet I couldn't walk far.

By daylight on the 5th day it was raining. I decided to build a fire. I had got some matches out of the trailer. I found a tunnel about 4

continued

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feet high under the railroad, and I got in there and built a fire. When the fire was going good, I heard a motor. I stomped the fire out, but too late. Two railroad workers got off a motor car and came down to check on the smoke. I told them I had been hunting and got wet and started the fire to dry out. They said okay and left. They were the first humans I had spoken to since my escape. I stayed there the rest of the day, trying to help my feet, but I couldn't even rub them since I couldn't take my shoes off.

The 5th night I hobbled on. I had plenty of water to drink because there were many springs along the track, and I could hear them running. Just before daylight I saw the lights of a town big enough to risk going into. So I hid, and waited all the 6th day, and tried to clean up the best I could. I decided the heat must be off by now. So when night came I walked into the town, bought two cans of beer and some sandwiches, and went back to the railroad. Later that night I caught a train back to St. Louis. There I bought some over-sized shoes and a jacket. I took a cab to East St. Louis where I called a friend who drove me to Edwardsville, where I caught the bus for Chicago.

SIXTEEN MONTHS LATER, on August 21, 1968, I flew to Chicago to see if Ray was telling me the truth about the date of his arrival there after his escape. In a rented car, I drove down Diversey Parkway to North Sheffield Avenue, using a Ray diagram. I found the red-brick house he described: 2731 North Sheffield, a two-story-plus-basement rooming house.

I told the managers, Mr. and Mrs. Donnelly, that I was looking for a man who disappeared after being in the Army, a man named John Rayns, who might have stayed in their house late in April or early in May, 1967. Mr. Donnelly produced his book, and there it was, in Ray's handwriting: *John Larry Rayns 4-30-67*.

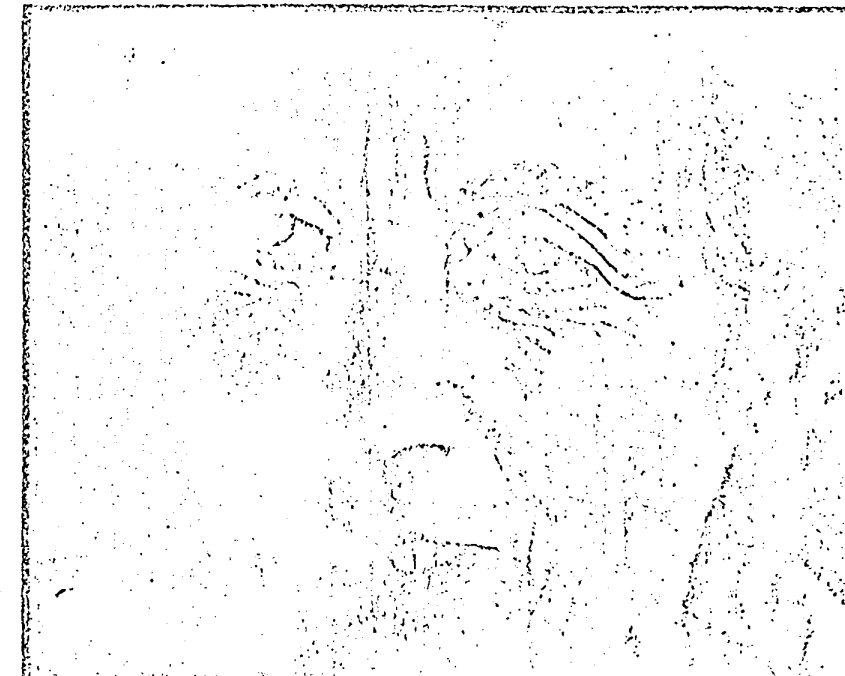
"I remember him," Mrs. Donnelly said. "He had foot trouble when he came here. He stayed in the back basement room. A nice, quiet fellow, neat and clean. He paid \$14 a week for his room, and he always paid promptly. He was tidy and careful about his garbage. He stayed here six or eight weeks, got mail several times; and when he left, he said he had to go to Canada on business. I sure hope nothing has happened to him."



Mrs. Clara Struvé Klingeman, owner of the restaurant, at the steam table where Ray worked for eight weeks. She told Huie: "Of course I remember John. Such a nice man. . . . We so regretted to see him go. . . . His story saddens me terribly—such a waste of life!"

WAGE AND TAX STATEMENT 1967
Copy C—For employee's records

FEDERAL INCOME TAX INFORMATION			SOCIAL SECURITY INFORMATION	
Federal income tax withheld	Wages paid subject to withholding in 1967	Other compensation paid in 1967	FICA employee tax withheld	FICA employer tax paid in 1967
1. 0.00	2. 1,000.00	3. 0.00	4. 2.00	5. 0.00
Type of plan EMPLOYEE'S social security number			Includes tips and other income. This amount is before certain deductions for each pay period.	
<input type="checkbox"/> Self-employed <input type="checkbox"/> Other <input checked="" type="checkbox"/> Employee 2. 1-123456789 Chicago, Illinois			* If this amount is less than the amount to be reported as wages, the employee must report the difference on his or her individual income tax return. * If the amount is more than the amount to be reported as wages, the employee must report the difference on his or her individual income tax return. * If the amount is zero, the employee must report the difference on his or her individual income tax return. * If the amount is negative, the employee must report the difference on his or her individual income tax return.	
Type of plan EMPLOYEE'S name and address (including ZIP code) above			Total Federal Income Tax on Type	
20401 W-2—A, Primary Document, Bureau of Internal Revenue			6	



Mrs. Gertrude Struvé Paulus, who worked with Ray at the Indian Trail Restaurant in Winnetka, Ill., remembers joking with him about girls. Huie says: She saw "a gentleness" in the man she knew as John Rayns. Above is one of the tax-withholding statements for "Rayns."

I didn't tell Mrs. Donnelly what had happened to the nice, quiet fellow named John Rayns. When she reads this, she'll know.

On May 3, 1967, John Larry Rayns read this advertisement in the Male Help Wanted section of the *Chicago Tribune*:

Kitchen man and dishwasher. 6-day wk. \$94.

For north suburban restaurant. Call Indian Trail at HI 6-1703.

Ray got this job, and thereby caused me to meet and astonish three fine, friendly people. It happened this way:

Winnetka, Ill., on Lake Michigan, 18 miles north of the Chicago Loop, is an incorporated village of 13,500 affluent white people. It's a fashionable suburb just north of Evanston and Northwestern University. One of Winnetka's sound institutions is the Indian Trail Restaurant, in a white, single-story, brick building across from the post office. The restaurant is the creation of two sisters, Clara and Elly Struvé, together with Clara's husband, Harvey Klingeman, who is Pennsylvania Dutch and a Rotarian. For 34 years, the Indian Trail has been a favored place for suburban families to lunch and dine in one of its three art-filled rooms. Some of the 78 employees have worked there since 1934, when the Klingemans and Elly Struvé rescued the restaurant from its third Depression failure.

The Klingeman family is the American success story. Industry, efficiency, responsibility, devotion, thrift, accumulation, humanitarianism. Hardworking parents whose four sons and one daughter all have attended college and lead comfortable, rewarding lives. The oldest son, a Ph.D., teaches at Oregon State at Corvallis, Ore. The middle son is a reserve marine and is a senior at Michigan State University. Clara Struvé Klingeman was born in Haifa, where her father was the U.S. consul. The family belonged to a Quaker-like sect, the Temple Society; and Mrs. Klingeman today is a Congregationalist, a serene, white-haired, kind-

eyed woman who radiates belief in the essential goodness of every human being.

About 9:30 a.m., August 21, 1968, I walked into the Indian Trail. The door was open, but there were no customers since there is no service until lunchtime. I went into the busy kitchen and found Mrs. Klingeman giving instructions. She took me for a salesman and invited me to join her for coffee and Danish pastry. I told her I was a writer from Alabama, and I wondered if she remembered an employee named John Rayns.

"Of course I remember John," she smiled. "Such a nice man. He was here for two or three months, and we so regretted to see him go. He came here as a dishwasher. But during his first week, we saw that he could be more than a dishwasher. So we promoted him to the steam table and raised his wages. He was quiet, neat, efficient and so dependable. He was never late a minute, though he had to ride the buses for

perhaps fifteen miles each way. I felt sorry for him when he arrived here. He had been on a hunting trip, and his feet were sore. My sister got one of those long bandages from the hospital and showed him how to bind his feet, and he seemed so appreciative. I hope he is well. We wrote him after he left and told him how much we valued him and how we'd always have a job waiting for him. Do you know where he is now?"

I hesitated, temporarily overwhelmed by the ironies. "Yes," I said, "I know where he is. But first tell me: Hasn't anyone been here recently asking you about John Rayns?"

"No," she said, her curiosity rising. "You are the only person who has asked me about him since he left."

"That surprises me almost as much as I am going to surprise you," I said. "Let's lower our voices. You see, John Rayns is really James Earl Ray, and he is in jail in Memphis, accused of the murder of Dr. Martin Luther King."

I'll never forget the astonishment, followed quickly by anguish, in Mrs. Klingeman's eyes. For a long interval, she didn't speak. Then she asked: "Are you sure? It seems impossible. You mean he is the man we have read so much about? So cruel? So senseless? So shameful?"

I nodded, and she went on: "I don't know what to say. Dr. King spoke in Winnetka several years ago, and we went to hear him. He was such a good man. And I would have trusted John Rayns in my home to baby-sit with my grandchildren. It's frightening to learn that one can be so mistaken about people."

"Well," I said, "maybe you weren't so mistaken about the man you knew. Maybe he *was* reliable while he worked for you. He's prouder of his experience here than he is of anything else in his life. He urged me to 'learn about' him by talking first with you. You are the only employer who ever valued him and promoted him and paid him \$117 a week."

The earning record of John L. Rayns, furnished me by Mrs. Klingeman, shows that he received eight weekly checks, from May 7 to June 25, 1967. The Social Security number is [redacted] The W-2 form shows that his total taxable earnings were \$813.66, with \$112.60 withheld for Federal income tax, and \$36.72 withheld for Social Security.

I lunched at the Indian Trail as the guest of Mr. and Mrs. Klingeman. The sister who gave Ray the bandage was not Miss Elly Struvé, one of the three owners of the restaurant and who is now in poor health, but Mrs. Gertrude Struvé Paulus, who prepares salads in the kitchen. She worked near Ray and often talked with him.

"He would never initiate a conversation," Mrs. Paulus told me. "He seemed lonely and shy. But once I had asked him something, like how he felt, he would talk. We talked about Bremerhaven: He had been there in the Army, and I knew it years ago. And once or twice, I kidded him about the girls. But he didn't like it. He was not a man who liked the girls."

"No, he didn't," I said. "That's one of the published errors about him, about how he is always consorting with prostitutes. When he has sought the company of women, it has been only in the hope of getting their help in establishing an identity. When he came here, he had been in prison for seven years. Yet, in two months in Chicago, there is no evidence that he was once even close to a woman. Apparently, he has no sexual interest in women. He gets angry whenever I mention women to him."

continued

"Yes," said Mrs. Paulus, "I recognized that in him. Hé is not a man for the girls. During his last week, he said that he hated to leave here, but he had to go back to the boats in order to keep his seaman's license. That's the way he put it: He had to go back to the boats."

Of the 78 employees of the restaurant, about 22, normally, are Negroes, and there are usually five or six Filipinos. Several Negroes worked close to Ray, and with him, but no one remembers any indication that he disliked them.

One recollection seems important. For seven weeks at the restaurant, John Rayns received not a single telephone call. But during the week he left, he received "three or four pressing calls" that seemed to excite him.

The restaurant served lunch to about 550 people, mostly women, some of whom had to wait in line. Mrs. Klingeman was busy, so I didn't leave until after the last customer had left. Then Mrs. Klingeman said to me: "I have been wondering why I remember John Rayns so clearly. I have just gone through our records, where I saw the names of a dozen white men who worked for us for short periods a year or so ago, and I have no recollection of any of them. Yet when you mentioned John, I remembered him instantly. So there was something unique about him, and it must have been something good. His story saddens me terribly—such a waste of life! But you can say for me that whatever he is and whatever he has done, while he was here, we saw a little spark of dignity in John Rayns."

BACK IN MEMPHIS, I told Ray about my visit to the Indian Trail Restaurant and asked him why he quit his good job there. He replied: *Yes, I had a good job there, and I hated to quit. But you know why I had to quit. I had been there two months, and since I had used that name and social security number before, I thought the FBI would be on me if I risked another month there. I see now that I over-estimated them. After they run out of informers they lose their imagination.*

I accumulated a little capital there. I bought a 1960 Chrysler for \$100. I saw it advertised in the Tribune, and I bought it from an individual, so I didn't need to show I.D. to get it, only money. With the car

I got a car title and a temporary driver's license to use for I.D. This left me with \$450. But I still had to have a name and some I.D. for that new name. I couldn't use Rayns much longer and I could never use Ray again.

What I needed was to get to Canada. While I was staying at the Donnellys in Chicago I wrote to the Canadian embassy for information on immigration. The reply was one of the letters the Donnellys say I got. In prison I studied about how a broker named Burrell or Birrell got a Canadian passport and escaped to South America.

(Lowell McAfee Birrell was indicted by Federal and New York County juries in several alleged multimillion-dollar stock swindles. The New York Times and other newspapers carried a story on September 4, 1959, explaining how Birrell, through a friend, obtained a Canadian passport with which he escaped to Brazil, which then had no extradition treaty with the United States. In its issue of February 27, 1962, Look published a picture story showing Birrell and two other "million-dollar fugitives" living luxuriously in Rio. An overline said: *Scot-free within Brazil's borders, the three are safe from extradition.* The Look story explained again how Birrell entered Brazil on a "false Canadian passport made out in the name of Lowell McAfee." Ray memorized Birrell's escape story, and it influenced his actions then and later.)

Normal citizens who are never in prison and who never become fugitives perhaps cannot understand the precarious position of a fugitive like Ray, without capital and without ID, in today's computerized society. What sort of job could you get, how much capital could you accumulate, if you suddenly found yourself alone in a large city, unable to disclose a previous address, unable to mention a former employer, unable to name one citizen who will say he knows you, and without a Social Security card, a birth certificate, or a driver's license, and unable to apply for any of them?

In the millions of words published about James Earl Ray, there has been the implication that he didn't want to work. Everyone has been

told that Ray took a course in bartending in Los Angeles, was called adept by his teacher, then refused two offered jobs as a bartender. Ray believed that no employer in California could hire a bartender without first having him approved by the police. And Ray's name there was Eric S. Galt, a name for which he had no Social Security number and dared not try to obtain one. He took the bartending course not in the hope of working in California or anywhere in the United States but in the hope of working in Brazil if he could obtain a Canadian passport and reach Brazil.

In Los Angeles, Ray advertised in the Times for a job as a "culinary." He was offered three good jobs. But he had to run from them because those employers asked for references and his Social Security card.

They were not as trusting as Mrs. Klingeman. Ray had not had a Social Security card, but he had remembered the number issued to him as John Rayns around 1951, and Mrs. Klingeman accepted it.

Ray has been ridiculed for his reported visits to lonely hearts clubs and for his advertising in lonely hearts magazines. The suggestion is that he sought cheap social and sexual comfort or that he planned to rob the women. It isn't true. Until Ray reached Canada on his second visit, on April 6, 1968, two days after the murder of Dr. King, he believed mistakenly that to obtain a Canadian passport, he had to have a Canadian citizen who would attest that he had known Ray, under some alias, for two years. So in going to lonely hearts clubs, Ray was seeking a woman he could cultivate who might have a relative in Canada who could be persuaded to lie for him.

He advertised in a magazine only after he had been told that it had circulation in Canada; and Ray hoped that a lonely Canadian woman would respond to his notice, after which he would cultivate her by mail, then visit her and persuade her to be the friend through whom he obtained a Canadian passport.

In his cell in Memphis, nothing irritates Ray more than the suggestion that his interest in lonely hearts organizations was romantic, social or sexual. He says he was only a lone fugitive seeking ID.

As for his dancing, it must be remembered that Ray had never been outside the United States except in Army uniform. He had viewed the United States from cheap rooming houses, bars and jails. He imagined that in the Latin country he expected to live in, dancing would help him get along. So at each of the two dance studios he visited during 1967-68, he asked to be taught Latin dances. He was discouraged when instructors insisted that he must learn the simpler dances of the United States before attempting the conga, the tango, the samba or the meringue.

A lone fugitive in the United States today must move, and move often, or the computers will catch him. He can't earn a living. To get capital, even to live, he must steal or commit other crimes for which he is paid. Every hour, he is at the disposal of some more secure criminal who recognizes him and says: "I know you. Do as I tell you or you're back in the penitentiary." A criminal who belongs to an organized gang has support in obtaining capital and ID. But Ray was a loner.

Only by understanding the insecurity of a lone fugitive like Ray in today's complex society can anyone understand his involvement in the plot to murder Dr. King.

After Ray quit his job at the Indian Trail Restaurant, he decided to spend a few days in the area where he was born before leaving for Canada. He writes:

Except for the \$450 and the old Chrysler I didn't have many possessions. Just a few clothes, a sports jacket, and pants. On my way to East St. Louis I had car trouble, but I got there. I sold that car for \$50, and bought a

62 red Plymouth for \$200. You can find where I bought it: from a dealer on Main Street coming out of East St. Louis toward Belleville. The car lot is between the 1500 and 2000 block on the left hand side of Main Street as you travel east. I used the Rayns name on the car title. I spent a night with the friend who took me to Edwardsville when I escaped. I stayed six or seven days in Quincy, and here are the names of two men there you can see, but don't write about them or they will be arrested for harboring me. I just want to show you that I've got friends who have known me all my life. And they think well of me.

From Quincy I went back to Chicago to pick up my last check from
continued

the Indian Trail. The check was mailed to a box I had in the post office in Winnetka. Then I went back to East St. Louis and stayed a few days, and told my friends I was leaving the country and to tell my family. I didn't tell anybody which country I was going to. The last thing I did was get a new .38 pistol from a friend, but I didn't pay him for it then. I was just too short of capital.

Out of East St. Louis I spent the first night in Indianapolis. The next day I crossed from Detroit into Windsor, but since a lot of traffic was moving to Expo there was no trouble at the border, and I headed for Montreal.

EVERYONE WHO HAS SEEN RAY emphasizes how he could go unnoticed almost anywhere. So, behind the wheel of his beat-up red Plymouth, he traveled unnoticed among Expo-bound tourists. He was bareheaded, with his black hair cut a bit longer than a crew cut. He wore no glasses. He was 39, but could be taken for 35. He was 5' 11" and weighed only 165, so except for a paunch, he looked thin. His face was thinner than it is now. His nose looked sharp. He wore a light-blue sport shirt and dark pants, and in his pockets were about \$200 and the pistol. As he drove along the MacDonald-Cartier Freeway (401), he was trying to choose a new name. He explains:

I've used a dozen different names, but picking a new one is never easy. I can't afford to pick something easy like Smith or Brown or Jones, because I might forget who I was if somebody suddenly asked me. My name has to be unusual so it'll stick in my memory and I'll always know who I am.

He chose Eric S. Galt, and since there is a real Eric S. Galt in Toronto, the assumption has been that Ray saw this name in print. But he says no. Between Windsor and Toronto, he passed near the city of Galt, and he says he chose Galt when he saw it on an exit marker. He says he chose Eric only in the process of seeking something different from the more common first names. In any case, John L. Rayns had become Eric S. Galt by the time he reached a motel in Toronto on July 16. He was Galt

at a motel in Dorion on July 17, and in Montreal on July 18, when he signed a six-month lease on a room at the Har-K Apartments, 2539 East Notre Dame. The rent was \$75 a month, and he paid the first and last months' rent, a total of \$150. He writes:

One thing was certain: I never in my life intended to return to the United States. What hope was there for me back there? The first thing I did in Montreal, even before I rented a room, was call a travel agency and ask what I.D. was necessary to get a passport. They told me none, but I had to have somebody who'd swear he had known me for two years. Later [in April, 1968] I found out this wasn't true. But right then I had to start looking for somebody who'd say he had known me for two years, or I had to find a way to get on a ship without a passport. And, of course, I had to get some more capital, as I had only about \$70 left after I paid for the room. But I can swear this: I was never going to cross that border back into the United States.

I believe it's true that he never intended to return to the United States. But things happened in Canada to change his mind. He did return. He was in Canada from July 16 to August 21, 1967. He reached Birmingham, Ala., on August 25, 1967. So on September 14, 1968, carrying with me Ray's diagrams and explanations, I flew to Montreal to try to confirm his story of what caused him to risk a return.

I found where he had lived and Xeroxed the lease he signed. He hadn't remembered the house's number or name, but his diagram was accurate. Notre Dame is the east-west boulevard that for many blocks runs along the north bank of the St. Lawrence River. By the time you reach its 2500 block east, it has run down to cheap lodgings, warehouses and industries. The Har-K is a three-story hive of 57 rooms. Its sign says: Welcome American and Canadian Artists. Across from it is a textile mill—Tex-made Cotton Yarns and Fabrics—which hums day and night. What may have attracted Ray, with his Latin ambitions, was a now-shuttered nightclub, the Acapulco, on the ground-floor corner of the Har-K. Its extravagant yellow-and-red neon sign, by this time dark,

promised "Acapulco Spectacles" in now-dingy sombreros and serapes.

But Ray only slept at the Har-K. He lodged his hopes—and spent his days and evenings—with "the boats," about 30 blocks to the west. Each year, Montreal is visited by 6,000 ships, which pour hundreds of seamen each day onto its docks and into its waterfront taverns and its club for merchant seamen, Mariners House, at 165 Place D'Youville. And since Montreal is the easiest big city in the world to bring contraband into, and get contraband out of, it is an international crime center. Much of the contraband moving from Europe into the United States goes through Montreal. This includes most of the millions of dollars worth of heroin that moves each year from the Middle East to Marseille to Montreal to New York.

Ray hung around the seamen's hiring hall and was told, "no jobs." He hung around Mariners House, trying to educate himself. He shadowed seamen from tavern to tavern, hoping to steal an ID from one who drank too much.

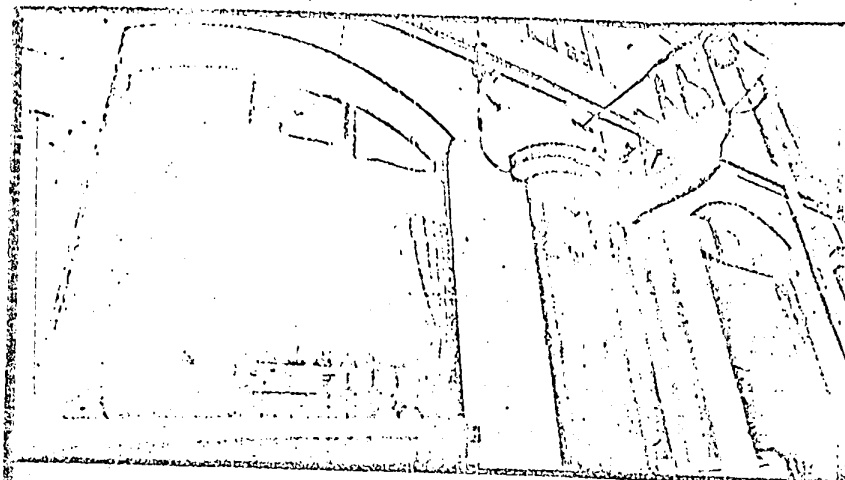
He frequented Neptune Tavern, 121 West Commissioners Street. I visited it. The ceiling lights are suspended from pilot wheels. There is a pilot wheel up over the bottles back of the bar. The furniture is massive oak, in its natural color, and signs welcome all seamen, promise highest prices for English money, and inform you that "Nous Servons les Repas." The menu is chalked on a blackboard furnished by Molson's Bière.

On his third or fourth night in the Neptune, Ray says he "sort of let the word get around that he had had a little trouble down in the States, that he was looking for ID and capital, and just might be available for activities that didn't involve too much risk." This resulted in a contact. A man whom Ray calls Raoul and describes to me as being a blond Latin about 35, and whom Ray took to be a seaman, showed interest in him. They began cautious verbal exploration, with Raoul hinting that if Ray was willing to assist certain projects, Raoul might be able to provide Ray ID and capital. Ray says this exploration continued during "at least eight meetings" over a period of three weeks.

Meanwhile, Ray had an immediate need for capital, and he says he satisfied it in this way:

On St. Catherine East, out past the 1400 block, there are a lot of night-clubs. Prostitutes hang out in these places, and in 1967, with the Expo crowds, they were doing big business. The procedure is that the girl leaves the club with you, and the two of you take a cab to an apartment run by whoever she is working for. I picked up one of these girls. I picked the best-looking one I could find, as I figured she'd take me to the most prosperous place. We went to the apartment where I gave her \$25 which she took to the office. When I left I wrote down the address. The next night I took my car and parked it close to that address. Then I went back to the club and picked up the same girl. We took a cab to the same house. I gave her another \$25, but when she started to the office I put the gun on her and went with her. When she got the manager by knocking, I put the gun on him. We went into his room, and I made her take her stockings off and tie his hands and feet while he lay on the bed. He tried to hold out on me, but he must have figured that I was down to about my last \$5 and just might put a bullet in him. He pointed to a cabinet where I found about \$800. Then I made the girl get under the bed and left. I hated to take a risk like that, but I figured that if I held up a whorehouse they probably wouldn't report it, and I guess they didn't.

WITH THIS NEW CAPITAL in his pocket, Ray's next action was one that I have found to be typical of him. He never puts all his eggs in one basket. He had a prospective deal working with Raoul at the Neptune. He



Many of the thousands of seamen who pass through Montreal visit the Neptune Tavern on the waterfront. During the summer of 1967, Ray had several meetings there with a man named Raoul, who convinced him that he should return to the United States.

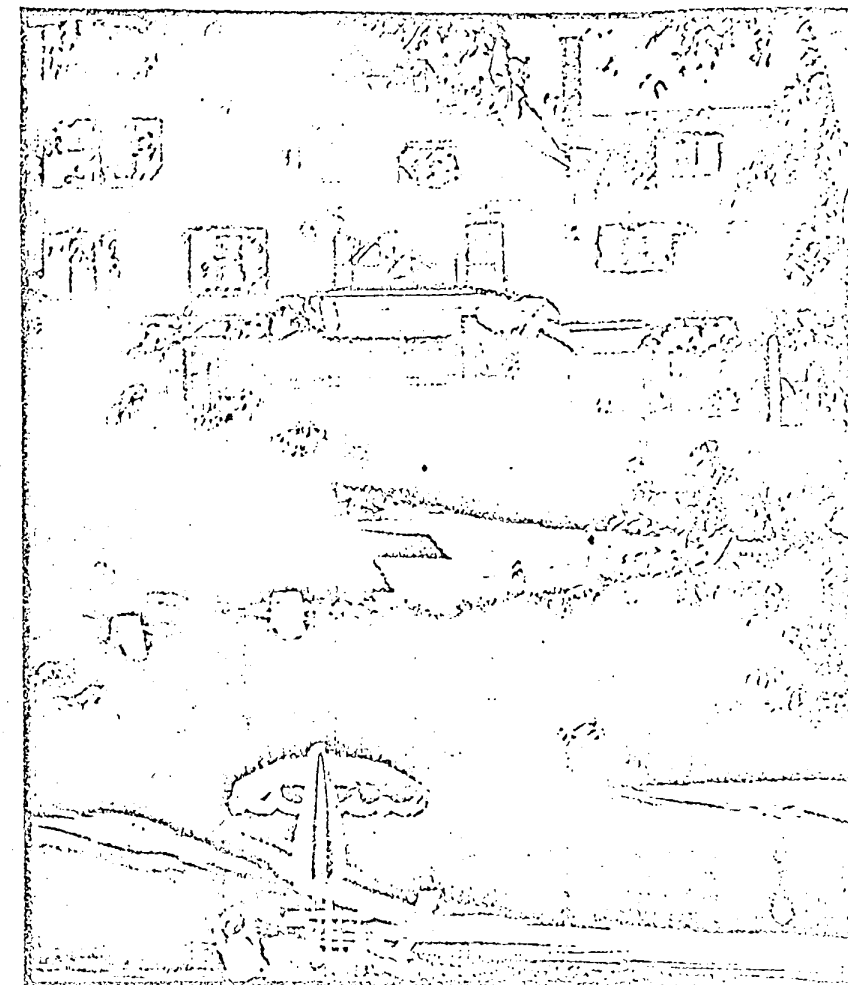
thought Raoul might get him a passport or get him work on a ship. But Ray is not a man to rely on one prospect. He still thought he might find a Canadian woman who would help him get the passport. So he devised and carried out a plan.

At Tip Top Tailors, 488 St. Catherine West, he spent about \$200 for new clothes. Tip Top is comparable to the Bond stores in the United States: where you can buy a suit for \$65 to \$110; a sweater for \$20; and sport shirts for \$10. Ray bought a new powder-blue Botany suit, a pair of gray slacks, a red T-shirt, a yellow T-shirt, yellow swimming trunks, red pajamas, socks, underwear, neckties—the kind of clothes he had continued

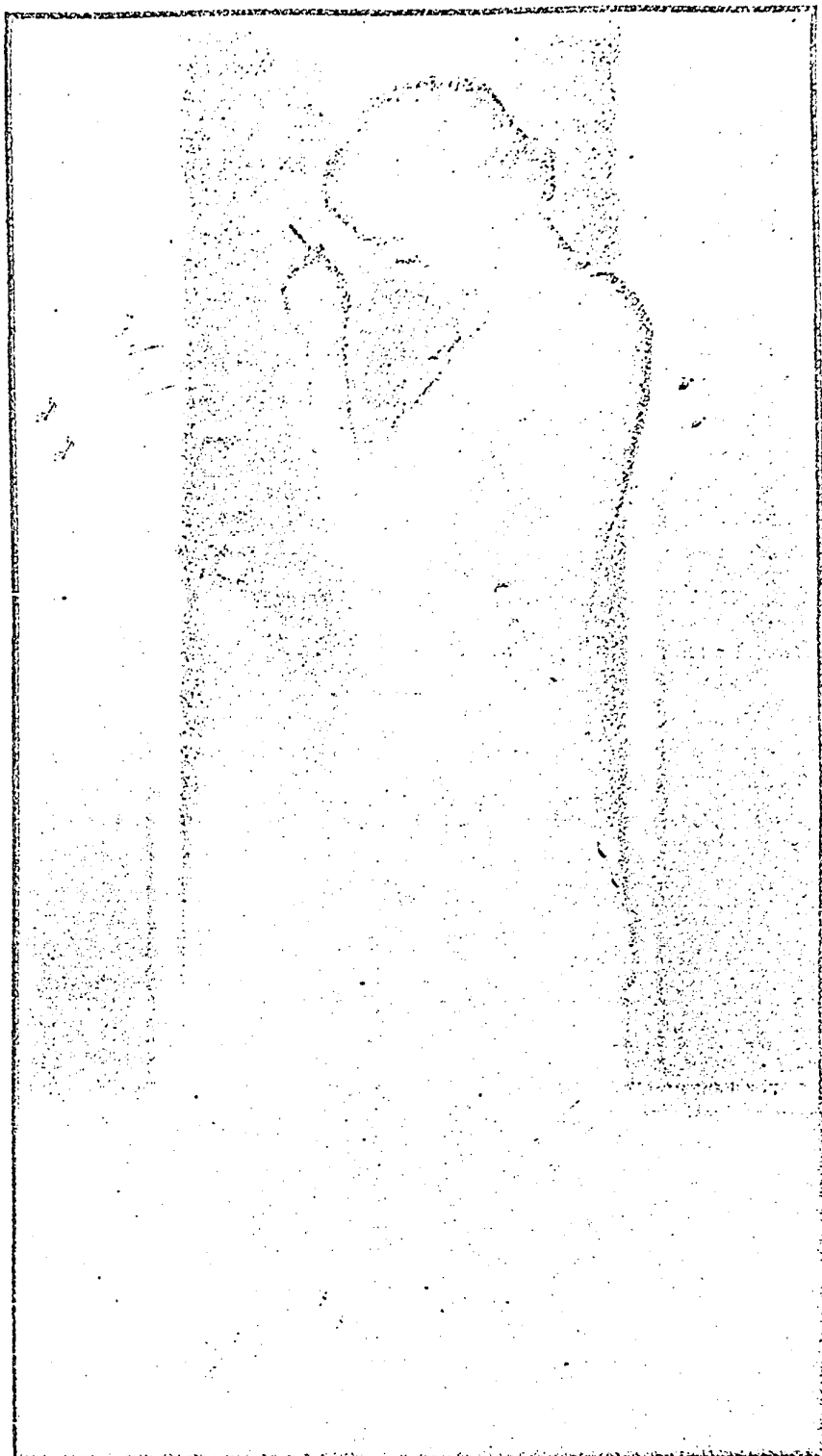
never owned before. He had his nails manicured at the Queen Elizabeth Hotel. Then he asked a travel agency to suggest a resort.

The agency suggested one of the most beautiful places on earth: the "Dean of the Laurentian Mountain Resorts," "incomparable, world-famous" Gray Rocks Inn, on Lake Ouimet, near St. Jovite and Mt. Tremblant, a place known to thousands of Canadian and American vacationers for golf, swimming, boating and riding in summer and for skiing in winter. Ray paid the agency \$153 for minimum room and board for a single man for a week. On Monday, July 31, he put his new clothes in the decrepit old red Plymouth and drove 80 miles up the Laurentian Auto-route for the biggest week of the season, the week that would end on Sunday, August 6, with the running of the annual 200-mile road race at Mt. Tremblant.

A year and seven weeks later, I followed Ray's route to Gray Rocks.



4-6, 30



Huie interviewed a Canadian government worker (above) who met Ray at the Gray Rocks Inn, a Laurentian vacation resort (left). Ray hoped she would help him get a Canadian passport by swearing she had known him two years. After she had showed him where she worked, he decided not to ask her aid.