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IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE
DIVISION III

STATE OF TENNESSEE,

Complainant,

VERSUS

JAMES EARL RAY, Alias,

Defendant.

NO. 16645

TRANSCRIPT OF EXCERPT FROM MOTION HELD ON
SEPTEMBER 6, 1968

~~J. A. Blackwell~~
J. A. BLACKWELL, CLERK
BY ~~J. A. Blackwell~~ D. C.

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MR. HANES, SR.: All right, sir. Your Honor, may I at this time raise a couple of points in connection with this case and ask for a ruling from Your Honor on some clarification on it?

Now, Your Honor, in my going around and attempting to interview witnesses in this case I find that somehow the citizenry of this area have been intimidated and someone brought about a great conspiracy of silence, and I am willing to make a showing of this, Your Honor.

There have been some misrepresentations from witnesses as to Your Honor's order, original order, and I am referring specifically to the last paragraph thereof, which states, "That nothing herein shall be construed to preclude or prevent a witness from talking to the Attorney General or his representative or to the Attorneys of the Defendant in this case."

I think that is essentially what it says, Your Honor.

I have run into this question on the part of certain employees of the City of Memphis who have been told, that have been ordered to keep their mouths shut. I have run into this in other areas personally where I have been told that, "If we talk to you we will be held in contempt," Your Honor.

1 And I would, perhaps, to state this for the record,
2 that this has happened and it has happened to a representa-
3 tive; it has happened to me personally, Your Honor. And I
4 would like to get that in the record, Your Honor. And if
5 Your Honor could somehow make a statement to the effect,
6 reiterate the last paragraph of your original order, that
7 it does not mean that witnesses are not to talk unless they
8 choose to do so voluntarily, but they will not be held in
9 contempt of Court if they do talk to the Attorneys for the
10 defense, Your Honor.

11 THE COURT: Yes, sir, the order speaks for itself. I
12 mean this order that was dated July 18, 1968, Roman Numeral
13 Ten, provides:

14 "Nothing in this Order shall prohibit any
15 witness from discussing any matter in connection
16 with the case with any of the Attorneys representing
17 the defendant or the state or any representative of
18 such attorneys."

19 And I see certain members of the news media back there.
20 I wish this would be given the widest possible coverage,
21 because if anyone, if any witness thinks at all that he has
22 been precluded by this order from talking to attorneys for
23 the defense or State, is wrong. It is up to the witness
24 himself who he talks to.

1 There is only one time the witness has to talk and
2 that is when he is brought into Court and placed on the
3 witness stand and the Judge tells him to answer a question.
4 You can't even do that in a Grand Jury if you bring him
5 into the Grand Jury. If he is brought into Court and placed
6 on that stand, the Judge can order him to answer a question.

7 All I can say, he has absolute freedom to discuss any-
8 thing with you, and if he cares to he certainly will not be
9 put under -- he will not violate any order by this Court or
10 be in any danger of any contempt action whatever.

11 MR. HANES, SR.: Your Honor, in reference to Roman
12 Numeral Paragraph Ten in Your order, the language therein is
13 very clear. It is unambiguous. As Your Honor said, it
14 speaks for itself, but I mean this was delivered and served
15 on certain State's witnesses that were told at that time,
16 "You don't talk to anybody, defendant's attorneys. If you
17 do you will be held in contempt of Court." They say, "We want
18 to talk to you."

19 THE COURT: Do you have any specific instance?

20 MR. HANES, SR.: Yes, sir.

21 THE COURT: Who is he?

22 MR. HANES, SR.: Mr. Victor ~~DuFatt~~, owner of the Rebel
23 Motel.

24 THE COURT: Was told by whom?

1 MR. HANES, SR.: Told by a representative of the
2 Attorney General's office.

3 MR. DWYER: We emphatically deny any instructions issued
4 from our office, Your Honor please, to any witness in this
5 case at any time, and specifically this one, that we have
6 instructed anybody in our office to tell any witness that
7 they have to or do not have to talk to anybody in this matter.

8 As far as I know, if the Court pleases, and while we
9 are speaking about the record, the record probably should
10 reflect that a witness is not compelled or commanded to speak
11 or answer any questions at any time, at any place, unless it
12 is in the proper judicial tribunal under our law.

13 THE COURT: That is what I have said.

14 MR. HANES, SR.: Your Honor, we understand that. The
15 Attorney General is getting a little excited. All I said
16 was the man said he wanted to talk to me and would talk to
17 me and tell what he told the investigators for the City and
18 County, but he was told that if he did he would be held in
19 contempt of Court, and I think this will clarify this matter
20 in the minds of the public.

21 Now, I had, Your Honor, a personal experience in attempt-
22 ing to talk to employees of the City of Memphis. They were
23 afraid to talk. They said, "We have been ordered by the
24 Commission not to say a word or talk to you."

1 man, and I am interested in the truth of this matter and
2 want to see this man brought to trial.

3 This man has two guards in there to sit with him 24
4 hours a day, Your Honor. He has television sets on him 24
5 hours a day. He has bright lights, brighter than these,
6 burning in his eyes 24 hours a day. This man cannot rest.
7 Why he hides under a pillow or cover to sleep, Your Honor,
8 and I think this is cruel and inhuman, and Your Honor, ---

9 THE COURT: All right. All right, Mr. Hanes, you are
10 getting into matters of treatment of the defendant and I
11 think you should do this in writing. I think this is serious
12 enough that whatever testimony we have be under oath and
13 you ask for whatever relief you want, and this can be a
14 regular motion brought up before the Court.

15 MR. HANES, SR.: All right, sir.

16 THE COURT: In other words, I think it is too serious
17 for you just to make this in the form of an oral motion.
18 I think we better do it by the book and all the formalities.

19 MR. HANES, SR.: All right, sir. All right, sir.
20 All right, sir, Your Honor.

21 THE COURT: All right, anything else you want to bring
22 to the Court's attention orally at this time?

23 All right, gentlemen, is there nothing?

24 MR. HANES, SR.: Your Honor, I have other things but

1 they will be reduced to writing in accordance with your
2 suggestion.

3 THE COURT: All right. If they are serious things --
4 I have invited anyone who has anything to bring up about
5 this case to do it in Court.

6 MR. HANES, SR.: Your Honor, one thing, please, sir. I
7 would like to inspect the rooming house over here on South
8 Main Street, and now the rooms and premises are locked, and
9 I need to find out who has them locked. I need to inspect
10 them and take a look at those, and I would like to do that
11 this afternoon if I could.

12 THE COURT: Can that be arranged?

13 MR. DWYER: They are not under any instructions to us
14 to have that place locked by us down there. I imagine she
15 is still in the roominghouse business. She is not under
16 any instructions from us.

17 MR. HANES, SR.: I am not saying they are under any
18 instructions. I am saying it is locked. I am saying if the
19 Attorney General's Office or City Police have them locked
20 up, we would like to inspect those rooms.

21 THE COURT: I think that would have probably been a good
22 thing in this motion for discovery.

23 MR. HANES, SR.: All right, Your Honor. Thank you.

24 THE COURT: I think we will do it this way: Suppose

1 you go down there and see if they will let you see the rooms.

2 If you are not able to see the rooms, see me on the 18th.

3 I think you have a right to go in there and examine
4 them. If you can't between now and then we will see that
5 you do.

6 Is that fair enough?

7 MR. HANES, SR.: Fair enough.

8 THE COURT: Anything further?

9 MR. DWYER: Nothing from us.

10 THE COURT: If not, we will adjourn Court.

11 (ADJOURNMENT)

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