IN THE CRIMINAL COURT OF SHELBY COUNTY, TENNESSEE

FILED 4-13-70
J. A. BLACKWELL, CLERK
BY H.C. Moore D. C.

NO. H.C. 661

JAMES EARL RAY,

Petitioner

VS

STATE OF TENNESSEE
and
LEWIS TOLLETT, WARDEN OF
STATE PENITENTIARY AT
PETROS, TENNESSEE,

Defendants

PETITION FOR POST CONVICTION RELIEF

Comes now your petitioner, JAMES EARL RAY, by and through his attorneys, J. B. STONER and RICHARD J. RYAN, 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 states that his name is JAMES EARL RAY; that his present address is the Brushy Mountain Prison at Petros, Tennessee; that he is under confinement being sentenced on the charge of muder 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 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.

Petitioner would show the following facts to establish his claim for relief:

I.

That he and his two prior attorneys in Cause No. 16645 in the Criminal Court of Shelby County, Tennessee, entered into contracts with the author William Bradford Huie while petitioner was in the Shelby County jail awaiting trial, said contracts being primarily to sell the publishing and movie rights concerning petitioner's case; that this sale was to be made to the said William Bradford Huie for substantial sums of money, evidenced by the five attached exhibits which are attached hereto and made a part of this Petition.

II.

Petitioner alleges that the said contract and letters contained in the attached exhibits, which are attached hereto

and made part of this Petition, establish a conflict of interest between him, the petitioner, and his two prior attorneys; that petitioner would have no story to sell and no movies with publishing rights to convey if he were allowed to take the witness stand; that such an action on his part would allow all facts in this cause to become a matter of public record for the free use of all.

III.

Petitioner alleges that in the establishment of conflict of interest between petitioner and his two prior attorneys, as evidenced by the attached exhibits, that the said prior attorneys actually represented William Bradford Huie and their own financial interests and not his, your petitioner's. Petitioner alleges that there would be no profit to anyone if he persisted in his "Not Guilty" plea; that your petitioner was pressured and induced into entering a plea of "Guilty" and respectfully directs the Court's attention to the attached exhibits.

IV.

Petitioner is informed, and therefore alleges, that the author William Bradford 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 (William Bradford Huie) would have no book".

V.

Petitioner's failure to have legal counsel as guaranteed by the said Fourteenth and Sixth Amendments to the

United States Constitution and Article I Section 9 of the State of Tennessee Constitution is in reality a greater disservice to him, the petitioner, than having incompetent counsel and is a gross denial of due process and effective representation of counsel so as to be such as to make your petitioner's plea of "Guilty" a farce, a sham, and a mockery of justice.

VI.

That petitioner's second attorney in this cause pressured him, and he, the petitioner, under duress due to this pressure, entered a plea of "Guilty" due to this conflict of interest between said attorney and petitioner and for the sole financial gain of the said attorney, as evidenced by petitioner's attached exhibits which are hereto attached and made a part hereof.

VII.

That during petitioner's incarceration in Shelby County Jail prior to March 10, 1969, such conditions existed that deprived your petitioner of his free will whereby he was incapable of confering with his attorneys thereby depriving him of legal counsel, resulting in an involuntary plea of guilty.

Some of the additional facts supporting this Petition are as follows:

Petitioner avers 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.

Petitioner avers that he was in jail without bond and that he employed one Percy Foreman of the Texas Bar to represent him. That he at all times represented to the said Foreman that he was innocent. Petitioner would like to remind the Court that this was a case that attracted international attention due to the prominence of the person alledged to have been 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.

Your petitioner avers that he was kept in solitary confinement before and during his appearances in Court; under the pretence that the petitioner was in danger of being assassinated; he was kept in a lighted cell and under constant surveillance, day and night. That the Sheriff of Shelby County even went so far as to install a closed-circuit television set in his cell and that he was thus being watched at all times through this device, in addition to the guards who attended him day and night. That due to the presence of the guards and the listening and seeing devices, petitioner was never accorded a private conference with his attorney.

Petitioner would further show that he had originally been represented in this matter by one Arthur Haynes of the Alabama Bar, but was advised by the said Percy Foreman to discharge Mr. Haines, which he did, soon after being brought to Shelby County.

Petitioner would show that this continued for some nine months and during his several appearances in the Criminal Court of Shelby County. Petitioner charges that due to this treatment he was unable to rest and sleep in anything like a normal manner. He would show that he became so nervous and distraught of mind that he was unable to make intelligent decisions in his case and was wholly dependant on his counsel, in whom he had great confidence at that time.

Petitioner further avers that his attorney, Percy Foreman, entered into a contract with one or more writers who were 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 his attorney 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. Petitioner further avers that his said attorney finally told him that the only way his life could be saved was for him to plead guilty. He would further show to the Court that the said Percy Foreman appeared on national television (the Dick Cavitt Show) and openly bragged that he had coerced petitioner into pleading guilty by telling him that he would be executed if he went to trial.

Petitioner would show to the Court that the said Percy Foreman is a dominating person and that he is supremely egotistical. Petitioner fully realizes the perils involved in disregarding the advice of one's lawyer; this, coupled with the other factors herein set out; to-wit: his nervousness and mental over-wroughtness, (due to the unusual treatment he was subjected to during his confinement), caused him to enter the plea of guilty as heretofore set out.

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. 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.

Petitioner, therefore, avers that he has not been accorded the "equal protection" guaranteed him by the FOURTEENTH AMENDMENT of the United States Constitution.

He avers that his rights guaranteed him by the State and Federal Constitutions to counsel at all stages of his trial have been grossly violated.

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

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

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.

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.

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 h is 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. He prays for such other, further and general relief as the equities and justice of the case may demand.

x James Earl Ray
(PETITIONER) JAMES EARL RAY

Richard J. Ryan
ATTORNEY FOR PETITIONER

STATE OF TENNESSEE)
MORGAN COUNTY))

Personally appeared before me JAMES EARL RAY, the petitioner herein, and who makes oath in due form of law that he has read the foregoing petition and the facts set forth in the petition are true to the best of his knowledge, information and belief, and in substance and in fact.

WITNESS MY HAND AND SEAL OF OFFICE this the 18th day of April, 1970.

Fern Neskaug
NOTARY PUBLIC

MY COMMISSION EXPIRES: April 4, 1972

CF.C.#4

IN THE CRIMINAL COURT
SHELBY COUNTY
MEMPHIS, TENNESSEE

JAMES E. RAY, Petitioner	)	
vs,	)	No._____.
STATE OF TENNESSEE, Respondent.	)	Post Conviction.

MEMORANDUM OF POINTS AND AUTHORITIES
IN SUPPORT OF PETITION FOR POST CONVICTION RELIEF

FIRST GROUND FOR RELIEF

Newly Discovered Evidence:

This ground for relief pertains to information fraudulently withheld from the Petitioner regarding the imposition of the death penalty when a Defendant is extradited from Great Britain to the United States, as the Petitioner was in 1968 to stand trial in the Rev. Martin Luther King jr (MLK), homicide.

As background in this ground for relief, as noted in the post conviction petition, the trial Judge, W. Preston Battle, in the MLK case inferred from the bench at a pre-trial hearing that the State would seek the death penalty. An inference that was in effect belied by the Judge when, following Petitioner's subsequent guilty plea, the Judge in an interview with the New York "Times" published in the papers March " " 1969, stated he preferred the plea out of a concern that there would be a 'hung jury, or that Petitioner would be acquited in a trial.

Further, in testimony given on November 13, 1978, before a US Congressional Committee investigating the MLK homicide, Chief prosecutor Phil M. Canale, indicated Judge Battle was concerned that Blacks "might burn down the town" if there were a trial in the MLK case--presumedly if Petitioner was acquitted. See EXHIBIT-A attached. And although Prosecutor Canale went along with Judge Battle's 'death penalty comments in said pre-trial hearing, when Mr. Canale testified before the same congressional committee he stated, in a self-serving fashion, that he was concerned that "there might be one juror on there who would not vote to convict Ray..." EXHIBIT-A-1.Thus Canale opted for the plea. Then years later Mr. Canale, in an interview disseminated by the associated press on April 3, 1988, Canale stated "He had been happy to get a plea from Ray." EXHIBIT-A-2.

In respect to the Petitioner's position, he has always testified that the threat of the death penalty had no bearing on the plea. For instance, see Petitioner's deposition in Ray v. Foreman, et al, CA No. 69-199 (W.D. Tenn., 1970). Further, the Petitioner has testified and presented evidence that the plea was obtained by Percy Foreman, for the government, by Foreman's threat that the government would have Petitioner's 'Father arrested and jailed on a fugitive warrant resulting from a prison escape in the 1920's; that Petitioner's Brother Jerry W. Ray, would be arrested and tried for conspiracy in the MLK murder, and that if Petitioner forced Percy Foreman to trial, Foreman would not put forth his best efforts, i.e., he would throw the trial. See Ray v. Rose, 392 F. Supp. 601 (W.D. Tenn. 1975).

So why the considerable touting of the death penalty matter by the prosecutors? It permitted their prime asset, Percy Foreman, to ballyhoo the prosecution deceptive line via the government collaborators in the news media. That is, the inference that the Petitioner murdered MLK, but that when Petitioner himself faced the prospects of being executed he cowardly entered a plea. Of course the plea

placed in segregation without first violating a prison rule.

After fourteen months Petitioner was transferred to the State's "Brushy Mountain" prison at, Petros, wherein he was released from solitary confinement. The "Brushy Mountain" Warden, Lewis Tollet, informed Petitioner he was being released from segregation due to the intervention of United States District Judge William E. Miller, who was concerned the State's confinement practice would result in permanent damage to Petitioner.... Judge Miller had previously ruled the State could not hold the Petitioner in solitary confinement indefinitely. Ray v. Russell, C.A. 5590 (M.D. Tenn. Jan. 30, 1970).

Thereafter in July 1972, Petitioner was transferred back to the Nashville prison and again placed in solitary confinement. This time for three (3), years even though Petitioner had again not violated any prison rule. During this period several prisoners in the solitary confinement building mutilated themselves due to confinement conditions. News accounts described condictions in the prison in-general. EXHIBIT-A-28. Subsequently federal Judge John Nixon ruled confinement condictions in the segregation building unconstitutional. Groseclose v. Dutton, C.A. No. 3-84-0579 (M.D. Tenn). However, the Judge ruled that his finding did not apply to the Petitioner. Ray v. Davis, et al, C.A. No. 82-3480 (M.D. Tenn).

In June 1981 Petitioner--after having been returned to "Brushy Mountain" in 1976--was again transferred back to the Nashville, prison. This transferred resulted from Petitioner being stabbed several times by members of a gang called the "Alke-Bulan" society. The gang's outside Mentor was Dennie Little-John, who was active in the NAACP and employed by the University of Tennessee. Following the stabbing thoes involved, 3 members of the gang, were payed off by the Lamar Alexander administration with transfers to more cordial prisons. Conversely the Petitioner was confined in the Nashville prison segregation building for six years & 4 momths. In the summer of 1984 the Petitioner was

housed in No. 13 cell on 1 walk of the segregation building where, due to steam pipe(s) under the cell floor which could be regulated from outside the cell, the floor of the cell became so hot in one large section of the cell that one could not stand on it. Petitioner was finally released from said confinement but only after he developed high-blood pressure and generally became physically debilitated and thus commenced action to be examined by a non-prison Doctor. EXHIBIT-A-29.

The aforementioned Text Journey Into Madness lays out the procedure (therapy, they call it), whereby U.S. government police agencies can & do either obtain "behavior control" over a targeted prisoner/patient or terminate him/her. A "therapy" which has been applied over the years in modified form to the Petitioner. Obviously the therapy is only applied to individuals--other than expendables & guinea pigs--when the government has a perceived need to do so.

Said Text pertains primarily to a Canadian psychiatric institution (Allan Memorial Institute), initially funded by the Rockefeller foundation. EXHIBIT-A-30, FIG. 1 & 2. The CIA would subsequently fund specific programs. FIG-3. Of relevance to the instant petition, the text documents the research conducted by a Dr. Donald E. Cameron--acting for the CIA & others--to develope a technique to control 'human behavior. FIG-4. One aspect of the research was a procedure to elicit 'confessions. FIG-5. The initial experimental technique relied on by Dr. Cameron in his behavior control endevor consisted of placing a subject in a cell with no windows and the lights on continuously as a 'sensory deprivation. FIG-6. Follow up therapy would be for instance keeping subjects asleep for weeks at a time during which they were regularly electroshocked. FIGS-7&8. Sometimes when all the therapy failed, the subjects were killed, or given a frontal lobotomy. FIG- 9 through 14. The subjects killed were for example American 'conscientious objectors. FIG-15. Or CIA expendables from a country which had recently lost a war thus subject to the whims of the victor. FIG-16.

Obviously the Petitioner was not subjected to the complete panoply of therapy mentioned above, not because of any qualms of the politicans, rather that it would have been impractible: the guards at the jails & prisons confining Petitioner would not have participated. Thus in Petitioner's case the State relied on more subtle methods. Years in solitary confinement, sometimes with lights on continuously, ect.

The action complained of in this ground for relief violates the Petitioner's rights under the due process clause of the 14th. Amendment to the US Constitution; and the 5th Amendment, the right to trial by jury.

FIFTH GROUND FOR RELIEF

Newly Discovered evidence.

That the Tennessee Attorney General's office in Memphis, Tennessee, has either destroyed, or is concealing, a transcript of the testimony of Charles Q. Stephens(which would tend to exculpate Petitioner in the MLK murder), a material witness in the MLK case. Said transcript is part of the overall record in the MLK murder proceedings. The US court of appeals for the 6th circuit has ruled ,in effect that Petitioner is entitled to purchase the transcript. Ray v. Williams, et; al, No. 83-5794. However, portions of the transcript has either been destroyed or is being concealed from Petitioner. In particular that segment of the transcript reflecting the appointment of counsel for Mr. Stephens in his material witness hearing on July 22, 1968. A segment of the transcript posted to the Petitioner vis court Reporter Mary M. Shuster on August 1, 1990, is not complete.

The destruction of a transcript of a criminal proceeding is ground for a new trial. However, Petitioner cannot cite the case law since the prison law library only has West TN Digest 2d Vol-10, which at §1106 (4) refers back to an earlier volume

for references. The prison library does not have the earlier volume.

IN SUMMARY, after twenty years the State's scenario in the MLK murder has evolved to a point predictable to students of the United States legal system. There is nothing profound about the scenario. In the instant case it was first necessary for the prosecution to gain control over Petitioner's counsel Percy Foreman, in the case. This was accomplished as evidenced by the documents exhibited herein. How the prosecution gained control is problematical. Maybe Mr. Foreman was a closet pervert, i.e., child molester that the government used to manipulate him when necessary or, he had a tax charge held in abeyance. As for Petitioner's co-counsel in the case, Hugh W. Stanton sr., whom the trial Judge appointed to represent Petitioner, he was nothing but a stooge for the prosecutors: Initially the Judge had appointed him to represent the prosecutors chief witness in the case, Charler Q. Stephens. Then later when the Judge appointed him to represent Petitioner his first act, the same day in fact, was to trot over to AG Phil M. Canale's office and inquire about a plea of guilty by the Petitioner. Ray v. Rose, supra. Then, after the State obtained the plea, with the connivance of Petitioner's "attorneys", Petitioner was imprisoned wherein confinement practices were instituted to either destroy the health of Petitioner or kill him--which would have been successful if Petitioner had had congential defects. Concurrent with the confinement practices, the scenario continued in its predictable fashion: 1) the legal system commenced destroying and classifying documents that did not support the government-media Moguls version of the MLK murder, 2) the media Moguls, with the assistance of the aforementioned Cartha DeLoach type, entered into contract with several government literary mouth-pieces to write the government version of the MLK murder and, 3) at the appropriate intervals(eg: Petitioner had a Motion for a trial before the courts), the major Newspapers and or News

Magazines would publish malicious & distorted articles directed at the Petitioner intended to remind the Judges, if necessary, not to grant a trial to a member of a class on the media "hate" list, i.e., a working class White.
Finally, based on their past performances, it was the intent of the media Moguls and their politicans to attribute to the Petitioner, after his death of course, one or more "confessions" to the MLK murder. The confession(s) would be conjured up by some jailhouse pervert (homo), who had at some period been in the same prison as Petitioner, and who would subsequently gravitate to one of his counterparts in the media. Thereafter the "confession" would be generously ballyhooed by the print press & the TV Networks. Then the media polisters would pole selected "behavior modified" yokels to validate the "confession". (democracy in action). Case closed.

Although the bogus confession and "hate" type campaigns by the media are usually held in abeyance until the target is dead and thus cannot defend himself, in the instant case the bogus confession couldn't wait on death: In 1977-78 when the media was promoting the prosecution version of the MLK murder during the aforementioned "Congressional Committee" investigation of the murder, the Committee conjured up a cashiered ex-Scotland Yard detective who attributed a wide ranging confession to Petitioner in the MLK case. Petitioner supposedly gave the confession to Mr. Eist for candy bars while Petitioner was in a London, England, jail in 1968 waiting extradition to the United States. However, the confession was subsequently proven to be a fabrication via an FBI document recently released by the bureau to Petitioner. EXHIBIT-A-31. It may also be relevant to add that to counter any bogus confessions attributed to Petitioner, he periodically files with prosecutors a disclaimer of any confession(s) to prosecutors inmate counterparts. EXHIBIT-A-32. It is also noteworth that the foreign media is not accepting the duplicitous handling of the MLK murder by the United States establishment media & its politicans. EXHIBIT-A-33.

In conclusion, most likely there shall never be a trial in the MLK homicide. Consequently after the Petitioner and all the parties responsible for subverting the jury process in the MLK case have died, the latters off-springs wil assume the task of explaining away the legal farce. And of course the progenies, due to blood and training, will be just as decadent and deceptive as their progenitors, and thus may be able to explain away the farce. But things are in constant flux, e.g., the political situation in the Soviet Union. So maybe the next generation will hold, through judicial or extra-judicial proceedings, the progenies responsible for the progenitors deceptions in the MLK murder and therefore say, place the Mark of Cain on them. And maybe then the progenies will end up in solitary confinement for years, or hanged, in the name of 'human rights, or what ever legal slogan is in vogue at the time.

s/ James E. Ray, pro se

James E Ray

P.O. Box-1000
Petros, TN 37845.

I, James E. Ray, the herein Petitioner declare under penalty of perjury, that the foregoing is correct & true to the best of my knowledge & the source of the attached Exhibits are as characterized.

(STATE OF TENNESSEE
(COUNTY OF MORGAN

Subscribed and sworn to before me this 21st day of September, 1990.

My commission expires 6-21-92.

Notary public Christine E Neal.

CERTIFICATE OF SERVICE

I, James E. Ray, hereby certify a copy of the foregoing & attached Exhibits have been posted via certified mail to: Tennessee Attorney General, 450 James Robertson Parkway, Nashville, TN., 37219, this the 2 day of ~~September~~ Oct, 1990.

James E. Ray

James E. Ray, pro se
PO Box-1000
Petros, TN 37845.

cc: US Department of Justice.
cc: NAACP.
CC: Amnesty International
cc: American bar association.
cc: Foreign embassies:
USSR
Japan
Iran
Iraq
Germany
Libya
South Africa
Canada
cc: Organizations interested in real justice.

Court copy only one attested to.

also permitted Foreman to pretend on "talk shows" he had "saved Petitioner's life" via the plea. When in fact the State could have tried for the death penalty when, two days after the plea, Petitioner filed a 'Motion to set the plea aside.
The Petitioner could not have dismissed Percy Foreman as counsel in the MLK case due to a ruling by the trial Judge at a pre-trial hearing on November 11, 1968, precluding such a move. Foreman would use this ruling not only to maintain control over Petitioner until after the guilty plea, but also to enhance his fee from a literary contract. EXHIBIT-A-3.
Percy Foreman's initial move in this game was to peddle for $1.000 a story to "Look" Magazine published in the April 15, 1969, edition of the Magazine. The story, which was peddled before the plea,reads like something plagiarized from an Ann Landers column what with all the phycho-profile jargon. EXHIBIT-A-4.As the article indicates, except for form, Percy Foreman never did represent the Petitioner. This is reinforced in segments of his testimony before the above mentioned congressional committee. EXHIBIT-A-5, 5 pages. A Committee that was sympathetic to the government case.
After listening for years to Percy Foreman's rather goofy lies & distortions, Petitioner penned him a letter offering to settle the matter in court. EXHIBIT-6.

All of the aforementioned deceptive moves by the prosecution, and the State's asset Percy Foreman, have been previously presented to the courts who have found the moves 'highly appropriate. The reason for this restatement is to bring into proper focus the "withheld information" referred to above. The information that 'International law as applied to the extradition of the Petitioner from Great Britain to the United States proscribes the imposition of the death penalty. EXHIBIT-A-7.
This documented information--as well as exculpatory information--was withheld by the prosecution from the Petitioner as a result of a meeting between Prosecutor Phil M. Canale & US Department of Justice Attorneys Stephen J. Pollack & D. Robert Owens wherein all parties

agreed, during the pendency of the MLK murder trial, that none of the files pertaining to the FBI/Department of Justice investigation of the MLK homicide would be availed to the Petitioner. EXHIBIT-A-8.

The withholding of the information referred to above is proscribed by the Fourteenth Amendment to the US Constitution, Chavis v. State of North Carolina, 637, F.2d 223, 244 (1980), and the equal protection clause.

Following the Petitioner's plea of guilty in the MLK case, the legal charade played out to its predictable conclusion: two of the principals who managed the plea, Phil M. Canale & Percy Foreman (trial Judge Preston Battle died three weeks after the plea), and an FBI political operator named Cartha DeLoach, who directed the murder of MLK, gravitated to the author, Gerold Frank. Frank, a slime mongerer by nature, would then write a book promoting the government version of the MLK murder with the assistance of Canale, Foreman & DeLoach. During this process Frank would be a house guest of Canale; and meet with Foreman "numerous times". EXHIBIT-A-9. While DeLoach, in an FBI memo, would describe his relationship with Frank as "excellant." EXHIBIT-A-10, 2 pages. Subsequently the book would be widely touted by the media moguls as the "definitive version" of the MLK murder. However, when the Petitioner sued Frank & his publisher for libel in a Memphis, Tennessee, federal court they had their Judge dismiss the suit based on a non-defense, that Petitioner was "libel Proof", i.e., they could lie about Petitioner with legal impunity.

SECOND GROUND FOR RELIEF

Newly discovered evidence.

That a political cabal within the FBI under the control of the aforementioned Cartha DeLoach, the number three bureaucrat in the leadership hierarchy of the FBI in 1968, who was directly

answerable to Pres. Lyndon B. Johnson, orchestrated the murder of MLK with the approval of the 'National Association of Colored People (NAACP), hierarchy.

Facts in Support of Claim.

Preamble: In the 1960's Mr. DeLoach conducted numerous surreptitious operations for President Lyndon B. Johnson. DeLoach used as a cover for these operations his official capacity as FBI liaison to the White House. EXHIBIT-A-11. These operations included for instance the electronic surveillance of MLK for political purposes. EXHIBIT-A-12. Further, between 1965 & 1968, Mr. DeLoach managed the security operations against MLK; DeLoach also supervised, in its latter stages, Operation COINTELPRO, a program directed against Black & White Nationalist organization whom the FBI labeled "hate groups". EXHIBIT-A-13.(COINTELPRO was a clandestine operation designed in effect to search & destroy targeted organization and individuals.

With the aforementioned modis operandi of DeLoach in mind, recently the Petitioner received under the "Freedom of Information Atc" 5 U.S.C. § 552 as Amended, several declassified FBI documents pertaining to, Mr. DeLoach. Although the documents are censored and somewhat self-serving, they never-the-less refer to conspiratorial meetings, to devise ways to neutralize MLK, between DeLoach and Roy Wilkins, the Executive Secretary of the NAACP in the 1960's. One document refers to a meeting where the two discuss ways to "remove King from the national picture". EXHIBIT-A-14,2pp. Another document quoates Mr. Wilkins as telling Mr. DeLoach that the criticism of the FBI by MLK "made him all the more determined to initiate action to remove King as soon as possible". Exhibit-A-15, 5 pp.(The media moguls have alluded to these classified documents. EXHIBIT-A-16. But they have never demanded the declassification of other documents reflecting on the DeLoach/Wilkins conspiracy against MLK).

In respect to the above mentioned COINTELPRO operation controlled by, Mr. DeLoach, on March 4, 1968, MLK was added to the programs list of targets. EXHIBIT-A-17. Thirty days later he was assassinated. DeLoach then supervised the assassination investigation. EXHIBIT-A-13.

In summary, leading spokesmen for the NAACP, which incidently has an influential cadre of low profile non-blacks in its midst, have long opposed a trial in the MLK murder. The Pointman in this endeavor has been Julian Bond, a "civil rights" Leader and member of the NAACP executive board. In turn for his services to the prosecution in the MLK case, the government has evidently provided both him & family members with legal impunity for certain criminal acts, such as trafficking in illicit drugs. EXHIBIT-A-18.

In addition to regaining the preeminent position (ie. power), in the civil rights movement with the removal of MLK, the NAACP also benefited from the re-directed cash flow, that is funds that had been diverted to the MLK organization.

The action complained of in this ground for relief violates the Petitioner's rights under the Fourteenth Amendment to the US Constitution, the due process & equal protection clause; and the fifth amendment to the Constitution, the right to a trial by jury. In presenting the evidence in this ground for relief, the Petitioner is also complying with Kuhlman v. Wilson, No. 84-1479 (U.S. Sup. Ct. June, 1986), which requires in federal Habeas Corpus successive petitions that the Petition submit a "colorable showing of factual innocence".

THIRD GROUND FOR RELIEF

Newly Discovered Evidence.

That the prosecution in the MLK case, acting in collusion with the US Department of Justice, and individuals within the Civil rights movement, with the acquiescence of Petitioner's counsel in the MLK case Percy Foreman, obtained the plea of guilty from the petitioner in the MLK homicide in order to maintain the

embargo on documents generated by the FBI (and other agencies), in the bureau's investigation & surveillance of MLK and others from 1963 until the MLK murder in, 1968.

Facts in support of Claim.

On June 5, 1989, Messrs. John E. Douglas & Atsaic Kenneth P. Baker, of the FBI & Secret Service respectively, visited the petitioner at the State prison in Petros, Tennessee, and therein informed him, among other things as paraphrased by Petitioner "that the US Department of Justice & individuals within the civil rights movement and the MLK organization opposed a trial for Petitioner in the MLK homicide out of concern that classified records generated by the FBI would enter the public domain at a trial. Conversely the FBI did not oppose a trial." (Excepting the DeLoach cabal.

The aforementioned information from Douglas & Baker is supported by:

1) Prosecutor Phil M. Canale's testimony before the aforementioned congressional committee that he obtained the consent of members of the MLK organization & others and they all supported a non-trial. And that the Governor of Tennessee, Buford Ellington (a political crony of Pres. Lyndon Johnson), felt a "plea would be an excellant disposition of the case." EXHIBIT-A-1 & A-19.

2) In September 1976, the Mayor of Memphis, Tennessee, ordered the destruction of the Memphis Police Department "intelligence/ surveillance" file, maintained on MLK & others, to avoid a possible airing of the classified file in a then pending civil suit in the Memphis, federal court. EXHIBIT-A-20. The surveillance was maintained on MLK up until he was shot in Memphis and contained information relevant to the homicide. Although the destruction of said file was an 'obstruction of justice, no one including the US Department of Justice, the Plaintiff "American Civil Liberties Union" or the Judge Robert McRae, objected since they all wanted the file destroyed. When the Petitioner subsequently discovered that a duplicate of

the file had been provided the Department of Justice by the Memphis Attorney General to classify, Petitioner filed a "Motion to Intervene" with Judge McRae. The Judge ruled in effect that the content of the file was not the business of the Petitioner.

3) In January 1976 the US District court for the District of Columbia ordered sealed in the National Archives & Records Service for fifty (50), years fifty-eight (58), cubic feet of tapes & documents generated by the FBI in the bureau's investigation of MLK & numerous other persons including thoes who may have been connected with the MLK homicide. Lee v. Kelley, et al, No. 76-1185 & 76-1186. EXHIBIT-A-21. These tapes & documents were ordered sealed by the court pursuant to secret arrangements by members of the MLK organization & the US Department of Justice. The documents reportedly refer to instances of, molestation of minors, coercing females into sex acts. Newspaper reports have carried the sex angle in reference to MLK. EXHIBIT-A-22 & A-23. Conversely news reports have also stated the documents must be examined in connection with the MLK murder. EXHIBIT-A-24. Finally, the Black Columnist Carl Rowan, has written that he has viewed the documents & they reveal "plots the FBI designed to neutralize" MLK. EXHIBIT-A-25.

4) In 1978 the US Department of Justice confirmed the Department had classified a volumnious file including the Memphis (TN), and Atlanta (GA), police departments investigation of the MLK homicide. The Memphis file was classified pursuant to an Affidavit from the Memphis Attorney General requesting same. Lesar-v. US Department of Justice, 455 F. Supp. 921 (DCC, 1978. EXHIBIT-A-26.

5) In 1979 the US House of Representatives "Select Committee" that investigated the MLK homicide ordered, at the conclusion of its investigation, all records it did not publish be sequestered in the National Archives & Records Service for fifty(50) years.The embargoed records total one hundred & eight-five (185), cubic feet of material. EXHIBIT-A-27.

In respect to the above mentioned classified records,at one time or another the Petitioner has sued in the federal courts to have the records declassified. The courts responce has been in essence that the content of the file is not the business of the Petitioner even if the content contains exculpatory evidence. To provide a legal basis for these ruling, the courts have found that the declassification of said records would "invade the privacy" of persons referred to in the files. However, if there would have been a trial in the MLK case, then the aforementioned records could have been subpoenaed by Petitioner's Counsel. And the learned Judges have yet to explain how the "right to privacy" took on such legal significance in the MLK case after the guilty plea.
The action complained of in this ground for relief violates the Petitioner's rights under the due process & equal protection clauses of the 14th Amendment to the US Constitution; and the 5th & 6th Amendments: the right to trial by jury & effective assistance of counsel, since the primary reason for obtaining the fraudulent guilty plea, with the assistance of Petitioner's counsel, was to maintain the embargo on the aforementioned classified records. An embargo enforced under the guise of a "right to privacy". A "right" the courts can and do disregard when the establishment media desires the declassification of records. See Nixon v. Warner Communications Inc., 435 U.S. 589, 598 (1978), where the courts ordered the declassification of records in possession of former Pres. Richard Nixon.

FOURTH GROUND FOR RELIEF

Newly Discovered Evidence.

That it was the intent of the State of tennessee, prosecutors, the US Department of Justice, and others with a vested interested in the legal results of the MLK murder (acting with the support of their counterparts in the establishment news media), to subject Petitioner to harsh confinement conditions while waiting trial in the Memphis, Tennessee, jail in order to debilitate him physically & mentally,

and thus impair Petitioner's ability to defend himself. Subsequently said confinement was intended to assist Petitioner's counsel in the MLK homicide, Percy Foreman, to arrange a plea of guilty in the MLK case. Then, subsequent to a plea, to subject Petitioner to repressive prolonged solitary confinement, i.e., segregation, in order that Petitioner's health would become so impaired he could not adequately defend himself in the courts, ect., or that he would expire. The latter being preferable since onced Petitioner is dead, the politicans can destroy the aforementioned classified records since with the death of the Petitioner no one would have the legal standing to oppose the destruction. The evidence to support this ground is reflect in a recently published documented text titled: "Journey Into Madness"The true story of Secret CIA Mind control and medical Abuse, by, Gordon Thomas, Bantam Books, 1989.

Facts in Support of Ground:

That after the Petitioner was extradited from Great Britain to Memphis, Tennessee, in 1968 to stand trial for the MLK homicide, Petitioner was confined in a cell-block wherein the lights were left on twenty-four (24), hours per day , and steel plates had been placed over all the windows as a sensory deprivation technique. The CIA was responsible--though acting in concert with the prosecution--for said confinement condictions. Two of its agents, or contract agents, masquerading as "Federal Bureau of prison" employees, whom the Petitioner met in the Memphis jail, were assigned by the CIA to arrange for the type of confinement condictions that would debilitate Petitioner.

Then, following the Petitioner's plea, the confinement program continued: upon arriving at the State prison in Nashville, Petitioner was lodged in solitary confinement for fourteen (14), months even though no other prisoner upon entering the stytem was