

IN THE CHANCERY COURT OF SHELBY COUNTY, TENNESSEE

RENFRO HAYS,	I	
Complainant,	I	
VS.	I	NO. 71999-2 R.D.
JAMES EARL RAY,	I	
THE ATTORNEY GENERAL OF SHELBY COUNTY, TENNESSEE, AND	I I	
UNION PLANTERS NATIONAL BANK OF MEMPHIS.	I I	

PLEA IN ABATEMENT OF PHIL M. CANALE, JR.
DISTRICT ATTORNEY GENERAL OF SHELBY COUNTY, TENNESSEE

TO THE HONORABLE CHARLES E. NEARN, CHANCELLOR OF THE CHANCERY COURT OF SHELBY COUNTY, TENNESSEE, PART II:

Comes now your defendant, Phil M. Canale, Jr., District Attorney General of Shelby County, Tennessee, and for plea in abatement to the Original and Amended Bill brought against him and other defendants in this cause, says:

I

That defendant, Phil M. Canale, Jr., is the duly elected and acting District Attorney General for the Fifteenth Judicial District, Shelby County, Tennessee.

II

That on May 7, 1968, an indictment was entered against defendant, James Earl Ray, in the Criminal Court of Shelby County, Tennessee, in Cause Number 16645, charging him with Murder in the First Degree; that on March 10, 1969, after an extended hearing, a plea of guilty was entered in said cause by defendant, James Earl Ray; that at the hearing on said plea of guilty, certain items of personal property were made exhibits; that among these exhibits was the 30.06 Remington rifle referred to in the Original and Amended Bill filed and

sought to be attached by complainant, Renfro Hays; that on March 13, 1969, the Honorable W. Preston Battle, Judge of the Criminal Court of Shelby County, Tennessee, Division III, entered an Order, as and for March 10, 1969, nunc pro tunc, declaring said rifle and other personal property to be the official exhibits in Cause Number 16645, and ordering the Clerk of the Criminal Court to retain and safely keep said exhibits pending further orders of that Court; a copy of said Order is attached hereto, marked Exhibit A., and incorporated by reference herein.

III

Your defendant, Phil M. Canale, Jr., therefore avers and alleges that this Honorable Court is without jurisdiction over said 30.06 Remington rifle, as it is in custodia legis, and that to allow such proposed seizure or attachment by civil process would be to interfere with and invade the jurisdiction of the Criminal Court of Shelby County, Tennessee.

IV

Your defendant further avers that the 1966 Ford Mustang Tudor, referred to in the Original and Amended Bill filed by complainant herein, is in the constructive possession of the Memphis Police Department and the Attorney General's Office; that there is now pending in Cause Number 16645 an appeal to determine whether defendant, James Earl Ray, is entitled to a hearing on his motion for a new trial; that therefore the 1966 Ford Mustang automobile is not subject to seizure by civil process; and that this Honorable Court is without jurisdiction over said automobile.

WHEREFORE, PREMISES CONSIDERED, defendant, Phil M. Canale, Jr., prays:

1. That the Original and Amended Bill heretofore filed in this cause by complainant, Renfro Hays, against him be abated and dismissed.

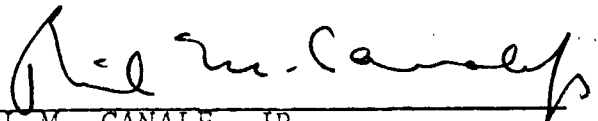
2. That the Attachment issued by the Clerk and Master

of this Court, pursuant to said Original and Amended Bill, be quashed and dismissed.

3. That the Sheriff of Shelby County, Tennessee, be ordered to return possession of said 1966 Mustang automobile to your defendant and the Memphis Police Department.

4. That this Court advise your defendant whether he shall be compelled to make any other answer to the Original and Amended Bill herein.

5. For such other and further relief as may be just in the premises.



PHIL M. CANALE, JR.
DISTRICT ATTORNEY GENERAL
FIFTEENTH JUDICIAL DISTRICT
SHELBY COUNTY, TENNESSEE

STATE OF TENNESSEE

COUNTY OF SHELBY

Personally appeared before me, a Notary Public in the above County and State, the above-named Phil M. Canale, Jr., to me personally known, who, after being first duly sworn, stated and averred that he is the District Attorney General for the Fifteenth Judicial District of Tennessee, Shelby County, Tennessee, and that he has read the foregoing Plea in Abatement and that it is true and correct.

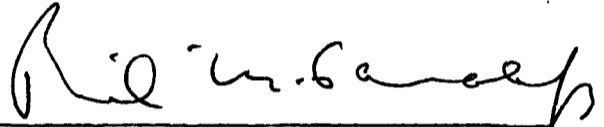
Sworn to and subscribed before me on this the 14th day of August, 1969.


NOTARY PUBLIC

MY COMMISSION EXPIRES October 16, 1972.

CERTIFICATE OF SERVICE

I, Phil M. Canale, Jr., do hereby certify that I delivered a copy of the within Plea in Abatement to C. M. Murphy, Esq., Solicitor for complainant, Renfro Hays, Dermon Building, Memphis, Tennessee; to Hugh W. Stanton, Jr., solicitor for defendant, James Earl Ray, Lincoln American Towers Building, Memphis, Tennessee; and Canada, Russell and Turner, Solicitors for Union Planters National Bank, Union Planters National Bank Building, Memphis, Tennessee, on the _____ day of August, 1969, by depositing a copy hereof, postage prepaid, in the United States Mail, addressed to their offices.



PHIL M. CANALE, JR.