

Is the King Case Dead? Murder in Memphis – Again

INSIDE THIS ISSUE

Were the JFK Autopsy X-rays Forged?

Book excerpt from *Assassination Science: Experts Speak Out on the Death of JFK*. David Mantik, M.D., Ph.D., takes us through his search for the truth about the Autopsy X-rays

Is there a conscious, coordinated effort to undermine any hope for a new trial for James Earl Ray in the Martin Luther King case? Or can the strange events unfolding in Memphis be chalked up to the incompetence and miscalculations of Ray and his allies? Wherever the truth may lie, there is little doubt that as the New Year rolls in, the hope for a new trial, so real and vibrant last summer, appears to be receding further over the horizon daily. Unless the King forces recover, or some spectacular development strikes and catches fire, it could be that the sixties assassination case that seemed about to be reopened, has now been closed forever.

As we reported in July (Vol. 4 No. 6) Judge Joe Brown, at Ray lawyer Bill Pepper's request, was trying to resolve the issue of whether or not James Earl Ray's rifle could have fired the alleged bullet that killed King on the terrace of the Lorraine Motel in April of 1968. Because a round of test firings, also requested by Pepper, had proved inconclusive, Brown had tried to dig up the bullets test fired by the FBI in 1968. These were found by the Bureau at the end of July. The FBI lab notes on the 1968 test firings, like those by the House Select Committee on Assassinations (HSCA) in 1978, claiming inconclusive results as to whether Ray's .30.06 Remington hunting rifle had fired the fatal shot. So Pepper, and his local Memphis partner Wayne Chastain, were on the verge of asking Brown for further testing.

At this point, two things happened. First, Ray's legal team began to split apart, and second, the local District Attorney's office began a successful attempt to derail Brown's efforts to find cause to reopen the case.

Concerning the former, Ray's defense team began to break apart over an internal dispute

that seemed to pit Pepper and Chastain against Jack McNeil who, like Chastain, is a local Memphian. The dispute appeared to be over McNeil's unexpected meetings with James Earl Ray and his authorization of other people to see Ray (*Memphis Commercial Appeal* 7/23/97). At this point Pepper tried to fire McNeil. But McNeil refused to step down, saying that only Judge Brown could remove him from the case. Simultaneous with this infighting, Mark Lane tried to enter the case as an ally of another lawyer trying a different tactic. Lane joined local attorney Andrew Hall in trying to get a grant of clemency for Ray which, of course, would preclude a new trial. Lane was quoted in the *Commercial Appeal* (7/22/97) as saying that he had "very strong doubts about Pepper's credibility." This was based on the June 19th ABC ambush of Pepper with a living Bill Eidson, a former Special Forces agent who Pepper depicted in his book as dead. According to Pepper, Eidson was one of the Army snipers ordered to Memphis to assassinate King as part of a contingency plan (see *Probe* Vol. 4 #5). Because of this, Eidson has filed a libel action against Pepper. Lane also added,

appraising Pepper's performance: "He's taken very strong evidence and fouled it." By November, Hall was saying that Pepper had sabotaged his clemency bid by convincing supporters not to send letters to the governor.

Fights All Around

At the beginning of August, an even stranger episode took center stage. To join the dispute amongst lawyers, a dispute between judges now broke out. Earlier motions in the Ray case had been heard in the court of Judge John Colton. But in 1994, through a routine rotation assignment, Pepper's request for new rifle tests ended up in Brown's court. In April, 1997 the Tennessee Court of Criminal Appeals rejected the local District Attorney's argument that Brown did not have the authority to proceed with the testing. Most thought that this decision had settled the jurisdictional matter. Apparently it did not. For on August 5th, Judge John Colton ordered the clerk of court's office to confiscate the Ray case files from Brown's office. This order was based on

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a report by special court-appointed master Mike Roberts, a University of Memphis law professor. His report said that Brown's care for the files was so haphazard that their present condition "imperils any possible retrial of this case." Roberts' report also questioned whether or not Brown should be presiding over the present hearings, since Ray had entered his 1969 guilty plea in Criminal Court Division 3, where Colton presides today. Roberts' report was filed with the Court Clerk while Brown was on vacation in Jamaica.

The day after the Colton-Roberts maneuver, prosecutor John Campbell filed a motion to dismiss the Pepper-Chastain request for a new round of test-firings. Campbell's motion stated:

The proposition that his right to ask for testing is unlimited and can continue until the defense obtains the results it like is totally unreasonable and would amount to an abuse of discretion by the court.

At the same time, Roberts announced through the *Commercial Appeal* (8/7/97) that he was preparing a final report questioning Brown's authority to hear the case at all. He also predicted that the pressure on Brown would mount leading to a meeting with a presiding judge to resolve a dispute over who should hear the case.

The *Commercial Appeal* now openly joined the effort to stir things up. On two consecutive days, August 8th and 9th, it ran derogatory lead editorials about Judge Brown. The first was headed "More Circus: Ray Confusion grows on judge's vacation", the second was bannered, "Ray Fiasco: Transfer is a solution; talks also would help."

Brown fired back in a phone interview with the newspaper while still on vacation. He said that the Colton-Roberts maneuver was motivated by local Republican politics and was a ploy to try and wreck his credibility. Brown further added that, "It's ridiculous, it's disgusting and it's partisan politics." In response to this, Colton made a comment that revealed a certain empathy with local prosecutor John Campbell. Colton said that Brown was "absolutely correct" in overseeing the original round of rifle testing approved by the appeals court, but then suggested that Brown had overstepped that original authority. Colton stated, "It has been determined that he [Brown] should make the ruling on that issue and that issue alone." Previously, Campbell had expressed concern that Brown was conducting an open ended inquiry when the judge had requested the original FBI test bullets for com-

parison purposes.

At this point, the FBI stepped forward. U.S. Attorney Veronica Coleman said that the Bureau would agree to turn over the 1968 test fires to county prosecutors "upon a proper request." Campbell responded that his office would request that the Bureau turn over the 1968 test bullets on the condition that the defense paid for further testing. Also, the *Atlanta Journal-Constitution* on August 15th noted that one of the grooves found on the 1997 test bullets was not mentioned in the examiner's notes from the 1968 FBI test-firing.

Prosecutor Roberts?

On August 16th, Court Clerk Bill Key did something he previously stated he would not do. He delivered an order to Brown's office seeking the return of the Ray files to him. On more than one occasion, Key had said he would not do this until Brown had returned from vacation on August 18th.

On the 18th, and the day before Brown was expected to rule on another round of test-fires, two more surprise turns took place. First, Colton appointed Roberts as a special prosecutor to look into the King case. Campbell immediately filed an emergency appeal over Colton's action, claiming Colton had no authority to name Roberts as a special investigator with subpoena power. Campbell commented: "He's basically going to convene his own little grand jury, I guess. He's going to take evidence and then seal it.... I don't really know where he's going on it."

Roberts agreed to put his probe on hold until the appeal court ruled on Campbell's motion. Tennessee Attorney General John K. Walkup joined in Campbell's appeal. Now, whether willy-nilly or not, a formal challenge had been mounted and filed over Brown's proceeding and authority. It would be impossible for a court to rule on Colton's actions without touching on Brown's. Roberts seemed to invite the challenge to his new and surprising authority. He said to the *Commercial Appeal* on August 19th, "If someone wants to challenge it, let them challenge it, and it will go up to the Court of Criminal Appeals."

The combined appeal stated:

Judges Brown and Colton are doing harm to the justice system because of the confusion they have engendered. The public can have no confidence in the reliability of any decisions which may eventually be entered in the wake of these orders.

Meanwhile, the state attorney general in Shelby County, Bill Gibbons, asked the FBI to turn the 1968 test bullets over to the local Criminal Court Clerk's office. Gibbons also said that he was investigating "every credible lead." He then qualified that by saying:

Our position is that James Earl Ray murdered Dr. King and is exactly where he belongs—in prison. The one remaining issue is if anyone helped Ray.

Before Roberts' inquiry was halted, Colton issued some interesting insights into how it was to be conducted. On August 20th, he told the *Commercial Appeal* that Roberts would be working without a fee and no court reporter would be assigned to him when taking testimony. He expected such costs to be paid privately, perhaps by Roberts himself.

On August 21st, Colton and Brown met in the office of Probate Court Judge Donn Southern, who also serves as presiding judge of Shelby County's state trial courts. It was a closed meeting and both judges refused to comment as they left. Southern did issue a statement saying that there should be no more public feuding and that such feuding had had a negative impact on the court's work.

On Friday, August 29th, the three judge appeal court panel sharply criticized both Brown and Colton on the grounds that both had overstepped their power to investigate Ray's claims. The court voided Colton's order giving subpoena power to Roberts. The judges stated that Colton did not have jurisdiction to act and had usurped the prosecutor's authority to investigate crimes. The court ruled that Brown, under narrow constraints, could continue testing the rifle. But it shackled his efforts by voiding his order that the FBI turn over the 1968 test bullets for comparison purposes and also demanding that Ray, not the state, pay the bill for the testing. The first round of tests had cost \$18,000. The court found that Brown had crossed the line from adjudicator to investigator and that he had exceeded his authority in several ways, including his criticisms of the DA's office and his receiving sealed documents which created "an appearance of secrecy."

Junking Judge Brown

Within a week of this ruling, the DA's office moved to get Judge Brown taken off the Ray case. On September 3rd, motions were filed asking Brown to step down from the case on the grounds that he had made false statements, engaged in conversations with the defense, and was lacking in objectivity. The motion asked that the case be reassigned to another judge. At first, Brown made no overt move to answer the motion.

In the interim, Andrew Hall tried another alternative to free Ray. Working with Mark Lane, Hall drew upon a technicality in old Tennessee law. Days after pleading guilty to King's assassination, Ray sought to withdraw his plea in a letter to Shelby County Criminal Court Judge W. Preston Battle. Battle died of a heart attack days later, before he could rule on Ray's

request. The law had stated that a new trial should be allowed when a judge dies while considering such a motion. This bid was dismissed by Judge Cheryl Blackburn on September 18th. The judge decided that since the law had been altered in 1996, it did not apply.

By the second week of September, Brown seemed to be withdrawing from the case. Admonished by the appeals court, attacked by the DA, constrained by what Ray's defense team could afford in the way of further rifle tests, Brown made no more rulings on the case. In November, he flew to Los Angeles to tape a

Billings and Herman both believed that the subpoenas were issued so the evidence they had would not be presented before a grand jury independently of the DA's office, which is what McNeil had been attempting to do.

pilot for a possible television syndication deal with Big Ticket Television, the producers of *Judge Judy*. Commenting on the initial taping, Brown said, "I had a ball. It was fun." (*Commercial Appeal* 11/4/97) A later report in December by the entertainment trade magazine *Variety*, said that the *Judge Joe Brown Show* was racking up TV station clearances for a fall 1998 launch.

With Brown apparently out of the picture, the local DA's office, with state attorney Bill Gibbons in tow, now took over whatever investigation was left to be done.

Bizarre Bazaar

On September 5th, Gibbons wrote a letter to Roberts asking him for whatever information he had garnered while he was special prosecutor for Judge Colton. Roberts replied in a letter to Gibbons that an investigator from Gibbons' office had threatened to charge him with obstruction of justice if he didn't tell what he knew. He added that people "in your office have chosen to threaten me as a way of attacking Judge Colton." Roberts also added that he felt troubled about "revealing allegations made by citizens claiming the killing of Dr.

King was not being adequately investigated." (*Commercial Appeal* 9/11/97)

Gibbons then decided to go public with his own beliefs on the subject:

James Earl Ray is a professional con man who very much wanted attention. This is a guy who had very, very low self-esteem and saw assassination as a way to improve it basically. I think that was the primary motive.

Gibbons then added that, "There is a pretty good possibility that he had some help." Gibbons' ideas about a very limited kind of conspiracy with Ray as the trigger man are reminiscent of those of Robert Blakey. And the *Commercial Appeal* (9/17/97) revealed that local DA's John Campbell and Lee Coffee had traveled to Indiana in September to talk to Blakey about his views on the King case. After the meeting, Campbell told the paper that Blakey's congressional committee "still came down to the conclusion that James Earl Ray killed Martin Luther King."

By September the status of the case boiled down to two separate branches, both rather weak. One consisted of Andrew Hall and Roberts (Lane seems to be out of the picture at this time). In November, they announced they would team up on a new effort to free Ray by arguing that he was mentally incompetent when he pleaded guilty in 1969. The plea was coerced since he was suffering from isolation and harassment while in jail. The Hall-Roberts teaming was of short duration. Hours after appearing before Judge Colton, Roberts was fired, ten days after he started working. Hall said that Pepper was behind the termination. Jerry Ray, James Earl Ray's brother, said Pepper called Ray in prison and told him he had too many lawyers at work for him. By November 11th, Wayne Chastain, Pepper's former partner, also announced that he was leaving the case.

The second branch consisted of Chastain's former partner, Jack McNeil who returned to the case after being separated from Pepper and Chastain. McNeil was now hooked up with detectives John Billings and Ken Herman, two local investigators who had long been delving into the King assassination. Gibbons and Campbell subpoenaed the two gunshoes to have them appear before the county grand jury to present all evidence they had of a conspiracy in the King case. The two detectives had worked for Pepper before, especially on the Raoul side of the case. A man Ray calls Raoul squired him around Canada and the U.S. paying him large amounts of money to be a courier in what seemed to be a gunrunning operation. Ray and Pepper are now convinced that Raoul played a major part in setting him

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up to take the fall in the King case. Billings and Herman both believed that the subpoenas were issued so the evidence they had would not be presented before a grand jury independently of the DA's office, which is what McNeil had been attempting to do. In late September a three-person panel made up from the grand jury and headed by foreman Herbert W. Robinson was handed a set of affidavits by McNeil. By Tennessee law this panel would review the evidence before deciding if the grand jury should investigate further and/or indict someone. McNeil's affidavits and evidence centered on two people: the mysterious Raoul, and former Memphian Lloyd Jowers. Jowers was the man who claimed on national television in 1993 that he was paid \$100,000 to have King killed. Amid the evidence turned over by McNeil to Robinson was a tape of that interview, and an affidavit by one Glenda Grabow who claims to have known Raoul. Grabow is the person who Pepper calls "Cheryl" in his book *Orders to Kill*. (Incidentally, Pepper gave her real name away in the book himself. In photo #24, he calls her "Cheryl", yet in the caption to photo #27, a drawing of Ray lawyer Percy Foreman, he calls her Glenda Grabow.) In the accounts in the *Commercial Appeal*, it appears that Grabow has expanded her story a bit. She now appears to be saying that Jack Ruby knew Raoul also.

To this latest effort, Robert Blakey responded through the *New York Times* (11/23/97):

There is a difference between suspicion and evidence. The government has to respond to these suspicions. But I am extremely skeptical of the underlying credibility of any of the evidence. These people are forcing the government to chase ghosts.

In December, while the three grand jurors were visiting the scene of the 1968 shooting, the Lorraine Motel, Herman and Billings visited Dallas. Apparently they were trying to shore up the new Jack Ruby side of the Raoul story. Meanwhile, on December 1st, the Associated Press ran a wire story saying that Pepper and others had misunderstood the Army Intelligence side of the supposed assassination story.

Now, retired Colonel Edward McBride who oversaw the 111th Military Intelligence Group's Memphis operations said the reason King was under surveillance was only to monitor whether or not a riot would break during his visits and if any troops would be needed to be sent into a city to restore order. Another agent of that

group, Jimmie Locke, was quoted as saying, "We weren't particularly concerned except that he might be the catalyst for an event of some kind." The 111th is the military group that Pepper says sent a military sniper team into Memphis the day of King's murder. It is also the group to which, Pepper says, local undercover agent Marrell McCollough's reports eventually went.

On December 10th, *Newsday's* Michael Dorman reported on the final developments in the Herman-Billings Dallas investigation. Apparently, the two investigators ran into Beverly Oliver. Oliver claims to be the so-called

Beverly Oliver claimed to have been the "Babushka Lady" who filmed the assassination of JFK. But when Oliver Stone's researcher checked the camera she claimed to have used in Dealey Plaza, the model was not for sale in America at the time. She's now telling Ray's investigators that she saw Raoul at Ruby's club (where she also had claimed to see Oswald and David Ferrie).

"Babushka Lady" who is seen in pictures of President Kennedy's fatal trip through Dealey Plaza in Dallas on November 22, 1963. The woman has a camera in her hands and probably took some very valuable photos of the assassination. Yet no one had ever seen the pictures or found out who she was. In the 1970's, researcher Gary Shaw of Cleburne, Texas said that he had discovered that Oliver was the mysterious woman. Oliver made claims that she worked at Ruby's club, saw Oswald with Ruby, and saw Oswald's friend David Ferrie at Ruby's also. Yet, when Oliver Stone's researcher on *JFK*, Jane Rusconi, checked on the camera Oliver said she had in Dealey Plaza, it turned out the model was not for sale in America at the time. According to Dorman's

report, she now told Herman and Billings that she saw Raoul at Ruby's club also. Dorman also reported that Ray's defense was also investigating the idea that Ruby was actually still alive and living in Chicago.

After making a presentation to the three-member panel in mid-December, McNeil announced he was seeking indictments against Jowers and a New York man he (and Pepper) thought was Raoul. According to the *Commercial Appeal*, Jowers is now saying that four Memphis police officers were in on the plot to kill King. After the presentation, McNeil told the press that he felt the three man panel was "genuinely interested." He continued, "It was a very good meeting." Evidently, McNeil got the wrong impression. On December 18th, the panel rejected McNeil's request for a re-examination of all the evidence and a reopening of the case to the full grand jury. In a letter to McNeil, Herbert Robinson said that the panel found "there was not sufficient, credible information presented in this matter to warrant an investigation by the Grand Jury." According to the *Commercial Appeal* of December 19th, the Gibbons-Campbell task force will continue to work on leads in the case.

Death by Media

If this inquiry is now, for all intents and purposes, dead, it will be in no small part due to the role of the mainstream media. The *New York Times* apparently decided to go after Dexter King. Dexter was the member of the slain leader's family who most openly allied himself with Pepper. He also met with Ray last spring in a nationally televised meeting on CNN. He also appeared on many talk shows pushing the conspiracy angle in the King case and the need for a new trial for Ray. In a syndicated story that was published by many papers in mid-August, *Times* reporter Kevin Sack attacked the King family for not doing more to promote MLK's legacy of civil rights activism. Sack wrote that the family was preparing "to transform King's legacy into a financial empire." (This refers to a proposed deal between the King family and Time-Warner over intellectual property rights to King's speeches and images.) Sack honed in on Dexter's role in this as the new executor of MLK's estate. He also attacked Dexter for backing Pepper's book and the British based attorney's efforts to free Ray.

This attack was followed up by a similar article by Curtis Wilkie in the December issue of *George*. Wilkie works for the *Boston Globe*, which was recently bought by the *New York Times*. His article was a longer, harsher version of Sack's. Wilkie criticized Dexter for meeting with Ray on national television in the following terms:

Once revered as the last blood link to the civil rights prophet, the King family has seen its credibility shaken by its blessing of Ray. Yet the alliance with *the killer* is just the latest in a series of audacious moves that 36 year old Dexter King has made since taking over the family's power base.... (Emphasis added)

Wilkie's bias is clear from the above italicized words. If he granted the probability that Ray was innocent, he could not then make the blanket charges he needs to frame his hit piece. Eliminating the bias, overkill, and spurious lamentation for a lost legacy, the rest of Wilkie's article comes down to three main points: 1) The King family, especially Dexter, was taken in by Pepper's book; 2) Dexter has decided to make money from the failing Martin Luther King Jr. Center for Nonviolent Social Change; and 3) Dexter has concentrated power in his hands by forcing some of the Center's elder board members to resign.

Most of the people who read this journal know that Wilkie's first point is dubious. Whatever the faults in Pepper's book, he did raise some interesting points that merit consideration, and he did win a symbolic acquittal of Ray in the only legal forum he ever had: HBO's 1993 mock trial. Concerning Wilkie's second point, the King Center, by Wilkie's own account it was not doing very well before Dexter took over. If Dexter wants to sell his father's papers to a large college library, why not? They would be better cared for there and better organized by a professional archivist, which the Center can't afford. Wilkie's third point is partly related to the second. Some of the people on the Board stemmed from King's sixties generation of civil rights activism, which really doesn't exist anymore. The Center has not been all that successful *with* them and Dexter and his siblings don't see themselves as emulating their father, which is their prerogative. It is doubtful that any leader in America could today do what King did in his brief career. Certainly, John F. Kennedy Jr., the guiding light behind *George* understands that fact.

The *New York Times* also carried an article about another media force lurking amid the dying embers of the once hopeful King case. In an August 20th article noting the dispute between Colton and Joe Brown, the *Times* mentioned that Gerald Posner was in Memphis working on a book for Random House about the King assassination. In a peculiarly insightful way, Posner may have made a valuable comment to the *Times* "The judges are not just arguing over local issues, but over who will control the enduring historical record of this combustible and unpredictable case." If one considers what Brown was attempting to do early last year versus what has happened since,

the "combustible historical record" of the King case seems pretty much a dying flame.

But fireman Posner won't have much help from the Ray brothers in stamping out this one. In an exchange of letters published on the JFK Lancer web site (www.jfklancer.com), Posner approached James Earl Ray about an interview for his upcoming book. In the very same disingenuous way he approached subjects for his JFK whitewash *Case Closed*, Posner assumed the role of the disinterested observer who would follow the evidence wherever it would lead. The Ray brothers were not falling for it. Jerry Ray wrote Posner on August 21st

Whatever the forces behind these new twists, Judge Brown has now effectively joined the ranks of Jim Garrison and Richard Sprague as those too passionate in their efforts to find the truth about the assassinations of the sixties.

that he and his brother would not cooperate with Posner. Jerry Ray wrote that if Posner needed some help in writing his kind of book, he should interview people at the FBI, the Justice Department, Robert Blakey, Louis Stokes (former chairman of the HSCA), and King biographer Dave Garrow. He told Posner he could give him the name of additional "slime balls" (Ray's phrase) to speak to upon request.

Meanwhile, James Earl Ray's condition continues to weaken. In October, he was sent to Columbia Nashville Memorial Hospital in serious condition. This was his eighth visit in the last year. Ray is dying of cirrhosis of the liver. Tennessee hospitals have refused to consider him as a transplant candidate because of his age (69), and prison officials refuse to pay for an out of state operation. He has been approved for a liver transplant at the University of Pittsburgh, but can't be placed on a waiting list until he makes a payment of \$278,000. Because of this, Pepper and King family friend Rev. James Lawson are trying to raise money through a fund supporting this

cause. See the box at the end of this article for information.

But all is not gloom. To use a suitable cliché, hope, in the form of Oliver Stone, springs eternal. In the October issue of *Icon* magazine, Stone was pictured on the cover. Near the end of the long profile of the embattled movie director, the following tantalizing sentence appeared: "He's planning on returning to a political subject in the near future—the assassination of Martin Luther King Jr." The *New York Times* (11/23/97) mentioned that Stone had been to Memphis and has a project in development called *MLK*. So if Posner, as expected, douses the sparks, perhaps Stone's film will reignite the combustion.

Still, the sad spectacle chronicled above cries out for explication. What was John Colton's motivation? Why did Roberts and Colton spring their surprise on Brown while he was on vacation? Did their agenda coincide with that of Campbell and Gibbons? Why did Brown walk away from the case? Why did Roberts, as Ray's lawyer, try to pursue the case in Colton's court when the jurisdictional matter had been decided in Brown's favor twice already? Does McNeil really find Beverly Oliver credible? Did Pepper fall for *two* deceptions: Captain William Eidson's "death", and the Grabow/ Cheryl association with Raoul? Why did Pepper not temporarily move to Memphis to be sure no internecine feuds could wreck the opportunity of a lifetime? If Dexter King truly wishes to see a new trial, why did he not finance another round of test fires which would have helped keep Judge Brown on the case?

Future historians of King, and his assassination, have these and more questions to sift through in order to explain the most recent reversal in the King chronicles. Whatever the forces behind these new twists, Judge Brown has now effectively joined the ranks of Jim Garrison and Richard Sprague as those too passionate in their efforts to find the truth about the assassinations of the sixties.

Meanwhile, with Brown out of the picture, the Gerald Posner version awaits. But this time, Oliver Stone may have the last word. ♣

James Earl Ray Fund

Anyone interested in contributing should write the following address:

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