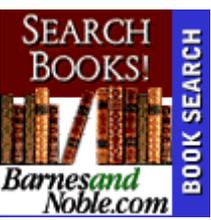




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U.S. NEWS

S T O R Y P A G E

Court says judges overstepped bounds in Ray investigation

August 29, 1997
Web posted at: 7:38 p.m. EDT (2338 GMT)

JACKSON, Tennessee (CNN) -- A Tennessee appeals court agreed Friday afternoon with a state request to keep two Memphis judges from taking any more action in the James Earl Ray case. But the court said Ray, who pleaded guilty in 1968 to killing Martin Luther King Jr., can continue his efforts to get more rifle tests in his quest for a trial.



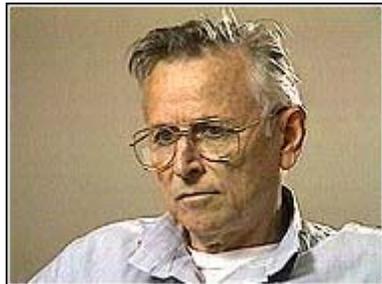
A criminalist shown testing the rifle in May (CNN)

State prosecutors had asked the Tennessee Criminal Court of Appeals to make two state judges stop pursuing issues related to the King assassination on the grounds that they had overstepped their judicial bounds.

Memphis Criminal Court Judge Joe Brown had ordered new testing on the rifle which investigators said was used to kill King. Like tests conducted in 1968 and 1978, the new tests were inconclusive. Brown has been considering ordering another round of ballistics tests.

Judges may have overstepped separation of powers

Kathy Morante, a deputy attorney general, said Brown had the authority to order the May ballistics tests under a narrow ruling from the Court of Criminal Appeals, which said a trial judge can order new scientific tests on evidence under his control.



Ray (CNN/file)

But, she said, he has since gone beyond that and violated the state constitution's separation of powers rule which gives prosecutors, not judges, the authority to investigate crimes.

Specifically, Morante said, Brown should not have ordered

the FBI to turn over test bullets it fired from Ray's rifle in 1968, nor should he have told prosecutors to submit proposed guidelines for further tests.

In siding with the state, the court said "a judge must not independently investigate facts in a case and must consider only the evidence presented."

John Colton Jr., also a Memphis judge, wants to appoint a special investigator to take sworn testimony about the possibility of a conspiracy in King's death.

"Neither Judge Brown nor Judge Colton has the authority to issue these orders," Morante said.

King family supports Ray's bid for trial

Ray, 69, confessed to the 1968 assassination of the civil rights leader and is serving a life sentence for the murder. He has recanted his confession and has been trying to take back his guilty plea and get a trial on the assassination charges for more than 28 years. It has been upheld eight times by state and federal courts.

King's family supports Ray's bid for a trial, believing it could answer questions about a conspiracy. Dexter King, King's son, attended the appeals court hearing to lend Ray his support.

"This is not about Ray. It's about justice," Dexter King said outside the courtroom. "Judge Brown is very capable. Are we questioning his competence as a jurist?"

The [Associated Press](#) contributed to this report.



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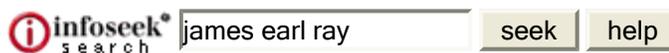
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