

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff

-v-

UNITED STATES GENERAL
SERVICES ADMINISTRATION,

Defendant

Civil Action No. 2052-73

DEFENDANT'S MEMORANDUM
PURSUANT TO ORDER OF THE COURT

Defendant, by its attorney, the United States Attorney for the District of Columbia, in supplemental support of its motion to dismiss or, in the alternative, for summary judgment, and pursuant to the Court's Memorandum and Order of April 4, 1974, respectfully submits the attached affidavit of J. Lee Rankin, former General Counsel of the Warren Commission. Defendants submit that this affidavit fully complies with the said Memorandum and Order of the Court.

The Warren Commission was established by Executive Order 11130, 28 Fed. Reg. 12789 (1963) to investigate the assassinations of President Kennedy and Lee Harvey Oswald. In view of the subject matter of its undertaking, the Warren Commission plainly had authority to classify documents pursuant to Executive Order 10501, promulgated November 5, 1953, 3 C.F.R. 979 (1949-1953 Comp.). Executive Order 11652, 3 C.F.R. 375 (1973 Supp.) superseded Executive Order 10501 only as of June 1, 1972. See Executive Order

11652, Sections 14 and 15. In this connection, the Supreme Court, in Environmental Protection Agency v. Mink, 410 U.S. 73 (1973), upheld the nondisclosure of documents classified pursuant to Executive Order 10501, notwithstanding the effectiveness of Executive Order 11652. Defendants submit, therefore, that the document sought in the instant case has been properly classified under applicable procedures.

For the foregoing reasons, therefore, as well as those included in defendant's motion to dismiss or, in the alternative, for summary judgment, defendant respectfully requests the Court to grant its said motion and to dismiss the instant action.

EARL J. SILBERT
United States Attorney

ARNOLD T. AIKENS
Assistant United States Attorney

MICHAEL J. RYAN
Assistant United States Attorney

Certificate of Service

I HEREBY CERTIFY that service of the foregoing Defendant's Memorandum Pursuant to Order of the Court has been made upon plaintiff by mailing a copy thereof to his attorney, James H. Lesar, Esquire, 1231 Fourth Street, N.W., Washington, D. C. 20024 on this 17th day of April, 1974.

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