

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

U.S. GENERAL SERVICES ADMINISTRATION

and

U.S. NATIONAL ARCHIVES AND RECORDS

SERVICES,

Defendants.

Civil Action

No. 2569-70

PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION TO DISMISS OR, IN THE
ALTERNATIVE, FOR SUMMARY JUDGMENT, and PLAINTIFF'S RENEWAL OF
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

With respect to Defendants' Motion, the "Statement of Material Facts as to which there is no genuine issue," the "Memorandum of Points and Authorities," there is serious factual disagreement as to the facts; therefore, the motion should not be granted.

These factual disagreements exist because they have been contrived by Defendants; because the allegations are not genuine; because the record allegedly cited is carefully distorted; because the citations of law and regulation are neither complete nor accurate; all being an attempt to deceive the Court by representing to the Court the opposite of what the law and regulations require and provide and what the factual situation really is, to the end that the Court be misled and the law converted into an instrument for illegal suppression.

Secondly, Defendants' Motion ought not be granted because, despite contrary certification to this Court, the affidavits and exhibits represented to have been served upon plaintiff were, in fact, not served upon him, nor were they supplied when Plaintiff requested them, and had not yet been copied for Plaintiff when Plaintiff made the second request for them, to the end that, with the time limitation imposed by the Court, it is not physically possible for Plaintiff to respond to them.

Plaintiff also believes that, under the rules of this Court, the attachment of an affidavit to a Motion to Dismiss converts it into a Motion for Summary Judgment and is therefore additional grounds for not granting it.

Plaintiff moves this Court to dismiss Defendants' Motion to Dismiss or, in the Alternative, for Summary Judgment on the grounds that:

It does not refute or even really respond to Plaintiff's Motion for Summary Judgment and Supplement thereto with valid citations of fact or law, or even allude to it aside from the general and unsubstantiated reference in the Motion itself, thereby establishing the truth of Plaintiff's pleading that there is no genuine issue as to any material fact and that, on this basis alone, Plaintiff is entitled to

judgment in his favor as a matter of law;

Each and every one of the claims and allegations in Defendants' said motion is false and without merit and, where accompanied by citations of law or regulation, are not by them sustained and do, in fact, prove each and every one of plaintiff's relevant claims and allegations;

At no point and in no manner do defendants address or even refer to plaintiff's claim that he is entitled to the public information he seeks, namely, photographs of official evidence in an official proceeding;

Defendants seek to perpetrate a fraud upon Plaintiff and this Court by editing and misquoting law and regulation and by not presenting to the Court for its consideration what defendants know to be the fact, the law and applicable regulations;

Defendants have not responded to or denied Plaintiff's proven claim, conceded by Defendants, that Defendants have made the identical public information available to another and thereby, if there ever was any legitimate reason for withholding it from Plaintiff, have waived any right to withhold it and must grant "equal access" to Plaintiff under applicable law and regulations;

Law, regulation and a certain letter agreement require the taking and providing of this said evidence for Plaintiff or any other "serious scholar or investigator of matters relating to the death of the late President for purposes relevant to his study thereof";

Because there is no genuine issue as to any material fact, because applicable law and regulation require it; because it is confirmed to be defendants' practice with others and to deny it to Plaintiff is discriminatory and illegal; Plaintiff prays this Court to find in his favor and issue a Summary Judgment in which Defendants are directed and ordered to:

Make photographic copies of the existing pictures of the clothing of the late President that is official evidence of the President's Commission on the Assassination of President Kennedy, for Plaintiff, at his expense, at the rates prevailing at the time of Plaintiff's first request therefor;

Of those views of the damage to the said clothing alleged to have been caused by a bullet that are not included in the existing pictures, make photographs for Plaintiff, "for purposes relevant to his study thereof," with Plaintiff present to see what photographs are taken and permitted to examine but not handle the said evidence to the degree necessary for this purpose, such photographs also to be paid for by Plaintiff at the rates prevailing at the time of Plaintiff's first request therefor;

Additionally, because defendants do not make even pro forma denial thereof, Plaintiff prays this Court to find the so-called GSA-family contract null and void and to order that the public property referred

to in it and the official evidence of the said Commission referred to in it, namely, Commission Exhibits 393, 394 and 395, be kept in and preserved by the National Archives, together with all other official evidence of the assassination of President Kennedy and the files of the said Presidential Commission, under existing law and regulations, with the added proviso that all possible photographs thereof that can have any evidentiary value in the future be made and duplicated and that all possible precautions be taken to avoid any possible further damage thereto.

Harold Weisberg, pro se

CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing Response to Defendants' Motion to Dismiss and Plaintiff's Renewal of Motion for Summary Judgment, together with the addenda thereto, have been served upon Defendants by mailing copies thereof to Robert M. Werdig, Jr., at the Office of the United States Attorney for the District of Columbia this _____ day of February 1971.

/s/ _____
Harold Weisberg