

*Opinion*

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

# Memorandum

TO : L. Patrick Gray, III  
Assistant Attorney General  
Civil Division

DATE: June 23, 1971

FROM : Thomas A. Flannery, United States Attorney  
for the District of Columbia

TAF:AW:ca  
Cl. 70-0367C

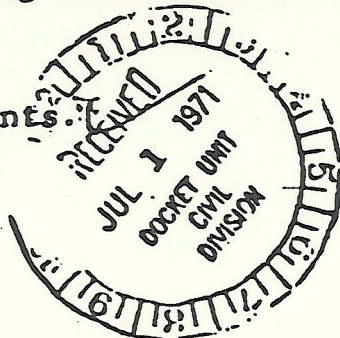
SUBJECT: Harold Weisberg v. National Archives and  
Records Service, Civil Action No. 2569-70.

The above-entitled action was prosecuted pursuant to the provisions of the Public Information Act, 5 U.S.C. § 522, by plaintiff, pro se, to obtain from the National Archives copies of certain photographs and permission to make other photographs of the garments worn by the late President Kennedy on the day of his assassination. All parties filed motions for summary judgment and, in addition, the defendants moved to dismiss the action on the grounds (1) the plaintiff had not exhausted his administrative remedies, inasmuch as he had never been denied what he sought; (2) the refusal of the defendants to permit plaintiff to do what he desired regarding photographing these articles was an exercise of discretion; and (3) the articles plaintiff seeks to examine are not records within the purview of the Act.

Subsequent to the filing of defendants' motions the United States District Court for Kansas ruled in the matter of John Nichols v. United States of America (CA 4761) and a copy of this ruling was forwarded to this office.

In ruling on the defendants' motion to dismiss, the District Court pronounced a short oral opinion regarding the Court's interpretation of the availability of these articles under the Public Information Act. A copy of the Court's ruling together with copies of the proposed order dismissing the action are attached.

Attachments:



*Handwritten initials*

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CIVIL DIV.  
General Litigation Sec.

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