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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

EMORY L. BROWN, JR., :
Plaintiff : Civil Action 44-71
v. : NOTICE OF MOTION and
JOHN MITCHELL, etc., et al, : AFFIDAVIT
Defendants :

To: Chamlin & Schottland, Esquires
Attorneys for Plaintiff
269 Norwood Avenue
West Long Branch, New Jersey

PLEASE TAKE NOTICE that on May 3, 1971 at 11:00 o'clock
in the forenoon, the undersigned attorneys for the defendants will
move before the Honorable Clarkson S. Fisher, United States District
Judge in the Federal Building and Court House, 402 East State Street,
Trenton, New Jersey, for an order dismissing plaintiff's claim, or
in the alternative for summary judgment, for the reason that plaintiff
has failed to state a claim upon which relief can be granted.

PLEASE TAKE FURTHER NOTICE that in support of their motion,
the defendants will rely upon the annexed affidavit, and the brief
submitted herewith.

HEBERT J. STERN
United States Attorney

By

ROGER S. STEFFENS
Assistant United States Attorney

I, Henry A. Schutz, Jr., a Special Agent of the Federal Bureau of Investigation, being first duly sworn, depose as follows:

1. I have been a Special Agent of the Federal Bureau of Investigation for the past 23 years during which time I have been engaged in supervisory and investigatory duties both at Washington, D. C., and in the field. By reason of my experience, I am familiar with the responsibilities and policies of the Federal Bureau of Investigation.

2. I have reviewed the complaint filed in the suit entitled "Emory L. Brown, Jr., Plaintiff, vs John Mitchell, Attorney General of the United States, The Department of Justice of the United States and J. Edgar Hoover, Director of the Federal Bureau of Investigation, Defendants," Civil Action 44-71, filed January 12, 1971, in the United States District Court - District of New Jersey. The information demanded by plaintiff would, if such exists, be contained in the investigative file compiled for law enforcement purposes by the FBI in connection with the assassination of President John F. Kennedy on November 22, 1963. At the present time this file consists of 384 volumes containing 12,659 serials. Some of these "serials," each of which is a separate document, are over 1,400 pages in length.

3. While the FBI maintains an extensive and detailed indexing system permitting material in its files and records to be located, a search

Key word
what do they have
and what don't
they have

of our indexing systems failed to identify certain of the information requested by plaintiff. However, since plaintiff's demands are based on material originating in the files and records of other law enforcement agencies (principally the Dallas Police Department), to insure that our files do not contain the demanded information in any form would necessitate a detailed, page by page search of a substantial portion of the 384 volumes of this file. Such examination would require utilization of a large number of individuals for an extended period of time. This, in addition to the expense involved, would require reassignment of personnel who are presently carrying out investigatory and supervisory duties under responsibilities assigned to us.

§ 16, A schedule of fees & Serv. Chg.
5 USC 552

4. The file is, and has been since it was opened on the assassination of President Kennedy, maintained in a "pending" or open status.

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All information contained in such file was placed there in connection with the investigative responsibilities of the FBI. These responsibilities go beyond the question of whether a prosecution or other law enforcement proceeding might still be initiated against any individual referred to in this file. Not only is the FBI still actively engaged in investigating fully any allegations that a conspiracy existed relating to or responsible for President Kennedy's death, but the file contains information which would be of inestimable investigative value in the event of a future attempt on the

life of a President. The file is replete with techniques and methods used by the FBI and other law enforcement agencies in the investigation of this matter. If revealed, it would seriously hamper the successful investigation of such an occurrence in the future. Lastly, forced revelation of sources of information, many of whom cooperated on the belief that their assistance would be concealed, would tend to jeopardize such cooperation in the future.

5. Release of the requested information would be not only a disservice, but a serious invasion of the right of personal privacy of those whose connection, however innocent, with this investigation might be made known. Investigative files compiled for law enforcement purposes contain all material furnished and developed during the course of the inquiry, some of which may be based on speculation, mistake or on unfounded suspicion. Removed from the context of the investigation as a whole, release of such raw data could result in irreparable injury to the reputations of those identified and could leave them, due to the passage of time, unable to refute any damage to their reputation caused by the revelation.

6. For the foregoing reasons, I believe that if compliance with a request as made by plaintiff herein were to be ordered by a court

it would seriously affect the ability of the FBI to carry out its assigned
investigative responsibilities.

/s/ Henry A. Schutz, Jr.

Washington
District of Columbia

Before me this 25th day of March, 1971, Deponent
Henry A. Schutz, Jr. has appeared and signed this affidavit first
having sworn that the statements made therein are true.

My commission expires August 14, 1973

/s/ Louise D. Walter
Notary Public in and for the District of Columbia