

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

COMMITTEE TO INVESTIGATE
ASSASSINATIONS,

Plaintiff,

v.

DEPARTMENT OF JUSTICE,

Defendant.

Civil Action

No. 3651-70

OPPOSITION TO FILING OF
AFFIDAVIT OF ROBERT BLAIR KAISER

Comes now defendant by its attorney, the United States Attorney for the District of Columbia, and opposes the filing of the affidavit of Robert Blair Kaiser for the following reasons:

On July 29, 1971, this Court entered an order granting summary judgment for defendant. Plaintiff subsequently filed a notice of appeal on September 16, 1971. The affidavit plaintiff now seeks to file was not before the Court at the time of its ruling although plaintiff had ample opportunity to present it since the complaint in this action was originally filed December 15, 1970. The affidavit was thus not a part of the record at the time of the Court's ruling and may not appropriately be added to supplement the record at this juncture.

Moreover, the affidavit adds no information which would affect the memorandum opinion and ruling of the Court in this action. Kaiser, in the affidavit, reaffirms the fact already established that this access to the files in question was permitted by the District Attorney's Office in Los Angeles County and not the Federal Bureau of Investigation. Although he does not make reference to his appointment as an investigator for the defense team of Sirhan, this

factor was previously established in the record and provides a basis for access to the files from the District Attorney. The remaining statements in the affidavit alluding to access by other individuals are wholly based upon hearsay knowledge, not personal knowledge. Hearsay information is not the proper basis for an affidavit. See Rule 56(e), F.R.C.P.

For the foregoing reasons, it is respectfully requested that the Court reject plaintiff's request to file the Kaiser affidavit.

/s/

THOMAS A. FLANNERY
United States Attorney

/s/

JOSEPH M. HANNON
Assistant United States Attorney

/s/

ARNOLD T. AIKENS
Assistant United States Attorney

Certificate of Service

I HEREBY CERTIFY that service of the foregoing Opposition to Filing of Affidavit of Robert Blair Kaiser has been made upon plaintiff by mailing a copy thereof to attorney for plaintiff, Bernard Fensterwald, Jr., Esquire, 905 16th Street, N. W., Washington, D. C. 20006 on this 13th day of October, 1971.

/s/

ARNOLD T. AIKENS
Assistant United States Attorney