

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG,

Plaintiff,

v.

GENERAL SERVICES ADMINISTRATION,

Defendant.
.....

Civil Action No. 75-1448

RECEIVED

MAY 4 1978

JAMES E. DAVEY, CL.

MOTION PURSUANT TO RULE 56 OF THE FEDERAL RULES
OF CIVIL PROCEDURE TO STRIKE AFFIDAVITS OF
CHARLES A. BRIGGS, TO HOLD GOVERNMENT OFFICIALS
AND ATTORNEYS IN CONTEMPT, AND FOR PAYMENT OF
REASONABLE COSTS, INCLUDING ATTORNEY FEES

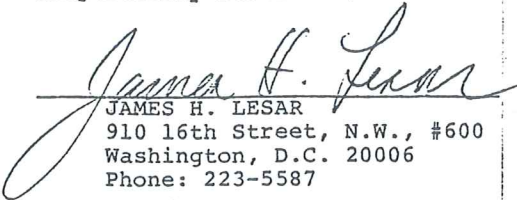
Comes now the plaintiff, Harold Weisberg, and moves the Court for an order striking the affidavits of Mr. Charles A. Briggs on the grounds that the affidavits of Mr. Harold Weisberg and documents submitted in support of plaintiff's motion for a new trial demonstrate that Mr. Briggs has sworn to his personal knowledge of facts which are false and grossly misleading; and that therefore Mr. Briggs' affidavits are totally lacking in any credibility and do not qualify for consideration under Rule 56 of the Federal Rules of Civil Procedure but must be stricken.

Plaintiff further moves the Court, again pursuant to the provisions of Rule 56 of the Federal Rules of Civil Procedure, for an order to show cause why the government officials and attorneys who prepared the Briggs' affidavits and submitted them to this Court should not be held in contempt; and

Plaintiff further moves the Court for an order requiring the defendant to pay him the reasonable costs, including attorney's

fees, which he has incurred as a consequence of said affidavits.

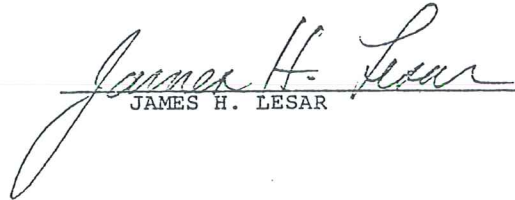
Respectfully submitted,


JAMES H. LESAR
910 16th Street, N.W., #600
Washington, D.C. 20006
Phone: 223-5587

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 4th day of May, 1978, hand-delivered a copy of the foregoing Motion Pursuant to Rule 56 of the Federal Rules of Civil Procedure to the office of Mr. Michael J. Ryany, United States Courthouse, Washington, D.C. 20001.


JAMES H. LESAR

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG,

Plaintiff,

v.

Civil Action No. 75-1448

GENERAL SERVICES ADMINISTRATION,

Defendant
.....

MEMORANDUM OF POINTS AND AUTHORITIES

As this Court's June 7, 1977 Order makes express, the Court's decision to award summary judgment in favor of the defendant with respect to the January 21 and June 23, 1964 Warren Commission Executive Session transcripts relies upon the affidavits of Mr. Charles A. Briggs, Chief of the Services Staff, Directorate of Operations, Central Intelligence Agency. Certain public events which have transpired since the date of the Court's June 7 Order, as well as the affidavit and exhibits submitted by plaintiff Harold Weisberg in support of his motion for a new trial, show that statements made by Mr. Briggs in his affidavits are false and grossly misleading. Because it is evident that these affidavits are totally lacking in credibility and were indeed submitted in bad faith in order to delay plaintiff's access to these transcripts, they should be stricken from the record.

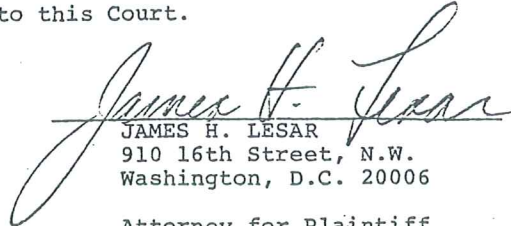
In this regard, it should be pointed out that Rule 56(g) of the Federal Rules of Civil Procedure provides:

(g) Affidavits Made in Bad Faith. Should it appear to the satisfaction of the court at any time that any of the affidavits presented

pursuant to this rule are presented in bad faith or solely for the purpose of delay, the court shall forthwith order the party employing them to pay the other party the amount of the reasonable expenses which the filing of the affidavits caused him to incur, including reasonable attorney's fees, and any offending party or attorney may be adjudged guilty of contempt.

The bad faith affidavits submitted by the defendant have put plaintiff, who is old, indigent and in poor health, to bear the enormous burden of appealing the decision which this Court made in reliance upon these false affidavits. Therefore, plaintiff should also be awarded the reasonable expenses which the filing of these affidavits has caused him to incur, including reasonable attorney fees.

The use of false and misleading affidavits by government officials in this plaintiff's Freedom of Information Act lawsuits is common and judicial tolerance of them is routine. It may, therefore, appear to be a further waste of time, indeed downright silly, for plaintiff to urge that the government officials and attorneys who prepared and submitted these affidavits be held in contempt. Yet the Federal Rules of Civil Procedure provide for this sanction, and no matter how often they have been honored in the breach, they should be applied to the outrageous conduct in this case. Accordingly, plaintiff also asks that the Court invoke its contempt powers against those who have prepared and submitted the affidavits of Mr. Briggs to this Court.


JAMES H. LESAR
910 16th Street, N.W.
Washington, D.C. 20006
Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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HAROLD WEISBERG, : :
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Plaintiff, : :
: :
v. : : Civil Action No. 74-1448
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GENERAL SERVICES ADMINISTRATION, : :
: :
Defendant : :
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O R D E R

Upon consideration of Plaintiff's motion to strike the affidavits of Mr. Charles A. Briggs, for an order to show cause why the government officials who prepared said affidavits and submitted them to this Court should not be held in contempt, and for an order requiring the defendant to pay plaintiff the reasonable costs, including attorney fees, which plaintiff incurred as a consequence of the filing of said affidavits, and the entire record herein, and it appearing to the Court that the affidavits of Mr. Briggs contain false and misleading information and were submitted in bad faith and for the purpose of delaying plaintiff's access to the January 21 and June 23, 1964 Warren Commission executive session transcripts, it is by the Court this _____ day of _____, 1978, hereby

ORDERED, that the affidavits of Mr. Charles A. Briggs be, and hereby are, stricken; and it is further
ORDERED, that the defendant shall pay plaintiff \$ _____ in costs and \$ _____ in attorney fees as the amount of costs reasonably incurred by plaintiff as a consequence of the filing of the affidavits by Mr. Charles A. Briggs; and it is fur-

ther

ORDERED, that all government officials responsible for preparing and submitted the Briggs' affidavits to this Court shall appear at the hour of _____, on the _____ day of _____, 1978, to show cause why they should not be held in contempt.

UNITED STATES DISTRICT COURT