

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

CIVIL ACTION NO. 75-1996

DEPARTMENT OF JUSTICE,

Defendant.

AFFIDAVIT OF MARK L. GROSS

I, Mark L. Gross, being duly sworn, do depose and say as follows:

1. I am an attorney in the Appellate Section, Civil Rights Division, United States Department of Justice.

2. In that capacity, I have become familiar with the Division's processing of the December 23, 1975, Freedom of Information Act request of James H. Lesar.

3. Mr. Lesar's request was initially referred to this Division on January 12, 1976.

4. By letter dated February 6, 1976, Mr. James Turner, Deputy Assistant Attorney General of this Division, who is ultimately responsible for the release of records pursuant to Freedom of Information Act requests processed by this Division, notified Mr. Lesar that the search for the documents requested would cost approximately \$320.00. The letter requested a deposit of \$80.00 (See Attachment A.).

5. Mr. Lesar's deposit was received by this Division on February 10, 1976 (See Attachment B.).

6. Following this, our search for the requested documents was instituted. By letter dated April 16, 1976, Mr. Turner notified Mr. Lesar that the search was complete, that a final determination had been made to release 120 pages of documents at that time and that they would be made available to him at his convenience. The letter further stated that the remainder of the documents were still under review (See Attachment C.).

7. Also on April 16, this Division referred several documents which had originated in the Criminal Division to that Division for their review (See Attachment D.).

8. Mr. Lesar examined the above-described documents (See para. 6.) in my office on April 21, 1976. At that time he requested one copy of each document, and asked for copies of envelopes, if they were available, in which two of the documents were received, and for a clearer copy of one document.

9. On April 26, one copy of each of the documents Mr. Lesar examined on April 21, 1976, was mailed to him (See Attachment E.).

10. Also on April 26, 1976, I received a copy of a letter sent to Mr. Lesar from the Criminal Division which enclosed a copy of each of the sixteen documents we referred to that office on April 16, 1976 (See Attachment F.).

11. On April 29, 1976, this Division referred four additional documents to the Criminal Division for their review (See Attachment G.).

12. By letter dated May 25, 1976, Mr. Turner notified Mr. Lesar that the envelopes he sought were not in our files, and that the unclear copy of one of the documents he received was due to the fact that the original was difficult to photocopy. The letter offered Mr. Lesar an opportunity to examine the document in our offices (See Attachment H.).

13. Since that time, the remainder of the documents located during the Division's search for documents responsive to Mr. Lesar's request have been undergoing review by several offices within the Division and the Department. In addition to review by attorneys in the Appellate Section, the documents were reviewed by attorneys in the Criminal Section of this Division, as well as the Office of Professional Responsibility. The documents presently are undergoing final review by Mr. Turner. It is my understanding that his review is nearly complete and that a final response will be made during the week of July 12, 1976. The letter to Mr. Lesar will describe appropriate Departmental appeal procedures should Mr. Lesar disagree with deletions made by this Division in the documents which will be released.

Dated: July 12, 1976

MARK L. GROSS
Attorney
Department of Justice

Subscribed and sworn to before me
on this _____ day of _____, 1976.

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DJ 144-72-668
T. 2/4/76

FEB 6 1976

James H. Lesar, Esq.
1231 Fourth Street, S.W.
Washington, D.C. 20024

Dear Mr. Lesar:

This is in response to your letters of December 23, 1975, and December 29, 1975, requesting that Mr. Harold Weisberg be allowed access to certain records concerning the assassination of Dr. Martin Luther King, Jr. Your letter of December 23, described twenty-eight categories of records to which Mr. Weisberg is requesting access under the Freedom of Information Act. The Deputy Attorney General's office referred your letters to this Division as well as to the Federal Bureau of Investigation.

The number of files compiled by this Division which concern the assassination of Dr. King is substantial. In addition, the length and complexity of the request in your letters will complicate the review of those files.

Departmental regulations require that, when we anticipate that search and copying fees will amount to more than \$25, and an individual making a Freedom of Information Act request has not indicated a willingness to pay fees of, or above, that amount, we must notify the requester of the amount of the anticipated fee, and receive a deposit, before beginning a search for requested records (28 C.F.R. 16.9 (c), (e)). As required by this regulation, we have determined that the initial search of our files would take approximately one week. In addition, due to the complex nature of the requests contained in your letter, and of the documents in our file, it will probably be necessary to use professional research personnel and attorneys, rather than clerical personnel, to make this search.

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The fee for search time spent by such personnel is set, by regulation, at \$2.00 per quarter hour in excess of the first quarter hour. A full week's search, therefore, would result in a charge of \$280.00. Any copying fees (set

It is impossible to determine, without actually searching the files, whether or not this Division has any documents which would be responsive to any of the requests for documents made in your letters. In addition, it is entirely possible that documents located may be exempt from disclosure under the Freedom of Information Act. However, whether or not our search results in release of documents to you, it is our responsibility to remind you that you and Mr. Weisberg would be responsible for the fee for time spent during the search (See 28 C.F.R. 16.9(a)).

The deposit required by 28 C.F.R. 16.9(e) is 25% of the anticipated fee. Accordingly, if you wish us to process this request, please send a check or money order for \$80.00, payable to the Treasury of the United States, to this office.

If you wish to discuss the possibility of reformulating the request in a manner which could supply the records you need at a lower cost, please contact Mr. Walter Barnett or Mr. Mark Cross at 739-2195.

Sincerely,

James P. Turner
Deputy Assistant Attorney General
Civil Rights Division

JAMES H. LESAR
ATTORNEY AT LAW
1231 FOURTH STREET, S. W.
WASHINGTON, D. C. 20024
TELEPHONE (202) 484-6023

February 7, 1976

Mr. James P. Turner
Deputy Assistant Attorney General
Civil Rights Division
U. S. Department of Justice
Washington, D. C. 20530

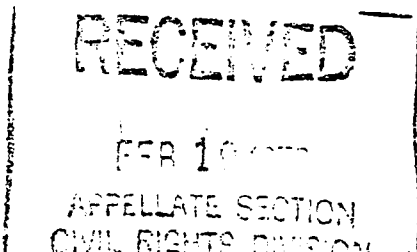
Dear Mr. Turner:

In response to your letter of February 7, 1976, I enclose herein a check for \$80.00.

In making this payment Mr. Weisberg does not waive his right to recover this or any other search or copying fee which you may require him to pay in order to obtain records pertaining to the assassination of Dr. Martin Luther King, Jr.

Sincerely yours,


Jim Lesar



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DJ 144-72-662
T. 4/12/76

APR 16 1976

Mr. James H. Lesar, Esq.
1231 Fourth Street, S.W.
Washington, D.C. 20024

Dear Mr. Lesar:

This letter is in further response to your Freedom of Information Act request for certain documents concerning the assassination of Dr. Martin Luther King, Jr.

We have completed our search of Civil Rights Division files for records responsive to your request. At this point, we are prepared to release a number of the Civil Rights Division documents we located. Some of the documents we located originated in the Criminal Division and have been referred to that Division for a decision on release, and we are still reviewing the remainder for possible deletion of material which is exempt from disclosure under the Freedom of Information Act.

The relevant documents we located, which we are now prepared to release, in full, constitute 127 pages. Forty of these consist of copies of two pleadings filed in Ray v. State of Tennessee and Lewis Tollett, No. H.C. 661, (Supplement to Amended Petition for Post Conviction Relief, filed September 22, 1970, and Petitioner's Answer to Respondent's Motion to Strike, with attached affidavit, filed August 31, 1970) and eight consist of a copy of Ray v. Rose, No. 73-1543 (6th Cir. 1974); these were attached to pieces of correspondence. We hope to reach a decision on release of the remainder of the Civil Rights Division documents we located within the next two weeks.

Our search for relevant documents took much less time than I had first estimated; Division personnel spent a total of fifteen hours completing the search for these documents. We have calculated this time at a rate of \$2.00 per quarter hour, as permitted by 28 C.F.R. 16.9(b)(6). The total search fee, therefore, is \$126.00. Since you have deposited \$80.00, the remainder of the search fee still

outstanding is \$46.00. This should be paid by check or money order, payable to the Treasury of the United States, and sent to this office.

Your letter requests "access" to these documents. If you wish to look at them in this building before requesting copies, we will be happy to make them available on any day, during working hours, which is convenient to you. Alternatively, if you prefer, we can make copies of all the documents which we located and have, at this time, decided to release, and send them directly to you. Under Departmental Freedom of Information Act regulations, copies of documents are supplied at a cost of 10 cents per page.

I have specifically named the pleadings and the Court of Appeals opinion which were attached to documents located during our search, because I suspect you already have copies of them in your files. If you wish us to send you copies of the documents, we will release, but do not want copies of the pleadings and/or court decision, please so indicate when asking us for copies. If you would prefer to look at the documents here, please suggest a specific date convenient to you.

Sincerely,

James P. Turner
Deputy Assistant Attorney General
Civil Rights Division

APR 16 1976

Ross Buckley
Freedom of Information Control
Officer
Criminal Division

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DJ 144-72-662

Walter W. Barnett
Freedom of Information Control
Officer
Civil Rights Division

Freedom of Information Act
Request - James H. Lesar

This Division has received the attached Freedom of Information Act request from James Lesar. During our search of the Civil Rights Division files, we found several documents which were originally issued by, or sent to, the Criminal Division. Most of the documents deal with the extradition of James Earl Ray.

We are referring the documents, copies of which are attached, to your office for a decision on release, and have notified Mr. Lesar that several documents have been referred to your Division. Since the request has been in the Department for some time, I will greatly appreciate your notifying Mr. Lesar of your decision as soon as is convenient.

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DJ 144-72-662
T. 4/24/76

APR 26 1976

James H. Lesar, Esq.
1231 Fourth Street, S.W.
Washington, D.C. 20024

Dear Mr. Lesar:

Enclosed, as you requested, is one copy of each of the documents you reviewed in Mr. Gross' office on Wednesday, April 21, 1976. Copies are provided at a cost of 10 cents per page (23 C.F.R. 16.9(b)(1)).

The total number of pages provided at this time is sixty-four (64). The copying fee is \$6.40. This total should be added to the \$46.00 you owe for the unpaid portion of the search fee incurred and a check or money order, payable to the Treasury of the United States for the amount of \$52.40 should be sent to this office.

Sincerely,

James P. Turner
Deputy Assistant Attorney General
Civil Rights Division

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chrno
Jay Dugan (Asst. U.S. Atty)

MR. GROSS

APR 26 1976

James H. Lesar, Esquire
1221 Fourth Street, S. W.
Washington, D. C. 20024

Dear Mr. Lesar:

In processing your Freedom of Information request dated December 23, 1975, filed on behalf of your client, Mr. Harold Weisberg, the Civil Rights Division located the documents listed below which originated with, or were sent to, the Criminal Division.

1. Letter dated June 17, 1968, from Arthur J. Hanes to Attorney General, Ramsey Clark (1 page).
2. Letter dated June 25, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Arthur J. Hanes (1 page).
3. Letter dated July 31, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Buford Ellington, Governor of Tennessee (1 page).
4. Letter dated July 31, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to David Calcutt (1 page).
5. Letter dated August 2, 1968, from District Attorney, Phil M. Canale, Jr., to Assistant Attorney General, Fred M. Vinson, Jr. (1 page).
6. Letter dated August 8, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Governors Ellington and Hearnes (2 pages).
7. Letter dated August 8, 1968, from Buford Ellington, Governor of Tennessee to Assistant Attorney General, Fred M. Vinson, Jr. (1 page).
8. Letter dated August 14, 1968, from Assistant Attorney General, Fred M. Vinson Jr., to District Attorney, Phil M. Canale, Jr. (1 page).
9. Letter dated October 22, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Buford Ellington, Governor of Tennessee (1 page).

10. Letter dated November 4, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Michael C. Dresden and Co. (1 page).
11. Letter dated April 6, 1969, from Harold Weisberg to Carl W. Balcher, Chief, General Crimes Section (1 page).
12. Letter dated March 31, 1969, from Harold Weisberg to Carl Balcher, Chief, General Crimes Section (1 page).
13. Letter dated July 11, 1968, from Arthur J. Hanes to Attorney General, Ramsey Clark (1 page).
14. Letter dated July 16, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to Arthur J. Hanes (1 page).
15. Memorandum dated July 31, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to the Director of the FBI (1 page).
16. Letter dated July 31, 1968, from Assistant Attorney General, Fred M. Vinson, Jr., to District Attorney, Phil M. Canale, Jr. (1 page).

In a memorandum dated April 16, 1976, these documents were referred to us for our consideration concerning their releasability. The Criminal Division has determined that these documents should be made available to you in their entirety and copies are attached hereto.

Sincerely,
RICHARD L. THORNBURGH
Assistant Attorney General
CRIMINAL DIVISION

by:

E. ROSS DUCKLEY
Attorney in Charge
FOI/Privacy Act Unit

Enclosures

APR 29 1976

Ross Buckley
Freedom of Information Act
Control Officer
Criminal Division

WWB:ILG:mfm
DJ 144-72-668

Walter W. Barnett
Freedom of Information Act
Control Officer
Civil Rights Division

Freedom of Information Act
Request - James Lesar

Attached are a few additional documents located during our search for documents requested by Mr. James Lesar. All were issued by, or originally sent to, the Criminal Division. Accordingly, the decision on release should be made, your Division. *by*

I just received a copy of your response to Mr. Lesar, dated April 26, 1976, concerning the first packet of documents we referred to you. I greatly appreciate the speed with which you processed this referral.

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MAY 25 1976

James H. Lesar, Esq.
1231 Fourth Street, S.W.
Washington, D.C. 20024

Dear Mr. Lesar:

During your visit to Mr. Gross' office on April 21, 1976, at which time you examined various documents requested under the Freedom of Information Act, you asked Mr. Gross to check on the availability of a clearer copy of one document, and on the availability of a copy of an envelope in which a second document was mailed. Please excuse our delay in responding.

The first document is a handwritten letter to the Department of Justice from James Earl Ray, dated January 12, 1970 (the date appears on the second page). The reason the xerox copy is light is because Mr. Ray wrote the letter in green ink, which does not make clear copies. If you find that the copy enclosed is illegible, and would like to see the original it can be made available for your inspection. Please contact Mr. Gross, (703-4126) to arrange a convenient date, and time for such inspection. We have, at your request, included xerox copies of the envelope in which the letter was mailed to us.

The second document is a xerox copy of a letter written by Mr. Ray to the Department of State, dated August 13, 1969 (the date is on the third page of the letter). You inquired whether we had the envelope in

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which this letter was sent. In fact, our files contain only a xerox copy of the letter and a xerox copy of the front of the envelope. We have enclosed a copy of those pages. If you wish to see the original, I suggest you contact the Department of State, which may still have the original in its files.

Sincerely,

James P. Turner
Deputy Assistant Attorney General
Civil Rights Division