

affi davit form

1. My name is Harold Weisberg. I reside at Route 12, Frederick, Md. 21701. I am the plaintiff in C.A.75 -1996.

2. I have read the Supplemental Points and Authorities and the attached affidavit of FBI S.A. Horace P. Beckwith dated March 1, 1977.

3. Both set forth an engine for non-compliance with the Act and continued denial to me of my rights under it.

4. Both continue the pretense that my FOIA requests are limited to whatever is contained in what was earlier described as the FBIHQ file. Now it is no longer even identified to carry this deception further. Both refer to an unidentified 80 sections of a single file. SA Beckwith extends this misrepresentation with the untrue description of "Appropriate records searches located ~~80~~ 89 sections."

5. Neither the Supplement nor the affidavit address my earlier testimony that limitation to the FBI HQ file would assure permanent non-compliance for which defendant continues to seek the sanction of this Court.

6. There was neither rebuttal nor cross examination of this testimony nor my testimony that there remain extensive files in the Departmental Division from which there has not been compliance.

7. There has been no response to my allegations that perjury was committed to mislead and deceive this court and to continue the denial of my rights that go back to 1969. This perjury is both both Departmental and FBI affiants.

8. It simply is not possible for a qualified expert who in addition is an experienced FBI agent not to know that a search limited to the FBI HQ file is not "Appropriate record searches." The record in this case is unequivocal and in fact is the defendant's own testimony, that most of the records I seek are not even in Washington. I have provided for the record the Attorney General's own statement on this. It is that all records on Dr. King and his assassination in Washington total 3,500 documents while those in FBI Filed Offices alone total 204,500. The very act of searching FBIHQ records in itself establishes the identifications and locations of files that continue to be withheld. In my examination of the ~~abuse~~ deliberations of sections to me I stopped listing

the other files specifically identified after I had tabulated more than 100 different files. These same records also contain other filing identifications that I cannot explain but certainly are guides ~~mf~~ to the FBI. They contain many references to FBI laboratory files..

9. Although my testimony of last September, that there had not yet been compliance with my April 15, 1975 request, remains undisputed there has not been a single piece of paper delivered to me since that testimony in response to that request. This is not ~~ix~~ addressed in the Supplement or in the attached FBI affidavit.

10. I have an ~~ix~~ Item in the amended complaint, the request of December 22, 1975; to which the Supplement and affidavit are addressed. That Item ~~x~~ is one on which the FBI was careful to hide its records from Washington because they are so e, barrassing to the FBI. ~~t~~ It is the files on the Invaders/Memphis ~~Garx~~ Sanitation Strike/Cointelpro operation in Memphis. I testified that Director Kelley had had a search of the Memphis files made in February 1976 on this subject and that no single record of it had been provided me despite the fact of a search subsequent to my request. To date I have not received a single record from it. At the time all 89 sections have been provided there still will not have been compliance with this Item and it still will be totally impossible and to the personal knowledge of SA Beckwith totally impossible from what he styles "appropriate searches."

11. The section provided are ~~xxxxxxxx~~ abundant proof of the prior false swearings to this Court. With regularity and in some volume they establish the existence of countless ~~xxxxxxxxxxxx~~ records this Court was assured do not exist by both AUSA Dugan and SA Thomas Wiseman. The Court was ~~fix~~ assured that there were no other suspects. There were countless other suspects, countless records so captioned and after the odentification of James Earl Ray there remained ~~xxxxxx~~ countless other suspects the FBI HQ directed by considered as possible co-conspirators with Ray, whose guilt was assumed.

12. This Court was first assured, including under oath, that there were no pictures of the scene of the crime. When I indicated to defendant some of my knowledge of such pictures those I indicated were mysteriously found and then denied me. These include

these purched by Time, Inc. and still largely unpublished and ~~in~~ some taken by the Memphis Police Department. With regard to the Time, Inc. pictures this Court was assured that I must be denied copies because of copyright yet no proof of copyri ght has been presented to this Court and my requests for it remain unanswered after close to a year. This court was ~~assured~~ that a "confidential source" had to be protected when there was no confidential ~~source~~ and when in fact the Department had used some of those very photographs publicly. There were, as I knew, still other photographs of the scene of the crime. These were the FBI's own photographs. I am confident there are still others and that I know their origin.

13. There is no possibility that any search of the FBI HQ files, the search that SA Wiseman swore to this court was ~~fulfilled~~ made and was made with care, did not disclose the existence of these photographs. The Time, Inc., Memphis Police and the FBI's own photographs are all included in the early sections provided to me.

14. There are still other relevant photographs still not provided to me although they have been used in public from one end of the State of Tennessee to the other, have been provided to other writers to my personal knowledge and have, in fact, been displayed to the Congress with permission to those present to make photographs of them as they were displayed. These are the evidentiary photographs of and relating to the autopsy and earlier medical examination. I have examined some such photographs and as ure this court that the reason they are denied me is not because they involve questions of privacy, as with the record of their repeated public display and distribution they cannot. It is because they contain proof of perjury in the extradition and the guilty-plea hearing of James Earl Ray. These photographs also are referred to in the sections provided to me.

15. Whether or not defendant had serious concern for any Time, Inc. copyright other motive for continuing denial is apparent to one with good knowledge of the facts of the case. They are a source of potentially great embarrassment to the FBI. Thus the Time, Inc. request to the FBI that it not provide me these photographs is dated after the denial and thus both defendant and Time, Inc., have refused to provide me with copies of their correspondence on this for inclusion in the record in this instant cause.

When my pressures compelled Time, Inc. to provide me with what are called contact prints of the 35 mm film there was no longer any spurious question of copyright. <sup>It</sup> was then reduced to commercialization. Time, Inc. then offered to provide me with normal-size prints suitable for my study in return for \$1070.00. The FBI's charge is \$42.80. Both well know that I cannot spend more than a thousand dollars to study pictures I do not intend to publish. Even though I provided written assurances that I would not publish any of these pictures and that if at some later time I wanted to I would pay Time, Inc. the commercial rates for any such use the FBI still refused and continued to this day to refuse to provide me with the usual 8x10 glossy prints. To my personal knowledge the reasons for this continuing denial include the certainty of embarrassment to the FBI. I fear that if I disclose more of my knowledge it will result in still further denials on a variety of spurious claims to exemption that nobody can ordinarily prove without access to the original records.

16. There are countless instances of withholdings of this nature. One example is of the withholding of names by obliterations. These names include those of FBI agents even though I have provided for the record the statement of FBI Director Kelley that in such cases the withholdings of the names of agents is not proper and is against his directions. From the time I provided this the record to this moment I have not received a single replacement record in which what was withheld is not withheld. The reasons for withholding the names of these FBI agents is not because the names are not known. It is because of other reasons, including the means they provide for compelling further compliance. ~~xxxxxxx~~ These names were and remain those of publicly identified witnesses. Also included are the names of prisoners whose statements to the FBI have been widely published with their names included in the publication. (What was not published is that the main one of these is shown by unpublished records to be a "pathological liar.")

17. Under spurious claims to exemptions I was denied the records in which the FBI's concern that not the Attorney General but the Director be credited in announcements of the filing of a conspiracy charge. When the so-called "task force" report was first leaked and then released what had been denied me was included but not fully faithfully. What the "task force" omits is the FBI's "ACTION" recommendation, that it seize the

publicity in the name of the Director and then "At the appropriate time, the Attorney General should be advised." By then he would have read it in the newspapers. Also admitted is the sexist slur relating to the filing of the conspiracy charge in Birmingham. The FBI actually conducted investigations not of the crime but of the favorable publicity location for the filing of this charge. "We understand that we cannot rely on the U.S. Attorney at Memphis. If we tried to file there, we would immediately lose control of the situation and the complaint would become public knowledge." Its concern over Birmingham is because its investigation of the publicity situation disclosed that the U.S. Attorney "is presently in Houston," not Birmingham. Its concern was that "we have no assurance we could keep a complaint filed there a secret." It had an additional worry, "The U.S. Commissioner there is a woman who does not have too firm a grip on her operations." Yet there was no doubt that the moment of filing there would be no secrecy. The FBI in fact planned in advance for maximum publicity - only in the Director's name. The release was prepared in advance and in secret. The "ACTION" recommended began with "1. We should openly file the proposed complaint at Birmingham" and then "2. We should issue a wanted flyer and a fugitive press release," plus an Identification Order.

18/ It is apparent that more time was spent in unjustifiable and improper withholdings than compliance would have required and that improper withholdings are commonplace and remained the norm after my repeatedly offering proof of the impropriety.

This deliberate waste of time has, in fact, become a customary means of delayed compliance and is part of a campaign to overburden the courts and create a false basis for an appeal for relief of the Congress. There is no foreseeable end to this kind of withholding and the FBI has declined every offer of help. It was well into the review and copying of these sections that have been provided before it consulted the indexes of the known books on the subject. I even offered to inform it whether the names are or not public and to provide a consolidated card index to the published books. It instead continued to waste time and continue to withhold by unjustifiable obliterations of what had been public domain for about eight years.

18 Contrary to SA Beckwith's representation of the intent "to comply fully with

the letter and the spirit of the FOIA," in addition to the foregoing paragraphs and my unrefuted prior testimony, the sections provided contain repeated references to the deliberate withholding of relevant records from FBI HQ and their filing in the field offices only. This was the regular means of not having available in Washington what was uncongenial to the official position on the crime. One of the pages originally withheld from me states as many others do, "Results of all negative investigations conducted are maintained" in the local FBI file.

20. It thus is knowingly not true for defendant to represent to this Court in defendant's Supplement that "there are 59 sections, containing approximately 10,800 pages, remaining to be processed in order to complete disclosure of the records relating to the assassination file on Dr. Martin Luther King, Jr." (emphasis added.)

21. When I charged to this Court and to his face that AU A John Dugan was misinforming this Court with deliberateness this Court did not believe it and Mr. Dugan's sole response was "what can I say?" Notwithstanding that, when he is with knowledge that my April 15 request has not been complied with; ~~and with my oath and repeated testimony~~ ~~with my oath and repeated testimony~~ and declined to cross examine my testimony that contains many specifics of non-compliance, even the specification of the location of relevant records not provided; when he heard SA Howard's testimony, which he produced, that most of the relevant records are not in Washington; when he received the Attorney General's statement on this, which we provided; and he then assures this court that "disclosure of the records" sought " will be "complete" from this single FBI HQ file (No. 44-38861) his deception of this Court and his continued priding over the denial of my rights are deliberate and knowing.

22. ~~My filing of~~ SA Beckwith's affidavit is falsely sworn in representing under oath to this Court personal knowledge of "Appropriate record searches" and what was done ~~is~~ "In order to ensure maximum disclosure of those records requested by plaintiff."

23. This is but the most recent in an endless stream of falsely sworn affidavits executed by defendant and filed with this Court by AUSA Dugan.

24. To date there has not been a single denial of my repeated proofs of this continual false swearing.

25. That this is deliberate is without question because I personally saw to it beginning after the first calendar call in this instant cause, on February 11, 1976, more than a year ago. AUSA Dugan then alleged ~~summary~~ full compliance with my requests and announced he would seek a summary judgement. After court I told him this would be based on false swearing, ~~that~~ that I was in a position to prove it would be false swearing, that false swearing has tainted each and every FOIA case I have filed and that if this false swearing again ~~caused~~ effectuated non-compliance and the repeating of the denial of my rights under the Act I would charge and prove it. I have proven it, repeatedly and to Mr. Dugan. This extends to his current representation to this Court that there can be full compliance from this single file, No. 44-38861.

26. From my long, painful and costly experience in these matters I have learned that there is always false swearing, that <sup>those</sup> those swearing falsely and filing the false swearings depend either on the lack of knowledge of the fact by the courts or a reluctance to confront the actualities of what for others than Department of Justice employess is felonious.

27. From this experienced I ~~am~~ have become convinced, as I informed this Court, that as long as these continuous acts are tolerated this and other Courts will ~~be burdened~~ burdened with out need, requesters will be denied their rights and put to extraordinary costs and the ~~is~~ Act is effectively nullified.

28 In this affidavit I seek to present new proof of this and of wilfulness in the Supplement and in SA Beckwith's affidavit.

29. I have also informed this Court that I am singled out for special treatment by the defendant and defendant's agents. To this end I testified to FOIA requests totalling about 25 that remain without compliance, often even without acknowledge and in all cases after appeal, going back to 1968. From that testimony of last September, testimony that was neither cross examined nor rebutted or denied in any way, to this moment, I have not received a single piece of paper from the FBI relating to any one of those requests. I did receive a letter signed by Director Kelley reporting that after my appeal ~~as~~ one record, identified as CD1347, had been released. A month after I sent my check it had not been provided to me. And that request is more than a year old. it was acted on

only long after the maximum claim to backlog in any of the contradictory versions of this claimed backlog and then remains denied simply by non-delivery.

30 I have provided this court with further proofs of deliberate discrimination in which those who asked for the same information I did and did not invoke the Act were ~~given~~ given it immediately, the case of Emory Brown; and of proof that the requests of others, like Les Whitten, for the files on themselves, were acted on when mine had not been. A half year has passed and I still do not have a single piece of paper from the Department or the FBI from the extensive personal files on me. This is obviously and completely undenied discrimination.

31. Meanwhile these files are used to malign me in private. From the public record, that of the Church committee, it is now proven that such slanders were given ~~in~~ secret even to the White House. From other sources I have obtained bits and pieces of FBI files on me and my wife that are malicious and false. It found my wife to be "subversive" because of pre-Nader ~~xx~~ consumer interests. She belonged to cooperatives for several years beginning in the late 1930s. During that period I was engaged in exposing native and foreign fascism and particularly Nazi cartels and their interference with our defense efforts before ~~Washington~~ Pearl Harbor. I have now learned that my ~~garbage~~ <sup>and that</sup> garbage was examined in 1940/ that there was a mail cover. The garbage yielded nothing but normal garbage. The mail cover produced the truly sinister, that my wife received the publication of the cooperative league and I the weekly commentary on the press by the respected George Seldes. The political information disclosed is that I was the most sinister of subversives, a "New Dealer." In the New Deal Administration this was truly an urgency of "internal security." I am condemned for petitioning -successfully- for the redress of a grievance, a structure that presented danger to children when I am childless. It is literally true that I am suspect because I ~~have~~ had many books and often typed far into the night. This wretched, vicious, malicious ~~Un-Americanism~~ official Un-Americanism practised by the government, not only the FBI, accounts for the official attitude toward me. Today it is magnified because my work is embarrassing to the government, whose misconduct it exposes. Thus no agency has complied with my request for the personal records on me. In response to my 1971 request of the CIA, which



dates to 1971, there not only has not been compliance, there has not been the processing of an appeal after more than two years. I have internal CIA records proving the deliberateness of lying to the general counsel so he would deny the existence of any files on me. The reasons here parallel those pertaining the FBI, intrusion into my rights, including first-amendment rights.

30. It must be frustrating to those of dark is Baseless suspicions that I am not a joiner, am a lifelong registered Democrat (albeit "New Deal"), belonged at the time of first suspicion to the American Newspaper Guild and the ~~the~~ government-employees union only and since then only the American Academy of Political and Social Science and the Academy of Political Science and that I do conduct collegiate seminars on these subjects that are well received by conservatives. The interceptions of my international mail disclose my disputes with officials of the Soviet Union having to do with writing, what it calls cultural matters, and my refusal to accept an invitation to an international meeting of journalists unless I would be given the opportunity to dissent from back-pew and assured agreement because I regarded journalists in much of the world as not free. Yet those who control the searches and non-searches and what is then provided under the Act linger with the believe that I am some kind of national menace. One record I have obtained, not from the Department or the FBI, which have provided nothing, refers to me and my "ilk," and in connection with the writing made possible by my use of FOIA and on the King assassination.

31. In this I seek to inform the Court not only that I am still single out for special treatment that means non-compliance with the Act and in this instant matter but also because my work is embarrassing to the government, because I have a background of experience possessed by no one else working in the field in which I work, and because of its prior abuse of me over my beliefs and earlier work.

32. It is my belief that if this Court continues to accept such false representation as those I address in this affidavit it will be sanctioning deliberate non-compliance with the Act, sanctioning the continuing denial of my rights, those rights the Court has stated have already been damaged, and enabling such displays as now are visible

with the House Select Committee on Assassinations. To my knowledge this defendant was manipulating that uninformed and inexperienced committee while it was denying me what it deceptively leaked in order to manipulate that committee. By stonewalling me and delaying compliance defendant delays my work, which means at least delays my exposure of defendant.

33. This Supplement and its attached affidavit are merely the most recent of defendant's efforts to this end and to deny me the public information I have sought now for eight years without obtaining it.