

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

Civil Action No. 75-1996

U.S. DEPARTMENT OF JUSTICE,

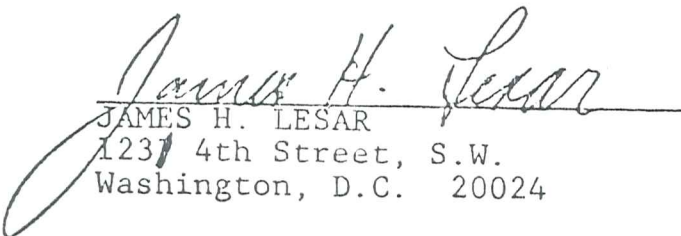
Defendants.

STIPULATION


It is hereby stipulated by and between counsel for the parties, that upon Federal Bureau of Investigation's representation to the Court herewith, that processing of the FBI Memphis Field Office files pertaining to "the Invaders", the Sanitation Workers Strike, James Earl Ray, and the MURKIN file is undertaken immediately by defendants, and will be completed by October 1, 1977; that defendants will provide a worksheet inventory of the released documents; that processing of MURKIN files from the FBI field offices in Atlanta, Birmingham, Los Angeles, New Orleans, and Washington, D.C., as well as the processing of files relating to John Ray, Jerry Ray, James Earl Ray, Carol and Albert Pepper in the Chicago and St. Louis field offices MURKIN files, will be completed by November 1, 1977; that duplicates of documents already processed at headquarters will not be processed or listed on the worksheets, but attachments that are missing from headquarters documents will be processed and included if found in field office files as well as copies of documents with notations; that releases of documents and accompanying worksheets will be made periodically as they are processed; that administrative appellate review of the documents will take place prior to their release; that in the course of this

Enc to memo for Counsel to AS/Sec Mgt Div 8/9/77 cm:dr

processing all exemptions will only be assessed in strict conformance with the May 5, 1977, guidelines of Attorney General Griffin Bell relating to the Freedom of Information Act, and the provisions of the Freedom of Information Act itself; that in consideration of the foregoing commitment by the FBI and the Department of Justice, plaintiff will hold in abeyance filing a motion to require a Vaughn v. Rosen showing with respect to the foregoing FBI files, including the Headquarters files already processed; and further that, upon defendants' performance of these commitments by the specified dates, plaintiff will forego completely the filing of said motion; that plaintiff will hold in abeyance objections to specific deletions until the target dates specified above have passed, with the clear understanding of both parties that plaintiff has not waived his right to contest specific deletions after the passing of these dates.


JAMES H. LESAR
1237 4th Street, S.W.
Washington, D.C. 20024

Attorney for Plaintiff.


LYNNE K. ZUSMAN
U.S. Department of Justice
Washington, D.C. 20530

Attorney for Defendants.

SO ORDERED:

UNITED STATES DISTRICT JUDGE

Dated: _____

Assistant Director
Records Management Division

8/9/77

Legal Counsel

HAROLD WEISBERG
v. UNITED STATES DEPARTMENT OF JUSTICE
(U.S.D.C., D.C.)
CIVIL ACTION NUMBER 75-1996

PURPOSE: To advise of stipulation entered into between the Department of Justice and plaintiff in captioned litigation.

DETAILS: Pursuant to consultation with Section Chief - Operations, Thomas Bresson, SAs Horace Beckwith and John Hartingh of the Records Management Division and SA Charles Mathews of the Legal Counsel Division, Departmental Attorney Lynne Zusman entered into a stipulation with plaintiff in captioned litigation. The stipulation, a copy of which is attached hereto, was filed with the Court on 8/5/77. The plaintiff has agreed to forego a Vaughn showing of those records processed for release pursuant to the FOIA in the MURKIN investigation in exchange for the processing and release by 10/1/77, of FBI records pertaining to the MURKIN investigation and several other matters at the Memphis Field Office. Furthermore, the Bureau will provide for release by 11/1/77, MURKIN and other documents from seven other specified Field Offices. Plaintiff's agreement to forego a Vaughn showing includes not only those documents previously processed at FBIHQ, but also those documents to be released pursuant to the stipulation.

RECOMMENDATION: None, for information.

Enclosure

3 - Mr. Decker
Attn: Mr. Bresson
Attn: Mr. Beckwith
✓ Attn: Mr. Hartingh
1 - Mr. Mintz
1 - Mr. Mathews

CM:dlr (6)

U.S. DEPT. OF JUSTICE
FBI

AUG 10 10 10 AM '77

DIVISION
RECORDS MANAGEMENT
RECEIVED

FOIA

TAB B

SPECIFIC MATTERS

PART I.

Mr. Weisberg and Mr. Lesar have challenged what they believe are excisions of the names, etc., of the following individuals and categories of persons, as well as, in some instances at least, information about them. As to the instances cited under each name or category, ascertain the reason(s) for the excision and whether the Bureau's action appears to have been appropriate in the context of this case. Using these matters as your starting point, address with reasonable comprehension the matter of excisions under 7(C) and 7(D).

AINSWORTH, KATHY
Serials 5017, 5018
SR10, 49;
LR67

ANDREWS, CLIFF
Serial 5947;
LR129

APPEL
SR15

AUSTIN, BLACKIE

BAIRD, CLIFTON
SR21;
LR143

BALLARD, CHARLES
LR21A

BARON

BILLET, MYRON
SR6;
LR1, 22

BLAIR, CLAY
SR12;
LR71

BONEBRAKE
SR14;
LR2, 85

BRADLEY, E. E.
LR39

BUCCELLI (same as Billett?)
SR6

BURCH (Birch), P. (RCMP/Scotland Yard?)
SR6;
LR53

CHAMBLESS
SR48-49

COHEN, DAN (The Fence)

COLE (brothers)
LR134

CURTIS, RAYMOND
SR10, 13;
LR1, 22, 60, 65

DAVIS, MORRIS
SR21, 38;
LR30, 143

DE MERE

ESQUIVEL, RAUL
SR35, 46;
LR101, 102, 103, 104

FENSTERWALD, BUD
LR102, 119-120

FETTERS, MAJORIE
SR6;
LR40, 53

FOREMAN, PERCY
SR19;
LR89

FRANK, GEROLD
SR44

FREEMAN, DR.
LR26, 33

GALT, ERIC S. (The Real One)
LR11

GARRISON, JIM
SR15;
LR95

GHORMLEY, JUDSON
LR17

GIESEBRECHT
SR15;
LR95, 97

HADLEY, DR. RUSSELL
LR80

HAGEMEISTER
LR7

HANES (Father and Son)
SR38

HARDIN, JAMES C.
SR26, 29, 30, 34, 38;
LR38-39, 40(?), 57

HENDRICKS, MAYBELLE
LR22

HUIE, WILLIAM BRADFORD
SR14, 44;
LR74, 75

KIMLE, JULES
LR70

LAU, THOMAS REYES
SR12;
LR71

LEVISON
LR21

LIBERTO'S, THE
SR15, 37;
LR93, 103

MCCRAW, JIM
SR31

McCULLOUGH, MARRELL
SR29, 30, 47;
LR16

McDOULDTON (The Fat Man)
LR44

McFERRIN, JOHN
SR15, 37;
LR93, 102-103

McMILLAN, GEORGE
LR27, 43

MILTEER, JOSEPH ADAMS (Deceased)
SR49

MUMPHREY, JIMMY SIMON
SR36

NORDAL, SCOTT
LR19, 122

PEPPER FAMILY
LR58

RAY, JAMES EARL
LR15

RAY, JERRY (and family)
LR13, 50-51, 111

RAY, JOHN
LR13(2), 50-51

RECILE
SR36

REDDITT, ED
SR15;
LR17, 93, 101

RICHMOND
SR15;
LR17, 93

RIFE, WALTER
LR15, 38

ROBINSON, JIMMY GEORGE
LR4

ROUSSEL
SR36

RUBIN, LEONARD
LR91

SARTOR, BILL (Deceased)
Serial 1816
SR15, 37;
LR93

SHILSTONE, CECIL
SR37

SNYDER (Congressman)
SR21;
LR144

SOMERSETT, WILLIE (Deceased)
SR10, 11, 49;
LR62, 68-69

STEIN, CHARLES (and Family)
SR10-11, 35, 36;
LR34, 61, 70, 104

STEPHENS, CHARLES
LR22, 44

STONER, J. B.
LR78

TOMASO
SR35

TURNER, WILLIAM
SR46

WATSON, BYRON

Miscellaneous Categories

The women whose names were on the scrap of Kleenex box.
SR27

Names of police personnel and other officials.

SR7, 13;

LR6, 11, 13, 52, 66, 98

Names of Bureau of Prisons personnel.

SR7, 8;

LR55, 56, 61

Names of guards of James Earl Ray.

SR11;

LR62, 63

Names of Scotland Yard personnel.

LR72

Names of RCMP personnel.

Names of firemen/black firemen.

SR15;

LR94

People charged in Dahmer case

LR67

PART II.

A number of specific incidents and problem areas have been raised by Mr. Weisberg. Based on my own review of his two reports, I have selected the following to be checked. Again, follow these specific leads wherever your professional instincts take you so we can have confidence in whatever conclusions we finally reach.

WITHHOLDING OF SERIAL 3348

SR5;

LR28-29

WITHHOLDING OF RCMP MATERIAL USED IN THE EVIDENTIARY HEARING

SR8

INTERCEPTS

Serials 4853 et seq.;

SR20

ALTON BANK ROBBERY AND PERSONS INVOLVED IN

Serial 5305

SR13, 14;

LR40, 58, 72-73, 84-85

WITHHOLDING OF "OPEN COURT" MATERIAL FROM SERIAL 5156.
LR75

HANDLING OF WEISBERG-STONER MATERIAL,
SR16, 29;
LR114-115

POLICE SOURCES AS 7(C)/7(D) EXCISIONS.
LR140

TECHNICAL SURVEILLANCE (INCLUDING BAG JOB) ON THE
PEPPERS, JOHN RAY, OR JAMES EARL RAY.
See Serial 2725;
SR21, 22;
LR24, 27-28, 35-35A, 130

ANY SURVEILLANCE, ETC., OF PERSONNEL WORKING ON JAMES EARL
RAY'S CASE, INCLUDING MR. WEISBERG, BY F.B.I. OR OTHERS.
SR20, 22, 24, 43;
LR109, 124-126

ALLEGED PROMISES BY SA'S HARDINGH AND
HART TO REPROCESS RECORDS.
SR15, 23

MATTER OF THE GUN CATALOGS
SR25, 41

NON-RELEASE OF ANY PHOTOGRAPHS, SKETCHES, ETC.
SR7, 26, 35;
LR17, 24A, 138, 151

FILES ON J. C. HARDIN AND McCULLOUGH
SR29-30

THE DE SOTO MOTEL/HOTEL MATTER
SR30;
LR10, 110

NEWSPAPER PICTURES
SR32

POLICE RADIO LOGS
SR32

THE THOMAS/CHASTAIN/YOUNGBLOOD INCIDENT
SR32

HARRIS (Paisley?)
SR33, 42, 46

ATLANTA FILES
SR33-34

GARNER (BAG JOB?)
SR34;
LR36 (?), 119 (?)

NOFO FILE ON RAUL ESQUIVEL
SR46

THE MAP OF NEW ORLEANS
SR27, 36

THE MAILING OF THE KEY/THE KEY
SR36;
LR17-18

DAN COHEN "THE FENCE"
SR37

PICTURES OF RAYS AND WALTER RIFE
SR38

FBI INVOLVEMENT IN OR FOREKNOWLEDGE
OF THE VIOLENCE IN MEMPHIS ON 3-28-68.
SR21, 39;
LR122

AUTHORIZATION FOR THE PLAN TO DISCREDIT KING FOR
NOT STAYING AT THE LORRAINE MOTEL.
SR18, 40

SHOWING OF PICTURES OF JAMES EARL RAY, ETC.
TO PERSONS AT AEROMARINE.
SR41

THE "TRAMP PICTURE" AND THE PICTURE AND
SKETCH OBTAINED FROM MR. WEISBERG.
SR7, 31, 42;
LR10, 106

TREATMENT OF CHICAGO FO FILES.
SR44;
LR131

MANFRED BARON (Fat Man Williams?) -- INFORMANT
IN CELL WITH JAMES EARL RAY?
SR45.

THE LETTER FROM THE PRISONER
TO 2731 SHEFFIELD, CHICAGO
SR47

WAS THERE AN EARLIER INTERVIEW OF REV. KYLES?
LR21-22

SERIAL 3196
LR25-26

THE "BRADLEY EPISODE"
LR39

THE WOMAN WITH JAMES EARL RAY IN CANADA (C. Keating?)
SR14;
LR41, 103

SERIAL 4193
LR41

THE CONTENTS OF RAY'S WALLET
LR51

REPORTERS AS 7(D) SOURCES
LR91

INTERVIEW OF FATHER OF JAMES EARL RAY
LR59

PERSONS AT THE WILLIAM LEN HOTEL
SR12, 14;
LR40, 68, 77

RAY'S ACTIVITIES IN CANADA
LR68

SERIAL 4989
LR65

SERIAL 5600
LR104

MEMORANDUM FROM ROSEN TO DeLOACH, 3-10-69.
LR105

SERIAL 5684
LR107

SERIALS 5809 and 5810
LR111

SERIAL 5879
LR119

THE ENTIRE BYRON WATSON MATTER.
LR120 et seq.

SERIAL 5936
LR122

THE "CLIFF" STORY.
LR123

SERIAL 5951
LR124

SERIAL 6024
LR132

"RALPH" AND THE COLE BROTHERS.
LR133

IF ANY KING COINTELPRO MATERIAL HAS BEEN RELEASED
TO ANYONE -- WHY NOT TO HAROLD WEISBERG?
LR139 et seq.

NAMES OF PERSONS SUBPOENAED FOR THE MEMPHIS HEARING.
SR14;
LR87

ALL BALLISTICS TESTS ON ALL TESTED RIFLES -- RESULTS.
SR21, 22, 29;
LR9, 31

ALL COMPARISON PHOTOGRAPHS.
References in latter part of LR.

LAB SPECIMENS
Serial 3332
LR163-164

INTERVIEW OF BENNY EDMONDSON.
SR10

THE RAY BROTHERS' POST OFFICE BOX NUMBER.
SR11;
LR61

THE BODY OF DUNAWAY.
LR25, 32

FAMILY DATA ON REAL RAMON SNEYD.
LR42

BIOGRAPHICAL INFORMATION ON P. E. BRIDGEMAN.
LR46

INTERCEPTIONS OF RAY'S COMMUNICATIONS.
LR55, 62, 65, 66, 74, 77, 78, 79, 81 et seq., 107

LIST OF PRISONERS.
LR86, 145

GAINES FAMILY.
LR124.

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July 6, 1978

FREEDOM OF INFORMATION ACT APPEAL

Mr. Quinlan J. Shea, Jr., Director
Office of Privacy and Information Appeals
Office of the Deputy Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Re: Weisberg v. Department of Justice,
Civil Action No. 75-1996

Dear Mr. Shea:

In the above suit Mr. Harold Weisberg seeks Department of Justice records pertaining to the assassination of Dr. Martin Luther King, Jr. So far the FBI has released approximately 50,000 pages of records, including the entire FBI Headquarters' MURKIN file and some records from the MURKIN files of a few specified FBI field office.

Unfortunately, the FBI records released contain extensive excissions. Moreover, a number of other records have been withheld entirely, either under a claim that they are exempt from disclosure or because the FBI allegedly cannot find them.

In most instances the excissions are patently unjustifiable. Recently I had thought to put the Department to its proof by seeking an order for a Vaughn v. Rosen showing. However, at a status call on Monday, June 26, 1978, Judge June Green suggested that the next step should be an administrative appeal. I think this suggestion has merit. A Vaughn showing is time-consuming and expensive, particularly in a case of this magnitude. In addition, since most of the FBI's excissions cannot be justified, it would be wasted effort to undertake a Vaughn showing at this stage of the proceedings. Accordingly, I am adopting Judge Green's suggestion. On behalf of Mr. Weisberg I hereby appeal all excissions from the FBI records provided him in this case.

In connection with this appeal, you should know that at the very outset Mr. Weisberg realized that it was inevitable that the FBI would excise much information that is already in the public

domain. In order to minimize this problem, he offered to provide the FBI with a consolidated index to names which had appeared in books on the subject of Dr. King's assassination and a separate index to the testimony taken at James Earl Ray's lengthy habeas corpus evidentiary hearing in October, 1974. The FBI refused this offer. As a consequence, much information which was published in books six or seven years ago, as well as that which was presented in open court, has been deleted or withheld.

When the FBI finally began processing its MURKIN file, after an inordinately long delay, Mr. Weisberg again tried to assist it. In numerous letters to the FBI he specified information which was being wrongfully withheld from the documents released. The FBI chose, however, to ignore Mr. Weisberg's criticisms. As a result, the FBI repeated errors which should have been corrected at the outset.

At one point the FBI assured Mr. Weisberg that it would re-process the MURKIN records in light of his criticisms once it had finished processing the FBI Headquarters' MURKIN file. Mr. Weisberg was told that his correspondence was being kept for this purpose.

However, once the processing was completed, the FBI reneged on its promise. The FBI then took the position that it could not re-process the MURKIN file because it involved flipping through too many pages. Mr. Weisberg took the position that it was the FBI's obligation to correct what it had processed wrongly. In an effort to resolve this impasse, Assistant Deputy Attorney General William Schaffer proposed to hire Mr. Weisberg as a consultant on the FBI's excisions and withholdings at an unspecified rate of compensation. Mr. Weisberg resisted this proposal on the grounds that: 1) it wrongly put the burden of proof on him; 2) it would not resolve the problem of wrongful excisions, since he could not afford the time to go over each and every excision in 50,000 pages of documents; 3) in view of his health and age, he wanted to spend his time working on another book, not reviewing work he had already done; and 4) he would be unwilling to undertake such a project without some sign of good faith on the part of the FBI, of which there had been none during the long history of the case.

Notwithstanding Mr. Weisberg's objections to this proposal, he was prevailed upon to undertake it at a conference in Judge Green's chambers on November 21, 1977.

Although Mr. Weisberg immediately commenced work on this project, the government did not reciprocate with any sign of good

faith on its part. Despite inquiries by both Mr. Weisberg and me, we were unable to learn the rate at which he would be compensated. Finally, on the evening before the oral argument in Judge Gesell's court on January 16, 1978, on the fee waiver question, Mrs. Lynne Zusman called me and expressed a concern that I might make an issue of this the next morning. She also offered to pay Mr. Weisberg at the rate of \$75.00 an hour. However, when Mr. Weisberg requested an interim payment and submitted a bill for the first 80 hours of work, the Department, after still more delay, renegeed on its commitment.

In agreeing to serve as the Department's consultant, Mr. Weisberg made it plain that his review would be limited to his notes on the MURKIN documents and his correspondence with the FBI. He stated that he could not take the time to review the actual documents again, and that because his notes on wrongful excisions were not exhaustive but intended to serve as examples only, his review would result in an incomplete account of both excisions and withholdings.

Mr. Weisberg has now completed two reports on the FBI's processing of its MURKIN files. The first, which is 164 pages long, is based on a review of his notes on the content of the MURKIN records. The second, 52 pages long, is based on a review of his correspondence to the FBI about the wrongful processing of these records. These reports are the result of 200 hours of labor which Mr. Weisberg expended during his review of his notes and correspondence.

I am transmitting copies of these two reports to you along with this letter because I believe they will assist your office in conducting a review of the FBI's excisions. Originally, the agreement was that I would edit them before sending them to the government. However, I find that they are quite readable in their present form. In the interest of time, which is very important to my client, I am delivering them to your office without wasting time on what would be little more than cosmetic changes.

I should make it clear that Mr. Weisberg is not asking for a review confined to the unjustifiable excisions which he has enumerated in his reports. Rather, these reports are intended to provide a basis upon which your office can instruct the FBI to re-process all MURKIN records. They will also allow your office to lay down some guidelines which should apply to this re-processing. This is particularly appropriate because earlier in this case you stated that the historical importance of these records required that they be given more careful attention than is usually the case, with a view towards the maximum possible disclosure.

I think you will find from Mr. Weisberg's reports that the FBI has not processed its MURKIN records in the same manner as it would ordinarily treat records of an historically important case.

Indeed, it is apparent to me that the myriad difficulties in this case are not just a matter of interpreting the applicability of various exemptions. Rather problems are rooted in a decades-old vendetta which the FBI has pursued against Mr. Weisberg and a need to coverup potentially explosive information about the FBI's investigation of Dr. King's murder.

I call to your attention one particular item which fortifies my conclusion that the FBI has sought to use this lawsuit as a means of harrassing Mr. Weisberg and delaying his access to information to which he is entitled. Mr. Weisberg's requests for information on Dr. King's assassination listed specific categories of records he wanted. Yet when the FBI began processing his requests, they provided him with everything in the MURKIN file, regardless of whether or not it came within the scope of his request. Initially this proved quite costly for Mr. Weisberg, since many, if not most, of these records were outside the scope of his request. Yet in the 20,000 pages of documents in the FBI Headquarters' MURKIN file, only one document is withheld as "not within the scope of request." Yet that record, MURKIN file No. 44-38861-3348, certainly is within the scope of his request. I think that if you ask to see it you will find that it concerns a Mr. Robert Dunaway, whose body was found in the trunk of a car at the Atlanta airport a month after Dr. King's assassination. What makes this withholding particularly suspicious, aside from the obviously spurious pretext under which it is withheld, is the fact that Mr. Weisberg had previously registered a strong protest with the FBI for deleting Mr. Dunaway's name from some earlier MURKIN records.

I am also providing you with a copy of an affidavit which I recently filed in this case. The affidavit and the exhibits attached to it will give you a quick idea of the nature of some of the excisions in the MURKIN records, as well as a look at some of the actual records from which information has been excised.

I think I should also alert you to an issue between the parties which shows that there must be a re-processing of the FBI Headquarters' MURKIN file. On discovery Mr. Weisberg obtained a copy of some 2700 index cards which reference information in FBI records which would have been used at the trial of James Earl Ray had there been a trial. They were, however, heavily excised when originally provided to Mr. Weisberg. In an internal memorandum the FBI stated that it had erred on the side of non-disclosure in its first processing of these index cards, and that after the MURKIN file had been processed these index cards would have to be re-processed according to a more liberal standard. Ultimately, although the FBI resisted it, this was done. The result

is that although the cards now contain few deletions, the same information which is available on them remains excised from the MURKIN records they index. Although there is no longer any basis for excising this information from the underlying MURKIN records, the FBI adamantly refuses to restore this information. Yet it is important that it do so. The records indexed are the prosecution's case against James Earl Ray. They are vitally important to any analysis of what case, if any, the prosecution would have been able to present against Ray if he had gone to trial. In addition, so long as this information is excised from the MURKIN records, an element of unnecessary and sometimes harmful confusion is introduced into any study of these records.

I think it will be obvious to you from the nature of the materials which I am providing (my affidavit and Weisberg's reports), that the government cannot sustain its burden of proving entitlement to the exemptions it has claimed. Indeed, there has been no indication that the government even dares try. What I think is needed to get a handle on this problem of excisions is a breadth of view which the FBI does not possess. In this regard I think you may want to consider whether, apart from genuine claims of national security and physical danger to informants, there is any information in the MURKIN files which really needs to be, or should be withheld when measured against the overriding public interest in the fullest possible disclosure of information pertaining to Dr. King's assassination.

The problem of excisions is far from the only one which remains in this case. However, if your office gives it the attention which I understand it has given other cases involving historically important records, I think this will be a major step towards the conclusion of this case.

If I can be of assistance to you in any way, please do not hesitate to call me.

Sincerely yours,

James H. Lesar
James H. Lesar

cc: Ms. Betsy Ginsberg
Mrs. Lynne Zusman
Judge June Green
Mr. William Schaffer