

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, )

Plaintiff )

v. )

Civil Action No. 75-1996

DEPARTMENT OF JUSTICE, )

Defendant )

OFFICIAL TRANSCRIPT

OF HEARING

DATE: September 14, 1978

PAGES: 1 - 10

GLORIA H. HORNING

*Prepared for:*

Official Reporter

6814 U. S. Court House  
Washington, D. C. 20001

PLAINTIFF

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FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, )  
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 Plaintiff )  
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 v. ) Civil Action No. 75-1996  
 )  
 DEPARTMENT OF JUSTICE, )  
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 Defendant )  
 )  
 Washington, D. C.  
 Thursday, September 14, 1978

The above-entitled case came on for a status call  
before THE HONORABLE JUNE L. GREEN, United States District  
Judge, at 10:07 a.m.

APPEARANCES:

JAMES LESAR, ESQ.  
For the Plaintiff  
  
BETSY GINSBERG, ESQ.  
For the Defendant

P R O C E E D I N G S

1  
2 DEPUTY CLERK: Civil Action 75-1996, Weisberg v.  
3 Department of Justice.

4 MISS GINSBERG: Good morning, Your Honor. Plaintiff  
5 had asked the FBI to trace all the documents that were referred  
6 by the FBI to other agencies and the FBI has produced an eight-  
7 page graph which shows the process of each document by serial  
8 number, the date that it was referred, the date that it was re-  
9 turned, the date it was released to plaintiff, and other kinds  
10 of information.

11 For 30 of the documents, the FBI could not verify  
12 exactly which date they sent them to plaintiff, so they attached  
13 Xeroxes of these 30 documents.

14 The graph was mailed to plaintiff two days ago. They  
15 had not yet received it as of this morning. We just gave them  
16 extra Xerox copies of these.

17 The second item that I want to report on is the con-  
18 duct of the administrative review that is going on. This has  
19 been divided into two parts. The first part deals with the  
20 general methodology, the processing, guidelines, the way re-  
21 ferrals were handled and other kinds of matters.

22 The second part of the review will deal with the  
23 specific excisions in the documents and the specific complaints  
24 and questions raised by plaintiff.

25 The work on dealing with the first part, the general

1 methodology, is well under way.

2           The work on the specific excisions has not yet begun,  
3 but it is anticipated it will begin within the next couple of  
4 weeks. I cannot, at this time, give the Court any idea of when  
5 this process will be completed, except to say that work will  
6 progress as quickly as possible.

7           THE COURT: Let me ask you, now that the Meeropol cases  
8 are getting on fairly well, do you think that will release some  
9 of the people from it to be able to be transferred to this case?

10           MISS GINSBERG: I am not the best witness on that  
11 question. It is my understanding that, unfortunately, Meeropol  
12 and this one are not the only large cases.

13           THE COURT: I know, but these are the ones that are  
14 dated 1975 and that is what this Court is concerned about, be-  
15 cause we don't want to keep a '75 case on our docket. Cer-  
16 tainly not into '79. And, frankly, we'd have liked to have had  
17 it gone in '76.

18           But it is necessary to give this case the priority  
19 its date calls for.

20           MISS GINSBERG: I will communicate that --

21           THE COURT: So if you will pass that on, because since  
22 the people have been working, the ones who are presently work-  
23 ing on the Rosenberg documents have been so helpful in getting  
24 it to the state that it is, I would certainly hope that some of  
25 those very helpful people could be spared to work on this.

1           MISS GINSBERG: Some of those very helpful people  
2 are still working on some Meeropol matters, unfortunately.

3           THE COURT: I know, but I believe they have given me  
4 an end date of November and they have met every date so far  
5 which is most unusual.

6           MISS GINSBERG: And I hope they continue to do so.  
7 As I said, I personally cannot give the Court any assurances.  
8 I will most assuredly relay the message.

9           THE COURT: If you will pass on the word, I will be  
10 very happy.

11           MISS GINSBERG: I will, Your Honor.

12           THE COURT: Because we want to see the end of this  
13 matter. I assume everybody does. But in particular we do  
14 and we mean to.

15           MISS GINSBERG: The last issue that I wish to comment  
16 on is the question of two informants that Mr. Weisberg has  
17 raised. One is a person named Oliver Patterson, who apparently  
18 has gone public to some extent recently, and plaintiff and  
19 plaintiff's counsel have told us that they have a tape done by  
20 Mr. Patterson which reveals, apparently, certain kinds of in-  
21 formation and this morning I confirmed that they will send that  
22 over to us, we will listen to it, and the two files, or such  
23 files as exist will then be reviewed with particular mind to  
24 the confidential informant exemption.

25           And that is all I have to say this morning.

1 THE COURT: Mr. Lesar?

2 MR. LESAR: Your Honor, I have a matter which I wish  
3 to bring to the Court's attention. Mr. Weisberg brought with  
4 him this morning a 70-page report that he had typed up and gave  
5 to me, which I had not seen before, which deals with the re-  
6 mainder of the last affidavit by Mr. Beckwith.

7 He called two matters specifically to my attention.  
8 One matter specifically in connection with the affidavit. And  
9 it concerned us very deeply, because of the difficulty that we  
10 have and the time-consuming nature of having to respond to mis-  
11 representations in Government affidavits.

12 I want to graphically illustrate this by reading,  
13 first, from page 37 of Mr. Beckwith's last affidavit, the  
14 lengthy 63-page affidavit, and it deals with an item in this  
15 affidavit. He is talking about the notes that had been made on  
16 some of Mr. Weisberg's correspondence.

17 Mr. Weisberg had complained about certain things and  
18 the complaint, specifically about section 66, was that all of  
19 serial 4914 was withheld, no exemption was claimed. And that  
20 what had been written under the category of remarks on the work  
21 sheets had been erased.

22 In his affidavit, Mr. Beckwith said that in regard  
23 to plaintiff's statement that something had been erased from  
24 the remarks column, the master copy of the inventory work  
25 sheets for section 66, serial 4919 shows that nothing was ever

1 written in or erased from this column.

2 A copy of page 2 of the inventory work sheet, sec-  
3 tion 66, of which serial 4919 is listed, is attached hereto  
4 as Exhibit Z, with a b(17) notation made for this serial.

5 Would you hand this copy to the Court, please?

6 The page on top, which begins with serial 4918, is  
7 copy Z that was attached to Mr. Beckwith's affidavit. If you  
8 look in the remarks column, opposite 4919, it's quite clear  
9 that nothing is written in there and nothing erased. So it  
10 would seem that Mr. Beckwith's affidavit is correct.

11 However, if you turn to the next page that I have  
12 handed you, you will find that it, too, begins over on the left  
13 with serial 4918, and you have 4919. The handwriting on these  
14 sheets is entirely different, and out to the right, although  
15 this is a Xerox of a Xerox and not the original, it would ap-  
16 pear that opposite 4919 something in fact had been written and  
17 has been erased.

18 Now there is another graphic example of the kind of  
19 treatment that we have been accorded, which I have some reason  
20 to believe is different than is accorded other Freedom of In-  
21 formation Act plaintiffs.

22 On page -- I think it is -- 35 of his affidavit, Mr.  
23 Beckwith responds to a complaint that Mr. Weisberg had made  
24 that serial 4849 and later serial withhold the name of the  
25 late Willie Somerset.

1 Mr. Weisberg stated this has been published in 1967  
2 and '71, that there was no question of privacy and no question  
3 of secret source.

4 And then Mr. Beckwith went on to respond that dele-  
5 tions were made in this serial pursuant to b(2) and b(7)(d) to  
6 protect an informal symbol and number that would identify the  
7 informant. The release of this information into the public  
8 realm could compromise the identity of a party who had cooperated  
9 with the FBI. The fear of exposure often inhibits those who  
10 would otherwise cooperate. This consideration has been met by  
11 the traditional willingness and ability of the FBI to assure  
12 the persons interviewed that their identities would be pro-  
13 tected. A copy of serial 4859 is attached hereto as Exhibit W.

14 These two volumes of documents are FBI volumes that  
15 were made available in response to a request made by another  
16 requestor, who recently provided Mr. Weisberg with his copies.  
17 They all relate to Mr. Somerset. In fact, I think these are  
18 only two of some ten volumes relating to Mr. Somerset.

19 The first sheet, the cover sheet is dated 6-3-76,  
20 and it says under it, "The following material has been repro-  
21 duced for excising and review at FBI Headquarters by repre-  
22 sentatives of the House Select Committee on Assassinations."

23 And then, if you flip through it, you will find that  
24 the name of Mr. Somerset is mentioned, that there are in-  
25 formant file numbers given, that there is the kind of



1 information readily provided that has been withheld from Mr.  
2 Weisberg.

3           These are the sort of things that have caused this  
4 case to drag on so long.

5           There is one additional point that I would like to  
6 make for the record. And that is that the Government, in this  
7 case, and also in some of Mr. Weisberg's other cases, has be-  
8 gun using Mr. Beckwith as the primary affiant. It is our in-  
9 formation, our understanding that Mr. Beckwith is an unindicted  
10 co-conspirator in some of the illegal activities of the FBI.

11           We think, in view of that, it is, first of all, be-  
12 yond my belief and my comprehension as to why he would be  
13 used as an affiant, given that circumstance. But we also think  
14 that it obviously is highly inappropriate in a Freedom of  
15 Information Act case where the FBI has motivation to withhold  
16 materials and a person in that position is vulnerable to not  
17 only his own biases and prejudices but also to other  
18 pressures.

19           MISS GINSBERG: Your Honor, in regard to the techni-  
20 cal questions that plaintiff's counsel has raised, as he well  
21 knows there are the kinds of things that the administrative  
22 re-review is designed to come to grips with and he can be  
23 assured that his questions will be relayed to Mr. Quin Shea's  
24 office for review.

25           As to the second part of Mr. Lesar's comments, I

1 have no information as to the kinds of things that plaintiff's  
2 counsel is raising.

3           However, from my personal dealings and I think from  
4 the public record, there is not one shred of evidence to sug-  
5 gest that Agent Beckwith has done anything but his job in the  
6 very best manner that he can do it and with good faith and  
7 according to the training and standards set by the FBI for  
8 Freedom of Information Act --

9           THE COURT: Let me say this: It's the same sort of  
10 affidavit we used to receive in the Meeropol case. And nothing  
11 got done until Mr. Shea took over. There was nothing coming  
12 out of that case that should have been released.

13           And we would like to suggest that it does not help  
14 our situation to have someone whose principal affidavits and  
15 reasons why things should not be released which really do not  
16 go to the heart, but just would appear to be obstructionist.

17           I would hope that we never hear from Mr. Beckwith  
18 in this case again and that, indeed, Mr. Shea's office would  
19 be in charge of same.

20           May we hope that that can be done?

21           MISS GINSBERG: Well, again, Your Honor, I will  
22 speak to the appropriate people.

23           THE COURT: Thank you very much.

24           MISS GINSBERG: Thank you.

25           THE COURT: We will take another look at this case

1 in two weeks and see where we are, because we can't keep on.

2 MR. LESAR: What's the date, Your Honor?

3 THE COURT: The 28th of September.

4 MR. LESAR: Fine, Your Honor.

5 THE COURT: At 10 o'clock.

6 (Whereupon, at 10:20 a.m., the hearing in the  
7 above-entitled case was concluded.)

8 - - - - -

9 REPORTER'S CERTIFICATE

10 This record is certified by the undersigned to be  
11 the official transcript of the above-entitled hearing.

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14 OFFICIAL COURT REPORTER

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