

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG,

Plaintiff,

v.

Civil Action 75-1996

U. S. DEPARTMENT OF JUSTICE,

Defendant.
.....

AFFIDAVIT

My name is Harold Weisberg. I live at Route 12, Frederick, Maryland. I am the plaintiff in this case.

1. In this affidavit I provide information in contradiction to part of the January 12, 1979, testimony of Quinlan J. Shea, Jr., in this case.

2. I do not accuse Mr. Shea of dishonesty of intent in providing this proof that his testimony was not accurate with ~~regard~~^{regard} to the exemptions addressed below. Rather am I certain that the FBI ~~has no~~^{has no} concern about his function or the Court or anything else in its determined noncompliance, as will become apparent in what follows.

3. It was not possible for me to be present on January 12 because my lane and all the surrounding roads had a layer of ice under the snow. The State Police advised me to make no effort to leave home and because of my medical condition I took that advice.

4. I read the transcript of Mr. Shea's testimony as soon as I obtained it and immediately prepared and mailed a long memorandum my counsel has not had time to read. I provided a copy to Mr. Shea in the spirit of the Court's suggestion of involving him to work out existing problems with compliance. I am aware that there is always the possibility that the written word may not convey the intent of what was spoken. I told Mr. Shea that I would like him to call any misinterpretation or inaccuracy in the memorandum to my attention and that I would correct any flaw or incorporate any contrary opinion. I have not yet heard from Mr. Shea.

5. In prior affidavits I informed the Court about the FBI's planting informers with the House Select Committee on Assassinations for what I described as "Cointelpro" purposes. I then informed the Court that consistent with other

evidence I had obtained and provided earlier, the FBI's representations with regard to its informants, confidentiality and implied confidentiality and other such claims are not truthful. There are a number of quite specific illustrations in my prior affidavits.

6. Oliver B. Patterson became disenchanted and became a source for me. This followed the untoward event of his coming to my home under false colors when he was serving the House committee, of which I have been critical. In turn, this was arranged by the FBI, which I am suing. The FBI and the committee, after many months, have not responded to my requests relating to whether information obtained by Patterson and provided to the committee is included in what the committee did provide to the FBI and the Department. It was publicly and extensively reported that there was at least one meeting between the committee, the Attorney General and the FBI Director over papers Patterson stole from Jerry Ray, brother of James Earl Ray. (Both are within my information request.) The stolen papers include a copy of a letter I wrote Jerry Ray. Patterson provided me with a copy of his copy of this stolen letter. He also provided me with a transcript of the committee executive session that discloses instructions to him to have these xeroxes made for the committee. When doing this he had a copy made for himself, from which he made the copy he gave me.

7. Patterson was an FBI informer inside the Ray defense, the defense of James Earl Ray and of his brother John Ray. John was charged with driving a "switch" car after a bank robbery in which the man to whom he gave a lift, accused of robbing the bank, was acquitted. For giving a lift to an innocent man, John Ray was given an 18-year sentence by the judge who is now FBI Director. John Ray was represented in ~~district~~^{district} court by J. B. Stoner, who offered to represent him without fee because John Ray was without funds. J. B. Stoner was and is head of the racist political party known as the National States Rights Party (NSRP). When James Earl Ray was arrested in London, ~~Stoner~~^{Stoner} offered to defend him. James Ray did not then accept that offer. After the guilty plea he claims was coerced, when he had no money, James Ray asked Stoner and several other lawyers to represent him. During this period the FBI had its informer Patterson join the NSRP and become friendly with Stoner, Jerry Ray and others. I have copies of reports in which Patterson informed the FBI of Ray defense plans and related matters. Patterson thus was a King case informer.

8. Patterson provided me with a privacy waiver, which I filed with an additional information request because all such information was withheld prior to then despite its relevance. The FBI delayed providing me with these records despite the fact that they had been processed long before Mr. Shea testified. Most were mailed to me 10 days after Mr. Shea's testimony. These records are of about 800 pages. A small portion, those of FBIHQ, were provided a few days before those of the St. Louis Field Office. The St. Louis records are covered with a form stamp-dated January 31. There is no date on the form covering the FBIHQ copies. In this affidavit I refer to the St. Louis copies, the major file.

9. I believe the reason for this long delay in compliance and withholding after processing is because the FBI knew it was making a mockery of Mr. Shea's testimony. This is the fact with regard to claims to exemptions (b)(2) and (b)(7)(C) and (D). It also is the fact with regard to FBI claims with regard to informers and with regard to its claim that it never discloses information provided by other police agencies.

10. My first opportunity to read the St. Louis records was when I had to go to Boston University where Dr. King received his doctoral degree, to address students there on February 15. I read some of these records while flying. I read the others going to and returning from a midwestern college I was asked to address on February 21. Work on other cases precluded my use of these records on any earlier occasion.

11. Because of my situation and because of a minor accident while flying in which I was scalded and the temporary limitations imposed upon me by my doctor, I now am not able to make as full a representation of FBI violation of the Department's standards as testified to by Mr. Shea as I believe is possible. The degree of violation is so extensive I believe a fuller account than follows is not necessary.

12. As soon as it was possible for me to do so, I sent an appeal to Mr. Shea. I attach it as Exhibit 1. This appeal relates to withholding by obliteration and the total withholding of records the existence of which the FBI seeks to hide and for which it thus makes no claim to exemption. Exhibit 1 also relates once again to the phoniness of the worksheets used in processing and as an alleged inventory.

13. Despite the fact that these records were provided under Patterson's privacy waiver, on most of the records his name is withheld under claim to (b)(2) and (7)(D). My recollection is uncertain with regard to (7)(C). I have known Patterson was an informer for about a year. His public exposure was last August, on coast-to-coast TV. (7)(D) also was used when he was not the only source. Exemptions (b)(2) and (7)(D) thus are used to withhold what is public knowledge.

14. Contrary to Mr. Shea's testimony, in these records there is the most extensive claim to (b)(2) that is within my considerable experience. I checked one of the five attachments. It covers 100 records and is of about 300 pages. In each and every case, with regard to each and every one of these records, the FBI made claim to (b)(2) - and for what is within the public domain. I believe this fairly represents the others records relating to Patterson as provided to me.

15. Despite disclosure of it by the FBI, Patterson's arbitrary symbol identification (SL 1495-R) is withheld under claim to (b)(2) and (7)(D).

16. All of this became quite ridiculous, with the FBI withholding Patterson's name in some records while providing his wife's, identified as his wife, and their address.

17. The FBI claims to this and other Courts that it never discloses the identification of an informer. I informed this Court that the FBI arranged for Patterson to be an informer for the House committee over his objections. I now have the FBI's copy of his written request that he not be disclosed to the committee. It is included in Exhibit 1.

18. Although the FBI records provided to me represent that Patterson was only an "R" or racial matters informer, a close reading of some of what is not still withheld indicates his role was much more significant. Arrangements for turning Patterson over to the House committee were correlated within the FBI with what is referred to as the FBI's "Top Echelon Criminal Informant Unit." This appears to have relevance to the King/Ray case rather than to political activities only, the ostensible use made of Patterson.

19. Not one of the records provided bears reference to a criminal case file. The only reference to a possible criminal case is what caused the FBI to suspend Patterson as an informer so it would not be involved through him. This relates to the City of Black Jack, Missouri, and to housing matters. This appears to leave no criminal case involvement to require correlation with the Top Echelon

Criminal Informant Unit other than the King case.

20. The records as provided are entirely incomplete with regard to threats against Patterson allegedly made just a few days before his public exposure as an informant. All information relating to the alleged threat itself is withheld. The FBI account is inherently without credibility. It is represented as originating in Memphis. Patterson reconfirmed by phone on Sunday, February 25, that he was told the threats were by "the Rays and their friends." James and John Ray were in federal jails. Jerry Ray was not in Memphis at that time. He was in Georgia. Susan Wadsworth, who triggered Patterson's exposure, was then in California. My source was in El Paso, Texas. Throughout all this period I was in Maryland. I know of no such friends of any Ray and of no person who could have been involved in any alleged threat against Patterson who was in Memphis. Nonetheless, the St. Louis FBI took up with the local United States Attorney the possibility of a federal charge, apparently against Jerry Ray, and was informed that the statute the FBI cited was applicable and criminal charges could be filed. The records disclose no such charge was ever filed. I believe the entire matter was contrived. Moreover, there is no time during this period when Jerry Ray had other than a friendly relationship with Patterson. To my knowledge this friendly relationship continues to this day.

21. Because of continued withholdings I cannot be certain but on the basis of all I know I believe the matter of the alleged threats was part of a planned cover-up of the coming exposure of Patterson as an FBI and committee informant. The potential for embarrassment to both the committee and the FBI was great. (There was a scandal still not ended in the House. The matter was still front-page news in St. Louis on February 25.) The committee had Patterson commit thefts, tap phone conversations and violate rights in a number of ways, all in violation of the committee's 1977 undertaking to the House not to do such things and not to violate any rights. Conrad "Pete" Baetz, the committee investigator who handled Patterson, engaged in personal misconduct that, in addition to the foregoing acts, included insisting on pornographic films being shown him by one woman and having another woman, a participant in a pornographic film, be provided to him. The FBI on its part had Patterson spying on political activities that included the George Wallace campaign. Also, I believe that the FBI was not anxious to have its use of public

l | moneys in subsidy of the extremist paramilitary "Minutemen" become public knowledge. Nor did the FBI want it to be known that it paid, used and directed Patterson to act in a public relations capacity for the "Minutemen." (The effort was quite successful.)

22. The immediately foregoing Paragraphs relate to motive for withholding and to unjustified claims to exemptions that are not applicable and are contrary to Mr. Shea's testimony.

23. Improper withholdings include file numbers. Having these file numbers enables the tracing of matters like the foregoing in FBI files. Aside from obliterating the key parts of the 134 and 170 file numbers, the FBI phoned its worksheets to pretend they do not even exist. The worksheets represent falsely that 134 and 170 are the complete file identifications. There are many thousands if not hundreds of thousands of FBI files within each classification. 134 and 170 are classification numbers only. What is withheld is the actual identification of individual files within each classification.

24. 134 denotes "security information" 170 denotes "Extremist informants" in "security related classification." There came a time when the Patterson file was transferred from 134 to 170.

25. I believe there are other files relating to Patterson, including under 157, which represents "extremist matters; civil unrest," also in "security related classification." None have been provided. Nor has any of the Ray information been provided from any Ray or any other file.

26. In his testimony Mr. Shea stated that the FBI does not disclose records provided by other police agencies. My files abound in FBI copies of records obtained by the FBI from domestic and foreign police agencies. I have provided examples to the Court. Prior to Mr. Shea's testimony, which is virtually totally of generalities and theoretical and philosophical interpretations of the exemptions and is almost devoid of specific reference to the specifics of my appeals, the record in this case refuted his statements with regard to the records of other police agencies. In the Patterson papers the FBI provides further rebuttal in the form of xerox copies of two records it obtained from the Columbia, Missouri, police. These records reflect unfavorably on Patterson. I believe that as in prior cases the FBI in this case disclosed the records for the purpose of reflecting

unfavorably on Patterson. Whatever its motive, disclosure is opposite to the supposed practice and supposed theory to which Mr. Shea testified. No claim to exemption was made for these records. They also are included in Exhibit 1. (See note on last page.)

27. I do not believe Mr. Shea intended to testify other than truthfully. I do believe that, as had happened in the past and as happened with the Patterson records in particular, Mr. Shea was misinformed and misled by the FBI.

28. There is no question possible with regard to the FBI's deliberateness and I believe contemptuousness in regard to these misuses of the exemptions and related withholdings. Subsequent to Mr. Shea's testimony, the withholding of Patterson's name after I provided a privacy waiver, the misuse of (b)(2) in particular and the nature of some of the remaining withholdings, I believe, establish beyond reasonable question that the FBI is not within the control or even influence of the Department and that it is determined to prolong this case to the degree the Court will tolerate and permit.

29. Mr. Shea testified that FBI names should not be withheld and that the practice was discontinued. The Court issued a verbal order prohibiting this in June 1976, which the FBI then ignored for about two-thirds of the FBIHO records covering about 12,000 to 15,000 pages. Processing of these Patterson records does not conform to Mr. Shea's testimony or the Court's Order with regard to not withholding FBI names. There is this withholding under (7)(C) claim.

30. All records of all payments to Patterson are withheld.

31. Records provided refer to other records not provided. This is possible because the withheld records do not bear individual serial numbers. They are attached to the records to which the serial numbers are assigned. Because they do not have ^{separate} serial numbers, there is no separate listing of them on the worksheets. Comparing the worksheets with the records provided does not reveal these withholdings because there is a record coinciding with each serial number.

32. There is no mention of Susan Wadsworth in these records although the FBI knows she was responsible for Patterson's exposure. In fact, without her there would have been no basis for and no possibility of the alleged threat against Patterson and another informant whose name also is withheld months after I informed the Department he was exposed and provided Department counsel with a tape recording

of his public confession on St. Louis TV. His name is Richard Geppert. The FBI also turned him over as an informant to the House committee.

33. The records provided are completely atypical in not including a single reference to Patterson's exposure and confession. There is not a single newspaper clipping. There is no tape recording or transcript of any tape recording of Patterson on TV, radio or in press conferences. The matter was front-page and TV news in St. Louis and elsewhere. It was reported widely by the wire services and networks.

34. When Patterson was established as an effective informant, the FBI had him join the NSRP and worm his way into the Stoner and Jerry Ray confidences. Patterson did this with such success he was their guest, they were his guests, and he even became official ^{NSRP} NSRP photographer. No record has been provided reflecting any use of any of the Ray defense information Patterson obtained and gave to the FBI.

35. Ms. Wadsworth also had an association with Jerry Ray and the Ray defense, in addition to causing Patterson's exposure. Recently she became aware of the existence of FBI records on her. She provided me with a privacy waiver I have just filed in order to obtain these records that should have been provided earlier and remain withheld. Ms. Wadsworth has informed me of the means by which she learned of these withheld FBI records. Based on what Ms. Wadsworth told me, I state that she has specific knowledge of withheld St. Louis Field Office records and that these are of a nature requiring that FBIHQ be informed and have records.

36. I believe that what I report herein and what is included in the exhibit, my appeal, account for the FBI's deliberate noncompliance and for its withholding of the processed records until after Mr. Shea testified on January 12 in order that Mr. Shea not be confronted with all these basic contradictions of his testimony. I also believe that what I set forth herein is but the newest of unending FBI misrepresentations, deceptions and misleadings, all designed to deny me public information and to mislead and deceive the Court.

37. For many months, probably a half-year or more, Department counsel regularly stated that a Motion for Partial Summary Judgment would be filed and that it would be accompanied by affidavits attesting to alleged ^{partial} ~~partial~~ compliance. This oft-repeated and unkept promise to the Court has helped stall this case. I

have no knowledge that any such Motion has been filed. The relevance of this withheld Patterson information, which was withheld despite its relevance and the reminding of the FBI of its existence and relevance in connection with the House committee, may help account for the long delay in filing the Motion for Partial Summary Judgment.

38. All information relating to all Rays was to have been provided and ~~has been provided in the Patterson records~~ ^{not been provided. The} Patterson records contain some of this withheld Ray information.

39. There is specific itemization in my request for information relating to any form of surveillance of listed persons, particularly the Rays and their counsel, of whom J. B. Stoner is one. The FBI has repeatedly denied there are any records of any such surveillance, albeit in the form of the false pretense I appealed, that my request is limited ^{ted} to those electronic surveillances that are indexed at FBIHQ. The Patterson records disclose personal surveillances on J. B. Stoner and Jerry Ray by two FBI informers, Patterson and Geppert.

40. Once Patterson's informant role was public knowledge, I informed the Court of what I regarded as unseemly, his coming to my home in the guise of providing Jerry Ray's transportation when both were scheduled to appear in secret before the House committee. When I learned that what Patterson had stolen from Jerry Ray included my letter, I asked the Department and the FBI if Patterson provided any information relating to me through the committee. I have received no response after many months of waiting and a few reminders. I therefore have no knowledge of whether there is this more recent record of surveillance on me in FBI Files. I am listed in the aforementioned Item of my request. I also filed a Privacy Act request more than three years ago. No action on my appeal has been reported to me. On February 21, 1979, Patterson made public confession of having spied on me.

41. On that day he phoned my home to ask about the agreement he signed with the FBI, copies of which had not yet reached him (included in Exhibit 1). When he learned I was speaking that night at a college in Monmouth, Illinois, he drove there from St. Louis. As I have previously informed the Court during the course of this litigation, the growth of cataracts on both eyes makes it impossible for me to distinguish the features of faces, even those familiar to me, beginning

at a relatively short distance. I was therefore surprised when Patterson stood up in the audience after I had responded to a question about the Rays as individuals. He identified himself and described his personal experiences with Jerry Ray. During the course of the exchange between Patterson and the college students, Patterson stated, "This is the first time I have seen Mr. Weisberg when I was not spying on him."

42. Patterson then also stated that the FBI had Jerry Ray under surveillance beginning in April 1978, the time of his thefts reported above. Patterson said that the committee staff informed him of this. He also made a joke of part of this, of the FBI's "tails" losing Jerry when Jerry had just obtained and was making extensive use of a CB radio. No records of any kind relating to this have been provided nor have any records of any earlier "tailing" of Jerry Ray.

43. The foregoing are merely the most recent proofs of deliberate FBI misrepresentations and withholdings that began prior to the first calendar call in this instant cause and have not ended. These proofs refute Mr. Shea's testimony with regard to claims and practices relating to exemptions claimed, Department and FBI policy relating to the exemptions and supposed FBI abandonment of improper claims to exemption. They thus also refute Mr. Shea's testimony relating to compliance when these exemptions were claimed.

Note to Paragraph 26:

Mr. Shea testified that certain withheld records were being processed and that copies would be provided to me. Withholding relating to former Memphis policeman Marrell McCullough is one of the few specifics in Mr. Shea's testimony. In the ensuing more than six weeks I have neither received any such records nor been notified of their processing. In this connection I remind the Court that this question of the applicability of the exemption also exists with regard to records obtained by the FBI from the Atlanta Police Department. There was partial disclosure along with another dishonest worksheet by which the FBI withheld the remaining 28 pages by misrepresenting the total number of pages on the worksheet. It thus did not claim any exemption for these 28 pages. The original worksheet bears the initials of SA Horace P. Beckwith. In his long affidavit of August 11, 1978, SA Beckwith provided an entirely different worksheet to dispute the truthfulness of my appeal and made further misrepresentation to the Court. I established this in part in the limited August 13 affidavit I was able to prepare overnight and execute on a Sunday. At the next morning's calendar call I provided copies of the actual and the substitute or phony worksheet and for the first time informed the Court that SA Beckwith was an unindicted co-conspirator in the case involving Former FBI Director L. Patrick Gray and other former high FBI officials. The Court then expressed its displeasure and stated it wanted nothing from SA Beckwith. Instead of providing a truthful and accurate affidavit in substitution for that of SA Beckwith, the Department moved to strike the completely accurate and truthful information I provided to the Court. I had not made earlier disclosure of the unfair position in which SA Beckwith had been placed by the FBI out of consideration for his family. When faced with another false affidavit, one by an unindicted co-conspirator, and when it was sent under circumstances that once again virtually precluded my making timely response, I felt I then had no alternative. From then until now the Department has made no other response to what the Court had asked

Court had asked of the Department and was done with less than honesty by SA Beckwith. My affidavit and other information I provided remain totally ignored. I have not received a single copy of any page from which there had been improper withholding. I have not received copies of any of the withheld records in question, and specifically I have received neither withheld Atlanta police information, many pages of which are public by other means, nor any justification for the continued withholding from me of even those Atlanta police records that are public.

HAROLD WEISBERG

Before me this _____ day of February 1979 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires _____

NOTARY PUBLIC