

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)
)
 Plaintiff,)
)
 v.) Civil Action No. 75-1996
)
 DEPARTMENT OF JUSTICE,)
)
 Defendant.)

MEMORANDUM IN OPPOSITION TO PLINTIFF'S MOTION
FOR PARTIAL SUMMARY JUDGMENT AS TO ABSTRACTS

On December 20, 1979, plaintiff Harold Weisberg filed his Motion for Summary Judgment as to "Abstracts". As explained by the attached affidavit, these are cards which are used as a filing tool at FBI Headquarters. They are prepared by stenographers when they type a document and contain only information also found in the documents themselves. Every document has an equivalent "abstract".

The FBI has no objection to producing such items in response to a Freedom of Information Act request. However, these cards are clearly not within the scope of either plaintiffs original FOIA requests or the Stipulation between the parties signed on August 12, 1977.

As stated in the attached affidavit, approximately 6,500 abstract cards, or one for each document he has already received, would have to be processed to respond to plaintiff's request. This, in turn, would involve comparison of each card with each document already given to plaintiff. The procedure would doubtless be time-consuming and useless to plaintiff's effort to obtain new information regarding files on the assassination of Martin Luther King, Jr.

As was stated by Judge Pratt of this Court in an analogous case dealing with "index cards" of for more importance than the requested "abstract cards":

The very slight possibility that these cards would contain releasable information which had not already been produced by defendants' Vaughn v. Rosen affidavit does not justify requiring the agency to undertake the burden of copying these index cards for plaintiff.

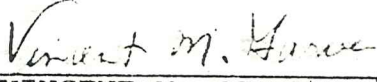
Halprin v. Webster, et al., Civil No. 78-1149 (D. D.C., May 18, 1979) slip op. at 2.

For these reasons, defendant suggests that plaintiff's motion be denied.


Respectfully submitted,

ALICE DANIEL
Assistant Attorney General

CARL S. RAUH
United States Attorney



VINCENT M. GARVEY



WILLIAM G. COLE

Attorneys, Department of Justice
Attorneys for Defendant
10th & Pennsylvania Ave., N.W.
Washington, D.C. 20530

Telephone No.: (202) 633-4710

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)
 Defendant.)

ORDER

Upon consideration of plaintiff's Motion For Partial Summary Judgment with Respect to Abstracts, the papers filed in support thereof and in opposition thereto, and the entire record herein, it is this ____ day of _____, 1979, hereby

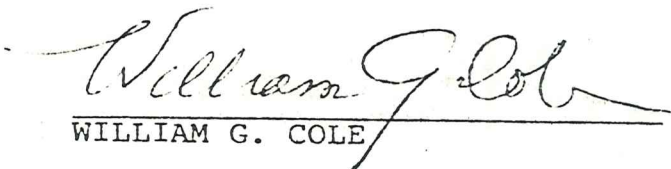
ORDERED, that plaintiff's Motion be, and it hereby is, denied.

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing
Memorandum In Opposition To Plaintiff's Motion For
Partial Summary Judgment As To Abstracts was mailed,
postage prepaid, this 21st day of November, 1979,
to:

James H. Lesar, Esquire
910 16th Street, N.W.
Suite 600
Washington, D.C. 20006


WILLIAM G. COLE

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG

Plaintiff

v.

Civil Action No. 75-1996

U. S. DEPARTMENT OF JUSTICE

Defendant

AFFIDAVIT OF MARTIN WOOD

I, Martin Wood, being duly sworn, depose and say
as follows:

(1) I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI), assigned in a supervisory capacity to the Freedom of Information-Privacy Acts (FOIPA) Branch, Records Management Division, at FBI Headquarters (FBIHQ). I am familiar with plaintiff's request for material concerning the assassination of Dr. Martin Luther King, Jr. (MURKIN), which is the subject of this litigation.

(2) This affidavit is in response to plaintiff's motion, filed with the Court on December 20, 1979, to compel the production of "abstracts" concerning the assassination materials. For the information of the Court, the FBI employs what are called "abstracts" in FBIHQ as a filing tool. An abstract is prepared by the typist of each document originated at or coming to FBIHQ (a copy of a sample abstract from the MURKIN material, and the document to which it pertains, are attached hereto as Exhibit A). The abstract contains the date of the document, the subject, the file number, and a few sentences or phrases intended to summarize the content of the document, or at least give the person reading the abstract an idea of what is contained in the document. However,

as these abstracts are not reviewed after their preparation, they may not contain a completely accurate summarization.

The abstract system was devised as a filing tool to mark the production or receipt of documents at FBIHQ. Abstracts are not used to locate documents, as no notation is made on the abstract as to who has a document. They contain nothing except what was placed thereon by the original typist.

These abstracts are filed in our Records Management Division by file number. The abstracts pertaining to FBIHQ file 44-38861, which concerns the MURKIN investigation, can thus be located by use of that number. We estimate that there are about 6,500 abstract cards which correspond to documents in FBIHQ file 44-38861.

Since these abstracts contain absolutely nothing which is not on the document itself, they are ordinarily not processed for FOIPA requesters. Processing of these abstracts for release, as plaintiff requests, will require the comparison of each abstract with the document to which it pertains, to insure that no information which was properly excised from the document as exempt from disclosure under Title 5, United States Code, Section 552 (The Freedom of Information Act) appears in the abstract. Such information would of course have to be excised from the abstract as well.

Martin Wood

MARTIN WOOD
Special Agent
Federal Bureau of Investigation
Washington, D. C.

Subscribed and Sworn to before me this 21st day of
December, 1979.

Lee Ann Wolestagle
NOTARY PUBLIC

My commission expires April 30, 1984.

44-38861- 2185

12

4/25/68

SAC, AT

MURKIN

SUBJ RAY LAST KNOWN IN AT AREA 4/5/68. INVEST BY AT TO DATE ESTABLISHED NO MODE OF TRANS RAY MAY HAVE USED AFTER 4/5/68. ALL CONT OFFICES REQUESTED TO REVIEW CAR RECOVERIES WITHIN THEIR RESPECTIVE TERRITORIES OF CARS STOLEN FROM ST. OF GA. SUBSEQUENT TO 3/23/68 AND WHERE TRANSPORTER NOT OTHERWISE ELIMINATED CONSIDER RAY AS SUSPECT. ARMED AND DANGEROUS. P

EXHIBIT A

FBI

Date: 4/25/68

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL AIRMAIL (Priority)

TO: DIRECTOR, FBI AND
ALL CONTINENTAL OFFICES

FROM: SAC, ATLANTA (44-2386) (P)

SUBJECT: MURKIN
CR
(OO: MEMPHIS)

Re Atlanta airtel to Director, 4/22/68.

- | | | |
|------------------|-------------------|--------------------|
| 3 - Bureau | 2 - Jackson | 2 - Phoenix |
| 2 - Albany | 2 - Jacksonville | 2 - Pittsburgh |
| 2 - Albuquerque | 2 - Kansas City | 2 - Portland |
| 2 - Anchorage | 2 - Knoxville | 2 - Richmond |
| 2 - Baltimore | 2 - Las Vegas | 2 - Sacramento |
| 2 - Birmingham | 2 - Little Rock | 2 - St. Louis |
| 2 - Boston | 2 - Los Angeles | 2 - Salt Lake City |
| 2 - Buffalo | 2 - Louisville | 2 - San Antonio |
| 2 - Butte | 2 - Memphis | 2 - San Diego |
| 2 - Charlotte | 2 - Miami | 2 - San Francisco |
| 2 - Chicago | 2 - Milwaukee | 2 - San Juan |
| 2 - Cincinnati | 2 - Minneapolis | 2 - Savannah |
| 2 - Cleveland | 2 - Mobile | 2 - Seattle |
| 2 - Columbia | 2 - Newark | 2 - Springfield |
| 2 - Dallas | 2 - New Haven | 2 - Tampa |
| 2 - Denver | 2 - New Orleans | 2 - WFO |
| 2 - Detroit | 2 - New York | 2 - Atlanta |
| 2 - El Paso | 2 - Norfolk | JJL:rjb
(119) |
| 2 - Honolulu | 2 - Oklahoma City | |
| 2 - Houston | 2 - Omaha | |
| 2 - Indianapolis | 2 - Philadelphia | |

REC-12 44-38861-2185

APR 25 1968

C. C. Elshor

Approved: *[Signature]*
53 MAY - 6 1968 Agent in Charge

Sent _____ M Per *[Signature]*

AT 44-2386

For information those offices not receiving reairtel, it was pointed out therein that Subject JAMES EARL RAY, aka. was last known to be in the Atlanta, Georgia, area on 4/5/68. Intensive investigation by Atlanta to date has not established mode of transportation RAY may have used after 4/5/68. Receiving Offices were requested in reairtel to check cars recovered their division that were stolen from the State of Georgia subsequent to 4/4/68, and where the transporter of same was not identified or otherwise accounted for, investigation should be conducted to determine if RAY was person who may have stolen and transported same.

Investigation reflects Subject RAY can be placed in the Atlanta, Georgia, area 3/24/68.

In view of the above, all Continental Offices are requested to review car recoveries within their respective territories of cars stolen from the State of Georgia subsequent to 3/23/68, and where the transporter of same is not otherwise eliminated or accounted for, consider Subject RAY as suspect. Where there is any remote indication that Subject RAY may have been person transporting such a car, exhaustive and intensive investigation should thereafter be conducted.

ARMED AND DANGEROUS.