

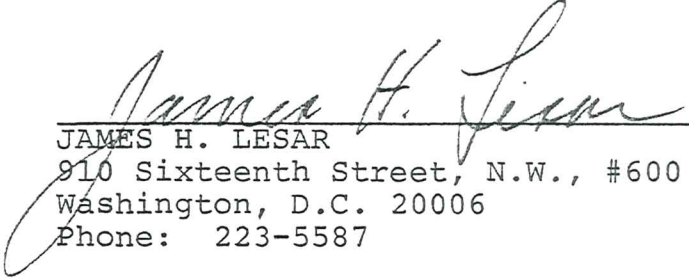
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

PLAINTIFF'S STATEMENT OF MATERIAL FACTS
AS TO WHICH THERE IS NO GENUINE ISSUE

Pursuant to Local Rule 1-9(h), plaintiff adopts as his Statement of Material Facts as to Which There is No Genuine Issue, the attached affidavit of James H. Lesar executed on April 9, 1980.

Respectfully submitted,



JAMES H. LESAR
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Phone: 223-5587

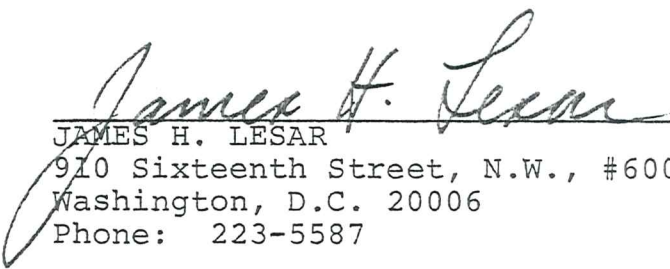
Attorney for Plaintiff

referred to the FBI.

The Freedom of Information Act, 5 U.S.C. § 552(a) (1976), provides that the government has an affirmative obligation to disclose public records. Unless the requested material falls within one of the nine specific statutory exemptions, "FOIA requires that records and material in the possession of federal agencies be made available on demand to any member of the general public." NLRB v. Robbins Tire & Rubber Co., 437 U.S. 214, 221, 98 S.Ct. 2311, 2316, 57 L.Ed.wd 159 (1978). The Act expressly places the burden on the Government to establish the correctness of a claimed exemption in a trial de novo in District Court. 5 U.S.C. § 552(b) (1976).

In this case the Government has not even claimed an exemption for these withheld CIA referrals, much less attempted to meet its burden of establishing entitlement to an exemption. Accordingly, these records must now be disclosed.

Respectfully submitted,


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Attorney for Plaintiff

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O R D E R

Upon consideration of plaintiff's Motion for Partial Summary Judgment With Respect to Withheld CIA Referrals, Defendant's Opposition thereto, and the entire record herein, it is by the Court this _____ day of _____, 1980, hereby

ORDERED, that Plaintiff's Motion for Partial Summary Judgment is GRANTED; and it is

further ORDERED, that within _____ days of the date of this Order, Defendant shall disclose to Plaintiff all records referred to the Central Intelligence Agency in connection with this action which remain withheld in their entirety.

UNITED STATES DISTRICT COURT