

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 JAMES H. LESAR

I, James H. Lesar, first having been duly sworn, hereby depose and say as follows:

1. I represent the plaintiff in the above-entitled cause of action.

2. By letter dated June 8, 1978, Mr. Allen H. McCreight, then Chief, Freedom of Information/Privacy Acts Branch, Record Management Division, Federal Bureau of Investigation, advised Mr. Harold Weisberg, the plaintiff herein, that: "CIA documents located in FBI files which relate to the Assassination of Dr. King have been returned to that agency for their direct response to you." (See Attachment 1, p. 3)

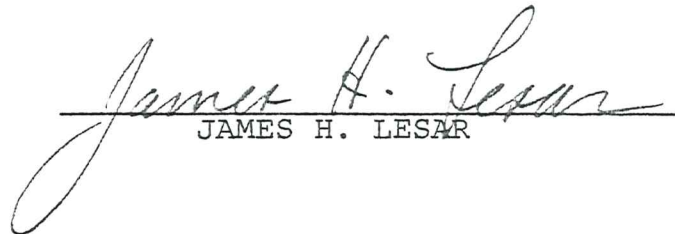
3. Attachment 2 to this affidavit is a list of those FBI Headquarters "MURKIN" records said to have been referred to the CIA which Mr. Weisberg believes still remain withheld from him. Seven of the ten referrals listed are said by the FBI to have been referred to the CIA on March 17, 1977, more than three years ago.

4. On Wednesday, April 9, 1980, I conferred by phone with Mr. Weisberg and his assistant, Ms. Rae Barrett, about these CIA referrals. They advised me that to the best of their knowledge and belief Mr. Weisberg has never received the "direct response" from

the CIA promised in Mr. McCreight's letter to Mr. Weisberg of June 8, 1978. Mr. Weisberg further advised me that the abstracts of "MURKIN" records which he has received show that these CIA referrals remain withheld, and that he has made a number of appeals to Mr. Quinlan J. Shea, Jr., Director, Office of Information and Privacy Appeals, U.S. Department of Justice, protesting the delay in acting upon these referrals.

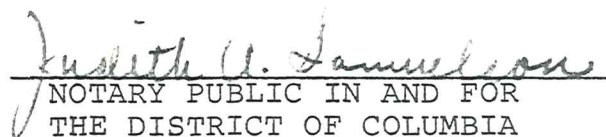
5. The Freedom of Information Act was intended to secure prompt access to government information. It has now been more than three years since most of these records were referred to the Central Intelligence Agency, yet they remain withheld.

6. The government has the burden of showing that withheld information falls within a specific exemption to the general rule of disclosure mandated by the Freedom of Information Act. In this case the government has not even made a claim of exemption for these CIA referrals, much less shown that they are entitled to be withheld from the public.


 JAMES H. LESAR

DISTRICT OF COLUMBIA

Subscribed and sworn to before me this 9th day of April, 1980.


 NOTARY PUBLIC IN AND FOR
 THE DISTRICT OF COLUMBIA

My commission expires

7/31/84

June 8, 1978

Mr. Harold Weisberg
Route 12 - Old Receiver Road
Frederick, Maryland 21701

1 - Mr. Mintz
Attn: Mr. Mathews

Dear Mr. Weisberg:

Enclosed herewith as Attachment A are ten pages of Murkin material which contain information that had previously been classified and was withheld. After a re-review of all classified information concerning the assassination of Dr. King, the following paragraphs were declassified:

- 44-38861-5510- paragraphs 2, 3, and 4. The date of this document remains classified. This decision was reviewed by the Department Review Committee, U.S. Department of Justice, and was upheld.
- 44-38861-5513- paragraph 2
- 157-9146-57- "Note" at bottom of page
- 157-1092-336- source notation after paragraph 3
- 157-6-28-1443- third and fourth source notations after paragraph 3
- 157-12709-127- page 3, paragraph 7. Page 1 of this document is attached to furnish you with the declassification stamp in the lower left corner.
- 170-1067-12- subject's name.

MAILED 7
JUN 8 1978
FBI

- Assoc. Dir. _____
- Dep. AD Adm. _____
- Dep. AD Inv. _____
- Asst. Dir.:
- Adm. Servs. _____
- Crim. Inv. _____
- Ident. _____
- Intell. _____
- Laboratory _____
- Legal Coun. _____
- Plan. & Insp. _____
- Rec. Mgnt. _____
- Tech. Servs. _____
- Training _____
- Public Affs. Off. _____
- Telephone Rm. _____
- Director's Sec'y _____

The following attachments are those documents which contain information received from other Government agencies and were referred to their respective agencies for review:

Cc: E: vdp (8)
WSP
AHM
LSP
LSP

SEE NOTE PAGE 4

MAIL ROOM

FBI 1978

Mr. Harold Weisberg

Attachment B- 1 document referred to Alcohol, Tobacco, and Firearms, U.S. Department of Treasury, consisting of 3 pages.

Attachment C- 2 documents referred to the National Security Agency, consisting of 2 pages.

Attachment D- 24 documents referred to the Civil Rights Division, U.S. Department of Justice, consisting of 104 pages.

Attachment E- 17 documents referred to the Central Intelligence Agency, consisting of 35 pages.

Certain of the following subsections of Title 5, United States Code, Section 552, have been utilized to delete information from some of the documents in the five above-listed attachments:

- (b) (1) information which is currently and properly classified pursuant to Executive Order 11652 in the interest of the national defense or foreign policy;
- (b) (3) information specifically exempted from disclosure by statute;
- (b) (6) materials contained in sensitive records such as personnel or medical files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b) (7) investigatory records compiled for law enforcement purposes, the disclosure of which would:
 - (A) interfere with law enforcement proceedings, including pending investigations;
 - (C) constitute an unwarranted invasion of the personal privacy of another person;

Mr. Harold Weisberg

(D) reveal the identity of an individual who has furnished information to the FBI under confidential circumstances or reveal information furnished only by such a person and not apparently known to the public or otherwise accessible to the FBI by overt means;

The statute for which subsection (b) (3) was cited in Attachment C (NSA referral) is Section 5, Public Law 86-36, which includes provisions which exempt the National Security Agency from statutory requirements involving disclosure of organizational and functional matters which should be protected in the interest of national defense.

A (b) (3) exemption was also claimed by the CIA in Attachment E, which applies to the Director's (CIA) statutory obligation to protect from disclosure intelligence sources and methods, as well as the organization, functions, names, official titles, salaries or numbers of personnel employed by the CIA in accordance with the National Security Act of 1947 and the CIA Act of 1949.

Where appropriate, the proper exemption has been listed for each document on the inventory worksheets accompanying each attachment.

All documents enclosed herewith have been reviewed under Administrative Appeal by a representative of the Office of Information and Privacy Appeals, U. S. Department of Justice.

CIA documents located in FBI files which relate to the Assassination of Dr. King have been returned to that agency for their direct response to you.

Twenty-three documents from the above-mentioned files which contain information received from the Department of State have been referred to that agency for their recommendations as to disclosure of this material. The Department of State is currently coordinating this referral and upon its completion, will return all the documents to us.

Mr. Harold Weisberg

After these documents are forwarded to you, it will complete the coordination and processing of all referrals as well as all the declassified information from the Murkin and related files.

Your patience and cooperation are appreciated.

Sincerely yours,

Allen E. McCright, Chief
Freedom of Information
Privacy Acts Branch
Records Management Division

Enclosures (5)

- 1 - James H. Lesar, Esq.
1231 Fourth Street, S.W.
Washington, D. C. 20004
- 1 - Assistant Attorney General
Civil Division
Attention: Ms. Betsy Ginsberg
- 1 - The Deputy Attorney General
Attention: Mr. Doug Mitchell

Murkin
John Mitchell

LIST OF WITHHELD FBI HEADQUARTERS "MURKIN" RECORDS
REFERRED TO CENTRAL INTELLIGENCE AGENCY

<u>FBI File No.</u>	<u>Serial</u>	<u>Pages</u>	<u>Date of Referral</u>
44-38861	860	2	3/17/77
44-38861	1371	1	3/17/77
44-38861	1549	3	3/17/77
44-38861	2341	3	3/17/77
44-38861	2505	7	3/17/77
44-38861	3119	6	3/17/77
44-38861	3286	2	3/17/77
44-38861	3515	1	8/17-9/28/77
44-38861	3562	2	8/17-9/28/77
44-38861	3785	2	8/17-9/28/77