

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, depose and say as follows:

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

2. I have examined the worksheets which the FBI has provided for the MURKIN Headquarters records it has released. Although these worksheets generally provide an indication of the exemption claims that are made for each serial, the information supplied is not adequate to make a determination that the claim of exemption is in fact justified. Indeed, in many instances it is not even possible to correlate the claim of exemption with the particular excision(s) for which it is made. This is due to the fact that multiple claims of exemption are frequently made for a number of excisions in a document that may be anywhere from 1 to 100 or more pages in length. In addition, the worksheets provide no description of the withheld material.

3. I have also made a tabulation of the number of times each exemption was claimed in the approximately 6,000 MURKIN serials processed in this case. This tabulation shows the following:

- a. Exemption 1 was claimed in connection with 29 serials.
- b. Exemption 2 was claimed in connection with 399 serials.

c. Exemption 3 was claimed in connection with 10 serials.

d. Exemption 5 was claimed in connection with 21 serials.

e. Exemption 6 was claimed in connection with 10 serials.

f. Exemption 7(C) was claimed in connection with 4,138 serials.

g. Exemption 7(D) was claimed in connection with 1,109 serials.

h. Exemption 7(E) was claimed in connection with 26 serials.

i. Exemption 7(F) was claimed in connection with 40 serials.

4. As indicated by the figure give in paragraph 3g above, the FBI withheld a considerable volume of material under a claim of Exemption 7(D). A graphic example of how the FBI spuriously invoked this exemption is provided by comparing Attachments 1 and 2 to this affidavit. Attachment 1 is a copy of MURKIN HQ serial No. 2622. This is a May 1, 1968 directive to four FBI field offices instructing them to conduct surveillance on James Earl Ray's relatives in their respectige territories. Attachment 2 is a page from Volume XIII of the House Select Committee on Assassinations' hearings on the assassination of Dr. King. It contains a direct quotation from serial 2622. That quotation contains the following sentence: "You should also obtain all long distance telephone calls from their residences for period April 23, 1967 to the present time." This sentence is deleted from the copy of serial 2622 which was provided Weisberg. The claim of exemption that was made is Exemption 7(D). It is obvious, however, that this exemption was not properly invoked, since the deleted sentence neither discloses a confidential source nor information obtained only from a confidential sources. All it discloses is an instruction to FBI field offices. The information excised is important information and information that it is very much in the public interest to have. It also indicates the possible existence of

records which should have been provided Weisberg but which have not been. The FBI has an obvious motive for concealing the existence of records detailing its surveillance of Ray family members.

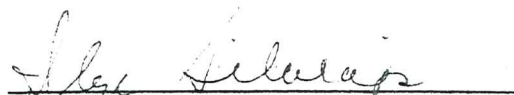
5. On October 17, 1977, I appealed the claims of excisions which were made in Civil Rights Division (CRD) documents released to Mr. Weisberg on September 20, 1977. (See Attachment 3) My letter of appeal included one of the CRD documents in which some 30 excisions had been made on 7(C) and 7(D) grounds. The information which was withheld was all a matter of public knowledge, having been written about widely. On the basis of my recollection of public domain materials, I filled in all but one of the excisions made in this document. To this date there has been no response to my October 17, 1977 letter of appeal.

6. The FBI promised Mr. Weisberg that it would deal with his many objections to the excisions made in MURKIN documents once it finished processing them. Subsequently, Mr. Weisberg was dragooned into acting as the Department's consultant on the excisions and other issues on the promise that he would be paid for his work and that the FBI and the Department would take appropriate action on his reports. Although Mr. Weisberg provided the Department with two detailed "consulatancy" reports, no action has been taken on them and the Department has reneged on its promise to pay him.


 JAMES H. LESAR

DISTRICT OF COLUMBIA

Subscribed and sworn to before me this 28th day of May, 1980.


 NOTARY PUBLIC IN AND FOR
 THE DISTRICT OF COLUMBIA

My commission expires _____

My Commission Expires August 31, 1984

INVESTIGATION OF THE ASSASSINATION
OF MARTIN LUTHER KING, JR.

APPENDIX TO
HEARINGS
BEFORE THE
SELECT COMMITTEE ON ASSASSINATIONS
OF THE
U.S. HOUSE OF REPRESENTATIVES
NINETY-FIFTH CONGRESS
SECOND SESSION
VOLUME XIII
(SCIENTIFIC REPORTS)
AND
(SUPPLEMENTARY STAFF REPORTS)

MARCH 1979

Printed for the use of the Select Committee on Assassinations



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WASHINGTON : 1979

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For sale by the Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402
Stock No. 052-070-04976-6

[Handwritten initials]

May 1, 1968

PLAINTEXT

TELETYPE

URGENT

1 - Mr. Long

TO: SACS, CHICAGO
KANSAS CITY
ST. LOUIS
SPRINGFIELD

FROM: DIRECTOR, FBI

MURKIN

FULL COVERAGE IS TO BE AFFORDED THE RELATIVES OF SUBJECT
RESIDING IN YOUR RESPECTIVE TERRITORIES. THIS WILL INCLUDE
A SPOT SURVEILLANCE OF THESE PERSONS AS WELL AS A DETERMINATION
OF THEIR ASSOCIATES AND INDIVIDUALS MAKING FREQUENT CONTACT
WITH THEM.

~~REDACTED~~

~~REDACTED~~ YOU SHOULD MAKE THIS A CONTINUING PROJECT
UNTIL OTHERWISE ADVISED BY THE BUREAU.

~~REDACTED~~

~~REDACTED~~

~~REDACTED~~

IT WILL BE FULLY INCUMBENT UPON EACH OFFICE TO BE COMPLETELY
AWARE OF ANY SITUATION IN WHICH THE SUBJECT CONTACTS RELATIVES

1 - MEMPHIS

REC-71

EX 109

19 MAY 2 1968

REL: pb

(6)

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE

COMMUNICATIONS SECTION PAGE TWO...

MAY 1 1968

MAIL ROOM TELETYPE UNIT

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(52) Beyond these general investigative efforts, specific "Ray-oriented" leads also appeared. On April 24, 1968, acting on Ray's use of Garner's low-rent roominghouse and other similar establishments Washington directed all offices to "conduct appropriate investigations of all hippie roominghouses and similar establishments to obtain any information concerning Ray." (92) And on April 25, a check by Ford Motor Co. of over 1.5 million warranty cards on work done since August 30, 1969, produced negative results with respect to Ray's Mustang. (93)

(53) Despite these impressive nationwide efforts, however, it is clear that the FBI felt the prospect for breaking the fugitive investigation lay with Ray's family. On April 20, 1968, St. Louis was directed to obtain all telephone calls from the phones of John Larry Ray, Carol Ann Pepper (Ray's sister) and any phone located in the Grapevine Tavern in St. Louis (leased by John Larry Ray and licensed to Carol Pepper). (94) This was followed up 2 days later by instructions sent to the four field offices responsible for areas inhabited by key members of the Ray family:

Full coverage is to be afforded relatives of subject residing in your respective territories. This will include a spot surveillance of these persons as well as a determination of their associates and individuals making frequent contact with them. You should also obtain all long distance telephone calls from their residences for period April 23, 1967, to the present time. You should make this a continuing project until otherwise advised by the Bureau * * * You should insure that each relative is adequately covered to possibly assist in the subject's location and apprehension. (95)

(54) While the Bureau approached Ray's relatives directly in numerous field interviews in an effort to secure information on the whereabouts of the fugitive, additional, indirect approaches of the family were also considered. On May 7, the St. Louis office informed the Director of discussions with the local U.S. attorney, in which the latter had agreed to "cooperate fully" in prosecuting Carol Pepper, Ray's sister, for false responses in an official liquor license questionnaire, "in the event pressure of this nature needed." (96) And on May 13, 1968, an official request was sent to the office of the Attorney General seeking authorization to install microphone and technical surveillance on the residence of John Larry Ray. The purpose of the requested surveillance, as phrased in the May 13 memo, was to "assist in the early apprehension of the subject." (97) The request was not approved, and was withdrawn on June 11, 1968, immediately following Ray's apprehension in London. (98)

(55) Efforts to secure precise information on Ray's location from the family did not bear immediate fruit. Nevertheless, in a May 9 interview with John Larry Ray in St. Louis, (99) Ray's brother reported that Ray had mentioned an intention to leave the country if he escaped; Ray had also indicated, on one occasion, admiration for Jan Smith, head of the Rhodesian Government. On May 10, 1968, based on this interview and other independent evidence of Ray's interest in African countries (100) headquarters initiated a U.S. passport review in the Washington Field Office, (101) focusing initially on

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JAMES H. LESAR
ATTORNEY AT LAW
910 SIXTEENTH STREET, N. W. SUITE 600
WASHINGTON, D. C. 20006
TELEPHONE (202) 223-5387

October 17, 1977

FREEDOM OF INFORMATION APPEAL

Mr. Giffin Bell
U.S. Attorney General
U.S. Department of Justice
Washington, D.C. 20530

Dear Mr. Bell:

I write in reference to a Freedom of Information request by my client, Mr. Harold Weisberg, for copies of Department of Justice records which pertain to the assassination of Dr. Martin Luther King, Jr. Mr. Weisberg's request is the subject of a Freedom of Information lawsuit now nearly two years old. (Civil Action No. 75-1996)

By his letter of September 20, 1977, a copy of which is attached hereto, Mr. James P. Turner, Deputy Assistant Attorney General, Civil Rights Division, has advised me that as a result of my administrative appeal to the Deputy Attorney General on behalf of my client, Mr. Harold Weisberg, the Civil Rights Division was directed to make a supplemental release to me of all material previously withheld, "except for certain minor excisions," which "identifies individuals who appear within the King assassination files, even though they clearly had no connection with the murder, or sources who furnished information in confidence."

Mr. Turner further advised that seven documents which had been referred to the Civil Rights Division because they originated with it were also being released, again with "only minor excisions of names and other identifying data . . . pursuant to 5 U.S.C. §552(b)(7)(C) and (b)(7)(D)."

In accordance with Mr. Turner's advice that I may appeal the deletions from the records provided me by writing to you within thirty days, I hereby appeal.

I also enclose a copy of one of the records which the Civil Rights Division has released, a three-page memorandum dated August 26, 1971 from Monica Gallagher to "File." I have filled in the missing blanks in this document. The names deleted are all public domain, having been written about extensively, including, for

example, in Gerold Frank's An American Death and Wayne Chastain's articles in Computers and People Magazine, both of which are possessed by the Department of Justice.

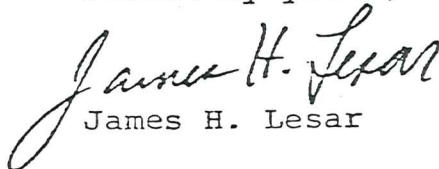
What I have done with the Gallagher memorandum could easily be done with the twenty-five other documents which were released with Mr. Turner's September 20 letter.

If the "analysts" who review Departmental records for public release will not abide your Freedom of Information guidelines, cannot use common sense, and do not resort to indices of books on the subject of such records, then perhaps it would be more economical, not to mention quicker, if you simply installed a WATS line to Mr. Weisberg so they could check to see which of their deletions are already in the public domain.

I hope that all the records released on September 20th will be restored to their pristine state, and quickly, lest I be compelled to ask for a court hearing so that Mr. Weisberg can demonstrate that the withholdings are unjustifiable by filling in the missing blanks.

Finally, I call your attention to the complaint which Mr. Weisberg and I have made to other Department of Justice officials, which is that the skimpy release of records by the Civil Rights Division obviously comes nowhere near to being in compliance with Mr. Weisberg's Freedom of Information Act requests for records pertaining to Dr. King's assassination.

Sincerely yours,


James H. Lesar

cc: Mr. John R. Dugan, AUSA
Judge June Green
Mrs. Lynne Zusman
Mr. Bill Schaffer

Memorandum

TO : File

DATE: August 26, 1971

Mason

FROM : Monica Gallagher
Deputy Chief, Criminal Section
Civil Rights Division

DJ 44-72-662

SUBJECT: Wayne Chastain, Jr.

On August 24, 1971, Mr. Queen and I met with Wayne Chastain, Jr., a reporter with the Memphis Press Scimitar, home address 810 Washington, Apartment 502, Memphis, Tennessee, telephone 901-525-6158; office telephone 526-2141. Mr. Chastain requested the meeting to furnish the following information, which he advised has mostly been previously furnished to the FBI in Memphis in 1968. At the conclusion of the interview I advised Mr. Chastain that we would carefully consider the information he furnished, together with other information available to us, and determine what if any further action would be appropriate.

A. Re Jack Youngblood aka Tony Bevacqua: Youngblood, according to Chastain, is from the area of Alleene, Arkansas and has reputedly been engaged in illegal and/or questionable activities such as gunrunning. He is about 49 years old, has dark hair and eyes, and speaks some Spanish. He is a man of some wealth, drives a Cadillac, and likes "high living." He was a college roommate of WALTER RA FORD, a Memphis attorney.

Chastain is persuaded that there is considerable evidence that Youngblood was in Memphis April 3-5, 1968, and present in "Jim's Grill" opposite the

Lorraine Motel on the afternoon of April 4 shortly before the assassination. If this is true, Chestain believes further investigation of *Youngblood* is warranted since there is no apparent logical explanation for his presence in that neighborhood at that time.

The evidence that *Youngblood* was there is as follows:

1. Lloyd Jowels (Gilas?), owner of Jim's Grill, remembers (according to Chestain who interviewed him) that on the day of the assassination at about 4:30 p.m. a man entered Jim's Grill and ordered sausage and eggs. This was sufficiently unusual as to be noteworthy because at that hour of the day most people come to Jim's to drink and the cooking grill is closed down. Also, this man was not of the working class "type" that frequents Jim's Grill. During the time the man was in Jim's he went three times to the telephone but never made a call. He left about 5:00 p.m.

On later being interviewed by the police about the presence of any suspicious individuals, Jowels described the sausage-and eggs man and was allegedly told to call the police if he returned. In fact the man returned for breakfast the next day (4/5) carrying a suitcase. Jowels called the police who picked him up as he left the cafe. (He again had ordered sausage and eggs!). Jowels was never asked by the police to identify this man. However, he later heard that the man was released by the police a short time after he was picked up, although other individuals were being held as suspects in the King matter.

Chastain said he exhibited to Jowels a "mug shot" of Youngblood and that Jowels positively identified him as the sausage-and-eggs man.

2. A former waitress at Jim's Grill, identity unknown to Chastain but allegedly known to

also remembers the man and could identify a photograph of Youngblood as the individual involved.

3. Walter Buford once said that Youngblood called him from Memphis the day before the King slaying, but according to Chastain he now denies that he can fix the date accurately. In approximately May 1968, Buford told Chastain that the last time Youngblood had been in Memphis was "about the time of the King assassination." When the question of Youngblood as a possible suspect was raised, Buford said, "Jack" is more liberal on the racial issue than I am."

B. Rei Beruivias

A Memphis attorney named Russell K. Thompson told Chastain that he had been consulted by an individual who gave his name as Beruvias, saying that was an alias. Beruvias had allegedly been arrested in connection with the King slaying and released. He thought he would ultimately be charged and wanted Thompson to represent him. He took Thompson's telephone number and departed. Chastain exhibited to Thompson several photographs of Youngblood. With respect to the mug shot, Thompson said that was not the man; however, with respect to a newspaper photograph, Thompson could not be sure. Thompson allegedly told Chastain that he inferred from Beruvias's speech that he spoke Spanish in addition to English.