

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG, :
: :
Plaintiff, :
: :
V. : C.A. 75-1996
: :
DEPARTMENT OF JUSTICE, :
: :
Defendant. :
: :
.....

^{OPPL}
~~SUPPLEMENT~~ TO HAROLD WEISBERG'S AFFIDAVIT OF JANUARY 6, ¹⁹⁸¹ ~~1981~~

My name is Harold Weisberg. I reside at 7627 Old Receiver Road (Route 12), Frederick, Maryland. I am the plaintiff in this case.

1. On January 6, 1981, I mailed my counsel an affidavit in which I dispute representations of compliance by the FBI in the most recent of its Motions for Partial Summary Judgment. In my January 6 affidavit I state that among the information sought in my requests and not provided are the spectrographic plates and certain neutron activation analysis (NAA) records. I also state that these had been promised by the FBI; that the appeals office in 1978 obtained the FBI's agreement to provide them; that Department counsel and the FBI's house counsel both have knowledge of the withholding of these plates and NAA information from participation in the deposition of SA John Kilty; and that no Motion for Summary Judgment can be made in good faith while these pertinent records remain withheld.

2. On January 7, 1981, I received the attached letter from Thomas H. Bresson, Chief of the FBI's FOIPA Branch. (Exhibit 1) Mr. Bresson acknowledges that the plates have not been provided and now, almost five years after SA Kilty swore to full compliance and I disputed him under oath, Mr. Bresson claims they did not "turn up" in an alleged search made at some carefully unspecified time.

3. If those plates are missing, as under normal circumstances will be impossible, that should have become apparent before Kilty swore to having provided complete compliance with that Item of my April 15, 1975, request. (The plates and neutron activation information are also pertinent to my 1969 and December 23, 1975, requests.)

4. Further explanations are included in my response to SA Bresson.
(Exhibit 2)

5. In my affidavit of January 6 I also state that the FBI has not made any real search to comply with the surveillance Items of my request. Bernard Fensterwald and I are among those included in these Items. Under date of December 19, 1977, my counsel provided SA John Hartingh with Fensterwald's privacy waiver. In it ~~he~~ authorizes the FBI to disclose to me "any records responsive to Mr. Weisberg's requests which mention or pertain to me."

6. The FBI ~~had~~ ^{has and the FBI's FOIPA} ~~the~~ ~~FBI~~'s Branch knows that the FBI has information on surveillance of Fensterwald. It has just disclosed proof of this. Exhibit 3 is a record disclosed in response to appeal in which what had been previously withheld reflects this surveillance. I first saw this record after I mailed my affidavit to my counsel.

7. This previously withheld information about Fensterwald is, "In September, 1972, he received a letter from Dr. Julius Mader of East Berlin, soliciting an order for Mader's book, Yellow List: Where is the CIA? He returned the order blank with a check for the book (105-44852)."

8. This brief summary identifies the FBIHQ file from which it comes, 105-44852. Reference to it should have been reflected in even the most rudimentary search, if any had been made, to comply with the surveillance Item of my requests.

9. This information is the result of mail interception, a form of surveillance. The Church Committee held hearings on the FBI's and CIA's mail surveillance activities, published those hearings and filed a report with the Senate. (The CIA intercepted for the FBI.)

10. Dr. Mader also wrote me about his earlier book, of which he sent me an unsolicited copy. It is among my mail I believe was intercepted by the CIA/FBI.

11. Neither has complied with my requests for all their records pertaining to me.

12. This surveillance information was withheld by the FBI in this instant cause. There has been no response to my appeals, which include surveillance information on me, except for the essentially meaningless and evasive statement that I am not listed in the electronic surveillance indices. In my appeals I have

provided FBI and other proofs of surveillance of me.

HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 7th day of January 1981 Deponent Harold Weisberg has appeared and signed this affidavit, having first sworn that the statements made therein are true.

My commission expires July 1, 1982.

NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND