

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)	
)	
Plaintiff,)	
)	
v.)	Civil Action Number
)	75-1996
U.S. DEPARTMENT OF JUSTICE,)	
)	
Defendants.)	
<hr/>		

AFFIDAVIT OF JOHN W. KILTY

I, John W. Kilty, being duly sworn, depose and say as follows:

(1) I am a Special Agent (SA) of the Federal Bureau of Investigation (FBI), Unit Chief, Elemental Analysis Unit, Laboratory Division, FBI Headquarters (FBIHQ), Washington, D.C.

Due to the nature of my official duties I am familiar with all of the duties and responsibilities of the Elemental Analysis Unit and, more specifically, am familiar with neutron activation and spectrographic analysis performed during the investigation into the assassination of Dr. Martin Luther King.

(2) The purpose of the affidavit is to describe the search in the FBI Laboratory for neutron activation and spectrographic materials and the results of that search. This affidavit is supplemented by the fifth affidavit of SA John N. Phillips, filed herewith.

(3) In accordance with the December 1, 1981, order of District Court Judge June L. Green, I repeated the search for neutron activation and spectrographic materials connected with the investigation of the assassination of Dr. King, and which may have been retained in the FBI Laboratory work

space. This search conducted by me encompassed all logical and reasonable locations in the Laboratory where this type of material would be maintained. The places searched by me in the Laboratory Division, FBIHQ, were:

(a) three file cabinets located in Room 2B456. These cabinets contain old material generated through neutron activation analysis and spectrographic tests.

(b) two file cabinets located in Room 3342K, which contain among other things, material generated through neutron activation and spectrographic analyses.

(c) one file cabinet located in Room 3342L, which contains, among other things, materials generated through neutron activation and spectrographic analysis.

(d) The instrument room plate drawer located in Room 3971. This plate drawer is the location where spectrographic plates of current and open cases are kept. Spectrographic plates are stored in the location for approximately one year after their generation.

(e) The plate locker located in Room 3972J. The plate locker is the location where spectrographic plates connected with old cases and cases deemed to have some historical value are kept.

(3) As a result of this search in the FBI Laboratory by me, I was unable to locate any neutron activation or spectrographic analysis materials connected with the investigation of the assassination of Dr. King.

(4) The neutron activation materials generated during the investigation of the assassination of Dr. King were not located by me during this search of the FBI Laboratory since these materials were previously sent by me to the Records Management Division, FBIHQ, for retention in the appropriate MURKIN file(s) maintained by the FBI.

(5) The spectrographic analysis materials, with the exception of spectrographic plates, generated during the investigation of the assassination of Dr. King are located in the appropriate MURKIN file(s) maintained by Records Management Division, FBIHQ. The only logical explanation for the fact that I did not locate any spectrographic plates in the FBI Laboratory, which were generated during the investigation of the assassination of Dr. King, is that these spectrographic plates were destroyed by the FBI in accordance with the provisions of the memorandum attached hereto as exhibit A.

John W. Kilty

JOHN W. KILTY
Special Agent
Federal Bureau of Investigation
Washington, D.C.

Subscribed and sworn to before me this 18th day of December, 1981.

Mary B. Kieker
Notary Public

My commission expires Sept 14, 1982.

RECEIVED - FBI BUREAU

TO : Mr. D. J. Parsons
FROM : Mr. T. D. Beach

DATE: 2/2/36

Mr. Tolson	_____
Mr. Clegg	_____
Mr. Glavin	_____
Mr. Ladd	_____
Mr. Nichols	_____
Mr. Rosen	_____
Mr. Tracy	_____
Mr. Carson	_____
Mr. Egan	_____
Mr. Gurnea	_____
Mr. Hendon	_____
Mr. Pennington	_____
Mr. Quinn	_____
Mr. Nease	_____
Mr. Gandy	_____

SUBJECT: SPECTROGRAPHIC PLATE FILE

The Spectrographic Plate File consists of two separate and distinct collections of spectrographic plates, namely,

- (1) Plates containing the arc and spark spectrum of seventy-five metallic elements. The plates are filed alphabetically in the Spectrographic Unit and are used by the examiners to identify the secondary spectral lines which may be present on a plate of an unknown spectrum.
- (2) Spectrographic plates obtained from analyses of evidence on cases. These plates are maintained in the Spectrographic Unit for six months and then placed in the Laboratory Files where they are held for a period of five years. Five years is the normal period of the Statute of Limitations on most cases. The plates are normally taken to the trial of a case when testimony is required. After being retained for five years the spectrographic plates are destroyed.

RECOMMENDATION:

It is recommended that this file be continued in its present form.

62-38539
WRH/vmk
(4)

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Harold Weisberg,)
)
 Plaintiff,)
)
 v.) Civil Action Number
) 75-1996
 U. S. Department of Justice,)
)
 Defendants.)
_____)

FIFTH AFFIDAVIT OF JOHN N. PHILLIPS

I, John N. Phillips, 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) Section, Records
Management Division, FBI Headquarters (FBIHQ), Washington, D. C.

Due to the nature of my official duties, I am familiar
with the procedures followed in processing Freedom of Information
Act (FOIA) requests received at FBIHQ. Although I was not initially
involved with plaintiff's FOIA request, I am, however, familiar with
all aspects of this request as it relates to the FBI. The infor-
mation set forth herein is based upon my review of the records and
correspondence with plaintiff as it relates to this litigation,
and upon information provided to me in my official capacity.

(2) The purpose of this affidavit is to supplement the
affidavit of SA John W. Kilty, filed herewith, concerning the search
for neutron activation and spectrographic analysis performed by the
FBI during the investigation of the assassination of Dr. King.

(3) According to FBI procedure, all raw data and work-
sheets, as well as carbon copies of reports prepared by the Laboratory
concerning the investigation of Dr. King's assassination were forwarded
to Records Management Division for maintenance. These records were
then placed in the MURKIN file, FBIHQ number 44-38861, which has

been processed for release to plaintiff.

(4) Material pertaining to the neutron activation analysis is contained in an enclosure to serial 1256 of the above mentioned MURKIN file. Plaintiff received part of this enclosure consisting of nine pages of raw data at a meeting at FBIHQ on March 23, 1976, in which he indicated those pages to be the only material in serial 1256 in which he was interested. During the processing of the Headquarters MURKIN file, plaintiff was furnished additional testing materials and lab reports by letter dated January 10, 1977.

(5) Spectrographic materials including worksheets and reports are located in the Headquarters MURKIN file in the enclosures to serials 6004X and 6007X1. Plaintiff was provided copies of these serials by letter dated June 29, 1977.

(6) In an effort to assist plaintiff in his search for neutron activation and spectrographic analysis in the Headquarters MURKIN file, copies of serials 1256, 6004 and 6007X1 have again been provided to plaintiff by letter dated December 18, 1981.

John N. Phillips
John N. Phillips
Special Agent
Federal Bureau of Investigation
Washington, D. C.

Subscribed and sworn to before me this 18th day of December, 1981.

Morothy J. Bartuch
Notary Public

My Commission expires 1-1-85.

DEC 18 1981

Mr. Harold Weisberg
7627 Old Receiver Road
Frederick, Maryland 21701

Dear Mr. Weisberg:

Reference is made to the December 1, 1981, order of District Judge June L. Green concerning the release of Neutron Activation and Spectrographic analyses.

Enclosed herewith are copies of aerials 1256, 6004X and 6007X1 of sections 10 and 65 of the Headquarters MURKIN file, 44-38861, which were previously released to you by letters dated January 10, and June 29, 1977, respectively.

Material previously deleted from serial 1256 to protect the names of FBI Special Agents under subsection (b)(7)(C) has been restored. These three serials are now being released to you with no excisions.

Sincerely yours,

James K. Hall
James K. Hall, Chief
Freedom of Information-
Privacy Acts Section
Records Management Division

Enclosures (3)

- 1 - Honorable June L. Green
Judge of the United States District
Court for the District of Columbia
United States Courthouse
3rd Street and Constitution Avenue, N.W.
Washington, D. C. 20001
 - 1 - James H. Lesar, Esq.
Suite 900
1000 Wilson Boulevard
Arlington, Virginia 22209
 - 1 - Assistant Attorney General
Civil Division
Attention: William G. Cole, Esq.
 - ① - Mr. Mintz
Attention: William F. Welby
- cjfitmc (8)

WEISBERG - 9
RM 3548
[Signature]

Mr. Harold Weisberg
7627 Old Receiver Road
Frederick, Maryland 21701

Dear Mr. Weisberg:

In accordance with the December 1, 1981, order of District Court Judge June L. Green, enclosed herewith are copies of Memphis Field Office file 149-121 captioned "Threat to American Airlines and Dr. Martin Luther King, Jr., Memphis, Tennessee, April 1, 1968; DAMV", and three internal memoranda from the Savannah Field Office dated August 6, 1968, August 28, 1968 and June 5, 1969.

Deletions have been made in this material pursuant to the following subsections of Title 5, United States Code, Section 552:

- (b) (2) materials related solely to the internal rules and practices of the FBI;
- (b) (7) investigatory records compiled for law enforcement purposes, the disclosure of which would:

1 - Honorable June L. Green
Judge of the United States District
Court of the District of Columbia
3rd Street and Constitution Avenue, N.W.
Washington, D. C. 20001

1 - James H. Lesar, Esq.
Suite 900
1000 Wilson Boulevard
Arlington, Virginia 22209

1 - Assistant Attorney General
Civil Division
Attention: William G. Cole, Esq.

(1) - Mr. Mintz
Attention: William F. Welby

cjf:tmc (8)



Mr. Harold Weisberg

- (C) constitute an unwarranted invasion of the personal privacy of another person;
- (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.

If you desire, you may submit an appeal from any denial contained herein. Appeals should be directed in writing to the Assistant Attorney General, Office of Legal Policy (Attention: Office of Information and Privacy), United States Department of Justice, Washington, D. C. 20530, within thirty days from receipt of this letter. The envelope and the letter should be clearly marked "Freedom of Information Appeal" or "Information Appeal." Please cite the Freedom of Information-Privacy Acts (FOIPA) number assigned to your request so that it may be easily identified.

Processing of Memphis Field Office file 100-4105 captioned "Martin Luther King, Jr., Security Matters" has been initiated and will be furnished to you upon its completion.

Sincerely yours,

James E. Hall
James E. Hall, Chief
Freedom of Information-
Privacy Acts Section
Records Management Division

Enclosures (2)