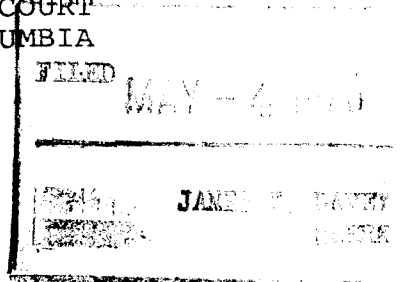


UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA



.....  
HAROLD WEISBERG,

Plaintiff,

v.

U. S. DEPARTMENT OF JUSTICE,

Defendant  
.....

Civil Action No. 75-1996

REQUEST FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, plaintiff requests that within 30 days the defendant produce and permit plaintiff to make copies of the following documents:

1. The three boxes of indices referred to in the attached October 22, 1968 letter from Mr. Phil M. Canale to Mr. D. Robert Owen. [See Exhibit W]

2. Any correspondence, communication, report, record of outside contact, or any other written record pertaining to any request for information about the assassination of Dr. Martin Luther King, Jr. This specifically includes any written record made with respect to the FBI's contact with "Tennessee authorities" referred to in the attached November 3, 1975, memorandum from Mr. Stephen Horn to Mr. J. Stanley Pottinger. [Exhibit X]

*James H. Lesas*

CERTIFICATE OF SERVICE

I hereby certify that I have this 4th day of May, 1976,  
mailed a copy of the foregoing Request for Production of Documents  
to Assistant United States Attorney John Dugan, Room 3419,  
United States Courthouse, Washington, D. C. 20001.

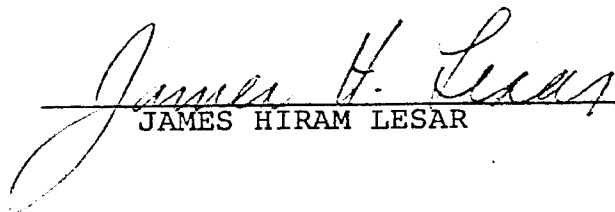
  
\_\_\_\_\_  
JAMES HIRAM LESAR

EXHIBIT W

ROBERT M. DWYER  
EXECUTIVE ASSISTANT

LLOYD A. RHODES  
ADMINISTRATIVE ASSISTANT

JOHN L. CARLISLE  
H. J. BEACH  
E. L. HUTCHINSON, JR.  
CLYDE R. VENSON  
CRIMINAL INVESTIGATORS

EARL E. FITZPATRICK  
NON-SUPPORT DIVISION

PHIL M. CANALE, JR.  
DISTRICT ATTORNEY GENERAL  
FIFTEENTH JUDICIAL CIRCUIT OF TENNESSEE  
COUNTY OF SHELBY

SHELBY COUNTY OFFICE BUILDING  
157 POPLAR AVENUE  
MEMPHIS, TENN. 38103

ASSISTANTS

WILLIAM D. HAYNES  
JAMES C. BEASLEY  
EWELL C. RICHARDSON  
JEWETT H. MILLER  
J. CLYDE MASON  
SAM J. CATANZARO  
LEONARD T. LAFFERTY  
ARTHUR T. BENNETT  
DON D. STROTHER  
DON A. DINO  
JOSEPH L. PATTERSON  
BILLY F. GRAY  
EUGENE C. GAERIG  
HARVEY HERRIN  
F. GLEN SISSON  
JOHN W. PIEROTTI

October 22, 1968

Mr. D. Robert Owen  
Deputy Assistant Attorney General  
Civil Rights Division  
Department of Justice  
Washington, D.C.

Dear Bob:

The three boxes of indices arrived, and I certainly appreciate your forwarding them to me. They are a beautiful piece of work and will be of great assistance to us in the trial of the Ray case.

I do feel it will be helpful for your secretary to come to Memphis and assist us in co-ordinating and checking our indices against yours to make sure neither one of us has overlooked anything, and also for her to explain to us any details regarding the indices which we could overlook.

If it is possible, I would like for her to come to Memphis on Monday, October 28. I have to be in Nashville on that date and part of Tuesday, but Mr. Dwyer, Mr. Beasley, and Mr. Carlisle will be back from their European trip by this weekend and your secretary can start right in with them and with my secretary Miss Fortinberry.

Will you please let me know if your secretary can be here on Monday, and if you will advise of her flight, I will make arrangements to have her met at the airport.

Thanking you for your co-operation, I am

Sincerely yours,

*Phil M. Canale, Jr.*

EXHIBIT X

J. Stanley Pottinger  
Assistant Attorney General

November 3, 1975

Stephen Horn  
Attorney  
Criminal Section

SH:vap  
DJ 144-72-663

Freedom of Information Requests:  
Martin Luther King File

On October 30, 1975, I attended a meeting at the Hoover Building for the purpose of discussing two FOIA requests received by the Department requesting certain FBI reports and evidentiary materials concerning the King investigation. Present were Volney Brown of the FOIA Appeals Unit headed by Quinlan Shea, and Tom Dression and Tom Wiseman of the Bureau's FOIA Unit.

The subject requests are attached. One is from CBS, which, as you know, is preparing to air a documentary on the assassination on November 30, 1975; the other from Harold Weisberg, who is represented by James Lesar, Ray's attorney. Weisberg is acting in the capacity of Lesar's "investigator". Lesar has represented to Brown that, if need be, Ray himself will join in their FOIA request.

We have, of course, previously taken the position that the disclosure of King materials (the FBI scale model of the scene of the crime) would prejudice Ray's right to a fair trial, should he secure a new one, and this cannot be disclosed. I still strongly advocate this position.

If my reading of Brown was correct, the FOIA Unit may be viewing this from a slightly different perspective:

cc: ~~Records~~  
Chrono  
Murphy  
Allen  
Horn

Brown expressed Shea's desire to avoid being "blasted" (on the air) by CBS for being "uncooperative". While I took the approach that the FOIA Unit should formulate an appropriate legal argument against disclosure and seek court approval of what I believe to be a strong fact situation for non-disclosure, the thrust of Brown's comments was that the case law could support disclosure under these circumstances. However, he did state that he may in the final analysis, adopt our position.

There is some question as to whether some of the requested materials have already been made public, in one form or another, either at the extradition proceeding in England, the "mini-trial" wherein the state prosecutors made a proffer to satisfy the Court that there was a basis for the guilty plea, or the evidentiary hearing in U.S. District Court on Ray's petition for habeas corpus (the denial of which is on appeal to the Sixth Circuit). The FBI is making efforts to determine the answer to this question and is in contact with Tennessee authorities.

I told Brown that the fact that evidence may have been released in one form may not justify its release in another. In other words, from the perspective of prejudicial pre-trial publicity, I see a big difference between the affidavit of an FBI expert, already made public, and the disclosure of the actual raw data and photographs upon which he formulated his opinion. (Obviously, CBS and Weisberg see the difference too, why else go through the FOIA process to get material already a matter of public record?)

The possible legal theories for non-disclosure is not the present issue. What is important now is whether the

- 3 -

Department decides to contest disclosure in court, if at all legally practicable, or make disclosure in the immediate future. The Deputy Attorney General should have the views of this Division as well as that of the FBI Unit.

I have drafted a memo for your signature if you are inclined to agree with my position.