

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JAMES H. LESAR, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 77-0692  
 )  
 DEPARTMENT OF JUSTICE, )  
 )  
 Defendant. )  
 \_\_\_\_\_ )

SUPPLEMENTAL AFFIDAVIT OF LEWIS L. SMALL

I, Lewis L. Small, being duly sworn, depose and say as follows:

(1) This affidavit is supplemental to my previous affidavit of May 11, 1978, which was filed with the Court in the above-captioned action on that date, and is intended to expand upon my previous affidavit in one respect as specified below.

(2) I am a Special Agent of the Federal Bureau of Investigation (FBI), assigned in a supervisory capacity to the Document Classification Review Unit in the Records Management Division at FBI Headquarters, Washington, D. C.

(3) I have been authorized to classify FBI documents pursuant to Executive Order (EO) 11652, Section 2(A)(3) and 2(C), and 28 C.F.R. 17.23, et seq. My current assignment in classification matters involves a variety of duties including review of classified documents requested under the Freedom of Information Act and Privacy Act as to their suitability for continued classification, and, when indicated, declassification.

(4) As stated in paragraph four of my previous affidavit, I have made a personal independent examination of all documents listed therein and have personal knowledge of the information set forth in those documents for which exemption pursuant to Title 5, United States Code, Section 552(b)(1), is claimed.

*Do not say not  
et al. by public*

(5) I hereby reiterate that, as stated in paragraphs six, twelve, seventeen and eighteen of my previous affidavit, all documents listed therein are currently and properly classified under the applicable <sup>not public</sup> substantive and procedural requirements <sup>of public law 11652</sup> of Executive Order 11652 and each such document, or portion thereof, bears on its face the administrative markings required by the Executive Order.

(6) As further regards the administrative markings applicable to these documents, it has come to my attention that some question has arisen concerning whether these documents require a special Warning Notice due to their classification, in part, as containing references to intelligence sources and methods. See Section IV, Subsection H(4) of the National Security Council Directive Governing the Classification, Downgrading, Declassification and Safeguarding of National Security Information (Directive of May 17, 1972).

NSCIDiv  
Such a Warning Notice generally appears on documents originating with certain other Government agencies within the Intelligence Community whose intelligence sources and methods are of a sensitive nature requiring additional limitations with regard to access. The Warning Notice has no effect on the level of classification and is utilized only to limit and control dissemination and routing of classified information.

EO 11652  
(7) FBI intelligence sources and methods, while classifiable are not generally sensitive, requiring the additional safeguard of the Warning Notice. Normal marking with the level of classification is generally a sufficient protection for FBI sources and methods.

(8) The documents and portions thereof referred to in my previous affidavit contain information obtained from intelligence sources and methods which warrant classification; however, the sources and methods are not sensitive and therefore do not require the Warning Notice.

Lewis L. Small  
LEWIS L. SMALL  
Special Agent  
Federal Bureau of Investigation  
Washington, D. C.

Subscribed and Sworn to before me this 22<sup>nd</sup> day of May, 1978.

Man B. Kischer  
Notary Public

My commission expires Sept. 14, 1982.

Are the documents from  
which notes were made  
classified? I have not  
seen them, they were, if  
at all, type request