

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JAMES H. LESAR,

Plaintiff,

v.

Civil Action No. 77-692

DEPARTMENT OF JUSTICE,

Defendant.

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OPPOSITION TO PLAINTIFF'S  
MOTION FOR RECONSIDERATION  
AND CLARIFICATION

The issues presented by this Freedom of Information Act ("FOIA") lawsuit have been the subject of intense scrutiny, extensive discussion, and elaborate documentation by all parties to the suit and by the Court.

The record reflects that over the course of this litigation the Government filed no fewer than a dozen detailed affidavits in support of its legal justifications for withholding information under the FOIA, with specific references made to the copies of all expurgated documents which were filed into the record of the Court. Plaintiff, in turn, filed half as many affidavits executed by himself or his colleague Harold Weisberg, some of startling breadth and detail, all accompanied by extensive documentation by which plaintiff sought to challenge the Government's legal positions. Subsequent to the time at which the parties filed simultaneous cross-motions for summary judgment in May of this year, the issues presented in those motions were laboriously addressed in eight supplemental pleadings filed by the parties in corresponding fashion. Finally, these

issues were exhaustively discussed and probed by counsel and the Court at each of two distinct summary judgment hearings.<sup>1/</sup>

It is clear that the Court had before it in this action an extraordinary wealth of information and that it undertook great pains (including in camera examination of hundreds of pages of documents) to consider all available information in reaching its well-reasoned decision on July 28, 1978. Now, plaintiff seeks through a motion for "reconsideration and clarification," as accompanied by yet another "supporting affidavit" and related documentation, to once again litigate the issues which have been amply reviewed and decided.

In response, defendant can only observe that the matters contained in plaintiff's motion are at the same time both stale and well past due -- there is nothing contained therein which either has not been raised, addressed, and considered by the Court or which could not have been presented during the vigorous litigation prior to final adjudication. Defendant considers the Court's decision in this case to be both well-supported by the record and well-supported on its face. Certainly, nothing in plaintiff's motion or supporting materials compels persuasively to the contrary.

For the above reasons, if for no others, defendant

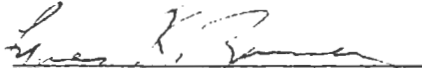
<sup>1/</sup> Any perception on plaintiff's part that the hearing held on July 20, 1978 was merely a "brief status call" (Plaintiff's Motion For Reconsideration And Clarification at 5) is surely one which is peculiar to plaintiff alone.

respectfully suggests that plaintiff's motion for reconsideration  
and clarification should be denied.

Respectfully submitted,

  
BARBARA ALLEN BABCOCK  
Assistant Attorney General

EARL J. SILBERT  
United States Attorney

  
LYNNE K. ZUSMAN

Dated: September 6, 1978

  
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ORDER

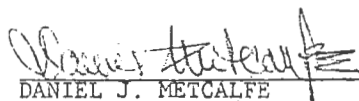
Upon consideration of plaintiff's "Motion For Reconsideration And Clarification Pursuant To Rules 52(b) And 59 Of The Federal Rules Of Civil Procedure," of the papers filed by the respective parties in support thereof and in opposition thereto, and of the entire record herein, and it appearing to the Court that the denial of plaintiff's motion would be just and proper, it is by the Court this \_\_\_\_ day of September, 1978,

ORDERED that plaintiff's motion be, and it hereby is, denied.

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Opposition To Plaintiff's Motion For Reconsideration And Clarification, with accompanying proposed Order, was served upon plaintiff pro se by deposit of a copy thereof in the United States mail, first class mail, postage prepaid, addressed to James H. Lesar, Esq., 910 16th Street, N.W. Washington, D.C., 20006, on this 6<sup>th</sup> day of September, 1978.

  
DANIEL J. METCALFE