

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
JAMES H. LESAR,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF
JUSTICE,

Defendant
.....

Civil Action No. 77-0692

RECEIVED

DEC - 8 1978

JAMES F. DAVEY, Clerk

MOTION FOR ENLARGEMENT OF TIME WITHIN
WHICH TO DOCKET RECORD ON APPEAL

Comes now the plaintiff, James H. Lesar, and moves the Court, pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and Rule 11(d) of the Federal Rules of Appellate Procedure, for an extension of 40 days, to and including January 28, 1978, within which to docket the record in this case in the United States Court of Appeals.

In support of this motion plaintiff represents to the Court as follows:

1. The record in this case is presently required to be docketed in the United States Court of Appeals on or before December 19, 1978. No previous extension of the docketing schedule has been requested.

2. Plaintiff has recently obtained copies of what appear to be two Memphis Police Department records which this Court found to be exempt from disclosure under the Freedom of Information Act. [See Exhibits 1 and 2] Plaintiff became aware that these documents had been made public when he conducted a hasty examination of materials released to the press by the House Select Committee on

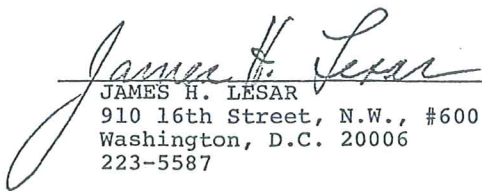
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Assassinations in the course of its hearings on the assassination of Dr. Martin Luther King, Jr. The public release of these records undermines the credibility of the affidavits which defendant filed with the Court. (The affidavit of Shelby County DA Hugh W. Stanton, Jr. is attached hereto as Exhibit 3) This in turn raises questions as to whether the decision of this Court with respect to such records was procured by misrepresentation.

3. Based on these and other records (see Exhibit 4), plaintiff intends to move for a new trial. However, because plaintiff is overdue on one brief in the United States Court of Appeals, has another due on December 26, 1978, and is otherwise so busily engaged in trying to catch up with a backlog of work that he must work weekends, he cannot at present find time to properly prepare such a motion. He can file such a motion on or before January 5, 1979. The requested extension will give plaintiff time to prepare his motion for a new trial, defendant time to respond to it, and the Court time to act on it before the new docketing date expires. For reasons of judicial economy this is preferable to the alternative procedure, which is for plaintiff to docket the case on December 19, 1978 and then move to have the case remanded so he can file his new trial motion.

Accordingly, plaintiff asks that the requested extension be granted.

Respectfully submitted,


JAMES H. LESAR
910 16th Street, N.W., #600
Washington, D.C. 20006
223-5587

Attorney pro se

CERTIFICATE OF SERVICE

I hereby certify that I have this 8th day of December, 1978,
mailed a copy of the foregoing to Mr. Dan Metcalfe, Esq., P.O. Box
7219, Washington, D.C. 20044.


JAMES H. LESAR

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
: :
JAMES H. LESAR, :
: :
Plaintiff, :
: :
v. : Civil Action No. 77-0692
: :
UNITED STATES DEPARTMENT OF :
JUSTICE, :
: :
Defendant :
.....

ORDER

Upon consideration of plaintiff's Motion For Enlargement of Time Within Which to Docket Record on Appeal, and the entire record herein, it is by the Court this _____ day of December, 1978,

ORDERED, that plaintiff's motion be, and hereby is, GRANTED; and it is further:

ORDERED, that the time within which plaintiff shall docket the record in the United States Court of Appeals is enlarged to and including January 28, 1978.

UNITED STATES DISTRICT COURT

phone unknown, unemployed, taken at Central Police Headquarters, 7300 East, April 7, 1968.

Questioned by: Lt. J. D. Music and Agent C. F. Busch Typed by: Margaret Kenley

Relative to the shooting of Martin Luther King, Jr., male colored, that occurred on Thursday, April 4, 1968, at approximately 6:15 P.M. at 405 Mulberry, the Lorraine Hotel-Motel.

- Q. Grace, were you at home the afternoon of Thursday, April 4, 1968?
- A. Yes, sir, I been home all day long.
- Q. Did you see or hear any anything unusual that day?
- A. No, sir, you know those railroad firecrackers that go off all day, that's the only think I heard.
- Q. How many of those railroad firecrackers did you hear?
- A. I believe there was about five of them.
- Q. Did any of the railroad firecrackers sound any different from the others?
- A. No, it didn't. Just sounded like it was fixing to come through the bedroom, is
- Q. Do you remember the times that you heard these railroad firecrackers?
- A. No, sir, I don't. I was having trouble sleeping anyway.
- Q. Was anyone else in the room with you?
- A. My husband, Charlie Q. Stephens.
- Q. Did he hear the railroad firecrackers?
- A. Yes, he told me once to try to go to sleep, it was just a railroad over there.
- Q. Do you know how many rooms are up in that group where you live?
- A. I believe there are nine on the side where you come up from Main St. and I believe there is the same number on the other side.
- Q. How long have you been living there?
- A. Since I got out of the hospital last Monday.
- Q. Did you see or hear anyone moving outside of your room during the day?
- A. Yes, sir, I heard people going to the bathroom and I heard the commode flush. One time I heard someone go to the bathroom, but didn't hear the commode flush and right after that I heard what I thought was a railroad firecracker. Then I heard a bunch of screaming coming from the motel over across the street, I don't know the name of the street. The next thing I heard was some sirens.
- Q. Do you recall what time it was approximately that you heard someone go to the bathroom and you heard this railroad firecracker?
- A. I just don't know.
- Q. Could you tell by sound if the party that went to the bathroom that last time that you were talking about was a man or woman?
- A. It was a man by the way the feet sounded. He wasn't too heavy from the way it sounded, but he did have hard heeled shoes because I could hear the heels and couldn't hear the rest of his shoes.
- Q. Have you left your room at any time during the day?
- A. Charlie helped me to the bathroom one time. It was about 2 o'clock this afternoon.

Grace H. Stephens

SUPPLEMENT # 1
 MARTIN LUTHER KING JR., MC39
 ROOMING #3367
 Thursday, April 4, 1968, 6:00PM

RE: Interviews made at the scene
 at 4:22 1/2 S. Main

Reported by: Lt. G. King and Capt. R. L. Williams

While at the scene of this fatal shooting it was determined that the shot had come from the bathroom window in the rear of 422 1/2 South Main. While making the scene investigation the following subjects were interviewed and the results of these interviews are as follows:

WILLIAM ANTHONY M59, 422 1/2 S. Main Apt. 4B, employed as a laborer at Duvall Transfer Co. He stated that he and Bessie Ledbetter M, deaf mute, were in his room watching the television when he heard the shot. He stated that he opened the door to his room and looked out into the hall and that a white man ran by him going toward the front or Main St. side of the building. He stated that the man was carrying something wrapped in what he thought was a blanket. He said the man ran by him and said that somebody had been shot and then ran down the front stairs of the rooming house.

CHARLES QUINN STEPHENS M46, 422 1/2 S. Main, Apt. 6B, unemployed disabled veteran, who had tuberculosis stated that he and his wife Grace were in their room at the time the shot was fired. He stated that at about 4:00PM, Thursday, 4-4-68 he went out of his room to go around to the other side of the building to see the landlady and that as he started down the hall, the landlady and a man were coming out of the door to apt. 5B. He stated that the man was 5'10" to 5'11", medium build, 160 to 165 lbs., dark sandy hair, ruddy complexion and as wearing a black suit, white shirt and a dark colored tie, that he thought was black and that it was a plain tie without any figures in it. He stated that when he saw this man he did not have any baggage with him. He stated that he and his wife were in their room all afternoon and that about 4 or 5 times from the time the man was in the hall with the landlady, he heard the man go back and forth to the bathroom. He stated that about 2 minutes before he heard the shot he heard the man from Apt. 5B go to the bath room again and when the shot was fired, he moved a chair that was in front of their door and looked out into the hall and saw the man he had seen earlier running down the hall toward the front of the building carrying something long that he thought was wrapped in newspaper. He stated that the shot definitely came from the bathroom.

MRS. GRACE STEPHENS M51, 422 1/2 S. Main Apt. 6B unemployed was interviewed and she stated that she and her husband Charles had been in their room most of the day and that someone that was apparently living in room 5B kept running back and forth between 5B and the bathroom, that whoever it was made 4 or 5 trips and that about 2 minutes before the shot was fired he went to the bathroom again and after the shot was fired from the bathroom, he ran down the hall toward the front of the building. She stated that she never did get out of bed, because she was sick and that she never did see the man.

B. L. REEVES M74, 422 1/2 S. Main Apt. 3 (south side), retired stated that he was in his room and heard something that sounded like a shot and that he came out of his room to see what was going on because the shot sounded like it was pretty close by, but that he did not see anything.

MEDD K. CARTER M53, 422 1/2 S. Main Em. 9 (south side), unemployed stated that he was away and not to pay any attention to what he said. He stated that he had just come upstairs and went into his room and that he heard what sounded a mighty lot like a shot, but that he did not come back out of his room.

FRED W. EDEN M61, 422 1/2 S. Main #10, unemployed stated that he was in his room and didn't see or hear anything unusual.

MRS. BESSIE BREWER M4, residence 422 1/2 S. Main #2 employed as manager of 422 1/2 S. Main room, 527-0167 stated that at approximately 3 or 3:30PM, 4-4-68 a male white whom she described as approx. 35 years old, 6', 150 lbs., wearing what she thought was a dark suit, neatly dressed, clean shaven came to her apt. which is also used as an office and had to rent a sleeping room. She stated that she could not remember what color his eyes were or what color or how his hair was combed, but that she did notice how neat he was. He stated that she showed him apt. #8 on the south side of the building, but that he did not want that room and that she then showed him apt. 5B and he said that that room was just what he wanted and that he rented the room for one week, paying her \$3.50 in cash, out of a 20 dollar bill. She showed us 3 20 dollar bills and stated that she didn't know which one was the one he gave her. She said the man had a local accent. She stated that he did not give anything in his hands when she talked to him. She stated that he gave the receipt to JOHN WILLARD when he rented the room, but that he did not sign anything, that she got the receipt herself.

B. L. REEVES M74 was interviewed again by Capt. Williams and he stated that he saw the man that Mrs. Brewer had rented the room to. He stated that he saw one side of the man's face as he came out of Mrs. Brewer's apartment. He described the man as 25 to 30 years old

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UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

JAMES H. LESAR,
Plaintiff

VS.

CIVIL ACTION 77-692

UNITED STATES DEPARTMENT
OF JUSTICE, ET AL,
Defendants

AFFIDAVIT OF HUGH W. STANTON, JR.

Now comes the affiant, HUGH W. STANTON, JR., duly elected and sworn District Attorney General in and for the Fifteenth Judicial Circuit for the State of Tennessee.

That on October 21, 1976, after having the attached subpoena served on me, requesting my appearance before the Federal Grand Jury in Memphis, Tennessee, and to bring with me all documents, listed on pages two (2) and three (3), all of which are a part of the investigative file surrounding the assassination of Dr. Martin Luther King, Jr. and the arrest of James Earl Ray; all said documents having been submitted to the Office of the District Attorney General by members of the Memphis Police Department, I made available to Mr. James F. Walker, a representative from the Department of Justice, the subpoenaed documents. His signature appears on page three (3) of said subpoena as having received copies of the requested documents.

It was brought to my attention that these documents are now subject to the Freedom Information Act a request for which is the subject matter of this litigation.

Since being sworn as District Attorney General in March, 1974, the confidentiality of the entire investigative file has been preserved. Only under a Court Order have any documents or evidence been removed from the said file. The records within my office reflect that only on three (3) occasions have such Orders been executed and honored, these being: (1) the attached subpoena, (2) subpoena for certain evidence and documents to be made available at an evidentiary hearing conducted in the United States District Court for the Western District of Tennessee, (3) House Select Committee on Assassinations.

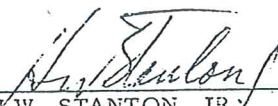
To my knowledge, prior to becoming District Attorney General in 1974, the former District Attorney General, Phil M. Canale, Jr., initiated the same practice in protecting the confidentiality of the said investigative file.

Never has it been, nor never was it intended that the documents released to Mr. Walker be made public. In all due respect to the Department of Justice and their representative, I refused to release the requested documents to Mr. Walker without a Federal Court subpoena. Had there been no concern over the confidentiality of these documents, I would not have requested a Court subpoena.

In reviewing the attached list of documents, it is noted that all documents were compiled by local law enforcement officers (Memphis Police Department) and submitted to the District Attorney General to be solely used in preparing and prosecuting the above mentioned case. Further, I note in these documents that names of private citizens appear within these documents, therefore, I feel that I would be betraying the trust and confidence of these citizens who cooperated with members of the Memphis Police Department by furnishing their names and pertinent information to the investigation, if I did not object to their names being

made public, and the pertinent information being kept confidential for any further prosecution if ever needed.

Therefore, as District Attorney General for the Fifteenth Judicial Circuit of Tennessee, I respectfully request that all documents released to Mr. Walker on October 21, 1976, be kept confidential and not released.



HUGH W. STANTON, JR.
District Attorney General
Fifteenth Judicial Circuit of Tennessee

STATE OF TENNESSEE

COUNTY OF SHELBY

Sworn to and subscribed before me this 19th day of May, 1978,
at Memphis, Tennessee.

WITNESS my hand and Notarial Seal.



NOTARY PUBLIC

My Commission Expires:
May 1, 1979

United States District Court
FOR THE

WESTERN DISTRICT OF TENNESSEE

To Hugh Stanton, Attorney General in and for Tennessee's
Fifteenth's Judicial District, or his designated
representative*

You are hereby commanded to appear in the United States District Court for the Western
District of Tennessee at 1058 Federal Building in the city of
Memphis on the 8th day of November 1976 at 9:30 o'clock A.M. to

testify before the Grand Jury and bring with you¹ the books, papers, records and
documents relating to the James Earl Ray case detailed on the
attached list, in your possession or under your dominion or
control, directly or indirectly, officially or otherwise:
(See Attached)

*Designated and Qualified Representative being defined for these pur-
poses as a person specially designed for the purpose of producing
the records called for herein, who is familiar with, and prepared to
testify concerning these documents and their purposes and inter-
relation in the conduct of your office's business and affairs.
This subpoena is issued on application of the United States.

Thomas F. Turley, Jr.
United States Attorney
1058 Federal Building, Memphis
(521-4231)

J. FRANKLIN WALKER

Clerk.

Date October 20, 1976

By

Carolyn Montgomery

Deputy Clerk.

1. Strike the words "and bring with you" unless the subpoena is to require the production of documents or tangible things, in which case the docu-
ments and things should be designated in the blank space provided for that purpose.

RETURN

Received this subpoena at MEMPHIS, TENN. on Oct. 21, 1976
and on Oct. 21, 1976 at MEMPHIS, TENN. I served it on the
within named HUGH STANTON, ATTORNEY GENERAL
by delivering a copy to HIM, and tendering to ~~the fee for one day's attendance and the mileage~~
~~allowed by law.~~

Date Oct. 21, 1976

By

James F. Walker

Service Fees
Travel \$
Services \$
Total \$

¹ Fees and mileage need not be tendered to the witness upon service of a subpoena issued in behalf of the United States
or an officer or agency thereof, 28 USC 1825, or on behalf of a defendant who is financially unable to pay such costs
(Rule 17(b), Federal Rules Criminal Procedure).

- ✓1. Statements - State v. James Earl Ray
pages 1400 to 1523.
- ✓2. Follow up Investigation of the Scene,
pages 3258 to 3282. Also loose attach-
ments contained in volumn.
- ✓3. James Earl Ray Supplements, Attorney
General's copy, pages 1586 to 1772.
- ✓4. Supplementary Report, James Earl Ray,
pages 1524 to 1585.
- ✓5. Items from Volumn I of Memos and Letters
from Citizens as follows:
 - ✓a. Item No. 39, page 3179, re:
telephone information regarding
C.B. Radio operator following
white mustang.
 - ✓b. Item No. 54, page 3194, re:
Information from William Hubbard
Austin regarding speeding white
mustang.
 - ✓c. Item No. 63, page 3205, re: Martin
Luther King Investigation.
 - ✓d. Item No. 100, page 3256, re: detail
with Dr. Martin Luther King, Jr.,
April 3, 1968.
6. Items from Volumn II of Memos and Letters
From citizens as follows:
 - ✓a. Item No. 129, pages 3313 to 3316, re:
Information concerning citizens band
radio conversation.
 - ✓b. Item No. 145, page 3333, re:
Rev. Martin Luther King Murder

- c. Items Nos. 180 and 181, pages 3375 and 3376, re: latent fingerprints.
- d. Item No. 186, pages 3385 and 3386, re: Memo No. 145.

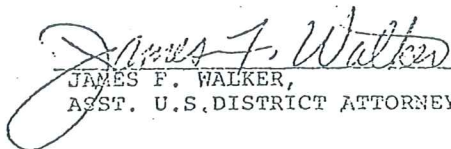
7. Items from Envelope Enclosures as follows:

- a. Item No. 1 re: Homicide Report.
- b. Item No. 9, re: Location of Tact Units.
- c. Item No. 15 re: return of mustang to Memphis.

In answer to the attached subpoena, Barry H. Moore, Criminal Investigator, having been designated by the District Attorney General for the Fifteenth Judicial Circuit of the State of Tennessee, appeared at the office of the Federal District Attorney General in Memphis, Tennessee, and produced the documents set forth in the subpoena.

The Office of the District Attorney General for the Fifteenth Judicial Circuit of Tennessee has complied with the attached subpoena and I have received, into my custody, zerox copies of all documents listed within this subpoena.

This the 21st. day of October, 1976



JAMES F. WALKER,
ASST. U.S. DISTRICT ATTORNEY GENERAL

JERRY CRAW - May 27, 1972 at this

1. Talked Cagle - he'll give me more now.
2. Effect Wallace - no more conspiracy theory,
~~no interest in~~ no more interest in H.W. - just why - Not in money where it came from.
3. Expense of trip plus paying Jerry
4. Frank has it.
5. Atlanta waste of about \$700

gonna finish my book & then see what I need

Want to get Jerry this over with.
Then I'd forget about whole thing.
too bad week