

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

.....
HAROLD WEISBERG,

Plaintiff-Appellant,

v.

GENERAL SERVICES ADMINISTRATION,

Defendant-Appellee
.....

No. 77-1831

RECEIVED
DEC 21 1977
CLERK OF THE UNITED
STATES COURT OF APPEALS

APPELLANT'S OPPOSITION TO APPELLEE'S MOTION
FOR A SECOND THIRTY DAYS EXTENSION OF TIME

On November 10, 1977 appellee moved for an extension of time of thirty-two days, to and including December 27, 1977, in which to file its brief. Appellant did not oppose that motion and it was granted.

Appellant now submits a new motion to extend its time to file its brief another thirty days, to and including January 26, 1977. The motion once again recites the heavy schedule of the attorney "primarily responsible for the preparation of appellee's brief" and again states, in the manner of a decree, that because of this schedule and the "inevitable delays . . . of the holiday seasons, it will not be possible for us to complete preparation of appellee's brief until January 26, 1977."

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Appellee's list of obligations does not, however, state that the attorney "primarily responsible" has any oral arguments scheduled or any briefs due during the period between December 13, 1977, when that attorney apparently participated in an oral argument in the Eighth Circuit, and December 27, 1977, the date when appellee's brief in this case is due. Two weeks would seem more than enough time to prepare the government's reply brief.

Secondly, appellee's motion recites that it has a brief due in the Sixth Circuit on January 3, 1978, a reply brief due and an oral argument scheduled in the First Circuit on January 6, 1978, and a brief due in the District of Columbia Circuit on January 9, 1978, in Founding Church of Scientology v. National Security, No. 77-1975. Appellee does not state, however, that it has sought to obtain extensions of time in any of those cases. Appellant's attorney has been informed by representatives of the Church of Scientology that the government has not sought any extension of time in its case, No. 77-1975. It would certainly be fairer and more logical for appellee to seek a first extension in those case rather than seek a second extension in this one. Appellant has also been advised that the Church of Scientology case presents similar issues to this one. The failure appellee to ask for a first extension of time in that case while asking for a second extension in this case gives rise to the suspicion, perhaps unjustifiably, that the Department of Justice may be seeking extensions of time in this case as a device to juggle the timing of these cases so that the Scientolofy case will be heard (and perhaps decided) before this one.

Finally, some consideration should be given both to the nature of the present suit, the life situation of appellant, and the government's past (and continuing) abuses of this particular appellant. This suit seeks Warren Commission transcripts which plaintiff originally requested more than a decade ago. This suit itself is already two years and three months old. The appellant, Harold Weisberg, who has devoted the last fourteen years of his life to an intensive study of the Warren Commission and the federal agencies responsible for investigating the assassination of President Kennedy, is now 64 years old. He has serious health problems, including thrombo-phlebitis and a sub-clavian arterial steal.

The government has persistently sought to deny appellant access to records on the assassinations of President Kennedy and Dr. Martin Luther King, Jr. even where it knew he was entitled to them, to delay his access to records where it could not prevent it, and, whenever possible, to make his access as unprofitable as it could. Thus, FBI Director J. Edgar Hoover approved a policy of not responding to Weisberg's information requests. (See Attachment 1) This anti-Weisberg policy extended to the Department of Justice, which, when finally forced to concede that it could not successfully defend in court its refusal to give Weisberg copies of public court records, maliciously decided to give them to others in the hope that it would keep Weisberg from making a profit from having obtained them. (See Attachment 2) The government's past conduct towards Weisberg also includes collusion between the General Services Administration, the Secret Service, and the Justice Department to transfer from the Secret Service to the National Archives a record

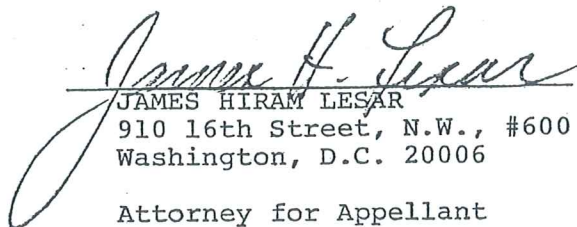
known as the "Memorandum of Transfer" just so Weisberg could not obtain it. Yet recently released Secret Service documents show that the Secret Service itself admitted it had no basis for withholding the record from Weisberg under the Freedom of Information Act. (See Attachment 3)

While these examples of the government's unlawful conduct are but the tip of the iceberg, they are sufficient to show why the government's good faith in seeking a second extension of time in this case may be doubted.

These considerations compel appellant to oppose a second extension of time of 30 days. Because this is a Freedom of Information Act case and entitled to expedited treatment under the law, the Court should not grant a further 30 day extension of time.

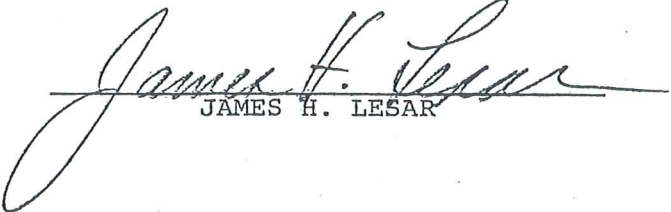
Recognizing, however, that the holiday season is at hand, appellant does not oppose an extension to and including January 5, 1977.

Respectfully submitted,


JAMES HIRAM LESAR
910 16th Street, N.W., #600
Washington, D.C. 20006
Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that I have this 21st Day of December, 1977, mailed a copy of the foregoing Opposition to Appellee's Motion for a Second Thirty Days Extension of Time to Mr. Michael F. Hertz, Appellate Section, Civil Division, Department of Justice, Washington, D.C. 20530.


JAMES H. LESAR

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. DeLoach
FROM : A. Rosen
SUBJECT: MURKIN

DATE: October 20, 1969

- 1 - Mr. DeLoach
- 1 - Mr. Rosen
- 1 - Mr. Malley
- 1 - Mr. McGowan
- 1 - Mr. McDonough
- 1 - Mr. Bishop
- 1 - Mr. W. C. Sullivan

Tolson _____
 DeLoach _____
 Mohr _____
 Bishop _____
 Casper _____
 Callahan _____
 Conrad _____
 Felt _____
 Gale _____
 Rosen _____
 Sullivan _____
 Tavel _____
 Trotter _____
 Tele. Room _____
 Holmes _____
 Gandy _____

This is the case involving the murder of Martin Luther King, Jr.

Weisberg is apparently identical with Harold Weisberg an individual who has been most critical of the Bureau in the past. He is the author of several books including one entitled, "Whitewash - The Report of the Warren Report" and has been critical of the FBI, Secret Service, police agencies and other branches of Government.

Weisberg by letter in April, 1969, requested information on the King murder case for a forthcoming book. It was approved that his letter not be acknowledged. (100-35133)

Enclosures (2) 10-21-69

EJM:jmv
(3)

REC-52

CONTINUED - OVER

70 NOV 6 - 1969

[Handwritten initials and signatures]
 110-35133

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

UNITED STATES GOVERNMENT

Memorandum

Tolson
DeLoach
Mohr
Bishop
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Callahan
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Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. DeLoach

DATE: 8/24/70

FROM : T. E. Bishop

SUBJECT: ASSASSINATION OF DR. MARTIN LUTHER KING

By way of background, on 4/27/70 Assistant Attorney General William Ruckelshaus, Civil Division, Department of Justice, advised the Director that Harold Weisberg, the author of the books "Whitewash I" and "Whitewash II" has filed a civil action against the Department of Justice and Department of State demanding copies of all the papers which were employed in the extradition in the James Earl Ray matter. These documents were used in the extradition proceedings against James Earl Ray in England and were thereafter returned to the State Department and were transferred to the Department of Justice. Included in the documents were a considerable number of affidavits of FBI Agents, affidavits covering fingerprints, ballistics' examinations, etc. Ruckelshaus asked if the release of these documents to Weisberg would in any way prejudice the work of the FBI. It is noted that Weisberg is an author who has been extremely critical of the FBI, the Secret Service and other police agencies in books which he has written about the assassination of President Kennedy.

By memorandum of April 30th the Director advised Ruckelshaus that the determination as to the release of the pertinent documents is within the province of the Department of Justice and the FBI interposes no objection. It was suggested, however, that the Civil Division communicate with the Civil Rights Division of the Department on this matter since Federal process was still outstanding against Ray charging a violation of a Federal Civil Rights Statute.

The Bureau is in possession of a copy of a letter dated May, 1970, from Jerris Leonard, Assistant Attorney General, Civil Rights Division, to Ruckelshaus stating that any release of any information in the files pertaining to the investigation regarding James Earl Ray would be inimicable to the investigation.

Enc. / ENCLOSURE

- 1 - Mr. DeLoach
- 1 - Mr. Bishop (CONTINUED-OVER)
- 1 - Mr. Rosen
- 1 - Mr. Sullivan
- 1 - Mr. Jones

*Relay
enclosure
AB 12/1/70*

REC-3

UNRECORDED COPY FILED IN 110

JUN 25 1970
JUN 29 1970

JUN 29 1970

JUN 29 1970

Memorandum to Mr. DeLoach
Re: Assassination of Dr. Martin Luther King
Current Developments

On 6/24/70 Bill King in the Information Office, Department of Justice, advised that the Department subsequently decided that it would not be possible for the Government to successfully defend the civil action by Weisberg against the Department for the release of the documents in question. Accordingly, copies of these documents were furnished to Weisberg. King advised that in view of the fact that the Department had released the documents to Weisberg the Department did not wish Weisberg to make a profit from his possession of the documents and, accordingly, has decided to make similar copies available to the press and others who might desire them. King stated that the documents to be released consist of approximately 200 pages of copies of affidavits, autopsy reports, affidavits with regard to fingerprint examinations and ballistics tests, and copies of other documents which serve to link Ray with the assassination of Martin Luther King. At Bishop's request King furnished the attached set of the documents being released. King stated that these documents will be released to the press at 3 p.m. on 6/24/70.

The General Investigative Division has been orally advised of the above information.

RECOMMENDATION

None. For information.

Rock *TBB* *WBS*
Did you get a written instruction from Dept. confirming conversation King had with you?

CO-2-84,033

November 12, 1970

Mr. James B. Rhoads
Archivist of the United States
National Archives and Records Service
Washington, D. C. 20403

Dear Mr. Rhoads:

In connection with the civil action Weisberg vs The National Archives, Civil Action 2539-70, Mr. Weisberg called at this office recently and displayed a copy of the proceedings in the case. He stated that since the Government's answer reflected that the Archives should not have been a party to some of the requests being made by Weisberg, he was notifying us that under the Freedom of Information Act he was requesting a copy of the Memorandum of Transfer to the Archives dated April 26, 1965, covering material then in the possession of the Secret Service, which memorandum reflected that Mrs. Evelyn Lincoln had receipted for the material set out in the Memorandum of Transfer.

There may be some validity in Mr. Weisberg's contention that since this paper is in the possession of the Secret Service, we are the proper people for him to sue or to subpoena to produce the item. However, since another Government agency has declined to furnish him a copy of the item, we are seeking advice as to what action we should take if a suit is brought seeking to force us to produce the document, or if a subpoena is received to produce the document for his examination.

The position of the Secret Service is that we have no grounds upon which to refuse making the item available to Mr. Weisberg if he should invoke the provisions of the Freedom of Information Act.

Very truly yours,

Thomas J. Helley
Assistant Director