

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

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STATES COURT OF APPEALS

HAROLD WEISBERG,
Plaintiff-Appellant

v.

No. 77-1831

GENERAL SERVICES ADMINISTRATION,
Defendant-Appellee

MOTION TO EXPEDITE ORAL ARGUMENT

This is a Freedom of Information Act brought by author-critic Harold Weisberg for two Warren Commission executive session transcripts and eleven pages of a third. It is required by law, 5 U.S.C. §552(a)(4)(D), to be expedited in every way:

Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

Appellee has admitted in its answers to interrogatories that Weisberg's initial written requests for two of these transcripts were made at least as early as 1968, while his first request for the third was made at least as early as 1971. There were numerous repeated requests for these transcripts in the years which followed. The request which led to this lawsuit under the Amended Freedom of Information Act was made on March 12, 1975, nearly three years ago.

Most of the delay in this lawsuit has been the result of the government's tactic of trying to obstruct and prolong the case in every conceivable way.

This conduct is not just coincidental; it pervades Weisberg's Freedom of Information Act cases. For example, in Weisberg v. Department of Justice, 177 U.S.App.D.C. 161, 543 F. 2d 308 (1976), this Court commented that Weisberg's inquiries into the FBI's investigation of President Kennedy's murder were "of interest to the nation" and remanded the case to allow him to take discovery of the FBI agents who actually performed the scientific tests made in connection with that investigation. Quoting Dean Wigmore's famous statement that cross-examination "is beyond doubt the greatest legal engine ever invented for the discovery of truth," the District Court was instructed to "start the engine running." But the government saw to it that the engine only sputtered. An FBI memorandum dated October 5, 1976, obtained by Weisberg only a few months ago, states that although Weisberg re-served his interrogatories on the Assistant United States Attorney on August 9, 1976, the FBI was not advised of it until October 1, 1976, nearly two months later. (See Attached copy of this memorandum, particularly page three) In addition, on November 4, 1976, at the suggestion of the District Court, Weisberg's counsel wrote FBI Director Clarence Kelley to request the addresses of former FBI agents which were needed in order to take their depositions. Although the District Court had set January 15, 1977 as the cut-off date for

Weisberg's discovery in the case, this information was not provided Weisberg until nearly two months after written request for it was made, when U.S. Attorney Earl Silbert finally responded by letter dated December 27, 1976.

Two other factors should be taken into consideration in determining whether to expedite this case. First, Weisberg will be 65 years old in April. In the fall of 1975 he suffered a serious attack of thrombo-phlebitis and last summer he was discovered to have a sub-clavian arterial steal as well. In view of his medical condition, time may be of the essence.

Secondly, the controversy over President Kennedy's assassination is now before Congress and the American people. No one has made nearly as great a contribution to public understanding of the facts and the issues as has Weisberg. If the records are to be released, they should be released promptly in order to ensure that the public may benefit from his scrutiny of them.

The immediate public interest in the transcripts which Weisberg has filed suit for is illustrated two recent events. The first is the release by the FBI of some 98,000 pages of its Headquarters records on the John F. Kennedy assassination. Among other importances, the FBI records just released have thrown significant new light on the impediments to the proper functioning of the Warren Commission by disclosing that Congressman Gerald Ford spied on the Commission for the FBI. The May 19, 1964 transcript which is at issue in this lawsuit involves a decision on whether or not to

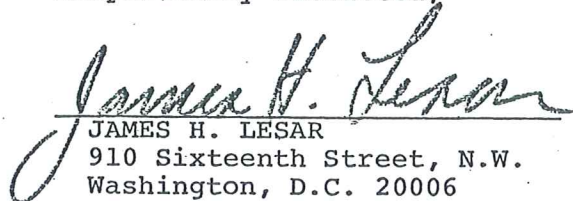
fire two Warren Commission staff members, Prof. Norman Redlich and Mr. George Ball, who had liberal political leanings. This discussion resulted from a campaign by racist-reactionary groups to get them fired because they were allegedly communists. On the basis of the available evidence, Congressman Ford seems to have opposed the decision not to fire Ball and Redlich.

Secondly, a new book is being published by Reader's Digest which claims that a Soviet defector who provided the Warren Commission with information about the Russian attitude toward, and treatment of, Oswald was suspected by the CIA of having connections with the KGB, and that FBI Director J. Edgar Hoover covered this up. The Russian defector is Yuri Ivanovich Nosenko, who is the subject of the June 23, 1964 Warren Commission executive session transcript which Weisberg seeks in this action. This transcript has become vital to public understanding and is undoubtedly essential to assessing whether, as Weisberg asserts, the new book is part of a disinformation operation.

Finally, appellant's counsel regrets that he was not able to move to expedite this case within the time required by the local rules, but because of his workload he could not do so earlier. Appellant's counsel is a sole practitioner. For the past seven years his practice has been almost entirely confined to either pro bono work, such as more than 5,000 hours expended in the defense of James Earl Ray, or Freedom of Information Act cases for which he has not yet been paid. As a result, appellant's counsel

has had very little income and has been unable to hire a secretary or clerk. Until the past month he has done all his own filing and typing, and he still does virtually all of it. As a consequence, he is almost always under immediate time pressures which preclude his being able to represent that he can meet an expedited schedule. However, the overriding interests of justice require that now that the briefs have been filed, the oral argument of the case should be expedited.

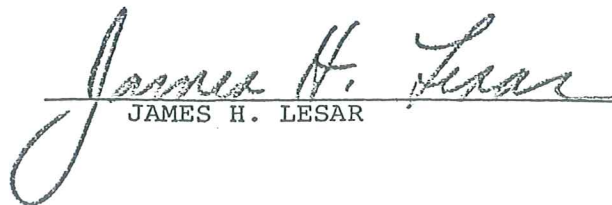
Respectfully submitted,


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CERTIFICATE OF SERVICE

I hereby certify that I have this 24th day of February, 1978 mailed copies of the foregoing Motion to Expedite Oral Argument to Mr. Leonard Schaitman and Ms. Linda M. Cole, attorneys, Appellate Section, Civil Division, U.S. Department of Justice, Washington, D.C. 20530.


JAMES H. LESAR