## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

V.

Where

Civil Action No. 78-0249

CLARENCE M. KELLEY, et al.,

Defendants

MOTION FOR LEAVE TO FILE OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT, TIME HAVING EXPIRED

Comes now the plaintiff and moves the Court for leave to file his Opposition to Defendants' Motion for Summary Judgment. As grounds therefore plaintiff states to the Court:

- l. By stipulation of the parties which was approved by the Court, the time for plaintiff to file his Opposition was extended to and including July 27, 1978. This extension was made necessary by a trip taken by plaintiff's counsel to Marion, Illinois in order to represent a prisoner at the federal penitentiary there.
- 2. Plaintiff's counsel was out-of-town in connection with this parole matter from July 16 through July 19, 1978. When he returned from that trip he was immediately confronted with some unanticipated work in connection with another case, <u>Lesar v. Department of Justice</u>, Civil Action No. 77-0692, which he had to complete within five days.
- 3. These matters delayed work on Plaintiff's Opposition in this case. As of the afternoon of July 27, 1978, plaintiff's counsel thought he would be able to finish this Opposition before midnight. This, however, proved impossible, in part because he

had to spend several hours searching for missing exhibits to Mr. Weisberg's July 10, 1978 affidavit. (Mr. Weisberg had sent that affidavit to counsel with some of the exhibits missing, in the hopes that counsel would be able to supply them from his own files. Mr. Weisberg later located these exibits in his own files and sent them to his counsel, who then misplaced them. They were not found until shortly after midnight, July 28, 1978.)

4. Another cause of delay was simply the fact that plaintiff's counsel underestimated the time it would take him to complete the Opposition and assemble it. Plaintiff's counsel worked several hours on the weekend in order to be able to file the Opposition on Monday, July 31, 1978. Counsel finished the Opposition at 6:00 p.m. Monday, then went home for dinner. At 10:00 p.m. Monday evening he returned to his office to xerox and assemble the Opposition and its attachments and exhibits, again hoping to file it with the guard at the Courthouse before midnight. However, about halfway through the xeroxing the xerox machine broke down and could not be fixed until Monday morning.

In view of the above circumstances, plaintiff respectfully requests that the Court permit him to file his Opposition, time having expired.

JAMES HIRAM LESAR 910 Sixteenth Street, N.W. Washington, D.C. 20006

Attorney for Plaintiff

## CERTIFICATE OF SERVICE

I hereby certify that I have this 1st day of August, 1978 mailed a copy of the foregoing Motion for Leave to File Opposition to Defendants' Motion for Summary Judgment Time Having Expired to Mr. Emory J. Bailey, U.S. Department of Justice, Washington, D.C.

20530.

JAMES HY LESAR

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	:
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Plaintiff,	: :
V.	: Civil Action No. 78-0249
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Defendants	:
•••••••••••••••••••••••••••••••••••••••	•
ORDER	
Upon consideration of plaintiff's Motion for Leave to File	
his Opposition to Defendants' Motion for Summary Judgment, Time	
Having Expired, and the entire record herein, it is by the Court	
this day of	, 1978,
ORDERED, that plaintiff's motion is hereby GRANTED.	
UNITED STATES DISTRICT COURT	