

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG,

Plaintiff,

v.

CLARENCE M. KELLEY, et al.,

Defendants.
.....

Civil Action No. 78-0249

AFFIDAVIT

My name is Harold Weisberg. I am the plaintiff in this instant cause. I reside at Route 12, Frederick, Maryland.

1. In this instant cause I seek all records relating to the processing and release of what was officially represented as all FBI Headquarters records relating to the assassination of President Kennedy and the official investigation of that crime.

2. On July 3 last, or a half year ago, without having complied with my request, the Department of Justice moved to dismiss this case or in the alternative for summary judgment.

3. I then informed this Court that my request had not been complied with and that the Department was aware that my request had not been complied with. The Court appears not to have believed me.

4. I have just obtained new confirmation that my information request had not been complied with and of the Department's knowledge that it had not been complied with at the time it filed its aforementioned Motion.

5. The FBI marked the sixth month that passed after its misrepresentation and attempt to deceive and mislead this Court by its unannounced sending to me of five large cartons of previously unprocessed and withheld relevant records. These five large cartons reached me on Friday, January 5, 1979, without explanation or covering letter. The covering letter, which reached me on Monday, January 8, was not written until the day I received the thousands of pages of records. The covering letter makes general claim to exemption covering these many thousandss of pages.

6. It is possible that buried somewhere in those thousands of pages, in some unidentified carton, there may be relevant worksheets. As of now I have no way of knowing. If there are such worksheets, they will not be all of the records sought in my request and they will not be all of the records relating to the processing and release of these particular records. In fact, some of the records from the files in question have been referred elsewhere, this long after the aforesaid Motion.

7. It is obvious that I could not have received all the records relating to the processing and release of these five cartons of records as of the time of the aforementioned Motion, or six months prior to their processing and release.

8. It also is obvious that the FBI knew it withheld these records, knew they had not been processed and released and knew they were relevant in this instant cause as well as in other cases, all at the time of the filing of the aforesaid Motion and at all times since then.

9. One of these other cases is now before the court of appeals, to which false representations had been made by the Department. I have prepared a detailed affidavit setting forth the facts for my counsel to present to the court of appeals. I attach a copy of that affidavit and its exhibits to this affidavit as Exhibit 1 and thereby incorporate its representations in this affidavit.

10. Two of three FBI letters attached to Exhibit 1 make it clear that I was to have received the entire Headquarters file and indicate that, in fact, I had received it. The third and most recent of these FBI letters blandly informs me that this was not the case and that the five additional cartons of previously withheld records referred to in Paragraph 5 above have now been processed and sent to me.

11. This FBI letter of Friday last does not state that I have been sent any records relating to the processing and release of the records contained in these five cartons.

12. From the time of its Motion until now, the Department has not provided any records relating to the processing and release of the files released in December 1977 and January 1978.

13. On the day I received these five cartons of previously withheld records, I also received from a friend copies of Department and FBI records provided to

him. I have not been able to read all of the copies provided by my friend but I have skimmed them. They include records preliminary to the processing and release of these Headquarters records and thus are within my information request but have not been provided in this instant cause.

14. One of these records not provided under my information request refers to a request that contributed to the decision to process and release the Headquarters files as the biggest FOIA "mess" the FBI had ever made.

15. After the filing of the complaint in this instant cause, in another case I discovered unusual steps taken to hide embarrassing information held by Headquarters files. Thereafter I appealed the denial of this information that was consigned to an FBI memory hole. There has been no action on my appeal. No records relating to the decision to use these means to hide what can be embarrassing to avoid its disclosure have been provided to me.

HAROLD WEISBERG

Before me this _____ day of January 1979 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires _____

NOTARY PUBLIC