

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

.....
HAROLD WEISBERG,
Route 8
Frederick, Md. 21701,
Plaintiff,

v.

Civil Action No. _____

U.S. DEPARTMENT OF JUSTICE,
10th & Constitution, N. W.
Washington, D. C. 20530,
U.S. ENERGY RESEARCH AND DEVELOP-
MENT ADMINISTRATION,
Germantown, Md.,
Defendants
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C O M P L A I N T

[Freedom of Information Act, 5 U.S.C. 552]

1. Plaintiff brings this action under the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 93-502, 88 Stat. 1561 [93 Cong., 2nd Sess.].

2. Plaintiff is HAROLD WEISBERG, an author residing at Route 8, Frederick, Maryland.

3. Defendants are the UNITED STATES DEPARTMENT OF JUSTICE, 10th & Constitution, N. W., Washington, D. C. 20530, and the UNITED STATES ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Germantown, Maryland. The United States Energy Research and Development Administration (ERDA) was formerly the Atomic Energy Commission.

4. For the past nine years plaintiff has been trying to obtain the results of certain spectrographic analyses which were

made by the FBI for the Warren Commission as part of the investigation into the assassination of President John F. Kennedy. In 1970, plaintiff brought suit under the Freedom of Information Act, a case which he lost when the Court of Appeals for the District of Columbia sitting en banc reversed the decision of a Court of Appeals panel. [Weisberg v. Department of Justice, 489 F. 2d 1195 (1973)]

5. However, Congress subsequently amended the Freedom of Information Act by passing Public Law 93-502 and overriding the President's veto of it. The legislative history of this law shows that Congress specifically intended to reverse the holding of the Court of Appeals in Weisberg and the line of cases which followed that precedent.

6. In view of this, plaintiff wrote the Deputy Attorney General on November 27, 1974, once again requesting the disclosure of the spectrographic analyses, and adding to that a request for other scientific tests conducted for the Warren Commission.

7. Plaintiff's letter to the Deputy Attorney General was referred to the Director of the FBI, Mr. Clarence Kelley, who replied on December 19, 1974, that " . . . we are attempting to identify and locate the documents in which you have expressed an interest, and will communicate with you concerning this in the near future." [See Plaintiff's Exhibit A]

8. No further communication having been received by January 15, 1975, plaintiff on that date appealed the de facto denial of his request to the Acting Attorney General of the United States, Mr. Laurence Silberman. [See Plaintiff's Exhibit B] There has been no response to this appeal.

9. Plaintiff believes that the release of the documents he seeks to obtain from the Department of Justice is very much in the

public interest; his attached affidavit [Plaintiff's Exhibit C] states the reasons why. Specifically, plaintiff's decade-long study of the evidence leads him to believe that the spectrographic analyses will disprove the official theory of the assassination. He believes also that this evidence is being suppressed by the Department of Justice because its disclosure will reveal that the FBI deceived Warren Commission members and the American public as to what the results of the spectrographic analyses do in fact show. [See affidavit of Harold Weisberg, Plaintiff's Exhibit C, paragraph 18]

10. On September 19, 1974 a request was made that the Atomic Energy Commission disclose any tests which it had performed for the Warren Commission or any person or agency acting for it in connection with the investigation into President Kennedy's assassination. [See Plaintiff's Exhibit D]

11. The Atomic Energy Commission acknowledged that it had performed certain tests for the Warren Commission. However, the AEC denied that it prepared any reports on the results of those tests. In addition, the AEC also asserted that "no other tests such as you described were performed by AEC or at any AEC facility." [See Plaintiff's Exhibit E]

12. Notwithstanding AEC's denials, Warren Commission records seem to indicate otherwise. Thus, during the Warren Commission Executive Session held on January 27, 1964, the Commission's General Counsel, Mr. J. Lee Rankin, stated:

Now, the bullet fragments are now, part of them are now, with the Atomic Energy Commission, who are trying to determine by a new method, a process they have, of whether they can relate them to various guns and the different parts, the fragments, whether they are a part of one of the bullets that was broken and came out in part through the neck, and just what particular assembly of bullet they were part of.

They have had it for the better part of two and a-half weeks and we ought to get an answer.

So the basic problem, what kind of a wound it is in the front of the neck is of great importance to the investigation.

We believe it must be related in some way to the three sheets (sic) from the rear.

[See Plaintiff's Exhibit F, a page of the January 27 transcript as reprinted in Whitewash IV: Top Secret JFK Assassination Transcript.]

Plaintiff therefore joins ERDA, the AEC's successor, to this suit to discover whether it did perform the tests on bullet fragments which the Commission's General Counsel thought it was going to.

13. Having exhausted his administrative remedies, plaintiff now brings suit for records which he alleges must be made available under the terms of the Freedom of Information Act. Plaintiff notes that the Freedom of Information Act provides that the District Court shall determine the matter de novo, and that the burden is on the defendant to justify its refusal to disclose the requested documents.

WHEREFORE, plaintiff prays this honorable Court for the following relief: that the defendants be compelled to disclose the records which plaintiff has requested of them; that the Court award plaintiff reasonable attorneys fees for the bringing of this action on his behalf; and that the Court issue a written finding that the circumstances surrounding the withholding of these documents from plaintiff raise questions as to whether agency personnel acted arbitrarily and capriciously with respect to such withholding.

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