

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

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CLERK OF THE UNITED
STATES COURT OF APPEALS

HAROLD WEISBERG,
Appellant,

v.

U.S. DEPARTMENT OF JUSTICE,
Appellee

Case No. 78-1107

MOTION FOR AN ORDER TO SHOW CAUSE WHY
APPELLEE SHOULD NOT BE HELD IN CONTEMPT OF
COURT FOR FAILING TO PAY AWARD OF COSTS

Comes now the appellant, Mr. Harold Weisberg, and moves the Court for an order directing appellee United States Department of Justice to show cause why it should not be held in contempt of Court for failing to pay him the costs awarded by this Court on June 6, 1980. In support of his motion, Weisberg represents to the Court as follows:

1. On June 6, 1980, the Clerk of this Court transmitted to the Clerk of the United States District Court a certified copy of the judgment in this case and a bill of costs in the amount of \$693.81 to be taxed against appellee.

2. Approximately two months later counsel for Weisberg began making inquiries to determine when this sum would be paid and who was responsible for handling it. Over a period of two or three

weeks Weisberg's counsel made several calls to the Appellate Division of the Office of the United States Attorney for the District of Columbia. Finally, he was told to contact Mr. William G. Cole, Trial Programs Branch, Civil Division, United States Department of Justice, the attorney assigned primary responsibility for handling this case on remand.

3. On September 5, 1980, Weisberg's counsel phoned Mr. Cole. Mr. Cole requested a copy of the Bill of Costs awarded by this Court. In sending this to Mr. Cole, Weisberg's counsel noted that three months had passed since the Court had made the award and requested that the payment be expedited. (A copy of Mr. Lesar's September 5, 1980 letter to Mr. Cole is attached hereto.)

4. On September 24, 1980, Weisberg's counsel called Mr. Cole. During this conversation Mr. Cole stated that he had spoken to several persons in the United States Attorney's office about the payment of the award of costs, including Assistant United States Attorney John A. Terry, Chief of the Appellate Division. Mr. Cole also stated that Assistant United States Attorney Dennis Dutterer was supposed to call him back about the award of costs. Weisberg's counsel commented that if payment was not made fairly soon, he might have to resolve the issue as he had done in another case, Weisberg v. General Services Administration, Case No. 77-1831 (consolidated), by moving to hold the Department in contempt.

5. On October 10, 1980, Mr. Lesar again called Mr. Cole about the award of costs. Mr. Cole said that he was under the impression that Mr. Lesar was going to call the U.S. Attorney's Office about this; he also stated that his division of the Department of Justice could not do so.

6. At Mr. Cole's suggestion, Mr. Lesar then called AUSA Dennis Dutterer, who referred him to AUSA Kenneth Raisler. On October 15, 1980, Raisler returned Mr. Lesar's calls. He told Mr. Lesar that he would check with his accounting people and find out what was going on, and that he would be back in touch with him in a day or two.

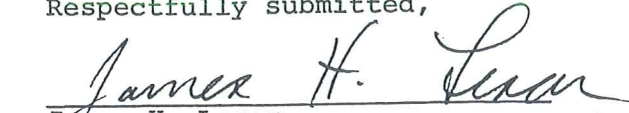
7. As of October 27, 1980, no further communication has been received from Mr. Raisler or anyone else respecting the payment of the award of costs in this case.

8. Mr. Weisberg was recently hospitalized for over three weeks in connection with arterial bypass surgery. His serious medical problems, including new thrombosis in his leg, give him ample reason to believe that he may not have much longer to live. He also has ample reason to believe that the failure to pay the award of costs promptly in this and other cases is part of a continuing government campaign to obstruct and deny his access to information sought under FOIA to the extent it is possible to do so.

Accordingly, Weisberg asks the Court to issue an order requiring the Department of Justice to show cause why it should not

be held in contempt of court.

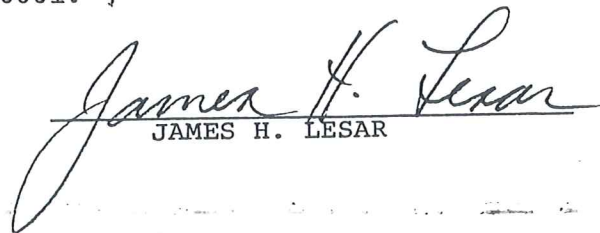
Respectfully submitted,


James H. Lesar
2101 L Street, N.W., Suite 203
Washington, D.C. 20037

Attorney for Appellant

CERTIFICATE OF SERVICE

I hereby certify that I have this 27th day of October, 1980, mailed a copy of the foregoing Motion for an Order to Show Cause Why Appellee Should Not Be Held In Contempt of Court to Assistant United States Attorney John A. Terry, United States Courthouse, Washington, D.C. 20001. ,


JAMES H. LESAR