

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



HAROLD WEISBERG, :
 :
 Appellant, :
 :
 v. : Case No. 78-1107
 :
 :
 U.S. DEPARTMENT OF JUSTICE, :
 ET AL., :
 :
 Appellees :

REPLY TO OPPOSITION TO APPELLANT'S
MOTION FOR AN ORDER TO SHOW CAUSE

On October 27, 1980, appellant filed a motion for an order to show cause why appellees should not be held in contempt of court for failing to pay the bill of costs in the amount of \$693.81 which this Court awarded appellant on June 6, 1980. Appellees respond that this Court is without jurisdiction to entertain the motion, that a voucher has been submitted which should result in prompt payment of costs, and that the delay in payment is attributable to the fact that the AUSA primarily responsible for handling this case on appeal "left the office and the matter was apparently not reassigned."

Appellant takes the position that this Court has inherent power to protect the integrity of its own orders and to ensure their enforcement. Appelles' Opposition makes no attempt to dispute the detailed recital of facts contained in Appellant's motion. Nor could it. Indeed, appellees have submitted a voucher which

shows on its face that it was not prepared until November 5, 1980. This is five months after costs were awarded, three months after appellant's attorney began contacting government attorneys to ensure that the bill would be paid promptly, and two months after the attorney assigned to the case on remand, Mr. William G. Cole, said he would take care of the matter if appellant's counsel would send him a copy of the bill of costs. Most importantly, it is after the date on which appellant's contempt motion was filed. In light of these facts, appellees' attempt to "explain" the delay by attributing it to the fact that one of its attorneys had left the office and entered private practice and the case was "apparently" not reassigned must be characterized as the kind of response that the Government makes when an honest one will not do.

In light of the clear pattern of abuse of appellant from the days when FBI Director J. Edgar Hoover directed that his FOIA requests not be answered to this present form of harassment, appellant is reluctant to accept the assurances that the bill of costs will be paid now that a voucher for it has at long last been submitted. More importantly, it is clear that appellees' felt free to disregard their obligation to see to it that this Court's order regarding costs was carried out promptly. In order that this not happen again--and this is the second case this year in which it has happened to appellant Weisberg--this Court should issue the order to show cause and compel appellees to give an honest account of the reasons for the delay.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that I have this 14th day of November, 1980,
mailed a copy of the foregoing Reply to Opposition to Appellant's
Motion for Order to Show Cause to Assistant United States Attorney
Michael Ryan, United States Courthouse, Washington, D.C. 20001.

James H. Lesar

JAMES H. LESAR