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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, )  
 )  
 PLAINTIFF )  
 )  
 V. ) CIVIL ACTION NO. 78-322  
 )  
 WEBSTER, ET AL., )  
 )  
 DEFENDANTS )

HAROLD WEISBERG, )  
 )  
 PLAINTIFF )  
 )  
 V. ) CIVIL ACTION NO. 78-420  
 )  
 FEDERAL BUREAU OF )  
 INVESTIGATION, ET AL., )  
 )  
 DEFENDANTS )

WASHINGTON, D.C.

MARCH 22, 1979

THE ABOVE-ENTITLED MATTER CAME ON FOR A STATUS  
HEARING BEFORE THE HONORABLE JOHN LEWIS SMITH, JR., UNITED  
STATES DISTRICT JUDGE, AT 9:30 A.M.

| APPEARANCES :         | Dates ofrand Pages: |
|-----------------------|---------------------|
|                       | March 22, '79 1-6   |
| JAMES LESAR, ESQ.     | March 15, '80 1-5   |
| FOR THE PLAINTIFF     | Oct. 14, '80 1-10   |
|                       | Jan. 7, '81 1-7     |
| DANIEL METCALFE, ESQ. | May 27, '81 1-4     |
| FOR THE DEFENDANTS    | Dec. 10, '81 1-5    |
|                       | March 10, '82 1-7   |
|                       | March 25, '82 1-10  |

DAWN T. COPELAND  
OFFICIAL COURT REPORTER

P R O C E E D I N G S

1  
2 THE DEPUTY CLERK: CIVIL ACTION NO. 78-322.  
3 WEISBERG V. WEBSTER AND CIVIL ACTION 78-420, WEISBERG V.  
4 THE FEDERAL BUREAU OF INVESTIGATION.

5 MR. LESAR FOR THE PLAINTIFF AND MR. METCALFE FOR  
6 THE DEFENDANTS.

7 THE COURT: GOOD MORNING.

8 MR. LESAR: GOOD MORNING, YOUR HONOR.

9 MR. METCALFE: GOOD MORNING, YOUR HONOR.

10 I AM DAVID METCALFE ON BEHALF OF THE DEFENDANT FROM  
11 THE DEPARTMENT OF JUSTICE.

12 COUNSEL FOR PLAINTIFF, MR. LESAR, AND I HAVE CONFERRED  
13 AND I BELIEVE THE STATUS OF THE CASE IS AS FOLLOWS:

14 WE HAVE JUST ABOUT CONCLUDED THE ADMINISTRATIVE  
15 PROCESSING BOTH IN THE KENNEDY ASSASSINATION AND THE NEW  
16 ORLEANS FIELD OFFICE DOCUMENTS AND THE MATTER IS ABOUT TO  
17 GO TO AN ADMINISTRATIVE APPEAL.

18 THE COURT: NOW WE HAVE HERE CIVIL ACTION NO. 78-322,  
19 WEISBERG V. WILLIAM H. WEBSTER, ET AL. AND 78-420, WEISBERG  
20 V. FEDERAL BUREAU OF INVESTIGATION, ET AL. WHY ARE THERE  
21 TWO CASES?

22 I THINK THAT PROBABLY SHOULD BE ADDRESSED TO YOU,  
23 MR. LESAR.

24 MR. METCALFE: YES, I BELIEVE SO.

25 MR. LESAR: YOUR HONOR, WE FILED TWO SEPARATE SUITS

1 AND ONE OF THEM WAS READY SOONER THAN THE OTHER AND IT SEEMED  
2 APPROPRIATE TO ME TO FILE SEPARATE SUITS, AND I THINK ONE  
3 WAS FILED TWO MONTHS PRIOR TO THE OTHER.

4 THE COURT: IS THAT A GOOD REASON FOR FILING A  
5 SEPARATE LAWSUIT?

6 I THINK ONE OF THESE TWO MATTERS SHOULD BE DISMISSED.  
7 THIS IS CERTAINLY UNNECESSARY DUPLICATION.

8 MR. LESAR: IT IS NOT DUPLICATION, YOUR HONOR,  
9 BECAUSE THEY INVOLVE ENTIRELY SEPARATE FILES AND REFERENCES.

10 THE COURT: YES, BUT THEY ARE ALL UNDER THE FBI,  
11 ARE THEY NOT?

12 MR. LESAR: WELL, THE FBI -- AMONG OTHER THINGS,  
13 YOUR HONOR, THE FBI REQUIRES US TO MAKE SEPARATE REQUESTS  
14 TO EACH DIFFERENCE FIELD OFFICE, SO THEY TREAT THEM SEPARATELY.

15 MR. METCALFE: YOUR HONOR, THE DEPARTMENT TAKES  
16 THE POSITION THAT EACH LAWSUIT IS A PROPER LAWSUIT IN AND  
17 OF ITSELF.

18 ONE CASE, NO. 322 ARISES FROM PLAINTIFF'S REQUEST  
19 FOR THE KENNEDY ASSASSINATION RECORDS OF THE DALLAS FIELD  
20 OFFICE, AND THE OTHER LAWSUIT, 420, ARISES FROM A SEPARATE  
21 REQUEST FOR THE RECORDS AT THE NEW ORLEANS FIELD OFFICE.

22 I THINK IT MIGHT BE APPROPRIATE OR LOGICAL FOR THE  
23 TWO MATTERS TO BE CONSOLIDATED WHEN WE GET TO THE POINT WHERE  
24 WE WILL BE LITIGATING THE ISSUES THAT REMAIN.

25 I THINK THAT WOULD BE THE APPROPRIATE WAY TO PROCEED.

1 WE TAKE THE POSITION THAT THEY ARE PROPERLY TWO DIFFERENT  
2 LAWSUITS.

3 MR. LESAR: I AM IN ACCORD WITH THAT, YOUR HONOR.

4 THE COURT: ACTUALLY, HOW MANY OF THESE SUITS ARE  
5 PENDING IN THE COURT AT THIS TIME?

6 MR. LESAR: HOW MANY --

7 THE COURT: WEISBERG V. THE FBI, ET AL.

8 THIS CAME TO MY ATTENTION BECAUSE IT WAS ORIGINALLY  
9 ASSIGNED TO JUDGE OBERDORFER AND THE OTHER TO JUDGE ROBINSON.

10 MR. LESAR: YES.

11 THE COURT: I BELIEVE I HAVE HAD CASES INVOLVING  
12 MR. WEISBERG BEFORE.

13 MR. LESAR: YES.

14 THE CASES WHICH YOU HAD PREVIOUSLY, ONE OF THEM  
15 INVOLVED A DIFFERENT AGENCY. IT INVOLVED THE CENTRAL  
16 INTELLIGENCE AGENCY OF THE NSA AND ANOTHER ONE DID INVOLVE  
17 THE FBI. THAT WAS WEISBERG V. KELLY, 78-0249.

18 THE COURT: IS THERE ANY REASON WHY THESE TWO CASES  
19 SHOULD NOT BE CONSOLIDATED?

20 MR. LESAR: I HAVE NO OBJECTION TO THEM BEING  
21 CONSOLIDATED.

22 THE COURT: THESE TWO CASES WILL BE CONSOLIDATED.  
23 HOW MUCH TIME DO YOU WANT?

24 MR. METCALFE: WELL, YOUR HONOR, AS I MENTIONED  
25 EARLIER THE PROCESSING IS JUST ABOUT COMPLETED FOR THE FILES

1 AND THERE IS A CERTAIN ADDITIONAL PROCESSING THAT HAS TO TAKE  
2 PLACE BUT THE MATTER IS ABOUT TO GO TO AN ADMINISTRATIVE  
3 APPEAL WITHIN THE DEPARTMENT, THE SECOND LEVEL OF ADMINISTRA-  
4 TIVE REVIEW.

5 COUNSEL FOR PLAINTIFF AND I HAVE CONFERRED AND WE  
6 SUGGEST TO THE COURT THAT AT THE CONCLUSION OF THAT ADMINI-  
7 STRATIVE PROCESSING, WE WILL THEN CONFER AND DETERMINE WHAT  
8 ISSUES REMAIN FOR LITIGATION, NOTIFY THE COURT IMMEDIATELY  
9 AND THEN PERHAPS HAVE IT SET DOWN FOR A STATUS HEARING AND  
10 DETERMINE AT THAT TIME THE FUTURE COURSE OF THE LITIGATION.

11 WILL THAT BE ACCEPTABLE TO THE COURT?

12 MR. LESAR: YOUR HONOR, MR. METCALFE HAS ACCURATELY  
13 STATED THE SUBSTANCE OF OUR CONFERENCES AND THAT WOULD BE  
14 AGREEABLE WITH US.

15 THE COURT: WHEN DO YOU WANT THE NEXT STATUS HEARING?

16 MR. LESAR: I GUESS THAT REALLY DEPENDS ON HOW SOON  
17 THE APPEALS CAN BE ACTED UPON.

18 MR. METCALFE: WE WOULD SUGGEST, YOUR HONOR, THAT  
19 COUNSEL FOR THE PLAINTIFF AND I WILL IMMEDIATELY NOTIFY THE  
20 COURT AT THE CONCLUSION OF THE ENTIRE ADMINISTRATIVE APPEAL  
21 PROCESS AND WE COULD THEN COME IN FOR A STATUS HEARING AND  
22 PROCEED FROM THERE.

23 THE COURT: THESE CASES WERE FILED IN MARCH AND  
24 FEBRUARY OF 1978.

25 MR. METCALFE: THAT IS CORRECT, YOUR HONOR.

1 THE COURT: THEY SHOULD BE MOVING.

2 MR. METCALFE: LET ME TAKE CARE TO EXPLAIN, YOUR  
3 HONOR, THAT THE DEPARTMENT HAS NOT WASTED ANY TIME IN PROCESSING  
4 THE DOCUMENTS. THE PROCESSING HAS BEEN ONGOING VERY EXPEDI-  
5 TIOUSLY SINCE THE FILING OF THE LAWSUITS.

6 THE COURT: I DO UNDERSTAND THE PROBLEM.

7 YOU DO NOT WANT TO SET A DATE?

8 MR. METCALFE: WE WOULD SUGGEST THAT SINCE WE CANNOT  
9 PREDICT AT THIS POINT HOW LONG THE ADMINISTRATIVE APPEAL WILL  
10 TAKE AND IF YOUR HONOR WILL ACCEPT --

11 THE COURT: I WILL PUT THE BURDEN ON YOU, MR.  
12 METCALFE.

13 MR. METCALFE: WE WILL GET BACK TO YOU IMMEDIATELY  
14 WHEN THAT IS CONCLUDED, YOUR HONOR.

15 THE COURT: VERY WELL.


16 MR. METCALFE: THANK YOU.

17 MR. LESAR: THANK YOU.

18 (WHEREUPON, THE HEARING WAS CONCLUDED.)  
19

20 CERTIFICATE OF REPORTER

21 THIS RECORD IS CERTIFIED BY THE UNDERSIGNED REPORTER  
22 TO BE THE OFFICIAL TRANSCRIPT OF THE ABOVE-ENTITLED HEARING.  
23

24   
25 OFFICIAL COURT REPORTER

met callie refers to the processing of  
the documents as though they are all  
the documents, as though a complete  
search had been made. This is not  
true and he was informed of this at the  
onset. The day judge O has done  
reused himself