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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.

JANUARY 7, 1981

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:

JAMES LESAR, ESQ.
FOR THE PLAINTIFF

DANIEL METCALFE, ESQ.
FOR THE DEFENDANTS

DAWN T. COPELAND
OFFICIAL COURT REPORTER

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P R O C E E D I N G S

1
2 THE DEPUTY CLERK: CIVIL ACTION NO. 78-322, WEISBERG
3 V. WEBSTER.

4 CIVIL ACTION NO. 78-420, WEISBERG V. THE FBI.

5 FOR THE PLAINTIFF, MR. JAMES LESAR AND FOR THE
6 DEFENDANTS, MR. DANIEL METCALFE.

7 THE COURT: GOOD MORNING.

8 MR. LESAR: GOOD MORNING, YOUR HONOR.

9 MR. METCALFE: GOOD MORNING, YOUR HONOR.

10 FOR THE RECORD, I AM DANIEL METCALFE FROM THE
11 DEPARTMENT OF JUSTICE ON BEHALF OF THE FEDERAL BUREAU OF
12 INVESTIGATION.

13 AS YOUR HONOR MAY RECALL, THESE TWO CONSOLIDATED
14 LAWSUITS ARE FREEDOM OF INFORMATION ACT CASES IN WHICH
15 PLAINTIFF SEEKS RECORDS FROM THE FBI PERTAINING TO THE
16 ASSASSINATION OF JOHN F. KENNEDY FROM THE DALLAS AND NEW
17 ORLEANS FIELD OFFICES.

18 THE PARTIES THROUGHOUT THE LAWSUIT HAVE BEEN IN
19 AGREEMENT, I BELIEVE, TO ALLOW THE ADMINISTRATIVE APPEAL
20 PROCESS TO CONCLUDE BEFORE WE DETERMINE WHAT, IF ANY, ISSUES
21 REMAIN.

22 WHEN WE WERE LAST BEFORE YOUR HONOR, WE WERE IN
23 THE MIDST OF THE ADMINISTRATIVE APPEAL PROCESS IN WHICH
24 PLAINTIFF HAD CHALLENGED A NUMBER OF THE DECISIONS FROM THE
25 PROCESSING OF THE DOCUMENTS, THE VOLUMINOUS DOCUMENTS IN

1 THIS CASE AND PARTICULARLY HAD URGED THAT THE DEPARTMENT IN
2 THIS HISTORICAL CASE REQUIRE THAT THE FBI FAMILIARIZE THEM-
3 SELVES WITH ALL OF THE VOLUMES, THE MANY VOLUMES AND THE
4 EXHIBITS OF BOTH THE WARREN COMMISSION COURT AND NOW THE NEW
5 HOUSE SELECT COMMITTEE ON ASSASSINATIONS AND THE PLAINTIFF
6 AND MR. LESAR HAVE BEEN VERY PATIENT TO ALLOW THE COMPLETION
7 OF THAT PROCESS, THE ADMINISTRATIVE APPEAL PROCESS, AND I
8 CAN NOW REPORT THIS MORNING THAT THAT HAS BEEN COMPLETED.

9 AND AS A RESULT OF THAT PLAINTIFF HAS BEEN HELD
10 ADMINISTRATIVELY IN A NUMBER OF ASPECTS OF HIS CHALLENGE AND
11 THAT AFFECTS RATHER GREATLY WHAT HAS BEEN DONE, AND IT REQUIRES
12 THAT MANY OF THE DOCUMENTS IN LARGE MEASURE BE REVIEWED AND
13 PARTICULARLY IN ACCORDANCE WITH THIS NEW STANDARD OF
14 FAMILIARITY WITH THOSE TWO LARGE VOLUMES.

15 I HAVE DISCUSSED WHAT HAS TO BE DONE PURSUANT TO
16 THIS WITH PLAINTIFF'S COUNSEL AND I DON'T BELIEVE WE HAVE
17 ANY REAL DISAGREEMENT WITH RESPECT TO THAT. I DISCUSSED THAT
18 WITH MR. LESAR YESTERDAY.

19 ALSO YESTERDAY WE DISCUSSED THE APPROXIMATE TIME
20 TABLE BY WHICH THE FBI EXPECTS IN ESTIMATING AS BEST AS THEY
21 POSSIBLY CAN HOW LONG IT WILL TAKE FOR THIS TO BE DONE. IT
22 WILL TAKE MANY, MANY MONTHS.

23 WE DISCUSSED THAT YESTERDAY AND NOW MR. LESAR AND
24 I THIS MORNING APPEAR TO BE IN DISAGREEMENT ABOUT HOW LONG
25 IT WOULD TAKE.

1 I BELIEVE WE HAVE AGREED THAT PERHAPS THE MOST
2 APPROPRIATE COURSE WOULD BE FOR COUNSEL TO GET TOGETHER AND
3 LOOK AT THAT FURTHER AND TRY TO COME TO COMPLETE AGREEMENT
4 AS TO A TIME TABLE THAT WE COULD PRESENT TO THE COURT AND
5 PERHAPS WE CAN REPORT BACK TO THE COURT WITH RESPECT TO THAT
6 AND HAVE ANOTHER STATUS CALL AT THAT TIME IF THAT WOULD BE
7 APPROPRIATE WITH THE COURT.

8 THE COURT: MR. LESAR?

9 MR. LESAR: THANK YOU, YOUR HONOR.

10 I AM JAMES LESAR, ATTORNEY FOR THE PLAINTIFF MR.
11 HAROLD WEISBERG.

12 MR. METCALFE IS QUITE CORRECT, YOUR HONOR, IN THAT
13 WE ARE IN AGREEMENT ON A NUMBER OF THINGS THAT MUST BE DONE
14 AS A RESULT OF THE DETERMINATION MADE BY THE ATTORNEY GENERAL
15 SHENEFELD ON OUR ADMINISTRATIVE APPEAL.

16 FOR THE RECORD, YOUR HONOR, I WOULD LIKE TO SUBMIT
17 A COPY OF THAT SO THE COURT CAN BE AWARE OF THAT DECISION.

18 THE COURT: YOU MAY DO SO.

19 MR. LESAR: I JUST WANT TO ADDRESS BRIEFLY THIS
20 PROBLEM OF THE TIME SCHEDULE. YESTERDAY WHEN I SPOKE TO MR.
21 METCALFE HE INFORMS ME THAT IN HIS CONSULTATION WITH THE FBI
22 AGENTS WHO HAVE BEEN HANDLING THE PROCESSING OF THIS CASE,
23 THEY INFORMED HIM THAT IT WOULD TAKE APPROXIMATELY TEN TO
24 FOURTEEN MONTHS TO COMPLETE THE REPROCESSING OF THOSE DOCUMENTS.

25 I SPENT SEVERAL HOURS LAST NIGHT GOING OVER SOME

1 RECORDS WHICH TO ME INDICATE THAT THAT IS JUST A LUDICROUS
2 AMOUNT OF TIME.

3 MY RECORDS INDICATE THAT THERE ARE COMPARATIVELY
4 FEW -- A COMPARATIVELY SMALL PERCENTAGE OF THE RECORDS HAVE
5 TO BE REPROCESSED AND THE FIGURE I WAS GIVEN YESTERDAY WAS
6 PURPORTEDLY BASED ON PROCESSING FORTY TO FIFTY THOUSAND PAGES
7 OF DOCUMENTS AND THAT THEY WOULD PROBABLY ONLY HAVE TO
8 REPROCESS 5,000 PAGES AT MOST IN ORDER TO DEAL WITH THE
9 DECISION.

10 SO MR. METCALFE AND I NEED TO SIT DOWN AND TALK
11 THIS OVER AND GET CLEAR EXACTLY HOW MANY PAGES HAVE TO BE
12 REPROCESSED AND IN WHAT AMOUNT, AND THE TIME IT WILL TAKE.

13 IF WE CAN'T COME TO AN AGREEMENT WITHIN THE NEXT
14 COUPLE OF WEEKS THEN I WOULD ASK FOR THE COURT TO SET A SCHEDULE
15 THAT I THINK WOULD BE APPROPRIATE IN THIS CASE.

16 THERE IS AT LEAST ONE OTHER ISSUE ON WHICH THERE
17 IS DISAGREEMENT AT WHICH SOME POINT IT WILL SURFACE IF WE
18 CAN'T RESOLVE IT IN DISCUSSIONS AND THEN WE WILL HAVE TO COME
19 BACK BEFORE THE COURT AND THAT IS THE QUESTION OF WHETHER
20 OR NOT THE FBI NEEDS TO PRODUCE ADDITIONAL NUMBERS OF THE
21 DOCUMENTS THAT THEY HAVE WITHHELD AS "PREVIOUSLY PROCESSED."

22 OUR POSITION IS THAT THEY HAVE WITHHELD A LOT OF
23 NUMBERS -- A LOT OF RECORDS AS PREVIOUSLY PROCESSED THAT ARE
24 NOT DUPLICATES OF THE RECORDS RELEASED TO HEADQUARTERS.

25 THAT ADMITTEDLY IS SORT OF A DIFFICULT QUESTION

1 TO RESOLVE AND MY CLIENT IS WILLING TO COMPROMISE ON PART
2 OF THAT, AND I WANT TO DISCUSS THAT WITH MR. METCALFE TO SEE
3 IF I CAN PERSUADE THEM THAT SOME OF THOSE DOCUMENTS SHOULD
4 BE RELEASED BECAUSE THEY ARE NOT IN FACT DUPLICATES BUT CONTAIN
5 IMPORTANT INFORMATION THAT MY CLIENT IS ENTITLED TO.

6 SO, IN CONCLUSION, THEN, I WOULD AGREE WITH MR.
7 METCALFE THAT WE SHOULD DISCUSS MATTERS OVER THE NEXT COUPLE
8 OF WEEKS AND IF WE CAN'T, I WILL THEN FILE A MOTION SO THE
9 COURT MAY DISPOSE OF IT AND I WOULD CONCUR THAT WE SHOULD
10 HAVE ANOTHER STATUS CALL IN THE VERY NEAR FUTURE.

11 THE COURT: DO YOU WANT TO SET THE DATE NOW?

12 MR. METCALFE: YES, YOUR HONOR.

13 THE COURT: WHAT ABOUT WEDNESDAY THE 11TH. IS THAT
14 AGREEABLE TO YOU, MR. LESAR?

15 MR. LESAR: I AM TRYING TO REMEMBER. I HAVE A TRIAL
16 SCHEDULED FOR, I THINK, THE 7TH.

17 I THINK THE 11TH WOULD BE FINE.

18 MR. METCALFE: FOR THE RECORD, YOUR HONOR, I WOULD
19 LIKE TO INDICATE THAT I HAVE ATTEMPTED TO HAVE THE FBI MAKE
20 A MOST REALISTIC ESTIMATE AS TO HOW LONG IT WOULD TAKE TO
21 COMPLETE THIS PROCESS AND A TEN- TO FOURTEEN-MONTH PERIOD
22 IS WHAT THEY HAVE INDICATED TO ME.

23 MR. LESAR CAME IN THIS MORNING INDICATING A FIGURE
24 OF 5,000 PAGES, AND I HAVE NOT HAD A CHANCE TO EVALUATE THAT,
25 BUT THE FBI HAS BEEN VERY COOPERATIVE IN THIS CASE.

1 THE COURT: ACTUALLY IT IS TIME FOR THIS CASE TO
2 BE MOVING FORWARD. IT IS A '78 CASE.

3 MR. METCALFE: I AGREE.

4 THE COURT: I KNOW THAT THERE ARE MANY DOCUMENTS
5 INVOLVED, BUT I DO THINK THAT WE SHOULD MOVE FORWARD. I THINK
6 THE ATTITUDE OF COUNSEL IS VERY GOOD.

7 MR. METCALFE: WE WILL TRY TO MOVE IT ALONG AS BEST
8 WE CAN, YOUR HONOR.

9 THE COURT: 9:30 THEN ON FEBRUARY 11TH FOR A FURTHER
10 STATUS.

11 I DO HOPE YOU MAKE A LOT OF PROGRESS BETWEEN NOW
12 AND THEN.

13 MR. METCALFE: THANK YOU, YOUR HONOR.

14 MR. LESAR: THANK YOU, YOUR HONOR.

15 THE COURT: DO YOU WANT THIS LETTER MADE A PART
16 OF THE RECORD?

17 MR. LESAR: YES, I DO.

18 THE COURT: VERY WELL. IT WILL BE FILED.

19 (WHEREUPON, THE HEARING WAS CONCLUDED.)

20 CERTIFICATE OF REPORTER

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

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OFFICIAL COURT REPORTER