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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,)
)
 PLAINTIFF,)
)
 V.)
)
 WEBSTER, ET AL.,)
)
 DEFENDANTS)

CIVIL ACTION NO. 78-322

HAROLD WEISBERG,)
)
 PLAINTIFF)
)
 V.)
)
 FEDERAL BUREAU OF)
 INVESTIGATION, ET AL.,)
)
 DEFENDANTS)

CIVIL ACTION NO. 78-420

WASHINGTON, D.C.

MARCH 10, 1982

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 H. LESAR, ESQ.
FOR THE PLAINTIFF

HENRY LA HAIE, ESQ.
WILLIAM WELBY, 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 78-322, WEISBERG
3 V. WEBSTER.

4 CIVIL ACTION 78-420, WEISBERG V. THE FEDERAL BUREAU
5 OF INVESTIGATION.

6 FOR THE PLAINTIFF, JAMES LESAR AND FOR THE DEFENDANT,
7 HENRY LA HAIE AND WILLIAM WELBY.

8 THE COURT: GOOD MORNING.

9 MR. LESAR: GOOD MORNING, YOUR HONOR.

10 THE COURT: WHAT IS THE SITUATION HERE, GENTLEMEN?

11 MR. LESAR: YOUR HONOR, THE GOVERNMENT HAS FILED
12 THEIR MOTION, THE TITLE OF WHICH I CANNOT REMEMBER. IT IS
13 BASICALLY --

14 THE COURT: CONCERNING THE ADJUDICATION OF CERTAIN
15 EXEMPTION CLAIMS.

16 MR. LESAR: THAT IS IT, YOUR HONOR.

17 THE COURT: ALL RIGHT.

18 MR. LESAR: AND WE WILL BE FILING AN OPPOSITION
19 TO THAT MOTION.

20 MR. WEISBERG HAS ASKED ME TO MAKE A PROPOSAL TO
21 THE GOVERNMENT THAT WE FEEL WOULD LEAD TO A SETTLEMENT OF
22 THE CASE WITH FAR LESS EXPENDITURE OF TIME AND MONEY THAN
23 THE GOVERNMENT'S VAUGHN WOULD ENTAIL.

24 I HAVE NOT HAD A CHANCE TO FULLY BROACH THAT TO
25 MR. LA HAIE, BECAUSE WE WERE NOT ABLE TO GET IN TOUCH WITH

1 EACH OTHER THE LAST TWO DAYS.

2 HOWEVER, I EXPLAINED IT TO HIM BRIEFLY THIS MORNING
3 AND IT IS MY UNDERSTANDING THAT THEY WILL REJECT THAT OFFER.

4 THE COURT: THE RECOMMENDATION IS FOR A SAMPLING
5 TECHNIQUE?

6 MR. LESAR: YES.

7 THE COURT: WHAT IS THE MATTER WITH THAT SITUATION?

8 MR. LESAR: WELL, THERE ARE A NUMBER OF OBJECTIONS
9 THAT I WOULD WANT TO SPELL OUT IN A WRITTEN PLEADING BUT
10 BRIEFLY --

11 THE COURT: WE ARE DEALING WITH QUITE A BIT OF
12 MATERIAL HERE AS YOU KNOW.

13 MR. LESAR: I UNDERSTAND THAT.

14 THE FIRST PROBLEM FROM OUR PERSPECTIVE IS THAT MR.
15 WEISBERG HAS ADDRESSED MANY CLAIMS OF EXEMPTIONS AS THIS CASE
16 WENT ALONG AND AS DOCUMENTS WERE PROVIDED TO HIM AND HE HAS
17 WRITTEN THE OFFICE OF INFORMATION AND PRIVACY APPEALS OBJECTING
18 TO SPECIFIC DECISIONS.

19 WE THINK THAT THOSE APPEALS SHOULD BE DEALT WITH
20 FIRST AND SPECIFICALLY ADDRESSED, AND ONCE THAT IS ACCOMPLISHED,
21 THE DISPUTE WILL BASICALLY NOT BE ANY LONGER IN DISPUTE.

22 THE COURT: ACTUALLY, THIS MATTER SHOULD BE RESOLVED.
23 IT GOES BACK, AS YOU KNOW, TO 1978.

24 MR. LESAR: I DO, YOUR HONOR.

25 THE GOVERNMENT HAS --

1 THE COURT: AS A RESULT OF ITS SEARCH, THE FBI HAS
2 REVIEWED 35,775 DOCUMENTS CONSISTING OF 148,196 PAGES. I
3 THINK ALL THINGS MUST COME TO AN END AT SOME TIME AND IT IS
4 TIME THAT THIS ENDED.

5 MR. LESAR: WELL, YOUR HONOR, THEY HAVE TO FOLLOW
6 CERTAIN PROCEDURES UNDER THE FREEDOM OF INFORMATION ACT.

7 THE COURT: I AM AWARE OF THAT.

8 MR. LESAR: THEY HAVE NOT DONE SO IN THIS CASE.
9 WE CONTEND THAT MR. WEISBERG HAS A RIGHT TO HAVE HIS APPEALS
10 ACTED UPON AND THAT THE GOVERNMENT HAS NOT DONE SO.

11 THE COURT: AGAIN, I READ THE MEMORANDUM. I DO
12 NOT SEE ANY REAL OBJECTION TO THAT. IT SEEMS TO ME TO BE
13 A VERY SENSIBLE SOLUTION TO THIS PROBLEM.

14 MR. LESAR: I WOULD PROPOSE THAT MY TIME TO RESPOND
15 TO THAT IN WRITTEN FORM HAS NOT YET EXPIRED.

16 THE COURT: YOU WILL HAVE YOUR OPPORTUNITY AND WE
17 WILL SET A FURTHER STATUS BUT I WOULD SUGGEST A LITTLE BIT
18 MORE REASONABLE AND FLEXIBLE APPROACH MIGHT BE IN ORDER.

19 MR. LESAR: ALL RIGHT.

20 MR. LA HAIE: MAY I SAY SOMETHING?

21 THE COURT: CERTAINLY. I DID NOT MEAN TO CUT YOU
22 OFF BUT IT IS OBVIOUS THAT WE CANNOT RESOLVE THIS THIS MORNING.

23 MR. LA HAIE: YOUR HONOR, I AM HENRY LA HAIE WITH
24 THE DEPARTMENT OF JUSTICE.

25 WE WOULD CONCUR WITH THE COURT THAT THIS CASE HAS

1 DRAGGED ON AND IT SHOULD COME TO AN END. MR. LESAR HAS
2 INDICATED THAT THERE ARE CERTAIN APPEALS THAT SHOULD BE DEALT
3 WITH. THOSE APPEALS HAVE BEEN DEALT WITH AND IN FACT, THE
4 REASON WHY THIS CASE HAS GONE ON FOR FOUR YEARS IS THE FACT
5 THAT THE OFFICE OF INFORMATION -- THE OFFICE OF PRIVACY AND
6 INFORMATION APPEALS DID REQUEST THE FBI TO REPROCESS THE
7 DOCUMENTS.

8 THOSE DOCUMENTS HAVE BEEN REPROCESSED. THERE IS
9 NOTHING ELSE THAT THE OFFICE OF PRIVACY AND INFORMATION APPEALS
10 CAN DO AT THIS POINT, AND WE FEEL THAT THE CASE IS RIPE FOR
11 ADJUDICATION AND THAT A SAMPLING VAUGHN IS THE ONLY FEASIBLE
12 METHOD THAT WE CAN USE TO GET A SAMPLE OR A REPRESENTATIVE
13 SAMPLE OF ALL THE EXEMPTIONS THAT WERE CLAIMED BEFORE THE
14 COURT.

15 NOW, MR. WEISBERG COULD GO ON FOR MANY MORE YEARS
16 AND COMPLAIN ABOUT CERTAIN EXEMPTIONS. WE ARE READY TO PUT
17 IT BEFORE THE COURT AND HAVE A DECISION ON THIS ONCE AND FOR
18 ALL.

19 THE COURT: MR. LESAR?

20 MR. LESAR: I WILL ADDRESS SOME OF THESE MATTERS
21 MORE IN THE WRITTEN OPPOSITION THAT I WILL FILE.

22 THE COURT: WHEN WILL YOU HAVE YOUR WRITTEN
23 OPPOSITION IN?

24 MR. LESAR: IT IS DUE MONDAY, I THINK, YOUR HONOR,
25 AND I WOULD HOPE TO BE ABLE TO DO IT BY THEN. THERE ARE

1 SOME PROBLEMS AND I MAY HAVE TO GET AN AFFIDAVIT FROM MR.
2 WEISBERG WHO IS UP IN FREDERICK BUT IT WILL BE IN SOME TIME
3 NEXT WEEK.

4 THE COURT: AS I RECALL ON ONE OCCASION, YOU OBJECTED
5 TO SO MANY DOCUMENTS BEING DUMPED ON HIM AT ONE TIME --

6 MR. LESAR: THAT WAS IN ANOTHER CASE, YOUR HONOR.

7 THE COURT: THE SAME PLAINTIFF?

8 MR. LESAR: SAME PLAINTIFF. THAT WAS BECAUSE WE
9 HAD A SPECIFIC STIPULATION FROM THE GOVERNMENT THAT THEY WERE
10 TO RELEASE MATTERS IN SEGMENTS.

11 THE COURT: I DO REMEMBER THAT.

12 I DO THINK THAT COMMON SENSE AND REASON MUST
13 PREVAIL AT SOME POINT AND I AM GOING TO SUGGEST THAT YOU TRY
14 AND DO THAT IN YOUR MEMORANDUM.

15 MR. LESAR: YOUR HONOR, FOR THE RECORD, I WOULD
16 JUST POINT OUT THAT THE DELAYS IN THIS CASE HAVE BEEN SOUGHT
17 BY THE GOVERNMENT AT EVERY STAGE.

18 THE COURT: YES, BECAUSE OF THE DEMANDS MADE.

19 WHAT DATE WILL YOU BE AVAILABLE FOR ORAL ARGUMENT?

20 MR. LESAR: IF YOU WILL PICK A DATE, I THINK I AM
21 FREE UNTIL THE 1ST OF APRIL.

22 MR. LA HAIE: YOUR HONOR, THE GOVERNMENT WILL BE
23 READY AT ANY TIME.

24 THE COURT: WHAT ABOUT THURSDAY, MARCH 25TH?

25 MR. LESAR: FINE, YOUR HONOR.

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MR. LA HAIE: YES, YOUR HONOR.

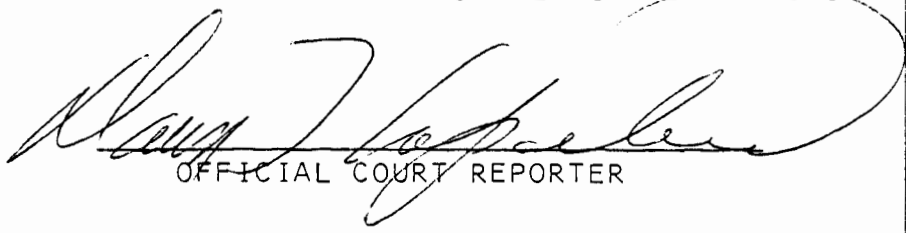
THE COURT: THAT WILL BE AT 9:30 ON THURSDAY,
MARCH 25TH, WITHOUT FURTHER NOTICE.

MR. LESAR: THANK YOU.

(WHEREUPON, THE HEARING WAS CONCLUDED.)

CERTIFICATE OF REPORTER

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


OFFICIAL COURT REPORTER