

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG,

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION,

Defendant.

Civil Action Nos.
78-322 and 78-420
(Consolidated)

AFFIDAVIT

My name is Harold Weisberg. I am the plaintiff in these consolidated cases. I live at 7627 Old Receiver Road, Frederick, Maryland. My prior professional and FOIA experiences and my subject matter expertise are stated in prior affidavits.

1. Defendant's April 4, 1983 Opposition to my discovery efforts illustrates the major problem of an FOIA requester who is faced with statements by the defendant that are not in accord with the facts. It illustrates, because it is based upon them, the consequences of the defendant providing and depending upon attestations that are not made of personal knowledge. It also illustrates the consequences of the defendant's pretending that the evidence I provide and is not refuted does not exist in the case record. All these, among other things, prolongs the litigation.

2. I prepared my longer affidavit of April 10, 1983 before I received a copy of this Opposition. Although I was not aware of its content or existence when I drafted my cited affidavit, in it I show again that the sworn representations of fact provided by defendant in this case are not truthful. In all instances I had already demonstrated that these representations are not truthful. Yet they are once again depended upon by defendant and thus the representations of the Opposition, based on untruth, are themselves not truthful.

*I keep not in updated in other affidavits
that were filed*

3. Pages 1 and 2 of the Opposition repeat the untruthful statement that in Admissions I refer to the search slips provided in this litigation. The Opposition states that I request "an order compelling the defendant to produce those copies once more." The Opposition acknowledges that I had characterized the search slips provided as phonies. It then states an additional untruth, that my allegation is premised solely "on the belief that the New Orleans search slips on David Ferrie do not reference certain file numbers." Of this it adds the additional untruth, that "this was also the basis for plaintiff's Motion to Strike All Sworn Statements by Special Agent John N. Phillips."

4. It simply is not the truth, as the case record establishes, that my first allegation of Phillips' untruthfulness was on March 8 of this year. I have addressed each of his nine declarations under oath and have stated that all contain what is not true and that he does not attest of personal knowledge.

5. With regard to my Ferrie affidavit, it is not truthful to state that the two file numbers I provided in it are the sole basis in that affidavit for stating that the search slips do not include all pertinent information in the New Orleans FBI files. My affidavit reflects in addition that there are other pertinent Ferrie records and a report prepared for FBIHQ to forward to the FAA.

6. What I seek is not additional copies of the phony search slips. Obviously, I have no such need and it would serve no purpose. What I seek and what it is clear that I seek are the original records of these allegedly complete searches that I have shown throughout this case are neither the originals nor complete.

7. At this point, continuing on the next page, there is also defendant's claim that the blank Hosty search slip provided is not phony.

8. With regard to all these matters and long ago I provided detailed and accurate information under oath. Until the recent Clifford Anderson declaration, no counter-affidavit was offered by the defendant. The fact is that most of the search

slips provided cannot be the original records of searches, which is what is in question. I correctly described other Ferrie records not referenced on these slips. I know of additional Ferrie records that should exist, and I stated reasons for the belief that they should exist, a matter that since then has been ignored entirely by the defendant, who does not even claim to have made any effort to locate them or to have made any search for them.

9. With regard to these facts, no evidence has been produced by the defendant to refute them. They are ignored in the defendant's declarations I address in my April 10 affidavit, those by Phillips and the New Orleans FBI FOIPA expert Clifford Anderson.

10. When my counsel informed me by phone of what the Opposition represents with regard to the alleged Hosty search (see next paragraph), I prepared the addendum to my April 10 affidavit. I believe that it leaves no doubt that these representations are a) untruthful and b) known to the FBI to be untruthful.

11. The Opposition states ~~that~~ the Dallas FBI made "an all reference search on Mr. Hosty" and because "that search did not locate any documents indexed in the Dallas indices, consequently the search slip does not contain any file reference to him." On its face, this is not correct. As I recall FBI practise and as reason indicates, if there are no references, the searcher states there are no references. Otherwise, the requester of the search does not know. The blank Hosty "search" slip does not state that there are no references.

12. Long before this newest untruthful representation I had stated that it was inevitable that there are such Hosty references, that they are essential and required indexing, and that I was aware of Hosty indexing. Instead of making a real search when the FBI received this information from me, under oath, it did nothing. My affidavit, as usual, was ignored. Now the identical untruth is repeated, based on the long refuted Phillips Fourth Declaration. What Phillips then swore to, as quoted by the Opposition, is that "especially the names of special agents in its files" are

not indexed by the FBI. Specifically ignoring the evidence with which I refuted Phillips, the Opposition adds that this is "a point that the defendant established long ago in this litigation."

13. I attached to my April 10 affidavit the first three FBI Dallas records of which I had made duplicate copies for subject filing. They are indexed to Hosty. Prior to my knowing of this newest misrepresentation pertaining alleged searches for Hosty records I included a general statement in my April 10 affidavit that I was aware of Hosty indexing. That statement is based on other proof. I provided the underlying records to reflect FBI practise and the fact that, exactly as I had stated in refutation of Phillips, the nature of the scandals in which Hosty was involved and in which he involved the FBI, together with the FBI's very strong reaction to them, absolutely required that the FBI be able to retrieve that information. The true facts are precisely as I stated them in refuting Phillips' earlier untruths despite the unquestioning repetition of them in the Opposition.

14. Despite the complete accuracy of my sworn statement, despite the defendant's failure to provide any counter affidavit and despite defendant's failure to make any search at all after receiving my information, the Opposition characterizes what I stated as "conjecture" and as "unfounded" (on page 3).

15. The Opposition does not represent or state the truth with regard to ticklers (on pages 3 and 4). The case record shows that Phillips simply made up irrelevant definitions of "tickler" and to this day has not addressed my allegation that from notations on records and my own sources I knew that the field offices employ ticklers and that in this case they are essential, including as a means of exercising control over a vast amount of information. After receiving these transparent concoctions that are the defendant's continuing excuse for a) not making any search and b) avoiding any sworn statement made on personal knowledge, I provided several definitions of "tickler" from standard sources. Despite this, the defendant persists in the same contrivance insofar as what it states under oath is concerned. The Opposition,

which is not under oath, now enlarges upon this series of FBI evasions and misrepresentations. Months after I provided dictionary definitions of tickler the Opposition now claims, with regard to my frequent repetition of the fact that I have not received any photostatic copies from the FBI and that photostating is an expensive and entirely different process, that; "Indeed, it is clear that the term 'photostatic' was used to encompass copies of documents that were made by any type of photocopying machine, including those manufactured by the Xerox Corporation."

16. This is not possible, given the case record. It is not possibly an innocent error after my unrefuted affidavits provided the correct definitions. But if it could once have been an accidental untruth, after my affidavits this cannot be accidental. There is no excuse for the FBI's continued misuse of a deceptive, incorrect, and misleading reference in the newest declarations, which followed the filing of my interrogatories, but somehow the word got to Anderson, who swears falsely that I was provided with "photostatic" copies. It also is obvious that if the FBI meant "photocopy" it would have said "photocopy" or used a synonym. Instead it persists in using a word that can be interpreted as letting it swear to what it knows is not truthful without technically swearing falsely because photostating is a camera process and xeroxing is not.

17. It also is quite obvious that a) there is no competent attestation to this FBI canard and b) Phillips and Anderson persist in it long after I provided correct definitions of "tickler."

18. As the case record now stands, despite this unsworn substitute for testimony in the Opposition, the FBI is not swearing that it has no ticklers that include xerox or similar type copies. The only apparent explanation of this is that it does have such ticklers and knows that it has them. Otherwise, it is apparent that these subterfuges would have been abandoned long ago once I exposed them. Otherwise they never would have been employed at all.

19. In feigned support of defendant's persistence in this subterfuge the

Opposition cites "Defendant's Opposition to Plaintiff's Motion For Order Compelling Defendant to Provide Plaintiff with Photographic Copies Of all Movie Films and Still Photographs, filed on August 19, 1982." (I presume reference is intended to such an Opposition filed a month earlier.)

20. What the cited Motion states in a 10-line footnote on its first page is that in his Fifth Declaration Phillips allegedly stated that, in the words of the Opposition, not a direct quotation of him, "By 'photostatic copies,' Special Agent Phillips meant that the photographs were duplicated by a photocopy machine." This is what I refuted, along with proper definitions from standard sources. Attached to the cited Motion is Phillips' Seventh Declaration, in which he tries to weasel out, still without resort to his own dictionary - if by any chance he had had any doubt about the definitions I provided and the state of his own knowledge.

21. Phillips' actual statement, when he spoke in his own name, is directly opposite what the Opposition states. This is how he addresses my sworn statement that I had not received any "photostatic copies" and had received only xerox copies, referring to the process, "... the FBI decided to furnish plaintiff with photostatic copies or as plaintiff incorrectly refers to them, 'xerox' copies..." (Paragraph 6. Emphasis added)

22. (Because I am addressing persisting untruthfulness by the defendant, I note also that this is the Declaration in which Phillips attests to an enormously inflated cost of duplicating photographs. I stated what FBI had charged me in the past to indicate the extent of his sworn magnification of these costs. Since then he and all others speaking for the defendant have been totally silent about this untruth by him, notwithstanding which he swore in his Ninth Declaration that he had never made any untruthful representation to the Court and that he knew of no other untruthful representation to the Court by anyone else speaking for the defendant.)

23. In short, the case record pertaining to the kind of copies I received and the kind the FBI states it provided is that the FBI stated that it had provided only

photostatic copies, I attested that I had not received any photostatic copies of anything and had received xeroxes only, Phillips then swore that by "photostatic copies" he did not mean "xerox" copies, and citing Phillips declaration in which he swears that I was allegedly "incorrect" in referring to "xerox" copies, this Opposition now states the opposite, that by the photostatic process Phillips meant the xeroxing process.

24. In other words, the FBI, for purposes of this litigation, defines ticklers as consisting of what they do not consist of and not consisting of what they do consist of, thus avoiding any search for and processing of them, and of this its Opposition states that its language was "intentionally worded to give the broadest possible scope both to plaintiff's definition of 'tickler' and to his inquiry" pertaining to Dallas and New Orleans ticklers.

25. The Opposition misses no bets in misrepresenting what the FBI has not addressed pertaining to tickler cards, where again I quoted the dictionary. There are card ticklers. In pretending that I was not correct with regard to ticklers consisting of cards, the Opposition adds a word that enables it to make what is not correct to appear correct. It inserts the word "index" reading "tickler' index cards." I'm referring to the FBI's earlier response pertaining to tickler cards, it states that the field offices had no "'tickler' index cards." I do not recall alleging that the ticklers are indexed and this is not a question in any event. Stating that the ticklers are not indexed is not at all the same as stating that there are no ticklers consisting of cards, as ticklers do.

26. Perhaps it is innocent, but the footnotes to the paragraph on page 5 of the Opposition relating to Jim Garrison and defendant's untruthful response to my Interrogatory 10 are not on this page. They appear elsewhere and are not visible when this page is read. What the Opposition states is, "also frivolous is plaintiff's assertion that the answer to interrogatory no. 10 was not responsive because of defendant's comment that ' the FBI was not involved in or connected with Jim Garrison' investigation

of the JFK assassination." It is beyond question that this "comment" is not responsive (and I requested answers, not so-called "comment".) What the interrogatory asks is, "Were any 'June or 'June Mail' files created which in any way relate to the investigation into the assassination of President Kennedy conducted by New Orleans District Attorney Jim Garrison." It does not ask if the FBI was either "involved in or connected in any manner with" Garrison's investigation. In seeking to wipe out the FBI's nonresponsiveness the Opposition then states (nothing omitted between these two quotations from it), "Significantly, however, the first word of that answer was 'no.'" When the answer is thus viewed in its entirety, it is clear that the defendant was first stating that the Dallas and New Orleans Field Offices did not create any 'June' or 'June Mail' files which related in any way to Jim Garrison's investigation of the Kennedy assassination; and then, having answered the interrogatory's inquiry, the defendant simply reminded plaintiff once more that the FBI was not involved in or connected with that investigation." As will become clear, the FBI did not go out of its way on my behalf. I knew I needed no such "reminder."

27. Separating its quotation from my Interrogatories and defendant's response from the text and then putting them on a different page when there was no need to do so serves to hide the fact that unlike the textual quotation from Opposition, which has the "No" followed by a comma, the FBI's actual response has "No." This is followed by a new sentence. The Opposition thus gives the FBI's actual response an entirely different meaning, as though, for example, the word "because" were to be read in, "No, because the FBI was not involved...."

28. There is no earthly reason for the FBI ever to have provided this "reminder" and even less to repeat it ("reminded plaintiff once again") after I had responded to its earlier resort to this irrelevancy and evasiveness by telling it that it knew I was well aware that the FBI and Garrison were not connected. It has absolutely no relevance to the question, which is limited to whether or not the FBI had any June or

June Mail files. Except to hide the FBI's untruthful statement, "No." This means that the FBI has no such files, something the FBI has not stated unequivocally under oath. "Because the FBI was not involved in or connected in any manner with Jim Garrison's investigation" is utterly irrelevant to the question and to any answer.

29. Bearing on the FBI's purpose in this semantics and the Opposition's misrepresentation of it is what the FBI and its counsel have ignored entirely and have not responded to in any way, my sworn statements that there was electronic surveillance of Garrison, that this included phones (which I also used), bugs (which also could have intruded upon me) and on-the-body means of eavesdropping. I also stated that transcripts of these surveillances were disclosed earlier in at least two ways, in connection with a federal prosecution of Garrison that failed and to me in other litigation.

30. After I stated my awareness that there was no connection between Garrison and the FBI, the first time the FBI resorted to that dodge and after I attested to knowledge of the existence of electronic surveillance, saying "No" in any context is not truthful. The contrived explanation of this in the Opposition explains nothing at all. The Opposition, by altering the punctuation and contriving an untruthful explanation of the so-called "reminder" gives it an incorrect and entirely different meaning.

31. The Opposition next pretends to address my allegation that the answer to Interrogatory 12(a), which asks if the FBI conducted searches at places outside the regular files, is not responsive. Defendant's quoted response is deliberately evasive. It is, "at the time of plaintiff's FOIA request in these consolidated cases, neither field office contained special file rooms. The New Orleans office still does not contain such a room, whereas the Dallas office has, within the past few years, set up a special file room." (Page 6, Emphasis Added.) The Opposition then states that what it terms "simple logic and common sense dictate" that rather than being nonresponsive the FBI undertook its search in response to plaintiff's FOIA requests it could not

have searched the special file room in Dallas since such was not in existence at that time."

32. First of all, it simply is not true that the Dallas FBI ever made any "search in response to plaintiff's FOIA requests." I have not been refuted after attesting to this. I stated that when I learned what the FBI was up to (the day Judge Oberdorfer rescued himself) I informed then defendant's counsel that was not a search and would not mean compliance. I attested that no search was made to respond to my actual requests. I also attested that the first date on any Dallas search slips was almost three years after my requests, was after compliance was claimed and pertains to some of what the appeals office told the FBI to do. I stated that Phillips actually admitted this and records provided under discovery confirm it. So, all of the FBI's response is based on an untruth. It also is evasive because this is an ongoing case, so where the files are at any moment is entirely immaterial, as is the date the special file room was created. In addition, I cited FBI records which state clearly that some of the information still not provided was separated from the regular files and placed in a special cabinet. The contents, their extent and the special repository are all stated in the FBI record I attached to my ignored affidavit.

33. It is beyond question that the Dallas office has records belonging in files of this description, such as, at the very least, those pertaining to the electronic surveillances of Marina Oswald. It withheld these originally, even withheld all reference to them in its inventory under spurious claims to exemption and still asserts spurious claims to exemption to withhold their file numbers (which it earlier disclosed) and the phony identifications of them as a live and confidential informer-nineteen years after they were ended. There were other electronic surveillances. In his book on Robert Kennedy Arthur Schlesinger refers in the plural to those pertaining to this investigation that as Attorney General Robert Kennedy approved. Marina Oswald is only one of them. There also is the open question of such surveillances for which the FBI neither sought nor obtained approval. (An example of this is the bugging of

Marina Oswald. The Garrison ~~Surveillance~~ was after Robert Kennedy left the Department of Justice.) The FBI has made no reference to any of the kinds of things that are of "June" character. However, it was established by Congressional investigation that the CIA was intercepting mail for the FBI during the period covered by my requests. As I have already attested, I was picked up on electronic surveillance, a matter the FBI has never addressed, and this is appropriate because that is "June" material and because I am one of those known as a "critic."

34. The next matter addressed in the Opposition is Interrogatory 17 of which it states, "That interrogatory first inquired whether 'the FBI even obtain(ed) tapes of the Dallas police radio broadcast.' (Opposition's emphasis) If the response to that initial inquiry was affirmative, the interrogatory sought additional information on those tapes." The Opposition makes no reference to this "additional information." In the quoted response to this interrogatory there is much that is not true, including the FBI's persisting reference to many tapes as a single one: "The FBI never maintained a copy of the tape of the recorded Dallas police radio broadcasts. However, as has been noted before in this litigation, a tape of those recorded broadcasts was made by an FBI official on behalf of, and for use by, the Warren Commission." Without exception, every statement in this response was proven wrong by entirely undisputed FBI records I provided as exhibits or cited in my earlier attestations. Also without exception, the FBI has provided no evidence at all to refute or even dispute my attestations.

35. The record I attached traces as much of the history of the making of those tapes as the Dallas FBI permitted in its main assassination files. This was after the content of the tapes became a sensational issue before the House Select Committee on Assassinations (HSCA) as a result of which the Attorney General ordered additional investigation. (Because the FBI did not produce its tapes for this investigation, it has motive for not being forthright and truthful and producing them in this instant cause.) Contrary to the inference that some self-starting FBI character in

Dallas went off on a private, personal kick, the earlier FBI representation, or the present one, the Dallas office, according to the only evidence it does not still withhold, did "obtain" copies of those tapes. Until I presented irrefutable evidence the FBI pretended otherwise. Now it claims that its answer quoted in full above, indicates that it "perceived ambiguity in plaintiff's use of the word 'obtain.'" Alleged "ambiguity" also is not stated in any FBI sworn statement. Perhaps the reason is the definition of "obtain." It means "get" and that is anything but "ambiguous." Perhaps this is why the FBI's response does not use the word of the interrogatory but is keyed to a word that does not have the same meaning, "maintained." (The appropriate meaning of "maintain" is "to retain possession of" and this becomes pertinent.)

36. The question pertaining to these tapes that the Congress asked the Attorney General to have further enhanced and analyzed is whether or not in the five minutes of police broadcasts that include the period of the assassination - an untoward event the FBI did not investigate - modern techniques could identify gunfire. An open microphone on a police motorcycle at the scene of the crime made other transmissions incomprehensible for five minutes. The outstanding experts engaged by the HSCA concluded that there is high probability that a fourth shot ~~was~~ recorded. The HSCA concluded that because it was impossible for anyone to fire four shots in the time available with the Oswald rifle there was a conspiracy, something the FBI has denied from the outset.

37. One of the importances of the tapes made by the Dallas field office itself with its own equipment is indicated in the FBI record pertaining to HSCA that I attached to my affidavit. It is the probability that the FBI's tapes are of better quality than the original recordings, described as of poor quality by the FBI itself. They were made by the police on reused ~~tapes~~ ^{belts}, on one channel, and on ~~tapes~~ ^{discs} on the other. Because of their poor original condition and the haphazard manner in which they were kept (outside the police files), the quality and clarity of the FBI's recordings are an important factor. So also is the possibility of crosstalk because these original

recordings were duplicated by playing them aloud and rerecording with a microphone, both in the same room.

38. What appears to be remarkable, is the fact that even its inadequate and untruthful present representation of what it did is not reflected in the Dallas index. Phillips and others had ample time to refute it because I checked and quoted that index in my earlier sworn statements pertaining to these tapes. The FBI now states what it tried to deny earlier, that "a tape(sic) of those recorded broadcasts was made by an FBI official on behalf of, and for use by, the Warren Commission." This is not reflected in any of the Dallas main assassination files.

39. It thereby follows, as I stated earlier without denial by the FBI, that the pertinent records are filed outside these main files, although they belong there, and likely places to search are under such heading as the Dallas police and in that special storage place Dallas had for such evidence as films and tapes. By keeping them misplaced, the tapes, which could do havoc to the FBI's solution to the crime, could be pretended not to exist because they are not in the main files in which they belong.

40. However, the record pertaining to the FBI's inquiry after the HSCA raised the question of these tapes is filed in the Dallas main file, where it belongs. But incredibly, although it reports what happened at the time of the assassination, in a clear departure from standard FBI practise it does not include any citation to or mention of the earlier records. It does not report that any effort was made to locate them, although this clearly was pertinent, as are the FBI's hidden original records themselves.

41. As I stated earlier, without any counter-affidavit from the FBI, the Commission, after it received two undependable transcripts of this vital evidence, the police broadcasts, asked the FBI to make dependable transcripts for it. It did not ask the FBI for tapes and it did not get tapes. I knew this and I knew that the FBI was not being truthful about these tapes, so I asked what the FBI ignored, if there

was any covering letter, to FBIHQ or to the Warren Commission. The reason for asking this is that the FBI always had covering letters, from Dallas to FBIHQ and from FBIHQ to the Commission. I knew that the FBI had not given the tapes to the Commission, that the Commission had not asked for them, that the FBI had enough reason to withhold the tapes so that from the beginning it excluded them from the files in which they belong. I therefore asked for the covering letters. This smoked out the admission (on page 8) that the Dallas FBI "did not transmit those tapes to FBI Headquarters or the Warren Commission; moreover, no covering letter or memorandum accompanied that nontransmittal."

42. Two statements in the Opposition cannot both be true. One refutes the other. One is that the Dallas office made duplicates of the police tapes "for use by" the Commission and the second is that it never gave them to the Commission - even FBIHQ. The tapes were made so that the Dallas office could transcribe them, which it did, and as without contradiction I stated earlier, in order to support its transcription the FBI has to preserve the tapes. I also stated what is undenied and what the FBI boasts about, it is not allowed to destroy such evidence and it doesn't.

43. So there can be no doubt about it, I repeat what I attested earlier, without refutation, that the field offices gave nothing directly to the Commission. Without known deviation all offices forwarded what the FBI gave to the Commission to FBIHQ and FBIHQ always wrote a covering letter. So there is no possibility at all that the tapes were given to a Commission staff counsel in Dallas.

44. I defined "maintained" because that contrived irrelevant response involves the FBI in other untruths. Although it still has not responded to whether it "obtained" these tapes, indirectly now that it is caught up over its earlier untruthfulness it does make begrudging admission that it did.

45. After all its contortions the FBI has not even pretended that it made any search for these tapes. It does not even try to give any truthful account of any disposition of them, proper or otherwise, except for the new untruthful representation

that they were for the Commission to use, from which the unwary might have been misled into believing that they were given to the Commission.

46. I have gone into this detail because, except for the present few begrudged and entirely inadequate admissions, each and every statement in the Opposition pertaining to these tapes is not only not true - I provided the truth about them in earlier and ignored affidavits. This is to say that if the FBI did not know by its own means that what it was stating was not truthful, it did not question my truthful and sworn account in any counteraffidavit.

47. The FBI states that it never "maintained" these tapes but the Opposition goes much farther and states that "the FBI itself never had the tapes." (Emphasis Added)

47. I have personal knowledge of some great performances by the FBI and as I have followed its tracings of clues in other cases I have been enormously impressed by some of its accomplishments, which I regard as truly spectacular; but for all of my respect for what it can do and has done and for all of a youth of hearing its accomplishments touted on coast-to-coast radio and for all of my reading of a very large number of its statements about its accomplishments, I know of no manner in which the FBI's clerical personnel could dream of transcribing the police broadcast tapes without having them or of any way their transcriptions could have been checked and confirmed if the FBI "never had the tapes." Obviously, they are still required in this open and continuing investigation for other possible uses and to substantiate the transcripts. Even the newest semantical contrivance, that the FBI "never maintained a copy (sic)" of those many tapes, is not true because at the very least the FBI had to "maintain" or keep those tapes long enough to complete the difficult and time-consuming job of transcribing them. From this alone it follows that it is not true to state, as the Opposition does state, that it "never" had the tapes. (Emphasis Added)

48. And even now, with the existing question of searches, no search slip has been provided pertaining to the tapes or to any search for any covering letters. Yet the

Opposition now states, saying it is for my "benefit," that it has no covering letters. It would not diminish the untruthfulness of this great "benefit" to me if the FBI had provided search slips, without which it has no basis for making its quoted statements.

49. The Opposition devotes most of page 9 to its "objections to interrogatories nos. 32 and 33." Here it does not bother to quote them, not even on a different page. It gives no indication of their content or purpose at all so the reader of the Opposition has no means of knowing what its talking about without external checking. It states that the interrogatories are not included within my "amended Rule 1-9(h) statement." It will not, the Opposition states, "burden the record" with repetition of what the defendant stated earlier. It adds the claim that these interrogatories "fall outside the fourteen issues listed in" my amended statement of material facts. It does not state how they "fall outside" it.

50. The first of these interrogatories begins by asking "Do the Dallas and New Orleans Field Offices maintain ELSUR indices?" The second asks if after I filed an affidavit attesting that I have been picked up on a wiretap in New Orleans, "did the FBI make any investigation to determine if this was true?"

51. With regard to both questions, if the FBI had not intended noncompliance it long ago would have checked the ELSUR indices, which it does not and cannot deny having; and it long ago would have searched, after I provided the evidence of this wiretapping. I also raised both matters on appeals long ago and they were and are ignored. However, they are not "outside" today because at the very least both interrogatories pertain to critics, of whom I am one, and this was one of my allegations pertaining to critics, under oath and undenied. They also are pertinent to and are in fact "JUNE" matters.

52. In the foregoing paragraphs I address each and every supposedly factual representation pertaining to the interrogatories in this Opposition. Without exception they do not conform to the true facts or the unrefuted evidence in the case record. To a large degree they are just plain not true. In all instances the FBI knows that what I state is not true is untrue. When any support is cited, to a large degree it is

Phillips' nonfirst-person declaration. Until the single short Anderson declaration was filed (and is addressed in my April 10, 1983 affidavit as not in accord with the facts), there was no attestation made on first-person knowledge. As I understand the rules, as best a nonlawyer can, they require that such attestations be "made on personal knowledge." I have read the 1981 decision in Londrigan v. FBI and it states that there is the "requirement of personal knowledge" and that it is "unequivocal and cannot be circumvented."

53. I believe that if the FBI's attestations filed in this case had been provided by those with personal knowledge, this case might well have ended long ago, with the saving of much time and trouble for all parties, and that the still existing issues could have and should have been resolved long ago.

54. Based on long personal experience, I believe the FBI does not desire this case to end if it can continue to prolong it, and untruthful attestations do prolong and have prolonged it.

55. Not pertinent to any of my interrogatories is the representation that from repetition the defendant may have come to believe but is not true, that it has not been able "to ascertain all of plaintiff's complaints about the search so that it can have meaningful opportunity to address those complaints." (page 10) I have stated them over and over again, without refutation or even receiving any meaningful response at all. I provided this information from the outset, beginning when I informed then defendant's counsel that providing the few main files would not comply with my actual requests. I stated details in my many affidavits and in what I believe is an exceptional effort in many detailed, explanatory and documented appeals. When all my time and effort in providing precisely what the defendant now states I did not provide accomplished nothing, there is no reason to believe and I do not believe that any repetition of it now would yield any kind of constructive result. Basic in this is what I have repeated often enough and is not confronted by the FBI in any attestation, that no search was ever made to comply with my actual requests. There are many matters the searches for

which are separate and never made. One of these is ticklers. Even if truthful, no general statement from Phillips in Washington can address whether or not Dallas and New Orleans have ticklers. Another is records pertaining to those called "critics." Phillips and the FBI pretend this required only a search for that topic when they know that the FBI does not file and cannot retrieve information that way and thus that this was not the intent of the appeals office. But even on the futility of search for the subject "critics" no search slip was provided and the FBI swore it provided all search slips. (I attached some of the FBI's own statements that it cannot retrieve by topic to my second affidavit of April 10, 1983.) These are among the many matters that are independent of any feigned desire to "ascertain all of plaintiff's complaints about the adequacy of the FBI's search." Another is the police tapes for which no search slip is provided. ^{Search} ~~Search~~ could have been made with considerably less waste of everybody's time than arguing about them required.

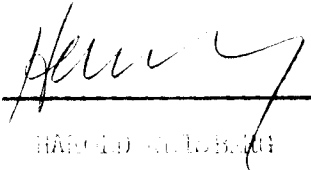
56. It also is obvious that if the FBI had made the original searches to which it pretends, after which it claimed full and complete compliance, it would have made some attempt to dispute if not refute my sworn allegations that it didn't. It could have provided search slips for them but did not. The earliest Dallas search slip was three years later. The reason the FBI has not tried to refute me is obvious: I stated the truth. More, it was actually admitted under oath by Phillips and thus cannot be denied. In addition, it is reported in the woefully incomplete response to my request for the production of documents pertaining to search and compliance, some of which are attached to my longer affidavit of April 10. Phillips and the FBI's own records completely confirm what the FBI's first counsel in this case told me before any calendar call, that the FBI had substituted several files of its selection for my actual requests.

57. I have provided specifics and been ignored. One example is that there is no listing on the Ruby search slip of the criminal informant file on him, even though the FBI did admit that it tried ~~him~~ out as a Dallas criminal informer. Another is

my since confirmed statement that New Orleans had Ferric records not included on its search slips. That was long ago and the FBI did nothing at all when I informed it. In fact, New Orleans located one of these and still withholds it. It has not searched for the others. The Anderson declaration doesn't even pretend to address any of this, other than to claim that one of the files I identified by its number was destroyed. He makes no reference at all to the other Ferric records referred to in the FBI record I provided and he does not claim that they, too, had been destroyed.

58. I cite these illustrations, which I have before, along with many others, because if the FBI had not intended bad faith, as from my extensive prior experience I believe it did and does, these matters could have been disposed of expeditiously long ago. They are not intertwined with anything else, they did not require the information I did provide, my information was completely accurate, and the FBI just plain stonewalled. There are many other such illustrations.

59. Because the Opposition also is not in accord with the facts in its conclusions, where it pretends that I have not been specific in my complaints and have not provided all of them, as I have, it is apparent that none of the Opposition is in accord with the facts already in the case record.

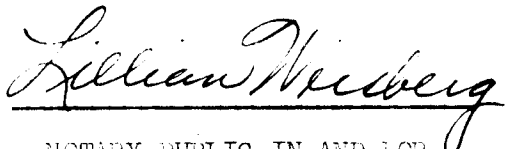


HAROLD TEISBERG

FREDERICK COUNTY, MARYLAND

Before me this 15th day of April 1983 Deponent Harold Teisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires July 1, 1986.



NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND

