

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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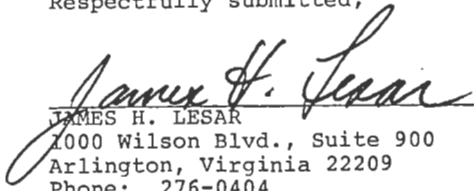
HAROLD WEISBERG,	:	JAMES H. LESAR
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 81-0023
	:	
U.S. DEPARTMENT OF JUSTICE,	:	
	:	
Defendant	:	

MOTION FOR AN ORDER REQUIRING DEPARTMENT OF JUSTICE
TO SUBMIT MURPHY REPORT FOR IN CAMERA INSPECTION BY
NOVEMBER 24, 1981

Comes now the plaintiff, Mr. Harold Weisberg, and moves the Court for an Order requiring the Department of Justice to submit for in camera inspection, on or before November 24, 1981, an unexpurgated copy of the March 31, 1976, memorandum from Robert A. Murphy, Chief, Criminal Section, U.S. Department of Justice, to Mr. J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division, U.S. Department of Justice.

A Memorandum of Points and Authorities and a proposed Order are submitted herewith.

Respectfully submitted,

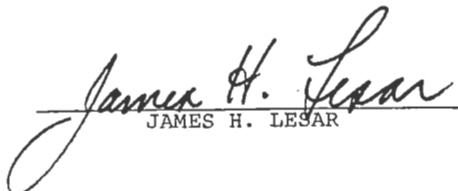


 JAMES H. LESAR
 1000 Wilson Blvd., Suite 900
 Arlington, Virginia 22209
 Phone: 276-0404

Attorney for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that I have this 3rd day of November, 1981, hand-delivered a copy of the foregoing motion to the office of Mr. Jason Kogan, AUSA, United States Courthouse, Washington, D.C. 20001.



 JAMES H. LESAR

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, :
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 Plaintiff, :
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 v. : Civil Action No. 81-0023
 :
 U.S. DEPARTMENT OF JUSTICE :
 :
 Defendant :

MEMORANDUM OF POINTS AND AUTHORITIES

At the status call held in this case on October 29, 1981, plaintiff indicated that he intended to file a motion to have the Court inspect in camera the single document which remains at issue in this case, the 51-page March 31, 1976 memorandum from Mr. Robert A. Murphy, Chief, Criminal Section, Civil Rights Division, to Assistant Attorney General, Civil Rights Division, Mr. J. Stanley Pottinger (hereafter referred to as "the Murphy Report"). After a brief exchange with counsel for the Department, the Court indicated that she wanted the memorandum submitted for in camera inspection before Thanksgiving.

Although plaintiff regards the Court's remarks as a binding verbal order, he has abundant reason to believe that defendant will not comply with it absent a signed order directing compliance by a certain date. For that reason, plaintiff has filed this motion.

In camera inspection of the document at issue is thoroughly wanted on the basis of the case law and the circumstances presented. As noted by the Court of Appeals in Allen v. Central Intelligence Agency, 636 F.2d 1287 (D.C.Cir. 1980), judicial economy is one factor which warrants in camera inspection. Id., at 1298. Because the Murphy Report is only 51-pages long and most of it has already been disclosed, the most expeditious means of resolving

the controversy over its status is for the Court to examine it in camera.

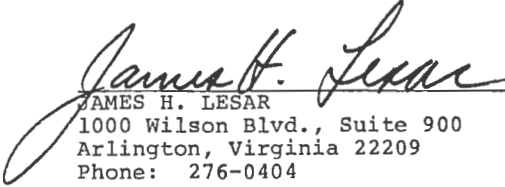
The contents of the document are disputed. Weisberg contends that much, if not all, of the withheld material is already in the public domain. He intends to submit a short affidavit by Professor David Garrow of the University of North Carolina at Chapel Hill, author of a recent book on the FBI's campaign against Dr. King, which will show this. In the Allen case, the Court of Appeals noted that in camera inspection "is most helpful when the applicability of the particular exemption centers on the actual contents of the document." Id.

In camera inspection is further justified by the fact that the Department has now released five pages of the Murphy Report which previously had been withheld on the grounds that they were classified Top Secret, and none of the newly released information appears to have impacted on legitimate national security concerns one whit.

Finally, as the Allen court noted, "[i]n cases that involve a strong public interest in disclosure there is also a greater call for in camera inspection." Id., at 1299. This case involves a extremely strong public interest, one that is reflected in the hearings held by the Church Committee, in the investigations made by the Civil Rights Division and the Office of Professional Responsibility of the Department of Justice, and by the wide-ranging attention given to Professor Garrow's book on the subject.

The Court's verbal order of October 29, 1981, is thus thoroughly justified. However, in order to guard against the possibility that the Department will not comply with it because it has not been put in written form, plaintiff requests that the Court take this additional step.

Respectfully submitted,


A horizontal line is drawn across the signature.

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Attorney for Plaintiff

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 :
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O R D E R

Upon consideration of plaintiff's motion for an Order requiring defendant U.S. Department of Justice to submit a copy of the March 31, 1976, "Murphy Report" for in camera inspection on or before November 24, 1981, defendant's opposition thereto, and the entire record herein, it is by the Court this ____ day of _____, 1981, hereby

ORDERED, that the Department of Justice shall file for in camera inspection, on or before November 24, 1981, an unexpurgated copy of the Murphy Report.

UNITED STATES DISTRICT JUDGE