

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, )  
 )  
 Plaintiff, )  
 )  
 v. ) Civil Action No. 81-0023  
 )  
 U.S. DEPARTMENT OF JUSTICE, )  
 et al., )  
 )  
 Defendants. )  
 )

OPPOSITION TO PLAINTIFF'S MOTION TO REQUIRE IN CAMERA  
INSPECTION OF THE MURPHY REPORT

Plaintiff seeks to have this Court order defendants to provide the Court, in camera, a copy of the Murphy Report. Although this Court has the discretion to conduct an in camera examination of the Report, it is unnecessary in this case.

The facts in this case are unlike those in Allen v. CIA, 636 F.2d 1287 (D.C. Cir. 1980), relied on by plaintiff. There the court of appeals determined that in camera inspection was necessary, primarily because the affidavits were clearly insufficient upon which to resolve the issues in the case. In addition, the Court noted that the document was only 15 pages in length and the agency was willing to have the Court conduct an in camera inspection.

Here, the affidavit of James P. Turner, filed on October 27, 1981, is extremely detailed and provides a more information and explanation than the affidavits in Allen. Indeed, unlike the situation in Allen, plaintiff does not claim Mr. Turner's affidavit is insufficient. It is well-settled that the district court should "accord substantial weight to an agency's affidavit concerning the details of the classified status of the disputed record." Military Audit Project v. Casey, No. 80-1110, slip op. at 25 (D.C. Cir. May 4, 1981).

Also, the document is 51 pages in length. If we accept plaintiff's argument that because of its length it should be submitted in camera, then, a fortiori, all documents of this length should be inspected in camera. There is clearly nothing magical about the number of pages in the Report.

Further, plaintiff claims that most, if not all, of the withheld material is in the public domain and he intends to submit an affidavit to that effect. This is irrelevant to the question of in camera inspection. The issue of the contents of the documents in Allen was not whether the contents were in the public domain. On the contrary, even if some of the classified information can be shown by the plaintiff to be in the public domain, the information would still be protectable. Plaintiff's argument was, in fact, squarely rejected by the court of appeals in Military Audit Project v. Casey, supra.

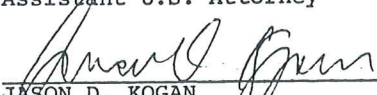
Respectfully submitted,

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CHARLES F. C. RUFF  
United States Attorney

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ROYCE C. LAMBERTH  
Assistant U.S. Attorney




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JASON D. KOGAN  
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Opposition to Plaintiff's Motion to Require In Camera Inspection of the Murphy Report and proposed Order has been mailed this 12th day of November, 1981 to plaintiff's counsel James H. Lesar, Esquire, 2101 L Street, N.W., Suite 203, Washington, D.C. 20037.



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ORDER

Upon consideration of plaintiff's motion to require in camera inspection of the Murphy Report, defendants' opposition thereto, and the record herein, it is, by the Court, this \_\_\_\_\_ day of \_\_\_\_\_, 1981

ORDERED that plaintiff's motion is hereby denied.

UNITED STATES DISTRICT JUDGE