

Title 18, United States Code, Section 2383
(Rebellion or Insurrection)

Title 18, United States Code, Section 2384
(Seditious Conspiracy)

Title 18, United States Code, Section 2385
(Advocating the Overthrow of the Government)

(4) I also attested in that affidavit (at paragraph 7) that the photographs were furnished to the FBI by a non-federal law enforcement agency under an assurance of confidentiality and were being withheld pursuant to Exemption (b)(7)(D), 5 U.S.C., Section 552(b)(7)(D).

(5) I have read this Court's memorandum opinion filed on January 13, 1983, including the Court's conclusion that my previous affidavit did not adequately demonstrate that the photographs were "compiled by a criminal law enforcement agency in the course of a criminal investigation." In order, therefore, to make absolutely clear the circumstances of the transmittal of the photographs at issue in connection with a criminal investigation, I hereby declare as follows:

(A) All of the photographs at issue in this case are contained in FBI Dallas Field Office file 100-10461-1A328, the subject of which is Lee Harvey Oswald, as part of the FBI's overall criminal investigation of the assassination of President John F. Kennedy. The photographs were received by the FBI on April 9, 1964, from a non-federal

law enforcement agency which was cooperating in the FBI's assassination investigation. The FBI was continuing at that date to investigate many aspects of Oswald's activities and various other investigative leads concerning the assassination. Thus, these photographs were compiled by the FBI in the course of a criminal investigation and were furnished by a confidential source under an assurance of confidentiality.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 21 day of January, 1983.

John N. Phillips
John N. Phillips
Special Agent
Federal Bureau of Investigation
Washington, D.C.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

J. GARY SHAW,)
)
 Plaintiff,)
)
 v.)
) Civil Action No. 82-0756
 FEDERAL BUREAU OF)
 INVESTIGATION,)
)
 Defendant.)
)
 _____)

ORDER

Upon consideration of defendant's Motion For Partial Reconsideration, of all papers filed with respect thereto, and of the entire record herein, and it appearing to the Court that the granting of said Motion, pursuant to Rules 59(e) and 60(b) of the Federal Rules of Civil Procedure, would be just and proper, it is by the Court this ___ day of _____ 1983,

ORDERED that defendant's Motion For Partial Reconsideration be, and it hereby is, granted; and it is further

ORDERED that the Court's previous memorandum opinion and Order of January 13, 1983, be, and they hereby are, vacated; and it is further

ORDERED that defendant's Motion For Summary Judgment be, and it hereby is, granted with regard to all records at issue in this action; and it is further

ORDERED that this action be, and it hereby is, dismissed.

UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing defendant's Motion For Partial Reconsideration -- with accompanying declaration -- and a proposed Order were served upon plaintiff by deposit of a copy thereof in the U.S. mail, postage prepaid, first class mail, addressed to:

James H. Lesar, Esq.
Fensterwald & Associates
1000 Wilson Boulevard
Suite 900
Arlington, Virginia 22209

on this 21st day of January 1983.


MIRIAM M. NISBET