



U.S. Department of Justice

LS:SRMcIntosh
145-12-2590
(202)/FTS 633-4052

Washington, D.C. 20530

April 18, 1988

Ms. Constance L. Dupre
Clerk, United States Court of Appeals
for the District of Columbia Circuit
United States Courthouse
Room 5423
Third & Constitution, N.W.
Washington, D.C. 20001

Re: Weisberg v. Department of Justice, No. 87-5304

Oral argument in the above-captioned case was held on Thursday, April 14. I would appreciate it if you would present the following record reference, which relates to a question asked during oral argument, to the members of the Court who sat on the panel (Chief Judge Wald and Judges Robinson and Starr).

During rebuttal, the Court asked counsel for the appellant if anything in the record showed whether the FBI had made an effort to clarify the scope of the appellant's December 1975 FOIA request prior to the execution of the August 1977 stipulation between the parties. The Department would like to refer the Court to the deposition testimony of FBI agent John Hartingh (December 7, 1979), at pages 191-192. The referenced testimony relates directly to the question posed by the Court. A copy of the relevant pages of Mr. Hartingh's testimony, with the pertinent testimony underscored, is attached.

A copy of this letter and the attachment is being served by hand on counsel for the appellant in this case. I would appreciate it if you could bring this information to the Court's attention as soon as possible. Thank you for your attention to this matter.

Sincerely yours,

Scott R. McIntosh
Counsel for Appellee

cc (w/encl): James H. Lesar, Esq.

R:bsp

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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HAROLD WEISBERG,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 75-1996
	:	
THE UNITED STATES DEPARTMENT	:	
OF JUSTICE,	:	
	:	
Defendant.	:	

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Washington, D.C.

Friday, December 7, 1979

Continued deposition of JOHN HARTINGH, taken on behalf of the plaintiff in the above-entitled action, pursuant to recess, at the offices of James H. Lesar, Esq., Room 600, 910 16th Street, Northwest, Washington, D. C., before Joseph D. Rogers, a notary public in and for the District of Columbia, when were present on behalf of the respective parties, beginning at 10:15 a.m.:

APPEARANCES:

On behalf of plaintiff:

JAMES H. LESAR, Esq.
Room 600
910 16th Street, NW
Washington, D. C.

1 try to develop by reading books, which he did, and by reading
2 all these documents, a knowledge of the cast of characters in
3 this case and in all cases he was processing. One person was
4 doing it. One person can only do so much at a time, and, as
5 we discussed previously, our first goal was the complete
6 processing of the Headquarters King assassination file. That
7 took quite a bit of time and wasn't finished until the summer
8 of 1977.

9 As we went along in response to these letters, I
10 did meet with you two on a weekly basis, if not more frequent-
11 ly.

12 BY MR. LESAR:

13 Q You met with us on a weekly basis?

14 A I delivered documents to you almost every week. I
15 came to the building. I called you on the phone. I talked
16 to Mr. Weisberg on the phone on occasion.

17 MR. WEISBERG: Not often.

18 MR. COLE: Excuse me.

19 Now, this is still going to be, I trust, in the
20 form of a deposition rather than in a free-for-all discussion
21 between a number of people.

22 Mr. Lesar, I trust you will do your best to keep it
23 in that form.

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THE WITNESS: As we progressed in the processing and

In our oral response in the letter, we sat down, as I stated,
over and over to identify what you wanted in this case. We
tried to locate what you wanted.

BY MR. LESAR:

Q Let me ask you a question for the record--

A I would say we responded to this with a stipulation
in August of 1977.

Q Would you take a look at the date?

A It is March of 1977, but I have explained one

person was processing these for uniformity, consistency and
with some knowledge, although he is not a professional

researcher, and he was still processing the Headquarters

files. He can only do so much at one time. The volume in

this case is totaling over 50,000 pages.

Q What about Goble and Higgins?

A Goble and Higgins did not come into this matter

until May of 1977, when we tried to accommodate you to

expedite the processing. Again, Mr. Harp stayed with it and

tried to guide them and review their work for uniformity and

consistency.

Q Was there any--in response--did you make any

response to Mr. Weisberg's request that he be given a reason