

JAMES H. LESAR  
ATTORNEY AT LAW  
918 F STREET, N.W., ROOM 509  
WASHINGTON, D.C. 20004  
TELEPHONE (202) 393-1921

September 1, 1988

FREEDOM OF INFORMATION ACT APPEAL

Co-Director  
Office of Information and Privacy  
U.S. Department of Justice  
Washington, D.C. 20530

Re: Request of Harold Weisberg for  
Records of HSCA Investigation of  
Assassination of Dr. King;  
Your Ref: AG/86-RO505

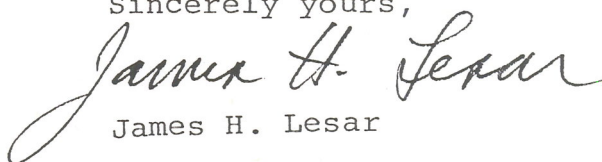
Dear Sir:

By letter dated August 26, 1988, Miriam M. Nisbet denied access by my client, Harold Weisberg, to five documents totalling seven pages on the ground that their disclosure is barred by the Speech or Debate Clause of the United States Constitution, Article I, §6. In support of her decision she cited Allen v. F.B.I., Civil Action No. 81-1206 (D.D.C. Nov. 24, 1982). The holding in Allen was subsequently nullified by Paisley v. C.I.A., 712 F.2d 687 (D.C.Cir. 1983), in which the United States Court of Appeals for the District of Columbia held that the Speech or Debate Clause did not bar access in an analogous Freedom of Information Act case.

Now that the D.C. Circuit has clarified the law on this point, the records withheld from Mr. Weisberg on this ground must be released.

Ms. Nisbet also cited Exemption 7(C) for the names of FBI special agents contained in one of the withheld documents. This claim is totally without merit. This is an historical case which is now 25 years old. The Warren Commission published hundreds if not thousands of FBI documents and never deleted the name of a single FBI agent. The FBI itself has released the names of hundreds of its agents who participated in the investigation. Moreover, the withholding of the names of FBI agents is totally inconsistent with the position of FBI Director J. Edgar Hoover that nothing should be withheld from FBI reports on the Kennedy assassination, even if they contained rumor, gossip and defamatory materials. See FBIHQ File No. 105-82555, serial 1476, and abstract thereof attached hereto.

Sincerely yours,

  
James H. Lesar