UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG
Route 8
Frederick, Maryland
Plaintiff

v.

Civil Action No. _____

U.S. DEPARTMENT OF JUSTICE
10th and Constitution Ave., N.W.
Washington, D. C.

U.S. DEPARTMENT OF STATE
Virginia Ave., N.W.
Washington, D. C.
Defendants

C O M P L A I N T

(Pursuant to Public Law 89-487; 5 U.S.C. 552)

1. Plaintiff brings this action under Public Law 89-487; 5 U.S.C. 552.

2. Plaintiff is a professional writer, living and working in Frederick County, near the city of Frederick, in the State of Maryland. Plaintiff has published a number of books dealing with political assassinations and currently is devoting his full time efforts to researching and writing additional books on this same subject.

3. The Defendants are the U.S. Department of Justice and U.S. Department of State which are charged with the duty of obtaining (on behalf of the proper authorities in the fifty States of the Union) the extradition to the United States under international law and treaty of persons from foreign countries

who are charged with having committed extraditable crimes within one of the fifty States of the Union.

4. On June 11, 1968, the Honorable Buford Ellington, Governor of Tennessee, formally requested of the U.S. Government that it obtain the extradition from the United Kingdom of James Earl Ray for the murder of Dr. Martin Luther King in Memphis, Tennessee, on April 4, 1968. Governor Ellington stated that the requested extradition came within the terms of the treaty existing between the United Kingdom and the United States, which was signed on December 27, 1931, and which entered into force on June 24, 1935 (47 Stat. 2122).

5. The State of Missouri made a similar application for extradition of the said James Earl Ray as an escaped prisoner and fugitive convicted of robbery.

6. Pursuant to these two requisitions, the Department of State, acting through the U.S. Ambassador to the United Kingdom, made a formal request of the British Secretary for Foreign Affairs on June 12, 1968, for the extradition of Ray. This request had attached to it an unknown number of supporting documents.

7. A public hearing on the requisition was held in the Bow Street Magistrate's Court in London on June 27, 1968, Magistrate Frank Milton presiding. At that hearing the United States was represented by Mr. David Calcutt, a British barrister.

8. At the hearing, in addition to several witnesses called to the stand, Mr. Calcutt presented to the Court on behalf of the United States an unspecified number of affidavits,

depositions, certifications, pictures, fingerprints, and other identifiable records in support of the requisition.

9. On July 2, 1968, James Earl Ray was ordered extradited to the State of Tennessee to stand trial in Shelby County for murder. Pursuant thereto, he arrived in Memphis, Tennessee, before dawn on July 19, 1968.

10. Subsequent to the extradition of Ray, the supporting documents and other records (referred to in Paragraph 8, above) were returned by the Magistrate's Court to the British Home Office, thence to the United States Embassy in London, thence to the defendant U.S. Department of State in Washington, and finally to the defendant U.S. Department of Justice in Washington.

11. By letter dated August 20, 1969 [Exh. A], a request was made to Attorney General John Mitchell on behalf of the Plaintiff for access, inter alia, to "all documents filed by the United States with the Court in England in June-July, 1968, in the extradition proceeding by which James Earl Ray, the convicted killer of Dr. Martin Luther King, was returned to this country. These proceedings were public, and in our view, all documents submitted on behalf of the United States constitute public records which should be made available to any person who desires to see them." Reference was made to P.L. 89-847, Section 3(c).

12. No written answer was received after a number of weeks. However, a telephone call was received in early October from Mr. Joseph Cella, Trial Attorney, Room 2229, Department of Justice. Mr. Cella said "we are working on Mr. Weisberg's request." As a result, a letter, dated October 9, 1969, was sent to Mr. Cella on behalf of Plaintiff; the letter [Exh. B] indicated a willingness to wait a while longer.

13. By letter, dated November 13, 1969 (Exh. C] Mr. Richard C. Kleindienst, Deputy Attorney General, refused Plaintiff's various requests. Following are the two paragraphs pertinent to documents at issue in this complaint:

> I regret that I must deny your request in all particulars. No documents in the files of the Department are identifiable as being copies of the documents transmitted to British authorities through diplomatic channels at the request of the States of Tennessee and Missouri and presented to the Bow Street Court by officials of the United Kingdom. Further such records pertaining to the extradition of James Earl Ray as may be in our possession are part of investigative files compiled for law enforcement purposes and, as such, are exempt from disclosures under the provisions of 5 U.S.C. 552(b) (7).
>
> I have also taken note of the statements in your letter of August 20, 1969, to the effect that, in your opinion, all documents submitted on behalf of the United States in the extradition proceedings constitute "public records" and that all the "papers" were prepared in the Department of Justice. Our refraining from making any comment respecting such statements should not be taken as acquiescence by the Department in your opinion and representation in this respect.

14. Another attempt to persuade the Department of Justice to make the records available was made in a letter dated November 26, 1969. [Exh. D].

15. The Department's reply of December 15, 1969 [Exh. E], again over the signature of the Deputy Attorney General, stated "we adhere to the views expressed in our prior communications."

16. As the Department of Justice had averred that it was unable to find the documents sought, a letter dated November 26, 1969 [Exh. F] was sent to the Secretary of State on behalf

of Plaintiff, asking if the Department of State "either in its files in Washington or London or elsewhere, have such documents or copies thereof, and will they be made available promptly to Mr. Weisberg per this request?"

17. On December 10, 1969, the Department of State replied [Exh. G] it had had the originals of the documents at one time but had returned them to the "originating agency," the Department of Justice. The Department of State neither confirmed nor denied whether it had retained copies of the documents in question.

18. In view of the regulations of the Department of Justice and in an excess of caution, another letter, dated February 2, 1970 ([Exh. H] was sent to the Attorney General in order that there would be no question of exhaustion of administrative remedies. At the time of filing of this complaint, no reply to this letter has been received.

19. The request remaining denied after exhaustion of administrative procedures, Plaintiff files this complaint pursuant to Public Law 89-487, further alleging that, pursuant to this law, the Court shall determine the matter de novo and the burden is on the agencies to sustain their refusal.

WHEREFORE, Plaintiff prays this honorable Court for the following relief: that Defendants be ordered to produce and copy or make available for copying the original or copies of all documents filed by the United States with the Bow Street Magistrate's Court in London, England, in June-July, 1968, in the extradition proceeding in which James Earl Ray was returned to

the United States to stand trial for the murder of Dr. Martin Luther King, and such other relief as this Court may deem just and equitable.

BERNARD FENSTERWALD, JR.
927 15th St., N.W.
Washington, D.C. 20005
Tel: 347-3919

Attorney for Plaintiff

Dated: _____