IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, Plaintiff,	)	
v.	)	Civil Action No. 718-70
U.S. DEPARTMENT OF JUSTICE, et al., Defendants.	)	

MOTION TO DISMISS

Defendants, by their undersigned attorneys, hereby move to dismiss this action. The ground for this motion is that this suit is now moot, the Attorney General having advised plaintiff's counsel that plaintiff will be given access to the papers sought herein. A copy of the Attorney General's letter to plaintiff's attorney, dated May 6, 1970, is attached hereto and made a part hereof. In further support of this motion the Court is respectfully referred to the points and authorities filed herewith.

Respectfully submitted,

WILLIAM D. RUCKELSHAUS
Assistant Attorney General

HARLAND F. LEATHERS

DAVID J. ANDERSON

Attorneys, Department of Justice
Attorneys for Defendants

JNM:WHR:TEK:SJL:sgc

Files
Mr. Kauper
Mr. Lockman
Mrs. Copeland

MAY 6 1970

Mr. Bernard Fensterwald, Jr.
Fensterwald, Bevan and Ohlhausen
Attorneys At Law
927 Fifteenth Street, N. W.
Washington, D. C. 20005

Dear Mr. Fensterwald:

This is in response to your letter of February 2, 1970, requesting my review of the denial by the Deputy Attorney General of your request under the Freedom of Information Act, 5 U.S.C. § 552, for access to official records of the Department of Justice. Although you requested access to several items which the Deputy declined to make available, you have appealed only his denial of the request for "[a]ll 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."

Whether or not the documents you seek are technically exempt under one or more of the provisions of § 552(b), I have determined that you shall be granted access to them. The exemptions do not require that records falling within them be withheld; they merely authorize the withholding of such records by exempting them from the Act's otherwise applicable compulsory disclosure requirements.

Sincerely,

John N. Mitchell

Attorney General

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, Plaintiff,	)	
v.	)	Civil Action No. 718-70
U.S. DEPARTMENT OF JUSTICE, et al., Defendants.	)	

POINTS AND AUTHORITIES IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS

Rule 12, Federal Rules of Civil Procedure; District of Columbia v. Barry, 367 F.2d 860 (D.C. Cir. 1967).

Respectfully submitted,

WILLIAM D. RUCKELSHAUS
Assistant Attorney General

HARLAND F. LEATHERS

DAVID J. ANDERSON

Attorneys, Department of Justice
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I have served copies of the defendants' Motion to Dismiss and points and authorities in support thereof this _____ day of May 1970 upon plaintiff by mailing a copy, postage prepaid, to its attorney:

Bernard Fensterwald, Jr., Esquire
927 - 15th Street, N.W.
Washington, D. C. 20005.

/s/ David G. Andersen

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG Route 8 Frederick, Maryland, Plaintiff, v. U.S. DEPARTMENT OF JUSTICE 10th & Constitution Avenue, N.W. Washington, D. C. and U.S. DEPARTMENT OF STATE Virginia Avenue, N.W. Washington, D. C., Defendants.	)	Civil Action No. 718-70

DEFENDANTS' OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Defendants, by their undersigned attorneys, hereby oppose plaintiff's motion for summary judgment herein. The ground for this opposition is that this action is now moot, since the Attorney General has advised plaintiff's attorney, by letter dated May 6, 1970, that plaintiff will be given access to the documents sought in this action. That letter states in pertinent part that "whether or not the documents you seek are technically exempt under one or more of the provisions of § 552(b), I have determined that you shall be granted access to them."

Respectfully submitted

WILLIAM D. RUCKELSHAUS
Assistant Attorney General

HARLAND F. LEATHERS

DAVID J. ANDERSON

Attorneys, Department of Justice
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Defendants' Opposition To Plaintiff's Motion for Summary Judgment this 5th day of May 1970 upon plaintiff by mailing a copy, postage prepaid, to its attorney:

Bernard Fensterwald, Jr., Esquire
927 - 15th Street, N.W.
Washington, D. C. 20005.

/s/ Edward L. Landsdale