UNITED STATES DISTRICT COURT
For the District of Columbia

Harold Weisberg
Route 8
Frederick, Maryland,
Plaintiff

v.

U. S. DEPARTMENT OF JUSTICE
10th and Constitution Avenue, NW
Washington, D. C.

U. S. DEPARTMENT OF STATE
Virginia Avenue, NW
Washington, D. C.
Defendants

Civil Action No. 718-70

PETITION TO SHOW CAUSE AND MOTION FOR RELIEF

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

2. Two provisions of subsection (c) are relevant to the Petition and the Motion:

> .... the district court ... shall have jurisdiction to enjoin the agency from withholding the agency records and to order the production of any agency records improperly withheld from the complainant ...
>
> In the event of non-compliance with the court's order, the district court may punish the responsible officers for contempt.

3. On August 12, 1970, this Honorable Court did issue such an order, directing compliance within a week. That order was not complied with within the time set, whereupon this Honorable Court signed a summary judgment in favor of Plaintiff on August 19, 1970. In Plaintiff's belief, there has not been full compliance to this day.

4. Plaintiff believes this to have been a contemptuous act, within the meaning of the law, and that perjury was committed as part of the contemptuous act.

5. Plaintiff also believes he was damaged, that it was Defendant's undeviating intent and purpose to damage Plaintiff, that the alleged contempt and perjury were but part of a long and unended series of illegal acts and improprieties, all in clear violation of the law and the intent of Congress, the purposes of which were to damage Plaintiff, to deny him his rights under the law, and to undermine a law Defendants find uncongenial.

6. Plaintiff represents himself in this Petition and Motion, being unable to afford counsel.

7. The Complaint was filed by a Member of the Bar, Mr. Bernard Fensterwald, Jr., without retainer, because of his special interest in the law. Mr. Fensterwald had been counsel for the Senate committee from which this law emanated. He is also interested in Plaintiff's current writing, which is on the political assassinations of recent years, especially that of President John F. Kennedy.

8. Plaintiff did not obtain counsel until after five months of unsuccessful efforts to get that to which he was clearly entitled under the law, five months of total silence from Defendants, in which no single one of Plaintiff's requests was responded to in any way, even acknowledged. Thereafter, counsel proceeded with patience and tolerance, not to burden this Honorable Court without need, but the result was no better than further stalling.

9. When this Honorable Court directed Defendants to comply with the Complaint, to make available to Plaintiff what had been withheld from him, Mr. Fensterwald, believing the matter closed with less of his time required than expected, agreed to devote this time to another similar Complaint by Plaintiff, since filed, Civil Action No. 2301-70.

10. Plaintiff asks this Honorable Court to take judicial note of the fact that, in the request for public information that is at issue in Civil Action No. 2301-70, Defendant United States Department of Justice has acknowledged it ignored Plaintiff's requests for four years.

11. Thus, and for other reasons, it can be seen that the contempt and perjury are not isolated things, are not unique and exceptional, but are part of a deliberate, systematic federal campaign to undermine and violate this law and to deny Plaintiff his rights under it.

12. So that this Honorable Court may better understand, Plaintiff makes the following explanation, begging the Court's indulgence for the time required and any unintended departure from normal practices.

13. Plaintiff also begs this Honorable Court to take note of the fact that in every single act and document, in every paper filed, without exception, Defendants were never truthful, to this Honorable Court or to Plaintiff, and of the fact that one purpose accomplished by these transgressions against truth were to impede, delay and otherwise interfere with Plaintiff's writing, which is critical of Defendant Department of Justice. Such conduct is, in itself, violative of the law, which specifies "prompt" replies to requests for public information. Indeed, upon signing the law, President Johnson said that this right, freedom of information, "is so vital that only the national security, not the desire of public officials or private citizens, should determine when it must be restricted." In his Foreword to his directive to all federal agencies on this law, entitled Attorney General's Memorandum of the Public Information Section of the Administrative Procedures Act, the Attorney General said that "this statute imposes on the executive branch an affirmative obligation to adopt new standards and practices for publication and availability of information. It leaves no doubt that disclosure is a transcendant goal, yielding only to such compelling considerations as those provided for in the exemptions of this act."

14. His successors are like the biblical maiden, whose brothers entrusted unto her the keeping of their vineyards, but her own vineyard did she not keep.

15. The federal government has kept close watch on Plaintiff and his writing and appearances. Defendant Department of Justice has yet to make even pro forma denial - after a year and a half - of alleged misconduct of and interference in the work of Plaintiff by its agents, and Plaintiff, unwilling to believe such things can be sanctioned in our society, has solicited such denial, after reporting what was reported to him.

16. Plaintiff's mail has been intercepted and interfered with, only one of the consequences of which was to prevent publication in England of Plaintiff's first book. There is reason to believe this continues to this day, as recently as this month.

17. All of those who participated in such unseemly acts are not sympathetic to such things, which are the hallmark of totalitarian, not free, societies. Thus, Plaintiff has in his possession copies of surveillance upon him - and not electrostatic but carbon copies thereof - of considerable volume.

18. Under the cited law, popularly known as the "Freedom of Information" law, Defendants are required to make available to Plaintiff and others all information for which they ask except what is clearly defined by Congress in the law and therein designated as "exemptions".

19. When the late Dr. Martin Luther King, Jr. was assassinated in Memphis, Tennessee, on which occasion at least one representative of Defendant Department of Justice was present and on the scene, said Defendant Department of Justice immediately entered the case and soon preempted the investigation thereof. This is but a single basis for federal intervention in such a murder, conspiracy to violate the civil rights act.

20. Simultaneous with its having taken over a matter solely the concern of the State of Tennessee, unless there was such a conspiracy, said Department of Justice insisted there was and had been no such conspiracy, which is the official federal posture in all recent political assassinations.

21. Despite this repeated official insistence that there had been no such conspiracy, said Defendant Department of Justice, in Birmingham, Alabama, obtained a knowingly spurious indictment charging precisely such a conspiracy, thereby cloaking its intrusion into the affairs of the State of Tennessee with a legal fig leaf.

22. Plaintiff, who was writing a book on this assassination, was refused access to the evidence in the case by local authorities, who, with the participation of Defendant Department of Justice, had concocted and consummated an invidious "deal" with defense counsel, to the end that there be no real trial, there being instead, as part of this "deal", what Plaintiff and others term a "minitrial", at which there was no more than the official promise of alleged proof that would have been presented had there been a real trial. Plaintiff was told nobody would ever see this suppressed evidence. For all practical purposes, all evidence was thus suppressed.

23. Thereafter, Plaintiff, in order to complete his investigation and his book, sought certain of the evidence in Defendants' possession. Plaintiff was careful to avoid asking for that which, had the official investigation of this crime been for federal law-enforcement purposes (which it was not, albeit false federal jurisdiction had been contrived by deception practiced on said Birmingham, Alabama, grand jury), could have been claimed to fall within one of the exemptions of 5 U.S.C. 552.

24. Defendants obtained the extradition of the accused assassin, James Earl Ray, by presenting certain affidavit evidence to the Bow Street Magistrate's Court, in London, England. This court evidence was prepared and certified by the Defendant Department of Justice and further certified by Defendant Department of State, as required by law, both defendants keeping copies of what they prepared for this use in court. Some of this evidence was certified by this Honorable Court, as Plaintiff was later to learn.

25. Plaintiff respectfully notes that he at no time requested of Defendants anything that reasonably and honestly can be described as an "investigative file", whether or not for "law-enforcement purposes", among the tests of the exemption.

26. Plaintiff's first request, dated March 31, 1969, was for "the evidence, including affidavits, entered into evidence in the Ray extradition hearing." (Emphasis added.) Plaintiff thus asked for only that which had been presented in court, the publicly-used evidence of the public trial of an American citizen, which had been attended by the public and reported by the press.

27. This and subsequent requests were completely ignored by Defendant Department of Justice, which never once responded to these written requests in any way, verbally or in writing.

28. Plaintiff renewed his request in letters of April 10, 1969; April 23, 1969 (where Plaintiff again emphasized that he sought only "the evidence presented in court in England"); and June 2, 1969.

29. Such a long delay in responding to - ignoring - the proper requests of a writer is seriously damaging to his work. It constitutes federal interference in his writing, research and investigation. Delay alone is violative of the letter and the spirit of the cited law, as Defendant Department of Justice indicates in its own instructions on promulgation of this said law.

30. When his requests were ignored for so long, on June 2, 1969, Plaintiff asked for the instructions and forms required of him for invocation of 5 U.S.C. 552. Without these said instructions and forms, not only may Plaintiff not make proper request under the law, but his request may be rejected by the courts on the basis of Plaintiff's not having exhausted his administrative remedies.

31. Ultimately, Plaintiff, who lives 50 miles distant, had to go to the Department of Justice to obtain forms and instructions. This is but one of a large number of such trips unnecessarily imposed upon Plaintiff by Defendant's actions.

32. After agreeing to represent Plaintiff, Mr. Fensterwald wrote the Attorney General under date of August 20, 1969, informing the Attorney General that he represented Plaintiff, that we desired to avoid cluttering this Honorable Court with unnecessary litigation, of Plaintiff's many unanswered requests, of the fact that what Plaintiff sought was in Defendants' possession and was Plaintiff's right under Section 3 (c) of the said law, which specifies "prompt access", describing again, fully and completely, that which Plaintiff sought - even including citation of proof of Defendants' possession of what Plaintiff sought.

33. To counsel's letter also there was no response until, by one of a series of remarkable "coincidences", Plaintiff and counsel discussed what they should do and decided to proceed with the filing of this instant action. Thereupon, for all the world as though there were efficient electronic eavesdropping, counsel received a telephone call from a Mr. Joseph Cella, of the Criminal Division of the said Department of Justice. Mr. Cella said counsel's letter of August 20, 1969, had been referred to him and response would soon be made.

34. When the promised response was not made, Plaintiff's counsel wrote Mr. Cella under date of October 9, 1969, reminding him of this and other unanswered requests made by Plaintiff.

35. Again there was no response, and again, as soon as Plaintiff and his counsel discussed filing this action, Mr. Cella again telephoned counsel, in a dissembling manner, telling counsel that, if he would hold off on filing the suit for a short period of time, we might find it unnecessary, said Mr. Cella having drafted Defendant's response.

36. Finally, Mr. Fensterwald did receive a letter of an entirely different character and content. It was signed by the Deputy Attorney General, Mr. Richard Kleindienst, dated November 13, 1969. In a correspondence notorious for its undeviating resort to falsehood and deception, this letter is conspicuous for what must in honesty be described as perfidy and unbecoming trickery. It and the related correspondence referred to are attached to the Complaint in this instant case, Civil Action No. 718-70. This letter said:

> A. "No documents in the files of the Department are identifiable as" those sought by Plaintiff; and
>
> B. "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 disclosure under the provisions of 5 U.S.C. 552 (b)(7).

37. Relatively minor, but, consistently, in <u>every</u> reference by the Department, <u>without exception</u>, is the misquotation accomplished by incomplete quotation of the exemption, part of an effort to pretend that all the files the Department wants to denominate as "investigative" fall within the exemption. The rest of that proviso, also consistently - also <u>always</u> omitted - reads:

> ... except to the extent available by law to a private party other than an agency.

This file would be available, even if it were what it is not, an "investigative" file, to "a private party other than an agency".

38. Both statements quoted from the letter signed by the Deputy Attorney General are false and were known to Defendant Department of Justice to be false at the time the letter was prepared, signed and mailed.

39. Not only did the Department have the particular file Plaintiff sought, as will become distressingly clear, but, as further dissembling brought to light, it also had duplicates of this file.

40. The file is not an investigative file. It never was an investigative file. It is a file prepared for the purpose for which it was used, to accomplish the extradition of the accused, by being presented in open court, precisely what was done with it.

41. Even more incomprehensible, considering that the signature of no less a personage than the Deputy Attorney General of the United States was to be signed to this letter, is a childish device that would not credit the imagination or intelligence of a pre-puberty cookie-jar raider. Where Plaintiff asked for a file of affidavits presented by the Government of the United States, at the end of the long and complicated sentence beginning with the false statement that the Department possessed no such file, the words "United Kingdom" were substituted, in casual but deliberate misquotation of Plaintiff's letter.

42. That this is no accidental error, no unintended misquotation, is established by Plaintiff's unsuccessful efforts of November 26, 1969, to get Defendant Department of Justice to reconsider and correct, to recognize that, so to speak, its hand was caught in the cookie jar. This letter and the response of December 15, 1969, reiterating the "error" are also attached to the Copplaint.

43. Moreover, Defendant Department of Justice's files contain a similar letter to another who, at a later date, sought to duplicate Plaintiff's efforts. In it, the identical device, the shabbiness of which is not diminished by age, is repeated in the identical misquotation, "United Kingdom". Plaintiff has a copy of this letter. It has the same signatory.

44. Under date of February 2, 1970, Plaintiff appealed to the Attorney General, as required by departmental regulations. Plaintiff received no reply, not even acknowledgment. In Plaintiff's belief, this makes a mockery of the law and the processes of Justice.

45. Meanwhile, knowing that the Department of State also had a set of the sought files, Plaintiff requested them of the Secretary of State. Under date of December 10, 1969, in a letter ignoring the fact that the Department of State has a set of these files, the Deputy Legal Adviser replied (also attached to the Complaint).

46. The Department of State acknowledged these things:

A. The file sought is a public record, "part of the records of that court" to which "submitted";

B. "Mr. Ray (that is, the man accused of the crime) himself made a similar request," wherefore "the Department was able to have the affidavits returned to the United States by British authorities" (hardly necessary, considering that electrostatic copiers are common in London, as in Washington, and considering also the number of duplicates of this file that remained in Washington);

C. After the return to the Government of the United States of the only official set of copies of these documents not already in its possession, "the Deputy Attorney General advised ... investigative files of his Department and exempt from disclosure ..."

D. Therefore, the confiscated court file from London, the "non-existing" one sought by Plaintiff, was returned to "the originating agency" (this paragraph commences by saying, "the affidavits were originated by the Department of Justice").

45. Thus, there can be no doubt as, indeed, there never had been, that when the Defendant Department of Justice told Plaintiff it did not have any such files, it had its own copies, those of the British court, and whatever other copies it may have obtained by whatever means from whatever other sources.

46. After Plaintiff filed Civil Action No. 718-70 and just as the case was to be heard, someone in the Department of Justice suddenly recalled Plaintiff's undnswered, ignored, three-month-old appeal. A letter was drafted in the Civil Division for the Attorney General's signature. In it, even the most perceptive reader will find no reference to Plaintiff's existence or to that of the civil action he filed. Suddenly, out of the goodness of an overflowing heart, the said Attorney General "determined that you (the lawyer who did not seek them, that is) shall be granted access to" the files his Deputy twice said did not exist.

47. This letter did not say when, where, how or through whom Plaintiff could have access to what the generous Attorney General had "granted". nor did any other. Nor did repeated telephone inquiry elicit response. Plaintiff finally did get to see the said non-existent files by virtually camping in the Department of Justice, beginning in the office of its fount of magnamimity.

48. Upon completion of his examination of the file he was given, Plaintiff presented a list of those pages of which he wanted copies. Five, photographs in the files, were to be photographs, the remainder Xeroxes.

49. Plaintiff's efforts to pay in advance for the cost of this copying were unsuccessful because, apparently, the Civil Division of the Department of Justice does not know its own rates and is incapable of reading and comprehending those prescribed on its own form.

50. After some delay, Plaintiff was telephoned and told all his copies were ready. The copies were handed to Plaintiff by the Special Assistant to the Deputy Attorney General, who led Plaintiff to belief everything requested was included and to whom Plaintiff made payment. Plaintiff reduced his order for pictures to a single

one when he was told that pictures involved still further and apparently interminable delays, at least three weeks after the time of delivery of the Xeroxes, then already long delayed and more than a year after Plaintiff made request.

51. However, aside from this picture, two other things requested were missing. These are the envelope in which the file was contained, identifying it and containing other and significant notations, and a statement from the person in charge of the file stating that Plaintiff had been given access to the entire file. Obviously, Plaintiff had no way of knowing this. Neither did the lawyers of a Division other than those in which the files are kept. (The law imposes an affirmative burden of proof upon Defendants. The Attorney General's Memorandum (page 28), quoting the House Report, says "a private citizen" has no way of knowing and thus cannot prove whether there has been a withholding.)

52. Now, it happens that these things, still denied Plaintiff after the Attorney General's letter saying Plaintiff would be given access to everything, Plaintiff knew he would not get because Assistant Attorney General Carl Eardley, in the presence of Plaintiff's counsel, told Plaintiff right out that he would not. This assumes more interest with Mr. Eardley's letters, to be quoted, in which he plays a variation on the theme by the Deputy Attorney General and denies existence of what Plaintiff placed in his hand and which he thereupon told Plaintiff he would not permit Plaintiff to have.

53. First, however, in response to Plaintiff's written request, instead of a copy of this file envelope (soon to be alleged to be non-existent), Defendant Department of Justice caused the said envelope to be Xeroxed in two pieces, each piece then being cut up like a jig-saw puzzle of which only two small pieces were then taped together. This was sent to Plaintiff under the false representation that it was a true and complete copy.

54. Plaintiff sent a photocopy of this gross misrepresentation and amateurish effort at deception to the Deputy Attorney General on June 15, 1970, asking for the entire cover, that which had been excised being essential to Plaintiff's writing, albeit the source of possible embarrassment to Defendants.

55. Plaintiff still has this pieced-together fraud in the original envelope in which it was sent him. There was no covering letter, the Defendant Department of Justice by this time regarding Plaintiff as one of its own and communicating with him by means of "internal" routing slips.

56. Mr. Eardley replied to Plaintiff's first complaint about not having been given all Plaintiff requested in a June 26 letter to Plaintiff's counsel. Mr. Eardley said of the file envelope that "the papers examined by Mr. Weisberg were in a plain unmarked file folder. We are therefore unaware of what file folder Mr. Weisberg has in mind." This, notwithstanding the fact that Plaintiff had placed in said Eardley's hand the real file folder, a pleated manila one containing stamped and other notations, the one which was later copied, the copy then being cut up and edited before being pieced together and small parts thereof mailed to Plaintiff.

57. When Plaintiff's counsel corrected Mr. Eardley, Mr. Eardley replied under date of July 30, this time having found "the only accordion file cover", of which he enclosed an illegible copy. It was not the right one, but it establishes Defendant's possession of not fewer than three sets of this file Defendant claimed not to have.

58. In this letter Mr. Eardley also managed to give Plaintiff's counsel the wrong date for the scheduled hearing. Had Plaintiff not noticed this, Plaintiff would have been in the position of defaulting.

59. On August 12, this Honorable Court directed the Defendant Department of Justice to provide Plaintiff within a week with what it had withheld. David Anderson represented Defendants. This is the only time he and Plaintiff ever met.

60. Prior to the opening of court that morning, in the presence of witnesses, Mr. Anderson showed Plaintiff a print of the withheld picture and told Plaintiff he had been given it only the night before by the office of the Deputy Attorney General.

61. Mr. Anderson also showed Plaintiff a doctored, Xerox copy of the right file cover. Plaintiff showed Mr. Anderson that this copy had been doctored. Mr. Anderson refused to give Plaintiff either the picture or the file cover, with the masked notations added, also in the presence of witnesses.

62. On the second day after this Honorable Court order of compliance within a week, Mr. Anderson filed an affidavit in support of one of a series of premature and inaccurate motions to dismiss.

63. Knowing full well that he had not done it, knowing also that this Court would not have ordered to be done what had already been done, and knowing further that, had such a thing happened, he would have noted it in the record, Mr. Anderson swore that "a copy of said file cover was delivered to plaintiff on August 12, 1970".

64. Other statements in this affidavit are also false. For example, but not the only example, those attachments said to be "true copies" are not, the masking being visible to the unaided, unskilled eye. The only denial of information was to this Honorable Court, Plaintiff already having an unaltered copy. Why the Defendant Department of Justice felt it had to withhold information from this Honorable Court and then swear that what it gave this Honorable Court was "true" copies is a speculation in which Plaintiff does not engage. The facts, however, are obvious.

65. With this Honorable Court having issued an order, this false swearing to compliance with that order is, in Plaintiff's view, most material and therefore perjurious. Plaintiff believes it is also contemptuous under 5 U.S.C. 552 subsection (c).

66. Not only did the Defendant not comply with this order, but the Defendant also did not even appear before this Honorable Court with any explanation. Accordingly, with Defendant not present, after the expiration of the week prescribed in the order, namely, on August 19, this Honorable Court signed a summary judgment.

67. Thereafter, Plaintiff's counsel received from Carl Eardley a

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covering letter, dated three days after the Anderson false swearing, and that which Anderson swore he had "delivered". This letter, rather than saying Anderson had delivered it, says, "We are forwarding copies of the file cover." (emphasis added)

68. This letter also discloses that the photograph withheld had not yet been copied. As this Honorable Court noted, printing the existing negative requires but moments.

69. Upon issuance of the summary judgment, there was some consternation within the Defendant's offices. Its official spokesman went so far as to describe the action of this Honorable Court as "bullshit" to a reporter. And then, in great haste, the photograph was copied and sent to Plaintiff without any covering letter (Plaintiff remaining "internal", an unsigned, undated "Internal Routing" slip was enclosed). Plaintiff, having had long experience with offidal devices for delay and frustration of proper inquiry and of the law, took the precaution of going to his post office daily so that the post office could establish the date of delivery of the said picture. That is not within the week ordered, which expired August 18, but, with all the great rush, August 21.

70. Having enjoyed the flesh of delay, the Defendant also lusted for the taste of the blood of vengeance. This it got by means of studied and deliberate technical imperfections in making a copy of the said suppressed photograph. First, instead of making a print from the negative, which Defendant has, having made many prints therefrom, Defendant went to the extra trouble and expense - and delay - of photographing the photograph from the file. As a consequence:

A. The resultant print is indistinct where it need not be - and it is evidence, which should be as clear as possible;

B. It has a corner hidden by the folding-over of the adjacent page;

C. It was improperly dried, in the rushed processing, thus being needlessly blotched (unless belated desire to make it appear that the order of this Honorable Court was being observed can be described as "need");

D. And all the lint and dust, all the fingerprints, no doubt including those of Plaintiff, are faithfully reproduced, also tending to make the contents less visible.

71. When Plaintiff, by this time not represented by counsel, wrote and asked for a clear print, made from the negative, the Deputy Attorney General wrote Plaintiff's former counsel to ask that, as he put it, with the case still in litigation, Plaintiff address him only through counsel. Anxious to accommodate the Defendants and to get the matter cleared up once and for all, Plaintiff accommodated Defendant, but to this day there has not been response from the Deputy Attorney General to Plaintiff's letter sent through former counsel. There apparently is no subterfuge to which Defendant will not stoop.

72. Plaintiff does now, have a copy of the file cover; albeit less clear by far than is possible and not really suitable for Plaintiff's purposes.

73. Plaintiff does not have the complete picture, nor does he have a clear picture (and assures this Honorable Court the built-in unclarity serves the purposes of suppression of evidence, is not just whimsy or incompetence) made from the negative; and does not have the explanatory legend on the back of the picture.

74. To this day, Plaintiff has never received any meaningful or acceptable assurance that he has been given access to the entire file, Defendant having without deviation refused to have any competent person with first-hand knowledge make such a statement. The lawyers in the Civil Division, where neither this file nor any of the duplicates reside, have no way of knowing whether Plaintiff was given the entire file. Plaintiff submits it is no problem to have the custodian of the file write such an assurance. Plaintiff likewise submits that the persistent refusal of Defendants to permit any competent person with the requisite knowledge to make such a statement at the very least leads to the suspicion that Plaintiff was not, in fact, given access to the entire file.

75. Moreover, when the lawyer who provided this "assurance" also provided three different and contradictory stories about the single file, each proving, if anything, that the others were false, there would appear to be no reason to accept any assurance from him.

76. Outraged that this Honorable Court and the processes of justice would be imposed upon as Plaintiff had been, the incomplete record here set forth disclosing that no single truthful letter had ever been written by Defendants in this matter, some of the false statements being of an inconceivable nature, Plaintiff protested to the Attorney General, especially about what Plaintiff believes to have been contemptuous behavior and perjury.

77. Under date of September 14, 1970, Mr. William D. Ruckelshaus, then in charge of the Civil Division, since promoted to pollution control, made non-responsive rejoinder, to Plaintiff's former counsel, to two of Plaintiff's letters of protest, to the Attorney General and to his Deputy. There is no denial of contemptuous conduct or intent, no denial of false swearing or perjury. Instead, there is the suggestion that, if Plaintiff has "any further complaints or demands, I can only suggest that" they be taken to this Honorable Court.

78. Plaintiff hereby accommodates Defendant, as he has always sought to do, despite Defendant's record in this and related matters.

WHEREFORE,

Plaintiff prays this Honorable Court to order Defendant:

To show cause why they should not be held in contempt for filing to obey promptly, properly and completely the August 12 order of this Honorable Court and its summary judgment of August 19, as set forth above, and for what Plaintiff believes is perjury;

To comply, finally and completely, with the said order and the said Summary Judgment;

To cease and desist from any further falsifications, misrepre-

sentations, subterfuges, delaying devices and other interferences with Plaintiff's rights as a citizen and as a writer, and to comply fully, honorably, honestly and promptly with the letter and the spirit of the law, 5 U.S.C. 552, in this and related matters;

To cease and desist from any further impositions upon the trust of the courts, as embodied in the endless filing of premature, spurious and false motions, pleadings and assorted papers, including falsehood under oath (the cited case not being the only one to date), such improprieties not only debasing the courts and the laws, but further denying Plaintiff his rights and putting him to intolerable and wrongful costs and trouble and wasting much time for him.

Plaintiff is a man without means. In this country, rights and wealth should bear no relationship to each other, especially under the law. Possession of wealth should not be a prerequisite of justice. Defendants have engaged upon a systematic campaign to deny Plaintiff his rights and in so doing further to impoverish him, which in itself is an interference with his first-amendment rights. The costs to which Plaintiff has been put by Defendant's open, flagrant and deliberate evasions and violations of the law are, to Plaintiff, considerable and burdensome.

Plaintiff is without means of obtaining counsel to seek to recover these costs and restitution for the damage inflicted upon him by Defendant's illegal and otherwise reprehensible conduct.

However, if government can, with impunity, so flagratly violate the law concerned with what is so basic in a free society, freedom of information, then the law is a nullity, Congress sits, deliberates and enacts laws in vain, the people elect their representatives to no purpose, and the entire structure of society is in jeopardy.

As Plaintiff, a layman, reads this law, 5 U.S.C. 552, he sees no specific provision designed for the punishment of such deliberate, repeated and contemptuous offence. It does not seem likely that the Congress anticipated such official misbehavior from the executive branch. Thus, unless the district courts will act, the law is a futility, a fraud and a delusion. Plaintiff does not believe this is the desire of the courts any more than it was of the Congress in enacting this legislation.

Permissiveness in the face of federal crime is more dangerous, more subversive, than permissiveness in the face of common crime. Lest the Lord watch the city, the watchman waketh in vain. Law and order, like charity, should begin at home. That agency of government entrusted with the safe-keeping of the law and its enforcement, with the protection and upholding of the rights of citizens, ought not itself cut the corners of or violate the law and deny citizens their rights. Government should do more than prate law and order; it should practice it, setting a proper example for the people, especially those just entering upon adulthood and its responsibilities.

Plaintiff suggests to this Honorable Court that subsection (c) of 5 U.S.C. 552 may provide the means by which proper punishment can be assessed against Defendant and a means by which Defendant may

be compelled to restore the costs and damages their illegal conduct has imposed upon Plaintiff. The pertinent section reads, "In the event of non-compliance with the court's order, the district court may punish the responsible officers for contempt."

How this will be done by the courts, what the punishment will be, is not specified. Plaintiff holds this to mean that the district courts may, therefore, impose whatever punishment of whatever form not inconsistent with other law as the courts may deem appropriate and just. Plaintiff believes that, where violation of the law, especially a law of such purposes and intents as the instant law, needlessly and wrongfully imposes costs and damages upon an injured Plaintiff, without punishment to compel the offenders to make good the costs and damages their violations of the law have caused, there is no effective deterrent to continued and persisting violations, particularly when government officials have something to hide or spleen to vent.

In this instant case, Defendant did not comply with the order of this Honorable Court by not complying fully or within the time stipulated by the Honorable Court.

Defendants also have not fully complied with the Summary Judgment of this Honorable Court, having failed to this day, more than a year and a half after first and proper request, more than a half year after the Attorney General's promise, and three months after the Summary Judgment, to supply Plaintiff with what is set forth above.

Respectfully submitted,

Harold Weisberg, pro se
Route 8, Frederick, Md. 21701
Tel: 301/473-8186

CERTIFICATE OF SERVICE

I hereby certify that service of this Petition and Motion has been made upon the Department of Justice by mailing two copies this 16th day of November 1970.

Harold Weisberg

11/15/70

Dear Miss Moren,

Persuant to our recent correspondent and your very helpful suggestions, I will be filing, tomorrow, a Petition and a Motion. I am sending two copies to the Department of Justice and will ask the clerk of the court what else is proper or required.I will, of course, also have copies to be filed with the case, Civil Action No. 718-70.

I regret the length because I know the Judge must have more than enough to read. However, I felt I should be specific and detailed so that I could inform him fully and to be fair to the Department of Justice, so they will know exactly what I allege and why.

Partly because of the length and partly because of the cost, I have not attached the letters quoted. Should this be desired, of course I will do that. Or, should the judge want any of them, to satisfy himself that I have represented them fairly and not out of context.

Again, I do thank you for your kindness. I hope my lack of knowledges of such matters has not led me into any serious deviation from custom.

Sincerely,

Harold Weisberg