

August 20, 1970

Honorable John N. Mitchell  
Attorney General of the United States  
Washington, D. C.

Dear Mr. Mitchell:

Were I to swear falsely under oath or to deceive, misrepresent and attempt to misinform or mislead a judge in federal court, your department could and would prosecute me. Are these things no less reprehensible, is perjury no less a crime, when committed by attorneys for your department?

On three different occasions, your department has filed motions claiming Civil Action No. 713-70 is moot because, in the words of the most recent one, filed last Friday in response to an order issued by Chief Judge Edward M. Curran of the Federal District Court for the District of Columbia, "plaintiff has been given access to the papers requested in this public information suit and therefore this case is moot". Now, under this law, I am entitled to and asked and paid for copies of items in this file which, as of this writing, despite the direct order of Judge Curran, have not been given me. Nor does such a case become moot on the mere promise of the showing of documents to a plaintiff.

Appended to this motion were several documents. One is the affidavit of your attorney, David J. Anderson. Paragraph 2 concludes with reference to your May 6, 1970, letter, "A true copy of this letter is attached hereto and is Exhibit 1 and made part hereof."

Exhibit 1 is not a "true copy". It is an edited copy, the editing being accomplished by masking that is visible in the copying. Is not the Chief Judge of the Federal District Court for the District of Columbia entitled to the intelligence removed from your copy of this letter, especially when, under oath, it is described to him as "a true copy"? If this alteration has been performed on all departmental copies of this letter, I will be happy to supply what has been removed. (Exhibit 3, also described as "a true copy", is edited in the same fashion.)

Paragraph 4 is designed to misrepresent and to deceive. It states that I did two things for the first time in a letter of June 2, "wrote to an official of the Department requesting notification that he (I) had been given access to all the papers involved in this action and further requested to see the file cover in which the documents had been kept".

I did not, then or ever, just "request" to "see" this file cover.

Mr. Mitchell - 2

What that letter actually said is that I had earlier supplied your department with a list of the papers from that file I had requested and paid for and had not been given. The unnamed official is the assistant to the Deputy Attorney General, who is the official who had delivered the copies to me and to whom I had given payment. That paragraph actually reads,

On checking these papers against the list, I find the first and last items missing. The first is the file cover, the last a simple letter informing me that, in fact, I have been given access to the entire file that is the subject of this action.

This deliberate misrepresentation was also made by Mr. Anderson, to Judge Curran, on August 12, when Mr. Anderson represented these as new and additional requests made by me, whereas they are the initial requests, delivered in writing when I examined the file, in May, to Deputy Assistant Attorney General Carl Hardley. Despite his and other subsequent false representations, Mr. Hardley, then and there, in the presence of my attorney, told me he would deny me these two items, which is quite contrary to the misrepresentation in this affidavit, the notion of which it is part, and to his own letters, which, to his knowledge, contain such gross falsehoods they cannot be accidental and, in fact, are independently established as falsehoods by other of his letters alone.

Paragraph 7 begins, "On August 11, 1970, affiant advised plaintiff's attorney that a copy of said file cover had been located and would be supplied to plaintiff." It is a misrepresentation and a deception to allege that no such file cover or copy of such file cover had been "located" earlier. Plaintiff placed the file cover itself in the hands of Carl Hardley when returning the file to him. Prior to August 11, 1970, the department had cut off most of a Xerox of this identical file cover, taped the remains together with Scotch tape, and sent it to me, misrepresented as the entire thing. Repeatedly, the department made other attempts to deceive the Court and me about this file cover, including representation that it does not exist.

The remainder of paragraph 7 is, in my opinion, openly perjurious and intended to deceive the Court, which had just ordered that what it falsely alleges was done be done. Had it been done, it is obvious Mr. Anderson would have informed Judge Curran that it had been done. This sentence reads, "A copy of said file cover was delivered to plaintiff on August 12, 1970."

I note the one truthful thing in this sentence, its failure to describe that copy as a "true" copy, for it was not.

It was not delivered to me. It was shown to me and was taken with him by Mr. Anderson. He did not dare "deliver" it, nor did he dare give it to the judge to give me, for he knew it was an unfaithful copy, the unfaithfulness being of a non-accidental character, given the character of the Xeroxing process, resulting in one of the entries being rendered entirely illegible.



Mr. Mitchell - 3

The perjurious nature of this affidavit is further disclosed by Carl Erdley's letter of August 17, 1970, which is subsequent to the date of the alleged August 11 "delivery" and to that of the August 14 affidavit. This letter, which is otherwise false in its own right, in an effort to disguise this perjury, begins, "Pursuant to your discussion with David J. Anderson of this office, we are forwarding copies of the file cover which you requested." Had this letter been written under oath, it also would have been perjurious, for on what is directly involved and is most material it is false. It states, "You will recall that the blurred portions were also blurred on the original." The blurred portion, as the most casual examination will disclose, is not blurred on the original.

If not perjurious, Paragraph 3 is clearly designed to misrepresent and to deceive the Court. It begins, "In the August 11 conversation between affiant and plaintiff's attorney, the latter indicated that plaintiff desired a copy of one of the photographs which were among the documents referred to in paragraphs 2 and 3 above." It was not in this alleged conversation of August 11 but in the written request I made in May that this photograph was requested. At that time I requested other photographs also. When I was, two weeks later, informed that the supplying of these photographs would require an additional three weeks, I reduced this request for photographs to the single one. This is amply recorded in correspondence not supplied to the court by you and is reflected in the list of those things of which I requested copies.

Here again the misrepresentation was also perpetrated in court, to the judge's face, when Mr. Anderson told him that this request and that for the cover of the file were made later by me.

The intent to deceive never ended. Here are more examples:

In Mr. Erdley's June 26 letter, he says of this file cover, the very one I personally showed him in his secretary's office, the very one he then said he would not copy and provide, "... the papers examined by Mr. Weisberg were contained in a plain unmarked file folder. We are therefore unaware of what file folder Mr. Weisberg has in mind."

But under date of July 30, Mr. Erdley wrote, "I am enclosing a copy of the only accordion file cover which we have been able to locate ...", the one he held in his hand in May.

Paragraph 5 does not accurately reflect Mr. Erdley's letter of June 26, 1970, to which it refers as "advising him (meaning my attorney) that plaintiff had been given access to all documents which were the subject of this action". What that letter actually says is less, only what, with this history of deception, deliberate falsehood and misrepresentation, is unacceptable. Mr. Erdley wrote, "I have been assured by individuals in this department who have examined our file on James Earl Ray that Mr. Weisberg has been given access to all the papers which he requested in his complaint."



Mr. Mitchell - 4

What I requested is precisely what Mr. Eardley had told me would not be provided and was not provided, in response to my written May request or Judge Curran's August 12 order. In May, I also asked Mr. Eardley that, since he had no personal knowledge, this letter be written by whichever person has custody of the file in question. Reference by Mr. Eardley to "file" in the singular when the department has more than a single file (although it began by denying it had any), especially with the history of inaccuracy that taints every communication, particularly those of Mr. Eardley himself, the "accuracy" of his June 26 letter is, at best, meaningless. My dissatisfaction is not diminished by its evasiveness nor by his earlier statement that this proper request would be refused.

Moreover, I believe your department is in contempt of court. On August 12, Judge Curran ordered that what had been withheld from me be delivered within one week. With respect to the photograph, the copying of which the judge said would take but minutes, Mr. Anderson told the judge it had just been given Mr. Anderson the previous afternoon by the Deputy Attorney General. Not only was it and the true and legible copy of the file cover not delivered to me within this time, but the intent to be in contempt is amply and openly recorded in the conclusion of Mr. Eardley's letter of August 17:

We have delivered the photograph which Mr. Weisburg (sic) requested to the Deputy Attorney General's office to have it reproduced. It will be forwarded to you shortly.

Thus, it is clear that the department is unconcerned by the order of Judge Curran, which was that this be accomplished promptly, in any event, within one week. The shuffling of the photograph is but another device to stall. The letter was not delivered until after one week had passed.

In addition, if this language is otherwise accurate, it represents less than I asked for and am entitled to. If the Department is going to make a copy of whatever version of this photograph it elects, and there are several different copies in this one file alone, it will be making a copy that, whether or not by intent, will be less clear than possible. The department has the negative from which this photograph was printed. The needless making of a negative from the print will reduce clarity. I would prefer and I expected that the print I paid for be made directly from the original negative, which the department has and which is normal.

Now, were I in contempt, your department would take action against me and I would be punished. How one punishes a government department I do not know. I do know that punishment can be administered to individuals, for contempt as for perjury. I believe it is no less than proper to ask and expect that the Department of Justice see to it that justice is done, that those guilty of perjury and contempt, even if its employees, be treated like all other citizens and also be punished. If this is not done, is there "equal justice under law"? Is there to be impunity for crime by the department and its officials?

"Law and order", like charity, should begin at home.

Mr. Mitchell -,5

Your department has violated the law for a year and a half, by whatever expedient appealed to it, beginning with the ignoring of my proper requests, followed by the most blatant lies, now culminating in open contempt of a judge and his order. One of the consequences has been to put me to considerable cost, in actual out-of-pocket expenses, in wasted time, and in the delaying of my writing. Aside from frustrating the law, which I believe cannot be other than purposeful, these things are and were intended. They are improper and wrong. I believe the government should hold itself to account for these measurable damages.

This suit was caused by these wrongful things by your department. So you can better understand, Mr. Richard Kleindienst caused it initially by false statements and misrepresentations, first, that you had no such papers when you, in fact, had duplicate sets; then by insisting these were required to be withheld, under the misquoted law. Next, you, personally, failed to respond to the prescribed appeal, which I had already delayed in order to give Mr. Kleindienst a chance to reconsider the inconceivable things he had committed to paper. Long after this appeal was moot, you ruled that I would be given access to what the law requires be made available to me. After you so ruled, your department stalled by one self-demeaning device after another, and ultimately still denied me three parts of my request.

My unnecessary travels to Washington required by these acts total not less than about 1800 miles of driving and about \$55.00 in parking charges. Aside from the time required by so much unnecessary letter writing, I estimate that not fewer than 18 days were so wasted for me. I think it only fair that you return these costs to me, mileage at the going departmental rate and the days at the rates prevailing on the Washington Post for one of my experience. Determination of the damage by delaying my book is of a more subjective nature. To this I believe it is only fair that reasonable counsel fees be added.

The law under which this action is brought has no provision for the repayment of damages. Others, I have no doubt, do. Rather than consider invoking them at this point, I suggest to you that a proper gesture and a means of beginning to restore integrity to your department in this matter would be seeing to it that these damages are alleviated.

Yours truly,

Harold Weisberg



September 21, 1970

The Honorable Edward M. Curren  
Judge of the U.S. District Court  
for the District of Columbia  
Washington, D. C.

Dear Judge Curren:

Under date of September 14, 1970, William D. Ruckelshaus, Assistant Attorney General of the Department of Justice, wrote what amounts, among other things, to the encouragement that I register a formal complaint with you over the perjury committed by his assistant, David Anderson. Therefore, I do.

A year and a half of futility was consumed in seeking certain documents to which I am clearly entitled under the law. It began with my requests being unanswered. Then my lawyer, Mr. Bernard Fensterwald, Jr., was ignored. After that, promises made him were not kept, with consequent further delay. There then followed Department of Justice letters I must describe as lies, in which even existence of the documents was denied. So, I filed Civil Action 716-70. When that was about to come to trial, the Department of Justice blandly wrote my lawyer that they would make the documents available. They then delayed me further, first by not telling me how I could have access to these documents, then by stalling on copying them, and finally, as you may recall, by not providing some copies, paid for three months earlier, until the matter reached you.

During all this period, as I informed the Attorney General and his deputy, the Department wrote a number of letters, not one of which was truthful. All were designed to suppress, to violate the law, and to deny me that to which I am entitled. The Department knew I was writing a book saying and proving what it did not want said about the assassination of Dr. Martin Luther King, Jr., its investigation (which was by the Department, not State authorities), and the case of James Earl Ray.

Alleging purpose and intent may be questionable, no matter how certain I may be in my own mind. Alleging the result, however, is less questionable, for that is clear. It was first to frustrate my work, then to delay it (both proscribed by the Freedom of Information law and the clear intent of Congress), and to deny the defendant his rights.

When this matter finally reached you last month, only three requested <sup>items</sup> had not been delivered to me. These are the envelope in which that file is contained, a copy of one of the pictures, and the assurance,

from someone who could give such assurance, that I had been given access to the entire file.

When, on August 12, 1970, these things had still not been delivered, you told the Department that doing this would require but a few minutes and you ordered it done within a week. During that week, I neither received nor heard anything from the Department. On the eighth day after your order, on August 19, 1970, with the Department not even appearing before you, you signed a summary judgment.

However, in the interim, on August 14, Mr. Anderson filed a number of papers in this matter. One of them is an affidavit in the files of your court. It contains false statements that I believe, because they are the essence of materiality, are perjurious. One of these deals precisely with what was at issue before you, delivery of one of the items from the file in question. It says,

"A copy of this file cover was delivered to plaintiff on August 12, 1970."

As he knew when he swore to this, Mr. Anderson, whom I met briefly and for the only time moments before you entered your court, delivered nothing to me. He had with him the file envelope itself, several Xerox copies of it, and the picture in question. He showed me the envelope, in the presence of several witnesses, but he did not "deliver" it to me, nor did he give it to me. He showed it to me, then took it back after I showed him that it had been carefully contrived to mask one of the entries which bears very heavily on the denial of his rights to James Earl Ray. Mr. Anderson then also had the picture with him. He then also refused to give it to me. Mr. Anderson, to this day, has never "delivered" or given me anything, nor has he ever written or telephoned me. There has been no other contact between us.

Establishing the truth of what I have told you does not depend upon the word of those witnesses with me. Paul Valentine, a Washington Post reporter, also was present. I have since discussed this with him. He recalls that I was not given the copy in question, having seen my brief conversation with Mr. Anderson and having left the courtroom with me and then driven me to Mr. Fensterwald's office. Her den proof of this perjury rests upon what must be obvious, that you would not have directed Mr. Anderson to do that which he had already done, or that he would have remained silent if you had.

Three days after this perjurious oath, Mr. Anderson's superior, Carl Bardley, Deputy Assistant Attorney General, wrote Mr. Fensterwald, pretending, as was his and the Department's wont in this matter, that you do not exist, that Civil Action No. 718-70 had not been filed, and that you had not issued an order to the Department:

"Pursuant to your discussion with David J. Anderson of this office, we are forwarding copies of the file cover which you requested."



Thrice prior to this Mr. Bardley had denied, in writing, that this file cover exists. I can give you the letters. Yet it is he who personally told me, in Mr. Fensterwald's presence, when I handed him this cover and a written request for a copy of it, that it would not be given to me, so his false letters are not without point. I suggest that this bears on what I believe is contemptuous.

It was not pursuant to a non-existent discussion with my attorney that the file cover copy was, ultimately, forwarded, reaching me after you signed the summary judgment. It was pursuant to your order.

However, the essential point here is that Mr. Bardley's letter proves that the Department did not mail me the copy of the file envelope until three days after Mr. Anderson had sworn falsely that he had already delivered it.

Perjury climaxing a year and a half of deliberate and persistent violation of the law by the government, especially by the Department of the government whose responsibility it is to uphold the law and to defend the rights of all Americans under it, was too much. I wrote the Attorney General on August 20, sending you a carbon copy. I called this perjury to his attention, noted that, had it been me instead of his employee, he would have sought to have me punished, traced the history of this case and the damage done me, and called other things to his attention. The letter in answer, from Mr. Ruckelshaus, a copy of which is enclosed herewith, says only two things, responding to none of the others contained in this letter to the Attorney General or others. I wrote.

It still fails to give meaningful assurance that I was given access to the entire file. Where the Deputy Attorney General, knowing it to be false, had twice written (his letters are attached to my complaint) that no such file exists, subsequent Department lies, in writing, establish the existence of at least three sets of this file. My request is, I believe, both normal and proper. It was not for a meaningless letter from a lawyer saying I had been given the entire file, something the lawyer has no way of knowing (and Mr. Anderson could not have been more specific on this point in conversation with Mr. Fensterwald, to whom he said he knew absolutely nothing about the file). It was for a statement from the custodian of the file, the only person who can know. Had I insisted upon this matter receiving a full airing, had it been my intention to embarrass the government, to expose its endless abuse of me and its endless lies, there would have been no question in court. I fail to see why, if the Department did make the entire file available to me, the purpose of the action in your court, it is unwilling for the only person who can so assure us to provide that assurance. Nor, especially with this history of never having written a single letter that does not contain lies, climaxing with open perjury, do I think the meaningless word of a man who proclaims he has no knowledge is either proper or satisfactory.



Aside from this, all Mr. Ruckelhaus says is that "if you have any further complaints or demands, I can only suggest that you address yourself to the Court", which I here do.

Besides the perjury of his subordinate, which, incredibly, Mr. Ruckelhaus tells me to call to your attention, there are other complaints I do have and I think can be remedied.

First of all, the copy of the picture—ultimately provided was deliberately and with some trouble and cost, contrived to be as unclear as possible. It was not printed from the existing negative. Instead, the file itself was photographed, with all the fingerprints (including, no doubt, my own), all the lint and dust, faithfully reproduced. Even a part of the preceding page is copied, thereby hiding a corner of the picture. This print is also blotched by hasty drying. Thus, the evidence in the picture was deliberately obscured. I had asked and paid for a print made from the existing negative. I believe this also is what you ordered. There is a point to this deliberate obfuscation, for that picture makes incredible the official explanation of how the crime was committed. Therefore, the Department, which has an official position on the crime, does not desire this picture to be clear.

So that its contempt of your order would be masked, the Department did not mail me this picture with an accompanying letter. Instead, an "internal" memo form was used. It bears neither date nor signature and perpetuates the fiction that you had not issued two orders and I had not filed Civil Action No. 713-70. It was not mailed until after the summary judgment and then in a manner designed to hide this. The "internal" communication reads, "Photograph enclosed as per your request." The Name "H. Richard Rolapp" is typed at the bottom.

After receiving the picture on August 21, I wrote Mr. Rolapp asking for a clear copy. To date he has not responded, nor does Mr. Ruckelhaus claim to be responding to this letter. Mr. Rolapp is the assistant to the Deputy Attorney General, Richard Kleindienst. The law requires requests to be addressed to that office.

The Department's knowing violation of the law has cost me much. It has interfered with and delayed my writing and the printing of my book. It has cost me many days of time and has required about 20 trips to Washington, each one costing about 100 miles of driving and parking and other costs. It has taken much other time in needless correspondence.

If, as I understand, it is the basic tenet of the law that the violator may not profit from his transgression, I would also hope that it is the concept of American justice that the victim of the transgression should not be required to bear the costs thus imposed upon him. Mr. Ruckelhaus' letter, which does not address this, therefore instructs me to raise this question also with you.

Aside from this, all Mr. Ruckelhaus says that

I am without funds for the hiring of counsel to press a claim for these costs. I hope justice is not dependent upon financial resources. And I believe that if this law, allegedly enacted to guarantee the freedom of information, is to have any meaning, to be other than a new means of official suppression, there must be some kind of mechanism for preventing and punishing the kinds of violations and abuse this case so clearly illustrates. If government can lie with impunity, refuse to respond to proper requests, contrive endless delays, ignore the order of a federal judge and, ultimately, commit perjury, and all the costs has to be borne by the citizen who asks only what he is entitled to under the law that allegedly guarantees this right, can the law have any meaning? Should the government, with impunity, be permitted to violate and vitiate the law? Can it commit perjury without qualm or fear of the workings of the law?

I feel it is my obligation to write you as I do. The law must apply equally to all. The government that properly complains about the crimes of citizens should not improperly commit crimes itself.

In my continuing work I have sought and must seek other improperly suppressed evidence. Again the government is making false representations, and again it is stalling and delaying responses, where they are made at all. Thus, again, I believe, the law is being violated. The resultant cost is an enormous burden to me. And I believe this constitutes an official interference with freedom of the press.

The record will show that I did and do everything possible to avoid unnecessary litigation. It is not my desire to burden the courts without need. However, I do want the law to work, to be effective, as I want government to be honest, and I do want to be able to do my writing without improper interference by government, in itself a great wrong in a society such as ours. I therefore respectfully request whatever help you and the law can provide, for paying lawyers' fees is now impossible for me.

Sincerely,

Harold Weisberg



Department of Justice  
Washington

AUG 4 1970

Bernard Fensterwald, Jr., Esq.  
Fensterwald and Ohlhausen  
927 Fifteenth Street, N.W.  
Washington, D. C. 20005

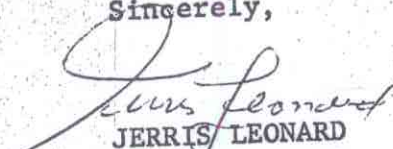
Re: Your client--James Earl Ray

Dear Mr. Fensterwald:

In your letter of July 7, 1970, to the Attorney General, you requested copies of certain correspondence in the above-captioned matter.

Please be advised that the Department of Justice still has a pending prosecutive interest in this case and, therefore, we are unable to furnish you with any of the material from our files at this time.

Sincerely,

  
JERRIS LEONARD  
Assistant Attorney General  
Civil Rights Division

Harris- FYI- I will

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF COLUMBIA  
WASHINGTON, D.C.

October 8, 1970

Mr. Harold Weisberg  
Route 8  
Frederick, Md.

Dear Mr. Weisberg:

Re: Civil Action No. 718-70

This will acknowledge your letter dated September 21, 1970, to Chief Judge Curran which was received on October second.

The Court is unable to act on the basis of a letter, and if you desire further relief, it will be necessary to file a motion even though you do so in proper person and without legal counsel.

Sincerely yours,

*W. Conrad Curran*

Secretary-Law Clerk  
Chief Judge Curran

WM



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG  
Route 8  
Frederick, Maryland

Plaintiff

vs.

C. A. No. 718-70

U.S. DEPARTMENT OF JUSTICE  
10 and Constitution Ave., N.W.

and

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

Defendants

ORDER

This cause came on to be heard before the Honorable Chief Judge Edward M. Curran on August 19, 1970 upon application of the plaintiff for summary judgment, and the Court having heard argument of counsel and examined the file in this case,

It is by the Court this 19<sup>th</sup> day of August, 1970.

ORDERED, ADJUDGED AND DECREED that the plaintiff's motion for summary judgment be and the same is hereby granted, and defendants' motion to dismiss is hereby denied, and it is further,

ORDERED, ADJUDGED AND DECREED that the defendant Department of Justice produce all documents demanded in Plaintiff's complaint, including all documents which the Court on the 12th day of August, 1970 ordered said Department of Justice to produce within one week.