

HAROLD WEISBERG,)
)
 Plaintiff,)
)
 v.)
)
 UNITED STATES DEPARTMENT)
 OF JUSTICE, et. al.,)
)
 Defendants.)
)
)

Civil Action No. 81-0023

HAROLD WEISBERG,
Plaintiff,
v.

UNITED STATES DEPARTMENT
OF JUSTICE, et. al.,
Defendants.

Civil Action No. 81-0023

DECLARATION OF DAVID J. GARROW

I, David J. Garrow, hereby declare and say as follows:

(1) I am Assistant Professor of Political Science at the University of North Carolina, Chapel Hill. I hold the Ph.D. degree from Duke University, and have authored two books: Protest at Selma: Martin Luther King, Jr., and the Voting Rights Act of 1965 (Yale University Press, 1978), and The FBI and Martin Luther King, Jr.: From "Solo" to Memphis (W. W. Norton & Co., 1981).

(2) My work on this most recent book has led me to examine many files and documents concerning the Federal Bureau of Investigation's pursuit of Dr. King and his organization, the Southern Christian Leadership Conference. Under the provisions of the Freedom of Information Act, 5 U.S.C. 552, I have obtained from the FBI its main headquarters file on the SCLC and most of the main file on Dr. King himself. I also have obtained files pertaining to Dr. King from multiple divisions of the Department of Justice, from the Central Intelligence Agency, and from military agencies and certain bureaus of the Department of State.

(3) On November 5, 1979 I received from the Civil Rights Division of the Department of Justice a copy of the so-called "Murphy Report" (Robert A. Murphy, Chief, Criminal Section, to J. Stanley Pottinger, Assistant Attorney General, Civil Rights Division, "Martin Luther King, Jr.," 31 March 1976, 51 pages) processed under Executive Order 11652 and released to me in response to a Freedom of Information Act request.

(4) I recently have examined (a) the version of the "Murphy Report" filed as Exhibit B in this action, Weisberg v. U.S. Department of Justice, (b) the declaration of James P. Turner, Principal Deputy Assistant Attorney General of the Civil Rights Division made in this case on October 23, 1981, and (c) two affidavits by James P. Turner given on January 6, 1978 and May 11, 1978, and filed with the United States District Court for the District of Columbia in Lesar v. U.S. Department of Justice, Civil Action No. 77-0692.

(5) This instant version of the "Murphy Report" is in several small instances more heavily deleted than the version released to me in 1979. In paragraph 1, page 5, two sentences ("Sullivan was later fired and is now in

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poor health following a heart problem. He lives in Sugar Hill, Vt.") were released to me in their entirety. In the present version everything subsequent to "fired and" is deleted under a claim of 5 U.S.C. 552(b)(7)(c). Sullivan died in November, 1977. Similarly, in paragraph 2, page 44, the name of former FBI official Seymour F. Phillips was released to me in 1979 but is now being withheld from the plaintiff in this action under a claim of (b)(7)(c).

(6) This instant version of the "Murphy Report" consistently withholds from the plaintiff, on (b)(7)(c) grounds, the names of several close associates of Dr. King, principally Stanley D. Levison, Hunter Pitts "Jack" O'Dell, Clarence B. Jones, and Bayard Rustin, among others. These deletions are glaringly inconsistent with the current FOIA processing practices of the Federal Bureau of Investigation. Files and documents released by the FBI throughout the past twelve months consistently contain these names, and the Bureau, to the best of my knowledge, has made no efforts to delete these identities per se on (b)(7)(c) grounds at any time in the last two and one-half years. Why the Justice Department continues to insist upon these excisions in light of that FBI action is most puzzling to me.

(7) This instant version of the "Murphy Report" also contains certain (b)(7)(c) deletions of quotations from FBI documents, although those same statements have not been deleted by the Bureau in processing and releasing those documents in response to FOIA requests. One example of this is from page 26, paragraph 3 of the "Murphy Report," where the balance of a statement by J. Edgar Hoover, beginning "I don't share the conjecture" is deleted by the Department of Justice. The full statement--which continues on, "King is a 'tom cat' with obsessive degenerate sexual urges," was released in full by the Federal Bureau of Investigation in 1978. A copy of the FBI document is attached hereto.

(8) Many of the claims put forward in James P. Turner's declaration of October 23, 1981 concern the Department of Justice's continued withholding of portions of the "Murphy Report" which contain, to quote from page 16, paragraph C of Turner's declaration, "information provided by and the identities of individuals who confidentially cooperated with the FBI in connection with foreign counterintelligence investigations of persons in the

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United States..."

(9) I do not know if the "Murphy Report" text, as Turner's statement implies, actually contains the human names of the two gentlemen about whom Turner is speaking. It may be the case that the text contains not their actual names, but only the FBI "symbol numbers" assigned to these two 'sources' or informants. In any event, both the actual names of these men, their FBI "symbol numbers," and the basic story of their central involvement in the FBI's investigation of the Communist Party, USA has been a matter of public record since mid-September, 1981, when The FBI and Martin Luther King, Jr. was first published. The book identifies these two men as brothers Jack and Morris Childs, and reports their respective "symbol numbers" to be NY-694S and CG-5824S. This information repeatedly has been confirmed and reported by well-known national publications; see, for example, Washington Post, September 17, 1981, p. A1, Newsweek, September 28, 1981, pp. 32, 37. One conservative congressman, who states he had official knowledge of these two men and their roles, has aired his information in the conservative journal Human Events (October 10, 1981, p. 5). A copy of each of these items is attached hereto.

(10) Most of the "Murphy Report" material deleted under a claim of 5 U.S.C. 552(b)(1) concerns information that these two informants, code-named "Solo," passed to the FBI concerning Dr. King's close friend and adviser Stanley D. Levison. Much of this material concerning Levison, and his alleged ties at different points in time to the financial activities of the American Communist party, is also now a matter of public record because of the publication of the aforementioned book.

(11) The assertions contained in the Turner declaration of October 23, 1981 appear to ignore this record of extensive public comment on precisely the "identities" and "information" that the deletions from the "Murphy Report" concern themselves with. In much the same way that the Department of Justice continues to withhold from this plaintiff under (b)(7)(c) material that the Federal Bureau of Investigation has released to others, the Department also is continuing the fiction that it needs to withhold from this plaintiff the other information in the "Murphy Report" concerning "Solo's" allegations against Stanley Levison, when that information too previously has been made public.

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(12) The continued withholding from this plaintiff of all the "Murphy Report" material that already is on the public record is in my opinion a wrongful determination, and is deserving of an appropriate remedy. The "balancing test" provision [28 CFR 17.37(b)] that Turner's own October 23, 1981 declaration cites at page 7 itself calls for the weighing of public interest concerns in the disclosure decision. The essential parts of the withheld information are now themselves already on the public record, and the full disclosure of the "Murphy Report's" discussion and analysis of the material will aid "accurate and appropriate public analysis" of the matter. Now that the identities in question have been revealed and confirmed, the public interest will be aided by making the ongoing public discussion of this subject as well-informed as possible. A more complete or indeed full release of the "Murphy Report" will serve this goal.


David J. Garrow

Executed November 4, 1981

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UNITED STATES GOVERNMENT

Memorandum ROUTE IN ENVELOPE

TO : Mr. A. H. Belmont

DATE: January 27, 1964

FROM : Mr. W. C. Sullivan

JUNE

SUBJECT: COMMUNIST PARTY, USA
NEGRO QUESTION
COMMUNIST INFLUENCE IN RACIAL MATTERS
INTERNAL SECURITY - COMMUNIST

3
Tolson _____
Belmont _____
Mohr _____
Casper _____
Callahan _____
Conrad _____
DeLoach _____
Evans _____
Gale _____
Rosen _____
Sullivan _____
Tavel _____
Trotter _____
Tele. Room _____
Holmes _____
Gandy _____

5 P Bips

RG
RR

Memorandum 1/23/64 from Mr. F. J. Baumgardner to myself advised of authority given to the Milwaukee Office for a microphone surveillance (misur) to cover the activities of Martin Luther King, Jr., and his associates while in Milwaukee, Wisconsin, where he is scheduled to appear for a talk tonight (1/27/64).

SAC Baker of the Milwaukee Office phoned me this morning to advise that King had arrived in Milwaukee and checked into the Shroeder Hotel as scheduled and that the misur was activated at 10:30 a.m. today. Symbol numbers assigned are [redacted] and [redacted]

Baker also advised that the local police have taken a room close to the suite of rooms engaged by King so that protection might be afforded King. In view of this, it was the conjecture of Baker that the likelihood of King's going ahead with any [redacted] plans is greatly minimized. I agree with this observation.

Milwaukee is to keep the Bureau promptly advised of all developments and upon receipt of additional information you will be further informed.

ACTION:

None. For information.

I don't share the conjecture, King is a "typical" with obsessive delusions generate sexual urges.

100-3-116

1 - 100-106670 (Martin Luther King, Jr.) (JUNE)

- 1 - Mr. Belmont
- 1 - Mr. Sullivan
- 1 - Mr. Baumgardner
- 1 - Mr. Bland
- 1 - Mr. Forsyth
- 1 - Mr. Ryan
- 1 - Mr. Donohue
- 1 - Mr. Phillips

EX-115
REC-53

22 FEB 8 1964

100-3-116-792
SPEC. MAIL RM

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