

5/30/96

Dear Jim,

Herewith the declaration.

Except for a few that I think will be no problem the changes are good.

Hope your eye benefits from the treatment and that next one goes better.

Best,

A handwritten signature in cursive script, appearing to read "A. J. ...", enclosed in a hand-drawn rectangular box.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANTHONY SUMMERS	:	
	:	
Plaintiff	:	Civil Action No. 89-3300 CRR
	:	
v.	:	
	:	
U.S. DEPARTMENT OF JUSTICE	:	
	:	
Defendant	:	

DECLARATION OF HAROLD WEISBERG

I, Harold Weisberg, declare as follows:

1. I reside at 7627 Old Receiver Road, Frederick, Maryland 21701.

2. I have extensive familiarity with FBI policies, practices and procedures, including those which pertain to its destruction of records. In large part this experience comes from having read most of a quarter of a million pages of FBI records pertaining to the assassinations of President John F. Kennedy and Dr. Martin Luther King, Jr. I obtained these records as a result of a number of Freedom of Information Act ("FOIA") lawsuits which I litigated between the late 1960s and the mid-1980s. I probably have read more FBI records than any other historian or scholar of whom I know. I have read the books of others who have written about the FBI.

3. I have also reviewed a special file which the FBI kept on its document destruction practices. I obtained this on discovery in connection with one of my FOIA lawsuits.

4. In my FOIA lawsuits, the FBI frequently claimed that records which I had requested did not exist or had been destroyed or could not be located. Almost invariably, the FBI was ultimately proven wrong.

5. From the time J. Edgar Hoover took over the FBI in 1924, the FBI was a meticulous creator and keeper of records. Relatively few records were destroyed, particularly at FBI Headquarters. Even records that were utterly inconsequential from any viewpoint were maintained for decades and, to the best of my knowledge, are still maintained. This applies to records that date back to before World War II.

6. Rather than destroy records, the FBI more customarily hid them. When it did destroy records, it created new records showing just what had been destroyed, and when, and where the same information could be found in still extant records. This was particularly true in Weisberg v. Department of Justice, vil Action No. 75-1996, a case in which I sought records pertaining to the assassination of Dr. Martin Luther King, Jr. There was a sound basis for this practice. According to a 1975 memorandum Assistant Attorney General Richard Thornburgh, who was then in charge of the Criminal Division of the Department of Justice, it was a felony to destroy government records without following proper procedures. See Attachment A hereto.¹

¹The copy of this memorandum contains a note at the top made by me. The note pertains to Special Agent James Hosty, who destroyed a threatening note left for him by Lee Harvey Oswald shortly before the assassination. Hosty testified that he did this under the instructions of his Special Agent in Charge, Gordon Shanklin. An FBI damage control tickler I have states what I have seen in no other record, that destruction was quote "handled" at

7. I have been advised by Mr. James H. Lesar, that the FBI contends that the logs of Director Hoover's telephone calls for the years 1924-1940 have been destroyed. I find this inherently implausible. First, the alleged destruction is not contemporaneously documented, and the belated attempt at documentation, which did not occur until twelve years later, is suspect. Second, the alleged destruction of the 1924-1940 logs is inconsistent with the fact that the logs for 1941-1972 continued to be maintained and have in fact been provided to the plaintiff in the above-entitled action. Third, there is a potent political reason why the FBI would want to hide the pre-1940 telephone logs--to prevent embarrassment to Hoover and the FBI, a consideration that was always foremost in Hoover's mind. The potential for embarrassment stems from the fact that prior to America's entry into World War II in late 1941, Hoover was in close contact with American right-wing extremist and fascist leaders, and spoke to their meeting and wrote for their publications. He also maintained such contacts abroad. For example, I am aware from documents disclosed to me under the Freedom of Information Act, that Hoover used to exchange Christmas cards with a Portuguese fascist leader.

Headquarters that very day, November 24, 1963. That this was done with J. Edgar Hoover's knowledge and on his instructions is stated in a book by Hoover's former assistant director, William C. Sullivan. When Hosty testified before the Warren Commission, he made no reference to this. He was told in advance by FBI Headquarters to volunteer nothing, and he testified that he had no reason to believe that Oswald had any potential for violence. Yet the FBI's own records allege that Oswald beat his own wife, in addition to the content of the note he left.

Executed this 30 day of May, 1996.



HAROLD WEISBERG

JAMES H. LESAR
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May 30, 1996

Mr. Harold Weisberg
7627 Old Receiver Road
Frederick, MD 21701

Re: C.A. No. 89-3300;
Summers v. Dept. of Justice

Dear Harold:

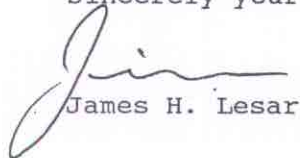
Enclosed is your declaration which we drafter earlier today. I have made a few very minor editing-type changes, nothing substantial. Please sign and return to me.

Thanks very much for lending your assistance. I appreciate it very much, particularly knowing the very difficult circumstances that are part of your daily life.

The laser operation on my right eye went all right today, though Dr. Gilbert (he knew Ed Epstein at Cornell) was only able to perform limited surgery today because the blood had only partly cleared. So I'm due for another session in about three weeks.

Best regards to Lil.

Sincerely yours,


James H. Lesar