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JFK Assassination System
Identification Form

Date: 4/14/201

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DATE: 10-14-2017

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UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

AUG 13 1970

TO : Mr. J. Edgar Hoover
Director, Federal Bureau of Investigation

DATE:

WDR:JFAxelrad:bd
145-12-1449

FROM : William D. Ruckelshaus
Assistant Attorney General
Civil Division

SUBJECT: Harold Weisberg v. Department of Justice
USDC D.C., Civil Action No. 2301-70

Mr. Tolson	<input checked="" type="checkbox"/>
Mr. Sullivan	<input checked="" type="checkbox"/>
Mr. Mohr	<input type="checkbox"/>
Mr. Bishop	<input type="checkbox"/>
Mr. Brennan CD	<input type="checkbox"/>
Mr. Callahan	<input type="checkbox"/>
Mr. Casper	<input type="checkbox"/>
Mr. Conrad	<input type="checkbox"/>
Mr. Felt	<input type="checkbox"/>
Mr. Gale	<input type="checkbox"/>
Mr. Rosen	<input checked="" type="checkbox"/>
Mr. Tavel	<input type="checkbox"/>
Mr. Walters	<input type="checkbox"/>
Mr. Soyars	<input type="checkbox"/>
Tele. Room	<input type="checkbox"/>
Miss Holmes	<input type="checkbox"/>
Miss Gandy	<input type="checkbox"/>

A copy of the complaint recently filed in this action is enclosed.

In order that we may defend this action, please send us not later than September 1, 1970, a report, in duplicate, setting forth the facts involved. Because many courts are reluctant to grant extensions of time to answer, we request that this report be given your preferred attention. If you cannot send us the necessary material within that time, please let us know promptly so we can inform the court of the reason for the delay.

It will be helpful if you will state specifically which allegations of the complaint should, in your opinion, be admitted and which should be denied, and make suggestions for any affirmative allegations to be made in the answer.

Please include a list of the names, official positions, and addresses of persons who have personal knowledge of the facts involved and a brief summary of the matters about which they can testify on behalf of the Government.

Your report should also include information (and copies of relevant documents, if any) as to any defense set-off or counterclaim which you believe may be available.

In addition, please transmit with your response to this memorandum originals and six copies of an affidavit establishing the basis for defense of this litigation. The affidavit could be prepared along the lines of the affidavit executed by Special Agent Roy H. Jevins for use in litigation entitled John Nichols v. United States, USDC D Kan., Civil No. T-4536. In addition to the statements made in that affidavit, we suggest you include in the affidavit in the present litigation, a statement of how your law enforcement purposes would be hindered were the materials sought subject to public disclosure.

United States Attorney
District of Columbia

B
EXP. PROC.
33 AUG 14 1970
UNRECORDED COPY FILED IN

AUG 31 1970

ENCLOSURE
ENCLOSURE ATTACHED
SEP 2 1978
M.F. Williams
8-19-70
M.E.W. mjk

REC-72
EX-109
DE-15
V-33
197-6 3621
22 AUG 14 1970
1070606958

United States District Court
FOR THE
District of Columbia

SPICA, J.

2301-70

CIVIL ACTION FILE NO. _____

HAROLD WEISBERG

SUMMONS

Plaintiff

v.

Defendant

U. S. DEPARTMENT OF JUSTICE

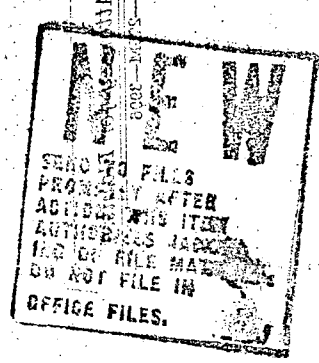
SUMMONS IN CIVIL ACTION

Returnable not later than

after service.

NO.

FOR THE
UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA



To the above named Defendant :

You are hereby summoned and required to serve upon

Note:—This summons is returnable only if service is made by a person other than a United States Marshal or his deputy.

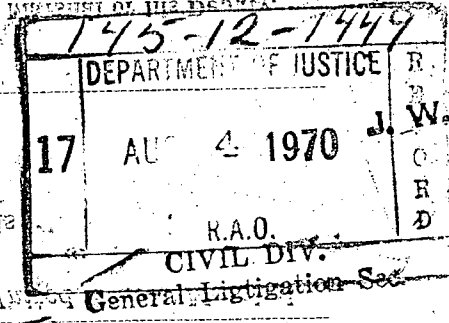
BERNARD FENSTERWALD, JR.

plaintiff's attorney, whose address

Subscribed and sworn to before me at

927 Fifteenth St., N.W.

Washington, D. C. 20005



an answer to the complaint which is herewith served upon you, within ~~60~~ ³⁰ days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

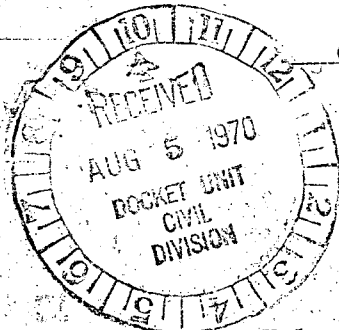
ROBERT M. STEARNS

Clerk of Court.

Evelyn J. Gatzert
Deputy Clerk.

[Seal of Court]

Date: August 3, 1970



Note:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure. I received this summons and served it together with the complaint herein as follows:

I hereby certify and return first on the

day of

18

RETURN BY SERVICE OF MAIL

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

..... :
: HAROLD WEISBERG :
: Route 8 :
: Frederick, Maryland :
: Plaintiff :
: V. :
: U.S. DEPARTMENT OF JUSTICE :
: 10th & Constitution Ave., N.W. :
: Washington, D. C. :
: Defendant :
:

2301-70

Civil Action No. _____

C O M P L A I N T

(Pursuant to Public Law 89-487; 5 U.S.C. 552)

1. Plaintiff brings this action under Public Law 89-487; 5 U.S.C. 552.
2. Plaintiff is a professional writer, living and working in Frederick County, near the city of Frederick, in the State of Maryland. Plaintiff has published a number of books dealing with political assassinations and currently is devoting his full time efforts to researching and writing additional books on this same subject.
3. Defendant is the U.S. Department of Justice.
4. Spectrographic analysis is a common and simple method making possible the study of objects in even miniscule

quantities, so that their precise composition may be discovered and compared.

5. When bullets and fragments thereof are studied spectrographically, it is possible to make a definite determination that all of the bullets and fragments came from one particular batch made by one particular manufacturer or they did not.

6. After the assassination of President John F. Kennedy in Dallas on November 22, 1963, the Federal Bureau of Investigation, a subordinate branch of the defendant Department of Justice, spectrographically analyzed and compared the following items:

a) the bullet found on the stretcher of either President Kennedy or Governor John Connally of Texas (Identified as Exhibit 399 of the President's Commission on the Assassination of President Kennedy, hereafter referred to as the Warren Commission);

b) bullet fragment from front seat cushion of the President's limousine;

c) bullet fragment from beside front seat;

d) metal fragments from the President's head;

e) metal fragment from the arm of Governor Connally;

f) three metal fragments recovered from rear floor board carpet of limousine;

g) metal scrapings from inside surface of windshield of limousine; and

h) metal scrapings from curb in Dealey Plaza
which was struck by bullet or fragment.

7. The spectographic analyses were made by FBI Special Agent John F. Gallagher.

8. Even though Mr. Gallagher testified in deposition form before the Warren Commission, he was asked no questions about the spectographic analyses made of the bullets and metal fragments. (Hearings Before The Warren Commission, Vol. XV, pp. 746-52).

9. The testimony re the said analyses was given by another FBI Special Agent, Robert A. Frazer. (Hearings Before the Warren Commission, Vol. V, pp. 58-74).

10. At page 74 of his testimony, Mr. Frazer said that the bullets and fragments listed in paragraph 6, supra, were "similar in metallic composition" but refused to say that they were identical.

11. It is not known whether the FBI turned over the spectographic analyses of the bullets and fragments or a copy thereof to the Warren Commission or not, although they were requested to do so by the Commission (Commission Report, p. XI).

12. However, if the analyses were turned over to the Warren Commission, the Commission in turn did not deposit them in the National Archives, although all of the rest of its materials were so deposited.

13. Plaintiff's first formal attempt to get permission to see and/or copy the spectographic analyses was in a letter to FBI Director J. Edgar Hoover, dated May 23, 1966. (See Exhibit A appended hereto.)

14. Plaintiff's request went unanswered.

15. During 1966, 1967, 1968, and 1969 Plaintiff made numerous requests, both orally and in writing, of the National Archives (which should have had a copy of the analyses, but maintains that it does not) and the Department of Justice to examine and/or copy the analyses. (See Exhibit B appended hereto.)

16. On April 6, 1970, Plaintiff wrote to the Attorney General requesting his review of the denial by the Deputy Attorney General of his request for access to various materials, including the spectographic analyses. (See Exhibit C appended hereto.)

17. On May 16, 1970, in a letter addressed to Mr. Richard Kleindienst, Deputy Attorney General, Plaintiff renewed his request, accompanying it with a completed form DJ 118 ("Request for Access to Official Records Under 5 U.S.C. 552(a) and 28 CFR Part 16"), describing the records sought as follows:

"Spectographic analysis of bullet, fragments of bullet and other objects, including garments and part of vehicle and curbstone said to have been struck by bullet and/or fragments during assassination of President Kennedy and wounding of Governor Connally. See my letter of 5/16/80.
(See Exhibit D appended hereto.)

18. On June 4, 1970, the Attorney General replied to Plaintiff's letter of April 6, 1970, denying him access to the spectographic analyses, stating that they were exempt from public disclosure under 5 U.S.C. 552 as a part of an "investigatory file compiled for law enforcement purposes." According to the Attorney General, they were exempt from compulsory disclosure under exception No. 7 of that Act. (See Exhibit E appended hereto.)

19. In a letter dated June 12, 1970, the Deputy Attorney General took an identical position, denying access under 5 U.S.C. 552 (b) (7). (See Exhibit F appended hereto.)

20. The request remaining denied after exhaustion of administrative procedures, Plaintiff files this complaint pursuant to Public Law 89-487, 5 U.S.C. 552, further alleging that, pursuant to this law, the records must be made available to him, and the Court shall determine the matter de novo, and the burden is on the Defendant to sustain its refusal.

WHEREFORE, Plaintiff prays this honorable Court for the following relief: that Defendant be ordered to produce and make available for copying the spectographic analyses of the various bullets and fragments listed in paragraph 17, supra, and such other relief as this Court may deem just and equitable.

BERNARD FENSTERWALD, JR.
927 Fifteenth St., N.W.
Washington, D.C. 20005
Tel. 347-3919
Attorney for Plaintiff

Dated: _____

DATE: 11-14-2017

Exhibit E

Office of the Attorney General
Washington, D. C. 20530

JUN 4 1970

Mr. Harold Weisberg
Coq d'Or Press
Route 8
Frederick, Maryland 21701

Dear Mr. Weisberg:

This is in response to your letter of April 6, 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 records thought by you to be in the files of the Department of Justice. Specifically, you have requested access to "the raw materials" including "notes, rough drafts, final panel drafts, individual reports by any of the panel members or advisors and relevant correspondence and memoranda, etc." relating to the medical reports made by the autopsy surgeons and the advisory panel to the Attorney General in connection with the assassination of President John F. Kennedy. The Deputy Attorney General denied your request on the ground that the "materials described in your letter do not exist in the files of this Department."

I have made an attempt to ascertain whether the materials you seek are in the files of this Department. It is my conclusion, after a full examination of the matter, that documents of the kind you describe do not exist anywhere in the Department. Accordingly, I must deny your request.

In your letter of April 6, you state that you wish to renew your request for the "spectrographic analyses of the bullet, fragments of bullet and other items said to have been

