

Proposed Motion to Compel in C.A.75-1996

from CRD 7/16/76

Assuming the issue before the Court at this point is compliance;

And we alleged and I think have proven deliberateness in withholding what the government has and is covered by the Complaint.

Establishing motive for this to the Court by other than the FBI as well as by it seems to me to be relevant.

So also is the priority numbers assigned to my requests by the Government. I do mean more than DJ- CIA, too.

In no case has the DJ provided me with a record of a single number so I could communicate with it in this definitive way. The CIA waited until this month although they assigned these numbers last year. It waiting until I made a demand.

I complained to Mitchell about reports of FBI intrusions into my life and work in 1969. He promised me a response from Hoover I have never received. Or from any subsequent Director. I asked the CIA for all files on me in 1971, received no acknowledgement. Later counsel arranged a meeting with the CIA general counsel who gave personal assurances he later put in writing that there are no files on me. When I pressed in subsequent correspondence he provided a minor fraction of their records. One, however, does disclose a CIA interest in my book on the King assassination and a slurring reference to me that was later used, the exact if not every-day word, by the State of Tennessee in open court.

In October I formalize a request for all FBI records <sup>on me</sup> in an FOIA/PA request that was not acknowledged. When I asked for a record of all requests, this one was omitted although others in the same envelope were belatedly acknowledged. I had to trap Kelley into admitting receiving this request. In the nine subsequent months there has not been a word more from the FBI.

I appealed the CIA's denial. Its time for response to the appeal expired this past January. After a number of written inquiries about CIA intentions, more than five months after the files had been searched and the time for appeal had expired, I was finally told that the appeal is still under consideration although the time permitted by law has expired and there has been no claim to exceptional or extenuating circumstances.

Under date of July 16, 15 months after the request and six months after the government made its first claim to mootness, you received from DJ records that should and could have been provided much earlier, after filing a Motion to Compel.

These records include extensive if not entirely accurate references to me and my writing, references that were deliberately withheld at a time when similar records were provided earlier and represented as all the relevant records.

These records also refer to one of my suits as "bouncing around in the Court of Appeals for the District of Columbia -- you should ~~know~~ casually, if you have not done so and ask anyone working on this matter to read the case," after which all is masked

While in a very narrow sense it can say the only case that by this date I had ever had before the Court of Appeals "bounced," it having been cited by the Congress as the first of four cases requiring amending of the law, it was not current in 1974. It is No. 71-1026.

The actual <sup>word</sup> masking of this particular masking, typed at the top of the page, is "Portion deleted contains information about investigatory procedures regarding the King assassination; deleted pursuant to section (b)(7)(E)." The language of this claimed exemption is "(E) disclose investigative techniques and procedures."

It is patently impossible for the reading of either a published book or court records to fall within this exemption. Yet all of the deletion on this page beginning in mid-sentence as quoted above, is under this exemption. "In addition," a second exemption is claimed for a "portion" deleted: "contains the opinion of an attorney and is deleted pursuant to section (b)(7)(E)."

The language of (5)(5) is "inter-agency or intra-agency memorandums or letters which would not be available under the law to a party other than an agency in litigation with the agency;"

That I am in litigation with the agency is apparent. That similar records and part of this one have been made available seems reasonable to mean that the agency itself has decided that they "would/ ...be available under the law " to me.

Moreover, when this is the subject of a supposed inquiry at my request of 1969 and is obviously encompassed by my FOIA/PA request of nine months ago, it is required to be available to me under both the Privacy and the Freedom of Information Acts.

The records provided to date by respondent clearly does not include all records of this nature.

The records in this case is clear that there has been conscious withholding that was conscious to begin with and continues to be deliberate, those having been supplied under date of 7/16/76 alone containing numerous references to other that are relevant.

Among those probably explanations for this withholding are the still withheld references to me and my work, both from what has been supplied being neither complimentary nor accurate. One illustration of the unjustified slurs buried in these withheld records is referring to my "ilk.2 An example of deliberate inaccuracy in the not withheld records is attributing to me what I attribute to a cited source on a matter about which I could have no personal knowledge.

Official  
Embarrassment is not an exemption under the law. Nor is official misconduct or error. Nor is what can be inferred to be a slur on the Court of Appeals, factually incorrect as it is.

Have for the ~~forthwith~~ forthwith production of all records on or about or relating me in in any way connected with my work on the King assassination, including but not limited to my writing, and on that including but not limited to any possible intrusion into my rights under the first amendment. Include DJ in all parts and include Civil and Legal Counsel and Deputy AG by name over 718 without specifying it so we can clobber them if there is no production if the motion is granted. This has certain added importances. Include CIA and all its disguised parts, assets, proprietaries and fronts. Avoid attachments so we can, if necessary, spring them in court. I believe this is quite proper and I believe Green will find herself wondering about all of this, as will any Wilkeys of the future.

By the way, the regularly write what they represent I "say." Not one has ever spoken to me.

Be sure the language without necessarily specifying it includes the fruits of any and all surveillance of any nature.

My God! Imagine their brazenness in describing a reading of my published work "investigatory procedures" under Exemption E. This alone makes the filing of the motion worthwhile and I think will have much to do with recovery of costs, especially of the extraordinary amount of time just checking what I get requires of me. (I've been on these new records almost eight hours and am only on the 10th.)