

III. Defendants' Citations, or Telling it like it Isn't

In any proceeding, to a degree the judge becomes the creature or captive of the litigants and is dependant upon the integrity of their words, <sup>their</sup> citations of law, authority, and most of all <sup>of</sup> fact. With regard to motions like those of plaintiff's and defendants' now before this Court, it seems to plaintiff that this is more than usually true because so much depends upon the representations of what is fact and what the law and regulations are, particularly as they address the question, <sup>is</sup> is there any genuine issue as to any material fact? With both sides alleging there is not and each claiming that it is <sup>with respect to</sup> ~~in the case~~ of his <sup>of</sup> motion that there is not, the Court is thus confronted with choices of which to believe or to decide to believe neither and set a hearing.

The disparity between the litigants <sup>tend</sup> may adversely influence the Court to lean more heavily on the given word of defendants because of their high station in both Government and national life. Relatively speaking, the defendants are of eminent position and plaintiff is unknown, perhaps regarded as iconoclast or off-beat because of the subject of his interest, the intensity with which he pursues it, and the passion it engenders in him, often reflected in his manner of expression. The choice here is between those of high station and known <sup>an</sup> ~~the~~ unknown, <sup>of low</sup> ~~between high station and low~~, between Government and all its majesty and power and a single stranger ~~unknown~~ to the Court and of no special importance to it.

Most of all, before a Court of law, is this disparity marked when on the one side counsel is the United States Department of Justice and the United States Attorney and <sup>on the</sup> ~~an~~ ordinary man trying to act as his own lawyer, only too aware of the maxim ~~about~~ <sup>having</sup> ~~that~~ he who has himself for a client has a fool for a client. Plaintiff is ~~aware~~ that ~~the~~ mere length of plaintiff's presentation may tend to <sup>mark</sup> ~~make~~ him as a fool, for the ~~work~~ amount of work therein represented, especially to a man of no means <sup>or</sup> ~~and~~ influence, is considerable. The Court may wonder why a nobody would exert this great effort, why he consider it worth such effort, or even if it is a rational thing to do. Only by reading all these words can the Court form an independent opinion,

and plaintiff is aware that even if the Court has an interest in the subject matter, the ~~volume~~ of these words can be a severe burden upon the Court. Plaintiff has heard, whether or not rightly, that the Court is not required to read the various papers presented to it and ~~that~~ brevity is therefor its own merit. Perhaps when the opposing counsel in this instant case are so markedly unequal, on the one side all the legal brains ~~and~~ resources and capabilities of the most powerful government in history, bearing with them the full accreditation of the highest federal reputation in the law, and on the other a non-lawyer, a mere minor ~~XXXXXXXXXX~~ scrivener, may <sup>this</sup> ~~the sheer~~ volume alone be an insurmountable liability to plaintiff.

But it is precisely these <sup>i</sup> inequalities, plus the regard plaintiff has for the subject matter, <sup>sanctity of the</sup> ~~the~~ law and the integrity of society, that impels him to take this time, make this costly effort. If plaintiff is to prevail, as he believes he should and must, fact and law being as he, not those who represent the exalted, tell this Court, the only way he can overcome these liabilities is by running the risk of <sup>undertake</sup> ~~make~~ a mountain of words in the hope that the Court will ~~seek~~ to mine the gem of truth.

There is no way in which plaintiff can surmount his handicaps except by making as complete a record as is within his capability. This he attempts. <sup>to</sup> ~~at~~ that end, he herewith addresses the integrity of <sup>defendants'</sup> ~~the~~ representations of fact, law and regulation, hoping that with no time for review his mind is still able to recall what has already been addressed and to be able to spare the Court needless repetition.

Moreover, plaintiff had laid serious charges against defendants and their counsel, <sup>ranging</sup> ~~spanning~~ from simple omission (which, to a Court of law, plaintiff regards as a culpable thing <sup>if</sup> it is, as plaintiff believes, deliberate), through omission that amounts to deliberate misrepresentation, deception of the Court, an attempt to defraud plaintiff, and ~~the~~ false swearing that can constitute perjury. Because these are <sup>such</sup> ~~the most~~ serious charges, it is incumbent upon plaintiff to put this Court in a position to make independent assessment of the credibility of ~~of~~ defendants' presentation to this Court as well as <sup>of</sup> defendants' intent. Therefore, in what follows plaintiff will compare what defendants' did represent to this court with the sources cited and the meanings given <sup>thereto</sup>

A

insert on 3 promptness.

The language of H. Rept 9 addresses the meaning of the law and the intent of the Congress on just this point:

"...if a request for information is denied by an agency subordinate the person making the request is entitled to prompt review."

Neither a three-month delay nor a delay <sup>until</sup> of three weeks after the filing of a complaint meet this requirement.

This requirement is emphasized in the Attorney General's Memorandum, where it is quoted on page 28, and by the added language of this Memorandum, "Every effort should be made to avoid encumbering the applicant's path with procedural obstacles..." (p.24).

*as will be seen, it is required under defendant's own regulations.*

insert on 3 1 length appeal  
B

There are 12 paragraphs in plaintiff's appeal. Of these, nine refer to requests made and refused. Obviously, such selection and extremely limited quotation of it cannot possibly be faithful to it, least of in a representation of the "material facts as to which there is no genuine issue".

Not  
CTR ~~at~~ Not a single statement in defendants' Motion is factual and truthful *has been shown*  
*Defendants' "Statement of Material Facts" 30*

The first papers in support of the Motion is labelled as a "Statement of Material Facts as to which There is No Genuine Issue." Aside from its lack of faithfulness and fidelity, this representation omits, to the point of deceiving the Court, what is most material. The law imposes a burden on plaintiff, ~~to~~ <sup>ning</sup> begin with requesting the public information, then, if denied, making appeal, and so forth. Because ~~this~~ <sup>defendants' alleged</sup> statement of the "material facts" <sup>to these most material facts,</sup> makes no reference to the arduous efforts represented in plaintiff's requests, plaintiff presents a summary of them to the Court. Aside from verbal requests going back to the first of November, 1966, in that case made to the then-Archivist in person, these requests, beginning with December 1, 1969, ~~was contained in~~ and the relatively few responses, some months long in being made, total 25. Of these, plaintiff's letters to the Government total 16. Of the Government's nine letters, only four were written prior to the filing of the complaint. The single one of plaintiff's letters quoted <sup>was his appeal</sup> ~~was written about three months after filing of the complaint~~ (and defendants are so unfaithful with that letter they even misdate it). One of defendants' letters only is quoted. Its <sup>self-</sup> ~~self-~~ observing character becomes obvious when it is recalled that there was no response of any kind to plaintiff's appeal under the law until this letter written about three months after the ~~complaint~~ appeal was made and not until 21 days after the complaint was filed. That single one of defendants' letters is a falsity, as previously set forth, and is the ~~gross~~ <sup>gross</sup> grossest misrepresentation of ~~everything~~ everything, the previous correspondence on both sides and the appeal to which it pretends response and pretends non-rejection. The obvious purpose of the latter dishonesty being either to deceive this Court or to defraud plaintiff. Clearly, this Court was in the mind of the author or authors of that misrepresentation. This is no less <sup>grievous</sup> grievous an offense because the law ~~(a)(3)~~ <sup>(a)(3)</sup> and all else relevant stipulate promptness in handling appeals, as heretofore cited. Nor is it less <sup>grievous</sup> ~~grievous~~ <sup>incompletely and</sup> to quote out of context, to make the words quoted appear to mean other than what that actually say and mean by omission of the relevant, which is what here was done.

INSERT 3A

INSERT 3B

The first such omission <sup>also</sup> hides from this Court the fact that plaintiff had actually



false representations of being entitled to judgement in their favor because they claimed to have complied with the law, <sup>and</sup> that "there is no genuine issue as to any material fact." Could this have been claimed to this Court without denying it the pproof of the flsity of both claims, by editing <sup>written</sup> ~~correspondence~~ <sup>defendants</sup> request as they were to edit law and regulations.

The intent to deceive and defraud is made more clear with selective quotatio n of the delayed response, which hides from the Court <sup>these</sup> two things: that plaintiff's requests for copies of what <sup>was</sup> ~~was~~ withheld <sup>was</sup> without deviation rejected; and that this <sup>reply</sup> response to the appeal was not made/until 21 days <sup>of</sup> ~~after~~ filing the complaint. This intent is <sup>The deception thus perfomed</sup> ~~clears in the language~~ <sup>defendants'</sup> ~~of~~ defendants' language on page six of their "Memorandum in Support", reading:

"Notwithstanding the response of <sup>the</sup> Archives to plaintiff's requests, he alleges in the complaint:"

It is a <sup>defendants err in</sup> ~~minor~~ point that <sup>answer</sup> even with regard to who made the ~~response~~ <sup>quoted</sup> ~~it~~ was not "the Archives" but the ~~GSA~~ GSA Director of Public Affairs.) What is deception is the quoting of a self-serving, ex post facto letter written so long after filing of the complaint, hiding this fact from the Court, and telling the Court that "Notwithstanding the ~~response~~ <sup>defendants' self-</sup> response", plaintiff then filed the complaint. That is, making it seem that not until after receipt of ~~the~~ <sup>defendants' self-</sup> misquoted and misrepresented letter of response did plaintiff file the complaint, which actually was filed 21 days ~~which was before~~ <sup>defendants' September 17</sup> before this letter was written.

This deception is extended on the same page, ~~existing~~ in carrying the misrepresenta- tion of the date of the rejection of appeal further, with the claim that certain of what are represented as plaintiff's requests were "disposed of by GSA" in this letter. <sup>defendants'</sup> Without <sup>A</sup> misleading the Court on the dates, this spurious claim would not have been dared. That it is false in and of itself is not as serious as the misrepresentation of the relationship of the ~~claimed 'disposing of' to the~~ <sup>allegedly</sup> claim to what was "disposed of" to the date of filing the instant complaint. No such ~~dis~~ "disposal" was possible after filing of the complaint, short of compliance, which there had never been.

The misrepresentation in the GSA September 17, 1970 letter rejecting plaintiff's requests and of if at this point, especially in the meaning inferred to the long final quotation, has already be aduantly exposed. It refuses plaintiff's requests save for the one made <sup>to obtain</sup> ~~solely to accomplish~~ written acknowledge <sup>ment</sup> of what is hidden in the acknowledgement, that despite all the contrary representations to this Court, exactly what plaintiff asked and was refused was done for the Columbia Broadcasting System. (The "Item 5" reference ~~%~~ This kind <sup>blending</sup> of ~~blending~~ of schmalz and gore is not the raw material of genuine scholarship and study, <sup>ment</sup>) especially not with the ~~small size and other characteristics of the film used.~~

Thus there is further deception practised upon and hidden from this ~~Court~~. This phrasing hides it from the Court. But the mere existence of this CBS film ~~is~~ <sup>relief cannot be granted and that</sup> ~~is~~ total disproof of the spurious claims <sup>1</sup> that what plaintiff asks is prevented by the family contract, which thus, plaintiff again emphasizes, seeks to place the onus of suppression on the family.

Among the other things edited out to mislead this Court is plaintiff's statement, "I was denied copies" of what was sought <sup>Thus hidden was</sup> ~~and~~ the failure of either the rejection of the appeal ~~of~~ the Motion and its addenda to either admit this or assume the burden of proof and prove such denial is proper and authorized under law and regulation, <sup>is</sup> ~~(the opposite~~ ~~being~~ the case.) The providing of copies ~~of~~ is required by both law and regulation.

There is an editing that is relevant because of the requirement of the law that requests be for "identifiable records". Thus plaintiff's letter is made by editing to read,

"It is the only such photograph in the Archives of which I have knowledge . . . I asked for it or an enlargement" etc.

There were and are other photographs of which ~~plaintiff~~ plaintiff knew and of which he did request copies. What was edited out of the consideration of this Court makes that clear.



In addition to the foregoing, there is nothing in defendants "STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE" about which there is "no genuine issue".

<sup>-numbered</sup> The first is false in that it does not reflect what plaintiff seeks and in <sup>also</sup> misrepresenting what he does seek. He does not seek to make his own photographs, as previously proven with direct quotation of the requests, and he does seek what is ~~not~~ here hidden from the Court, copies of the existing pictures.

The second repeats this misrepresentation.

The third, like the second, could be honestly represented to the Court ~~without~~ ~~hurt to defendants' argument,~~ but it is not. It repeats again what is not true, that plaintiff wants the articles rather than pictures, and that these "articles are on deposit by virtue of an agreement dated October 29, 1966." Title only was transferred on that day, in a dubious agreement, and the "articles" were earlier and had been on deposit by virtue of a suppressed "Memorandum of Transfer" dated 18 months earlier.

Moreover, the "articles" are official evidence of an official function of Government, the President's Commission.

The two remaining number paragraphs have already been dealt with.

There is genuine disagreement as <sup>to</sup> their is genuine misrepresentation <sup>by</sup> ~~in~~ character.

Defendants'  
~~Memorandum~~ "Memorandum of Points and Authorities"  
~~THEir PRELIMINARY STATEMENT~~

This is an exceedingly selective quotation, misquotation and omission of the known and relevant law, ~~and xxxxx~~ regulations and other claimed authorities.

"Preliminary Statement".

Defendants' opening words are, "Plaintiff, and author..." Yet when plaintiff made this simple statement of fact in his complaint, fact well known to defendant and their counsel, ~~xxxthereafterxxxspecifiedxxxinxxxfinexxxdetailxxxbyxxxplaintiffxx~~ in what they styled their "Answer", this appears:

"2. Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations..."

If this may appear as a minor point and minor criticism, on several counts it is not. The first count is the truthfulness of defendants' and their counsel and what ~~xxx~~ credence this Court has basis for giving their words to it. In a lengthy and detailed affidavit attached to Plaintiff's Motion for Summary Judgement, plaintiff set forth just how well and for how long both defendants and their counsel in particular, at both the Department of Justice and in the office of the United States Attorney, ~~it was~~ well <sup>know</sup> known that plaintiff is an author. So, they here admit the falsity of their "Answer". But there was <sup>point the falsity of the "Answer"</sup> ~~not~~ in that closeness. For Defendants claim there is validity to the family agreement, which ~~xxxxxx~~ would limit access to those with proper credentials, ~~xxxxxxxxxxxx~~ described as "Any serious scholar or investigator of matters relating to the death of the late President for purposes relevant to his study thereof". Thus, ~~xxxpointxxx~~ an objective can be attributed to the initial falsehood to this Court, another link in the chain of official suppression, an attempt to pretend that plaintiff did not, to defendants' <sup>judgt is</sup> known, meet the claimed requirements of this said contract.

The misrepresentation in the words that follow, alleging that what plaintiff seeks in this instant action is that under the law he wants "to examine and photograph, at his expense, certain items of clothing worn <sup>in part</sup> by the President", has been dealt with ~~in~~ part. First, this eliminates again from the Court's consideration plaintiff's first