

ADDITION TO PLAINTIFF'S ADDITION in C.A.# 2569-70

Defendants' latest communication to plaintiff requires <sup>this</sup> plaintiff's new addition to the foregoing papers. It may serve a purpose other than imposing excessive length in ~~plaintiff's papers~~ in that it may illuminate to the Court what plaintiff believes is defendants' perfidy and, ~~on the basis of~~ what would appear, ~~to the best of plaintiff's possible knowledge,~~ to be deliberate trickery.

The communication referred to is a letter to plaintiff, dated February 11, 1971, <sup>stamp-</sup> from ~~the~~ Assistant Administrator for Administration of GSA. It was received by plaintiff February 13. It could not have been received earlier and, in fact, reached plaintiff more expeditiously than <sup>has</sup> most mail from Washington <sup>o</sup> reaches plaintiff. Now the date of receipt is not a normal working day, being Saturday. Sundays there is never any mail, Monday is a holiday on which there will be no mail, and the following ~~next~~ day is the last on which these papers may be filed by plaintiff. As is well known to those who have dealt with him, which includes defendants, when plaintiff, who lives in a rural area served by a rural carrier but once a day, goes to Washington, he has to leave before <sup>delivery,</sup> his mail is delivered. It follows that if defendants had planned for this letter ~~not to have reached~~ plaintiff until too late for him to do anything about it, they could not have designed it better.

What this letter relates to is the essence of the ~~present~~ instant case. It <sup>is</sup> ~~alleged/corrects an innocent error~~ <sup>defendants'</sup> of about five months earlier. <sup>it relates to Defendants</sup> It ~~was a month~~ <sup>Exhibits 1 and 2</sup> after plaintiff's letter that he received it.

Were this to be innocent, the normal working of an inefficient and uncaring bureaucracy little concerned about the law, the courts and the rights of citizens, as is possible, the context in which plaintiff must view it is one he feels impelled to make a matter of official record and to call to the attention of the Court in some detail. It stretches even a willingness to <sup>do so</sup> believe to believe that all of what plaintiff will report is entirely innocent, particularly in a case in which plaintiff, a non-layer, represents himself.

Having no knowledge that defendants were about to file their instant motion, <sup>and</sup> on the very day thereof, still hoping to avoid encumbering this Court without need, plaintiff

wrote the Assistant Administrator of Administration of GSA, Mr. W.L. Johnson. <sup>quite</sup> It had then been ~~some time~~ since plaintiff had filed his Motion for Summary Judgment and plaintiff had heard from neither defendants nor this Court. A copy of plaintiff's letter is <sup>V</sup> attached hereto. Aside from that to which plaintiff in particular directs this Court's attention, there is in this correspondence what also relates to these matters addressed in ~~the~~ <sup>these</sup> instant papers ~~submitted~~ <sup>massively</sup> ~~and~~ <sup>much</sup> prepared ~~on an~~ earlier date. One of these is whether plaintiff had, in fact, exhausted his administrative remedies with what by now might be regarded as <sup>flippancy</sup> ~~some~~ ~~what~~ ~~trivially~~ described by defendants as "available". ~~By~~ the foregoing, plaintiff represented to this Court that defendants' allegation is neither serious nor truthful, that plaintiff did, with some care and effort, comply with all requirements, including by proper ~~and~~ appeal that was officially rejected. Nowhere in defendants' motion is there acknowledgement of the fact of this appeal <sup>of</sup> or its rejection <sup>of</sup>, and there is only what plaintiff categorized as deception.

Twice in the first paragraph of plaintiff's letter of January 13, 1977, to Mr. Johnson there is reference to plaintiff's "appeal", that word being used, and to its official rejection. Despite <sup>defendants'</sup> ~~the~~ ~~misrepresentation~~ <sup>made to this Court</sup> that plaintiff believes is deliberate, made exactly the same day that plaintiff wrote, nowhere in Mr Johnson's letter does he dispute this description, that plaintiff did appeal and was rejected.

And Mr. Johnson, the Court will recall, is the identical person to whom, under the GSA's own regulations, plaintiff's appeal was required to have been automatically forwarded not later than about five months ago. It is defendants' argument that because Mr. Johnson has not <sup>p</sup>complied with law and regulations, plaintiff has not "exhausted his available administrative remedies."

Plaintiff, who had neither knowledge <sup>of</sup> nor any way of knowing that on that very date defendants were going to file their instant Motion, also addressed other matters that are essential in these papers. For example, of defendants' refusal to provide copies of the pictures requested:

"Its position has been that if refused my request because not to do so would

result in sensational or undignified use of the evidence I seek and seek to study."

The proper GSA official, the Deputy Administrator for Administration, in ~~no~~ <sup>manners</sup> way, ~~anner~~ or form disputes plaintiff's representation of defendants' <sup>alleged</sup> basis for ~~his~~ refusing plaintiff's requests. <sup>That they and plaintiff's appeal were in fact refused.</sup>

Identically the same is true of <sup>falsely contrived</sup> plaintiff's representation of what he really seeks, as distinguished from the improvisation <sup>he had no</sup> erected to mislead this Court. Plaintiff, ~~again~~ <sup>he had no</sup> emphasizes, ~~without any way of knowing~~ that his requests were at that very moment being misrepresented by defendants, described them in this sentence:

"I asked only for the pictures you already have and for <sup>you</sup> me to take pictures for me ~~with~~ with your own equipment."

<sup>Stamp -</sup>  
Mr. Johnson's complete silence on this, too, in his letter dated February 11, 1971, plaintiff submits, is acknowledgement of the truthfulness and accuracy of plaintiff's representations to this Court and, conversely, of the falseness and the deliberate falseness of what defendants have presented to this Court ~~and~~ in its own way thus <sup>never was any</sup> reinforced <sup>the</sup> plaintiff's claim that there is no genuine issue as to any material fact.

Plaintiff's letter to Mr. Johnson, although written for other reasons, is a clear <sup>proof</sup> reflection that it was not plaintiff's desire needlessly to burden this Court. <sup>Its</sup> ~~The~~ chief purpose is set forth explicitly in two paragraphs, reading:

"If you will examine Item "(5)" in Mr. Vawter's letter, you will see that it reads: 'permission for you to examine the photographs taken with CBS equipment by the Archives staff'. And if you will think of this for a moment, you will understand that what this really says is that, contrary to the representation made to me in order to deny ~~me~~ access to this public information to me, that any use would be sensational or undignified, the Archives, <sup>did</sup> prior to my repeated requests, permit to CBS that which it denies me, permission to examine the clothing, and more than I requested, the right to use their own equipment in taking the pictures denied to me. I asked only for the pictures you already have and for you to take pictures for me with your own equipment.

I realize it is not my obligation to call this to your attention, but unlike the clear record of the Government, I have no desire needlessly to burden the courts, and I do not regard the law as a game to be played, involving whatever tricks a litigant thinks he can get away with. I regard this acknowledgement of having done for CBS - and for the largest possible audience - precisely what it refuses me for my research and writing, which can never reach so vast an audience, the Government has invalidated all of its alleged reasons and eliminated any question in fact.

<sup>John</sup>  
~~And here~~ plaintiff informed Mr. Johnson of plaintiff's intention to amend his Motion for Summary Judgement to <sup>inc</sup> incorporate this admission by defendants.

Now it happened ~~that~~ that on exactly the date stamped on Mr. Johnson's letter, at a little before 1 p.m., plaintiff received ~~an unsolicited and entirely voluntary~~ telephone call from the Assistant United States Attorney whose name is signed to ~~the~~ *Mr. Robert Werdig, Jr.* instant defendants' Motion and who seems to be handling the case, *Mr. Werdig's* (To this conversation, plaintiff will return. Here he asks the Court to note only that with his knowledge of the serious problem for plaintiff in completing these papers within the time set and with his knowledge that, in fact, plaintiff was preparing these papers, Mr. Werdig made no mention of Mr. Johnson's letter, *or of its contents,* which could not be more relevant to plaintiff's defendant's earlier papers and to any response by plaintiff. The letter from Mr. Vawter is Defendants' Exhibit 2 attached to defendants' instant motion. Mr. Johnson's letter, which could not possibly be expected to ~~reach~~ *reach* plaintiff prior to the date on which these papers are due in this Court, *at this very late hour -* suddenly claims Mr. Vawter's letter is in error.

Mr. Werdig could telephone plaintiff and not mention this? And Mr. Johnson, the responsible official of Defendant GSA, could not telephone plaintiff? The Archivist, head of Defendant National Archives, could not telephone plaintiff?

And can it be believed that after plaintiff, with motives that certainly cannot be questioned, was frank and forthright with defendants on just this point, after (and so long after!) plaintiff did amend his Motion for Summary Judgement, neither defendant notified their counsel, Mr. Werdig, or anyone else in the Department of Justice or the Office of the United States Attorney for the District of Columbia? *(indicating earlier typing thereof)* Before directly addressing Mr. Johnson's letter ~~and~~ stamped February 11, 1971, plaintiff reminds this Court that despite the contrary certification, defendants did not serve upon plaintiff the attachments to their instant Motion; that after plaintiff's first request ~~therefor~~ they did not provide these attachments, which include Mr.

Vawter's letter; ~~and~~ that on the occasion of plaintiff's second request, these *That plaintiff then made a third request;* exhibits had not yet been copied; and that they did not reach plaintiff until February 8, which is but three days prior to the date stamped on Mr. Johnson's letter.

It seems reasonable to assume that long before these exhibits were so belatedly

sent to plaintiff, defendants were aware of the "error" they now allege is in their rejection of plaintiff's appeal.

Can it be believed that it required a month, which is the approximate time between plaintiff's letter of January 13 and defendants' of February 11, to learn that so serious an error had been made? *Or that it was not and should not have been learned in the four previous months following filing of plaintiff's complaint?*

Can it be assumed that a Court is allegedly so grossly misinformed as is now claimed by defendants and the Court is not promptly informed thereof?

Rather than helping defendants, this alleged "correction" is their petard on which they hoist themselves. Further, this letter perpetuates what has become a Government tradition, not ever writing plaintiff without *falsehood* and misrepresentation. Knowing this letter would reach the Court, plaintiff alleges it had the added purpose of misrepresenting and intending to deceive this Court, as he will explain.

Mr. Johnson ~~xxxx~~ writes:

"I have been informed by the Archivist of the United States that CBS personnel were not permitted to see or examine President Kennedy's clothing, and that no photographs or motion pictures film of that clothing ~~was~~ were taken ~~for~~ by or for CBS.

This is all that in any way addresses plaintiff's letter of January 13. Plaintiff has no independent proof of its truth or falseness, but plaintiff did understand that such photographs were taken for CBS, which is precisely what plaintiff's appeal of June 20 1970 says.

For the purpose of misrepresentation to this Court, *and* whether or not truthful it is being entirely irrelevant to plaintiff's requests *to* and his letter, this *follows* sentence

~~is~~ next in Mr. Johnson's letter:

"Photographs of the following exhibits were taken by the National Archives staff with CBS equipment: Commission Exhibit 319 <sup>CE 142</sup> (rifle), CE 399 (bullet), CE 567 (bullet fragment), and CE 569 (bullet fragment). <sup>(bag)</sup> As indicated by Mr. Vawter's letter of September 17, 1970, to you, these photographs will be shown to you in the National Archives on request, and copies of any you select will be furnished to you for the usual prices."

Now the Court can see for itself that the last two sentences *deception,* are not the subject of plaintiff's request, not the subject of his appeal, and are in no way mentioned or in any way referred to in Mr. Vawter's letter. That was in response to this language in plaintiff's appeal: *(Defendants' Exhibit 1):*

This, the only possible interpretation, permeates defendants' instant motion and attachments. Under Memorandum of Points and Authorities, it is included in "1)". Under "Argument" it is explicitly quoted in identically this manner and with the identical excerpt, "to allow you to examine item 5 <sup>photo</sup> photographs..., to furnish you prints of the item 5 photographs." (p.6). Here again, under the argument that "Plaintiff Has Failed to Exhaust the Available Administrative Remedies".



Insert on 7 a

Is not the entire thrust of defendants' argument about the family contract that it absolutely precludes the providing of any such photographs of the clothing under any circumstances to anyone?

Insert as 7B

How perfectly this shows the spuriousness of <sup>defendants' knowingly</sup> ~~the~~ false interpretation of this contract <sup>National</sup> when nobody at all, from clerk through Archivist at the Archives and through all the appeals mechanisms at GSA, including the office of the general counsel and that of the Deputy Administrator for Administration; when nobody at the Department of Justice and no one in the office of the United States Attorney, doubted for a single instant that such pictures were taken for CBS or even questioned that they had been! And yet they tell this Court that the contract prevents this?



the represent to this Court, "there is no genuine issue as to any material fact and, therefore, defendants are entitled to judgement as a matter of law."

The false pretense, seriously addressed to this court, that plaintiff had ~~not~~ exhausted the administrative remedies available to ~~him~~ <sup>of species.</sup> thus becomes so fragile it would not sustain a dessicated, subinvertebrate butterfly. And on this basis, as he has properly represented to this Court, plaintiff would be entitled to judgement in his favor, there being no possibility at all of any genuine issue as to <sup>any</sup> ~~no~~ material fact.

On the other hand, if, as plaintiff cannot disprove, it is true that the Archives did not take such photographs as plaintiff seeks for CBS, what then is the situation? What then can be said of the <sup>honesty</sup> seriousness with ~~which~~ which defendants represent to requests for <sup>public</sup> ~~public~~ information? The ~~official~~ official attitude toward appeals under the law and regulations are this <sup>y</sup> portrayed in what light? And ~~so far as the~~ <sup>with regard to</sup> uniform application of regulations, the impartiality <sup>y</sup> access, the seriousness with which those who operate the Archives and care for this irreplaceable archive, ~~regard~~ <sup>is concerned,</sup> what does this show? <sup>And what of their concern for the provision of the family contract?</sup>

Did anyone throw up his arms in horror at the thought that such photographs were taken for CBS? From defendants' own representation, would this not be the next thing to an unimaginable national catastrophe, a serious offense at the least? But someone in authority did affirm that such pictures as plaintiff seeks were taken for another, and nobody in authority did for a single instant question it? Not even when plaintiff filed the instant complaint and, presumeably, before making any representation to this Court, defendants and their eminent, learned and experienced counsel looked into the matters involved?

<sup>INSERT 7B</sup> This one incident ought persuade the Court what plaintiff's unhappy experience has been, that in order to suppress the vital evidence ~~being sought and represented~~ of the President's assassination from any unofficial examination, there is nothing of which the Government is not capable, no lie too <sup>very</sup> ~~dear~~ <sup>very</sup> ~~dear~~ to tell, no trick too demeaning to pull, and ~~no~~ interference in independent research not worth trying. The least that can be said of this is that defendants' word can be taken for nothing and that

when caught in one lie, that merely is inspiration for immediate improvisation of another.

It is immaterial whether the lies are to an unimportant person like plaintiff or to a Court of law. Government makes them, and to them there is no end. Plaintiff has long experience with them, including, as this <sup>Court</sup> ~~Chief~~ knows, from the false swearing proven by examination of ~~the~~ Defendants' Exhibit 3 and from earlier litigation.

When a President is cut down in broad daylight <sup>on the streets of</sup> ~~and in~~ a major American city, when that assassination is investigated by the Federal Government and that investigation leaves the most enduring and disturbing doubts, do not those who, at great personal cost, are willing to undertake to examine the evidence (and have in this endeavor the sanction of the law and regulations and rights under both), have any hope of the protection of their rights <sup>by</sup> ~~from~~ the courts? Is Government, are defendants, to be permitted indefinitely to frustrate the clear meaning of the law, to ~~frustrate and do whatever is~~ <sup>within</sup> ~~is~~ in their power to do to interfere with any independent study on this subject?

Can there be any public trust in the official investigation in the face of this official attitude and <sup>such a</sup> record?

And is there no authority in American society that can compel an end to official falsehood, ~~deception~~, misrepresentation and, plaintiff believes, perjury, just to block any independent study of the President's assassination and its official investigation?

Can any Federal actions bring ~~either the Members of that Commission or the bereaved~~ survivors into greater disrepute, now or in history? Almost without exception, the members of that Commission, all eminent men, were already over-committed to the public service. ~~THEIR~~ Their's was a thankless, painful assignment from which none could profit personally. Has any family had greater, more public anguish and <sup>y</sup> suffering? It is not possible for Government more to besmirch those eminent men or this so-bereaved family than by the suppression of evidence, legally-speaking, public information, and that by so many deviousnesses, misrepresentations, distortions, falsifications and, as best a non-lawyer can, <sup>M</sup> plaintiff alleges the possibility