

Quotes

The genuineness and seriousness of defendants' instant motions, the sincerity and honesty of what was presented to the court, can be addressed in several ways, all consistent with plaintiff's need to bring this cause at action and all proving the validity of plaintiff's motion for a summary judgement.

One of these is through examination of what defendants' instant motion and its addenda as they present what are represented as direct quotations from correspondence, law, regulation and contracts and the fidelity with which these allegedly direct quotations have their real meaning imputed in the said defendants' motion and addenda.

Under what is labelled "STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE", defendants ~~also~~ select excerpts from one of plaintiff's many letters (incorrectly identified and incorrectly dated by defendants) and one of defendants' fewer responses. In defendants' Memorandum on Points and Authorities", the is scanty and distorted quotation ^{from this same letter, still incorrectly identified as one} ~~attributed to a letter by~~ Plaintiff" plaintiff wrote the Director of Information, GSA" on June 6, 1970, whereas plaintiff did not write the Director of Information, GSA on that date; ^(which is the misidentified letter) direct quotation from Plaintiff's June 20, 1970 letter, ^{and from} from defendants' September 17, 1970 reply.

The ~~extent~~ extent of plaintiff's correspondence with the government in an effort to obtain public information improperly withheld from him is so great plaintiff cannot assure this court that he has located and itemized all of it. However, he has isolated and copied a total ²⁵/~~27~~ letters between him and the government of this subject alone, not counting correspondence with the representative of the executors of the estate of the late President; ^{relevant} two letters from whom at attached to the complaint as Exhibit C. Plaintiff's letters to the government on this subject total 16, replies, where made, total nine. Of these, defendants wrote only four prior to the filing of the complaint. The single letter of defendants' quoted was written after filing of the complaint

On the face it it, it would hardly seem that there is or is intended to be fair representation of either plaintiff's requests or defendants' responses in the partial quotation from but two of a total of more than 25 letters, and these two the last one written by plaintiff prior to filing the complaint and the other defendants' reply

of three months later, ~~after~~ dated 21 days after filing of the complaint.

Plaintiff suggests that such inordinate delay in making response in~~x~~ itself violates 5 U.S.C. 552 and clearly ~~frustrates~~ ^{the intent and} ~~the~~ purpose of the Congress and the law ((a)(3) stipulates promptness). In any event, it would hardly seem possible that a letter written so long ~~after~~ filing of the complaint "disposed" of it, as claimed on page 6 of the Memo defendants' "Memorandum on Points and Authorities", especially where defendants go to such length to misinform the court at that ~~point~~, misrepresenting this letter as having been written before filing of the complaint in this fashion:

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

To this, with the questions being those of fidelity to ~~fact~~, fairness and honesty of quotation, should be added the fact that the letter thus misrepresented was not "the response of the Archives to plaintiff's requests" at all, but was that of the Director of Public Affairs of GSA.

With this background, the court can better appraise the faithfulness of what is quoted and presented by defendants to the court as a fair representation of plaintiff's requests and defendants responses.

~~Because of the great burden to plaintiff, who has no money, the~~

~~xxx~~

So that the court can determine for itself whether or not plaintiff correctly and honestly and fairly quotes that which plaintiff alleges defendants do not, plaintiff attaches hereto full copies of every letter or page quoted. Because defendants already have copies of each of these things and because, being without regular income, even such slight costs are burdensome to plaintiff, he attaches these to the original only/

Here what is relevant and was withheld from the court, with ... being substituted, will be added by plaintiff and marked by underlining.

The first quotation is from ~~the~~ ^{plaintiff's} letter, ~~misdated~~ ^{by defendants} as June 6, 1970, whereas it was actually dated June 20, 1970 appears on page 1 of the "Statement of Material Facts" as follows:

"Over the months, I have made requests for documents in the National Archives

files relating to the assassination of President John Kennedy. . . . "

Ather this there is a line of asterisks, as there should be, for aside from omitted three-quartersofnthe first paragraph, the entire second paragraph is omitted.

Plaintiff believes the court can better understand why those things that are here omitted from plaintiff's required appeal are omitted by defendants if the court consider them in the context of defendants' "A "III. Argument", Subsection A, (pp. 4-6) , which makes the claim that "Plaintiff Has Failed to Exh₂ust the Available Administrative Remedies."

What follows in plaintiff's letter of appeal and is carefully omitted in defendants' selective quotation therefore directly relates to plaintiff's endless efforts to exhaust his administrative remedies even prior to writing the letter of appeal. The omitted part of plaintiff's opening paragraph is here quoted in full:

"anticipating these requests would be rejected. I asked that if rejected, to save time, which your agency wastes for me as a routibe matter, the request be forwarded to you as my appeal under your regulations, as a necessary prerequisite to invocation of 5 U.S.C.552. in Addition, I addressed a letter drawing together some of these requests, with the understand(ing) that if the decision was not changed following review, it would be forwarded to you as my appeal."

Because months-long delays were the rule rather than the exception in plaintiff's requests for public information at the of the National Archives, ~~sixmonthsdelay~~ ~~unrespondingz~~ and because some were never answered bybthe Archives and other federal agencies with public information relating to the assassination of the President, Plaintiff included the par^{here}graph omitted by defendants, again bearing on whether or not plaintiff had conscientiously tried to exhaust his administrative remedies prior to filing suit. The record shows that plaintiff waited more than two months after filing this appeal before he did file his complaint in the instant action:

"I shall interpret failure to respond as waiver of the requirement, unless there is immediate response, now that there is no doubt you have been informed. I believe the long delays are in themselves waiver of the requirement, when considered with the language of the law, its legislative history, and ~~the~~ clear Congressional intent."

~~XXXXXXXXXXXXXXXX~~

In an effort to make it appear like what is other than the truth, a point actually argued in this instant motion by defendants, that defendants had, in fact, complied with the law and provided the requested photographs to plaintiff, the third

paragroph of plaintiff's ~~letter~~ appeal was similarly edited to omit what disproves the false claim of defendants:

"Herewith I appeal a subsequent decision, to refuse me photographic copies of photographs in these files. I have been provided . . . copies of some of the photographs of the President's garments . . . the magnification of which . . . is automatically prevented by their having been made from photoengraved copies, the screen of which appears as dots upon magnification."

The two deletions in this selective quotation from plaintiff's ~~letter~~ appeal are pretty clearly designed to lay a basis for defendants' invalid arguments that defendants have complied with the law and regulations, have given the plaintiff the pictures to which he is entitled under the law, and that "there are no genuine issues", wherefore defendants "are entitled to have this action dismissed or, in the laternative, to have judgement entered in their favor". What is here edited out by defendants also refutes the only basis upon which defendants can, under the GSA-family contract, refuse to provide plaintiff with copies or pictures of the clothing or to make pictures therefor for plaintiff: "any other use which would tend ~~to~~ in any way to dishonor the memory of the late President or cause unnecessary grief or suffering to the members of his family" . . ."

"The family desires to prevent the undignified or sensational use of these materials (such as public display) or

The words deleted in the first instance are "with utterly meaningless", in the second instance, ", those showing no detail, nothing but ~~gore~~ or those".

In combination, these deletions both change the sense of what plaintiff wrote and corrupt it to make it seem to say that the requirements of the law were met by defendants, argued further, from this false basis, under "Argument" on page 5.

What plaintiff actually said is that the picture with which he was provided are only ~~that, while public in nature, are~~ those published, not those withheld; that they had no more evidentiary or research use or value than a plain piece of paper; that they were not, in fact, genuine photographic photographs but were offset pictures that inevitably are thereby made unclear; and above all, that they were exactly what he, in common with the family, did ~~not~~ want, pictures ~~that could be used only for~~ suitable only for "sensational or undignified use".

Making this omission even more pertinent is the false and deceptive emphasis added to precisely this point in the GSA-family contract, which also happens to be one of the five additions of emphasis not disclosed to the court (p.7). Without this deletion, defendants could hardly argue that plaintiff's proper requests were denied because the used intended was "undignified and sensational" and violated the contract. Plaintiff will dwell on this at greater length in responding to that part of defendants' "Argument A".

The next paragraph is edited to hide violation of regulations and to make it appear that, ^{falsely,} regulations and the contract were complied with. As defendants represented it to this court, what plaintiff wrote is:

"The National Archives has made its own photographs of these garments for the alleged purpose of making them available for study rather than permitting study of the garments..."

In considering the germaneness of what was deleted, this court might also consider that only after four years of plaintiff's requests was the existence of these denied photographs disclosed to plaintiff; What is deleted reads:

"When I sought permission to examine the garments, under a precedent whereby it was permitted to examine Lee Harvey Oswald's shirt, I was refused. I was shown photographs of which I was denied copies." (Emphasis added.) There is further point in this deletion in that it is required that photographs be provided where the conditions were met, as plaintiff did meet them.

The last quotation from plaintiff's letter is so deceitfully excised that it has him in the position of telling a lie. It reads:

"One of these was the front of the President's shirt. It is the only such photograph in the Archives of which I have knowledge . . . I asked for it or an enlargement of the area showing the damage to the shirt."

This is not the only photograph in the Archives of which plaintiff had knowledge. This and what is consistent with the ulterior purposes of the earlier excisions is obvious upon reading what was sliced out of ~~this court's~~ what was presented to this court:

"...that can serve research purposes and can be used for other than undignified or sensational purposes."

So that the court can better understand the non-accidental character of this editing that in plaintiff's belief is designed to misinform and mislead this court and to falsely

make it appear that defendants had complied with the law and regulation while plaintiff had made inadequate and improper requests, plaintiff informs the court that he has repeatedly challenged the defendants and the representative of the family to show how a) any other than "undignified or sensational use" could possibly be made of the pictures made available and given the widest possible dissemination by the government or b) the converse, how it was conceivably possible for such use to be made of the pictures requested by the plaintiff or those in the possession of the Archives and denied him. Plaintiff went further and sent the representative of the family those pictures showing nothing but the gore plaintiff didn't, the pictures made available by the defendants, with this challenge. That the family representative did not dispute plaintiff's representation of the character of the ~~xxxx~~ pictures made available is clear in the said representative's response, Exhibit C of the complaint.

That plaintiff seeks only pictures not subject to sensational or undignified use and this challenged to defendants is, side from verbal communication, recorded in what this instant motion by defendants ignores and would have this court thereby believe does not exist, plaintiff's letter to defendants dated December 1, 1969 and in 1970 on January 27 (where plaintiff also pointed out that the only available photographs "do not disclose, to careful ~~examination~~, that is testified to"); March 14 (wherein ^{with respect to} plaintiff point out ~~that~~ the Archives refusal to copy the existing negatives for plaintiff and to prove views of the damage that do not exist in the ^{available} pictures "how inconsistent this is with your claims, especially that it is your intent to prevent 'morbid' use of this most basic research material. The only use to which the pictures you have can be used precludes scholarship...constitute and unseemly and unnecessary display of the late President's blood. It is gorey. That is not what I want"-emphasis in original); March 19 (wherein plaintiff reported that the pictures provided "are a complete waste, for they disclose nothing but gore and, as I tried to tell you, gore is something in which I have no interest".); June 20, the appeal (where this is repeated on the second page, to which Plaintiff added that ~~with~~ the voluntary supplying of its pictures by the Department of Justice the defendants' reasons for withholding were "spurious"

voluntary supplying of its pictures by the Department of Justice ~~shows~~ proves how "obvious" the "spurious pretense has been ~~that~~ not to withhold such pictures would permit undignified or sensational use. To this I add that Mr. Burke Marshall has informed me of no other ground for withholding under the provisions of the alleged agreement."); September 15, which is in response to a September 11 letter from the Archivist, long after filing of the complaint ("The print you sent is valueless on several counts. Despite your contrary pretenses, you persist in making available for use only pictures that can be used for nothing but undignified or sensational purposes, pictures that show nothing but gore. This, I repeat, is not my interest..."); and October 12, in response to a self-serving letter of October 9, where plaintiff's earlier correspondence is quoted ("My exclusive interest is in evidence. This picture is totally valueless as evidence, for it makes impossible even the certainty of the outline of the hole. Were I to try and trace this hole, even that would be impossible. ...you do not dispute my characterization...").

Now ~~this~~ plaintiff's citation of the gross misrepresentation of his requests and correspondence is not without point, for under the law - and in a passage cited by defendants under "II. Pertinent Statutes and Regulations" with these words carefully omitted (p.2) "the burden is on the agency to sustain its action". Similar language is in H. Rept 9, reflecting the intent of the Congress, "The burden of proof is placed upon the agency..." And defendants are here seeking to lead the court to believe that contrary to the facts, ~~plaintiff~~ in defendants language at "III Argument A." (pp. 4-6) "Plaintiff Has Fairly Failed to Exhaust the Available Administrative Remedies". Defendants also seek to misinform the court as to the nature of what plaintiff asked and was, improperly, illegally, and contrary to regulations, denied. Thus it is necessary for defendants to so grossly misrepresent this correspondence, the extent of which defendants carefully withhold from the court.

So, presented as the last "STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE" is "5. On September 17, 1970, the Director of Public Affairs, by letter, advised plaintiff:" followed by further selective quotation. Now September 17, 1970,

three months after plaintiff's appeal under the regulations, ~~which shows~~

almost a month after filing of the complaint. As previously cited among those relevant facts so carefully edited out of this court's attention in defendant's misrepresentations of plaintiff's effort to obtain the public information he seeks and the diligent efforts plaintiff made to comply with the regulations, plaintiff had informed the person to whom, under the regulations, he was required to appeal, that he would wait a reasonable time before filing the complaint. Two months is more than a reasonable time.

The language of H. Rept 9/ is unequivocal:

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

Three months delay, waiting until about a month after filing a complaint, is hardly "prompt". The Attorney General's Memorandum" on this law addresses this in several ways, once at almost the exact point cited in another context and out of that context by defendants (p/9), saying (on p. 24) that "Every effort should be made to avoid encumbering ^{the} applicant's path with procedural obstacles..." and (on p, 28) by emphasizing the above-cited language from the House Report, saying that "the person making the request is entitled to prompt review".

In this case, by the selective quotation that amounts to misquotation, and by withholding the significance of the dates, defendants hide from the court the fact that under the law there was no review and that even self-serving response on any nature was delayed for three months.

At this point in the "Statement of Material Facts" and where defendant falsely claims "Plaintiff Has Failed to Exhaust the Available Administrative Remedies," ~~defendants'~~ ~~the~~ already-moot, three-months-late letter is quoted, in the second instance with further reference to plaintiff's ~~misdated~~ letter of June 20, misdated by defendants at June 6, 1970. The court is not informed of the extensive preceding correspondence in which plaintiff made his requests nor of plaintiff's response, by return mail.

Undoubtedly prepared with the deceptive use here made in mind, having been prepared long after filing of the instant complaint, this letter, as quoted, has the appearance of reasonableness and responsiveness, whereas it is neither, and

is couched to make it appear that defendants have provided that which they denied plaintiff for more than four years. The court cannot read this quotation from the defendants' "response" and have the slightest idea of what is referred to. There is reference to "Items" by numbers though five, as though such itemization appeared in plaintiff's appeal, which is contrary to fact. There is no such itemization in plaintiff's appeal. What is designated as items 2,3 and 4 are not described in any way. So far as the information provided the court is concerned, these could be paper-clips, toilet paper and the original of the Declaration of Independence. Item 1 is identified merely as a "photograph", with no more identification given the court. Item 5 is identified as "photographs". No more. Defendants have seen to it that the court is not and from its pleadings cannot be informed of what plaintiff seeks and sought or what this "response" really says.

However, despite the fact that this letter of defendants seems to have been designed for just the misuse of it here made, having been written so long after filing of the complaint and being in no sense a genuine response to plaintiff's appeal, it nonetheless cannot avoid confession of denial of plaintiff's rights to public information and violation of both law and regulations in two instances to which plaintiff will return, but here notes. In saying that "item 1 has been denied to you only in terms of furnishing you a personal copy of the photograph", defendants are really saying that this photographs has been denied, the furnishing of copies being required, as will be seen. In saying that defendants, so belatedly, are willing "to furnish you with prints of the item 5 photographs", defendants admit what plaintiff alleged in the complaint, that defendants have permitted others with a known predisposition to support the official explanation of the assassination of President Kennedy to examine and photograph these garments that are official evidence, whereas they refuse the same right to plaintiff. *all here from top 10*

It is this that is covered in plaintiff's supplement to his Motion for a Summary Judgement.

9a add an end line three up,

, thus, if with opposite intent, admitting fully the correctness of plaintiff's statements and claims in plaintiff's Motion for a Summary Judgement.

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However, so carried away with the cuteness of defendants' trickery was defendants' counsel that in the course of falsely arguing that plaintiff had not exhausted his administrative remedies, counsel said that the most casual examination of plaintiff's June 20, 1970 appeal will establish to be utterly and completely false:

"The preceding portion of plaintiff's letter was designated the first of five requests by encircled Arabic figure 1 in the right margin."

The attached ~~work~~ copy of plaintiff's appeal shows that plaintiff neither used any "Arabic figure" nor encircled the non-existent figures.

urpose is served by this incredible misrepresentation to the court, to make it appear that in his appeal plaintiff for the first time set forth that which he seeks, that he did it with enumerated requests, and that (again, the court is asked to note, after the complaint was filed), defendants made what is further misrepresented as proper and meaningful response.

The fact is that plaintiff's appeal began with reference to the preceding lengthy correspondence described above and to verbal requests for that which he was denied and incorporated them by reference. This appeal began with the words, "Over the months I have made requests for documents in the National Archives" and, as cited above is showing that in their selective quotation defendants omitted what is pertinent, continued by saying, "anticipating that these requests would be rejected, I asked that if rejected, ...the request be forwarded to you as my appeal under the ~~regulation~~ your regulations, as a necessary prerequisite in invocation of 5 U.S.C. 552 ..."

In the absence of the alleged Arabic numerals in plaintiff's appeal, it is not possible, with complete certainty, to determine in all cases what the nineesitence "Items" ate in defendants ex post facto, self-serving letter of September 17, 1970.