

It seems as though the so-called "Item 1" refers to the third paragraph of plaintiff's appeal, selectively quotes, as detailed above, out of context and with false emphasis.

Adding the correct emphasis, following the reference to his earlier requests extending over a period of four years, plaintiff said, "Herein I appeal a subsequent decision.

"that decision is adequately described as "to refuse me photographic copies of photographs in these files." This is to say that what in this case plaintiff was repeating and appealing is the refusal, in violation of regulations and the family contract, ~~as~~ will be seen, a normal, ordinary request for copies of public information in the Warren-Commission archive at the National Archives.

Defendant actually affirms plaintiff's point in Plaintiff's Motion for a Summary Judgment in obfuscatory language in that part of defendants' September 17 letter quoted as the fifth item under "Statement of Material Facts". In saying that what defendants designate as "Item 1" "has been denied ~~you~~ to you only in terms of" providing a copy a plaintiff's expense plaintiff is refusing plaintiff's appeal and requests, which were, as clearly stated and as required by law, regulation and the family contract, as will be shown, for "photographic copies of photographs in these files."

The fourth paragraph of plaintiff's appeal, inadequately quoted by defendants and completely quoted above by plaintiff, again is clear in specifying what plaintiff seeks. It says two things, both of which are correct, as defendants' argument leaves beyond doubt. The first is:

"I sought permission to examine the garments, under precedent whereby I was permitted to examine Lee Harvey Oswald's shirt, I was refused."

The second is:

"I was shown photographs of which I was denied copies."

However defendants designate these two proper requests, whether as Items 2, 3 or 4, what defendants' letter of September 17, 1970 is false as is the representation thereof under defendant's "Statement of Material Facts." Defendants ~~say that~~ claim "that items 2, 3 and 4 above have never been denied ~~you~~ to you by the Archives."

No more total proof of the deliberate falsity of this claim is possible than defendants' own own under "III. Argument B", the subject of which is a complete admission that plaintiff was refused permission to examine the garments and for the Archives to photograph them for him:

"Defendants' Refusal to Permit Examination and Photographing of the Articles is a Discretionary Act Created by Statute and the Agreement with the Donors (Emphasis in original).

Despite their misrepresentation to this court, the claim under "Statement of Material Facts", here defendants not only admit that they did refuse what plaintiff asked but further claim the sanction of law for so doing. Yet in the S "Statement of Material Fact" is is of this request <sup>that precisely these things</sup> alleged ~~it~~ had "never been denied to" plaintiff.

In defendants' "Memorandum of Points and Authorities", under "I. Preliminary Statement", defendants say exactly the same thing, that they did refuse plaintiff's request:

"2) the refusal of defendants to permit plaintiff to do what he desires regarding these articles is an exercise of discretion committed to the defendants by statute and an agreement between defendants... and the donor~~s~~, donors of the articles and 3) the articles which plaintiff seeks are not 'records' ~~as contemplated by~~..."

Aside from the interpretations of statute and agreement, which will be addressed below, it should be noted that there is a further misrepresentation here, namely that asked "to do what he desires regarding these articles". Plaintiff has never asked that he be permitted to "do" anything "regarding these garments". The intent of this misrepresentation is deception of the court to lend an ~~app~~ air of authenticity to later misquotation and misinterpretations of ~~both~~ statute, regulation and the said agreement.

Further, under "C" (p.9) defendants alleged that what plaintiff seeks "...is not a 'record' within ~~the~~ 5 U.S.C. 522." (Emphasis in original).

No less explicit a refutation of defendants' quoted claim not to have denied plaintiff's request is this quotation ( from p.8), emphasized by defendants, that the Archivist himself "has 'determined that serious scholars or investigators... (in original) may view photographs of the said articles of clothing, but may not inspect or examine

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or examine the articles of clothing themselves."

A more completely false claim is impossible to imagine, nor a grosser attempt to deceive a federal court. Yet the reality is even worse than this. Aside from earlier and verbal refusals to plaintiff going back to early November 1966, here are a few of the refusals by the Archivist, in writing and in the first half of 1970, prior to the filing of the complaint and all in the file of requests to which defendants September 17, 1970 was in purported response:

January 22: "We do not prepare photographs of ~~the~~ President Kennedy's clothing for researchers."

March 12: "We have two photographs of CE394 that we prepared that we can show you. We do not furnish copies of these two photographs."

April 16: "We prepared photographs of the shirt and the coat to show researchers instead of the clothing itself. we do not furnish copies or enlargements of these photographs..." (What follows is particularly noteworthy in view of the waiver by the representative of the donors, Exhibit C ~~tax~~ attached to plaintiff's complaint, "...gave the Archivist full authority to handle requests...included authority to use photographs as he saw fit...; " and "...this is a matter on which the Archivist is not required to consult me...")

"...-to avoid any possible violation of the agreement with the Kennedy family."

August 19 ( belatedly, two months after plaintiff appealed and a month prior to the "response"): "...we will also prepare photographs of the damaged area of the know of the necktie in CE # 895 which we will show you in the National Archives Building without furnishing prints to you."

(Exhibit 895 is entirely unrelated to the necktie, being unclear photographs of the official re-enactment of the crime, but plaintiff asks the court to consider the meaningless of this request in one of its many special aspects: suppose plaintiff were an American from Alaska or Hawaii, on one living in the high Himalayas? This is a further meaningless offer designed, self-servingly, in anticipation of this instant action preparatory to which plaintiff had exhausted his administrative remedies.)

Returning to the pretended answer to plaintiff's appeal, as selective quoted in what defendants describe as "State of Material Facts", it is said with respect to unidentified and unidentifiable, non-existent "Item 4", that "the Archives had indicated a willingness... to supply you the photograph in item 4".

If this does not refer to one of the foregoing quotations from plaintiff's appeal, all of which were explicitly and repeated rejected, despite the instant and deliberate misrepresentation thereof, it must be what is asked for in the

fifth paragraph of Plaintiff's appeal. This paragraph is one here quoted selectively, as already shown, and also, still selectively, but differently, with different exclusions and inclusions, on page 5. Referring to one of the photographs shown plaintiff but of which copies had been refused, has and had enlargement of the ~~mass~~ most minute areas of the existing pictures, plaintiff had actually said:

"One of these is of the front of the President's shirt. It is the only such photograph in the Archives of which I have knowledge that can serve research purposes and be used for other than undignified and sensational purposes. I ask for it or an enlargement of the area showing damage to the shirt."

This ~~ppurported~~ "indicated..willingness... to supply you the photograph in item 4" is the repeated, straight forward and entirely unequivocal refusal by the Archivist, more than adequately quoted above from his letters of January 22, March 12 and April 16, 1970.

It is difficult, if not entirely impossible, to conceive a more complete or deliberate misrepresentation, a more callous disregard for truth, that here alleged to be a "Statement of Material Fact" and that beyond dispute!

However, should this non-existent "Item 4" refer to the sixth paragraph of plaintiff's appeal, not anywhere quoted, even deceptively, by defendants, the imposition upon the court and the plaintiff is undiminished. That paragraph reads,

"There is ~~no~~ existing photograph of the side of the knot of the tie. (An eloquent commentary on the character of the investigation, with the entire solution depending upon its having a bullet-hole in it.) I have asked that it be made for me and have been refused. I ask you for this. ~~or~~ For purposes of my research and, I believe, any genuine research, such a side view ~~is essential~~ of the damage to the knot is essential."

Quite contrary to the alleged "willingness...to supply the photograph in item 4" here alleged, what the Archivist actually said, as quoted above from his August 19 letter, is ~~that~~ "without furnishing prints to you." This is exactly opposite the non-existing "willingness...to supply the photograph.."

The next and last statement is, when understood, as plaintiff set forth in the Supplement to his complaint, total disproof of all the contrivances and deceptions, selective quotations and misquotations all the false claims to plaintiff and to the court, all the tortured interpretations of the selectively and inaccurately quoted law, regulation and agreement. And it is innocuously phrased so that this will be

knowledged denied the court. It reads:

"...to allow you to examine item 5 phootgraphs innthe Srchives Building and to furnish you prints of the item 5 photographs."

This was preceed, in the same sentence, with the wuoted alleged "willingness" of the Archives.

First, plaintiff asks the court to take note of the fact that this non-existent promise is not supported with any quotation of this alleged offer by the Archives in any verbal or written communication to the plaintiff. The reason is not only because no such offer was ever made but more, because <sup>even</sup> the existence of these studiously-  
unidentified photographs had never been disclosed to plaintiff.

So, with the complaint having been filed three months earlier, this is false as a representation of a willingness to comply with plaintiff's requests and with the law, ~~and~~ regukations and contract, or meaningless and a still further deception if it means what it does not say, that as a consequence of the fiking ofnthis instant action, defendants, dbelatedly, made this slight concession.

~~There are 12 paragraphs, each containing citations of the request~~

There are 12 paragrpahs in plaintiff's appeal. All but the second and last two refer to requests he had made and been refused. All of these, obviouslt, are not quoted by defendants for to do so would be to acknowledge still other denied requests. Plaintiff does not here burden the court needlessly with qutiatiom of them. However, it must be obvious that calling the last "Item 5" and not quoting the others is still another deliberate misrepresentation and deception.

What appears to be "Item 5" is the opening sentence of the penultimate paragraph of the appeal:

"It is my understanding that the Co,umbia Broadcasting System was permitted to make its own photographs of this clothing and I know for a fact they were permitted to make their own photographs of CE399."

Defendants' response, so neatly designed to make no record of it, actually constitutes an admission of everything denied in this and all other papers filed by defendants in this instant action. It acknowlwdges that a commercial interest, for commercial purposes, was permitted to examine and to photograph the President's clothing,

and that with its own equipment (plaintiff had asked <sup>only</sup> that ~~similar~~  
photographs be made for him by Archives personnel with Archives equipment, without  
plaintiff touching the said clothing! ~~xxxxxxxplaintiff~~

Yet defendants have the temerity to inform this court that this is among the  
things precluded by law, regulation and the family contract!

What makes even more sinister this disguised admission is that on TV, before the  
largest audience in the history of TV, what could be presented was only that which is  
precluded by the contract, the most "undignified" and "sensational" display of the  
late President's blood, what could be only in the worst possible taste and what  
only, as defendants on page 7 quote the contract, adding emphasis without so  
indicating, "cause unnecessary grief or suffering to the members of his family  
and those closely associated with him."

This single if obfuscated and deceptively-phrased admission makes a mockery of  
this court and the processes of justices. It is proof of a cruel imposition on, <sup>of</sup>  
the "members of his family" and ~~their~~ "grief and suffering", which in "III. Argument",  
under "B." and "C" is ~~also falsely~~ with mendacity blamed for suppression of this  
official evidence of that horrible crime.

That makes this all the more ghoulish and ghastly is that it was done by  
the administration which came into power only because of that assassination.

If these seem like excessively st ront representation, the court's attention  
is respectfully directed to plaintiff's respons to the pertinent parts of defendants'  
"Memorandum of Points and Authorities."

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For the rest of it, what is labelled a " Statement of Material Facts as to which there is no Genuine Issue" (Use caps) is equally deceptive in that it in every other point equally false and deceptive, in that <sup>it is</sup> studiously omits most of plaintiff's rejected requests, <sup>enough</sup> being cited above to eliminate the need of further burdening the court with additional citations of them; <sup>deliberately</sup> misrepresents the request ~~it~~ to which reference is made, saying what is false, that plaintiff, who has neither the necessary equipment nor the required skill, personally seeks to make the photographs himself ("Plaintiff desires to inspect and photgraph" under "1." and "The arct articles sought to be insoected and photographed by plaintiff" under "2." ;

Alleges ~~that~~ ("3.") that "The articles are on deposit by virtue of an agreement dated October 29, 1966," which is false, this deposit having been effectuated by another document also denied plaintiff, a "Memorandum of Transfer" of more than a year earlier, title alone being transferred on October 29, 1966;

And the existing pictures plaintiff seeks are not these ~~ix~~ "artciles" that are "on deposit" but are other public property and public information, existing because of the normal functioning of that agency, the National Archives.

In summary, it seems fair to say that this entire "Statement of material facts" is anything but that ~~and~~ is rather a concoction of selective, deceptive, misrepresentative, ~~deceptive~~ presentation that cannot be of this character though accident and, in actuality, supports and proves each and every allegation in plaintiff's complaint, Motion for a Summary Judgement and Supplement thereto. This is in no sense an honest presentation to a court of law and is in every sense an effort to misinform and deceive the court so that it may be converted into an instrument for sanctifying and perpetuating defendants' violations of law and regulations and the withholding from plaintiff of that public information to which he is clearly entitled.

More plainly put, it is an effort to convert the court into an instrument for the suppression of the basic, public evidence of the assassination of a President.

Defendants' "Memorandum of Points and Authorities"

This part of defendants' motion is divided into three parts, titled, "I. Preliminary Statement", "II. Pertinent Statute and Regulations" and "III. Argument." Argument, however, and with consummate subtlety not recognizable by anyone not intimately familiar with all the facts, dominates and permeates.

The two paragraphs titled "Argument" are neither faithful to the fact nor a fair representation of the fact; do not state what is sued for while pretending to, and do this with prejudicial and inaccurate language that cannot have been selected by accident; and otherwise misrepresent the real situation and situation.

The opening words are, "Plaintiff an author..."

~~Plaintiff states that this is the only necessary statement~~

Yet when Plaintiff made this simple statement of fact, well known to defendants and their counsel, in what was titled an "answer" the plaintiff's complaint, the false, whether or not necessary, response by defendants and their counsel was:

"2. The defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the complaint."

What purpose was served or intended to be served by this apparently unnecessary false statement plaintiff does not know. However, when in ~~the~~<sup>an</sup> affidavit appended in his Motion for a Summary Judgment plaintiff set forth in lengthy detail that and how defendants and their counsel knew and at the time of making the untruthful statement then knew plaintiff is and long has been an author, it is now (where not essential) conceded that plaintiff is "an author". This seeming triviality has significance in that it addresses the motives, methods and integrity of defendants and their counsel and establishes their willingness to tell this court what is not the truth and what they know is not the truth, even when it is trivial and unessential. In turn, this raises questions as to the dependability and truthfulness of statements, claims, allegations and interpretations that are relevant.

Next the "Preliminary" represents that for which plaintiff sues as:



"alleges, inter alia, he is entitled, ~~under the provisions of the~~ to examine and photograph, at his expense, certain articles of clothing worn by the late President..."

"Inter alia", or among other things, is correct, but the omission of these other things amounts to a misrepresentation by false emphasis. The very first thing plaintiff sought and seeks is not mentioned here or in any other words in the Motion or its addenda. This is copies of those pictures on file in the National Archives of this said clothing and specified in the complaint. These are the only pictures of which the Archives refuses to provide copies.

"Examine", as used here, may be taken to mean "handle". While it is the otherwise undeviating practise of defendants to permit such handling and have permitted it to plaintiff with respect to other three-dimensional evidence, in this case plaintiff has not asked to handle the clothing, which is in evidence, nor does he so intend. The purpose of "examination" is to direct the taking of pictures. As has been set forth previously, this is not an exceptional request with respect to this clothing and was permitted by defendants where the purposes were commercial rather than scholarly, for use in violation of the family contract rather than in accord with it.

It is at least imprecise to say that plaintiff has asked that he be permitted to make the photographs. His request is specific and to the contrary and is in accord with regular Archives practises and procedures, that the Archives take these pictures for him.

This formulation is prejudicial and inaccurate, and, when taken together with the inuendo of "examine" with which it is bracketed in the phrase, "to examine and photograph", seems designed to suggest that what plaintiff seeks presents some kind of danger to the safe preservation of the evidence in question, which is not at all the case.

Next it is alleged that "plaintiff is not entitled to the relief he seeks because 1) he has failed to exhaust those administrative remedies available to him which are matters of public knowledge." Two other contentions are made and will be dealt with separately.

It is simple not in accord to the fact to claim that plaintiff has not exhausted all available administrative remedies, even seeking them through another agency, the Department of Justice, as set forth in the complaint. To this, it is clear from the

Plaintiff notes the apparent inconsistency between the claim of the Motion, "that the fails to state a claim upon which relief can be granted," and the admission here, that relief can be granted but "The defendants contend the plaintiff is not entitled to the relief he seeks". Here defendants acknowledge the invalidity of the first of the three grounds upon which their Motion is based.