UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

HAROLD WEISBERG, Plaintiff, v. U.S. GENERAL SERVICES ADMINISTRATION and U.S. NATIONAL ARCHIVES AND RECORDS SERVICE, Defendants.	:	Civil Action No. 2569-70

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

Defendants' latest communication to Plaintiff requires this new addition to the foregoing papers. It may serve a purpose other than imposing excessive length in that it may illuminate to the Court what Plaintiff believes is defendants' perfidy and what would appear to be deliberate trickery.

The communication referred to is a letter to Plaintiff, stamp-dated February 11, 1971, from W. E. Johnson, Jr., 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 does most mail from Washington. 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 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 mail delivery. It follows that, if defendants had planned for this letter not to reach Plaintiff until too late for him to do anything about it, they could not have designed it better. (Exhibit 23)

What this letter relates to is the essence of the instant case. It allegedly corrects defendants' error of about five months earlier. It relates to Defendants' Exhibits 1 and 2.

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 do so to believe that all of what Plaintiff will report is entirely innocent, particularly in a case in which Plaintiff, a non-lawyer, represents himself.

Having no knowledge that defendants were about to file their instant action, and on the very day thereof, still hoping to avoid encumbering this Court without need, Plaintiff wrote the Assistant Administrator of Administration. It had then been quite 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 (Exhibit 24)

attached hereto. Aside from that to which Plaintiff in particular directs this Court's attention, there is in this correspondence what also relates to those matters addressed in these instant papers and necessarily prepared much earlier. One of these is whether Plaintiff had, in fact, exhausted his administrative remedies, described by defendants as "available" with what by now might be regarded as flippancy. In 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 appeal that was officially rejected. Nowhere in defendants' motion is there acknowledgment of the fact of this appeal or of its rejection, and there is only what Plaintiff categorized as deception.

Twice in the first paragraph of Plaintiff's letter of January 13, 1971, to Mr. Johnson there is reference to Plaintiff's "appeal", that word being used, and to its official rejection. Despite defendants' misrepresentation made to this Court 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 complied with law and regulations, Plaintiff has not "exhausted his available administrative remedies."

Plaintiff, who had neither knowledge of 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 it 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 way, manner or form disputes Plaintiff's representation of defendants' alleged basis for refusing Plaintiff's requests or that they and Plaintiff's appeal were, in fact, refused.

Identically the same is true of Plaintiff's representation of what he really seeks, as distinguished from the improvisation falsely contrived to mislead this Court. Plaintiff again emphasizes, he had no way of knowing that his requests were at that very moment being misrepresented by defendants, described in this sentence by Plaintiff:

> I asked only for the pictures you already have and for you to take pictures for me with your own equipment.

Mr. Johnson's complete silence on this, too, in his letter stamp-dated February 11, 1971, Plaintiff submits, is acknowledgment of the truthfulness and accuracy of Plaintiff's representations to this Cour'

and, conversely, of the falseness and the deliberate falseness of what defendants have presented to this Court, in its own way thus reinforcing Plaintiff's claim that there never was any genuine issue as to this material fact.

Plaintiff's letter to Mr. Johnson, although written for other reasons, is a clear proof that it was not Plaintiff's desire needlessly to burden this Court. Its 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 access to this public information to me, that any use would be sensational or undignified, the Archives did, 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 acknowledgment 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.

Plaintiff then informed Mr. Johnson of Plaintiff's intention to amend his Motion for Summary Judgment to incorporate this admission by defendants.

Now it happened that, on exactly the date stamped on Mr. Johnson's letter, at a little before 1 p.m., Plaintiff received a telephone call from the Assistant United States Attorney whose name is signed to defendants' instant Motion and who seems to be handling the case, Mr. Robert Werdig, Jr. To this conversation Plaintiff will return. Here he asks the Court to note only that, with Mr. Werdig's 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 its contents, which could not be more relevant to defendants' 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 Plaintiff prior to the date on which these papers are due in this Court, suddenly - at this very late hour - 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 Judgment, 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?

Before directly addressing Mr. Johnson's letter stamped February 11, 1971, (indicating earlier typing thereof), 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; that on the occasion of Plaintiff's second request, these exhibits had not yet been copied; that Plaintiff then made a third request; 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 previous four 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 wrote:

> 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 picture film of that clothing were taken 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 entirely irrelevant to Plaintiff's requests and to his letter, this follows next in Mr. Johnson's letter:

> Photographs of the following exhibits were taken by the National Archives staff with CBS equipment: Commission Exhibit 319 (rifle), CE 142 (bag), CE 399 (bullet), CE 567 (bullet fragment), and CE 569 (bullet fragment). 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 are deceptions, 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):

> It is my understanding that the Columbia Broadcasting System was permitted to make its own photographs of this clothing .... (emphasis added).

It is obvious that Plaintiff's appeal did not deal with any of these objects that defendants now, with no shame at all, say:

> As indicated in Mr. Vawter's letter of September 17, 1970, these photographs -

That is, the irrelevancies, the objects of which Plaintiff did not seek copies and about which he did not appeal -

- will be shown you in the National Archives, etc.

This is not what Mr. Vawter's letter either says or means.

Now how many ways dare defendants slice baloney and call it Chateaubriand?

Defendants did not "interpret" their rejection of Plaintiff's appeal in this way in their instant Motion. For example, the last items under "Statement of Material Facts" are alleged to claim that there is no genuine issue as to any material facts because, pretendedly, Plaintiff was offered access to these alleged photographs of the clothing and in no other sense, nothing else being in any way involved in this instant action. The first is Number 4. It begins with Plaintiff's request, "... copies of photographs of some of the President's garments ..." and in answer, designed "5", the identical paragraph from Mr. Vawter's letter, which deals only with photographs of the President's garments:

> ... to allow you to examine item 5 photographs in the National Archives Building and to furnish you with prints of the item 5 photographs.

Defendants and their counsel both interpreted this exactly as Mr. Vawter wrote it, the only way in which it could have been intended, as referring to pictures of the President's garments, nothing else being of concern in the appeal and its rejection.

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 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."

What bothers defendants and drives them to this desperate falsehood is the position in which they are, regardless of whether or not they took photographs for CBS.

If they did not, then their entire case falls apart and they concede they refused Plaintiff's proper requests and proper appeal, for it is this alleged proffer of access to the photographs sought that defendants allege to have made, thus, they represent to this Court, "there is no genuine issue as to any material fact and, therefore, defendants are entitled to judgment as a matter of law."

The false pretense, seriously addressed to this Court, that "Plaintiff" has failed to "Exhaust the Available Administrative Remedies", thus becomes so fragile it would not sustain a dessicated butterfly of subminiature species. And on this basis, as he has represented to this Court, Plaintiff would be entitled to judgment in his favor, there being no possibility at all of any genuine issue as to any 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 honesty with which defendants respond to requests for public information? The official attitude toward appeals under the law and regulations are thus portrayed in what light? And with regard to the uniform application of regulations, the impartiality of access, the seriousness with which those who operate the Archives and care for this irreplaceable archive, what does this show? And what of their concern for the provisions of the family contract?

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

How perfectly this shows the spuriousness of the defendants' knowingly false interpretation of this contract, when nobody at all, from clerk through Archivist at the National 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?

This one incident ought to persuade this Court what Plaintiff's unhappy experience has been, that in order to suppress the vital evidence of the President's assassination from any unofficial examination, there is nothing of which the Government is not capable, no lie too nefarious to tell, no trick too demeaning to pull, and no interference

in independent research not worth trying. The very 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 Court knows, from the false swearing proven by examination of defendants' Exhibit 3 and from earlier litigation.

When a President is cut down in broad daylight on the streets of 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 by the Courts? Is Government, are defendants, to be permitted indefinitely to frustrate the clear meaning of the law, to do whatever is within 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 such a 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 the Commission, all eminent men, were already overcommitted to the public service. Theirs was a thankless, painful assignment from which none could profit personally. Has any family had greater, more public, anguish and 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, Plaintiff alleges the possibility of perjury, official perjury, for the purpose of converting the Court into an instrument of suppression - and that not for the first time.

Is there nothing within the law or within its powers that this Court can do, besides granting Plaintiff the relief he seeks, to end, once and for all, these defamations of the innocent and the suffering ones? How long can the suppression be laid to those not responsible, the Commission, whose last act was to seek to prevent them and the family which engaged in a contract to prevent them? And are now blamed, in effect, by the Government from which we hear such alliterative pleas for "law and order," Orwell-style, and so many equally alliterative complaints about those, especially the young, who reject such dishonesty in national life and face the frustration with which Plaintiff is only too familiar in any effort they might make to right wrong?

Does not the record in this instant case taint the processes of justice as they self-characterize those who are its alleged and designated defenders, defendants' counsel in this matter?

To the catalogue of official infamy here enumerated, Plaintiff feels justified in adding trickery, intended to defraud him. Further exposition of all the silences of all the officials who knew about this alleged "error" the alleged "rectification" of which was withheld from Plaintiff until it could not reasonably be expected to reach him until after the last minute for the filing of these papers, at a time when it could with some certainty be expected to be beyond his physical capacity to in any way address it, ought not be needed. What preceded it should, Plaintiff hopes, be of interest to this Court, which dispenses justice, and should help add still another perspective on what is involved in what began as a simple effort by an ordinary man to obtain public information to which he is entitled under the law.

Plaintiff was twice compelled to be away from his home, out of town, on business, immediately following the filing of defendants' instant Motion on January 13. He also had a medical appointment in Washington on Tuesday, January 19. As of then, it had not been possible for Plaintiff to read the papers served upon him by mail. He had glanced at them, realized any response would require some time and adequate reply extensive effort and a longer amount of time.

Believing, perhaps naively, that the proper function of the United States Attorney is more than that of an advocate of one side and feeling that it would not be proper to request an extention of time without consulting him, Plaintiff telephoned Mr. Werdig. The secretary took the message and Plaintiff said he would await the return of the phone call at the office of the friend from which he placed it. A considerable time elapsed and Plaintiff had to leave for the drive home. He again phoned Mr. Werdig, whose secretary was perhaps then absent, for Mr. Werdig answered the phone. Plaintiff explained that he was not and had not been well, that he had not yet had the opportunity to study Mr. Werdig's Motion, that he wanted the opportunity to make full and adequate response, and sought Mr. Werdig's agreement to a request for an extension of time.

Mr. Werdig assured Plaintiff he need make no such request. He explained that the Court had not yet arranged its schedule of cases; that it would be at least a month before the Court could get around to that, and until then there would be no need for Plaintiff to request or for the granting of an extension of time.

Plaintiff, not knowing but believing there was a limit and that it was ten days, obtained the telephone number of the Court's secretary and phoned her, thereupon learning that there was, indeed, a time limit and that it had almost expired. Pursuant to this and not knowing the forms, Plaintiff wrote a letter to the Court, which, on January 27, graciously gave Plaintiff until February 16 to respond.

Meanwhile, when the attachments to Defendants' Motion were not with

the papers mailed him and some time elapsed and they were not thereafter provided, recalling the experience of the unreturned telephone call, Plaintiff requested a friend in Washington to remind Mr. Werdig that Plaintiff had not been provided with the attachments Mr. Werdig had certified to the Court had been served upon Plaintiff January 13. Plaintiff's friend, who was a witness to Plaintiff's conversation with Mr. Werdig, had the identical experience, his phone call not being returned, and the identical experience of Mr. Werdig taking the phone on his next call, with the identical explanation, that his secretary had not given him the message. The continued employment of such inefficient secretaries in the office of the United States Attorney is a mystery to Plaintiff. However, Mr. Werdig provided the assurance that the missing exhibits would be sent Plaintiff promptly.

When they were not, after some time, Plaintiff again asked the same friend to remind Mr. Werdig and, if necessary, go to his office and obtain them in person. It was then inadvisable for Plaintiff to drive on a superhighway for reasons of health. This friend informed Plaintiff that when he again spoke to Mr. Werdig, apparently not realizing what he was saying, Mr. Werdig told him that at even that late date these attachments had not been copied for Plaintiff. However, he gave his word that they would be and would be sent Plaintiff immediately. Again, this did not happen.

Therefore, on February 5, Plaintiff wrote Mr. Werdig (letter attached), and ultimately, on February 8, Plaintiff received them without covering letter. The Court will, Plaintiff hopes, be sympathetic to the plight and needs, especially of a non-lawyer who felt it incumbent upon him to make a point-by-point response and, for almost all of the time permitted for response, not having that to which he was called upon to respond. (Exhibit 25)

When Plaintiff reached a point in the preparation of the other papers he was preparing where he could examine those he had that day received, it became apparent that the copies Mr. Werdig sent had been cropped, that is, the complete page was not included. Thereby notations Plaintiff believes are of some significance were in part obscured and in part eliminated. Plaintiff immediately wrote Mr. Werdig, emphasizing again the serious nature of the obstacles Mr. Werdig was needlessly placing in Plaintiff's path, the existence of what were for Plaintiff serious problems without the addition of these, and asking for prompt sending of full and complete copies. In order that Plaintiff's letter reach Mr. Werdig promptly, Plaintiff suspended his work in the rural area in which he lives and drove to and from the post office so that the letter would go out that night.

So that this Court can understand this need of complete copies was no idle request by Plaintiff, Plaintiff calls to the attention of the Court that, aside from the addition of the number "5" and a notation cut off in copying, Defendants' Exhibit 1 has three other marks added

alongside the paragraph now alleged to contain an error. One is opposite that very sentence. This would seem to eliminate any probability of innocence or ignorance in defendants' use of this sentence and paragraph or in that by defendants' counsel.

If it is possible to explain this long delay in getting to Plaintiff even incomplete copies of defendants' exhibits certified as having been served when they were not and when they were not received until after Plaintiff's third request, what Plaintiff has herein shown to be the true meaning and significance make more sense than an allegation of carelessness or bureaucratic error.

If the inference that withholding after certification and delays were deliberate acts is unwarranted. Mr. Werdig could not have done more than he did to raise this question, especially when these exhibits contain false swearing under oath about what appears to Plaintiff to be material and ought so appear to defendants' counsel.

To this date Plaintiff has not received the full version of these exhibits. However, Mr. Werdig did phone plaintiff a little before 1 p.m. on February 11, the date stamped on the aforesaid letter from the Deputy Administrator for Administration of GSA.

Mr. Werdig informed Plaintiff on February 11 that the copies he had sent were made from his own copies, which Plaintiff believes. Mr. Werdig added he would immediately phone the Archives, get them to provide him with the words of the legends and would then provide this information to Plaintiff by phone. This Mr. Werdig did not do, nor did he phone to say that he would not or could not.

In the attached copy of Plaintiff's letter of February 8 to Mr. Werdig, (as in that of February 5, also) the Court will note other comments to which Mr. Werdig has made neither response nor denial, one that in this context seems relevant being this: (Exhibit 26)

> It will be impossible for me to make full response within the time I have, which, unfortunately, when I talked to you, you did not represent to me with any accuracy.

Plaintiff then said, in anticipation of the possibility it might not be possible to have everything neatly typed for the Court:

> ... I will want an extension of time long enough to permit the retyping of what by then cannot be retyped. I presume you will join me in asking for this for me.

Then following Plaintiff's unchallenged statement, that the long delay in providing the attachments, consideration of which properly belong in what Plaintiff had by then had typed, required an addition and redundancy and that

> Together with the rather considerable extent of irrelevancies I will have to address, otherwise the Court will not be able to evaluate them, this means a considerable addition to the length of what I must file. In turn, this is more than just a problem for me. It means a burden upon the Court that cannot but be prejudicial to my interests. Furthermore, this makes repetition inevitable. I cannot imagine a judge not finding this unwelcome or that you are not unaware of it.

These amount to fairly serious charges. Mr. Werdig neither

addressed nor disputed them. He has failed to answer either of Plaintiff's letters. If this does not mean he necessarily agrees with them, it does mean he did not challenge or in any way dispute inferences of both improprieties on his part and that they were deliberate.

When he phoned Plaintiff, Mr. Werdig pressed Plaintiff to request another extension of time, expressing himself as more than willing. Plaintiff said he preferred not to, fearing the Court might not receive this request well and that the result might be further prejudicial to Plaintiff's interest. Mr. Werdig then volunteered that he would speak to the clerk of the Court. When Plaintiff asked whether the Judge need not be consulted, Mr. Werdig said approximately, "With this Judge, yes," and he said he would do these things. The conversation closed with Mr. Werdig's assurances that Plaintiff had 30 days more time. Mr. Werdig kept repeating another 30 days and Plaintiff said that if he required any time, it would not be anything like that much, that all he would need was sufficient time for completion of the typing.

When Plaintiff told Mr. Werdig that Plaintiff would prefer to present to the Court what was retyped by the day set, Mr. Werdig said it would be better to file all the papers at one time.

From the time of Mr. Werdig's phone call until the end of the workingday, Friday, the last working day before the day the papers must be filed and almost constantly thereafter, Plaintiff remained by his phone. Mr. Werdig did not phone. So, Plaintiff is left with the impression strongly conveyed by Mr. Werdig, on Mr. Werdig's initiative, that Plaintiff will not have to file his papers by February 16. If, from the human kindness that wells from the great depths of his big heart, Mr. Werdig <u>has</u> made these generous arrangements, he has <u>not</u> so informed Plaintiff. And if he has led Plaintiff to believe that he would and did not, and were Plaintiff to be guided by this nobility of spirit (Mr. Werdig went out of his way to say of his office they are all good guys and never press or take advantage of anyone) and did <u>not</u> present his papers within the required time, Plaintiff cannot but wonder whether he would be in default and subject to such a judgment.

Plaintiff would have no need for either time or undue rush had Mr. Werdig done what he had certified to the Court that he had done and what is, in any event, required of him. This will be obvious to this Court upon the filing of these papers, when the extent of extra work required of Plaintiff by what amounts to the withholding by Mr. Werdig and the resultant disorganization and repetition will be apparent.

It is not Plaintiff's purpose to embarrass Mr. Werdig or to annoy this Court. But when, to the official harassment and falsifications and numerous impositions and long delays visited upon Plaintiff by defendants (only a small percentage of which is of direct relevance in this instant case), is added:

Mr. Werdig's assurances to Plaintiff (undenied when committed to writing) that, had Plaintiff heeded them, could have led to default by

Plaintiff in January;

and then the failure to provide the attachments certified as having been served;

and then three requests were required before they were provided to Plaintiff;

and then the most casual examination of them provides reason for one not of paranoid tendencies to suspect this was not accidental;

and then the incompleteness of the copies provided is considered;

and atop all of this, there is first the pressure for Plaintiff to ask for an extension of time when, clearly, Plaintiff felt it against his interest to do so;

and then the promise that Mr. Werdig would obtain this added time, even insisting upon more than Plaintiff said he would need;

and there is, thereafter, no word from Mr. Werdig, confirming or denying, his last word being the assurance that Plaintiff had all this time,

perhaps the Court can understand why Plaintiff is filled with the misgivings honestly set forth above and cannot but wonder about motive.

Now if the Court will further consider that, by the time that any lawyer had to anticipate that either Plaintiff's work was completed or he was in serious trouble completing it, there comes this letter from the Deputy Administrator for Administration of GSA, with no mail or working day remaining prior to the expiration of Plaintiff's time and with reasonable expectation that the letter could not reach Plaintiff over a holiday weekend until he had to leave to deliver these papers, possibly the Court can understand what may otherwise appear to be needless apprehension by Plaintiff.

But for Plaintiff to be able to dismiss this, in addition to all the foregoing, he would also have to forget his having told Mr. Werdig (letter of February 8) that, if his health mitigated against the drive to Washington, "I will mail them." For these papers to have had any chance of reaching the Court on time by mail, they would have had to have been mailed at the time Plaintiff <u>received</u> Mr. Johnson's letter.

Again Plaintiff feels he must apologize for the great length of his filing. However, he asks the Court, if the Court reads all these papers, to put himself in Plaintiff's position, to consider that not a single one of the allegedly faithful quotations of <u>anything</u> - law, regulation, contract or even correspondence - is full, accurate and complete; that the most directly relevant language of law and regulations has been withheld from the Court by defendants; that this Court was lied to by those who should have known they were lying and had to know they were lying; that this Court was given false swearing under oath; that Plaintiff's compliance with law and regulation had been so misrepresented that this Court was not told even that Plaintiff had filed an appeal and was led to believe that he had not; that the nature of Plaintiff's requests of defendant were grossly and prejudicially

misrepresented to this Court; and add Plaintiff's deep misgivings about Mr. Werdig's motives and intentions and the seriousness with which Plaintiff regards his studies (can the Court understand that the considerable time and effort required for the preparation of these papers - enough to write a book - is a representation of Plaintiff's sincerity and seriousness of purpose?), hopefully, the Court will realize that this length is only what Plaintiff felt was required of him.

So that the Court will not be under any misapprehension about Plaintiff's doubts of Mr. Werdig's intentions or suspect paranoia or oversensitivity, Plaintiff adds that Mr. Werdig was Government counsel in Civil Action 2301-70, heard before another Judge of this Court. Mr. Werdig first arranged for there to be little time for the hearing by not appearing in that Court at the hour set and not informing Plaintiff or his counsel that he would not (apparently not informing the Judge, either). That action represented Plaintiff's efforts to obtain what is described as "spectrographic analyses." With little time for argument, knowing better, and producing no showing of any kind thereof, Mr. Werdig argued (transcript, p.11):

> In this instance, the Attorney General of the United States has determined that it is not in the national interest to divulge these spectrographic analyses.

The record shows Mr. Werdig produced no such "determination" by the Attorney General. He could not then, did not have it then, and cannot have it now. Under the circumstances he personally arranged, he made refutation impossible and thus prevailed.

The right of the Government to withhold information on this basis, recognized in the old law, was specifically eliminated in 5 U.S.C. 552. The Court will find this noted and explained throughout House Report 1497, 89th Congress, Second Session, entitled, "Clarifying and Protecting the Right of the Public to Information." The concern of the Congress on this score can be read from the fact that, aside from other and more general representations of the same thought, this is specific on a third of the pages of that report. This report makes clear that such subterfuges were the traditional Government excuse for hiding information from the public, hence were eliminated by the Congress to end improper suppressions.

Mofeover, as Mr. Werdig should know and the Department of Justice certainly does know, there is no such exemption in 5 U.S.C. 552. Mr. Werdig cited the Attorney General's Memorandum in his addenda to his instant Motion. He need have read but two things in that Memorandum - but a single sentence if he were familiar with the statute. That single sentence, by the Attorney General himself, and entirely consistent with all the doctrine from the Congress as from the President and in that Memorandum, reads (iii):

> It leaves no doubt that disclosure is a transcendant goal, yielding only to such compelling considerations as those provided in the exemptions of the act.

There is no such exemption.

Plaintiff deeply regrets even the appearance of "trying the case on opposing counsel." He regrets even more that opposing counsel eliminated any practical alternative, save the unmanly and, if it is not too presumptuous, the unpatriotic: abject surrender and capitulation to wrong. It is not for such purposes that, with no resources save fatigue and debt, Plaintiff persists in his concentrated study and effort of now more than seven very long and painful years. Nor is it for such entirely unacceptable purposes that Plaintiff was so patient before filing this instant action or in filing it, both representing what for Plaintiff is and has been enormous and debilitating effort.

However, Plaintiff also believes that he has, as a matter of law, established that there is no genuine issue as to any material fact and that he therefore is entitled to judgment in his favor as a matter of law.