

Dear Jim,

7/3/75

Ryan's motion to dismiss spells out what I've been fearing. He is playing to the music scored by this judge in the course of the hearing in still another effort to rewrite the law. We must prepare to fight this alone but the manner in which he has done so provides an opportunity to strike a hard blow in a court record if there is someone on the Hill with the willingness.

He addresses the intent of the law, not the language.

He turns this intent around in citing decisions on other laws.

So, we could nicely use an affidavit from a Congressman or Senator saying that the law does not presume the good word of the executive agencies; does not presume the validity of decisions and acts under the law by these agencies; that the ~~in~~ entire legislative history is to the contrary; and that were these and other relevant abuses not the steadfast practise of the executive agencies there would not have been any need for either the 1966 law or the amended law of 1974.

I doubt if anyone on this Hill has followed this closely if at all but I'm positive that between the subject and the indifference this is the essential case for the DJ to make its hard move on.

I have another immediate suggestion. ~~File~~ still another and a simpler Motion to Compel. They have, had we an impartial judge, set the stage with all their excesses. I addressed this in the affidavit I rushed to you prior to the granting of the one week's delay. With his motion and the jazz with it we have a good shot at a simple formulation.

Ask for a simple affirmed, first-person statement that there is not and never was what is specified in the Complaint. Say only that a) despite all the words in the hearings and the affidavits there is no such statement under oath before the court therefore there is no such statement to the court and in the absence of compliance with the Complaint the judge must find for us (I guess this would be separate, one that would blow the judge and DJ: Motion for Summary Judgement) This is off the top, but please do it. ^{It} is a fine strategem and will dramatize the whole situation. They have not complied with the Complaint, they have admitted in court that there is no doubt that I am entitled to what I sue for (first calendar call) and they have not delivered it.

Then give the alternative, that they provide an affidavit by those still available to the government and those who were available at the time we filed the Complaint to attest, subject to the penalty of perjury, that there are not not and never were such complied results as called for in the Complaint.

You might want to note as I did in the affidavit you'll not now use in the form in which I sent it that had there been no such results the simple response to the first suit would have been simple to tell the judge that what I sued for does not exist and the case would have been mooted.

I think it is essential to play these things against each other and on them.

I'll prepare parts/ of a new affidavit. Please go over the hurried one and select what you can use. Between what I'll now provide as soon as I can and what you have, we can save time by cutting them up and pasting them together than then editing. If you can do this promptly I'll can retype it and I can get it back to you in time.

Whether we can get the help I'd like for the law and whatever else we do I believe we must remain in the posture you once called "the battle of the affidavits." If I do not enjoy being ~~him~~ horn-to-horn with those who prosecute on questions of perjury I also regard it as indispensable for the preservation of both the record and the basic nature of the disagreement that requires a hearing or, in the sense I really mean it, does not ~~let~~ let the judge cop out and the DJ with it rewrite the law. (I believe Ryan abused the Rule 12 citation. I haven't had time to check it.)

Please also understand that it is absolutely impossible for them to provide this first-person affidavit without proving perjury for me. (Still again the collateral, the need for xeroxes of standards for these tests!) Please try to keep in mind that they either have to admit making no investigation or they are withholding or destroyed the results. They did, I'm certain, compile results so far as the provable record shows.

best,

P.S. I still have a few minutes before I have to wake Lil and get to Washington.

I was not able to read their motion until I phoned you last evening. There were people here all day and almost immediately after I called you now ones at night on indispensable work. I even had to cancel an appointment with a printer to get an estimate on Post Mortem.

You will have gathered from the hasty memo I did before going to bed that I have interviewed the last lady friend of the second of the real characters in the new "black book" which clearly, whether or not by intent, today serves CIA interests.

I have thus located others including another real character.

He will be not far away over the holiday. She is going to try to set up a meeting.

I am a bit uneasy about this but see no real choice. He is not the kind I can assume will be a friendly even if he was the friend of the man vilified in the book.

Sandy Smith has spent an enormous amount of time on this and I find myself wondering why Time is putting all this money into such a venture, which can't make any kind of story to justify the great cost.

Anyway, this is one thing I'll have to do. I've had to let everything else go this week. But I will also try something else. I'm going to try to see if we can get some help from the kids, from going to libraries and xeroxing and to messenger service. I'll try to arrange it through Floyd. Some of these college people have interest and cars.

They can save us time.

If only one were a law student he or she could go over the files I have and copy out enough for a decent attachment on the legislative history as it is relevant to Ryan's newest play.

The chances of this kind of help are not very good. But I think it not impossible that we can be saved time we need for other things with messenger service.

Just caught the opening Schorr item on the CBS TV A.M. news. Either his research is hit-or-miss or someone is feeding him, but all on the Oswald issue. I have had that memo for some time now but not an answer to its declassification history. These out-of-the-usual-order declassifications coincide exactly with the Congressional and popular interest in the federal agencies, particularly the CIA.

This is at least the second time on this one aspect of this subject with Schorr.

I have no suspicions about Schorr but the coincidences are remarkable. The first of these declassifications was in February. When the Archives filled my request they withheld much until I protested strongly. This and their delays are the reasons I've decided to begin each request with invocation of the law, to limit the time they can delay and provide a basis for trying to do something about the games they play.

The two clear patterns in these games, aside from interfering with my work, are anti-Kennedy and pro-agencies.

It is not necessary to assume that someone working for the government is feeding this stuff and/or leads to him. But with each it is possible to believe there is an agency interest of some kind.