

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BERNARD FENSTERWALD, JR.,)
)
 Plaintiff,)
)
 v.) Civil Action No. 75-897
)
 UNITED STATES CENTRAL)
 INTELLIGENCE AGENCY,)
)
 Defendant.)

LEGAL MEMORANDUM

Plaintiff asks the Court to dismiss this ancient action with prejudice because, having thoroughly studied the Court's Order of July 12, 1978, he is firmly convinced that through the court process he will never receive any government records which will be of any value to him. Equally, he has no desire to put the Central Intelligence Agency (C.I.A.) and other agencies of the government through a time consuming and expensive (if futile) exercise in obtaining "security justifications" for those records for which they have not yet been supplied. It would not take a Philadelphia lawyer to figure out that all that is needed to withhold anything, regardless of content or age, is to mark it "national security."

Needless to say, plaintiff has considered the possibility of taking an appeal. He has, however, rejected such a course of action as he realizes that, at best, all that the Court of Appeal could do would be to return it to this Court for further action. In light of the Court's Memorandum, this would appear to be a waste of everyone's time and energy.

Plaintiff regrets that he was unable to persuade the Court

that the public's right to know outweighs the alleged national security claims with respect to these particular records. After all, some fifteen years ago a popular and promising President was murdered in cold blood, and his alleged assassin was killed two days later, while in police custody.

Then and now, the C.I.A. claims that, in effect, both Oswald and his murderer were "lone nut killers," that there was no conspiracy, and that there was no international "entanglement." Yet, the C.I.A. withheld much information from the Warren Commission. The #2 man in the C.I.A. at that time perjured himself. An F.B.I. agent later admitted under oath that he destroyed a vital document in the case by tearing it up and flushing it down a toilet in the F.B.I. office in Dallas, rather than give it to the Warren Commission.

Recent polls have indicated that approximately 80% of the public still doubts the basic "truths" of the Warren Report, which were based in large measure on the records sought in this case.

The Congress, by an overwhelming vote, established a Special Committee to investigate this important issue. This Committee, to has been frustrated at every turn by the C.I.A. and other executive agencies.

If Oswald and Ruby were "lone nuts," if there were no conspiracy, and if there were no foreign entanglements, why is the C.I.A. so bent, bound and determined to bury its documentation forever.

It is not difficult to contrive a "national security" rationalization for indefinite withholding of any documents. However, these events took place fifteen years ago and the residual "national security" effects of release, if any, must be weighed

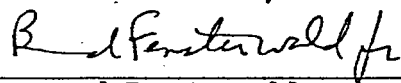
against the real harm done to the public by withholding. As pointed out above, at least 80% of the public wants to know what really happened to their elected leader. In plaintiff's view, they have a right to know even if some slight harm might be done to the C.I.A. After all, events in this country certainly took a drastic turn for the worse after November 22, 1963. We entered a decade of war, terrorism, assassination, and Watergate. And furthermore, there has been little reluctance in making public the details of the C.I.A.'s role in plots to kill Fidel Castro and a number of world leaders. If they have been hiding vital facts about J.F.K.'s murder in 1963, isn't it high time that a Court use its discretion and force out the truth? If they have nothing serious to hide, why do they doggedly resist a little sunlight being shed on their records?

Plaintiff remembers vividly the way in which this Court persevered in its lone pursuit of the truth in the Watergate matter. Plaintiff was proud to have played a small corollary role in that effort, and holds the Court in great esteem and affection.

He regrets that he was unable to persuade the Court to apply its tenacity in this present matter. He does, however, appreciate the Court's patience in making an in camera inspection of a sample of the withheld material.

He will close by assuring the Court that the fight for the truth in this matter will go on in different forums until such day as the public does know who financed and executed the plot to murder President Kennedy.

Respectfully submitted,


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Dated: July 18, 1978

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ORDER

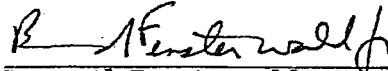
The Court's Order of July 12, 1978, is vacated.

The Court hereby grants plaintiff's Voluntary Motion that
this case be and hereby is dismissed with prejudice.

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UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing Motion for Voluntary Dismissal With Prejudice, Legal Memorandum, and draft Order was mailed on July 18, 1978, to defendant's attorney, the United States Attorney.



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