

Archives - Nosenko - 1448

JL - Re 448, Nosenko, Archives, withheld relevant records

HW 7/9/79

Howard has just come across and sent me a couple of previously classified WC records relating to the conspiracy section of the Report and to Nosenko and how the CIA succeeded in talking the Commission out of using him and into believing that the KGB did not know who had defected of what each knew.

In haste I'm calling these things to your attention because Lonnie and his wife are due about now. When they come I'll be visiting with them. When they leave I have the affidavits to which to return.

These records, which I am sure I do not have from the Archives, lead me to raise a few basic questions: where do we go if we lose on appeal? Do we go higher? Do we forget it? Do we return to district with a new suit? Does this then go to Robinson? Do we want it to?

I believe we have more than enough for a new case and with better prospect in it. Of course if we win a remand our choices are fewer and decisions perhaps simpler.

I believe that we are now strong under the normally bad Open America precedent about due diligence and good faith.

I believe ~~we~~ we can also be strong with an affidavit from Florence, which should include what we did not have for the litigation, whether or not what we have obtained since then was properly classified when it was withheld and the entire Epstein/Legend/Fedora et al matter.

The con job is apparent in these records. It is incredible that grown men could be led to believe that the KGB would not know what Nosenko would have said or that they would have assumed less than that he told all he knew. Or that they could be led to believe that anything about which Lawson prates could be any kind of secret - except to the American people. (I think also that this is an important area for Florence, who is an expert.)

I think that despite the present horror about any phoney national security allegation by the government a court might now go the other way in this case and on this issue after the Epstein affair.

As you will see from these new (to me) records, the CIA sold the Commission staff

(Lonnie came and went. Nice visit. I gave him a Dallas FO file confirming a story he told me long ago about withheld witnesses.)

The CIA not only sold the Commission staff a bill of goods - they appear to have talked everyone out of what I regard as a significant part of Nosenko's statement to the FBI, that the KGB regarded LHO as an American sleeper agent.

If in time you want to use any of these we should get copies from Howard or Arch., because the originals appear to be poor copies.

There was a change in this part of the Commission's draft of the report. I have the altered typescript somewhere.

I'll supply this after the more immediate copying is completed, affidavits done.

C