

MISS JANE SMITH, DIRECTOR
CIVIL ARCHIVES DIVISION
NATIONAL ARCHIVES
WASHINGTON, D.C. 20408

rt. 12, frederick, md. 21701
~~XXXXXX~~ 12/5/76

dear miss smith,

sorry that a tendon injury reduces my typing to one hand.

your 11/30 is your third recent non-response to my asking whether a defector mentioned in the 1/21/64 warren commission executive session transcript is in cia releases and hence non-secret.

you wrote 11/16 that "there is no reference to a memorandum" in those pages.

your letter of 11/26, as i have told you, makes no reference to this.

your three sentences of 11/30 are one of introduction and these two:

"The defectors discussed in the withheld pages of the transcript are not identified. We have no way of determining whether one of them is the one to whom you refer."

I leave to my counsel and the court what this says about the exemptions claimed. however, it is obvious that without the mention of names there is no real question of privacy. with the defectors having defected certainly those to whom they defected know and only the American people do not. there would seem to be no legitimate question of national security.

it simply is not true that you "have no way of determining."

this matter is before a federal court. the archives is the respondent. it has denied this record to me at the request of the cia. not only does the cia have to know, it made several reviews of these pages. an inquiry of the cia should have provided the information.

if the cia does not know any legitimate basis for withholding would appear to be non-existent, especially with no names mentioned in these pages. and more so when months ago the cia itself released relevant records of which i have cited but one. i believe with a precise identification.

it seems apparent to me that if the cia is releasing information it has told the archives not to release something is very wrong.

dr. rhoads has had plenty of time to deny what i have written him about this and his house testimony. he is the government's top review authority on such matters. it is my understanding that the exemptions are not automatically applicable and that they are not all inclusive. i believe that the courts have held that the exemption must be properly justified and that a bald and unsupported claim does not meet the requirements of the Act. is this not what the recent Phillips decision says?

I have gone to this extra time and trouble because this matter, as i have reminded you in every letter, is before a court; because in not one of the many claims to such exemptions made with regard to my requests has any been justified or justifiable once i obtained the records; and for what with this history i believe is not necessary, to show the archives that my purposes are not frivolous.

will you please stop stonewalling and equivocating and provide a direct and meaningful response?

sincerely,

harold weisberg