Dear Jim, Robinson's decision in 75-1448 3/12/77

This is off the top of the head. It has not been long since you phoned with that news and I'm still tired for a wee bit of too-much, working on repairing the damn and cleaning the pond inlet. I did it longer than ordinarily I would have because I was waiting for the mailman, who was late by much.

There cam a time when I lost track of the court record so I am not clear on some. I remember that when we were before the Commissioner (of which I'd like to make an issue) when I asked you to move for immediate trial. If you did this and we were denied it that is, I think, a proper basis and in FOIA more than proper. If you did not then we have the same issue without this founding for it.

At this juncture I am more interested in the viability of the law than I am in the conent of those executive sessions. In my writing I can gove moremeaning to the CIA's efforts to suppress than there can be meaning in the content.

As I told you without thinking, the decision has to be yours and has to be in terms of how much you can do and when you can do it. If you decide to ask for a rehearing I am for it if you will do it my way this once. If not, if sterile legal argument, forget about it. It will not be worth the effort.

Find out either way if there was a transcript ordered. Robinson, who does this as naturally as he breathes, cut us off and not for the first time. I think this way of his is incompatible with the letter and spirit of the law. Even if he was dominated by the recent bad decision.

If you turn to p. 189 of WWIV you will see that the first formal denial to me did not include any single citation of (b)(3).

I don't know what language Robinson used but (b)(6) reads "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy." So if he inlcudes the transcript of 5/19 as a personnel file through "similar files" there still must be what is a "c;early unwarranted" invasion of personal privacy. Nobody ever addressed this in defending the exemption. With all that is public it can't be "clearly unwarranted" and it might well be in the interest of those named, Ball and Redlich. (I think Rose and American Mail might apply.) But if you ask for a rehearings in a form I'll suggest I'd not overlook Ford's privacy.

There is, really, only one way to go about asking for a rehearing. That is to tackle Robinson and the spooks headon. For this, if you are willing to cut and slash, as you can if you will -politely and respectfully, with a tinge of scorn - I'll use the Heine affidavits. We can trace a long history of deceptions of judge and now to it add the foreclosing by judges. You were trying to give Robinson more when he cut you off last week, the reason I asked about the transcript. He said he'd heard enough. We can on this make a redord that will embarrass him- and should. If you want to appeal I think you need these kinds of things in the record.

He deceived us. He said, explicitly, that either they would answer the interrogatories or he would fill his witness room. He did not and we did ask it. This not only foreclosed us but denied us the necessary record for appeal. I think I have ever right to eb able to depend on the word of a federal judge. I think that if he breaks it and deceives me I have a reight to redress and the appeals court should consider that. On the other hand, for them to I would need a better record. So I'm saying that we'd have to have attachments to the motion for a rehearing. Unless he grants you more time I don't see how you can do it. Even if you have no legal research to do.

If you decide you can go ahead and if you want to, then this is the time and the issue for a polemical defense of the law in which you cut and slash at those who dance what I've called ritualized minuets and in that alone negate the letter and the spirit and make a nullity of the Act. For this the CIS is better than the FBI, especially when he acts with no proof before him and no opportunity for discovery by use. He makes himself an Oreo.

Best,

P.S. I forgot what may be important, the applicability of our own Court of Appeals decision in No. 2021. He denied us promptlness and he denied us first-person testimony and thereby violated the requirement of that decisonwas I understand the intent of that court.

And this does relate to the assassination of a President. What a chance to lay it on him if only on need. What the hell spurce or method of the CIA was being protected! That they and all spooks use those of the other side? When McCone was on nationwide TV on Nosenko? When the CIA gave Barron the Nosenko story? With him having a whole chapter on it? I'd xerox that and lay it in the record. On 1/21 there are other defectors but they are not secret. I think there was a latin of about that time. There is not a single thing in this record to say, leave alone show, there is a need for secrecy.

And at least as much of whatever he thinks is the deliberative process in parts of 1/27 and all of 1/22/64. I'd lay all of this in the record and let the appeals court as well as Robinson see that. What we could not do given time and if the Nader copouts (except on Nader) had the interest, some help.

Dulles on perjury! What I have in the new PW on his getting together with the CIA on Saturday's yet to show them how to con the Warren Commission. On their having the Zapruder film and analyzing it and never letting the Commission know- and Belin suppressing it. What a record we COULD make - and it is relevant thanks to his cutting us off and denying us the taking of the first-person testimony he could not have been more explicit or more unequivocal in promising. His dependance on the unsupported Briggs affidavit makes all of this so relevant!

He has, in fact, given us an unprecedented opportunity for what I call intellectual judo. I think if we had time we might get some help from people like Pike. What an opportunity it offers them.