

75-1996, response to Shea's 3/2/78 affidavit, attached to 3/23/78 Notice of Filing

Nice, chatty and largely irrelevant discussion of what he did that does not provide a basis for his 40% decision. I'll have specifics after I read it farther but I think we must have our own notice of filing and attach his affidavit in 77-2155, in which he said that my King contributions to the public interest were greater than those in JFK therefore 40% in JFK was generous. When the judge found there should be total remission of fees in JFK there remains no basis for anything else in MLK by Shea's own evaluation in the JFK affidavit.

I think everything else is in the record so you can allege it in a memorandum

His. p. 3, first graf of quote, line six: on my serving the public interest-

"The Bureau itself recognized this very early and ~~it~~ decided to put the releasable material in the public reading room and not to attempt to charge any search fees..." This is not of his personal knowledge and is not factual.

The Bureau refused to respond to my requests going back to 3/69 until I filed suit.

Then it delayed any compliance claiming falsely that I had not agreed to pay search fees, which I then did when it told me how much of a check to write for the first time.

It then continued to practise withholdings and forced me through a long series of status calls in a continuing effort not to provide any substantial records. Only when the court left it no choice and was requiring compliance did the Bureau devise still another means of withholding- losing the substantial information in the great mass it forced upon me - and another means of delay - requiring me to wade through a great mass of records I had not requested - all of which prevented me from writing. The record is clear and uncontradicted; the Bureau alone has fought against any releasing of this public information for nine years now and still is not in compliance. Without my effort none of this information would be available. And it still has not complied by providing all the information sought or by refunding even the 40% of the search fees and other costs assessed prior to 6/76.

By my requiring the Bureau to do what Shea alleges in this sentence I believe I qualify for a total waiver of all fees and charges and a refund of what I have paid.

If you want to file a notice of the filing of an affidavit I'd like to prepare one in this case and address more, like later in this graf on "fee waiver to a private citizen who hopes to profit from the sale of his ~~own~~ writings on the King murder...."

It is a total impossibility for any writing to return any profit when it requires more than nine years of effort to obtain these records. The amount of time alone this alone has required of me is considerably greater than the time required to write a book. The amount of time I have invested to acquire the expertise on the subject I have acquired is measured in thousands of hours. In all I have at least 10,000 hours of time invested in this subject, plus ~~the~~ costs that for me are not inconsiderable. I was not paid for this time. It also precludes any possibility of "profit" in the sense Shea uses it.

Moreover, this time has precluded my doing what is required to sell the other books I have published while fighting to get this material. I can give specifics if needed.

Shea is not aware of the amount of work I have done or published. He states two JFK books. There were six, the last of about a third of a million words and presenting to the public in facsimile about 200 pages of once-secret records I obtained and printed at my own cost to make them available to the public at considerable less than the cost of obtaining them from the government, what would be impossible for most citizens.

He says that I am "recognized as something of an 'expert' on them (both King and JFK assassinations) in many circles." The fact is that in base cases the Department has told federal courts that I have knowledge greater than that of anyone in the FBI, unique expertise and unique qualification for complete waiver of fees and costs.

If I "contributed materially to the more ready accessibility of these materials,"

his understatement, that alone should qualify for total waiver, because "The public, therefore, has benefited both from Mr. Weisberg's tenacious efforts...and to some extent from a shortening of the time necessary to process the case."

On the last point, if there was any shortening that alone save the government more than a total waiver could cost it.

I would like to address his graf 7 as we have already in court: what they have given me in substitution for my requests is not what I need or require for my own work. it is at least more than 90% not in response to my requests and not what I wanted for writing and thus is of benefit not to me but to the general public. On the FBI's records of its time accounting, which I have been required to pay for, I have received more pages than I have of records that comply with my requests. I'd change FBI's time accounting to "net" letters and responses. I received more that is responsive to my requests under discovery than the FBI was willing to give me voluntarily.

Where he goes into the Gezell decision he delivers himself, which I think may have been his intention. I guess we may have to wait until we hear further by 3/91 but by then please decide if you want me to prepare an affidavit in rough. I can do it without taking much time.

We might want to add that without pay or assistance I have done the basic work for the House committee. We might want to allege that there is a prima facie case of my having forced the various internal investigations, each of which coincides in time with my FOIA efforts.

I think that if we recall clobber them in this case there will never be any question of either charges against me or fees to be paid to you as I think it is worth the time and effort if they do not voluntarily agree to a complete waiver.

Hastily,