

44 In all of this I have been victimized, I believe defrauded. Although I believed, as I indicated, that the consultancy was another trick to stall the case and impede my work, I did what the Court and the Department asked of me on the normal assumption that at some point, not later than completion of the consultancy, I would be paid.

5. To hold now that being paid for work the Court itself had me undertake ^{is premature} 21 months ago is to hold that I may never receive the long overdue payment or the possibility of putting it to the use for which I have immediate need.

6. Nominal as they were, I have not received even an acknowledgment of the receipts I sent the Department for my actual costs of November 1977 or for the typing of the memo in early 1978. I do not believe these repayments, if made after all these months, would be premature.

7. If the Court indicated a reason for its decision, I am now aware of it. An obvious interpretation is to apply pressure on me. Such pressure is entirely misdirected. I am not responsible for any of the endless delays. It is not I who has been obstructionist. There is absolutely nothing I can do to speed up this case that I have not tried, at enormous cost to me in time and work, as I am more than merely prepared to prove. Moreover, every effort I have made to force the case forward, which can be done only by compliance and the Government's meeting its burden of proof, has not been acted on going back to the first Vaughn v. Rosen motion I filed very long ago.

8. It is not disputed that I was required to do the work. It is not disputed that I would be paid at a rate the Department described as "generous." It is not disputed that I completed the work. Therefore, it is the supposedly American tradition and requirement that I be paid. While I believe that this alone ought suffice to get me paid, this is an unusual case and the situation created by the Court, however good the Court's motive, is quite unusual. The Court had me act against personal interest, had me become the consultant to my adversary in the litigation. Because of the unusual situation and conditions and the consequences, I provide explanations.

9. Recently and for the first time I have been able to obtain part-time help, a matter I address in more detail below. This help has made possible the

beginning of the reorganizing of my extensive records. As I have truthfully if reluctantly informed the Court on a number of occasions, this was, is and forever will be beyond my capabilities. From the work already done by my temporary assistant, I can inform the Court that the thin paper carbon copies of my efforts to assist and inform the FBI take up about three inches of space. This represents a great amount of unpaid and ignored work. My subsequent efforts with Mr. Shea, to whom at my cost I also have provided an abundance of copies of FBI records as illustrations, take up about three-quarters of a file drawer of space. I have met with these people often in Washington when I should not have left home. I have taken all the time asked of me. It was much and unpaid time.

10. Contrary to the Department's representations to the Court in May and June of last year, I never refused any meetings to work problems out. However, after my experiences prior to, at and after the in camera session at which I was saddled with this consultancy, I did tell my counsel that I would not ~~meet~~ ^{again meet} with those people without there being a record. It is obvious that with a record they cannot lie to the Court. It should be obvious that they have lied repeatedly. I have proven this numerous times and am preparing additional proofs. There were no additional meetings only because the Department would not agree to there being a record. During last May and June the Court declined to hear me when I asked to be heard. Instead, the Court, already misinformed by Department counsel, agreed to hear unsworn statements from the FBI. They also were not truthful.

11. There were other meetings, with other Department counsel in other cases and with Mr. Shea and his staff. I have had no experience with this other Department counsel lying and, despite disagreements with Mr. Shea, have had no experience with him lying and do not believe he will lie.

12. The efforts I have made to eliminate problems and effectuate compliance and a reasonable end to this case are extensive. I just don't know what else I can do short of abandoning a public-interest effort and becoming party to wrongdoing. At this point in my life that I will not do.

13. Moreover, when the Court issues an Order and then does not enforce it, as with regard to not withholding official names in an historical case and when I repeatedly call this to the attention of the Court, the FBI, the Department and the

appeals office and nothing happens, as a practical matter there is nothing I can do about that. When finally the Department was forced to address this, its response under oath was, in effect, no matter, because the Court's Order had been contemptuously ignored in only two-thirds of the processing. To this day, - after three years - those records have not been properly processed.

14. The Court has applied no pressure on the other side, the side that is not and has not been in compliance with the Act, which alone accounts for this case being before the Court as long as it has been. Unless reconsidered and changed, the Court's present decision will inspire more stalling and will lengthen this litigation. This decision rewards noncompliance and stalling.

15. The degree to which the trust of this Court has been imposed upon in this case by the Department and the FBI is shocking to me. The proofs of this that I have provided as I have addressed individual false representations do not exhaust all the deceptions and misrepresentations made to mislead the Court.

16. Any further delay in paying me, after a year and a half, at my age and in my condition, is what can be a permanent denial of payment. In effect, this is an involuntary servitude.

17. I am 66 years old. Almost four years ago it was determined that I had suffered permanent and extensive damage to the veins of both legs and thighs. This was the beginning of a radical and permanent change in what remains of my life. It requires care in what I am permitted to do and dangerous medication. The danger from the medication is such that one doctor took me off it. Thereafter, further and perhaps more serious circulatory illness set in, initially diagnosed as arterial obstruction near the heart. Since then circulation of blood to my brain has been further impaired. Because of the hazard involved in what are called "invasive" tests, my local physician and the renowned expert who has been the consultant agree that, to the degree possible, these tests be avoided. This really means until there is no alternative to surgery. My doctor has told me that one of the blood vessels involved may be no thicker than a hair, is encased in the spinal column and is virtually inaccessible.

18. The hazard from the medication, which is a poison, became real three months ago, after I was back on it for almost 20 months. I hemorrhaged internally.

This required one of the invasive tests. As the result of a necessary injection, I have further and permanent circulatory damage, this time in my right arm. While almost all of the pain has disappeared, it remains uncomfortable for me to do such things as writing in longhand and correcting what I type.

19. The lower-than-indicated therapeutic dosage of this medicine with which my doctor is experimenting in the hope, shared by the consultant, that I will not hemorrhage from it has not prevented further deterioration. Now I cannot lie down as one normally does, nor may I arise in the normal manner. I must do both in stages, little by little. I must be particularly careful on arising not to fall from dizziness because that also can cause internal hemorrhaging. My movements when ambulatory are also more restricted because some motions now make me dizzy and can cause me to fall.

20. About a year ago ^{arteri} atherosclerosis or hardening of the arteries was diagnosed. This also was confirmed by the specialist. This hardening of the arteries also extends to those that supply blood to the brain.

21. I can pass out for no apparent reason and for the first time in my life I have. Preventing this now that I know its signals takes much time out of some days. Sometimes it is extremely difficult for me to stay awake. Sometimes I am unable to. At the same time I am under a medical prohibition against sleeping in the special ~~two~~ ^{torso} ~~to-tough~~ venous supports I ~~wear~~ ^{wear all my} waking hours. (~~I~~ sleep in full-length surgical supports that are not as tough.)

22. I do what I can to keep myself in shape, taking what exercise is ~~not~~ ^{not} medically forbidden. There is the seeming anomaly of my having muscular capabilities that exceed my other physical capabilities. I can still walk fairly well most of the time and do, but I cannot take two flights of stairs in succession and have not been able to for more than a year.

23. During this year there has been an accelerated diminution of my overall capabilities and I have been given no reason to expect anything else. There are times when my head is not clear, times when I have difficulty merely walking and cannot walk straight.

24. Only recently I learned that our medical insurance is no longer effective because of where we live. Copies of the bills I submitted for repayment of

doctors' fees and laboratory and hospital tests and examinations were returned with a refusal to pay them. (We have been members of the Washington Group Health Association since we were young. We now cannot get to their doctors and they abruptly refused to pay for what they previously authorized.)

25. All efforts to obtain other medical insurance have been refused. Local agents can write none. The reason given by Aetna is standard, that I have more than three medical conditions that can require surgery. In addition to those reported above, I have a prostate condition and as yet inoperable cataracts on both eyes. (Sometime ago I informed the Court that I could not recognize it from the first row of seats in the courtroom. Now faces are unclear, even those I know, at relatively short distances. At about seven feet from the TV, faces on it are and for some months have been blurred.)

26. The foregoing and its potential make long-overdue payment of what the Department owes me anything but premature. Because I am not wealthy and modest Social Security is my only regular income, my need is greater and my situation is more insecure. However, this is not the use to which I intend putting the funds and it is not the use to which I put other unexpected and irregular funds I have received. I did not put unexpected income aside for the possible medical emergencies.

27. Once this Court accepted the Department's false assurances that it could and would comply with my information requests by providing copies of FBIHQ MURKIN records only in substitution for my actual requests and what I have consistently and accurately informed the Court is impossible, I was forced ~~unwillingly~~ ^{even more} into a public role in this case. My purposes in making the requests were negated, perhaps permanently.

28. Other developments, some in other courts, imposed similar obligations upon me. I have accepted them and I have made a good-faith effort to meet them to the degree possible.

29. With regard to this and all other representations, I am prepared to provide any proofs the Court may desire. If my representation of my medical situation is doubted, I will give the Court a release or subject myself and my medical records to examination by the Court's own physician.

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30. As the record in this and other cases reflects, I have, without any quid pro quo, bequeathed all my records of any kind and source to a public university archive. In order to preserve those I receive under FOIA in pristine condition and make them available to others, I have converted a large part of our basement into a filing section. I have provided working space and extra illumination for others who use these records who range from college students to the press. I also have no other place to put these many filing cabinets of records.

31. The relatively small proportion of the records that I have received that are responsive to my requests and are of interest in my own work have been copied. These separate copies are filed in my small office.

32. Recently I was consulted by a college professor who has been asked to deliver one of two major papers at next year's Southern Historical Association convention. I recommended to him and he and the association accepted my recommendation that he make an independent study of the Invaders and Sanitation Strike records I have received in this instant cause. My providing these records for this use represents another aspect of the public role I serve.

33. However, retrieval of these records from the basement and refiling them there after they were copied at the local college (which will keep those copies for its use and that of others) would have been close to impossible for me, personally. It became possible because, through a college student who was using my files, I was able to locate another student who is in need of part-time work during the school year.

34. This student, who represents the first such help I have had, is dependable and conscientious. She also is more mature from the experience of working for several years prior to returning to college. I have been paying her with the proceeds of five college lectures and seminars of this past winter and the income from a few consultations which I have been able to perform by phone.

35. If she finds other employment when I cannot pay her, I lose the only help I have had and the benefit of all she has learned while helping me. I have no expectation of being able to find other help. I ask for payment of the consultancy fee to be able to continue to have help.

36. Her work has been and will continue to be other than personal work for

me. This is because it is impossible for me to do any writing.

37. To now she has placed each and every Section of FBI JFK assassination records I have received, perhaps 100,000 pages, in individual file folders and has clearly identified each of the large number of individual files for ultimate transfer to the university archive. Each file drawer is identified by its contents. Each file cabinet and drawer is identified by its subject matter. She has made a two-way card index to these many Sections of records, one identifying the contents of each cabinet and drawer and one, by record, specifying exactly where it is filed. This means that anyone now using my files can locate any of these records immediately. It also means that when the records reach the university they will be fully organized and ready for accessioning. This was not necessary for my use of these records. It is necessary for public purposes.

38. Her next work was to have been improving my filing of the records I have obtained in this instant cause in the same manner. However, it became necessary to establish separate files of all my appeals so they can be retrieved. The need became apparent when Department counsel filed a series of additional stalling and delaying motions in a further effort to perpetuate noncompliance without most of my appeals having received any attention despite the passing of much time, the language of the Act and the urgings of the Court. Once this work was begun, I offered Mr. Shea and his staff unrestricted access to those files. When the FBI has not been able to provide him with copies of my information requests, or at least has told him this, something I do not believe, I provided a list. Since then I have informed him more fully, including in the appeals. My most recent service to him, which required much of my assistant's time, relates to this instant cause. Mr. Shea told me he could not find my appeals relating to the special Memphis case index. (I filed several such appeals, as he now knows.) I provided him with the citation and offered him copies if he could not locate his as soon as my copier was repaired. This was done yesterday and if he asks for copies my assistant has this set aside for prompt copying and mailing. Without her I could not have served Mr. Shea and the Department as I have.

39. Mr. Shea is an adversary, not an impartial appeals authority. I not only expect him to employ his not inconsiderable lawyerly talents against my

interest, I have read his display of them with mixed respect and disappointment. However, from the impression I have formed of him, I am confident that he will not speak falsely. I am certain he will confirm that I have taken such time as he and his staff have asked, have provided him with a large quantity of records and detailed explanations and have offered him and his staff unrestricted access to my records and whatever more of my time they desire.

40. He has already informed the Court of my leading him to important records the FBI first assured him never existed and then assured him could not be found. I have been spending much time lately in work that will carry this further for him and for the Court.

31. I repeat that I do not know what else a requester can do without access to the records the FBI continues to withhold. I believe that what I have done and ~~do~~ is not required of a requester by the Act. If most requesters were required to perform such services, the Act would be a cruel jest.

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42. From the time I received the first pieces of paper questions of good faith and due diligence have existed with regard to the searches in this instant cause and compliance after the searches. Under my direction this student has located and my wife has copied a considerably larger number of relevant records than Supervisor Thomas Wiseman and his assistants at the FBI located, despite his thrice-sworn assurances to the Court. Now that I have finally obtained a copy of the search slips, I can prove that they were misrepresented if not also fraudulent as they relate to the subject matter of the request, to the searches, to the rewriting of my requests and to compliance after the alleged search. The Court will be able to reach its own determinations relating to why the searches were knowingly and deliberately inadequate; why Supervisor Wiseman and company did not provide the records located and others known to exist; why other records I will provide were then withheld; and regarding the character of the affirmations.

43. This would have been completely impossible for me without the assistance of this student. It is not only because of my now considerably reduced capabilities in general. It is because I cannot do the bending and stopping and manage the many trips on the cellar stairs.

44. If outside my personal experience there are those in the Department who

want to comply with the Act and are willing and able to do what is necessary to this end, then what this student and I have done and continue to do will be a service to them. If the Court requires full and accurate information to render justice, then this will be a service to the Court. To now it is not in any way of use to me personally in my work or in my writing. However, I believe it will be an exceptionally valuable addition to relevant information available for the future, as it would be to the Congress if the Congress were to inquire into performance under the Act and particularly into the deliberate wastes of time and money to frustrate the Act and to intimidate and bludgeon the Congress into amending it.

45. Any reading of my information requests in the FBI and the Department had to make it certain beyond any question that there would not and could not be compliance from searches limited to the FBIHQ MURKIN records. I knew this and repeatedly so informed the Court. Because of the assistance of this student, I can now provide copies of additional proofs from the FBI's own files to the Court and to my counsel for the depositions.

46. There was never any time when the FBI and the Department did not know its MURKIN assurances to this Court were false.

47. While I still cannot be all-inclusive, there is no possibility of any doubt that other FBIHQ files I specified to the FBI and Department counsel and in specific appeals identified to Mr. Shea are relevant in this instant cause and are still unsearched.

48. Yet as recently as this month's Wiseman deposition, which is not yet completed, the FBI, then additionally represented by its Office of Legal Counsel, refused to search unsearched files and Department counsel volunteered a refusal to have the FBI make these obviously relevant searches - more than four years after that Item was requested and refusal was appealed to the Department, which has yet to act on that appeal.

5/ 49. It must be a year since I identified several of these files by the FBI's number to Mr. Shea in a renewed appeal. It is almost three years since I identified these files to the FBI with accurate descriptions but without their numbers. Without the assistance of this student, I could not now have retrieved additional proofs from the FBI's own records for the Department and the Court.

50. (My wife is unable to do these things because of her own medical problems, which include arthritis that not uncommonly limits her movement. Aside from pain, if she gets down to search a law file drawer, she has difficulty getting to her feet again.)

51. I long to be able to return to writing and to put the information I have obtained together in form that others can use. For this I now require the aid ~~of~~^{this} student can provide. To be able to pay her I require what the Department owes me. I reemphasize that to now and for some time into the future her work has been and will be unrelated to my personal work. It has been and will be public-use work.

53. When I neared exhaustion of the unexpected funds, it became necessary to seek payment for the consultancy. This is not only because I desire to be able to continue to have this help but because it is required if the depositions are to be as useful to the Court as they can be. If my wife and I had not adjusted to the modest living conditions imposed upon us by the work I do, an extremely modest kind of existence, this would not have been possible, even with the required dipping into our small reserve against the future, including its possible medical extremities.

54. There was recently a time when my income was so small we qualified for food stamps and other public assistance. I personally did the grocery shopping and we lived entirely on food stamps. When I obtained money that was owed me, my first expenditures included repayment of this public assistance.

55. Our car was purchased in 1964.

56. The last suit I purchased, more than 10 years ago, is a factory reject that cost four dollars. The suit I generally wear to court is a hand-me-down of 1968, when it was in good condition but out of style.

57. I have not purchased a shirt in a decade. In that time I have purchased only three pairs of socks, all white, because of a fungus infection in my feet. A secondary infection from it could have cost me my feet or worse and the doctor told me to use white socks until it cleared up. I cannot remember purchasing a necktie, but a few have been given to me. The only reason I have bought any shoes is because I was told to wear a very soft sole and heel by a cardio-

vascular surgeon to discourage any jarring that could break loose a blood clot that could kill me. The best of these cost about \$25. On the workshoes I wear while doing the work I am still able to do I spent less than \$10.

58. The outside of our home needs scraping and repainting. I am no longer able to do this kind of work I once enjoyed. (Ladders are also a medical prohibition.) I have not cared for our property so I could render public service with what it would cost.

59. If anyone owes me money, payment of it cannot be premature.

60. The Court has stated that the Department owes me money. While time does not permit a thorough searching of the transcripts and I recall statements by the Court other than follow, I believe it is clear that the Court expected and intended that I be paid for this work that I did only because the Court wanted me to do it and so indicated. There is no doubt that the Court was assured payment would be "generous." Admission of the obligation and alleged intent to pay me was repeated to the Court on several occasions. The sole dispute related to the rate of compensation.

61. Department counsel, who was not a participant in what led to the consultancy, provided no first-person account, preferring to be able to attempt to mislead the Court. As the transcript of the calendar call of May 17, 1978, discloses, she was not even aware of the time the Court had me assume this responsibility. Whereas this was in November 1977, she stated that it "was not apparently agreed to until some time in January at which time this whole controversy about the rate of the fee for this consultancy arose." (Page 4) In all respects this is not accurate.

62. She stated that "A second offer was that a paralegal or a secretary be sent out to his house to help him with the documents (sic!) and this was refused." (page 3) The opposite is the truth and I am certain there are written records establishing it. I proposed that a Department paralegal use my files and consult me, without payment to me. The Department refused this. The same untruthful representation was repeated to the Court at the next calendar call.

63. Admission of the obligation to pay me is on page 3, "... in return for a payment of an hourly rate which was never discussed, and for a duration of

time which was never discussed, Mr. Weisberg ~~Would~~ formulate a non-narrative, specific list ..."

64. While it is true that there was no discussion, this is because I did not like or agree to the proposal until the Court asked me to do it. It is not true that no rate was indicated for it was. It was later repeated and that is the rate I have asked for.

65. The Department never stipulated the form of the report I would provide and it never responded to my inquiries. There was neither understanding nor agreement that I would provide only a list. In fact, I had already done that in writing to the FBI. Moreover, to a limited degree, we had already done this with a dozen pages of a listing of selections made by a college student from my letters to the FBI. The Court should recall directing a response to that list and that at a time when it could be expected not to reach me prior to the next scheduled calendar call a long and falsely sworn affidavit by SA Horace P. Beckwith was mailed, along with 62 attachments that included unfaithful copies of records and worksheets. There has been no replacement for that falsely sworn affidavit and its phony attachments in a year. ~~There~~ ^{still} has been no other response to the Court's request relating to the list provided by that student.

66. When a mere list was provided that was and remains ignored. Moreover, I made it clear that I would under no circumstances be able to do more than go over what I had already given to the FBI. ~~I~~ was not needed to make a list from what I had given the FBI. Nor does one hire a consultant and involve a Court in the enforced hiring of an unwilling consultant for the rendering of a clerical task so simple a 20-year-old without any office experience was able to do it and did.

67. For the Department to persuade this Court to have me serve as its consultant in my suit against ~~it~~ there had to be and there was assurance that I could render services not obtainable from the FBI or elsewhere in the Department.

68. At the May 17, 1978, calendar call Department counsel was corrected on the representation of no agreement by the Court, which stated, "it was agreed to in this Court's chambers." (Page 4) Department counsel undertook to imply that the Court was not accurate with more untruthfulness, "Well, in part, I think Your

Honor is quite correct. However, there is correspondence from the other side that indicates it wasn't -- It was agreed to, but it wasn't firmly agreed to." (Page 4)

69. This is false. The written record is exactly the opposite. I started to proceed immediately. As directed by the Department, I purchased tapes for recording and immediately sent the bill to Mr. Shaffer, again as directed, along with a long letter telling him I had begun.

70. This false representation by Department counsel was followed by another acknowledgment of the obligation to pay and an ex parte decision on the rate.

(Page 4) The obligation is acknowledged again on the next page, lines 2 and 3.

71. The Court found the ^{of} offer "too little." (Page 5, line 7) The Court then stated that "at the least it should be \$50 an hour," (Page 5, line 21) which the Court repeated later, describing the sum as a minimum.

72. When Government counsel complained "to date we have received nothing," (Page 6, line 7) the Court responded that because "you haven't agreed to what you are going to pay him. I am not surprised." (Page 6, lines 8 and 9)

72. The truth, as Government counsel should have known, is that periodically I filed reports accounting for the progress I had made.

73. As of that time Department counsel knew my wife had typed about 100 pages of my report. (Page 8, lines 10-12)

74. Prior to the next calendar call, that of May 24, we served a duces tecum subpoena on Mr. Schaffer. Of course, Department counsel had independent knowledge of this. The Marshal's return reflects that he had not served the subpoena. This is because he was given untruthful information, that Mr. ~~Schaffer was~~ ^{Schaffer was} out of town and would remain out of town until after the calendar call. I was so certain Mr. Schaffer was merely dodging the subpoena that on the morning of the calendar call I asked Mr. Lesar to phone him, without identifying himself. Mr. Schaffer took the phone. Mr. Lesar then informed ^{id} him of the duces tecum subpoena. When Mr. Schaffer appeared, as I believe he would not have without Mr. Lesar's phone call, he did not bring what was called for in the subpoena. If he had, he would not have dared say what he said, nor would ^{id} the others.

75. Mr. Schaffer indicated that he recognized the new rate he belatedly offered after I had accepted the Department's offer is not adequate. (Page 3)

76. Indication of the Court's impatience over ~~my~~^{me} not having been paid is on page 6, first in stating "here we have almost the end of May and the matter (is) unresolved for this length of time," followed by "And I think that somewhere along the line either a fair and reasonable figure is agreed to be paid the man or the whole deal is off ... Now, take your choice." (Page 6)

77. I took that as additional assurance of payment. In any event, by then I had completed most of the work, so there could not have been an end to the deal without victimizing me.

78. The Court also suggested that if I were not paid it would be included in Mr. Lesar's bill. (Page 6) If Mr. Lesar had been compelled to do what I did, it would have taken him much more time and the ultimate cost would be much greater.

79. It is incredible that Mrs. Zusman would suggest as she did (Page 9) that after all the hundreds of specifics I had already provided the FBI and after providing the student's memorandum that "Normal practice is after the government has processed the documents ... if a requester is dissatisfied then it is up to the requester to indicate in specifics what the dissatisfaction is." She knew other and better than this. She undertook to mislead the Court and apparently succeeded, even though below she made lefthanded acknowledgment in less than truthful description of my letters to the FBI. Her representation^{OK} that this was only "during the time that this processing under the stipulation had gone on ..." (Page 9) is false - knowingly false.

80. During the second of these two calendar calls characterized by the Department's outpouring of misleading and openly untruthful unsworn representations, my counsel informed the Court "my client has asked that he be allowed to testify just briefly to address some of the representations made this morning." (Page 10) That did not happen, although the Court proceeded to accept more untruth, not under oath, from SA Beckwith. The first development after the Court declined to hear me (Page 12) was agreeing to the unsworn representation¹⁰⁷⁵ of SA Beckwith. (Beginning on Page 13)

81. At about the time of this second calendar call Mr. Lesar delivered my lengthy and detailed memorandum, with a copy at my expense to Mr. Shea to assist

him. Although perfection is not a human condition and I had to work on the memorandum intermittently and in the end did not have time to read it, from then until now the Civil Division has had not a single complaint to make of inaccuracy, has not denied that the specified withholdings in part and in toto are unjustified, has not provided replacements for unjustifiable withholdings, has caused no other searches to be made, and has contented itself with refusing to pay me at all.

82. If I had been heeded in the information I provided, some of the relevant records that were destroyed would not have been destroyed, this case would be closer to an end if not resolved entirely, and the saving to parties other than me would have been considerably more than the cost of paying me at the agreed rate, with interest.

83. The Department has provided no affidavit that I recall since the falsely-sworn Beckwith affidavit of a year ago. It has provided short boilerplated affidavits of very limited scope relating to the Stipulation. Some of them are of the approximate time of the Beckwith affidavit. I believe that the effectiveness of my destruction of it discouraged any use of these already executed affidavits until no further delay was possible. There has been no response to my rebuttal of the Government's Stipulation affidavits.

84. Despite the length of this case, there has been no affidavit claiming compliance with my information requests since those of Supervisor Wiseman of the first half of 1976. Specifically, Supervisor John Hartingh, who succeeded Supervisor Wiseman, has provided no affidavit at all.

85. The files where relevant records were hidden remain unsearched. My identifications of these files were accurate, as Government records I have since obtained make clear and as the Church committee also made clear.

86. Bad faith and untruthfulness characterize all that ensued under the consultancy as they have tainted this case from the first. The sole purpose was, as is now clear and as I informed the Court, to further delay compliance and to impede my work, which is critical of the Department and the FBI and is accurately and fairly critical of them. The misleading of the House committee succeeded exactly as I informed the Court it would. In this and in more the Court, the country and I were defrauded and will continue to be defrauded because an appreci-

able portion of what life remains to me has been wasted.

86. My offer to provide information in camera was not frivolous. It also was not intended as any kind of pressure on the Court. My purpose was to enable the Court to obtain a perspective that is missing in this case and to perceive possible motive for persisting official stalling and misrepresentations in this case, including as related to payment for the consultancy.

87. To this day the very first records provided in this case that withheld the public domain have not been replaced. Replacement has been refused of many others since then. To this day the relevant files I specified had not been searched remain unsearched - if not by now also purged. To this day my live testimony and numerous and detailed affidavits have not been rebutted and no substantial rebuttal is possible. This accounts for the official stalling and failure to provide either affidavits or live testimony to meet the Act's burden of proof the Government alone bears.

88. And to this day most of my appeals have not been acted upon.

89. There were no ifs or buts attached to the consultancy arrangement, no conditions of any kind, no specifications of any kind and when I sought them in writing I received no response. The rate at which I agreed to do the work is less than the rate I am paid for consultancies. This is because, unlike skilled lawyers and learned scholars, who are plentiful, there are few subject experts, none who has my subject matter knowledge and expertise and none with my record and reputation for accuracy and dependability.

90. I believe that a fair temporary resolution of the problem created by the Civil Division would be for me to be paid at the rate the Court indicated would be a minimum subject to later reexamination. If this is done, as I state above, although it is not required because the money is owed to me, I undertake to use it for the public purposes stated and to do this with any kind of accounting the Court might desire. What I have done along this line to date can be examined if desired. Sometime ago, for other reasons, I suggested this examination to Mr. Shea. The university will examine this work next week and can be asked for a report.

91. Any delay, although I sincerely hope otherwise, can be a permanent denial of what is due me. By now the interest it could have earned could have

enabled even more work to be done by my temporary assistant. But it will do neither me nor my work any good for there to be a payment if I am incapacitated or dead. Except for the cataracts, people do die of each of my other illnesses. People are also incapacitated by them.

92. During the course of this long litigation over information requests begun more than a decade ago, the Attorney General reportedly made a finding that this is an historical case. The Court then indicated some skepticism and suggested that in itself this would deny me my rights. That the Court's skepticism was justified is supported by the fact that I am unable to obtain a copy of this determination to study and to provide the Court. I have not been provided with any reason to believe any such determination was ever put on paper. However, all the work I have done and all the work I would do adds to the purposes of an historical case determination. What paying me this overdue amount now would mean is that the Department and the Government would be getting it back through the work it will pay for. The Department would get back the cake it has already eaten.

HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this ____ day of July 1979 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires July 1, 1982.

NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND

ADDENDUM

93. I completed the draft of this affidavit and my wife was retyping it when the Court's Order reached me. While I do not doubt that my counsel advised me of the concluding words, their meaning did not become as clear until I read them:

"... the Court will defer its ruling on this motion pending disposition of the case."

94. Except if I agree to noncompliance, to violation of the Act and its spirit and of my and the public's rights under the Act, I have no control over "disposition of the case."

95. Whether "disposition" means by this or a higher court I do not know. The record of my cases is that there usually is noncompliance prior to appeal. One case, where my first request was in 1966 and suit was first filed in 1970, is still before the courts. If it means disposition by this Court, the record is that this Court has not done what could be done to effectuate compliance. It has accepted false representations by the other side from the first. Once I present fact to the Court, as I have done, and it is not disproven, I have reached the practical limit of what any requester can do or should be expected to do or is required to do under the Act as I understand it and its legislative history.

96. I illustrate my powerlessness and the unfairness of this Order from this instant cause. The Court ordered that official names not be withheld. This was prior to the processing of any of the MURKIN records. Blandly the Department admitted violation of this Order for the first two-thirds of the thousands of pages processed. These pages have not been replaced with properly processed pages, as I have asked, and the Court has not required it. After repeated false representations to the Court relating to pictures of the scene of the crime, I was denied these pictures. The Louw/Liße pictures remain withheld after the Court ordered that copies be provided. This matter is now before the appeals court. My request was in 1969, a decade ago. There is and was no way in which I could influence disposition of these two elements of this litigation. There is no way I can influence disposition of the case itself other than by agreeing to noncompliance with the Act.

97 The Department owes payment to me, not the reverse. The Department can influence disposition under the Act by compliance. I cannot force this and the Court has not compelled it. The Department, which owes me, is the party able to influence any disposition that is in accord with the Act.

98 In applying pressure on me alone by withholding decision until disposition of the entire case, the Court has given the Department a go-ahead for perpetuating noncompliance. The Court punishes me when no offense is laid to me. It rewards the party of the actual offenses, with regard to the case, its disposition and payment of the consultancy fee.

99 This is manifestly unjust. I prefer to believe the Court was not aware of these considerations or that it was applying pressure on me and on me only and will reconsider.

100 If as I sincerely hope is not the case the Court was aware and intended what can be interpreted from its Order, then I assure the Court that right and wrong and my public obligations are clear to me in this matter. As I have sought to meet public obligations against personal interest, and in this case that was forced upon me, I will continue to do so, however long the Court permits the Department and the FBI to drag this out and wear me down, without ~~on~~ consideration for my lack of means, the state of my health or my personal preferences. Perhaps most of those whose parents fled tyrannies so their children would be born free have forgotten the alternative to freedom and a government of laws and of officials complying with the law. I have not and I will not.

HAROLD WEISBERG

FREDERICK COUNTY, MARYLAND

Before me this ____ day of July 1979 Deponent Harold Weisberg has appeared and signed this affidavit, first having sworn that the statements made therein are true.

My commission expires July 1, 1982.

NOTARY PUBLIC IN AND FOR
FREDERICK COUNTY, MARYLAND