

with 6/4/78 affidavit

Dear Jim,

Metcalf's complaint

6/6/78

As I told you when you phoned, I was about to do a little mowing. I've done it, I'm a bit tired and uneasy from it, but I want to go into this before I put my mind on other work.

If Metcalfe, knowing you had not had time to read the affidavit, read only the one graf then he was misleading you. Or trying to. It cannot be read by itself.

It is graf ~~XXXXXX~~ 110 on page 22. It reads, in full, "If Mr. Metcalfe was misled into these representations to this Court by his trust in what he was told by the FBI, they nonetheless are representations the falsity of which was known to the FBI when it misled Mr. Metcalfe, is it misled him." His objection is to "if it misled him."

This is at the end of a long part of the affidavit on the lies, not just misrepresentations to the judge. It is part of that part, not standing by itself. Before it I have ~~set~~ ^{laid} out such, with exhibits from the government's own records.

I do not begin with the belief that a Government lawyer has special exemptions from normal ~~of~~ ethics or that he is totally uninformed or at the mercy of his client. Now if I, a layman, could know that Beckwith's affidavit is not the right one to file, that Beckwith specifies that he lacks personal knowledge, surely Metcalfe knows it. Why then did Metcalfe not ask the FBI for an affidavit from the man who made the search? Or the one who could allegedly state that there was a promise of confidentiality to the Atlanta police? In laying aside all he learned in law school and as a clerk and as a practising lawyer he does not cloak himself with any special kind of immunity. He was engaging in what I regard as an excess, an abuse of the adversary system. He had every reason to know that the Beckwith affidavit is defective - at the very least. He is also no dope. So he had to have had some suspicions. There is no indication he had any doubts about filing it. There is no doubt he knew others had the knowledge required. There is no doubt that he knew the FBI had to have some reason for avoiding the right one and loading it on Beckwith.

He also did not live or work in a vacuum, as the others who signed it do not. He may not have known all the particulars but he has to have had some knowledge of the kinds of dirty tricks they and the FBI have been playing on us. If he had no question when he saw a defective affidavit then he has to be what he is not, some kind of fool. If he had any question then he was not misled.

These people have been seeking to unload everything on the FBI. If the FBI bears its own responsibility it has a very heavy load. I see no reason to lay more on without cause. I believe that Metcalfe has to have known better than to file the Beckwith affidavit without asking any questions about it.

Of course I'm resentful of what these kinds of things have done to me and to both of us. But there is more, what I regard as serious and they all appear to believe leads right to the special DJ heaven: he misled a federal judge. I'm supposed to be party to it? Forget that I have an involvement in the subject. What is the thrust of my work? You know it is not whodunits. It is to bring to light exactly what this business represents, the corrupting of our basic institutions. How you can do more harm to the system of justice than by misleading a judge, misrepresenting to him and not letting him know all you know that he should consider I do not think of ~~it~~ ^{it} hand. Let Metcalfe regard it as the adversary system. I do not. He assumed certain responsibilities when he presents anything to a judge. He did not meet any of them in this matter. That is bad enough. But he filed a series of affidavits that at best are defective and except to a legal defective are bad affidavits. There, I've understated it.

He extended what the bad affidavits say and can mean over his own signature.

What? What reason consistent with honesty, decency or regard for the Act and its purposes?

Do you believe that Metcalfe is not aware that he had made all these representations to Judge Gesell without any evidence on whether or not any of the withheld material is in the public domain? Do you think for a minute that he is not aware that if any is in the public domain he has represented to a judge?

In this I am distinguishing between what he may believe and feel impelled to argue about the legal intent of any language of the Act or the AG's memo or decisions. I am reducing this to fact within his area of knowledge or understanding.

No, on this particular part it happens that I know of no other person in the world who is in a position to consult the files I consulted. You don't have them.

What am I supposed to do about this, in particular and in general? If I file an affidavit do I not also assume a responsibility to the Court? I may not be hep to all the followups and nores these people keep misusing but when it comes to fact and reason to believe based on my own experiences I owe the Court an obligation. If Metcalfe misleads the Court why should I not say it just because Metcalfe might prefer that I not say it? Why should he dream of misleading any court - and then think he is not subject to criticism for it?

I was not there when it happened but I did read what Judge Gesell said to Axelrad after the appeals remand. I felt he was as deeply embarrassed as any decent judge can be. He was imposed upon. His trust was imposed upon. His ability to preside over justice was brought into question. And I see no basic difference between what Axelrad did and what in this matter Metcalfe undertook to try.

The day has got to come when these im-une-crazy lawyers stop corrupting justice and making cruel jokes of decent judges. If it does not come then there can be no justice and there will be an authoritarianism.

So let ~~Metcalfe~~ Metcalfe wear the approved clothing, fix his tie and his hair just right and sit in the front pew and pray longest and loudest. That means nothing to me. What he does is what means something to me.

If he is one not for heat he belongs outside and kitchen and should never strike a match. He wants to play with fire? They it is past time for learning that fire can burn.

He also has a strange standard. Those people can make all kinds of dirty cracks about me, even about my health, and that is right and proper?

Bobby Kennedy had an apt misquotation of Dante: he who preserves his clam or equanimity in time of moral catastrophe has a special part of hell reserved for him. Not Bobby's exact words but the idea. He probably reversed it, which would be more effective. If Dante didn't say it I believe it fits the situation.

When you have time read the entire affidavit. If you can convince me that I owe him an apology I'll probably make it in writing. But I'll have to be convinced. He is in a position to waste more of me in the FO case and I'm not about to tolerate that if I can do anything about it. That reminds me. We saw him on this two months ago today. We were to have had some processing in a month. We have not heard a word. I want to know what the score is. And I want only a sample of those records at the beginning, when I can go over them. I don't want a fait accompli as they engineered in 1996. Please give him to understand this. I don't want to spend my time fighting needless fights they create to waste me and be able to avoid compliance. The agreement was that they'd do something like a thousand pages and let me go over ~~them~~ them before they processed more. Remember, the problem of what is public domain covers more books and articles in that case than with King.

Best,