Government's Response of 3/17/78 in No. 77-1831, HW to JL 3/22/78

In their desparation these people have given you a perfect opportunity to cut and slash them as the champion of the law (and the Act in particular), then to doff your sabre and swirl your cape to the court.

They have also made it what I think is certain that we can't lose by saying that we do indeed have new evidence and that it does indeed require ajudication by the district court. Because in this they have eliminated reasonable questions about whether or not we can refile the same suit if there is no remand they have justified if not required the remand, given the language and intent of FOIA and its time requirements.

With this in mind I'd take what may appear to be some chances.

There is nothing the appeals court can really do except remand for us. So there is the reverse of the situation they allege, or no irreparable harm to me if the court does not consider what we did not have to present to the district court. The actuality is that there is no harm of any kind to the government if there is a remand. With the new evidence admission there is the acknowledgement that we can refile so what is the government's pint in opposising the appeals court consideration of what we will present to a district court if we refile? It can be no more than an effort to delay firther what is years overdue in compliance.

I'd join issue on their conclusion to their first graf, the "serious accusations" part. I'd agree and allege that this alone requires a reman, which can give the appeals court an out if it wants to duck the other issues. I'd agree with the "unprofessional conduct and perjurt part" and allege that these issues also require the consideration of a court of law. I'd also note that there is no adfidavit denying the perjury allegation, not even a press release following the Epstein interviews, articles and book, in any way representing that it does not reflect the actualities of what the CIA did with him. And through him.

Bottom page 1, Angleton's part of the CIA is responsible for the withholding. All that Briggs did is sanctify it.

Of course all these issues exist only because the district court broke its word to us when we depended on its word, and their claim that these are issues merely proves our point that the district court erred in failing to resolve the issues and by cutting us off of discovery. I'd note the need to depose Briggs and Epstein and Angleton at the least. Or to take their testimony in court.

Page 2, paragraph 2, while they put "evidence" in quotes they do not deny that it is "newly discovered" and in the context of this part admit that it is. This iw where they have assured a new complaint is not what I think you call res judicata.

First part last graps says we offer "wholly unpersuasive reasons" for allowing the new evidence in. Perjury, their characterization, is "wholly unpersuasive?"

Same in line 4 relating to "protect its own integrity", by appeals court.

Last 4 lines: does the Briggs affidavit, which we had earlier questioned, really give "the contents of the disputed transcripts" or is it merely an interpretation of the conjectured consequences of release, a disputed interpretation that is destroyed by the new evidence? And does hot their interpretation of my affidavot overcome their argument that the issues were not before the court?

P. 4: "Appellant fears that this Court will make the same error unless he is permitted to impeach the sworn testimony (sic) of the government's affiant..."This is precisely what we were denied at district level and is required in any system of justice (appropriate to cite Wignore, which might remind the court about No.75-2021?)

They describe Barron as "a former editor of Readers Digest." Former? Is this true,

and is it in the record? Or are they telling or trying to tell this Court what is not in the record, what they protest when we do it?

At the end of the first graf they fly into the face of FOIA in saying I have other remedy, whether or not I do. It means more delay. They have a clear record of having delayed this case for a very long time. Now they propose an unnecessary added delay. The fastest way is to remand with an order to take testimony. There is no need to resotr to lidt ir illict legalisms, as here. It is at the very end where they give us the argument of irreparable harm. Turn their words around:"If as the Appellant/contends,he can produce probative evidence of a*conspiracy, he has suffered*irreparable harm."The *s and the underscorings are where I've turned it around.

The harm here is the delay under FOIA when the request is a decade old and there is already a benefit of $500,000 to another as a consequence of it.

Here, throughout and at the top of 4 they claim the right to perpetuate the denial of evidence they have withheld from the courts, which subverts the courts. They have not at any point or in any way proven this evidence does not exist or that my allegations are other than factual and correct. Their deceptions of the court is the only reason that the "proffered 'evidence' was never 'part of the trial process.!" In fact it succeeded in totally elminating the "trial process."

The end of the first graf is an invitation for a remand. The questions should not exist. If the district court overcomes its error, which a remand enables, the questions therea fter need not exist. There can be no justice if the questions do exist.

In the next graf they characterize what we have given the court as "irrelevant facts." This is incredible arrogance when they themselves begin by describing it as serious misconduct by counsel and as perjury. Eeven conspiracy. Any one of these is "irrevelant" in any judicial proceeding? And with the failure of the district court, who decides what is and is not "relevant." This also requires a remand. This Court can decide whether or not allegations of perjury are "irrelevant." Can a record ever be closed to such allegations and considerations and the courts still function and be independent?

P. 5, line 5: when the stories are from the Star, the digest, New York, which has wide distribution in the area of the appeals court, when the Post had what we did not include and when Epstein was on Good Morning America, can anyone doubt "it is generally known/ within the territorial jurisdiction...?" Is not the distribution of the book enough to meet a reasonable interpretation of this test? Here I'd note the abesence of denial in any form, from a press statement by CIA to an affidavit to this Court. In the context of how eslse could Barron and Epstein have had access to Nosenko except through the CIA, which is the instrument of denial to me and to the courts.

Six lines up they allege that the FRE "seek to insure that only accurate information will effect the disposition of a lawsuit." They could not state our argument and claims better. There is only the gravest doubt of the accuracy of the "information" before the court without its having what we have offered it. And if the government is confident that it has represented only truthfully and fully to all courts, what does it have to fear from the consideration by any court of what we have offered to this one? How can one "insure" the "accuracy" of "information" if one side can withhold what proves its representations to be other than full and truthful and then claim that because it got away with this at district level it is entitled to get away with it forever? How can any court "insure that only accurate information will affect the disposition of a lawsuit"when there are diametrical contradictions and it refuses to take any testinony?

Hastily,