

C.A. 77-1997, their Reply Brief

JL- re #78-1731 and Government request for more time HW 10/23/78

It occurs to me that with what you'll be filing it may be unrealistic to oppose their getting time where they have a legitimate need of it. As with what you will be filing. However, the two Motions for more time I received today are not of this kind.

First they await the last day to file a motion for more time to file the brief. The reason they give is spurious but if not then it is contemptuous. What it amounts to is a request for the legal sanctioning of stonewalling in their own terms. Fortunately, the affidavit I gave you yesterday provides a factual basis.

The CIA represents that it declassified ~~some~~^{these} transcripts because of its review for the House assassins. No date for the review is provided. It was, naturally, prior to the 9/15 testimony. My belief is necessarily quite some time before testimony.

Then from their own account they don't get around to considering telling DJ that the transcripts are declassified until 10/11. This means that they can stall under a 10-day law with a request a decade old and a case in court more than a year and then, having stalled, be entitled to stall even more.

The "sole issue," they claim at 2., "is whether the District Court abused its discretion in denying a new trial on the issue of access to two documents..." now provided.

How about 1831? How about the 5/19 transcript? Of course we have other issues, but how can they tell this to a court, no other question before it?

They use the same contorted claim in the second Motion, they stonewalled until less than 10 days so they are entitled to stonewall more.

1997-

Lilhas to go into town and can mail this. I've just had time to skim the beginning. It also is a convoluted claim to self-destruction of the Act.

It really argues that the spooks can combine to repeal some aspects of the Act.

One set of spooks has records from another. First it delays a year or more in making any referral, then the second set of spooks never acts on the referrals. Then the first set of spooks claims this is all the law permits: the stalling complies with the 10-day Act. The stalling is the end of all, including do novo review.

You may want to remember this for your 1831 argument because I think it is of a general relevancy.

You also may want to refer to the retabulation of the FBI's tabulation in the 1996 referrals, for the date of referral of a 1975 case and 1968 requests. If my recollection is correct the FBI did not refer a fairly large percentage until this July. They also refused to make even a polite request for the CIA to act. Now the CIA plays it back. I do not recall the time it made the referral by it was long after the complaint was filed.

I rather think these are issues the appeals court will like to face.

Hastily,

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