

Dear Howard Spectro case and the judge and his decision or finding 10/7/77

A little while ago Jim phoned to say he had received and skimmed but not read an extraordinarily long and apparent an otherwise extraordinary decision by Pratt. I know only a little of the content. It is apparent that Pratt went outside the record while foreclosing me from completing the record with testimony. How many guesses do you want outside the FBI or someone connected with that side, like Belin? But my point is that this makes him vulnerable and I believe undermines the working of the law.

One of the ways of establishing this is by adding to what he says is all or showing the opposite of what he says.

There remains the basic question that there is no first-person showing that the records sought do not exist and no first-person showing that all the possible sources were ~~not~~ searched. Like the Dallas FO.

I have asked Jim to have a xerox in the mail for you this evening on the chance you can find time to be of help, including by an affidavit attesting to other than is in the Pratt paper, whatever it is called. And of course any suggestions possible

My belief is that we can still add to the record with affidavits in support of a motion to reconsider. Without research Jim offered the belief this is correct.

One thing is certain to me: while there is hazard in tangling with a judge I have no choice on this. He has become a partisan, as Jim points out with smoothness in his paper. I've checked on of the citations I recall from what Jim read. That testimony does not address the existence or non-existence of a Stombaugh test which Frazier testified on deposition he had directed Stombaugh to make of the shirt collar. Rather does it show the avoidance of the question of whether or not the damages to the JFK shirt front coincide as they must have had to for them to have been of bullet cause. He conjectures about error in Frazier's deposition when it is one of the points at which Frazier was not equivocal. If we sent you a copy it is where he was shown a picture of the short collar, refused to testify without being paid expert witness fees and rather than say he ignored the possibility that the holes did not coincide testified that he directed the proper study by the proper expert. Here I think Jim will want to use what Frazier also made clear before the Commission, that he was being asked to testify to tests he did not make and about which he was not expert.

My feeling is that the judge is giving testimony to what is not in evidence before him while foreclosing me from presenting evidence that is not ex parte but is live testimony. The questions include how much time we have and can afford to put into this. I'm not certain I can now evaluate its relative importance but I'm inclined to feel not only like the old firehorse but that this can provide a major opportunity by joining issue on his terms in addition to the uncontradicted record we have made. There is no response to my last affidavit, apparently.

This leads me to your excellent 10/5 that came this morning when I mailed the affidavits to Jerry yesterday. Your suggestions are fine. Jim did do some rearranging. I have a xerox. If the affidavits are signed I'll give you copies.

I had thought of attaching the transcript of the press conference but decided instead to hold it for the thing that came to pass and to present as part of the motion for reconsideration. While you are correct about the ring of abrasion there is a limit to how far I felt he would be willing to go and I did not want to even appear to extend what he did tell me. It is possible that he went as far as you suggest and I erred. I do not now recall.

This happened this fast because instead of indicating changes, for which I gave Jim two copies, he speeded it up by a final draft. Hastily,