

Unhappy Jim,

1/3/79

While you are coming out of a state of shock over a 36-page affidavit when I told you I'd written only 20, which I'll explain, and while Lil is making the copies, I'll explain a few other things.

A double-spaced page with this small type usually makes a single legal-sized page in a larger face. This time there is letter-sized paper, which the appeals court uses, and Lil used a different ball, which takes up more space. Actually I added relatively little after we spoke and you'll easily spot it, the additions that begin with Exhibit 2. I'd had only one exhibit.

Lil had not finished typing the original part by the time the last mail left for Washington so it would not have been possible to mail the affidavit tonight. It was about 8 when I returned with the original notarized.

We have a combination of unusual and favorable conditions that happen to coincide and we have something I am determined to end, false representations by government counsel who have been immune and may continue to be after this but I think they'll be less anxious to be as excessive.

The false representations are significant in the case and are blatant once exposed. As the affidavit states, it requires a subject expert to inform the courts. So I have seized all their misrepresentations, proven them to be misrepresentations, taken the misquotations and shown them to be of a not accidental nature and germane, and also made use of the climaxing stupidity, to make more cracks about me asking courts to review the Warren Commission and even more stupid, cracks about conspiracies.

There also is enough topicality to the subject matter in general at this moment and enough that has in the last minute become public to really underscore two things in particular: the need to withhold under any excuse and the fact that despite these withholdings, aimed largely at me, all the new information about the assassination - now a conspiracy - comes mostly from me and from previously withheld and misrepresented records. The case for motive had to be made and the case for history is at this particular juncture essential. So is the understated, almost muted case against the committee. (And for the critics in general.)

While all these busy people do not like long papers to read, especially when they are irregular and untimely, I think there will be enough interest in this and I think our future in this case requires whatever risk there may be in the length. I think it is relevant, and I think the misrepresentations are gross and inexcusable. The combination does, I'm confident, really underscore motive. I used the Lardner stories and the Bronson records I got in O322 and the meaning of that film and the police tape because they all represent the DJ and FBI failing to do what the critics did, me in particular, and because this has turned the entire matter around, however wildly the committee flails, as it is flailing today as sycophantic NPR touted tonight and Lardner phoned me about to either puncture or as basis for ignoring it.

I'm a bit tired and maybe not as well connected as I should be but I think we can't ignore another session with Pratt if we win and all that will take from us or the time and effort of a demand for recusal (for a Smith?) following another long deal and more stonewalling. I surely can't. So when we have the chance to draw enough blood to curtail these drains on us - I'm for making the cut and I've tried.

Maybe I'm reading too much into the court's behavior in the 1997 appeal and the Marks and Ray decisions but I think not. I think that whatever the liabilities of an over-long rough draft this affidavit provides what this court wants and I don't know anyone else who can or will provide it. I am certain the viability of FOIA requires it and the opportunity it provides this court. I also believe that the effectiveness of so strong and complete a rebuttal is important to your getting your fee, which you indicated was questionable with Pratt. (Which also adds importance to the relevant content about how what became known and public - over all kinds of official resistance.)

You will have time to read the affidavit from the time you will not have to take to make copies/ Lil has just finished the assembling and in a moment I'll make the

package and then head for bed, as Lil has.

If I'm lucky and the car starts in the pre-dawn cold (the wind@chill here this morning must have been 50 below) and my friend Gordon can get up in time to make the 6:55 bus (he's not getting home tonight until midnight) then I'll get this to you by him, as before. If not I'll have to put it on the 10 a.m. bus.

We talk about my age and health and making some effort to get out of the official cul de sac and you agree and display an academic understanding but we have have the first effort to make. I want to make it now with this court and with these issues, which include proven misrepresentation, and in the exceptional environment we have from the assassins and their wildness and their positiveness in finding conspiracies. It was absolutely insane for Korn to write the kind of boilerplate he did after the content of the police tape had been public for a week. This and the other stuff I used adds much and fits entirely with what J. Skeel Wright's opinions in Marks and Ray point to and we did agree this court wants.

If we were wrong, if I am wrong, let the future decide that. Let us not cut our balls off and cop out and let us PLEASE make an effort to nail the lying legal bastards who have wrecked my recent years and bled you the same way.

I think there will be a synergistic effect on other cases, too.

Besides, more is going to come out on this and on corruption in this. It has been leaked to Jerry and he is supposed to be making an effort to get something from Sprague on it. The FBI misread the stuff they gave us and did withhold a negative result and Sprague knew it and had a man working on it when he went. Blakey immediately took the man off. I'm sworn to confidence on more. So we do have backstopping whatever you may think may happen by way of negative reactions.

The government may scream irregularity but this affidavit meets the test in your briefing, it is new, material and not earlier available. We also have learned that when they open their yaps I put their feet in for them, which I think is one of the reasons the appeals court reached out in the Epstein matter. Also why the government sized on an irrelevant excuse to unload the two ex. sess. transcripts, with which we also nailed them. (Actually, isn't a February date rather early for oral argument?) One of the reasons they have ignored the notness claim. If they had heeded it we'd have heard because that would be out of the scheduled oral argument.

*top worrying,