

Allen case

Dear Paul, and Mark and Jim,

HW 1/22/80

In today's mail I have JL's 1/18 speedletter to you I write in haste to update you (all) so that Rae can mail this when she leaves and save a day.

My copy of the record Mark got was delayed coming from Jim. I got it Saturday, but I was not up to working on it then. However, although I was not yet back to my present norm on Sunday, I did prepare the draft of an affidavit to be added to the affidavit I have already filed relating to an Owen affidavit in my case to which Jim refers, for payment of costs in the transcript case. Yesterday morning was taken up with dental appointments but thereafter I did read and correct the draft, without time for any major changes. Dil has started retyping it in final form and with luck it also will go out to Jim in tonight's mail. The problem may be making copies of the 27 exhibits. Yup, 27, all showing that all that had been withheld and some of what is still withheld are and were in the public domain before Mark filed suit. Some are CIA records, some, most, FBI records.

While it is my belief that we need no more and Mark doesn't either, it is also my belief that this is so flagrant that we can't have too much and that we may be able to move for sanctions. So anything you can locate in response to what Jim and I each wrote you would be good to have as fast as possible. Mark's hearing is now set for the 29th, which provides some time. In my case we don't know when the judge will act and I'm not averse to giving him an heavier load than the heavy one already given to him. Moreover, there is always the possibility of some use of these affidavits in the Congress in any effort to save the Act to the degree possible from the attack on it.

If Mark finds anything and has time to provide copies, good, could use them. Hopefully he'll be in D.C. the several days before the hearing. I've not heard from him so I don't know if he wants an affidavit from me. (I asked Jim to send him the earlier one I filed on Owen.) Originally I'd planned to try to guess his approach and provide a short and somewhat conclusory affidavit, not for Smith, who is impervious, but for him to have it the record for the court of appeals, where from Smith's record the matter has a good chance of doing. However, aside from time questions and not knowing how Mark plans to approach this, there are what seem to me to be other good reasons for his using the affidavits I have already prepared. They are more inclusive, all they say that is not on point in Mark's case is directly on point on Owen's truthfulness, and it may not be a bad idea for Smith to know that another judge and his clerks have the same affidavit(s) before them.

Jim asked that you send your comments to both of us. I add also copies of any possible exhibits. Possible ones include the underlying records to which Owen refers. He can't whistle himself past the graveyard by elliptical comment on some having been made public because he is required to have disclosed what is reasonably segregable. It is probable that all the records to which citation remains after obliteration were disclosed by the CIA long ago. (Dates important for affidavit.)

We will be pressed on time, especially on making copies, if I am to make the mail by the time Rae must leave. (She babysits evenings so that mother can go to her nighttime job.) While Mark probably did not ask Jim for a copy of my earlier affidavit on Owen in 1448 I think if possible he should be familiar with the content of the new one about half of which is devoted to taking Owen apart over his representations in Mark's case. Our usual procedure is for Dil to make a single carbon when she types affidavits. Although the correcting mechanism leaves corrected errors with strikeouts, I find it adequate for reading and catching other possible errors. Once I've done that, and kept the original clean while doing it, I have no real use for this carbon. So tentatively I plan to include that to Mark this evening - if it is done. If he wants to use it he can phone Jim and ask for the number of copies he will want and Jim can have them made by the time Mark is in D.C. Hqastily.