

Ms. Katherine A. Mazzaferri, ex. dir
District of Columbia Bar Assn.
1426 H, St, NW
Washington, D.C. 20005 -2184

7/14/86

Dear Ms. Mazzaferri,

The enclosures are for the completeness of your file, which if I recall correctly, you have been forwarding to Mr. Glickman. I do not recall if I sent you a copy of Judge Smith's memorandum, so I also enclose a copy of what may be a duplicate. As the enclosures indicate, I'm not able to do much file searching as the result of still another venous thrombosis that followed surgery this past January.

I'm not in a position to check Judge Smith's citations. I do have some difficulty in crediting his interpretations but then I'm not a lawyer. Aside from my prior experiences with him, it is not easy to accept the dismissal of undenied perjury, (as merely "cumulative") as an impartial judicial opinion or the law.

At the hearing to which he refers he kept me from reading the statement I had prepared and timed, I ad libbed, ^{briefly} as best I could, which I fear was not the best, and the government content itself with merely claiming that the statute or time had run and it didn't deny any of my allegations that, if you read what I sent you earlier, prove the perjury, fraud and misrepresentation and the knowledge of the government's principal affiant, FBI SA Phillips.

When this was first up on appeal, in its decision the panel actually said that this FOIA case, limited to the JFK assassination investigation records of the FBI's Dallas and New Orleans field offices, was a suit for King assassination records. Smith is so unfamiliar with the case record that he says I sued for the New Haven field office records.

All the FBI records I used are "new evidence" because they were disclosed to another requester after this was at the appeals court. Since then I've received a few other records indicating the falsity of the FBI's claims and attestations. One that may be of interest is an FBIHQ record reflecting the existence of pertinent records about Clay Shaw, a specific item of that request, by the New Orleans field office, which claims to have nothing relevant. Obviously it has Shaw information that is relevant, was withheld, and bears heavily on whether or not the FBI was then truthful in calling Ramsey Clark a liar over it, as it did at the time of his confirmation hearing.

It is not surprising that Smith ignored all the authorities I filed, including on the relevance of the last three clauses of Rule 60(b) and, as I think I indicated earlier, I fear very much that as precedent this gross dishonesty will be very hurtful in a number of areas, not only in FOIA litigation, and what will be the government's

ability to frustrate it by demanding discovery without even making the initial searches.

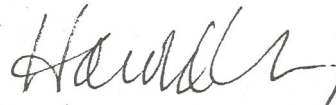
If I am correct on what affirmation of all of this mendacity that is entirely undenied before any court can mean, I worry more about others than I do about myself. It is my present intention, if I continue to lose, to make the government undertake to collect the judgement, in the hope that what I was taught 55 or more years ago remains true, that one may not be punished legally without a trial. If this is not the case, then at some point I may have to decide whether I can survive jail.

My parents believed they were escaping tyranny when they came here so long ago. I cannot be party to it if I have any real choice.

If Mr. Glickman has read what I've sent and he has any opinions or suggestions, particularly about Judge Smith's language and the pertinence of the authorities I cited earlier, I certainly would welcome them. I am assuming, of course, that I will be granted the extension of time and may be able to file something.

Again my thanks.

Sincerely,



Harold Weisberg
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