Sol Rabkin
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9/5/86

Dear Sol,

As I told you when we spoke, in 1974 Congress amended FOIA over me and this is what opened FBI, CIA and other files and led to such exposures as Cointelpro and Operation Chaos. I should have said amended the investigatory files exemption over me. This is specific in the Senate debate, made specific by Teddy Kennedy in his questioning of the late Senator Hart, whose amendment it was. I've mislaid my copy of the Congressional record with this in it but I can lay my hands on an indirect reference to it by Judge Gesell in one of my cases, the enclosed Wash. Post story.

I'm not sure because it has been a very confusing and frustrating afternoon but I believe the other things about which I was to write is the fact that I had already provided all the information and documentation of which I was aware. My Rule 60(b) motion holds some illustrations of how I had done this in a series of affidavits, with documents attached. Those references are merely to key in with a selection of the records disclosed to my friend which prove the perjury, fraud and misrepresentation to get the discovery order based on which is the money judgement. However, most of it, two files drawers full in my copies, has a different history.

The then director of appeals was Quinlan J. Shea, Jr. He considers himself a history buff. Following my filing FOIA cases in both King and JFK cases the AG held both to be historical and thus calling for maximum possible disclosure. (which never happened.) Because I am recognized as the pre-eminent expert in the JFK case and because I am the only one not a conspiracy theorist, he asked me to provide him with all the information and documentation I could so that he could try and see to maximum possible disclosure. As a result I spent an extraordinary amount of time and for us not an inconsiderable cost in informing DJ through him. On specific points relating to both field offices, Dallas and New Orleans, some of these appeals, with their documentation, are in the case record. But one of the reasons I gave for not complying with the discovery order is that to the best of my ability I had already provided all the information and documentation of which I am aware. This is not only undenied, it is admitted in an FBI filing in this case. The information I provided discloses the existence of relevant information or improper withholding of it and in all instances is documented, with in almost all if not all instances, the FBK's own records.

Actually, the discovery ploy was so much an improvisation they did not keep time records on it and made their claim for counsel fees on estimates. It was improvised to stonewall and, before this judge, I am sure in the hope of getting the kinds of decisions by which they rewrite the Act.

As best I now recall them, and I did this under oath, the other reasons I gave for not complying are excessiveness (not each and every reason or document was needed to disclose the existence of information) and burdensomeness; my health; inappropriateness in this case (the Act places the burden of proof on the government and I had provided all of which I knew): that it was beyond my physical capabilities because most of the information and documentation is in my basement, to which I have only limited access because of my health and the limitations it imposes; the untruthfulness of what the government stated, including under oath; that it was not necessary from my knowledge of the FBI's filing and indexing; that the required searches had never been made. Maybe more that I do not recall now. None of this was refuted. No effort was made, in fact. And for the discovery period, I suffered a number of additional ailments. I remember pneumonia and pleurisy twice. I put copies of all my doctor bills for that period in the record, along with all records of my surgeries.

I hope these two things are what you asked for. If not, please let me know.

I see this case as rewriting FOIA and Rule 60(b).

Oh, yes, I also claimed inequitability after the judgement was issued. That is not mentioned in Judge Smith's Memorandum, as most of what I said is ignored in it.

I thought I's sent it to you. I'll put a copy in only one of the two envelopes. I'm mailing one to make tonight's mail, which goes through Baltimore, and one on Monday on the chances that what has happened in Baltimore happens again. Terrible post office there for decades.

What was so frustrating is that when you first called I'd just taken two push mowers to a local repairman when the new boy who does what is now prohibited for me tried to use them. Reluctantly, because he is new, I then had him use my now old but with me using it always dependable riding mower. When you called I was in the bathroom, I left it pulling my shorts up not to hold you, and this kid at that moment comes to tell me that the riding mower doesn't move. I am pretty sure it threw the transxale belt, but making that kind of repair also is a no-no for me, so I had to go to that repairman to ask him to pick the mower up, put the belt back on, check it over, etc. I guess that not being able to do what I'd always enjoyed doing is an extra element in frustration. But I avoid all the risks I can.

Although I am aware of the reaganization of the DC appeals court, I do think that with a good presentation of the material, which undeniedly includes felonies, with a single good judge on the panel they can get really clobbered in their misuses of Rule 11. Especially if it can be argued that this case represents how the government, in its opposition to FOIA, deliberately overlaods the courts, which do resent being so overlaoded.

Then, too, a well-prepared case can always be used with the Congress, which does have several committees with potential interest. Can you imagine what it would be if a committee were to call witnesses and ask if they attested this and had they seen this document, etc. Who knows what the next Congress will be? I think the GOPs are going to lose in the coming Senatorial and possiblt some House elections.

Oh, yes, for what it can mean. In his Memorandum I'm enclosing Smith says that the FBI made exhaustive searches. But in his Memorandum of 10/27/82, one of the things that led to the discovery trick, he said the opposite, and no searches were made thereafter. They'd moved for summary judgement on search and he rejected it. At one point he said about one of my affidavits that "it provides enough admissable evidence and cites enough documentary evidence to defeat the FBI's motion..." He also said that what the FBI provided was inadequate.

Please exause the rush, and again thanks for everything,

Harold