Mootness, claims that disclosures were administrative, "substantially prevailed."

The defendant disputes the finding of the district court that "it had engaged in 'a deliberate effort to furstrate this requester/'" without reference to the basis for that finding (page 54), claims"that the Department was neither recalcitrant nor obdurate in its opposition to plaintiff's claim and " had a 'reasonable basis in law' for all its actions in this case." It also disputes the finding that "the Government stalled by claiming mootness" and pretends its constantly reiterated mootnes and related claims are limited to the April 15, 1975 potion of my request, which is not true (page 54) It represents that"the mootness claim, however, furnishes no basis to question the Department's good faith." (Page 56). It claims that and the end of 1977 "it had no new substantive material left to give."(page 55) and that there was a "dearth of new material unearthed after 1977," this allegedly "attests to the correctness of the Department's position, based allegely on "repeated searches." (Page 55); "post-1977 delay was caused not by the Department but by plaintiff" (page 55), the latter allegedly buttressed by a lengthy footnote of the motions on which I allegedly did not prevail, (pages 56 and n.4), It must

None of these representations is in accord with the unrefuted fact in the case record, which the brief ignores.

The first mootness claim was made at the very first calendar call. It also was claimed even before then in the defendant's disclosed internal records. By the first calendar call not a single record had been disclosed, yet mootness was claimed. The fact is, as the record and the defendants' deposed representarives testified on deposition, that there still has not been a real search to comply with even the April 15 request and many of the items in the amendment of this request remain unsearched today, despite the defendant's contrary representations.

Through out this litigation the defendant claimed constantly to be entitled to summary judgement or dismissal because there was nothing left to disclose, only to be forced to make additional disclosures of the clearly pertinent information that had been withheld, a fact also misrepresented by the spurious claim

although the case ~~refundisputed~~ unrefuted case records reflects that I did in most instances obtain what I allegedly failed to get.

that additional disclosure was of the non-responsive or irrelevant.

Even the figures provided by the brief are not in accord with fact and there is constant fudging over of the defendant's original refusal to search field office files, even after it was promised in a letter by the Director. To end that particular stonewallimg is one of the reasons I agreed to the FBI's porposed stipulation, which it promptly nullified by violating its controlling provisions.

The defendant'd record with me is so incredibly perfect a record of never responding to a request without litigation compelling it that it was the subject of inquiry by the Senate's FOIA subcommittee and official Department and FBI testimony, including by the Civil Division and the FBI. Someone provided it with a list from the record in this litigation of some 25 comparatively simple requests, some for as little as a single record, other requiring by the search of a single small file, that were entirely ignored and remained ignored when the same information was later disclosed to another and later requester. These requests went back to January 1, 1969. The director of appeals testified that there was no way in which the FBI' behavior with me could be justified. Mr. Schaffer and Mrs. Zusman testified that all of this was terrible and they would do something about it. (This sworn assurance is no doubt the reason only one of those requests was subsequently voluntarily complied with, a year or more after the information was disclosed.) The FBI's FOIPA chief would give the committee no assurances of any compliance, and the FBI kept his unspoken word well by not complying with the remainder to this very day, even after some of the records in question were located in an internal investigation which disclosed that I had been lied to when the FBI told me it had no such records. As of today this FBI policy is unchanged. It has already porcessed for disclosure records it acknowledged in writing are within one of my requests, I requested them again, and I have not had any additional word. There are several such instances going back for months, without a single record being provided to me. Some of them long ago were administratively processed.

In this case the actual reason my requests were initially rejected by being totally ignored, as the FBI's internal records in the case record state, is that

The FBI ~~it decided~~ decided that the FOIA entitles it to ignore the requests of those it does not like. This is literally what the undisputed case record reflects. There was no compliance at all until, again as the undisputed case record reflects, ~~until~~ the defendant feared being "clobbered" by CBS-TV, which had duplicated part of my April 15, 1975 request. Even then, the Department's representative at a conference with the FBI counselled that my request first be rejected and then some legal excuse be dreamed up. (This, no doubt, is what the brief means when it refers to the Department's "reasonable basis in law." This or the FBI's position that because it did not like me FOIA did not require it even to ~~resp~~ reply to my requests. ) insert 3A

While with a backlog an FOIA defendant can always claim that in time a request would be handled administratively, with me this is never true, as ~~many~~ several judges have observed and as the case record in this case reflects. Even the disclosure leaves with out question allegedly in response to my amending of the April 15 request, allegedly an administrative disclosure but not even promised until it was compelled by the court, was entirely incomplete and the records pretendedly irrelevant or non-responsive were ~~deliberately~~ neither and were withheld deliberately. They include some of the most significant information disclosed in this litigation.

Even then all the claims in the brief are based on a proven fiction, that all pertinent records are filed under MURKIN. The brief both admits this unintendedly and glosses ~~hides~~ it over deliberately. Although its first "Questions presented" is "whether" (page 1) there was "an adequate search of its King assassination files," not all of which are Murkin - and my request does not mention and is not limited to MURKIN- it is stated (on page 25) that "(i)t has always been the FBI's position that any information about individuals relevant to the King assassination is contained in the Bureau's MURKIN files." (my views on civil rights and organizations

Even if "about individuals" is not an intended evasion, the case record undisputedly proves this to be untrue. Examples are hiding the conspiracy investigation in bank robbery files and then pretending that nothing other than MURKIN is contained in ticklers when it was such a tickler that disclosed this; hiding records pertaining

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My 1969 requests pertaining to the King assassination and its investigation were ignored under the ~~false~~ false pretense that because the FBI did not like me FOIA did not apply but the court held otherwise. Based on what I had learned subsequent to filing them I rephrased them in specific terms and amended the complaint to include them, as the defendant has never denied and does not even address in its brief. (A later reason for complete nonresponsiveness was that Ray was still appealing ~~court~~ and there could be no disclosure without injury to his rights - when my counsel was Ray's counsel and I was his investigator.)

to electronic surveillances, which are part of specific items of the request pertaining to all surveillance, in the "66. Administrative Matters" files (and falsely pretending a search that disclosed nothing at all when the actual eavesdropping on two persons is in that item disclosed in the "bank robbery" file; filing the records pertaining to spying on the Ray defense (also with my Martin Luther King items) in informant files, significiant records the disclsoure of which was not voluntary but was compelled; withholding the actual MURKIN inventories by filing them elsewhere, resisting their disclosure in a long suit and after it was compelled now claiming irrelevance; and even resisting, also for months equally and attributing all such delays to me, disclosure of the MURKIN abstracts, each and every one of which is a MURKIN record and is additionally within the request because it is, as the defendant admitted, an index and all indexes were requested.

Trying to get away with its own substitution for my actual request by limiting disclosure to MURKIN only does not represent the exhaustive searches claimed and in fact there were relatively few searches and then they were made only under compulsion.

Examination of the dates of disclosures and their content establishes that the representation of no significant disclosure after 1977 and that what was disclosed is irrelevant and non-responsive, and that I, not the defendant cause the delays, establishes the untruthfulness of all these representations.