

10/11/10

Dear Mr. Shattuck,

Today Jim Mesar will be filing a petition for an en banc rehearing of the en banc rehearing with an affidavit from me attached. Bud Fensterwald has diluted it some, may more in the last few minutes, but it remains a fairly powerful document and should considerably improve the record that will go to the Supreme Court.

Jim and I have, we believe, caught a number of gross improprieties by Danaher.

This case has provided a number of possibilities for limning what the government is really up to in its violation of 5 U.S.C. 552 that Bud has not exploited and I have not been able to for several reasons. One is that, of course, I would not do anything in the case that was contrary to his wish, whether expressed or merely my belief. He has repeatedly agreed to do things and then in the last minute, without consulting me, did not. Thus the present need in some respects, hopefully, to be overcome. Despite my strong feelings about this, I will not now do anything I can even suspect he might oppose. Because I feel I owe that to him, I am almost constantly confronted by conflicts I have to resolve this way.

One possibility that does not present this conflict but about which he can do nothing has just developed. This one has a truly sensational potential. It need not be the only one. There is much on Nixon's new "special" prosecutor. I have been feeding those to reporters and some has been published, getting the most minor attention in what I have seen. There will be more. I refer to it in particular because of the ACLU's fine effort on impeachment, an effort that can be improved considerably and spectacularly.

Several months ago that pillar of the responsible press, The National Enquirer, asked me for something extra-special with which to mark the 10th anniversary of the JFK assassination. I am overloaded with such former secrets from my work that can't get published. I have one that I felt would be quite comprehensible to their readers and at the same time has both an unusual significance and crosses all political lines. They went for it big. The whole thing was done and was to go to press (three week lag) when it was killed. I was just told, too late for a man who can't afford to use the phone and has no agent to do anything with it by the anniversary, now only two weeks and two days away.

In my view it is also something that should have unusual appeal to the eastern intellectuals who would like to protect Warren and defend his reputation and who have all taken the one way that will defame him in perpetuity. What they have done is akin to pretending there is no pregnancy.

What I have is a full and complete documentation, based on what was originally suppressed and was loaded with "Top Secret" stamps still large and clear when it did not meet the requirements for this classification (if, indeed, any) that is the faked substitute for the stenographic transcript of an executive session at which three of the members of the Commission expressed their doubts about the basic conclusion that there was a lone assassin. You do not have knowledge of my work or my method, but if you see potential in this it can provide a means of explaining official interest in me (of which I have new evidence since last I wrote) and of ascertaining whether or not I am a careful worker and am precise and exact in dealing with the incredible. There never was any transcript made, and this is not the only instance. The members believed there was, as they always believed. Instead there is a deliberately faked transcript, numbered as though it had been made by the official reporter, with the first page an exact counterfeit. And I have the covering letter with which it was forwarded to the members not when they had this meeting, in September, but in November 1964, long after the Commission had ceased to exist and when there was no purpose in even looking at it. I also have all the official reporter's records, those of the Commission, and from both it is without question that no official reporter from the firm hired was present.

Had this not been suppressed by illegal classification and raw power until long after the time of media attention to criticism of the assassination it is obvious that nobody would have dared issue the official report that was issued.

I believe that this is an unusually timely and exceptionally graphic means of illustrating just about all the abuses we encounter in attempting to use 5 U.S.C. 552. Jaworski, in his way, was part of this. Here what I have I have to separate. That which is in a book I have written about a quarter of I am unwilling to have used without a clear and present need. He had the equivalent of his new post in what was called The Texas Court of Inquiry, the state's chief investigator of the JFK assassination. Two days ago, about a week after I made the initial offer and not until after my getting a radio reporter to use some of it that it then took UPI three days to put on the wire. I gave the Washington Post about 40 pages of documentation on the fact and the deliberateness of the covering-up over which he presided. Or, he can safely be given a free hand. During this time he had a compromising CIA connection. I can provide full details. By now all are public anyway. He was part of what was exposed at the time of the NSA scandals. I believe any connection with the CIA but more any clandestine one gives him a conflict of interest now that he cannot eliminate. But the fact is that in resigning his directorship, she refused to resign this one and he lied, claiming that all this is new to him, that he never, ever, heard of it. That he, personally, voted to do the CIA's bidding (as an act of patriotism, no less) and that he, personally, conveyed funds (their total was well over a half million, with the lowest figure I have seen \$600,000), is already confirmed.

It is not possible, of course, that none of this showed up in any FBI investigation. (I have financial dishonesty on Ford if that interests the ACLU) This also is relevant to FOI cases because all the proofs in federal files were originally suppressed. As one result, the nastier ones no longer exist. (Proof: letter from the National Archives relating to specific documents.)

In my view, the victims of these kinds of things include people like Warren, but liberal lawyers have always been unwilling to look at anything.

And with what has happened to me - I do not suggest it is the only reason - I am unable to place any writing on such matters.

I have enormous trouble giving these kinds of things away, free, which when I have had no regular income since early 1964 and very little then, is no way for a writer to live. After this business with Jaworski I think I'll have to be inflexible and not give these kinds of things away.

But what I am really intending to address is the illuminating possibilities for the ACLU and what it stands for in getting some attention for what I believe so completely illustrates improper classification and withholding and the misuse of 5 U.S.C. 552.

If Lesar forgets to send you the new papers, I will remind him. If the appeals court does the unlikely and grants a rehearing, I think that would be an excellent time for others to begin party to it and I would welcome it, as I am sure Bud would. He and I both tried to interest your then Washington representative before we filed this suit. Bud took us both to a nice lunch. Speiser would not consider it.

Dan/ger's unique way of making prior restraint look like a blessing is in the papers to be filed today.

Sincerely,

Harold Weisberg