

Judge John Sirica and FOIA

8/15/92

This morning's Wash. Post has an extraordinarily long obit on the judge who died yesterday at 88. It begins on page 1 and had a lengthy carryover. Naturally enough it deals extensively with what he did as the Watergate judge. *The famous judge praised him.*

I was before him only once in FOIA litigation and in that case he was a very bad judge as a partial result of which Congress amended FOIA in 1974 to correct his error, his gross misreading of the Act and the legislative intent and his acting as an adjunct of government, particularly the FBI.

First Sirica permitted the US attorney, Verdig, to get a reversal of the appearances of plaintiff and defendant. Then he without question accepted an impossible representation of the actualities and the legal situation from Verdig. and then he accepted an incompetent ^{and at least false} affidavit from an FBI agent^s who stated under oath what on its face is impossible. He alleged that the FBI would virtually crumble in ruins ^{because} before its system of informers would be wiped out if the judge made the FBI give me the unclassified [^] results of the FBI's non-secret scientific testing in the JFK case.

While I won on appeal the government requested and got an en banc review where I not only lost overwhelmingly but as reactionary a Republican appeals court judge John Danager, who had been a Republican hack from Connecticut as a Senator, stated in his minority opinion as a ^member of the three-man panel, that I should be forefended from making an independent inquiry. His opinion concludes with the ^{latin} ~~Latin~~ of "rest in peace" in capital letters.

Jim Lesar carried my appeal from the en banc decision to the Supreme Court. It did not grant cert. I do not know who called this case and Sirica's decision in it to the attention of the Senate, perhaps to Teddy Kennedy, but the Nader people seemed to be following my cases closely and on at least one other occasion did use them before the Senate and they may have done it. Ford was President when amendments to FOIA were under consideration. The investigatory files exemption was amended to make FBI, CIA and similar files accessible under FOIA, as they had been by law and until Sirica rewrote the law. It was Teddy Kennedy who saw to it that the legislative history of this ^{is clear and returns} amendment ~~that~~ ^{pro-}vision ~~back~~ ^{into} the original Congressional intent ^{not strengthened}.

So, of course I'm glad that Sirica was a bad judge. The results of this were good as he did not anticipate.

On the effective date of the amendment Jim was first at federal district court to refile that case. ⁽⁷⁵⁻²²⁶⁾ It was assigned to a Democrat, John Pratt. Pratt was predisposed to favor the FBI and dislike inquiry into the JFK assassination. He permitted the government to stonewall and when we presented proof of FBI perjury before him in that case he quite literally threatened Jim and me. He said not a word about or to the FBI agent who did file perjurious affidavits.