

Dear George,

4/20/83

Jim and I spoke briefly last night. He is consolidating some of the affidavits I provided and will return the revision to me for attestation by the end of the week, he believes. He will file it with some pleading the nature of which I did not think to ask. One of us will get a copy to you then.

He's been too pressed for time so I've lost track of what he has and hasn't used. To be able to do this better I gathered up all I could find pertaining to this case that I'd not filed and that he had filed with the clerk. I now have them bound.

One of these may be of interest to you before the questions are all resolved. I've not reread it but I believe from the affidavit attached it addresses burdensomeness, which is a basis for refusing discovery. Meaning for the court to refuse it. While it is also appropriate for me, my basic position is that it is wrong and I will not voluntarily be part of it. This means that if Smith holds firm we'll go to the appeals court, no matter how unpromising its recent posture has been with regard to some aspects of FOIA and the assassination investigations. I enclose a copy.

Smith has just ignored this, as he has ignored other factors I believe are both reasonable and legally pertinent and mitigate against discovery by the government in FOIA cases. Jim says we can't mandamus him and take that up on appeal faster.

In the footnote cited in his Order. Jim says that without addressing the question based on this case, where it is absolutely impossible, even for a Smith, he is trying to say that I've expanded my requests. I enclose copies of them.

Dallas made no searches at all until almost 3 years later, when Wain Shea told them to provide a few things. Both it and New Orleans, via Tom Bresson at FBIHQ, rewrote my requests to limit them to the main files the FBI knew it would have to disclose to HSCA, those on Oswald and Ruby and the ~~Commission~~ ^{assassination}, with an afterthought to include the Commission. These are the ones they disclosed as the FBIHQ files general releases, with which they tried to stop it all, as you may recall.

I've had some experiences with judges that were not at all like what was taught more than 50 years ago when I was a student and I've learned that it really isn't that way. But I don't think that anything within my experience approaches what Smith has done in issuing an order while there is pending my motion to expunge all the FBI's attestations as a) not truthful and/or b) not made of personal knowledge. I've moved to expunge the only evidentiary base the FBI can have in this case, but he issues an order while that is pending.

I suppose that in the end Smith will have to reconsider or cite me for contempt, and it is the contempt that would go up on appeal.

Reminds me of a story that may amuse you and I should have thought to tell Jim. When I was in OSS I was the only soldier in my branch who'd had basic training. The others were all Hollywood and New York publishing types, including a sergeant who had edited an magazine whose correspondent I had been. Then it was decided that all OSS military personnel had to complete basic training. They did this at a secret area near Quantico. It just happened that I had a reporting assignment at a nearby secret area, with a car and chauffeur. (I was a private, my driver a lieutenant.) So, I had a fancy french bakery then on my Penna. Ave bake me a cake with a hacksaw blade in it. I gave it to my former editor/sergeant after supper one night and we had a party with it. Blew his mind when his knife found the hacksaw blade. Ought to remind Jim of this if Smith puts me away!

Best wishes,