

Hon. Don Edwards
House of Representatives
Washington, D.C. 20515

2/14/83

Dear Don,

A few additional health problems and not a few from the government have slowed me down a little more and as a result I've failed to keep you up to date on their newest and thus far successful rewriting of FOIA before a rubberstamp judge and with me as the presumed unpopular plaintiff who works in a field that in itself is unpopular. I have no desire to send you records you and your staff may not have time for so this brief summary, which I'll illuminate with copies if you'd like them.

In C.A. 78-0322/0420 combined, which is for the JFK assassination and Jim Garrison records of the FBI's Dallas and New Orleans offices, before Judge John Lewis Smith, without the initial searches yet being made and attested to, the FBI requested discovery and Smith granted it. I opposed it in a number of grounds all but one of which Smith ignored, that discovery against an FOIA requester is not visualized in the Act or its legislative history. The other grounds included great burdensomeness and the fact that earlier and for other reasons I had already provided all such information I have. (When Quin Shea headed the appeals office he asked for my help and in all I provided DJ with about two full file drawers of memos and copies of FBI records.) I refused to comply with the discovery order, intending and stating that I intended to appeal it, as I since have.

The FBI's lawyer threatened to have me cited for contempt and my lawyer informed him that I awaited his making that move. Instead he moved for an award of costs in procuring the discovery order, later still another such award. I ignored them both so I could appeal them, as I have. The FBI still was not content and it moved to amend the judgement to have my lawyer responsible for them. Smith was so anxious for this that he amended the judgement three days prematurely. I filed a motion to vacate and an Opposition. On the 7th my lawyer received a demand from the FBI's lawyer that he receive a check from my lawyer, not from me, by the end of business on the 9th. If he did not, he wrote, he'd move against my lawyer in the District. Earlier, by phone, he told my lawyer that he would not move against me. I've heard nothing since because my lawyer had an appeals brief for another client due today and he was behind on it.

The actuality is that my lawyer tried to talk me into some kind of discovery compliance as the lesser evil and on principle and in the interest of the Act I refused. Moreover, as the D.C. court of appeals held recently, a lawyer is subject to sanctions, including loss of license, if he ~~fails~~ fails "to seek a client's lawful objectives." So, the FOIA lawyer is whipsawed now by the FBI.

I believe the threats to FOIA and to lawyers is obvious if this stands.

Meanwhile, the FBI continues to stonewall, as the enclosed correspondence relating to very old requests reflects.

It is my experience that the major costs of FOIA to the government is deliberate noncompliance and I believe my cases leave this without doubt.

Since my first surgery in 1980 I've been trying to end my FOIA litigation if I could without prejudicing the rights of others. In all instances the FBI has refused. It even insisted on an unnecessary Vaughn index in response to one of my efforts to dismiss voluntarily. It actually insisted on the right to withhold from others what it had not even searched for for me.

Best wishes,


Harold Weisberg
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