

Dear Jim,

5/6/75

I actually fell ~~asleep~~ asleep last night going over Frazier's testimony. But it remained on my mind and I woke early, unable to return to sleep, because I am not at all certain we have the essential on the record, under oath. I think we must have it, more because of the reading you made on this judge.

Not having seen the interrogatories leaves me more uncertain. So, unless you have already asked the question in a way that requires an unequivocal answer, we must get Frazier or another committed under oath to the absence of what I sued for. Frazier's testimony - and I've not checked my notes on the N.O. testimony or that testimony itself - seems to me to make such a statement perjury. We could use it now and with his record Frazier is the ideal one.

If you do not have this entirely adequately covered in what you have filed I recommend a letter along the following line probably to Ryan or to whichever one you think:

My client was ill and could not be in court May 2. He is uneasy because he will be asked to make decisions without the kinds of written assurances he has asked me to get for him.

In our March 14 meeting Mr. Frazier explained to us that there was a sneantical difference between us and that the kind of results or final report for which he asked and filed does not exist.

He reminds me that after our meeting there was disagreement on what had been agreed to and that (this you may want to eliminate) his desire to eliminate this possibility by both sides taping that conference was declined by the FBI.

So, he has asked me to ask you to provide Mr. Frazier's affidavit attesting that these "results" or a final report on them does not exist or was never made, whatever the exact formulation he was given is.

I would leave the refusal to tape in if only as a means of getting it before this judge.

This is a no-lose deal. If they refuse to give this guarantee in writing we can allege the only reason is that it would be perjurious while claiming to be entitled to it. Perhaps we can force it to a hearing in which it will be testified to. If we can get Frazier on the stand you can do better with my backgrounding than User did and we have an excellent chance of breaking the whole case open with him on the stand in open court. You know enough about the King case to see that we have a record of the same misrepresentation of not false swearing to go along with it. And it could have a real influence on the Ray case.

I think it will be hard for the judge not to grant us this request for this kind of assurance after they have forced us to court entirely unnecessarily, as I interpret what you said of what he said to be something he knows. Why else would he have asked some of the things he did? Why would he ask if they question my right?

And just think of the impact of their saying, even if true, that they never did accomplish the only purposes of these tests.

I believe this is a priority item and that it should be the first thing you do or make an effort to perfect.

Best,