

Dear Dr. Joling,

Rt. 12, Frederick, Md. 21701
10/9/77, 301/473-8186

Please excuse the haste with which I write to explain what I hope to be able to do as the day wears on.

I asked Jim Lesar to ask you to submit an affidavit in support of a Motion to Reconsider in C.A. 75-226, my continuing effort to obtain the results of the spectro and NAA tests. Last night he told me of your willingness and asked me to send you a copy of my last affidavit. I will also include or send later, depending on whether someone can go to the holiday-weekend post office for me prior to the xeroxing, a copy of an affidavit I obtained from Jim Tague. If you have forgotten he is the other man wounded in the shooting.

Jim and I have had and will not have time to get together in person on this. As has already happened, there will be things we'll forget. An example is my forgetting to ask him to send you copies of the pictures used in this case, in the depositions and in the court records. If I can I'll include xeroxes of those that may not be identical but will be of the same objects, like the curbstone, clothing, etc. Some are in Post Mortem.

As a lawyer you may find much of my long affidavit not what you would have included. In fairness ^{not} to Jim I owe you an explanation. It will also explain me a bit.

When you and Bud and Cyril and Herb McDonnell had your University Club press conference in Washington was the first time I had been away from home following pneumonia and pleurisy. Not long thereafter I was hospitalized with thrombophlebitis in both legs and thighs. Since then I do not drive the 50-60 miles to Washington and I cannot always use the poor public transportation, especially not during the vacation period, which may mean standing. In addition, when there are the time pressures we now have, Jim may be limited to what I produce on my own if for no other reason because there is no time for revision. He first saw this affidavit when he received it for filing. This year I added arterial complications which had me weaker than usual and unable to work as long as for years I have when I drafted the affidavit. I fear we may have the same situation with the one I'll have to do as soon as I can read Pratt's opinion. Knowing Pratt and having read the first page and a half and knowing myself and what I regard as my obligations I also know that I will be making many and long notes whether or not they are all included in the affidavit.

Faced with more than a decade of stonewalling and the need to address the existence or non-existence of the tests and their results I felt I had to include whether or not the tests should have been performed, whether or not there should be clear statements of their results, something other than anonymous and inadequate handwritten notes, and whether or not the Commission required for its own use and comprehension a full and lucid statement of all the tests and all their results. Perhaps I can make this clearer from Pratt's footnote 1, "There is no indication that the FBI followed the AEC recommendations to the letter." In Pratt this is that they never tested the entire, unfired bullet, Q8, found in the rifle. Abersold said this was essential and could be definitive. I believe the testing and the comparing were in fact essential with there being nothing but presumption that the rifle was used in the crime, strong as one may regard that presumption, no testing of any of the fragments for human residues, no spectro proof that the copper jackets of the fragments found in the car to determine the possibility of common origin, and no NAA on the larger, virtually entirely jacket fragment Q3. Gallagher alleges he could not make a satisfactory NAA test. I am familiar with the writings of Guinn and others in the Journal of Forensic Sciences on the importance of the jacket testing

In its earlier form this case was significant in prompting the 1974 FOIA amendments. Despite Pratt it still holds the possibility of breaking the case apart, with a solid record, in my belief, of primary importance to the possibility. So whatever the outcome in court I want to make the most definitive possible case subject to what I believe will add to its importance and credibility, refutation or denial. Please note there has been no Government response to Tague's affidavit and mine.

Time will also be a factor with you. However, it has just occurred to me that it is probable that duplicates of most if not all the pictures are at the University of Wisconsin at Stevens Point, with Professor Dave Wrone, History Department. I am depositing all my records there and have begun the deposit. They may be in the form of slides but I believe Dave can have them duplicated for you if you want them and can get them to you faster than Jim or I.

He probably has all the earlier records in this case if you feel you need to consult any of them and have the time.

I am not often away from home for very long. I am rarely out of the Frederick area, which is small. We are in the suburbs.

Until the doctor tells me I can walk up the mountainside on which we live my walking is restricted to our long lane, so I'll not usually be far from the phone.

I don't know what my approach will be in my coming affidavit. I tend to address all points that appear to have significance, factual significance, despite the general dislike for reading and length of records to read. I want to make a record subject to the adversary proceeding.

Jim tells me that Pratt gives the appearance of having done extensive research outside the record in the case, from the Warren materials. He cannot have done this on his own. While I cannot say that I can address the Warren materials he does and I presume I will other than he has. His sources only begin with the FBI and former Warren counsel. Many are in Washington and have much at stake in this.

If you have read Post Mortem you will find that Perry told me more than I used in the affidavit. I have asked him and Carrico for affidavits to file in this case. You will find that Carrico did testify that the anterior neck wound was above the collar and that the pictures I obtained from Justice show the holes in the neckband do not coincide. While I have mislaid it or some student with access to my files has purpoined it, I have or had the supposedly non-existence White House press conference for the Dallas doctors on 11/22/63. Perry and Glazx others were explicit-front entrance.

So, with no attempt at refuting my affidavit, I may well, if Pratt has undertaken to defend the Warren Report, respond to that defense. I have thought of how I can do this while seeming to praise the son of a bitch who has been an open partisan from the first and who has indulged in nasty cracks and open threats.

Of course I'll be sending carbons of my rough draft to Jim as I type them so if I go into anything that he thinks I should not it will be out before the final typing. I'm merely trying to indicate what I can anticipate as my approach. It may not be. Or Jim may change it. I tell you ~~this~~ this because from what Jim has told me I believe Pratt has made what for purposes of the record, as distinguished from what a judge can get away with, can be a serious mistake if not a fulcrum for intellectual judo.

Thanks for your willingness and any help you provide.

Best wishes,

Harold Weisberg