appeals-general-DJ

To Quin Shea from Harold Weisberg, re some questions raised 2/3/80
in your and Doug Mitchell's deposition testimony, and by it

The need to prepare a series of affidavits interrupted my reading of both transcripts. I have not yet finished reading yours. When I laid it aside last night I was troubled by some aspects, of accuracy and of Catch-22 approaches.

You testified that except for a couple of appeals, FA and another or two, you have responded to all my appeals. This is news to me. If you have a list of those to which you have responded I'd appreciate a copy. You were to have provided something along this line. I have not received anything of this nature.

You testified ~~that~~ you are aware of 1969 requests that have not been met. If you have responded to my appeals relating to 1/1/68 requests, as for photographs and the reports relating to those taken by an army intelligence officer at the scene of the JFK assassination, your responses have not reached me.

One Catch-22 is your testimony that inclusive requests are invalid. My experience is that individual-item requests are ignored. If the Department can have it both ways there is no Act. I recall virtually no compliance with the list of some 25 requests to which I testified in C.A. 75-1996 in 1976. The judge asked to be informed of compliance. I know of no report to the judge because, of course, any such report would reflect virtually complete non-compliance.

This, in turn, means that the Department's testimony to the Abourezk committee consisted of false promises and clearly deceived the Congress. This part of your deposition began with reference to that Congressional testimony. I regard this as more important, which is not intended to diminish the importance I attribute to compliance in general, because it is testimony that is part of the Department's campaign to alter the Act. I also regard it as more important because of its significance in C.A. 75-1996, where motive is a factor.

There are a number of King requests that have been ignored except for the providing of duplicates of a small number of records provided to others, so long after they were provided to others that I already had them. This area also involves your testimony

of a year ago. I was confused then and could not be present to assist my counsel, but I wrote you about it at some length. I do not recall any response.

There was partial compliance with my Ayers and Patterson requests. My appeals, of well over a year, are without even acknowledgement. Related requests, as Gerhart and Susan Wadsworth, are without compliance. Perron relates to both cases.

How about J.C. Hardin and Harrell McCullough? These are what you call "players."

You testified that the FBI was providing its McCullough files. What is later provided is reprocessed copies of records already provided, reprocessed because of the House assassins committee and limited to the small area that interested it.

With regard to Hardin the Mitchell deposition testimony is at best misleading. His affidavit is not accurate. If your counsel did not provide you me him with my affidavit in response, which I anticipate because your counsel is not interested in compliance, I'm sorry but I did dispute Mitchell and I was accurate in Hardin compliance. (I disputed him on more than Hardin and I strongly encourage you to inform yourself as soon as you can, given the direction of C.A. 75-1996 and further information I have been compelled to provide in it.)

There really is quite a bit more like this. As I told you before, I invite you again, you and/or your people are welcome to access to my records but I cannot transport them to you. Ms. Garrett has done relatively little work on my King records but she does have most of the appeals she was able to find in separate files. For quite some time now I have been captioning them, so your own filing should have been made easier for you.

Hardin, McCullough and the others are largely 1977 matters and we are not in 1900.

I was reminded of still others in the course of preparing an affidavit in which I state and prove that Mitchell's affidavit is not accurate. One of these was a request, filed as a separate written request after the FBI said it was regard it as part of C.A. 75-1996, for a 1977 written request that was verbal in 1976, one that she said calls the King "security" records.(In my initial request I was inadequate because I did

not know how the FBI files and because inadvertently a word was omitted.) The FBI promised it would provide those records once it complied with Judge Smith's Order in the [illegible] case. It simply hasn't happened, although the FBI has confirmed in writing, in a selfserving sense, when it sent me the few pages of the Hoover O & C file. You will find this FBI letter among the many attachments to the affidavit I sent to my counsel last night, if they did not provide you with a copy.

I dislike intensely having to inform a Court that the Government has misinformed it, and the more I am required to do this the more intensely I dislike it. I bow to the Brandeis wisdom about Government as the teacher of us all, especially the very young. I do not want to face the need to inform Judge Green that your testimony cannot be accepted because it is not accurate. I have just had to do this with Mitchell's, if to a lesser degree than is possible.

This gets to matters I have raised with you before, like my requester's concept of the appeals function, as other than what I have characterized as a rubber stamp, and about the FBI conning your people. It did a number on Mitchell, who did not heed the advice I gave him at the [illegible] conference in November 1977, [illegible] the FBI well [illegible] over my caution about its conning him.

I remind you that I have offered copies of my affidavit if your counsel does not provide them and that I did tell you that I/had [illegible] Mitchell's on partial summary judgement. It now turns out that for its own purposes the FBI has provided proof of the inaccuracy of his affidavit - and that it did con him. It provided, if in incomprehensible form, what he swore was not in the [illegible] files [illegible] provided. The FBI [illegible]. Without intending to do so the FBI also provided on discovery, after much stalling, proof that it denied what it and Mitchell swore had been provided.

These are not nearly all the [illegible] in Mitchell's affidavit. [illegible] I just finished [illegible]. FBI's [illegible]

or for any reason don't, what does it say of the appeals process and how are you less than a rubber stamp in my cases?

Mitchell also volunteered on deposition that he found defects the nature of which I don't recall in what I had provided, whether appeals or the consultancy memo or both. He did not volunteer that he had made any inquiry and I do volunteer that he did not. He did not refer to the earlier student's memo based on the same material I used in the consultancy memo and it is accurate because I was compelled to check it and thereafter did file an entirely uncontested affidavit.

It turns out that Civil was merely "pintelproing the Court and me because it has ignored what I did and it has not dared contest it. Perhaps it will yet have the need. Although I've not yet read it, which is a terrible way to have to work, I'm prepared to stand on it. In order to get it done in any form I was required to go out and buy what I could ill afford and have not used since, dictating and transcribing equipment. I dictated when and as I could, my wife transcribed and we sent it in, as I recall with a courtesy copy to you. There may well be typos in it, I may have used a wrong number, but the basic accuracy will not be questioned and given the fact that everyone knew the conditions under which I did it, the absence of any inquiry of any kind, even about the possible typos, says all that need be said.

Mitchell said he had notes. Despite the subpoena, or at least I recall there was a subpoena, he had not brought them. He was asked to produce them. He hasn't. Because the matter of the consultancy will at some point be litigated and because the deposition has been filed, I would like a copy of those notes. And what you were to provide and asked Cole to note. His noting it means it won't be provided. He sat through the depositions and heard testimony to relevant records that had not been provided, which he has not provided them yet files motions for summary judgment. (One I recall is that Kilty admitted the lab, and Central Records, has test data within my 4/1[illegible]/75 request that had not been provided, although he personally made the search and did provide the identical material in response to a similar request in a JFK case.)

Civil asked me to have an All criminal-justice major prepare a memo based on what I'd written the FBI. They went to pay her. They haven't. Then Civil just ignored that memo until the judge, months later when Jim raised the question, directed that there be a response. Horace Beckwith provided it, complete with different and thus phoney copies of worksheets and underlying records and much falsity of a nature that can't be accidental. Civil, as it had often in the past, contrived to send this to me at a time when ordinarily it would not have reached me until I was in Washington at the coming status call, a Monday. But by a fluke it arrived on Saturday, and although I was not able to respond to all of it what I was able to do was definitive. This required that I check what the student did. Now in not a single instance, and as I recall it his affidavit was some 60 pages long, did Beckwith allege that the citation of what was appealed was inaccurate. In not a single instance was the nature of the complaint baseless or inaccurate in any way. So I have this much of a check on the underlying material in the consultancy memo.

Aside from accidental error, and not a large quantity, I am not prepared to agree with Mitchell's deposition testimony relating to what I provided. However, he did give this testimony, it is before the Court, and what can be done to eliminate what can be costly in answering it and eliminating any unfairness ought be done and I think promptly.

You will recall, I am sure, our discussions about the Attorney General's determination in the King case, while it was in court. I recall your telling me that you could find nothing in writing. Well, I have, thanks to having to try to keep the FBI honest and the accident of their memos being easier to handle than my Friday cartons. It is not an internal record in my case but apparently because it makes reference to it without identifying it or me it was filed in with the correspondence from me. Civil stalled discovery and finally produced what it did at a time that precluded use during the depositions. So, in preparing to respond to a third affidavit in the one I've just sent to him I referred to the FBI's memos of my correspondence and found this in them. It relates to James Earl Ray's request and it states unequivocally that the AG had waived all privacy considerations, which is what I told you.

Again, what does this mean about the appeals function and your testimony, in court and on deposition, when after more than four years there remain improper withholding and you have provided affidavits affirming the rightness of those , yours and Mitchell's, and appear to have validated the other affidavits even if in fact you didn't?

Clearly enough the FBI had something bearing on this, a central matter in the case.

Meanwhile, you don't act on appeals and Department counsel refers to this question being addressed at some future time. Are the FBI, Department Civ Counsel and you all part of the same agency?