

11/9/70

Dear Bud,

Having read the Marion Williams affidavit attached to the government's supplement to its motion to dismiss, I repeat my enemies are much more helpful than many "friends". I discussed this briefly with Bill and Jim in your office today and, having thought about it more on the way home, write this memo for you so I can leave it tomorrow for your Wednesday arrival. There is nothing in it that inspires any desire for delay on my part and, unless the speaking engagement is firmed, which I now do not anticipate, full speed ahead -with torpedos!

I have been accommodated with what I (unsuccessfully) tried to get you to insist upon from them, proof in the form of an affidavit that the invoked exemption is applicable, this burden of proof being imposed upon them and absent in their motion. It is more-and much better - than I'd hoped for.

So, lets parse the arse off their semantics, here transcending the mere deceptive, misrepresentative, offuscatory, even the false, but, I am convinced, becoming criminal and, as I shall attempt to show, having this intent. It is not here what you lawyers have learned to live with, lies by opposing lawyers who know they are lying. This is as material as anything can be and more extensively false than the model I showed you, in the hope of effecting its duplication. I believe, as one not knowing the law easily can, that this is perjurious, fraudulent in two ways, and actionable in a way I hope you can be persuaded to ~~ix~~ press upon the court. In order to get it done I'll not be able to refer back to files, but I ask that you consider their papers and this one in the light of what I had correctly guessed would be misquotation and misuse of the citations in their motion. I had asked Jim to get the originals, including the House report, but haven't seen them. I presume you have. This exactly fits one of the misrepresented and out-of-context citations.

If some of what follows needs amplification, it may be in the lengthy memo I gave you on reading their initial motion.

Taking it from the top:

1. For Williams to say "I am an official of the FBI Laboratory and as such have access to FBI records" is to say too much or not enough.

There may be such a single thing as "THE FBI Laboratory". I have always believed there were a series of separate laboratories, each specializing in the different aspects of science relevant to police work. Be that as it may, this does not qualify Williams as the proper person to execute the affidavit or the one competent to offer the given opinion. There has to be a reason those we know are competent to have an expert opinion on this particular aspect and who have been used in the past were avoided. That he is an official of the lab does not in any sense give any weight to his opinions on the many things outside lab work, and all of the content of this affidavit is of that character. There is no lab record cited or interpreted. An essentially legal or political opinion is the most this can be conceded to be.

The competent expert is Gallagher. The one who made the oath in the Nichols case is Jevons. This guy doesn't even say he knows what a spectrographic analysis is (and then proves he doesn't, later). The use to which Williams is here put requires almost anyone in preference to a lab man. The proper person to have made this affidavit is Hoover or one of the top men. We know why none of them dared. So they use an underling who can, from his affidavit have no personal knowledge of what it sets forth, other than the claim to have read the "examinations".

He does not claim to have competence or to be an expert on the effects allegedly anticipated. (If I forget to return to this, please remind me, and in the context of the earlier-referred-to decisions.) Or, of all the thousands of FBI personnel, the affidavit is from one not established as competent to offer the opinion given the court. Anyone working for the FBI could have said what he says with as much expertise. The court, if not the Plaintiff, is entitled to something better, as is respect for the law.

2. If, indeed, he has "reviewed the FBI Laboratory examinations referred to in the suit" I filed, this paragraph does not reflect it, for he limits this to "the spectrographic examinations of ~~fragments~~ bullet fragments recovered during investigation of the assassination of President John F. Kennedy and referred to in paragraphs 6 and 17 of the complaint." Without belaboring the details, the fragments alone include fragments not "recovered during the investigation", namely, those recovered at Bethesda and Parkland, during medical and autopsy work. More significantly, this is a minor part of what we see. There is the examination of the so-called entire bullet, CE399, the crubstone and windshield traces, and the tests on the garments. He here limits it to fragments only and only those the FBI recovered, which is a relatively minor part and percentage of what is sought and what is specified in the complaint. Even the reference to the correct paragraphs of the complaint here is limited to the "bullet fragments recovered during the investigation".

3. Here we have to break it into clauses.

"These spectrographic examinations were conducted for law enforcement purposes...", which may explain why the wrong man was obtained to swear to what is perjurious and fraudulent. The best that be alleged is that the first samples to reach Washington labs, recovered in the neighborhood of midnight, and those alone, could by any extension have been for law-enforcement purposes. We do not know the exact time Johnson gave Hoover the assignment. We know only that it was within 24 hours. Even then, there was no federal law-enforcement purpose, there being no federal crime, so they may perhaps be able to claim that they did this initial and small part for the Dallas police. But no more.

"...as part of the FBI investigation into the assassination." From the time of appointment of the Warren Commission until it expired, there was no "FBI investigation into the assassination" except as an adjunct of the Warren Commission, which was appointed for just this purpose.

To identify this as "part of the investigative file, which was compiled for law enforcement purposes", is not sufficient under the law. There is the further qualification without deviation omitted by everyone in DJ, approximately "such as would not be available to a litigant other than an agency". This last clause destroys all of their pretext, for it without doubt would have been available to a litigant, namely Lee Harvey Oswald. But it was not compiled for law-enforcement purposes, no matter how Hoover now files it. It was done for the Warren Commission. Even that part which might have had this kind of character lost it in two ways: in use by the Warren Commission and in use not prohibited by the Dallas Police. I know you used in your motion what I gave you from Hoover's testimony on this point, where he swore they had no law-enforcement role or purposes, but I think it important that we be prepared to carry this further and to discuss in some detail why. I am convinced DJ is here looking much further than this suit, and we must therefore, too.

That is an interesting conclusions, that such a file on the Kennedy assassination-let me use the exact words, "is maintained by the Federal Bureau of investigation concerning the assassination of President John F. Kennedy." This is irrelevant. They can maintain any file they want too but that does not make it the only kind exempt, for law-enforcement purposes. If they here claim this fail is "maintained" for such a purpose they acknowledge at least doubt about the Report.

If this gets to be argued, they may cite Hoover's testimony to the Warren Commission, that the FBI would always maintain an open file. That, however, also falls far short of the legal requirement. He can, and probably properly, have one for historical purposes. Unless they allege-as the law requires - law-enforcement purposes, there is no validity in this argument. And if they allege such purpose, the most understated interpretation is that they have reason to suspect there may have been a conspiracy. Let them articulate that, in court!

"Concerning" the assassination? What the hell does that mean? It does not mean and it does not say what it must to have any relevance to the issue at hand, that this "concern" is for law-enforcement, which means the assassination is, within the legal, law-enforcement authority of the FBI, unsolved-and that in terms of the old law, which gave no federal jurisdiction. This amount to no more than I can as honestly say and with as much relevance, that I maintain files on the JFK assassination. It is tricky language inserted to beguile the court. It is without any real meaning in any other way.

4. Compounds the perjury in 3, saying that this "investigative" file referred to in paragraph '3' above was compiled solely for the official use of U.S. Government personnel." Before continuing, let's take this apart, for no part of it is true, it is under oath, and last first, on the face of it the opinion offered is incompetent and the lawyers who prepared or, pardon that expression, suborned it, had to know this. Assuming Williams is a big wheel in the labs, how does he know the purposes of the investigation of which the lab work was so small a part? Where are the qualification that even ~~will~~ entitle the eliciting of such an opinion? It is propoganda and an imposition upon the judge. You will not that he is not referring here to the spectro file but the entire JFK assassination file. I would hope an honorable judge would see fit to have a few appropriate words about such a cheap trick. If this were the truth, as it is not and cannot be, with all those lawyers in the DJ and all those big-shots in the FBI, could not the appropriate person with the proper competence make a statement that could have meaning, instead of having it come, whether or not true, for a man who clearly can have no personal knowledge of what he swears to? And I suggest that, like most FBI agents, he may well be a lawyer himself and know and understand these things. I think it may be worth learning before the hearing.

Aside from Williams' lack of knowledge of way the file was compiled, the public record proves this to be at least false and I suggest, in context, both perjury and fraud. The file was used by the Dallas police and was given to them for use by the FBI, or at least the first part was (I don't recall whether they got any Ruby material). In addition, it was leaked, and I can prove by the FBI. I have the proof in my possession and, if you get to a point where this is material in court, you can subpoena an appropriate and quite presentable witness, a former cabinet member, read him one paragraph of what he said, that I have (stenographic transcript), ask him if he said it, and BING!

This leads to the next lie-perjury-fraud on the same paragraph (nothing omitted): "This file is not disclosed by the Federal Bureau of Investigation to persons other than U.S. Government employees on a 'need-to-know' basis.

Thus we have the following "need-to-know" federal employees:

Jesse Curry, Jack Anderson and Drew Pearson, Allen & Scott column, Hugh Aynesworth, George Kardner, Jr (Shaw case) and a long list we can compile.

In the more general sense, spectrographic analyses are regularly done for other police, a recent case being that of Rap Brown, where the bombing testing was done by the FBI, the full spectro report given to the Commandant of the Md. State Police, and Hoover sent him a summary telegram, released to the press (I have two Xeroxes, from two different sources). Oh, yes, this "federal employee" status also was extended to the Washington Star, whose need-to-know derived from Hoover's unhappiness at the mild rebuke in the Warren Report, wherefore there was fed to the

Star what was not in the Report but in the files, Oswald's having reported the presence in the building of two other rifles that week. And then there is an exclusive fed to Jeremiah O'Leary of the Star, I've forgotten the exact subject. There is Hoover's official release (the one where he wouldn't send it to me and wouldn't answer my letter), circa 11/25/66, where he released some of the contents. We can go on and on. It was a real stupidity trying to lean on the judge with such crap. He might not like the smell, if his nose can be opened.

5. Has to be taken apart, too:

"The release of raw data from such investigative files...."

Not an "investigative file" of the "such description, the perjury being repeated, and this is not and we have not asked for, not even by indirection, any raw data. We have asked for only the finally, completed report. It is, I think, culpable, in context, for the agency, the agent and the lawyers to pull this one. They know better.

"to any and all persons who request them" Their complaint is to Congress, not the courts, if it is a legitimate comment, which it is not. But the language of the Senate Report could not be more in point every American is entitled; and Johnson said "only considerations of national security..." This is, anyway, and argument, not an offer of proof.

"would seriously interfere with the ~~operation~~ efficient operation of the FBI..." How. By exposing that they lied, misrepresented, distorted, faked? How can the release of a simple, scientific test - and despite all the verbiage, nothing else is at issue here - hurt anything, unless it is at variance with the public interpretation placed upon it in an official documents?

"and with the proper discharge of its important law enforcement responsibilities..." were this true, and it cannot be because I have not asked for "raw data", it is to argue that the FBI has a license to lie, misrepresent, distort and fake, and unless it can do this is cannot be efficient in "its important law enforcement responsibilities". But this is qualified in an incredible way:

"since it would open the door to unwarranted invasions of privacy and other possible abuses by persons seeking information from such files."

This is what he learns from ~~him~~ being an expert in his lab?

Whose privacy would be invaded by giving me the full, scientific report where nobody's name is proper, except as an addressee or signatory? That of CE399? That of the shirt, already bloodied? Of the jacket, whose label has mysteriously disappeared? Of the cut tie? The windshiled scrapings, of the mute concrete? Perhaps the sundered fragments of bullet or bullets? The only privacy subect to invasion here is that of those who have to have said other than the truth in composing this report or other than the truth is presenting what it ~~was~~ represented as its evidence.

And who is going to do these "abusive" things? If this is an accusation against me, why I ask my lawyer to seek proper redress of so great a slander?

But, if there is this great federal concern for the leaking of defamatory material, there is a good case to be looked into: the leaking of Jim Garrison's alleged military record, by the same government. Or what Hoover has yet to make even a pro forma denial of, that his agents were defaming me. The concern for privacy, irrelevant in an consideration of a spectrographic analysis, is by those who never respect the privacy of those they do not like.

"It could lead, for example, to exposure of confidential informants;"

Here I'd like you to insist that the judge hail this guy before the bench and ask him the only relevant question: how letting me have the spectrographic analysis would "expose" any "confidential informants"? This is pure fraud and, if the guy is an expert, perhaps perjury, for he knows there cannot be any confidential (or any other kind) of informant in spectrography, which is no more than a simple, standard scientific test performed on the inanimate and in complete privacy, inside those impervious FBI walls.

"the disclosure out of context of the names of innocent parties, such as witnesses:" Ditto, but if this can have any relevance, then there were witnesses to the tests who have to be hidden. Why. Note that it is not the disclosure that is

objected to, but the "out of context" disclosure/ What is that, pray? And how does the FBI have witnesses? It is not a court of law. It has informants, but not witnesses. The rights of witnesses, despite Hoover conceit of Hoover and his role in our society, yet is vested in the courts, not the FBI. But if the only "innocent parties" over whom there is this official FBI concern are "witnesses", there are no "innocent parties" for any official concern.

"the disclosure of names of suspected persons on whom criminal justice action is not yet completed ;"

If this is not fraud, then the FBI is preparing a case against someone other than Oswald as the assassin, and that, too, I'd like to have declared in court, by a competent witness. With a spectro, how else can this have any contact with reality?

"possible blackmail". Against CE399? The costume shirt, tie, rifle- what or who will be blackmailed by making a public record within the law available under the law and by order of a court of law? If this is to infer that I am capable of or plan such an act, lawyer, have I a remedy?

"And in general, do irreparable damage". Now here we do need some specification:

To the Warren Report? The FBI because of the character of its investigation! Who or what is going to be damaged and how by letting me have the report on a simple, scientific test?

I leave it to you to decide what is meant by "this regard" in the ~~concluding~~ concluding sentence:

"Acquiescence to Plaintiff's request in instant litigation would create a highly dangerous precedent in this regard."

I believe this is designed as fraud against the court and to defraud me of my rights by misinforming the court, by deliberate misrepresentation and open perjury. I think that if it is at all possible, the first thing should be to demand that this man be produced before the court and that he justify and authenticate each and every one of these statements in the only relevant and very simple context, that of my request for the report on the spectrographic analyses. He should be asked to show the judge how each sentence, each clause, relates to that, beginning, of course, with his own definition of the process and, since he has read it, the manner of preparation of the report(s). That should be the end if it can be done. And would it be resisted! I think it also would attract some attention.

There is nothing wrong in asking any man who swears to an affidavit to authenticate it. He should look forward to that-especially if he is a law and order boy from a law and order administration and, let me tel you, before a law and order judge. How could he refuse?

I think it would be a very wise forethought to have someone who is competent to describe a spectrographic analysis to the judge and, failing in that, to have a standard text from which to read to him to show him how he is being abused or, as I see it, defrauded.

Obviously, none of this is relevant or responsive. It is all prejudicial, deliberate misrepresentation.

However, please also bear in mind that even if some of this had any pertinence, the most touchy area for the FBI is its informants, and even there they do not have blanket immunity. They loose that once they use their informants (Jencks). This spectro was used, many times, in paraphrase (American Mail), by many people, published in copies by the thousands, etc. Even informants have no total immunity, not even from disclosure of identity.

I've done this in great haste. It is bedtime and I've read neither the paper nor the mail. I'll have to leave it uncorrected in your office tomorrow. I will come in after your return if you desire. Or, there is a country supper near here Saturday night if you like country turkey and oyster suppers (hard on the wasteline, easy on the pocketbook). But I do think we should prepare as much as we can before hearing. I also think they have telegraphed their hand in their extraneous and irrelevant allegations. They are worried about what the law can do to them, not with the spectro but with other things, and they very much fear this as a precedent, which is why I gave it to you first. It was predictable.

The DJ records unblemished. They have yet to give me a single document that is not false.