

*This filed CA 226-75, K. W. aff.*

Rt. 8, Frederick, Md. 21701  
6/26/75

Mr. Earl J. Silbert  
U.S. Attorney  
U.S. Court House Bldg.  
Wash., D.C.

Dear Mr. Silbert,

My letter to you of June 3 alleged perjury committed within your jurisdiction, the denial and abuse of my rights within your jurisdiction, and the participation of your office in these and other wrongful acts. Your response of June 23 tells me to tell it to the judge.

I addressed you under the impression that you act as United States Attorney. Your letter seeks to confuse the responsibilities of the United States Attorney with those of judges. Aside from the explicit responsibilities of your office, the canons specify that your primary responsibility is to see to it that justice is done. My complaint is that your office is seeing to it that justice is not being done and is denying me my rights whereas its function is to assure me the full enjoyment of my rights.

I regret that in this continuing effort to frustrate the law you are supposed to make real you have forced me to emphasize the participation of your office in these improprieties.

You write that "the matters you raise should be addressed [to] the Assistant United States Attorney assigned to the case." You write me this only from a lack of interest in informing yourself or in your own participation in the improprieties because this has been done three times outside my letter to you. In addition to these face-to-face informings I addressed these questions under oath in an affidavit filed June 3.

Because the pretenses of the past in this matter have been abandoned by the government the material question now is compliance: has the government provided me with what the complaint calls for.

On May 2, when illness prevented my being in court, my counsel informed your assistant specifically that there was still significant withholding although your assistant assured to the contrary. Your assistant not only did not see to it that what was withheld was delivered to me he returned to court on May 21 and despite knowing better again assured the court that what he had been informed had been withheld had not been. More, knowing it was both false and material, your assistant then provided us and the court with an affidavit in which this is sworn to falsely. This affidavit had been executed much earlier but was withheld from us for the sole purpose of making it difficult or impossible to prove it was sworn to falsely.

Although under the law the burden of proof is not on me but is on the government as soon as the judge left the court I informed your assistant of three withholdings the withholding of which is proven in what was provided me. I then also informed him that there had to be other withholdings. He made no effort to learn what they are and as of this moment none of what was withheld has been delivered to me.

After two weeks I asked my counsel to ask the court for a delay until all that the complaint calls for and it is not disputed I am entitled to has been delivered to me and I have had time to be satisfied that there has been full compliance.

Thereafter your assistant filed an Opposition in which he again indicated he will seek to have this case dismissed but without providing that which is still withheld. In this he also provided an affidavit that was due much earlier and had



been promised in court May 21 for not later than May 22. The only and the obvious purpose served by delaying delivery of this affidavit was to prevent us from addressing it in court. It was executed, belatedly, May 22 and thereafter was withheld by your office.

The manner in which Exhibit 1 is referred to in this Opposition raises questions about it. It is the affidavit of FBI Special Agent John W. Kilty. It was executed May 13, 1975 but was, despite frequent phone calls that went unanswered from my counsel, withheld from us until the moment the judge entered the court room, May 21. To the knowledge of your assistant this affidavit swears falsely. The only purpose served by withholding it from us was to deter exposing its falseness and as part of the wrongful effort to get this case dismissed without compliance with the law. The record is clear that had the affidavit of the second respondent been in your hands that day your office would have moved to dismiss on May 21 when your office knew there had not been compliance.

Your Opposition does not refer to this Kilty affidavit as having been made part of the record on or before May 21, when it was handed us and the judge in court. Instead it is an attachment to this later Opposition. I direct your attention to the bottom of page 2 of this Opposition. There you will find the language to which I refer plus a repetition of the intent of your office to move to dismiss if it had had this second affidavit. I believe this would have been fraudulent and there is no question but that your office knew it because it knew specified information called for by the complaint had not been provided.

Prior to the filing of this Opposition and after informing your assistant of the fact of withholding and the proof of it, I also provided an affidavit with the proofs attached. In it I also alleged this false swearing. To date there has not been even ~~any~~ any denial.

Instead on page 3 your office told the court that without doubt I could continue to specify proofs of further efforts to defraud me because I knew more about this subject than anyone in the FBI. I do not believe this meets the requirements of the law or your obligations. It does not address the fact that I personally specified to your assistant what he had to know was still being withheld from me. It also does not address the fact that I told him how to learn more about what was still being withheld. Further and obviously the names of those with personal knowledge appears on the material that has been supplied. To date there is no affidavit from any one of these persons. Making this further suspect is the announcement and the form of the announcement of the resignation of FBI Special Agent Robert Frazier, the expert who testified before the Warren Commission, the expert it was known we wanted to answer interrogatories and/or to depose. The years of his service are given but his age is not. He was in full vigor and rather youthful less than a month earlier. I note that the date of his resignation is the day after the April 10 letter from FBI Director Kelley that is depicted by the Kilty affidavit and that specifies, rightly or wrongly, that the neutron-activation test results I seek were not made.

There is a limit to what I can ask of my counsel when I cannot pay him. I thus do not ask him to write you. I also do not think this is necessary. I do not think there is a limit on any expectation any citizen is entitled to hold of the diligence with which a public servant will perform his duties. It is your obligations to your office, to the law and to me that I sought to address June 3 and address herein.

Whether or not you meet these obligations you, of course, will decide. But I do not propose to be defrauded again or put again to costs I cannot bear without you, personally, having knowledge of it. This is quite separate from what my counsel decides he should address to the court.

Sincerely,