

November 23, 1979

Mr. Mark Allen
2689-1 Barracks Road
Charlottesville, Va. 22901

Dear Mark,

I just got back from Singapore four days ago. Thanks for sending me a copy of the order that the Court of Appeals issued in your case.

Since the Court of Appeals vacated Smith's order, you get to start all over again. I think your first step should be to re-file the discovery you initially sought without success. Also, you may want to ask for additional discovery if there is any that is pertinent.

One problem you have is how to avoid in camera inspection by Judge Smith. If it is possible to avoid it completely, do so. If not, at least try to avoid it as long as possible.

I think your strategy should be to first establish that the document has not been properly classified according to the procedures prescribed by the relevant Executive orders: viz., E.O. 10501, E.O. 11653 (as implemented by the additional requirements of National Security Council directive of May 17, 1972), and E.O. 12065. Unless it has been classified in accordance with the appropriate procedures, the District Court must order it released if the government fails to show that its release will result in a "clear and present danger" to the national security of the United States.

If you cannot get Smith to order its release on this grounds, then you will be forced to ask for in camera inspection. (If the government asks for in camera inspection before discovery is completed, resist it as premature.) If you have to ask for in camera inspection, insist that it be done in the presence of, and with the assistance of, your proposed classification expert. Try to have any in camera inspection done by a master rather than by Judge Smith. You may want to try and get a master to handle the discovery phase, ~~also~~. Suggest that since Smith has already ruled against you, impartiality and judicial economy will be better served by having a master take over these proceedings.

As your classification expert, I suggest that you use William G. Florence. He has impressive credentials and is a fine person. His address is: 503 Haddonfield Commons, Haddonfield,

New Jersey 08033. Phone: [609] 429-1598. Tell him that I referred you to him. I feel sure that he'll be willing to help you.

Please send me a copy of what you and your adversaries file in the District Court.

Best regards,

Sincerely yours,

James H. Lesar