

ACLU at Ctr for Nat Security Affairs

Dear Mr. Adler,

1/26/84

Several weeks ago Jim Lesar told me that he and Bud had met with you about FOIA but I am not aware of what you discussed. I hope it included what I asked Jim on the 7th to take up with you and perhaps others in the ACLU, what I see as a great hazard to FOIA in what the FBI and its Civil Division counsel have ~~got~~^{gotten} away with doing in my C.A. 78-0322/0420 combined, before John Lewis Smith.

Jim and I have not spoken since then and he apparently has been too busy to write me for he hasn't, but in today's mail I received from him the government's motion for a judgement against him for the sum I refuse to pay for their costs in what I regard as their gutting of FOIA. Its enclosed first page is a fair summary. (Except that nowhere else do they "jointly liable") and they actually include collecting the full sum from both of us in careless phrasing.)

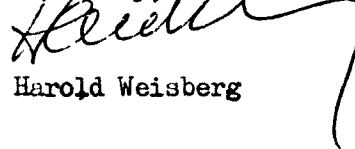
I believe the possibilities of helping FOIA by a vigorous handling of this matter are real and promising because of the enormity of the excesses in the case record and because of the degree to which ^{this} ~~it~~ is already documented and unrefuted in the case record. While I have much experience with official lying under oath, the totality of it in this case and its persistence even after falsehood was proven is unprecedented in my experience. I also believe that while I do not expect any judge to do anything about perjury, least of all Smith, in this case there is, within the legal meaning, perjury if not also its subornation. I would like to have a chance to discuss this with you for several reasons, one an amicus filing because of the principles involved and the other because as I've already indicated to Jim, there may be the possibility of his having a conflict of interest. I also believe that his defense, which may mean the defense of lawyers in similar contrived situations, may be stronger that way. I refused to take his advice. He drove up here to persuade me and I was entirely unpersuaded and refused to comply with the ^{SC} discovery order. (Smith ignored all my stated reasons except one, that the Act does not envision discovery against a plaintiff when the burden of proof is on the government.)

As I once indicated to you, my life's experiences tell me that the weak do not survive against the strong by merely defending against attacks but must take initiatives. I believe that a number are possible in this case.

The enclosed appeal includes CIA information I requested of it many years ago. Both matters probably include information relevant in the litigation referred to above.

cc: Jim Lesar

Sincerely,


Harold Weisberg

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