

Dear Sol,

6/19/85

The delayed copy of Smith's Memorandum and Order from Lynch were in today's mail, along with a government filing he'd mailed a week ago. I've just returned from the trip to the surgeon (good report, including Doeppler on both legs) and, as usual, I'm a bit tired and alightly fussyheaded from the trip. I've phoned him and sit and await the return call.

Lesar met me at the surgeon's office on his way to his own, to discuss another case in which there was to have been an in camera meeting yesterday that both the judge and government counsel forgot! We spent what little time we had discussing the other case and as we started I asked him to try to think of bases for my demanding a trial. His reaction is that it isn't possible. So, I expect nothing and regard his fine mind as closed first by law school and thereafter by adversity that has worn him.

I've already written Lynch about this and he has not responded. I'll raise it again when he calls, I hope momentarily.

I see in this business an end of FOIA as we have known it and on that issue alone I must try to convince Lynch to skirt his training and resort to pegs on which to hang things. I've made notes of a few. One is the paraphrase in Smith's crap of the appeal court's reference to my "repeated failure to respond to defendant's discovery request (sic)" My position is and has been that to the degree it is possible I had already done this. Despite the fact that the appeals court has ruled, it is unreported that in fact I had complied before the request was made, and this was even acknowledged by the government before it saw the harassment possible in the discovery dodge. So, I'm going to try to get him to say in demanding a trial that I will have an entire file cabinet of the information I provided, delivered as it now stands, in a trial. Which I'll want him to say the government does not dare face. As an alternative, because I have sworn to this, I am left with a case record that says I'm a perjurer, and I ought have a right to confront that defamation. If the government believes that I lied under oath in this regard, then it has the obligation to charge me with perjury - which I dare it to do. I fear this will scare him, but I'll ask him to do it. Along with the new evidence move that he's agreed to.

What I'd really like to do is try to get the file cabinet to his office and hold a press conference on it there. Later!

We had a hassle and I think I embarrassed him. He backed out on taking the new evidence route and at the end said he'd go over it and get back to me. As I expected, his mind is that of an academician and he thinks negatively. I told him that merely filing the new evidence together with their representations made to obtain Smith's original order would scare the hell out of them, and when he said nothing, I asked him if it would not scare him ~~now~~ if he were their attorney. He admitted it would. I reduced it to what got me is the simplest form, that their claimed need for discovery - this time under oath - was that my compliance with it would enable them to prove that they had complied. Meanwhile, at the very time they were swearing to this, the very component had and knew it had records that proved this to be false. And they are relevant records that were not provided. (probably served effort)

Later. I had to take Lil shopping and I sat and thought and when I returned I wrote Lynch, enclosed. When we talked I told him that the government had, by his new evidence, defrauded me and the courts and that merely presenting it would scare them as much as they can be scared. What I did not say, and I have to check to find out, is that the very SA whose swore falsely in my case to get the Order for discovery was also the case agent in which the "new evidence" was disclosed to another litigant. He thus ~~swore~~ swore that my providing what was demanded on discovery would enable them to prove compliance when at the very time he had and was processing the record, which

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leave no doubt about the exact opposite: that he knew they had relevant and undisclosed, in fact unsearched for records that are relevant. With regard to one item, records relating to the critics, ~~he~~ swore they had no records under critics when he had the tickler stating that "sex dossiers" had been prepared on them. With regard to another, the Dallas police radio broadcasts of the time of the assassination, he swore that the FBI never had them and quite a few months ago they were found, exactly where I indicated they'd be - and after months I haven't received them or any of the existing related records, also located with them.

Maybe I'm blinded by a lack of legal education and training but for the life of me I cannot see how this is not legally dynamite. And I'm not prepared to believe that the Skelly Wrights and Walds and Mikvas, if directly confronted with this kind of solid, irrefutable evidence, would remain silent.

Maybe not even Bork, who actually agreed with us in an argument before the appeals court(in the King case) and provided two different courses of action thereby. ~~When~~ I told Lynch this, that what we may not expect and may least expect can always happen. If it is given a chance to happen.

I came as close to releasing him as I could without using the word or any synonym. Not chiding, merely offering, and I told him that if I have to do it alone I'll do it alone. I have 30 days from the 14th.

I asked him, at the outset, what he thinks. He said there are three alternatives, appeal, disregard of the order to pay in 30 days and negotiate a reduction with the government. I told him ~~I~~ ruled out all but disregarding but that I'd take that course if it could force a trial. He ducked this when I reminded him that he had agreed that the new evidence approach, regardless of Smith, ought to be in the record. At first he said he'd merely agreed to consider it and I disputed this, telling him exactly what he'd said and what I'd done, without hearing from him, as a result. I also told him that my taking his word is now a problem for me if he doesn't keep it, that I've lost that time, etc.

Later: I've made two additions to the letter, as you'll see. I think that the second really gives the government problems. As supervisor Phillips cannot deny personal knowledge, he swore falsely to the most material possible question and in all the time that has passed, 4 1/2 years, hasn't provided me with any of the relevant data. That and the withholding after discovery of what he swore/didn't exist bears on intent, I think... All this got the adrenalin flowing and I'm not as tired, but I'm knocking off for now. Best to you all,

Harold