Mr. Mark Lynch
122 Maryland Ave., NE
Washington, D.C. 20002

3/11/86

Dear Mark,

This is the first time I've used my typewriter in two months. Two months ago today I was unable to urinate, was hospitalized overnight and fitted with a catheter and a bag and was operated on after the anticoagulant was out of my system. Another venous thrombosis developed and for about a month I was permitted to walk only to the bathroom, spening the rest of the time lying down or sitting with my legs elevated. Then I was permitted to walk in the house. I've been out only to be driven to the doctors. I am under strict orders not to stand and when I go to the refrigerator, the foot swells by the time I've gotten a drink. Of which I must have more daily as a flush. At the moment there may be a new complication. I won't know until Friday whether or not a urinary track infection has developed. I've just provided the sample for culturing. The reason I've not typed when it was physically possible because my office has been arranged for a decade so I can type with the legs up is because it is small and cramped, with large windows, any in typing my left, the more severely damaged leg, is right against the window and the radiated cold, despite the adequate heat of the house, would have been too much for the already severely impaired circulation in that foot, leg and thigh. I've not had any real pain, haven't needed any pain or sleeping medication, and the usual irritations, never really great, have almost disappeared. However, I am anxious and uneasy and further weakened and am tired most of the time. Otherwise I'm OK. But I'll be anxious until I've been able to get a determination of the severity of the new impairments of the return circulation. Which was limited too much earlier!

I do not regard the ACLU's agreement to represent me on appeal in C.A.s 78-0322/0420 as binding on it now, although I'd welcome such help very much, not only because I'll not now be able to do as well as however well I've handled the past but because I think the case is now very much simplified and very much more important and for the latter reason I'd like it to be handled as a nonlawyer cannot.

If I am to handle this alone my immediate need is to file notice of appeal, of which I know nothing, and for that I'd appreciate a copy of one to follow and knowing how much of a check I have to provide and anything else required for the notice. Once I get the notice filed if I prepare the appeal I'd appreciate a little help on that, such things as requirements, limitations and appendix. For the appendix as of this moment, on the assumption that the case record is before the appeals court, I have in mind only what I filed before Smith pro se. I believe that the case is now entirely limited to whether or not the judgement was procured by fraud, perjury and misrepresentation.

I read Smith's decision once and prefer not to go over it with great care until I get down to the nittyfritty. However, aside from having some questions about his citations, which I'd like very much to be able to read and perhaps quote (because I put nothing past him), I recall some things, particularly his avoidance of what is most basic in my argument and evidence, that fraud and the rest were perpetrated on me. He says ~~such~~ Such undenied criminal offenses make no difference to a court! And I have a few other things marked on the decision and in mind, such as that not a shred of evidence was presented by the government, there was no attempt to even deny my serious allegations and thus there was no other evidence before the court, only mine, undisputed, his factual error, including that the suit is for New Haven FBI records and that I was given 200,000 pages and others more serious, as those relating to the alleged searches, which were never made. Oh, yes, the two requests and some of the search slips for the appendix, if necessary. (This is off the top of the head.)

And the records reporting the finding of the recording of the Dallas police broadcasts, which Phillips swore the FBI never had, exactly where I'd indicated and the fact that since December 1984, when I was notified, they've not been provided and my letters and appeals remain ignored.

Because I am not a lawyer my opinion may not be valid but I do think that with the issues now so narrow and severely limited, to official criminality, there is less hazard for a lawyer, perhaps none for a properly plumed White Knight.

If you cannot represent me or would prefer not to, could you, as a stated courtesy because of my present added impairments, file the notice of appeal only? I understand that it is merely a notice of intent, with no argument. If you can, please let me know what check you've provided and I'll mail mine to you.

As I remember it, Smith fudged over the last three clauses of Rule 60(b) with the opinion he regarded them as "inappropriate." That word may have a special meaing to lawyers but in its everyday meaning it is meaningless because, without question, as is undisputed in what I filed and in oral argument, they are specifically intended to toll the year limitation of the first three clauses. (What I filed is in my office and presents no real searching problem so I can get it easily.) Am I, in your opinion, correct in this, that they have this purpose and thus are quite appropriate and, in fact, are controlling?

Of course I'll welcome any suggestions, too.

You should have received a copy of his decision by now. If you haven't, he dated it 3/4/86.

Thanks for anything you can do. I hope you can respond promptly with regard to the notice so that I can file it in time if you do not.

Best wishes,

Harold Weisberg