Sol Hamill 9/2/80
75 Henry Street
Brooklyn, N.Y. 11201

Dear Sol,

I was afraid that you'd call the first time I had to be away but the plugs on the car were fouled and I was afraid that it would stall on me away from home. I returned only a few minutes after you and Lil finished talking. She conveyed your message, including that you will try to phone tonight, and that you would prepare a two-page memo on the history of the case. In an effort to make this easier, I've drafted one that Lil is now retyping and when she finishs I'll mail it in time to make tonight's mail and to avpid having it go to Baltimore, the hell hole of the P.O., which is what happens to all weekends mail. I'll have a copy if you do call.

Separately I've also drafted a memo on some of what I as a layman regard as the unusual aspects of this case and I hope that while it is longer it may be helpful. I do think that there is much that is unusual. More than I include in it.

I am not familiar with the federal rules so I know nothing about Rule 11. When the ACLU still represented me I asked Lynch what covers new evidence and he sent me a copy of Rule 60(b). I then got Wright and Miller on it and I've just gotten and read what Judge (ugh!) Smith cited, Moore's Federal Practise. I've made copies of some pages of possible relevance and if Morty Stavis does agree to represent me I can send them to him. I'm sure he'll do his own reading but maybe having copies of these pages will save him writing time. (I hope "will" but I should have said "would.")

I've been able to get copies of only four of the cases Smith cited but I believe, at least some are inapposite and some, in portions he did not use, are my way. I've marked thm up but I can send them, too.

I do not know what is significant and what constitutes abuse of discretion but I think that what I regard as Smith's misrepresentation of the rule is significant and that its last three clauses are relevant. He ignores them and I did argue them, particularly, as I recall, inequitability, clause 5. Clause 6, as I recall the authority I cited, Supreme Court twice, was designed to toll the year limit on new evidence in the first three clauses.

Without knowing any citation, I also argued that it is a basic tenet of American law that one may not be the beneficiary of his own misdeeds. This is in Moore on 60(b), I think under clause 6. And the misdeeds are undenied.

Because I'd earlier alleged that the FBI's affidhts were untruthful, Smith attempted to pass off the undenied perjury as "merely cumulative." Actually! However, there is what I believe is a major difference. Before the case was dismissed as a sanction it was my word against that of an FBI agent. However, the new evidence does not depend on my word. It is the FBI's own records, withheld from me and them, after my case was on appeal, disclosed to a friend. They can t deny what this new evidence says and establishes, that no discovery was necessary and that noan could prove compliance with all that is referred to still withheld and known to exist. Or, the entire basis for the discovery which is the basis for the judgement is fraudulent, perjurious and misrepresentative. There is no other basis in the case record.

I've made no mention of the FBI's vicious acts against me, at least those of which I have proof in the form of its own records, but this is in the case record and some of it is pretty nasty. Like telling first LBJ and then others that a post-Yom Kippur gathering at our farm by the Jewish Welfare Board was our alleged annual celebration of the Russian Revolution!

Again, many thanks. One way or another I'm going to have to ask for more time, much as the court dislikes this. I've not been able to get what I need and I have too little time to do what I need to do, with more extra medixal appointments already scheduled for Lil and her mother. Our best,