

Dear Mark and Jim,

12/30/84

This asks nothing of either of you and the information I provide does not even suggest what I've been doing.

Long before the official wreathes started wasting my life in court and my medical misfortunes conspired with them, when I was researching a book on the JFK administration, I interview Gen. James Gavin. It is not generally known but JFK did decide to liquidate the Vietnam adventure. He was assassinated within days of published indications of this. Gavin told me that one by one JFK called his generals in to try to persuade them that VN was a political problem and that political problems are not susceptible of military solutions. I regard this as wise and a general principle of wide applicability. Even to the courts. Rather some courts, some instances.

By consulting an earlier en banc petition I've a better idea of what they are limited to. I laid all I'd done aside, made myself a list of reasons why there should be an en banc review, combined and eliminated some, and have a draft that ought not exceed 15 pages. Before editing it I'm awaiting what is in the mail to me, the court's regulations, which I want to read first.

There are several thoughts I want to convey. As Jim will remember, the minute I ~~was~~ heard of demanded discovery, I saw the jeopardy to the Act and not long thereafter to lawyers. This decision is about what I visualized with regard to the Act and worse with regard to lawyers.

I think I mentioned not expecting the petition to be granted by this court and that ~~what~~ what I had in mind could nonetheless be useful.

Not too long ago I read in the Post about a ~~sharp~~ sharp and vigorously expressed disagreement between the Reaganites and the court's pre-Reagan judges. If as I do not believe that one case and decision is the only such instance, I think that anything which informs the non-Reaganites on this court about what those Reaganites have done is worthwhile if it is accurate, pertinent and does not employ insulting language.

Under most circumstances, as I've said, doing this could be very hazardous to any lawyer who expects to be before the court and to his clients. I am not, have not and will not have any such thoughts about myself. Which reminds me, I've not drafted conclusions and won't until I reread and edit. I also am not concerned about what the FBI and/or DJ will attempt. Much as they've tried in the past aside from wasting me they've largely failed, including in the litigation. And they've done much dirtier things that I've survived. So, I have no fears for myself. The one fear I have is that I am not a lawyer and there is nothing I can do about that or getting one. I'm not hinting; neither of you ought have any involvement in this. However, I do not believe that sending you copies after filing is any involvement of any kind and I'll do that.

I'll probably send copies to a few members of Congress and the press, but only after filing.

I had no need for copies of decisions. I refer only to three, I have two and the third is in the mail to me, I believe. It is, as I say above, not susceptible of addressing by case law, for the most part. And that would neither mean nor accomplish anything. It would only waste precious space.

Faint heart never won . . . anything. And there may yet be another effort to gut FOIA legislatively, as this decision will before the Smiths of the courts.

Hope you both have fine holidays,

gm