

Les Whitten  
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1/7/85

Dear Les,

Hopefully day after tomorrow I'll be able to mail what will be enclosed, the en banc petition pro se to the court of appeals. <sup>Under</sup> ~~Under~~ any circumstances an en banc review is rarely granted. After you read this, as I hope you do, you'll see that its content reduces even those slim chances. So one may legitimately wonder if I am Quixote looking for windmills. I think not. Especially not if what I believe is a real rarity, this denunciation of the court to its face, gets any attention. If it is does not, as it states, it is a record for history.

The lawyers are today terrified of the courts, so no lawyer I know would have said what I believe must be said. And being controlled by fear merely strengthens what there is wrong - evil - it must be opposed by those who do care and do not fear.

From my recent experiences with them the courts are more corrupt than the Watergaters. This court has affirmed the effective nullification of FOIA, a uniquely American concept and law. It has rewarded mendacity and perjury. And it is and has been picking on a man who was born free because his parents dared the unknown to escape one of the most murderous tyrannies, a man who believe he was born with a debt to pay, an obligation to meet. And, I would like to think, has tried to.

It is beyond me to copy the decision and include it, but if you want a copy, please phone Jim. I'm going to have to have this xeroxed commercially here and that will take a real hunk out of my Social Security check.

This is the draft that my wife retyped on a loaner typewriter while hers is supposedly being repaired. After reading it I decided to let it go as a draft and be done with it. She is now retyping the pages with footnotes, which had to fit and were typed separately, & making the few corrections I did not make by hand. I hope that tomorrow, weather permitting, I'll be able to get it xeroxed and collated and mail the next day.

The panel was composed of Wilkey, an embittered GOP, I'm told, who is put out not to have been appointed to the Supreme Court, Scalia, a Reaganite from DJ, and Wald, a silent supposed liberal. Unanimous decision, no dissent.

Please bear in mind that for the most part the appeals courts are as final as the Supreme Court, which grants cert to only a tiny percentage of the cases reaching it. And that the DC federal appeals court handles most of the government cases. Then consider the blatant dishonesties and factual errors and bias and prejudice that is in the space to which I was limited. Doesn't it scare you?

I've not decided how many reporters I'll send copies to. George Gardner, even though he does not cover the courts, I know. When I see what the xeroxing costs I'll decide on the number. I've not heard a word from Mark Lynch, but as soon as I read this I released him. Jim Cesar knows nothing of this, except my pun, that I turned Swift into a swift kick. It is better that they be detached completely.

As you will see, even after you alerted Whittaker she did not withdraw her lie, rather the one that I called to your attention.

If the press does not keep Santayana's wisdom in mind, that he who forgets history is doomed to relive it, this represents the beginning of an attempt to make us all relive the authoritarianisms.

Best wishes, and thanks for anything you try,