

Clerk
U.S. Court of Appeal
U.S. Courthouse
Washington, D.C. 20001

7627 Old Receiver Road
Frederick, Md. 21701
February 11, 1988

Dear Sir,

I am the pro se appellant in Nos. 86-5289 and 5290 in which I filed for an extension of time for the reasons set forth in that motion.

I have just been informed about a very recent decision of this court that is in point but I do not have the full and correct identification of a copy of it.

The case involved The Washington Post. The decision was written by Judge Spottswood Robinson.

The one point on which I have been informed is the holding that in FOIA litigation the district court must decide questions of fact.

The brief I filed in this litigation was never considered by this court and it was never responded to by the defendant/appellee.

I had argued before the district court and in my brief before this court that the district court was required to do as this recent decision states it must. In addition, bearing on the same point, I argued that the district court erred in refusing me both a hearing and a trial on the facts.

I argued and documented many such questions of fact but I would like in particular to call to the attention of the judges the entirely undenied fact that the money judgement against me was obtained exclusively by perjury, fraud and misrepresentation.

If you will be kind enough to ask one of your assistants to examine my brief the relevance of Judge Robinson's decision, as I understand it, will be apparent.

I believe also that there is, as my case now stands, a sharp contradiction between it and the Post case.

I apologize for the appearance of this letter but as the case record reflects, I am handicapped and in impaired health and must type with my legs elevated. Also, the weather forecast presents potentially serious problems for me because I am under a medical prohibition against being out in the kind of weather forecast. We have only one mail a day in the ^{COUNTRY} ~~country~~, where I live, and to be certain that this can get into the mail before next week I'll have to drive into town and mail it there.

I apologize also for not being aware of the proper form, if there is one, for calling this to the court's attention.

Sincerely,


Harold Weisberg