

Mr. Mark Lynch  
122 Maryland Ave., 1E  
Washington, D.C. 20002

3/27/85

Dear Mark,

I write about a couple of things for which I'll not take your time on the phone when, as I presume you will, you call to tell me what new disasters that disgrace to the judiciary Smith has visited upon us.

For the past two days I've been incubating some kind of respiratory trouble. It is possible that as the surgeon suggested a week ago I've not yet fully recovered from the bronchial infection with which I've begun the past three years. I see my family doctor after lunch tomorrow. But for these two days I've been taking his common-sense advice: listen to your body. I've done nothing but read and answer letters and look at public TV. (Tonight the Orioles!) My mind has, from time to time, wandered to my situation and I've just gotten up from trying to take a nap denied me by my mind's refusal to let go.

Where and how does it end, I keep asking myself when I have to consider a choice between paying these monsters a fifth of my scant reserve (or half of a year's Social Security) and going to jail. If it were not for my health I'd not hesitate for a moment - I'd go to jail. Because of my health I do not know and I'm not going to try to make my mind up now. I've not discussed this with anyone, not even my wife. But I may yet decide to do that, for reasons of principle and for financial reasons.

I have an IRA of about \$10,000 (we have a little more I regard as my wife's) and my Social Security check is a little over \$350. There is no real income from my books because I've not yet recovered even the printing costs of the seventh and the cost of reprinting the third. We've made out by living quite modestly. I've not bought a dress shirt or a suit in 15 years (and the last suit, which no longer fits, was a reject for which I gave the local factory outfit \$3.95! Actually) Fact is I do not have a suit that fits me and the only pants that do are wash pants. Our home is paid for but it takes most of my Social Security to pay for taxes, insurance, etc., and we've lived on my wife's. And in this I have to think of her and her situation. My car is in its 24th year and we make out with it. I heat us with wood, and I've more than half of next winter's heat stacked and ready to split. That will give me some exercise for much of the summer, where otherwise it would be but a couple of days' work. Meaning how long it would have taken before these illnesses and complications. I have no idea what the jail sentence would be but I am sure that there is no way that in that time I could earn what Lalkie et al are extorting.

Principle also has me leaning toward the risk of what any jail sentence could mean at my age and in my health. On principle I feel I must resist the corruption I've been facing and by which I've been victimized. There was a time when I wondered how the peoples who produced Bach and Tchaikovsky, Schiller and Tolstoy, could provide the Gestapo's and KGB's personnel but my experiences of the past two decades have shown me that the people of Paine and Jefferson have all the recruits in place that authoritarianism requires and is already using. So, aside from the legal questions involved in the litigation, and I do not regard them as trivial in any sense and pursuing them has, in context, been somewhat costly for me, I face the question of my personal resistance to the authoritarianism already in place and trying in many ways to extend itself. I do not mean that anything I can do will have any serious impact on this, for I do not. While I live in what for this day and age is a Walden-like setting, I am not Thoreau. But I am mindful of his reasoning when he responded to Emerson's asking what he was doing in jail by asking Emerson what he was doing out of jail. He changed nothing by going to jail and it would have changed nothing if Emerson had also.

It would probably be limited to a personal statement made by a personal decision and a personal act. It would also be my way of talking to all those who have been so corrupt and completely dishonest, the LaHaies, the Whittakers and those who have disgraced the word "judge." It would be, among other things, my way of standing up and facing them and telling them what I have to say to them, without uttering a word.

I have never sought and I have no interest in personal publicity and when as a result of personal appearances in connection with my writing it has come my way I've shunned the dramatic, perhaps a failing in an author with a message. While I am aware that if there were to be attention to it if I decided to refuse to pay when I get to that point it could be dramatic, I would not do such a thing, run such a risk, for mere drama or publicity. If I would it would be easier to decide.

When I have so much less time I have to consider what I could do with that time and what I'd not be able to do if there were the possible serious consequences of jail.

So all I now do is tell you (and Jim by a copy) what is in my mind, what I may decide in the end.

As I've told Jim many times, I believe, from a fair amount of personal experience, from observation and from history, that the weak never survive the onslaught of the strong if they merely undertake to defend themselves. Survival requires the taking of initiatives by the weak against the strong. I'm sure you'll have no trouble thinking of many good arguments against this and of many things that have little prospect. But there is time, I'd not consider making any effort until this has run its course, and perhaps you can think of a few things that in a reasonable interpretation of existing law might work. I have in mind an action against the LaHaies, Whittakers, Phillipps and other signatories who by their knowing dishonesties and failures to perform their official responsibilities honestly have damaged me seriously. If you can bring yourself to think other than defensively you may be able to think of something and I will then face the problem of trying to do something about it all. It may be that nothing like this has been done before, or tried, and it may be that there is no law or case law that comes to mind, but I believe it is consistent with basic American belief and political and legal doctrine. I have never been intimidated by seemingly impossible odds and I've proven them, with very much at stake, not to have been impossible. What is not attempted is the only impossibility. My personal experiences have taught me this and I believe it and want again to practise it.

Consistent with this I want to fight every step, make them fight every step. If there is no law of which you know that entitles me to a trial I am willing to argue that as a Constitutional right, a basic American right. And I will. One way or another. I now see no way of doing this until they try to collect, but if they want a pound of flesh I want them to have to do their own cutting. If I can find a way of forcing it, they'll have to.

I believe, with Ecclesiastes, that there is a time and a place for everything, and at the same time I know it is also correct in referring to the crumbling of the keepers of the house and mine leave me without illusions. But I am not <sup>afraid</sup> ~~scared~~ of these truly evil people or the power they represent, I was not in the past and I do not expect to be in the future.

So, I hope you can find some time to give this some thought, with as much of the negative out of mind as is possible for one whose daily responsibility it is to conceive and consider all possible negatives.

Best regards,  


Harold Weisberg



Dear Mark,

3/28/85

Jim phoned last night to report what transpired at the status call. He was to phone you today about two suggestions I made.

I think it is very important for him not to represent me now and not to handle the depositions at all.

If you want ~~farther~~ a detailed explanation I'll provide it privately. Please believe me, I've been through many of them with him and them. I believe very strongly that he also should not be his own lawyer in this matter and for more than the usual reasons.

The conflict continues and is going to continue, even if as he tells me it appears that they will demand only a ~~token~~ token payment. I will not make any voluntarily and as I'm indicating may refuse to make any involuntarily.

And even the mere appearance or suggestion of any conflict ought be avoided.

The suggestion I made for adding one element to the discovery requested is one I'm certain they'll object to and I am also certain that Smith will agree with them. However, I believe it serves a useful purpose nonetheless, perhaps only as a signal. Is anything really lost by having Smith reject it?

We still do not know what went on at the appeals court or who may be on any panel if this goes up again. Thus we do not know what was in the mind of any of the judges. Having such a suggestion in the case record might then be important and for those who are opposed nothing will make any difference anyway.

Please understand that my high personal regard for Jim is undiminished. I like him very much. But if I were not absolutely convinced that he should not handle any deposition I would not write you as I do or offer more information.

Best,

