

January 4, 1971

Hon. David L. Bazelon, Chief Judge Misc. 3663, Weisberg v. GRS, National Archives
United States Court of Appeals for the CA 2569-70
District of Columbia
Washington, D.C. 20001

Dear Judge Bazelon,

With what I presume are the best of intentions, each response I received from the clerks to letters I address to you confuse me more and fails to answer what seems to me to be the relatively simple question I have asked, on what basis was my request to be allowed to appeal in forma pauperis rejected?

There seems to be no doubt that mine was a motion to proceed in forma pauperis. These, in fact, are the words of Mr. Cathey's letter of December 28. It is the language of two of my earlier letters I was told would be presented to the judges. The sole question seems to be would I be granted this help. There is no doubt that the judge in the court below volunteered that I would be.

The Order filed by Judges Wright and McGowan November 29 says my motion was denied for this reason, "it appearing that no non-frivolous issue is raised". I understand these words, but could not believe a motion to be allowed to proceed in forma pauperis and with appointment of counsel can be considered frivolous. But this is all Mr. Cathey's letter says, what the Order says.

If there is any dispute about the affidavit I filed, any remote suspicion that it states what is not true, that had not been indicated to me in any way. I therefore assume that the Court accepts my oath as to my resources and financial condition. I suggest that the District's social-service workers will tell you that on an income basis, my financial condition is inferior to that of a welfare recipient.

To ask for appointment of counsel and to be recognized in forma pauperis under these conditions is frivolous? My dictionary defines the word thus: "of little or no worth, weight or importance; not worthy of serious notice; characterized by lack of seriousness or sense;" and similar description of a frivolous person.

I find it incredible that an American citizen can have an effort to pursue any rights before any United States Court of Appeals refused him when he alleges he is a legal pauper, provides a properly-sworn affidavit attesting to the fact without any dispute by the Court, then is told his request for help is a frivolity, and atop it all simply can't get a comprehensible explanation - most of all when the judge in the court below volunteered that the Court of Appeals would provide help in appealing and, as in my case, I have done everything requested or suggested promptly and as best a layman can.

I am not familiar with practices and procedures, so I am reduced to asking two obvious questions: on what basis was my motion to appeal in forma pauperis ruled to be frivolous, and is there anywhere I can turn for help when I can't pay a lawyer?

Sincerely,

Harold Weisberg