

Dear Js,

8/4/72

By the time you finish reading this, I will not have to explain the particular kind of weariness that besets me before 8 p.m. Earlier I prepared a memo in the form of a letter to Howard and, having eaten supper and gone over the clips Lil selected from the Post while I was with Bud and then Jim, I can't avoid this memo. But my heart isn't in it. Were I subject to despression, this would be all I need. I just feel weary for a while, I suppose not unusual considering only those of the pressures of which you know, not all by any means, and the unrelenting years, and then I snap out of it.

Jim calls himself a night person. Having worked for a morning paper, I can understand this. And having simultaneously hitchhiked when traffic was scant and roads miserable 15 miles that morning after a catnap to get to 8 a.m. college classes, I can also understand that there is no such thing, faced with need.

I'd arranged with Bud to be at his office by 9:30 a.m. and asked for a meeting with him and Jim (I think you know I am fond of Jim and think he has a good mind. He is the only one of Bud's Committee I can trust at all). Knowing Jim, instead of telling him yesterday that we had this meeting this a.m., Bud personally awakened him at 8:50. I was at Bud's office before 9:15. Bud came in about 9:45. He then phoned Jim at home and got him up again. Jim and I had done a few things before leaving, driven into Frederick for the mail so it would not be vulnerable in our mailbox, 500 feet from the house and hidden from it, and then driven 50 miles to DC through rush-hour traffic, parked the car, and gone to Bud's office. Good beginning, huh?

Bud and I talked about various things and Jim finally came. By then he had prepared excerpts from the dubs of the tapes he had heard at my place. Took him three trips, losing up for me three days plus those he'd been supposed to come but couldn't.

Naturally enough, with a law office, Bud had a few things to attend to when he got there. I didn't really waste the time because there were some things I could do by phone and did, but these were not my purpose.

Finally, we could talk. I told him I could not again have such an experience, that three months is too long a time for me to keep things in mind, that the work I had done, if Jim hadn't indicated it, was more than we could reasonably expect when I set out in May, and that instead of debriefing me as he had been supposed to on my return and then dubbing tapes while listening to them so he'd know what to have in the habeas corpus petition, Jim had told me that he had to do legal research. I said that the petition contains none, so I didn't know what his assistant had done in that time, but there are too many things I can't get to to ever let this happen again. I told him bluntly that while the organization of the petition was pretty decent, and if it was almost all from my published work, to which I had no objection at all, it was poor in selection, had omitted the major talking points from it, didn't look to the future needs, and was far short of what was possible and could have been completed long before this without the waste of Jim's time and his, which doesn't concern me, and mine, which does. I asked what in the hell I'd gone off to prepare the new material needed for this for it the whole f... thing was done without consultation with me (meaning my published work and this new) without pay or prospect or hope of any reward and all the things important to me having to be laid aside to do it. I told him the entire thing had to be redone and that it should never have been commenced and that there wasn't a single legal citation in it. He said he was distressed that it wasn't done, that it had to be promptly, and that he was about to take it over. I couldn't tell him he knew less than Jim, which is true. So I said we needed a different approach to meet the special immediate problem.

This problem is the contingency that Ray will be among the first shifted back to Petros, a different jurisdiction. On such things, unless I have specific knowledge, I'd not dream of having an opinion. If he says the judicial climate in Nashville is preferable, I can accept it. The Knoxville judge is presiding over the Kerner trial in Chicago. Bud fears that any cases filed in his court will be sent to Memphis. If this is the case, and I have no knowledge, then it could be a disaster.

While we were discussing this, Jim came. He was supposed to have a tape of the Ray interview for me so he didn't. He and Bud had seen Ray last weekend. He had two of the tapes only, one hour of the time he and Bud were there! (Understand that in my view Jim is the best of them!).

Ray thinks the return to Petros, Knox, jurisdiction, can be in three weeks. But thinks the Nashville court is better for us. I have to accept both as possible. So the questions was, could the petition be prepared in time. Jim said it could be. I said he couldn't have the affidavits alone ready in that time and the petition needed major work. Strangely, no argument, so I suppose Jim now realized the import of what I brought back in addition. So, the question was how, as I put it, to stop the legal clock. "Impossible, those legal brains said. Housese, said the only non-lawyer there. So, the question was how.

It never dawned on them that as long as Ray is within the jurisdiction of any federal court anything they files establishes jurisdiction. So, they agreed to that, but what file? I said what you can legitimately allege you need to prepare a proper and adequate petition habeas corpus. What? What has been withheld ask the court to direct the prosecution to deliver that which it has been the obligation of the prosecution to deliver since Aaron Burr (there are other cases going back almost that far). If you need other basis, Canon 5. For what? Well, fortunately I had some of that with me. I laid out on Bud's desk the picture I've never shown anyone of Charles Stephens supervising, so it says, the preparation of a sketch of the man he allegedly saw fleeing at a time he couldn't see anything through the alcohol vapors. And the the picture I'd gotten of this sketch being delivered to the Mexican police (Mexico City date line). Do you think the most corrupt judge in the world, says I, would believe there is no prosecution report on this? Do you have it? Ans. No. Did you ever see a better likeness of the "ealey Floza bus? No, of course, not now. How they have what Jimy couldn't know relates so closely to this, Foreman's efforts to horn-swog is him into an identification of the look-alike all the nuts had fix red on, calling him "Frenchy". The feds, of course, could see the potential. They exploited it. How we have them and their crookedness to exploit, and that is but one thing. So, all of a sudden what they don't teach at Harvard law (common sense and simple logic) made sense and Jim's first assignment is to prepare such a thing, perhaps mandamus, and get it before the federal judge in Memphis promptly. If they need more, I've got plenty more than I gave them without going to the guts of the case.

As I have said so often, this isn't to say so much of me as it is to point out how little there is. This, to me, is simple, baby stuff.

They are worried about the length of the petition. I said, I think simply, you have one shot. Dare you leave anything out? Does the judge have to agree on more than one point? can you be certain on what one point he'll find for you? So, give him ten or twenty, remind him that he need only one, you've given him political protection against what he might regard as a dangerous decision, and you've loaded a record that accuse him if he is willing to be honest or courageous. Length? what the hell is the problem of length. You can file a f.....g book in support and keep your essence down to less than 10 pages. But it must capture his interest. If you do that, he'll be happy with the length-if you don't put him to sleep. I guess this isn't in the Harvard law school, either, but it was persuasive. So, there will be an initial summary given some kind of at least superficially proper legal designation and attachments, one on fact (with attachments like affidavits in support), and one on law. They call that a Memorandum in support.

At this point I've about decided that the trouble with lawyers is that they go to law school and practise the law, both of which blind them. Bud, by the way, also taught it and Jim's father is a high school dean.

Except for a few words of profanity it would have been too out-of-character to omit, given my reputation, I was rather restrained an offended nobody.

So, without demurrer, it was agreed that the three-week schedule for completion of a decent petition was unrealistic, that Jim would have the rough drafts of the affidavits (I've already done 100% of his work save selection-he has too much) and then come up with them and for three days the beginning of next week we'd go over his petition and redo it. Even the three days was their idea, so I suspect that aside from knowing the deficiencies I have discovered in the petition, from what Jim has spotted in the affidavits alone, tells him how much there is to do. And it could have been done two months ago-and should have been. At one point Bud got interrupted and Jim was reading for me his condensation of one of my interviews for an affidavit and it suddenly dawned on me that he had sanitized it and in the process castrated it. In a few exchanges he saw it. So, I have copies of his summaries but I'm just not up to that new frustration tonight! Now I'll have to remember what he quoted so make it nice and legn for people who aren't. I said you've got great direct quotes. I've me a good reason for not using them. That did it. So, the affidavits

may not be as close to first-draft completion as it seems, either. We'll send the first drafts to the deponents for their approval or correction first and then, with their approval, will prepare the final copies for notarization.

In all of this, when I showed Bud the pictures I'd taken him four of the six of which he expected, he was rather impressed. I said, simply, that when I went out to get those pictures, and I got more or not all, not being able to think of paying for all, you said you'd spend \$50.00, so I didn't trouble you to pay for them. He got the point sharply. The initial cost was 500 miles of transportation, and that was a beginning not touched by \$500. Da, not if I was going to beg or wheedle, after getting in his client, giving him an airtight case, and then doing what they hadn't the ability to do to firm it. The other things to be included in this initial motion are all things of which they should know, all elemental, and none of their concept or development. I started prepared for that February a year ago. It was obvious, didn't require legal education or great genius, just a little common sense.

I insisted that we present no new evidence, that we restrict ourselves to the points on which there can be an evidentiary hearing granted, and then uncock. Or, if we do not get it, have the new evidence for other uses, a last resort.

It was so bad they haven't even asked earlier counsel for what they have for the appeals. Naturally, both are not anxious to help, because both were saddled with conflicts that couldn't be resolved. It never occurred to them that with letters they couldn't lose. Whether they did get the few things I suggested (of which they also didn't know), in which case their petition is thereby enormously fortified, as is the allegation of irreconcilable conflict, or they can't lose by getting it. So this can be comprehensible to you, I got Hanes to admit that he couldn't get a cent until he got Ray back to the US, that Ray wanted to appeal the extradition and he talked Ray out of it on the grounds it was bad per., and they have had the case for a year and a half. If Hanes won't write them the kind of letter they want, aren't they better off with their letter of request, his unanswered receipt for certified mail, and a transcript and out of the tape? Political crimes not extraditable under the treaty. Ray could never get a word in edgewise with Foreman. So, he was forced to write out what he wanted Foreman to consider before Foreman got there. He gave Foreman two full pages of reasons for not pleading guilty about 2/18/69, about three weeks before Foreman dragged him into it, and Foreman made his big mistake, flew to the family and read that out to them. I've got the separate but consistent accounts of the four from whom I'd dare take statements plus news clips showing Foreman was then there. They differ in recollection of the reasons, some remembering some, others remembering others, but that in itself is some probative. Let Foreman say he doesn't have it or he never had it, and he will then be confronted by not only the oaths of four who, regardless of how perjury is, are not as much so as Percy, and he is left with the need to explain the trip to St. Louis, full accounts of which I got from the nonguise of the P-D. Would any judge think he went there for social purpose when he values his time at \$250 an hour? It is close to a can't lose situation. And at this late date, it has to be my idea.

With all I've given them on Gerald Frank, they've not even thought of using it. So, they now understand that when the prosecution gave Frank what it withheld from the defense, and they didn't see that the obligation to let the defense have exculpatory information is as old as the land, they have a legitimate motion to file.

Can you begin to understand how smothering this all is? I can't be in to force myself to make a full record and explanation. This is far from all of it. I can add only that justice is too important to entrust to the lawyers.

There really is much more. I'm just not up to it. Like these scientific tests, not one of which they have, having been content to ask and be refused. Or the false stipulations all nullified by the final void decree (they show what Ray refused to do). Frank admits them, but they are invalid.

Really wearily,