Senator Edward Kennedy United States Senate Washington, D.C. 20510

Dear Janutor Kennedy,

The timing of your 10/28 letter responding to mine relating to the dehnquist and Scalia nominations is remarkable in that it coincides with an unmentioned problems for the nation in their and similar judicial appointments by this administration.

by way of background, I've never tried to involve you or any other member of your family in my work on the assassination of the President or that of Dr. Ling. In both fields my work remains basic and accurate. In my last book I have a chapter on the efforts to get Robert Lennedy to endorse the Warren Report before it was written. It is titled "Hades, Not Camalot." I did spend an afternoon backgrounding Tom Susman after you had made the legislative history of the 1874 FOIA amendments clear on the investigatory files exemption coming from one of my earliest FOIA cases. and I'm at a similar point now but with an entirely different climate and court.

I'm about to file an appeal, unfortunately pro se because the Justice Department created a conflict of interest with my lawyer, who remains a friend, and it was both a real and an artifical conflict. They almost got a desasterous precedent in that, abandoned on remand.

I do not expect to prevail before this appeals court. Last time they didn't even read what I filed and their opinion says I sued for hing assassination records, and that isn't so. It was all JFK, the records of two field offices. So, suppose I decided the petition cert? automatically I have two Justices who will oppose it or, at best, for once recuse themselves. What I am suggesting that appointing to the supreme Court those with such prior duites in the Justice Department is automatically a problem for those who sue the government. (MeallActail.not.recuse himself.chem.thexx In FOIA cases, both Reinquist and Scalia were in FOIA policy positions, opposed to FOIA at that, so they are sitting in judgement on themselves. (Scalia did not recuse himself when this case was on appeal earlier.)

Please excuse this typing. I'm not well and preparing this brief has been a burden on my wife and me.

As best I can determine, and I'm not a lawyer and if I were my impaired health would have made it impossible for me to keep up to date, this may be a precedent case in several ways that I hope might interest the Judiciary committee and/or its FOIA subcommittee. It is, without question, the first case in which the government demanded and got "discovery." From their and Judge Smith's account I refused to compdy. In fact, I'd voluntarily provided all that was demanded under this didge (arlie), by non-FBI request, because the attorney general had held this to be an historical case. (In it and the King assassination, an enormous amount for one without help or income, two full file cabinets of it in my copies.) Smither gave them an Order for claimed lawyers' fees, which I've not paid and don't intend to. I don't take your staff time for a full account but, brdifly, they disclosed to a friend of mine after this was up on appeal what I use as new evidence under "ule 60(b) and allege, without even pro forma denial, that this new evidence establishes their perjury, fraud and misrepresentation, and I assure you that it does. I do not want even to appear to be trying to involve you in any assassination matter so there are no enclosures but I'll make anything available to anyone who may be interested and I have to file this appeal by the 15th, so it will be at the court. I am not optimistic about the courts considering proof of such FBT and Justice epartment relonies or the reasons for them. In indication of the solidity of my proof, however, is in the fact that I, too, am subject to the penalties of perjury and they want to get me and they've not made such a move and will not. The demand for the money judgement followed my daring them when they threatened to seek a

and because speaking from a wheelchair at the podium I'd not be able to handle notes.

as a commentary on some judges in FOIA cases, his bemorandum indicates that he is not even familiar with the basics of this case. The did crib inventions which exist nowwhere else from DJ lawyers' filings. He says repeatedly that this lawsuit is for King assassination records of the New Taven FBI office, neither true and neither even reasonably suspected.

I don't know what the Judiciary committee will be interested in or take time for but I think that an inquiry into the enormous waste of expensive time and money merely to frustrate disclosures under FOIA is not difficult and could be worthwhile and helpful in discouraging this administration's campaign against free information.

I'm sorry I can't drive to Washington and can't use the poor and inadequate buses, but if anyone is interested, I have copies of all my cases here and my lawyer in them is in Washington and I'm sure his files are more accessible and in better shape. Even filing is a problem for me now.

Please believe me on the discovery matter, I gave many other reasons, NDEN none refuted, no evidence introduced to contest any of them, all documented, and it not only made no difference, it cost the government a considerable amount of time and burdened the courts considerably. Part of the campaigns against FOIA has been the burdening of the courts. In my own experience, there isn't a single case in which there was any need to litigate and any case in which the government didn't swear falsely, as best a nonlawyer can have an opinion on it, in all instances perjury because it was always material.

I'm not suggesting that one of the three branches of government intrude into another but I am suggesting that there are serious problems of proper interest to the legislative branch.

and I fear that the Mehnquist and Scalia appointments further reduce the slim chances of success with FOIA petitions cert.

I'm sorry, the relevance of the alleged felonies is not clear above. To get the discovery order they claimed it would prove that they had complied with my requests and if it hadn't my unique subject-matter expertise was required for them to find it. Their lawyer actually said that this information was "solely" mine. The new evidence establishes what I allege and there is no basis for the money judgement other than the discovery order procured by these undenied felonies.

Sincerely,

HAROLD WEISBERG 7627 OLD RECEIVER RD. FREDERICK, MD 21701

United States Senate

WASHINGTON, D.C. 20510

October 28, 1986

Mr. Harold Weisberg 7627 Old Receiver Road Frederick, Maryland 21701

Dear Mr. Weisberg:

Thank you for writing to express your thoughts regarding the nomination of William Rehnquist to be Chief Justice of the United States. As you know, this nomination was confirmed by the Senate on September 17, by a vote of 65 to 33.

I opposed this nomination, both during Judiciary Committee hearings and on the floor of the full Senate. In my view, Mr. Rehnquist's positions on some of the most important issues in our legal system every day are too extreme — his views are wrong on race, on equal rights for women, on the separation of church and state, and on some of the most basic individual freedoms protected by our Constitution.

Justice Rehnquist has repeatedly exhibited his hosility to the ideals of racial justice and civil rights. Moreover, his conduct during Committee hearings and while serving on the bench had indicated serious ethical lapses. He has been less than candid with members of the Judiciary Committee, and he violated the basic rule of judicial ethics that no person should be a judge in his own cause. As a Supreme Court Justice, Mr. Rehnquist sat as a member of the Court and cast the deciding vote in a case that upheld a shocking policy of military surveillance of civilians -- a policy that he himself had helped to draft.

Justice Rehnquist might have made a brilliant nineteenth century Chief Justice. But brilliance of judicial intellect in the service of racism and injustice is no virtue in our times -- and no qualification for the high office of Chief Justice of the United States.

I appreciate your taking the time to write, and I am grateful for this opportunity to express my concerns regarding this matter.

Sincerely,

Edward M. Kennedy

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