Dear Jim,

10/24/73

Because I was changing from the clothes I wore to work outside when you phoned, I couldn t answer promptly. This gave Lil some time to talk with you. After you and I spoke, she and I compared notes. We both feel you had too strong a reaction to the adverse decision in the spectro suit. Too strong not in the sense that a strong, negative reaction is not normal and justified. Too strong because it may interfere with what you can and should do to counter it in the ways that are possible and because it may otherwise impair your functioning.

Fortunately, insofar ast I know of your life, you have not had many serious reverses to face. Unfortunately, this means, if it is true, that you lack experience in face and coping with them. If this ever becomes easy, I'd say there is something wrong, for reverses like this should never be taken too easily.

Some of your reaction was very good: we'll do something right away. Some if it was not: libel, a waste of time and not good thinking. Perhaps it is this, which is so unlike you, that tells me more than your words of the impact this had.

We have a number of good possibilities. I mean good if they do not prevail. This, in failing to this point, has been good.(And in terms of your legal education, better than good.) We'll discuss them.

My own reaction is slight. I thought of this after we spoke, and I guess it is because despite the fact that there really is no question but what we should have won on the law, I did not accept your assurances after Bud's super-dismal performance in the rehearing. I never stopped to think the prospects through. Without thinking I knew that were we to prevail, it would be intolerable for the government, on the issue of law and on the factual matter about the assassination. I may ignore it in what I do and try to do, but I am not and never really am unaware of the power the government has and has the disposition to misuse. If we think back over this, the question I raised with you over something I should do indicates my feeling as of that time, and it has to be that at the least it did not look good. I'm sorry now that I didn't do this on my own when you did not come back to me on it.

The rethinking this will require of me is of a different nature. It tells me that even on legal matters my reasoning and instinct are good and that I have too often accepted judgements I knew were wrong. You know some of the areas in this and other cases where this was true. In a way my memos prior to the rehearing forecast this and the deficiences I saw and the potential they held. However, my decision to give Bud a free hand was my own. He did not ask it. The responsibility is mine. There are some things at which he is very good. This, certainly, is not one of them. He can't help it. It is also my responsibility that I did not press him on seeking an amicus. When he made it clear that he didn't want to, I accepted it rather than fight with him again.

However, if one is possible now, and I believe with you that it is, now I will fight, and with the vigor you can expect, at the least. There can be no case as good as this on the issues, and there can be no litigant with my unique assets when this gets to the Supreme Court. You know what I mean. So, we have to salvage what we can and if it means taking Bud on, as I really do not expect, so be it. I do not look forward to having to say what it will require, but unpleasant as it will be, I will not shrink from it is it becomes necessary.

There is such a thing as being too considerate, too tolerant, too disciplined, and I am at fault with all. I should have done more than express my feelings and beliefs. And with his record of not keeping his word, I really should not have accepted it. So, if fault is an issue, and I don't think it is, it is mine, not Bud's. I hope you can see it this way because it will make your relations with him less difficult and because it is true. I should have known better. Worse, I did know better. I'll not again let my poverty interfere with a decision of this character. But Bud was willing to bears the expenses I had no way of meeting, and I felt his freedom was under the circumstances his right. I was quite wrong. He is in no way responsible for that.

Too much is premature until we have a chance to read and digest the opinions. That will be soon enough. In general, my desire is that we do what we must do only until we have to. If there are things that must be done in ten days, then we have to fo them in ten days. Those things for which we may have 30 or 60 or 90 days we should take time for, we should think through, we should consult with others about. We ought neither rush in on them nor let them await the last minute.

I have wanted to write Baselon about the perjury and the subornation of perjury. If you want to go over this, fine. I would go into this case with emphasis and with reference to others. There is probable perjury and certainly false swearing in each of my FOI cases. Especially if the court was dominated by fear might it welcome an opportunity to purge what conscience it might have. It has, in this case, undone most of its earlier and fine work. It cannot, or at least enough of the members cannot, be unaware of this. It had an easy out it did not take, remand. It didn't even pass the buck. And, if the minority feels strongly, it will want to sieze upon something.

There have been changes in my thinking and approaches. When you are here you will se some of what I mean in the draft of a complaint I have waiting for you. The weak never survive defending, and henceforth the hell with the chickenshit niceties thay teach in law school and the folklores of most lawyers that they dare not call their bastard brethren bastards.

Aside from allegeing criminal activity of which I am the damaged victim, I want to allege tortiousmacts. Whether or jot the Federal Torts Act is applicable I can't even guess, but I believe the proper legal approach is to see first if it can sustain the allegation and then check the negatives. I would like to file a civil action for money damages, against each and every live signatory to the papers with fraudulent misrepresentations in them and with perjury in them. I mentioned this to you long ago. Your reaction was so little then you may not remember it now. I mentioned it again when you gave me a copy of the Administrative Conference Report, which I then interpreted as good support for my view. Combined with this I want to alleged a conspiracy to deny me my rights under the first and fourth amendments. I have more than you may realize on the first amendment and the Archives and on Justice, where I was denied when I asked for it what was later declassified. Here we may want to consult Howard's younger memory. He may well recall what I do not and he has gone over all that correspondence and made an index to it.

I can show damages. I have an otherwise completed book, a very long one with an enormous amount of visible and provable effort in it.

In fact, if it is possible, I'd like to have a different charge or even suit for each separate tortious act, beginning with the initial denial and then with each step in the litigation. I certainly want to include Williams, and may that deter any other agents willing to execute such deliberately and knowingly ~~xxxxxx~~ mischevous paths!

Hell, Jim, this is no time for discouragement! We have a number of very good options. If we are not thrown out, imagine what we can do on discovery, even if we are by resources limited to interrogatories.

And don't forget that among the many important side issues this began with Mitchell and Kleindienst. Without checking the files we can include Gray, Ruckelshaus, Anderson and the USAtty for the DC and Werdig. Could youpick better?

I've got more than you know on fourth amendment. I even have the identification of a secret military file on me and I've asked the AG for an explanation of interferences with my rights by FBI agents without denial, with referenal by him to Hoover followed by Hoover's silence, and with reminds by me. All those long letters can now have value. I charged perjury and its subornation to Mitchell. In time there was a Ruckelshaus response that was no response. We've got enough to stay in court and go for discovery unless there is total and complete corruption. You know, I think, that a fink gave me an accurate account of some of my phone conversations, even the phone I used.

So, let us not consider defeat. Let us instead consider all the ways of fighting we have and lets use them and start fighting, if it is later than it could be for that!

Best,