H.W.

DEPARTMENT OF STATE

Washington, D.C. 20520

December 10, 1969

Mr. Bernard Fensterwald, Jr.
Fensterwald, Bevan and Ohlhausen
927 Fifteenth Street, N.W.
Washington, D. C. 20005

Dear Mr. Fensterwald:

I have been asked to reply to your letter to the Secretary of State, dated November 26, 1969, requesting certain documents in connection with the extradition of Mr. James Earl Ray.

Affidavits submitted to a foreign court in support of a request for extradition become part of the records of that court. Mr. Ray himself, however, made a similar request some time ago, and the Department was able to have the affidavits returned to the United States by British authorities. Since the affidavits were originated by the Department of Justice, we asked that Department's views on their release to Mr. Ray. The Deputy Attorney General advised us that the affidavits were considered to be investigative files of his Department and exempt from disclosure under subsection (e)(7) of section 552 of Title 5 of the United States Code. In view of this advice, the Department of State returned the affidavits to the originating agency and so informed Mr. Ray.

Since the Department of State no longer has custody of the affidavits you have requested, we are unable to comply with that request. I regret that we cannot be of assistance in this matter.

Sincerely yours,

J. Edward Lyerly
Deputy Legal Adviser

12/19/69

Dear Bud,

The purpose for which I phoned you today was then immediate, now is not. The Kleindienst-Lyerly (how marvelously both are named) didn't get here until today, in a badly chewed envelope on which the stamp was not cancelled.

I would not write either without consulting you and I wanted to write both, to include in some writing I was doing and have completed. However, I think these are so fantastically beyond spectacular, we should really make it irrefutable. When we meet, perhaps we should talk about really nailing both. I had in mind asking K if he really read our letters, his own and the law and if he understood all. Lyerly's evasions may be transparent enough, but State clearly has copies and this he not only does not say but seeks to convey the opposite impression by the trickiest formulations. His letter is much to my liking. I do not think he realized how much he was telling me. K has to be the most stupid bastard to get past kindergarter. But, having survived Goldwater, perhaps he doesn't care about his reputation.

Between them, these legal eagles have confessed a culpable conspiracy that I think we'll be able to prove in court. When you see what I have written on this, you'll understand, if you have not seen it for yourself.

Meanwhile, do not forget we have it from Foreman he saw everything, as already in the book.

If there is anything you want done in England, my pert young Mata Hari is home and so is a more mature professor of hers. They were both here yesterday and will not be returning until after the first of the year, about the 3rd. I'll probably be seeing both again before then.

Heard from Barker yesterday. He now says 15 and 16. But with Binnz here day before, I now have no copies of either half of the book. I do not know when Paul will be xeroxing II. I should have a I back from a university archive soon, with a second copy, my pay for making it available under restrictions of no use in any way.

Have a good holiday.

PS Because these got chewed up, would you please ask your girl to make me as clear a copy of each as possible? I intend using them in the addition to the addition already written, and the wrinkles defy good copying here and will show in any copying if I use them as they are. I'll get them when I'm in town. I'd rather not have them folded anyway.

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