

Mr. Mark Lynch
122 Maryland Ave., NE
Washington, D.C. 20004

9/22/85

Dear Mark,

Thanks for your letter of the 17th. We both feel better knowing that you are not concerned re 78/0322-0420, about which more be low.

I have two purposes in sending you copies of what I'm sending Jim for his in camera session Tuesday. One is the possibility that you may find some of the information useful in cases you may be handling and the other is because Jim yesterday said he thought you'd represented Sam Jaffe. There is a little, heavily-excised, Jaffe info in these FBIHQ (only) Nosenko records.

You suspect that Smith may have some respect for my abilities. Perhaps. But my thinking goes in other directions. First of all, I learned in the copies of the Rules that you sent me that the appeals court may not, under 60(b), consider new evidence. That is specifically for the district court only. So, while I do not pretend that this is the sole basis for the appeals refusal to consider what I filed pro se, it is possible to believe that this was the sole basis and for the sake of argument I'll say that I believe it. And that it did not want to tell me what to do.

Now I am before Smith with it, and it is overwhelmingly proven that the FBI engaged in undenied fraud and false swearing, at least some of which is perjurious. So, what is he going to do? When he has every reason to believe that whatever he does will go up on appeal? I think that this accounts for his delay when he usually supports the government promptly. Unless I do something he can sit on it forever, particularly because they all know the state of my health.

I believe that I once told you that my not infrequent difficult experiences of the past taught me that the weak do not prevail against the strong if they merely defend themselves, that to prevail they must take initiatives. Combining these two beliefs, experience and Smith's possible stalling, I would like to take an initiative, and the only one I can think of is filing what Jim has told me in the past rarely succeeds, a mandamus. So, it doesn't succeed. But I think that on this it will, for me, succeed, because once it fails I can go up on appeal immediately. Only I know nothing about mandamus. So, if it is not too much trouble, can you please send me copies of something like you did with the Rules, something that will let me know the minimum requirements and any prohibitions? Thanks if you can. And if there is no limit on pages, I think I can use what I've already prepared in anticipation of his ruling against me. Following whatever is required for mandamus. Plus arguing that justice delayed is justice denied, that I'm old and unwell and have been stalled now for seven years, and am under threat.

If you know any reporter who may be interested in the fact that Nosenko had been successful in recruiting American and British tourists for the KGB, I'll be able to provide copies. What I do when I read the records is indicate which I want copied for subject filing and I keep the originals as I receive them. My wife will soon be making these copies, and that CIA memo to the FBI is one. Aside from Jaffe, in which I have no reason to believe that there was any recruiting, I recall no reference to any of this becoming public and no reference to any action against anyone recruited.

Thanks and best wishes,

AMERICAN CIVIL LIBERTIES UNION FOUNDATION
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MARK H. LYNCH
SUSAN W. SHAFFER
Staff Counsel

September 17, 1985

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

Dear Harold:

Thanks for your letter of September 13, 1985. I'm not too concerned about Smith's failure to act on my motion to withdraw. My guess is that he took off for a good part of the summer and hasn't caught up on his work yet. I also doubt that he'll refuse my motion or that he'll appoint anyone else to represent you. I suspect that he has some respect for your abilities.

Thanks for your concern. If any difficulties arise, we'll handle them as they come.

Best Regards,



Mark H. Lynch

ML/skh