

7/9/72

Dear Dana,

Your letter of the 29th was delayed a week in reaching me. That perplexes me less than the letter itself. Quite frankly, I find myself wondering about your sincerity. You say that with the others now gone or working you can't handle the whole thing by yourself. In the two months that have passed, you could have done everything by yourself. It is obvious you could have made at least a beginning. There is a trial transcript. There is a decision, a court of appeals proceeding and a decision there and there is a 50 page petition cert now before the Supreme Court, and at the very least all of these have to be read. Here you have much more than is needed for a beginning point.

We went over all of this when I was there. You seemed to be making notes. I suggested then and later that you might want to consult with Dean Lesar and/or Hampe, the lawyer (7N7) who handled the petition cert (be careful with him until you are certain because as of Thursday, when Jim Lesar was here, he had not received either the petition cert or the CA decision from Hampe). You could have reached me much earlier.

John certainly is no Hemmingway. He is hard to make out, in writing and in speech. That stuff seems pretty far out. But if you will write Jim Lesar, who has just heard that part of my questioning of John that is on tape, 2 1/2 hours, he will tell you that despite John's record, what emerges is quite credible and no less fascinating. So, with John's letter, it would seem basic that after familiarizing yourself with the facts you go over them, note all the things he says, leads he provides on fact, and know what there is to be investigated.

I am no lawyer. Perhaps these things are wrong. If your schooling in the law has not progressed to the point where you can make a judgement, you do have people you can consult. I think you will find the ACLU types you mentioned quite turned on by the repressive nature of the CA decision. If you hold the principles you declared, and I do think you do, I really think that in an entire legal lifetime you may not have an opportunity to attempt as much in pursuit of these principles. It is not by accident that I say "attempt", because I think the legal situation is now a bad one, thanks to Stoner, who may have frittered away most of John's rights and possibilities. It may also be worse because of these two months lost.

I hardly know you, Dana, but you impressed me as a decent and deeply concerned young man. Your record with me and your letters are inconsistent with this or the intelligence that came through when we met. Therefore I conclude not that you are lazy or a fink but that you have an emotional hangup in this. For your sake as much as anything else I suggest you think this thing through. You are turned off because of Stoner. Actually, he should turn you on, you should burn because of what he did not just to John, who may or may not have been guilty, but to all those who will suffer, perhaps for close to in perpetuity because of the evil precedent established. And whether or not John is a racist is irrelevant. I don't care and didn't either ask him or try to find out. It is irrelevant. Principle is all that matters to me, and I would assume this is no less the case with a lawyer or a man who wants to be one.

I went into all the stuff in those letters with John and all that relates to James' case stacks up 100%. I have independent confirmation, including of small details, from three others. I have confirmation from newspaper files. There is confirmation in the court record with which he was unfamiliar. So on the face of it, his word can be taken, at least to begin with. Most or all the people named by John are available. But I think it would be unwise to see them with only what is in his letters in your mind. I think you have to know what is in the record first. I assume that the record made by the prosecution in this case may well be corrupt, but you have to know it and decide for yourself and because in one way or another it has to be met.

Another thing that makes me feel you are hung up on this is your silence about the tapes of the Frank show. My reason for wanting them is to have a record of what he said for use in James' defense. If you did not detect the presence of these things in what he said, Stoner's presence on the show did blow your mind. For example, that the coroner confessed basic error to him two years after the autopsy. Other things may not be as clear to you, but they are there. You have not sent either blank or recorded tapes to me after two months. And you had said you'd try and get others to make duplicates. I still don't have the tapes the station

promised. Perhaps they will yet come. If they do, we need more than one anyway. So, let us address your possible hang up, for unless it is done, the law may well turn out to be a futility for you without abandonment of your principles.

Based on what I know, I think the best and easiest way is for you to read the CA decision. I know of it only what Hampe told me, and I can interpret it better with the information from John. If what Hampe told me is true, then this decision is one that should outrage and inspire you. That doing something about it will be difficult now should, if the decision means what I think it does, make you more determined to make an effort. It is incredible to me that the ACLU types, including those there you named to me but whose names I've forgotten, have no interest in the precedent seeming to be established by the admission of this tainted evidence against John, who could not be and never was connected with it, whereas it was thrown out as used against Goldie, with whom a connection was alleged. Can you project this principle into the kinds of cases that interest you without qualms? So, if this is the effect of that decision, perhaps you would want to try to discuss it with the lawyers you mentioned to me.

One of the obvious and now apparently more difficult things is finding "new evidence" within the law. I understand this has to be evidence not available to the defense at the time of the trial. Only investigation can disclose if this is possible, and that is what you people were supposed to do. Of the possibilities that stick in my mind, one of the more obvious is that the FBI conducted an illegal seizure at John's residence and with it stole the evidence that bears on his alibi, or part of it, that his car was incapable of what is attributed to it because of mechanical problems. I remember overheating. This evidence was in the form of receipts. He paid cash, but he got receipts. He can give you the names of the garages he went to and of the man to whom he sold the car. He told me he thinks this man will confirm his story even though he is a policeman. Now, if there was a warrant for the search, there should be a record of it and what was taken pursuant to it, no? If that was withheld from the defense, isn't there a legal point in it? If there was a search without a warrant, as clearly seems to have been the case in Oregon, isn't that also relevant? If you do any work at all, much more should suggest itself to you. I have made arrangements for you to have access to John, but until you do more than say you are confused, I'm not going to do it. And I repeat the belief that if you and your associates hold the principles you profess and are serious about the law, this tough case provides a once-in-a-lifetime opportunity for you, experience the likes of which you will not easily come by and what no teacher can teach you. And a chance to do something about those principles. Conversely, with your principles, failure to do something when you can is something that can later gall you.

You ask me things I have told you, so I am baffled. The only attorney in the case in any way of whom I know is Hampe. To the best of my knowledge he was appointed to the court. I don't know if he handled the appeal, but that knowledge is easy for you to get. All I know I did tell you, that he researched and wrote the petition cert. Stoner loused it up and got out. James wrote me that there was another attorney in it with Stoner. If this is the case, nobody else said so. He may have had Hampe in mind.

I think the reference to "downstate man" is in a carbon of a letter I wrote to a Chicago reporter. This case seems to be intertwined with a number of others where there seems to have been official hanky-panky. What seems to have happened is that everyone in any way connected with James in the past has been put away, quietly, by the FBI. With criminal types, this is easy. But it may also be that they were guilty. With all of them it seems unlikely. With one his case worker told me it was an apparent bum rap and an incredible sentence. With another it seems clear that another was guilty, not he. If you need motive, consider that despite his 99-year sentence, there is no case at all against James and the strenuous efforts to deny him and history an open trial. So, the "downstate man" is a reporter I tried to get interested through a reporter I know, to see if he could or would check out some aspects of these things "downstate" in Illinois.

I will send a copy of this to Jim Lesar. His address is Carrollsburg Square, N-700, 3 and M Sts., SW, Washington, D.C. If what I have now told you, in this letter and the others and in person, is not clear enough, please consult with him. That is Washington, D.C. zip 20024. Phone, 484-6023. Hampe and the courts have the transcript, as does John. A phone call should get you answers to some of the questions you ask me. Ask Hampe or

do what you'll be spending a lifetime doing, consult the court records. They are where you are, not where I am. There can be no waste of time in this for one training for the law. Even if you accomplish nothing, you contribute to your own education and preparation for your career. In addition, you have a rare opportunity to serve the principles you hold. With a reasonable amount of effort your group might also be able to come up with evidence quite relevant in the King case. If you understood what John wrote, the areas ought be pretty obvious. Jim Lesar has these letters. On hearing my questioning of John from the tapes this past Thursday, this became more apparent to him. But until I have some kind of record of performance on your (pl) part, I can't ethically let any of you have these things, can I? You do have enough in the letters. I followed them further, with John and with others. More, you are close enough to all involved points to reach them easily.

So, as I see it, the first thing to be address^{ed} is Dana, not the evidence or what is to be done or can be done. The next thing is to learn what is involved in the case. First you have to put your head together on this. If you do that, the rest will fall into place. You can then proceed in an orderly manner and with much less guidance than you seem to think.

If you know of Stone what you saw and heard, you know too little. He and his people, for example, hate Jews worse than blacks. I am a Jew. Should that make me less interested in his victim, in the other evil he has done, of which this case is a conspicuous example? Is this different for you than for me? And on John or whatever he may or may not be, what would you have felt if you were the lawyer and he were Miranda or Escobido? Or Wainright? Does not the lawyer defend more than a client?

Dana, I am aging, wearying, have more to do than I can possibly get ~~it~~ to. I have no income and heavy debts. I, too, follow principles I hold, at some cost. One cost should not be having to write such letters to a young man with a free summer. I got up early on a Sunday morning to write this, and I will spend the rest of a long day on other work. When my wife called me to breakfast before I began this paragraph, she asked me what I was working on. I told her. She asked me a simple question, "What kind of lawyer will he make?" She meant no insult in asking it. I mean none in repeating it. It is a simple question that I think gets to the crux. I think you should do some deep thinking about this. As I know I suggested earlier, you might well consult with others about it, including Dean Lesar. We badly need the kind of lawyer you can be, more now than ever before. The question is, will you be the kind of lawyer you can, the kind so needed? I do hope ~~so~~ so, including for you. From the record between you and me, the prospects are not encouraging without changes within you, in your thinking and understanding. How you see things and your place in them. Others can help you, but you are the one who has to put it all together.

I do hope you can,

sincerely,

Harold Welsberg

June 29, 1972

Dear Harold,

Obviously, my apologies for being so late with a reply to you.

Many problems have been encountered in getting started on this case since I last spoke with you. To begin with, the students who were willing to help on the case last semester now either have summer jobs and can no longer afford the time that the case demands or have left St. Louis for the summer contrary to their earlier plans. I cannot handle the whole thing myself. Therefore, without further help from other students, I am at a standstill. I am fairly sure that a group can be organized in the early fall when the first semester starts, but before then, things are very doubtful. It may be a good strategy for us to get things on the case together enough so that when the students come back in the fall we can start right in on the investigation.

The next problem is that I cannot make heads or tails from either your cover letter to me or the letters of John to you. John's letters are very interesting, but I seem to be missing the perspective in which they are to be read, for they seem meaningless. Also, who is the attorney on the case, perhaps I should see him at least to find out what is happening with any appeals that may be in progress. Clearly there are facts to be checked out, but when we receive them out of context, it is difficult to figure their relevancy to the case.

The main problem I guess is that I simply cannot tell what you want done with the letters that John has sent. Follow-ups, I assume, but on what?

If I were to give these letters to a group of students and tell them that this is the case that we are going to help on, they would think I was totally absurd.

To put it quite simply, the whole is a quandry for me. In the present state of the letters and directions that you have sent with them, I doubt that I could get any students to work on the investigation.

Who is my "downstate man"? I do not know.

If I am going to ask other students to work on this investigation, what you want done must be made clearer. John's letters make interesting reading, but little more than just that, interesting reading.

Help if you can see the problem. An experienced researcher like yourself, I and law students that I have met are not. Much more guidance is needed if we are to do anything.

In the meantime, I have been looking for a student who has free time during this summer to begin to pick the case up. Hopefully I will find someone.

take care,

