

Pl. return

10/23/72

Hon. David Bazelon, Chief Judge
U.S. Court of Appeals for the
District of Columbia
Washington, D.C. 20001

Re: Cr. 2369-70
No. 3683
Harold Weisberg V. US GSA and
U.S. National Archives

Dear Judge Bazelon,

I have just received a copy of the Order of Judges Wright and McGowan rejecting my motion for leave to proceed on appeal in forma pauperis and for appointment of counsel. It is, as I suppose is customary, entirely unexplained. It leaves me baffled, for if I do not qualify, I find it hard to believe anyone can.

I filed the proper affidavit stating my financial condition. When I got to a listing of my debts that exceeded the assessed value of my (mortgaged) property, I stopped listing them. I am and have been without income because of the unpopular nature of my work, and when last week my wife computed our cash resources, they totalled but \$71.00. I have just had to ask my bank for an extension of time in paying the now-overdue payment of \$1,250 on that part of my indebtedness it holds. I am, I think, closer to being a pauper than anyone receiving public assistance in the District of Columbia.

My interest transcends what I regard as my rights in this litigation, although I do not pretend that I have no interest in my own rights or my desire to be able to pursue them in court. I did act pro se in this matter in the court below because there was no alternative. However, it is utterly impossible for me to complete the prerequisites for appeal. And when this question came up in the court below, Judge Gesell, without qualification of any kind, as the transcript will show, did say that the appeals court would help me.

What is involved is my repeated and denied request for public information, in this case copies of official exhibits of the late Warren Commission. Other and meaningless copies as professionally incompetent as the not inconsiderable science of the FBI permits are published. Where it served official interest to obtain the widest possible distribution of sensational pictures showing nothing but gore, this was done. My request, which is, I believe, quite consistent with all applicable regulations as of that time (they have since been altered), was for pictures that did not show gore but did show only the evidence, namely the very small areas of this official evidence allegedly damaged by a bullet or fragments. In some cases this means an area of cloth no larger than 1/2", obviously not the kind of thing that lends itself to sensational or improper use as these words are normally used.

Prior to the aborted hearing in this matter, the government filed not one single faithful or complete citation of any of the applicable regulations and despite the requirements imposed upon it, actually withheld from the court the one most directly applicable, the one since changed. Its misconduct included perjury, which I charged and which to this day is undenied. And when I was trying to develop the applicability of the regulations in my argument, I was first interrupted by the judge to put on the government's counsel and then, when I had to at once listen to and be prepared to respond to his argument and find the citation asked of me, no easy matter for a non-lawyer, when I was allowed to talk again I was cut off in mid-citation. Abruptly, as may be his right and the prevailing practise, the judge ruled and I was told my remedy in his court was over

If there is any trickery and deception the government did not practise in this case that was possible, I can't think of it. I have specified perjury and the editing and total misrepresentation of citations of law and regulation. Others ranged from the frivolous to the false to the certifying to the court that it had sent me papers it not only had not but didn't until after my third request for them. I think you can understand the problem this made for a layman forced to be his own lawyer when he also felt that if nothing else history required of him the prevention of the making of another false official record in such an event as the assassination of a President and its subsequent official investigation. When I finally received those papers they had been altered by being cropped and to this day I have not received uncropped copies. And the day after the last day of court business before my responses were due I got a letter from the government saying it had misinformed me on one of the basic issues at question. What this necessitated of me I think you can imagine.

The question I am raising with you is one of justice, with regard to the notion in forma pauperis and the overall, for as a consequence of this the government has obtained a ruling it is already using to frustrate the clear intent of the law, 5 U.S.C. 552, called the "Freedom of Information" Act. And in order to get this ruling it assured the judge it would do what it has not but now says it cannot, take such pictures as my work requires for me but not give me copies, as I believe the regulations and the law clearly require.

In short, because I am in fact a man without means, the government has unfairly and I think I can say without fear of successful contradiction, by ~~trickery~~, perjury and other dishonesty obtained a decision it can and has misused as part of a consistent campaign to frustrate the clear intent of the Congress as embodied in this law.

In order to be certain that I am not transgressing against propriety I have restricted myself in this letter to what is a matter of official record. Should your time permit it and should it not be improper, because of what I regard as a considerable national and legal interest involved, I would welcome an opportunity to discuss this further. I hate to be the innocent instrumentality of the corruption or frustration of the law, and the rejection of my motion means exactly this. In one case of which I know the government has already cited this dismissal of my action without a trial as precedent. God knows how many other ~~times~~ this can or will happen. Mr. Robert Werdig was the assistant U. S. Attorney in this matter, should you desire to hear me further and to have him present.

If this is far from the full story, I think you can understand my anxiety to be able to appeal, my feeling that I qualify for help, and my fear that without it there will result the most serious miscarriage of justice for others besides me.

By a polignos for this intrusion into your busy day, my tanks for anything you may properly be able to do, and an expression of thanks to Mr. Paulson and his office for what to be a sincere effort to be helpful, the only place I found this disposition.

Sincerely,

Harold Weisberg