

Route 12, Frederick, Md. 21701

December 30, 1975

Mr. Bernard Fensterwald, Jr.
910 - 16th St. NW - 6th floor
Washington, D. C. 20006

Dear Bud:

There are few asses that more deserve the nine tails than yours. Last night I stayed up to try to explain to you how you were abusive of me in my efforts to save you from the just rewards of your own stupidities, insanities and abdications.

As you knew and I then reminded you, I had nothing to say about your indulgence of your own prejudices and sickness in what, without either cause or justification, you told the Washington Post Weekly.

Today I received from a reporter an advance copy of Quill dated February.

This is quoted from page 79:

"I was his lawyer for a while," says Bernard "Bud" Fensterwald, Jr., a Latter Day Convert who organized the Washington-based Committee to Investigate Assassinations in 1968. "But I had to give him up. He's too irascible."

I don't question your right to be irrational.

But I do very much question your right to lie and to lie deliberately.

You did not stop representing me in FOIA cases for any reason of yours. After my sickening (literally) experiences in C.A. 2301-70, I refused to let you handle any other cases for me. You, in fact, asked that I prepare memos on some, Memo of Transfer being one. I merely did not go through with it. In order not to embarrass you, I did not tell you I would not let you blow another case. Instead, I represented myself until Jim passed the D.C. bars. I believe he will tell you that, from that day until now, he has not had a complaint or any kind of gripe from me about anything he has done and that, in every case where we did not agree, I told him to do what he wanted.

What you did in the court of appeals was so miserable I left in order not to puke in a courtroom. The beginning of your wretched performance was too much. But from that day to this, I have not criticized you for it, not even discussed it with you. However, what you then and there did resulted in the nullifying of the Freedom of Information Act. And as Jim can tell you, I took initiatives with those who could have some influence on its amending. Initially, they were unwelcome. But they were found to be correct and effective. Jim was with me.

In the court below, you failed in many ways. You and I both have a long memo I did on the Williams affidavit. You paid no attention to it. When Werdig asked your permission to switch roles, to put the burden of proof on me instead of where the law puts it, on the Government, you paid no attention to my rights and actually agreed. You, counsel for the Senate Committee from which this law came, did this!

About neither of these gross failures as a lawyer have I ever spoken to you, or criticized you, "irascible" as you find it emotionally necessary and expedient to call me, to divert attention from all your countless abortions. Including the current.

Even in the successful suit, C.A. 718570, it is I who conceived the successful strategem, writing those letters to Rusk and Kleindienst. You did not even think of that. Nor were you even in town when we got the summary judgment, of which I do not believe you have too many framed on your walls. I waited until the last minute, phoned Bill and Jim, they agreed, and the next morning, with you far away and having had no part in it, we did get that rare summary judgment against the Department of Justice. I waited until the Department's working day was over and spoke to Bill and Jim by phone. Bill drafted the papers. We caught the other side by surprise and we got the summary judgment. With you far away. Out of it - completely.

To this day, five years and more later, I have never said a word in public.

I mean how "irascible" can an abused client be?

On the Ray case, which I got for you, with a completely prepared defense, you have done nothing but tuck your tail between your yellow legs and run when you were under attack. Your preparation for the case was to take a vacation, leaving the real work for Jim and me. We did it, under the worst of circumstances. You came back from that vacation and I asked you and Bill to come up for the case I, not you, had worked out. You agreed and then proceeded unilaterally to break your word, which was and remains a considerable jeopardy to Ray's rights.

While you partied and slept, I went sleepless to prepare the questions for five witnesses you should have interviewed and did not. I awakened you the next morning to give you these questions and, while you took it easy, went to see what I could learn for you from your client.

You had neither the lawyer's interest nor the sense of obligation to learn who the State's rebuttal witnesses would be in this hearing. I prepared you for the first, all of them being secret, thanks to you and your refusal to demand a list despite my prodding (and when, too late, you did, that also was on my insistence). My investigation while you were luxuriating rather than preparing a case informed me and led to what you could have used better had you done your work. With the allegations centering on publishing, incredibly you had no expert witness ready. And in this extremity I had to think for you, to figure out while it was all going on where I could take and prepare you with only an hour and then what to stuff into your entirely unprepared mind. I even had to have with me for this the documents you would use and, while you were making notes on what I told you that you had not learned for yourself, I maked up for you the portions of these documents for you to read. The only secure place was Jimmy's cell. I passed you a note to follow me. In your extremity, you did. It is I, not you, who told Jimmy to stay away, that there was a crisis.

When, through all of this and more, you have persisted in this personal abuse and have even gypped me out of petty sums that are inconsequential to you, when I have done your work, including the legal thinking, copies of which I am prepared to produce beginning with the first hearing before Judge Williams (you did not do what I asked and he ordered you to), I have maintained a public silence and you call me "irascible," you have finally crossed the line of what I am willing to tolerate.

What you have done, indulging your sick ego and, while knowing that, for all you have spent, you have no authentic accomplishment of your own, is to make yourself part of a campaign to destroy the effectiveness of the only "new" evidence that has been produced in years. This, not the personal feeling I have sublimated, is what causes this letter.

Thus, my tolerance of your endless messing up of solid preparation, your cowardly copping out, makes me "irascible?"

This is too much. There has to come an end and this is it.

I am not threatening. Despite all the garbage in your mind and pouring from your mouth, I have serious objectives and hope for accomplishment when it is the national need. So I am not saying that I will or will not do anything. But I am saying that, if I do not have a written apology from you for this gross and deliberate lie when it is hurtful to me personally and to what you in your playboy way profess to want, I will not commit myself to any restraint and specifically I will not feel obligated to remain silent if and when I am questioned after this magazine appears. I mean this. I have had it, not only personally, which means less, but in terms of the harm you and your associates, with the exceptions of Bill and Jim, have done to what I seek and you commercialize.

Meanwhile, hic thee to a shrink. You need a good one.

Sincerely,

Harold Weisberg