

Mr. Bernard Fensterwald, Jr.
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12/26/84

Dear Bud,

Some time ago, as of possible interest in the Paisley case, I sent you some info on Nugen Hand. If you missed it, there is brief mention in today's Anderson column in the Post. Anderson sends what fills a newspaper column and the Post cuts that drastically. So, I'll watch the local paper and if more appears in it I'll enclose it. If not, maybe Anderson would give you a full copy.

I don't know if Jim has discussed the most recent legislation by the Reaganut appeals court with you and, in fact, I don't know if he sees it as I do because we have not discussed it (there is a conflict of interest) but I see it as de facto kaput FOIA and a great hazard to all lawyers.

What I believe must be filed is dangerous for most lawyers and their clients, present and future, so I wrote Mark Lynch and released him in the event his agreement to represent me on appeal could be construed as including an en banc petition. I've not heard from him, either.

What is so dangerous for lawyers, procured on a combination of overt and deliberate fabrication and mandacity, ought be fairly safe for lawyers to address* and I am confident they'll pay for it if they do not. Actually, the court made up its own finding of fact, Smith having not done this. It is both incredible and terrible. (* From the existing record.)

I'm not in a position to do anything about that other than the little I'll be able to include in 15 pages. I believe that if lawyers do not get together and make an effort to undo what has been done to them they'll never forget it.

I've gotten almost everything I plan to use together and have part of a draft done. I need something from the basement files and am not in a position to fetch it now so this brief effort to call it to your attention. Sometimes my necessary physical exercise is a bit much on occasion when it has not been on other occasions so I don't dare use the stairs the rest of the day. Tomorrow after I return from my regular surgical checkup I hope to be able to do that and then get on the petition.

I know of the terror of the court as constituted, and from my decisions alone it is more than justified. But I also never ~~forget~~ forget what I read in my youth and haven't been able to persuade Jim to believe, the wisdom of Foch (?) at the Marne(?) when he said that his left had been turned, his center had crumbled and his right flank was in retreat: Good! I attack! He did. And he won.

Hope you returned full of Oriental wisdom, fit as a gamecock, had a good Xmas, and will have a good year.

Best,

