1/9/85

Ms. Katherine A. Mazzaferri
Executive Director
District of Columbia Bar
1426 H St., NW
Washington, D.C. 20005-2184

Dear Ms. Mazzaferri,

The forecast of my letter of 5/3/84 to you turns out to be accurate, only perhaps a little understated. For your information and the completeness of your file I enclose a copy of the en banc petition I have filed pro se. Mark Lynch of the ACLU did file the briefs for me and did a good job. He had agreed to do no more and I felt that I could not ask him to do what I believe had to be done, so to the degree it was possible for me as a layman and with my other limitations I did it pro se. And if nothing else leave a record for history, which may even find it. But in the climate of the courts and the practise of law in the District, as I can feel it all the way up here, I could not see any way in which a member of the bar could hope to have a practise and if he did, clients who would not suffer, if in any form he attempted what I did.

Basic in this decision and all the other abuses heaped upon me by activist judges is knowing, deliberate, prejudicial and unrecanted lying by government lawyers who, I presume, are members of the District bar. Mr. Lynch noted two of the more significant official lies, by the lawyers only, and they neither corrected their lies nor apologized for them. In my youth I would never have believed that any court, with this before it would be silent. This panel went farthur, it adopted them. (I do not know if the FBI agents, who never stopped lying, are lawyers.)

Based on painful and very costly prior experience and not without some indication of Judge John Lewis Smith's unhidden prejudices, I decided that, if only for history, in this litigation I would address each official infidelity to fact and do it under oath so that if I lie and it was, as clearly it was, material, I would be subject to perjury charges. As a result, at least for those without training in the law or experience with its shibboleths, there is what to a layman can well be subornation of perjury in the case record.

If the bar had had any intention of policing itself such abuses would, if not ended, have received some public attention that might have discouraged them. Its failure to police itself (and I never heard from Mr. Glickman, to whom you referred an earlier letter), in my view, makes it party to these abuses. And perhaps I am a crusty old man who lives in a different era (at least in his concepts of Americanism and justice), but I believe that this is a special and dangerous form of subversion.

When I first wrote the bar my concern was the great danger I could see to lawyers, whether they be the dedicated who handle cases for those who cannot pay them or the most prestigeous counsel for the wealthiest corporations. The U.S. Department of Justice I've come to know through extraordinarily lengthy litigation is now in a position to do precisely what I forecast through this decision, procured as it was through mendacity. The months of my Social Security checks, my only regular income, may turn out to be minor compared with the costs of others. I hope not but I fear so. By others I mean both big-firm counsel and their wealthy clients, with what this decision makes possible and invites.

The Department and its rubber-stamp judge, who didn't even bother to make a finding of fact (and thus the appeals panel invented its own), created a conflict of interest between my counsel and me and thus we were represented by other counsel. The conflict is now magnified, so I've not consulted him and feel I ought not. (I did send him and Mr. Lynch copies of what I filed, only what I enclose, and they have no part in it.) So I have and I can get no counsel. I am not able to drive to Washington or even use public transportation and I cannot afford toll calls when my only regular income has just gone up to a bit more than $350 a month. I don't know what rights I have, if any - and would you believe you have any if you were punished judicially without a hearing, without any finding of fact, without the government even making a pretense of offering evidence - but I would like to believe that what I've reported and include is a bit too much for the bar.

Pastor Martin Niemueller

Most of your members were not alive or if they were old enough to recall what, after he was released from Hitler's concentration camps he said, that when all sorts of evil befell so many and so many different groups and classes, he was silent. Until when his turn came there was nobody left to be silent. But maybe some of you studied Santayana and his wisdom, that those who forget the past are doomed to relive it. Or Robert Kennedy's apt corruption of Dante, that a special corner of hell is reserved for those who in time of moral crisis are silent. Those who are younger and healthier than I may do some reliving.

If we are to be a government of laws then, I believe, the bar must police itself and not be silent.

I would like, and I ask that, the bar look into the deliberate lying by government lawyers of which I complain. It would take some time, given the size of the case record alone, and that costs money, which most are more interested in accumulating than spending unselfishly. The two things I cite in the enclosed, far from all, indicate the deliberateness and the consequences of these knowing lies.

Some members of the bar might do well to consider the possible plight of their own clients before openly activist judges. And what their situations would be under the situation created for Lesar, where whatever he did or did not do he was subject to sanctions.

Sincerely,

Harold Weisberg