

2/9/76

Dear John,

There is no reduction in my time capability limitations so I'll have to respond only briefly to your 2/5.

I would like copies of any notes you made during the Ray oral arguments.

The legal points are not for laymen. The issue on Foreman was not and could not be competence. It was effectiveness, an entirely different question. Conflict of interest is another. It was not an obtuse point but a central one. Ray acted on Foreman's advice, to which he had always objected. There came a time when he realized his only other choice was worse, having Foreman throw the case in court. Foreman, in fact, engaged in an effective, subtle campaign to persuade him of this. The question thus was why did Ray take Foreman's advice? The case can turn on this.

There is a serious factual error in your news release. Ray never told Livingston any such story. That rather came from a Canadian con man going by the name of Cliff. The story is palpably false and it is, without question, that if there had been any such thing Ray would not have been allowed to know about it.

I have in the past addressed the complexity of those matters and how they cannot be grasped by theorizing or from all of that which at best is only peripheral. This is an illustration of what even memory can do to the well-intended.

On the Schoenmans and what you quote him as saying: what is one to do when those seeking cheap fame, like him, louse everything up and do what is and in his case in particular was so hurtful? Who is responsible for what you call bickering?

These characters have to be exposed or we'll be ruined forever. They are nuts, self-promoters and perhaps worse.

If he had been a government agent he could not better served its needs and ends.

These people destroy all credibility and can't be allowed to be accepted as representative of all or as reflecting the existing evidence. I'm sorry you can't see this but I've no time for further explanations.

Best,

February 5, 1976
447 Grafton Av
Dayton, Ohio 45406

Harold Weisberg
Route 12 Old Receiver Road
Frederick, Maryland 21701

Dear Harold:

Thanks for your ~~xxxx~~ rather extensive letter about the U of Md. mix-up. A word that you had not said it would have been sufficient. I am not as disenchanted with Skolnick as you seem to be, but if you have the headlines and articles you mention about the Vallee/Groth affair, as well as Sherman's correspondence in the affair, I'd love to see a copy. I hardly know Schoenman, but still feel his comment about our public criticism and bickering to be appropriate at this point. Solid, hard criticism within the community could do more to correct this misinformation problem than a public approach. The latter, I think from my experience at NYU, only serves to confuse people and turn them off the subject. The former could be made internally known, and if a researcher failed to respond, then we might begin to identify clearly some of the provocateurs in our midst.

The box of 500 ads for Post Mortem has arrived and will be in the mail soon. Are you still planning to send me a few hundred copies of the Whitewash IV ad? I could use them, and so could Ford's reputation.

I am also enclosing \$11 in payment for yet another copy of Post-Mortem along with an order sheet.

In addition, please send me any further information on your upcoming books.

I am enclosing the text of a recent report I did after attending the Cincinnati 6th Circuit appeal of Ray's case. I felt Lesar could have done a better job of arguing it, that he confused the judges with a rather obtuse point about Ray trusting Foreman, just when they seemed ready to credit the idea that Foreman gave him bad advice. The forty minutes spent on that question precluded any verbal presentation of Lesar's second point--ineffective aid of counsel. I would be glad to send you a typed (as well as I type) copy of my handwritten notes taken from the hearing on each argument, question and reply--it isn't verbatim but it does have many quotes and retains the sense of the presentation and response. I can include further reasons when for thinking poorly of Lesar's presentation if you'd like.

Thanks

John Judge

February 3, 1976

WINTER SOLDIER SHOW WYSO-FM, YELLOW SPRINGS, OHIO 45387

RAY APPEALS TO 6th CIRCUIT

James Lesar, assistant counsel for the defense of James Earl Ray, the convicted assassin of civil rights leader Martin Luther King, presented arguments today in Cincinnati, Ohio's Sixth (6th) Circuit Court of Appeals. Appealing a Memphis, Tennessee State Appeals Court ruling last year, denying a writ of habeas corpus in the case, Lesar asked the three-judge panel in Ray's behalf to consider evidence that Ray's guilty plea was not voluntary and that he failed to get effective aid of counsel from his trial attorney, Percy Foreman. Also present in the courtroom were Bernard Fensterwald, Ray's chief counsel in the appeal, and Mr. Livingston, the Tennessee-based attorney Ray has chosen to represent him if the case is remanded to the state court in Shelby County, Tennessee.

Lesar argued that Ray may have been improperly influenced to plead guilty because of unusual contractual agreements between his attorney and author William Bradford Huie. Payment for the defense of the case rested on Huie's promise of proceeds from publishing and film endeavors that would come from the "inside story" he planned to get from Ray. Bound to a contract that stipulated payment only if Ray was successfully extradited from London, Foreman may have had financial interests in obtaining a guilty plea, Lesar claimed. Ray's defense was being paid for, said Lesar, by William Bradford Huie, a man who presumed his guilt from the beginning. And a March 9, 1969 letter in the court records stipulated that payment of Foreman is contingent on Ray's silence in court, a fact that Lesar contends raises serious questions of conflict of interest for lawyer Percy Foreman in the earlier conviction of Ray.

Lesar cites as further proof that Ray may have been pressured and misled into a guilty plea the extremely unusual conditions of his imprisonment. Ray's jailers stated that no other prisoner in Shelby County had ever received such unusual security. Kept in a room with two guards present 24 hours a day, Ray's every action was logged hourly, into a record book. Ray's cell windows, claimed Lesar, were blocked by steel plates and he was under constant artificial light, as well as television and microphone surveillance. In addition, an irregular procedure of mail interception by prison authorities went beyond censorship in the Ray case, said Lesar. Every letter Ray received or sent, as well as all handwritten notes and discarded papers, were confiscated, copied and sent to the prosecuting attorney. Thus, Lesar noted, even Ray's registered letter to presiding Judge Battle, attempting to change his plea, was copied and read by the prosecutor before Judge Battle saw it.

Lesar argued that Percy Foreman negotiated a deal directly with the trial judge on Ray's plea, and set about securing it with spurious reasons. Foreman told Ray, among other things, that the prosecution was prepared to bribe their star witness Charlie Stevens if Ray pleaded not guilty, that a guilty plea

RAY APPEALS TO 6th CIRCUIT

would secure a pardon in three years, but a trial would lead to the electric chair. Finally, said Lesar, Foreman even tried to get Ray's family to convince him to plead guilty.

Ray, claimed Lesar, began to distrust Foreman's intentions, but felt he had no alternative. Judge Battle had already told Ray in court that he would allow no further changes in attorneys, meaning Ray would be stuck with the Public Defender's office to represent him if he fired Foreman. Ray even attempted to get Foreman to withdraw from the case, but he refused. Lesar argued that Ray feared Foreman would fake the case, and wrote to Senator Eastland complaining that he had "paid my lawyers my money, but they didn't interview even 20% of the witnesses".

One of the three-judge panel told Lesar, "I admit that Foreman went pretty far in almost demanding that Ray plead guilty", but asked why Ray went along with his advice. Lesar contended that Foreman could not give Ray good advice since he had not even investigated the case. He failed to secure the files, ~~and~~ said Lesar, as well as the extradition documents or scientific ballistics tests. In his first seventy days on the case, Lesar pointed out, Foreman only spoke to Ray for one hour and fifty-three minutes, and had already reached the decision to plead guilty before seeing the evidence in the case. Ray, in desperation, tried to secure \$500 with his brother, Jerry, in order to carry on his appeals after his forced plea, said Lesar.

Unable to get Foreman to appear at the State Appeals Court hearing before Judge McRae, Lesar told the Circuit Court he had repeatedly tried to get the court to extend subpoena or personal invitations to Foreman and Huie. Judge McRae, relying on strict civil courts rulings in this habeas case, found he had no power to subpoena witnesses over 100 miles from the court. All the major witnesses were outside that limit, claimed Lesar. Finally, Ray's attorneys made a motion to bar written depositions from Foreman and Huie, since they were denied the right to cross-examine them. The panel of judges questioned the government attorney extensively as to why Foreman had failed to appear at the earlier hearing, and took the case under advisement for a later decision.

The question of conspiracy in the Ray case was not raised directly in the appeal, although one of the Circuit Court judges asked Lesar if Ray claimed to be part of one. Lesar later told this reporter that Ray contends he was a guiltless party in a conspiracy he never knew meant to kill Martin Luther King and frame him. Ray is somewhat recovered, Lesar told reporters, from an excruciating six years in solitary and is hopeful about the outcome of the case. In an interview with Ray's Tennessee attorney, Mr. Livingston, he claimed that he had contacted an individual tied to organized crime that would name the "four prominent individuals" who put out a \$250,000 contract on King, in exchange for immunity from prosecution.

This is John Judge for WYSO "People's News" in Cincinnati, Ohio.