

2/4/77

Dear Jim,

When I got home today I listened to the tape to me from Jerry. He says he made it 2/2. On the first half he was drunk.

I am troubled by what is explicit and what I think has to be implicit. What I do not know is whether Jerry is being truthful, lying, exaggerating or confabulating. However, I believe the safest course is to take what he says at face value.

He says Jimmy sees his salvation in Sprague - not the committee - and that it is through getting back at them back writers.

In some perverse anti-establishmentarian way he sees the criticisms of Sprague as credentials.

Of course all of this is irrational. But then so is Jimmy writing Lewis and sending a carbon, of Ahh people, to O'Leary.

If Jerry had not been so very obviously drunk during the first half I might have some question. He is the same in content drunk or not (or less) drunk.

So I strongly urge you to take no chances and get on the record. My this I mean with vigor and pointedness to Gonzalez, not Sprague, with a carbon to O'Neill. And I do mean without a carbon to Sprague.

Jimmy is enough of a jailhouse lawyer to know that this committee cannot compel the testimony of writers about either their writings or their sources. So what could have persuaded him to the contrary? Of the possibilities the most obvious is what he could have been told by Lane.

What makes this safe for you personally is the public statements by members of the committee, particularly Burke, who has been quoted as saying that Ray has asked to be heard by the committee. In and of itself this is a breach of the promise Sprague made to you in my presence in November if not in writing, as I'm not checking to see. It is also grossly improper as long as you are Jimmy's lawyer. By order of the sixth circuit you are. This also puts some pressure on them, and I suggest you carbon them. So I suggest:

Dear Mr. Gonzalez,

For some years I have been James Earl Ray's counsel. In recent months and longer than the existence of your committee I alone have been ordered by the sixth circuit court of appeals to be his only and unpaid lawyer, even after I asked to be relieved of this responsibility.

I am without doubt that Mr. Ray's legal remedies have not been exhausted. I therefore have the responsibility to protect his legal rights and to pursue his interests as I see them.

From before the creation of your committee and to this moment you have not been in touch with me about him or his legal rights. After my vigorous protest over the unliking clear and unhidden of the committee's staff to trample on his rights I did have some conversations with members of the committee's staff, including Mr. Richard Sprague. Mr. Sprague assured me that on questions relating to Mr. Ray's rights I would be consulted.

Now I find that members of your committee, including you, have concluded prior to any investigation that Mr. Ray is the assassin of Dr. King and that you intend calling him as a witness, the latter based on what so far as I know is a deliberate misconstruction of a letter he has written to another.

Moreover, this committee has leaked falsehood to the press, falsehood that also has my client as Dr. King's assassin. Your report and its appeal for funding of your committee and its continuation are based on these extremely productional preconception. You, personally, have been all over the media, including TV, saying he had help in his escape after the assassination. This is an explicit expression of preconception and prejudgment on your part.

While as a lawyer I am shocked at this open declaration of prejudgment by what is supposed to be an impartial investigation by the Congress, this is a matter for the Congress. In this, however, I am deeply disturbed that a lawyer who without denial claims your chief counsel owes his job to him has violated legal ethics by sneaking in to seeing my client behind my back. I would hope that you and the Congress would be as deeply disturbed over his commercialization of this, reported in the press as a six-figure deal and a motion picture which depicts him as a special kind of hero.

This same lawyer has boasted publicly of the indebtedness to him of the chairman of your King assassination subcommittee, who has leaned himself to the promotion of a TV spectacular. Mr. Fauntroy's public statements are in accord with your own and your committee's report in declaring that my client is the assassin of Dr. King.

Under these conditions as Mr. Ray's lawyer I have no choice. I must forbid any interviews of my client by or on behalf of your committee and any testimony by him.

You can, of course, ask the sixth circuit court of appeals to relieve me of this obligation and then perhaps proceed by some other means of to violate Mr. Ray's rights even further.

However, as you should know, as long as I am Mr. Ray's lawyer I now have no alternative.

You, your fellow Members and your staff have prejudged and have gone public with this prejudgment.

I must tell you in all candor that after thousands of hours of work I have no reason to believe that Mr. Ray shot Dr. King and abundant reason to believe he did not.

In prior discussions with your staff I did not prohibit Mr. Ray's testimony before your committee. I did insist on the preservation of his rights. The last of these discussions was in November, almost three months ago. Since then you have all prejudged my client and have become partisans in a matter that is still before the courts and in which all legal remedies have not been exhausted.

In my view you have in fact used this as bait to the Congress and in particular to the Members of the black caucus.

Mr. Ray has never been unwilling to testify in his own defense. I did present him as a witness in an evidentiary hearing in federal district court in Memphis in 1974. He was then subject to cross-examination and he then testified that he did not kill Dr. King. You did not have to consult the newspapers, which reported this extensively. The actual transcript was provided to your committee, with my assent, by another active in Mr. Ray's defense. My reading of that transcript, however, does not ~~prejudice~~ disclose how any Member of the committee could have known the source of either this or what to that point was all the real information your committee had. I think that the members may well have been led to believe that Mr. Ray's prosecution was the source. This would be entirely false. Failure to disclose to the Members the actual source is also, in my view, quite prejudicial to Mr. Ray.

If as I have no reason to believe this was confusion on the part of the staff lawyer who addressed the committee there ~~is~~ is no reason to believe that your chief counsel was under the same confusion.

Other offers of assistance to you that did not transgress on Mr. Ray's rights were made to your committee last October. To date these have not been accepted. Separately and in combination these lead me as a lawyer and as Mr. Ray's lawyer to believe that fact and truth was not the quest of your staff, whether or not the Members were informed. And if they were not informed then there are very real questions about your staff, where it comes from and where it wants to go.

I would appreciate your distributing copies of this letter to your Members. Sincerely

Burke, Fauntroy and he in particular in their public statements have provided a basis in addition to their leaks and their report for you to lock horns with them. On these issues and now you win, automatically. As I see the present situation you have little choice and you also serve your own interest in keeping yourself above criticism.

Moreover, if the committee is not continued then it will be less of a disaster if this

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is all or part of the reason.

There will be other committees, other opportunities.

You might want to go farther from their leaks, report and his personal claims to being on the "threshold" and relating to "help" to Jimmy, all in the context of Jimmy as assassin. I'd ask him about their Portuguese co-conspirator in the sense of the charge of murder one, which requires only that Jimmy have known. I'd refer to the semantical phrasing of the leak and the report and ask straight out if their alleged source was one of Ray's jailers, or anyone connected with the jail. (Avery is not in the Nashville phonebook and the committee's available records do not disclose a trip to Knoxville, where one of Avery's names is listed. Of course this could have been by phone, say from Memphis. Say even by "spurred Omer.")

I do believe this is the moment, these enough of their errors. Do not miss the moment, the opportunity.

And do not fail to let O'Neill and the Members know of Lane's commercialization of them.

Lardner also asked WDC for a tape. When he called me today about Cutler's charge that he assassinated "erric he had not received the tape or any word about it.

but,