

Dear Jim,

8/19/72 5 a.m.

I note the early hour because in order to get this into the mail this morning to you so you could have it Monday morning there was no choice but to get up this early. I told you yesterday afternoon that I'd go over what you had just sent and let you know by Monday because I know you must get the affidavit out. And what I have to address includes what in prudence I think best not to do by phone. Moreover, I want a record of some of it.

I begin angry enough because of Bud's patronizing advice of several weeks ago, that I really should work by myself. This after I've done most of his work for him on the Ray case, begin ing with delivering a client at my cost, as you've heard me complaint often enough, and doing everything I had done without pay and with the feeling that I'm a mendicant. In addition to this, he refers the association of those he knows have regularly stolen from me and he knows the pending literary larceny, So, that advice was rather poorly timed. More so with the time I've had to spend on the petition that he, really should have. Part of what I had to get up early for he has withheld from me for more than a year and a half to my knowelde and still don't have. What better reason is there for my not having it than he finally promised it two weeks ago and it can't mean an hour's work for Bob? I specified that you not be asked to do it because you can't do what he has dumped on you to begin with. If the CIA is to do anything but steal and fuckup, the least its director of research might be expected to do is find time for a little basic work when, after more than two years, if he has yet caught up with the past it is secret from me! (Aside: yesterday I phoned you there first. He finally has come to understand and says so without prompting that Cyril really ought not be backgrounded, that he should be going in to observe, etc. Shit! What I tried to get him and you together to understand a year ago, and look at what this combination of lust, ambition, obduracy and plain stupidity have done to what remains of the critical community!)

Well, you know I'm getting more and more angry about plain incompetence and about Bud's logging to become a GREAT MAN by freezing me out and never, from the begining, keeping our agreement on the Ray case. It doesn't keep me from doing what must be done, but I'm really riled about it. You, at least, have an awareness of some areas of this, and I'm sure glad you told me a couple of weeks ago what I didn't know, that there is no law school that teaches even minimal investigations. So, you'll understand I'm not inloading on your personally. But at some point Bud has got to stop enjoying his health at my expense, stop making money (as I hope he does) from other parts of his law practise, and meet his obligation to his client, as he has not. He can't by giving me provocation to just say fuckit, do it yourself, or by overloading you. And if he isn't competent to do the job, he shouldn't have taken it or have done the ordinary, paid for it to be done. I have had to give up too much that means too much to me to be able to do what I've done on this to be cable to accept such an intolerable situation. At some point it is going to have to stop. Yet I am now persuaded that Bud simply isn't capable of doing this without help, that he just doesn't have what it takes. But he has often enough bragged about being a Senate investigator. Christ, he couldn't investigate the genitalia of the most pushy whore. What follows is but a small example, and it also addresses, if a non-lawyer may have an opinion on legal matter, his minimal understanding of the case and defense. You, meanwhile oughto bear in mind that I have had no training as a legal investigator or any kind, for that matter, and that aside from special techniques you may require in unusual cases you will probably never need, all it requires is a little experience and a lot of common sense. But it has to begin with understanding.

I still don't have the public-defender's alleged investigation. But finally you sent me a list of what it includes, a list that indicates a total of but 29 items of which only 1 is as long as two pages and three not even witness interviews. Christ, man, isn't that in itself enough to include in the petition in a choice of appropriate places? That is an "investigation" when you can quote the judge on drawing on all the facilities of the State to get a thorough job done, even if we know the judge'd didn't mean it any more than Foreman or Stanton? I think you have to include a very short but quite pointed graph in the petition itself and an analysis as another appendix. That I will NOT write but I'll tell you what it should include, and maybe at this late date, instead of luxuriating because he can afford to one of these weekends Bud can stop bigshotting long enough to do his own work.

All you have to do is read this list to understand. The Stage announced that it was going to call close to 400 witnesses, and in all the months beginning in December the public defender's office interviewed only 25. And of these 25 what? Man, with Stanton even

representing him, is that is the word, in another matter (fully dealt with in RAME -UP, so none of you should have missed it) and with Charlie Stephens the alleged "star witness" and the only one even claimed to place Ray at the scene of the crime, there is not interview with, no statement from him or his wife? Do you need more to allege what I think you must as it relates to Foreman, Stanton and the entire petition, that the professional incompetence of the pretense of the investigation not even commenced until after the case was to be tried is so barren and bankrupt that Foreman, as experienced lawyer, had to know if was worse than no investigation. I think it should include allegations that for a public defender to be so grossly negligent and incompetent makes him, in effect, and adjunct of the prosecution. I think at a point or two we should have some fat in the fire, and this is one of those points for a number of reasons, including the probability that it is one area where in Memphis itself a breakthrough of sorts is possible. In the appendix on this you might indulge yourself a bit with Foreman's glowing tribute and have a separate affidavit from John and Jerry, which by the other content will be amply supported, on what Foreman said of Stanton. It will be credited with what you missed, it will credit them in other areas, and it points this whole thing up as few things can.

Now I haven't taken time for a full analysis of this list. I will take more time when you give me a set of full reports, and I'll read them with you and you can make notes as I taken them apart, a separate thing that doesn't belong in the petition itself but is needed for such an also-needed appendix. Off the top of my head, on a single reading, these are the few missing witnesses who came to mind immediately, and from what was publicly known only, not from any investigations of my own. From the paper, understand? You have Charlie and Gracie, and how you missed them I don't know. Man! And Stanton PERSONALLY kept him in jail! (Also in F-U)!

Earl Caldwell, Louw, Laue, Jackson, Young, Hyles, Hendricks (is that the name of the sheriff?) William Anschutz, Jerry Francisco Thomas, the hospital spokesman, the cops and deputies at the firehouse, esp. Redlick and Richmond of the red squad, and the fireman who had been transferred away in the last minute. There is much more than you can and should add to this list. It should be overwhelming. Do your own thinking now. My purpose is to give you enough to justify inclusion in the petition itself. You can then do the work of substantiating it in the appendix. But at this point and with the evidence Bud has been keeping from me for so long as an integral part, you simply must ruin Stanton, who has earned it over and over. and remember, this is the man with whom Ray was afraid to be left dangling if he fired Foreman in the last minute, as even Foreman feared. I think this one of the more serious and significant-and frankly, least excusable-omissions.

John's affidavit draft. 2, last line, ~~xxxx~~ first word, "contracts". Too general. Identify them even if he didn't. These are the contracts with Hanes and Huie that James has, which was not all of them, not the two executed in England. They are those in the appendix of F-U, which I got from Jerry.

5. Need clarifying in last two lines. Really last two sentences, for not clear enough. Something like, "He said he would turn the volume up high when he'd put King's voice on making speeches while the movies showed cities burning" in the first sentence and in the last, "Foreman said that after a couple of weeks of seeing and hearing this, the jury itself would want to kill King."

9. Change "was trying to sell Jimmy down the river" to "was selling Jimmy down the river".

12. Last line, p. 2, conspiracy hangs alone and unclearly, "He said if Jimmy wanted to plead innocent it would seem like he wouldn't want to bring in conspiracy." Aside from being illogical and untrue, which should be made inherent and not explicit, to those not familiar with the case, which includes judges, this as it stands is not clear enough

13. No complaint about the sentence, but you should include how John knows it, as by Jimmy discussing it with him.

14. Needs rewording. Defeats itself on hasty reading. It is not that "Foreman said he would bring in a man who lost the election for governor by a few votes", etc. It is that "He said he would bring in the lawyer who was running for governor, give him a half-million dollars worth of publicity which would elect him. Then, after the election, the governor elected by Jimmy's case would give Jimmy a pardon." I don't think you have to stick literally to the words I got from John as long as you have their meaning without equivocation. I think you should include Hoeker's name "(the late John Hoeker)" in parens if you think necessary and as I think you should consider, Foreman's and Huie's own lawyer. I wouldn't

do more than mention this. The judges will get all the juicy ramifications, including the clear inferences of new conflicts. If John said it or knew it, we should include that Jimmy agreed. If he did not, then Jimmy's affidavit should include the statement that he has read John's, did have such a discussion with him, and that this lawyer is the late John J. Hooker or whatever his name is, known to me to have been counsel for Feraman and Huie. And the statement that he agreed first to Hooker and later to the black lawyer, Hooks.

15. Last sentence, insert what is underscored, "He said that if Jimmy went to trial and got the death penalty...."

16. Suggest inserting "About" as first word. I'm not as sure as John it that this was the precise time and Jimmy may place a different time, so let's be general enough not to permit nitpicking by the other side.

16 again. At the end I think you need something about not being stuck with Stanton.

19. I think this needs amplification with the detail I have on tape, like who called on what cases, where they were from, etc. This is the kind of detail that is first of all persuasive and second of all really is needed to make the point fully. More also on what you have about not being tied up for so long on appeals, etc. It is too stark and unsupported for so important a point. It doesn't have to be real long, but it does require a bit more, at least along the lines indicated.

You can't use this form for an affidavit, I fear, as I earlier indicated. Maybe you can. Either call the Bureau of Prisons or write the case worker, who is the equivalent of a notary for such purposes but is not a notary. By the way, to avoid any later nasty cracks, I'd begin by identifying John as a prisoner in Leavenworth. It can be a sentence added to the end of 1, even a very short sentence.

I read again Battle's order on Exhibit 1 and what you seem to have missed, his certification of its contents as of three days after the minitrial, which has him confirming that it included the windowsill then. (I'd make two points about the windowsill—that it is not properly described as a windowsill, being only the wrong half of it, the part on which the alleged rifle would have been allegedly rested only if the alleged assassin were shooting the man in the moon. I'd use a bit of ridicule here. Then, that it is missing, and the combination defrauds justice, denies the prisoner his rights, or however you want to put it. The bathroom picture I have let you have shows this clearly enough and I have one I took myself if you want it. We can enlarge the commercial print with ease.

Now, this order does not say what the prosecution now says it does. More, you have a combination here you should exploit. I'll go into the details of the items later when there is ~~point~~ or you get to it, if you do. First of all, Battle didn't enter this order until the 13th, when he knew Jimmy would appeal. Therefore, the purpose of preserving it for future proceedings, exactly the purpose for which it is now denied defense counsel. Am I right in saying that some part of it are denied in any meaningful way, visual examination of some not being enough? Parenthetically, I think those of which duplicates exist, like the pictures, you should ask for. And the documents that can be copies, etc.

Second, Judge Battle did not order that this be denied everyone, as it was to me, when I just didn't make any fuss, instead investigated when I was there. The order is restricted to "to retain and safely keep said exhibits". That does not mean hide or deny the defense any of the rights it can legitimately claim it needs, and if they make a fuss, I'd go to court separately now that you are (I sure hope!) in federal court. Most of this is crap. You could have some fun taking pictures of Jimmy trying to put on the shorts that are too small, and make a point thereby. And there are other serious things, like the reports that should be attached and are not listed as being attached, dealing with scientific tests, spectro, fingerprint, etc. I have made a hasty, partial list of these things on the back. I presume the written notes are Bud's. He never told me that the Provincial motel "registration" "seem phoney". With Ray really having stayed there, why should they be? And there should be more than the registration. Where is the bill?

I won't have time to read and correct this, but I will now be able to get it in the mailbox for the carrier to pick up when he comes. I'll leave it when I go for a walk, as I will soon.

Jim, I hope you are beginning to understand why I feel as I think I've made clear too many times. This is really your first case as a lawyer, so there is a limit to the criticism that can fairly be addressed to you. But this whole thing has been a disgraceful mess from the first. Because I was available, did have the knowledge and was willing to spend the time, there is not excuse for us not having all gotten together before anything was done and

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planned it. If you didn't recognize this, as well you might not have, Bud should have instead of just lording it up, ordering you to do this and that and not doing a damned thing himself except vacationing in Europe, enjoying weekends at his mountain place, etc. We are not his Goddamned slaves and he does owe an obligation to what he undertook. I happen to think he owes me the obligation of at some point ending this endless abuse, and wasting so much time for me is abusive. I could have written a book in the time I should not have had to take on cleaning this up. Or, I could have completed the appendix of EM, which his abortion of a CIA is busily engaged in helping get stolen from me.

For you, all of this can well be part of a lawyer's education. I do hope that you, personally, have learned much about the error of the approach on this whole thing so that in the future you can be both more efficient and more effective. You will, I hope, be handling other important cases in the future, and you will never have enough time for them. For me it is sad has been and I fear will continue to be an unwelcome drag, just another means of keeping me from other work.

And worst of all, with two years to get this ready to be rushed at the last minute? While all that time was wasted on one CIA futility after another?

Damn it, Jim, I hate to have to write you this way, especially when it is not your case and you are saddled with all the responsibility for it. But is there to be no end to whatever you want to call it, anything from inefficiency to incompetence to neglect? And for me, in the intolerable context I needn't have to go into but recall one single thing, Bud's patronizing advice that I should work by myself? Where the hell would he be on this case if I had, at any point from getting the client to now?

On a few other things: I still don't have that box of my legal papers back. I've been in the office at least twice since you said you'd have them ready. On this, Bob yesterday found his (indeed!) copy of the inventory. It also has notes on it, also comes from my legal file, also was xeroxed. Just how much distribution was made of my confidential files by my lawyer who owed his client confidentiality? And my original hasn't shown yet. Should I be less than outraged that this happened at all? And particularly after I had already complained about breaches of confidence on other matters and had been promised it would not happen again? But what seems to be modest wholesaling, the preparing of more than one xerox when none should have been made is a bit much, especially with the current tolerant patronizing.

Now you have had time to do what you want with the last pictures I let you have. You know the pain just looking at that stuff casts me with their history. How about finishing up with them and returning them? I would recommend that you have a separate 8x10 enlargement of the windowsill alone made of that print. I'd include both sides of the window to where a tiny bit of wall shows on each side, doing this the 10" way, and preferably from a 4x5 negative. If Bud hadn't been a genius blended with a miser to begin with I'd have had this done from the original negative, which would have been much better and quite possible no more costly if not, indeed, less than what this will cost in DC. I could still, but I'm not now going to take the time. Not with this history! If you are going to do it, please do it now and get this stuff back to me before it gets mislaid. And remember, no copies of any of this stuff to CIA files or any of that assortment of wierdos and egos on it.

Sincerely,

Harold Weisberg