

Mr. Hedrick Smith  
New York Times  
1000 Connecticut Ave., NW  
Washington, D.C. 20036

4/1/85

Dear Rick and colleague,

When I wrote you 3/22 in response to your letter of 3/19 I was not aware that the appeals court had acted and, in fact, although I was pro se, as of today's mail it still has not notified me. So, they do not love me. I misinterpreted their long silence, from what I've been told. In whatever form they used they said merely that not one of the judges voted to consider my petition.

You wrote that what I'd sent " does not seem to be the kind of legal ground that merits a story at this stage." I write to ask if it does at the stage at which it now is.

Of all the possible issues and questions I'm restricting myself now to a single one, the one I set out to make central knowing full well that it would be unwelcome but believing that it is central (and not only in this, in all my FOIA litigation).

I made undenied and deliberate lying to the appeals court itself and its acting upon undenied deliberate official lying central. There is, from the papers I filed, no possibility of any question of fact, the lies I cited were deliberate, were known to be lies, had earlier been cited to the appeals court, and neither then nor in my more pointed use received even pro forma denial. (I was aware that any effort to deny would merely highlight them.)

So I changed the usual situation, in which the judges are aware that they are lied to but the plaintiff does not embarrass them by making an issue of it and they just ignore it.

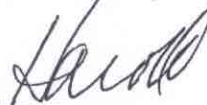
As a result there is not merely tacit acceptance of official lying, there is approval of it by the full court when it is the central issue before that court.

That, to me, is (outside banana republics and dictatorships) a new concept of justice and judicial responsibility. It sure as hell isn't what I was taught. Nor is any aspect of this. I'm being judicially punished without a trial, without any kind of hearing, without even a phony finding of fact. And the district court's disgrace of a judge, John Lewis Smith, has made it clear he lusts for blood. There was a status call Wednesday, with a new DJ lawyer. She asked for 90 days to familiarize herself with the case. Smith gave her 30. And she doesn't need that because he knows what he is going to do regardless of anything.

There are, of course, other issues and I do regard them as important, more important to others than to me although I'm the present victim. I suppose that at some point DJ/FBI will have to come to Maryland to collect, and that I'll then face new decisions. Were it not for my health I'd have no doubt what in the end it would be.

Of course I'll seek a trial but with the rubber-stamping that I've seen so much of I do not know whether there will ever be anything else.

Best regards,



Harold Weisberg  
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