

5/5/83

Halk
Dear Mr. Smith,

Here is the latest from Judge Smith. The copy my lawyer made and sent me reached me only today.

Sorry I can't make clearer copies. Our copier awaits a major repair.

In the short Order, I'm not surprised that he finds for the FBI on all counts because he is a virtual rubber stamp. The second item is his whitewashing of what for anyone else would be repetitious perjury. (Hasn't been too long since that was awarded judicial praise, has it?)

The longer Order awards the FBI costs in seeking discovery.

My lawyer told me a little while ago that after the 13th, a Friday, he can cite me for contempt. One charge, that is, There'll be more later, or at least he'll have later opportunities.

We'll be moving to reconsider, with additional affidavits and exhibits, by the first deadline.

We also filed a petition for an en banc review of the appeals court decision in the spectro/NAA case. My copy hasn't reached me yet.

While sitting and wondering if there is anything else I might report my mind wandered back to the only other time I faced the prospect of jailing by my adversary. It was during the James Earl Ray evidentiary hearing in Memphis in 1973. Mo covered for the Times. I did the investigation that prevailed on habeas corpus and for the evidentiary hearing, which last two long, very hard weeks. It was VERY embarrassing to the State assistant A.G., who was paranoid and had a very low boiling point. He actually shouted at me, in the presence of others, that he would "get" me. (He didn't, and in the end the State had to fire him.)

Every morning, before court, I'd visit Ray in the Marshal's holding cell early, then meet Mo in the coffee shop and fill him in as much as I could. His needling and joking were very helpful.

Twice during recesses, when we went out for a smoke, he paid me two high compliments, in his own way. Each time taking me by surprise with his huge arm around me from the back while I was lighting a cigarette.

"Hal, you ol' sonuvabitch," it went the first time, "aint you 'shamed of ~~your~~ yourself?" Deadpan. So I asked him what about. Without a smile until he'd finished, he said, "For fuckin' up the State of Tennessee and the FBI."

Second time was when he'd seen me improvise and virtually kidnap (lawyer's phrase) all the State's rebuttal witnesses, most spectacularly their publishing expert, which was a legal issue over the Ray literary contracts. After that they took a recess and then pooped out. His line for that recess was, "Halk, you ol' sonovanitch, don't you know what overkill is?"

That wasn't the first but it was the first really dramatic loss^{ON} I had in the disparity between a case record, the evidence, and what a judge rules.

The night of the last day he arranged for us all to get drunk and have a good meal. He had a heavy cold, but he and I got a head start, and as the others filed their copy they joined up. When we'd drunk about as much as we wanted they pushed some tables together and we'd just ordered dinner when who walks in but the AG's

really afraid to. I guess they viewed all reporters as part of a vast Communist conspiracy against them.

I guess they were surprised when they found out we were just relaxing and having a good time after some hard work.

Although until the previous weekend they were out to "get" me, they wound up walking back to the motel with me. We had the same motel. Still talking tough, without the reporters present, but no more threats against me.

I don't know how the present situation will end, but how that one did will, perhaps, amuse you.

A few weeks earlier, during my local investigation, I'd met a relatively young and quite successful criminal lawyer. He had the local mafia among his clients, but he seemed to be a pretty good sort of fellow. So, when I felt the heat as much as I wanted, I phoned him from the motel phone, in case it was tapped, and asked him to represent me, telling him, briefly, why. It was a weekend, so he said he'd come down.

He came up to my room to meet the others and he suggested that we take a walk. When we got to the lobby, he introduced me to his wife, a dazzlingly beautiful woman, and a young son. We then walked out the front door, he took me around back to the parking lot, and we talked, while his wife and son walked back and forth along the front, each time walking far enough past the end of the building to see us. He learned what I wanted to know, said he'd represent me if there was the need, and we walked back. When we got to the end of the building, his wife and son were there. This beautiful woman came up to me right there where everyone in front of the motel could see, put her left arm around my waist with the biggest smile on her face,

leaned her head on my shoulder, and softly told me to put my arm around her and mine like we were old friends. Speechless, I did, and we hadn't walked very far before I caught on. There, right outside the main entrance, was the No. 2 man for the State, eyes bugged out, jaw slack, and a friskie dangling in his hand. (They all tossed frisbies to relax, right in front of the motel.)

The AG's staff lost interest in me right away. No more threats. Only tails, obvious tails.

The AG's people also saw us drive off together. They had some venison and invited me out for dinner.

It took close to a year for that judge to write his decision, that as of then guilt or innocence were immaterial.

Jim Lesar, who represents me in my FOIA case, then carried the load for Ray, even though Lesar then had never even been before a jury.

Sincerely,