

Erwin Knoll
The Progressive
409 East Main St.,
Madison, WI 53703

12/24/86

Dear Erwin Knoll,

I'm very glad to get your letter and I'm even more happy that you know lawyers who are interested. Please, ~~dog~~, let anyone who may be interested see anything and let me know if they'd like more. Please also tolerate an explanation, not from the beginning, which were it not for the volume might also interest them, but from the time I was forced to represent myself.

I'm handicapped and limited, more for the past year, from additional venous thrombosis, and I'm to spend five hours a day following doctors' orders. So, I can't work continuously and I'm forced to go with retyped rough drafts. My wife retypes and I file them. So, please ~~say~~ that I'm aware that editing would improve but I've nobody to do that and I haven't the time myself.

I became pro se because the DJ/FBI cabal created a conflict of interest between my (Wisconsin/Madison) lawyer and friend and me. Mark Lynch of the ACLU then (since Covington, Burling and silent) represented me on first appeal, with academic scholarship and dominating timidity. He drafted the brief without even speaking to me and to this day we've never met. He would not argue what I've concentrated on and is to this day undenied: this evil cabal got a money judgement against me for the first time under FOIA by means only of undenied perjury, fraud and misrepresentation. On remand I filed under "new evidence," and it is new, Rule 60(b), replied to the DJ Opposition, lost without any findings of fact, then filed for reconsideration. I do not recall what I sent you. I lost again and filed my own appeals court brief. Instead of making any response to that and out of order, DJ filed for Summary Affirmation. I've just finished the draft of my Opposition to that and as soon as I finish this letter I'll start reading and correcting it. What I've filed pro se is without the fear a lawyer can have, not only because lawyers can suffer retaliation but because I've had my own experiences with fighting our own authoritarians and, without much attention at the time and none since, have won some memorable and impossible battles. Going back to when Martin Dies came after me, with charges, and I got his agent convicted.

Also, I've realized for some years that if I can do nothing else I can serve history, and this I intend in everything I do. At least in theory court records are permanent records. I'm told that some of what was provided to me by the CIA about what it did to Dr. King has disappeared from the court's copies, by the way. So, this added obligation is in the back of my mind in everything I file in court and to the degree I, as a nonlawyer can, I try to make as complete as possible a record for history. I leave no FBI/DJ allegation unaddressed.

Assuming that they do not prevail in this newest effort to keep the processes of normal justice from working and that they have to respond to my brief, I'll then file a reply and, ordinarily, after that there will be oral argument. I'd prefer not to do that myself but I'm not at all afraid if it. I'd have to do it sitting down and that means my wheelchair at the podium and no ability to have notes or records at hand. Also, I'm not a lawyer. Just yesterday, in reading Morton Sobell's book, I thought of writing Mike Perlin and asking him if he'd consider handling oral argument and possibly a petition cert, despite the odds against that. If any of the lawyers who are interested out there have any suggestions, I'd sure welcome them. I once helped Perlin, without having met him, by providing an affidavit I think he used successfully in preventing wholesale destruction of FBI filed office files. Sobell mentions that Perkin handled his charge of perjury against the FBI but does not mention the outcome.

I'm sorry + don't remember what I sent you but if there is any interest in any of the other things I've filed, please let me know and I'll send copies. Or anything else anybody may want. If it is not asking too much, I'd appreciate duplicates being made out there because I can't use our machine much and my wife, also a septuagenarian, is troubled with arthritis and it can burden her.

When we file my Opposition I'll send you a copy of it and their motion. From now on I'll send you a copy of everything and please feel free to do anything you may want to with any of it.

If I didn't tell you, ^{until} this new appeals brief I've papered the media with copies and ~~not~~ written many personal letters. No interest. Not even now, with the newest Reagan authoritarianism involving such official lying. Beginning with Meese, who lied in the first press conference in saying that it is wrong for the FBI to conduct any noncriminal investigations. Their JFK assassination investigation, a massive thing from the files I've gotten, was not a law enforcement investigation. What gives Meese's lie more point is that the FBI is specifically authorized to conduct investigations for the President and that is what their JFK job was and is for it is an active case still. Filed as administrative inquiry, File Classification No. 62. Meese's lie, among other things, serves to hide Reagan's nonfeasance in not asking the FBI to investigate immediately and that provided the time needed for the shredders to work. Hoover spelled this all out in his Warren Commission testimony. It is in their published record, volume 5 about page 98. I just could not afford so make unwanted press copies of about 80 pages of brief and several hundred or ~~so of~~ exhibits so I sent none to the press.

By an odd coincidence, during my walking therapy yesterday morning, and most of it is resting, not walking, I thought of something I've been meaning to tell you about, in part because of its current topicality. When he was a graduate student at Madison about two decades ~~ago~~ ago I helped Henry ~~Berger~~ Berger, son of a friend and now professor of history in St. Louis, with his thesis, beginning with a suggestion for changing its focus. This included being able to open some trade union archives for him. His thesis is on the labor movement as an arm of United States policy. I did, believe it or not, get him access to the AFL/CIO's, especially the Serafino Roumaldi stuff, if you remember him, and I think the Brown stuff. Roumaldi was Latin America and Brown, I think Irving Brown, was Europe-Africa. Roumaldi was big in ~~Guyana~~ Guyana, getting rid of Jagan. Henry never sent me a copy and his father was distressed that he refused several offers to publish the thesis as a book. But it has to be on file at the university and I think it might be interesting if you got someone to read it.

Please excuse the haste because although I have enough time I do want to get my Opposition ready for retyping and get it filed. My wife, as usual when I've little time, will read and correct this.

So you can understand, almost nothing I have is secret and I try conscientiously to live with the obligation FOIA imposes on me, as surrogate for the people. I give copies to people I dislike and there are very few exceptions to the rule that anyone has unsupervised access. My wife won't let a couple of skunks in the house and they are the only exceptions.

Thanks, sincerely,


Harold Weisberg

Later. I think I recall one thing I sent you. It's made me think and wonder how I can use it to inform the lawyers you mention. Please do not think that I'm expecting them to rally to my aid or anything like that and I do not regard this as personal, aid to me. If I served self-interest I'd have given the rascals several of my Social Security checks several years ago and not subjected my wife and myself to all this work, trouble and cost. Years ago I decided on the need to oppose authoritarianism and learned that doing it successfully is impossible if one merely defends against it. I'm also trying to deter further evisceration of FOIA and official harassment of decent lawyers.

My work on the assassinations, JFK's and King's, is not conspiracy theorizing or the pursuit of whodunits. It is a study of how our institutions worked or failed to work. I sued the FBI in 1977 to get free copies of the FBIHQ only JFK assassination records it was disclosing seemingly voluntarily but actually in a damage-control effort. I sought a temporary restraining order also, charging them with staging a media event (true) in order to overwhelm the press with so much it could not be digested. I asked for the TRO for only as long as it took to get copies of the records to me so I could respond to press inquiries. I didn't expect to get the TRO and didn't but I had the records three days later. and still more hatred by the FBI. After slight examination I realized there were major withholdings so I asked for and then sued for the pertinent records of the Dallas and New Orleans field offices, Dallas the office of origin, which includes being the major information repository and funnel, and New Orleans virtually a second office of origin. In neither instance did the FBI make the required searches. Dallas merely sent the request to FBIHQ, where no search was possible and where one of the more accomplished stonewallers decided to substitute the companion files of those included in the HQ general releases and nothing else. New Orleans substituted the search slips of a different search in response to a different request of a year earlier. It never made any search for me and Dallas didn't even make a pretense of it. In response to the request of the DJ appeals director, a history buff, and because the attorney general had designated this an historical case, I filed lengthy, detailed and thoroughly documented appeals, believing that they might lead to more disclosures and would make a record for history. The lawsuit was before a rotten judge and a lousy human, John Lewis Smith, who is virtually an adjunct of the FBI. After some years of stonewalling, when even before Smith I beat them when they sought a summary judgement, they switched to what the fink would rubber-stamp, a demand for discovery. I refused it on a number of grounds and decided to do this under oath and myself subject to perjury and I went into documented detail. Smith ignored everything and gave them a judgement. I ignored it. Their then lawyer phoned mine and threatened to ask for a contempt citation. My response was to say he didn't have the balls to risk a trial. I was right. He switched to seeking (and getting) a duplicating judgement against my lawyer, Jim Cesar, who was quite timid through all of this. Only then, when I'd been pushing him for about a year to do it, did Cesar speak to the Nader law group because only then would he recognize what I saw coming, another effort against FOIA and FOIA lawyers. They got a judgement against Cesar because I refused to take his advice! What a precedent! The Naders represented Jim on appeal and the ACLU represented me, both timidly, academically and quite inadequately on the issues. On remand, to consider the judgement against Jim, I was pro se.

In refusing to provide this demanded "discovery" I attested that I'd already done it to the degree possible- two file drawers of it- only to have that ignored; that it was in this case inappropriate because, among other things, the required initial searches had never been made; that duplicating what I'd already done was unnecessary, excessively burdensome and for me physically and financially impossible; that making any new searches in almost 60 file cabinets most of which are in my basement is also now physically impossible for me (and I provided a complete medical history, even all the doctors and hospital bills for the surgeries); and I alleged that the claimed reasons for the discovery were false and proved it. These reasons are that if I provided the discovery the FBI could prove it had complied with my

requests - which they'd never searched - and in the alternative, my unique subject-matter expertise was required to enable them to locate what may have been withheld. Probably I gave other reasons, too.

Before the first of the surgeries all of which were successful and followed by serious complications, I'd requested copies of all the FBI gave the House Select Committee on Assassination, which did elaborate finking under a former DJ hack. Later a friend filed a similar request. They never responded to my request but when my friend filed suit and got before a different judge they were required by her to start complying with his request. Lesar represented him and they sent me selections of some of the records they got. I spotted much they missed, including what I sent you, what appears to have been an FBIHQ damage control outline when faced with the possibility of Congressional inquiry. Of the issues involved in my litigation before Smith, quite a few were addressed definitively in what was disclosed to this friend, Mark Allen.

I used this material, rather a selection of it, pro se, under Rule 60(b), as new evidence, with a limited objective. That rule permits only a limited objective. It is for relief from judgement or order. It does not permit me to use it to reopen the underlying FOIA litigation and I have no interest in that and haven't since I got to the point where Smith's carelessness kept this from being a case that enabled the FBI to claim they'd made full and complete disclosure - forever.

Without going into all the points and proofs pro se, I alleged that this new evidence proved that in order to get the discovery order on which the judgement is based the FBI had used only perjury, fraud and misrepresentation and that this new evidence proved, without question, the existence of field office records within my request, known to exist to the FBI and thus the FBI knew when it swore falsely that the discovery from me could not enable it to prove it had complied and was not necessary for them to locate what remained withheld. To this day this is entirely undenied. I presume in an effort to avoid not being able to try to avoid it as an issue to be litigated.

Rule 60(b) had six clauses, the first three with a one-year limit and the second three added to toll that year. I invoked all but the fourth, after doing that tentatively, abandoning it. DJ pretended I had invoked only the first three and claimed that the year had run before I filed. A point that may hold special interest for lawyers is that I argued, under a decision the title of which I now do not recall, the change in the judgement on remand, to eliminate Lesar, was a "substantial substantive change" that causes the year to begin at the time of change. Smith and the FBI/DJ ignored all of this and almost everything I filed and I filed a lengthy, detailed and documented appeals brief pro se. In response, instead of filing a proper response, which they really can't do, the government filed an out-of-order motion for summary affirmance. Meaning without any appeals consideration the district court would be affirmed and it is for all practical purposes over. I imagine that without my side of it their effort may appear to be persuasive, and that this is true of Smith's decision, which is attached to it. However, in fact it is the exact opposite of the real situation where, as a matter of fact without any question and I believe as a matter of law also my brief does them in and you will soon see for yourself what I've done to their out-of-order motion. You'll see they alleged I made a discursive personal attack on Smith but it isn't that. I merely quote him and compare the quotes with reality. I did ridicule him but I think not improperly. How can you ridicule improperly a judge who claims to have made an "exhaustive" review of the case record and winds up not knowing who was sued or for what? Or says that he held an "extensive" hearing when he refused me twice, once when I asked for an evidentiary hearing and once or twice, I've now forgotten exactly how many times I asked for a ~~trial~~ trial? Possible I asked thrice.

I'm well aware that the DC appeals court is thoroughly Reaganized and prior experience told me that even before then it was unwilling to consider anything that

might reflect on Earl Warren or the executive agencies in the political assassinations. And who could ordinarily place any faith in the Reorganized supreme court? Yet I nonetheless believe that if I failed on appeal there should be a petition cert limited to the undenied allegations of official felonies to force ~~the~~ issue on that. I believe that with any major attention it could become quite scandalous, more so in the Ronniescam current environment. (Digression: Meese lied knowingly in his White House press conference when he said that the FBI had not begun any investigation because it is wrong for the FBI to investigate without some law violation. Its entire JFK assassination and many others were not to enforce laws. Hoover testified to the Warren Commission that they are required to conduct investigations for the president and without question the DJ, FBI and White House know this. And thus there was time for the shredders to work, as during Watergate there was time.) I also believe that I've established a basis (that is undenied) for a Rule 11 case against the government and, if there were counsel available and unafraid, perhaps other lawsuits against them for what they've done. But the record in this case is that the FBI provided perjury, DJ filed it and neither retracted after presentation of irrefutable proof. Plus fraud to take a few Social Security checks from an aging and unwell man they do not like and who they've been abusing for years. A little of this in in the brief and case record and there is more in other case records. *All undenied.*

In all my writing they've never found any error and do I have to tell you what they'd have done if in all those very many, lengthy, detailed and documented affidavits if I'd made any error what they'd have done? I think this, the fact that I've really embarrassed them with my accuracy and the fact that when I persevered the first time they were this corrupt in one of my FOIA cases Congress amended the investigatory files exemption over that lawsuit, which is what brought to light that part of FBI and CIA dirtywork that is exposed, makes them hate me more. And, perhaps, the fact that they know I'm not a bit afraid of them. So, I think they give me more trouble than others for these ~~and maybe other reasons.~~ The climate is different and the odds against repeating what I was able to lead to in the earlier case are great but I see the remote possibility and I'm doing what I can. With some attention the possibilities would be better but until this brief the many copies I sent out led to nothing, except that two reporters said official felonies are not newsworthy. In my reporting day someone would also have seen man biting dog and some human interest besides news in what is substantive. So, it is a different day in a different world but for a decent and free society the needs and for me the obligations are not changed, except that they are greater.

I've rambled in haste and with a few interruptions from Xmas calls and my wife, who has a sharper eye for my typos, etc., has started typing the Opposition, but I hope I've not wasted your time and that this may inform those lawyers.

You said that when you were near here you'd stop off. I hope you can leave enough time for me to talk about what I have new on the King assassination and the started book I've not been able to return to because I can't handle the stairs to the basement often or wall, with most of the records down there, and lack much energy. I have enough for someone else already separated but not for the more definitive work I want to produce.

Many thanks and best wishes to you all,

Harold