Ms. Nancy Lewis
Washington Post - Newsroom
1150 15 St., NW
Washington, D.C. 20071

7627 Old Receiver Road
Frederick, Md. 21701
August 2, 1987

Dear Ms. Lewis,

Your yesterday's story on the political infighting on the appeals court, which I'm glad to see out in the open and fairly reported, makes me wonder whether I am caught up in some aspects of what I regard as political activism in that court.

I am the pro se plaintiff/appellant in Nos. 86-5289 and 5290, at the district court level CAs 78-0322/0420, combined. This is FOIA litigation, with which I've had a fair amount of experience. Congress amended the investigatory files exemption in 1974 over official dishonesties in one of my earlier cases. This is specific in the legislative history. When I sought to dismiss this long-stonewalled litigation, with prejudice against myself, because of seriously impaired health, the FBI and Department of Justice successfully opposed my effort. Instead they sought, for the first time in FOIA litigation, to get alleged "discovery," which was no more than a vengeful and dishonest device. In the course of this it contrived a conflict of interest between my lawyer and me and thus I'm pro se. (If you want to check any of this he is Jim Lesar, 393-1921 and he has copies of all pleadings.) Pro se I eliminated most issues and basically it was and remains whether the government got the money judgement against me by perjury, fraud and misrepresentation. I got the entirely unquestioned proof from FBI records disclosed, under compulsion of another court, to another litigant and used it under Rule 60(b). The appeals court set its schedule, which included oral arguments before the end of 1986, I filed my brief, which cannot be touched on fact, I'm certain, or law, I'm pretty certain, and instead of briefing the government resorted to what it admits is the "unusual procedure" of demanding summary affirmance. I filed my opposition to this the day after last Christmas and, despite the hurry-up record of this appeals court, I've heard not a word since. The government has filed nothing at all and the court has been entirely silent. Were it not for my health and the severe limitations it imposes upon me, I'd be pushing for a resolution. I think the reason I've heard nothing is because the evidence I have produced, myself under the penalties of perjury, is so entirely beyond question. As a matter of fact, it has hot been questioned by the government. Filing for summary affirmance took the case out of the usual channels and, I think, confronted the court's counsel personally with a Hobson's choice: risking its own reputation by rubber-stamping the government trickery and dishonety or risking what would inevitably follow with open consideration of the serious misconduct of undenied felonies by the government, including its counsel. (It happens that the FBI FOIA supervisor whose false attestations were basic to getting the judgement against me was simultaneously processing for disclosure proof of the felonies.)

Recently we've been exposed to other government dishonesties but I've been living with them for decades of litigation under what I regard as the most American of laws and concepts, that the people have a right to know what their government does. As a former reporter I've been disappointed that undenied felonies by the FBI and DJ, more because they are before the federal courts, have not been reported. I am inclined to believe that the absence of reporting has encouraged the many dishonesties that I regard as subversions.

I enclose the first two pages of my last submission so you can see some of the issues presented. The court's records should reflect that this is the last filing by anyone and that there also has not been even a letter to me.

As one who believes that the constitutional independence of the judiciary is indispensible to meaningful freedom, I thank you for your story.

Sincerely,
Harold Weisberg

IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

HAROLD WEISBERG,	)	
	)	
Plaintiff-Appellant,	)	
	)	
v.	)	No. 86-5289
	)	86-5290
WILLIAM H. WEBSTER, et al.,	)	
	)	
Defendants-Appellees.	)	
	)	

OPPOSITION TO MOTION FOR SUMMARY AFFIRMANCE

Appellees' Motion for Summary Affirmance, euphemistically self-described as an "unusual procedure," should be denied. It is out of order, improper, misrepresents, is based on untruths such as that Appellant Weisberg seeks to "reopen" the underlying litigation (page 6), and it fails to state that there are no legal or factual matters that are in dispute, as assuredly there are. It cites no authority and does not even cite the rule under which the motion is made for the information of the court or the pro se appellant. The motion is a subterfuge by which appellees seek to avoid having to face the charged, proven and entirely undenied felonious misconduct by means of which, and only by means of which, they procured the judgment from which Weisberg seeks relief. Weisberg seeks and for years has sought nothing else, despite the by now boilerplated and prejudicial fabrication that he wants to reopen the underlying litigation, an allegation abundantly refuted by the case record and by his grossly and deliberately misrepresented brief. It is because, despite their promise, appellees cannot refute what

what Weisberg states in his brief that appellees resort to this dodge which, in and of itself, insults and demeans the court, as Weisberg indicates below.

> Appellees were required to file any dispositive motion within 45 days of docketing. The claimed reason for not complying with the rule is that they did not know the issues Weisberg was raising on appeal, which is not true, and that "it was only with the filing of plaintiff's brief that it became obvious that plaintiff was engaging in a frivolous attempt to reopen the merits decision."

"Apparent" is hardly the word for it and if appellees read anything to come up with this basis for seeking summary affirmance, perhaps it is "Through the Looking-Glass" in "Alice in Wonderland." It certainly is not in Weisberg's maligned brief, which is quite specific to the exact opposite at several points. For example, in addressing this fabrication appellees have misused with grim regularity (on page 27), "Weisberg has no interest in reopening the underlying case, which he earlier sought to dismiss because of his impaired health. He then was opposed by appellees and denied this by the [district] court. The actual purpose and Weisberg's clearly stated objective, the title of Rule 60(b), is 'Relief from Judgment or Order.' ... Weisberg sought nothing else and he addresses nothing else. His actual claim is limited to entitlement to relief from the judgment because it was procured only on the basis of undenied fraud, perjury and misrepresentation."

How genuine appellees' yearning to save the time of the