

Dear Les,

4/1/85

This is in confidence and it is something I'd not do ordinarily but I want to update you, give you an idea of the present situation and the future, and perhaps in time, before I have to make the final decision, you may get an idea or two.

The lawyers, facing reaction, are just plain scared. They intimidate themselves in advance so they don't require intimidation by either the government or the courts. Meanwhile, all is made possible by the bestowing of secrecy by the press, which for years has sanctified official mendacity by refusing to report it. Other than in exceptional cases.

This has gotten to the point where if they wanted to, as they don't and won't, Btd and Jim cannot handle it. Jim has let me know he's scared anyway, rather pointedly day before yesterday.

Mark Lynch of the ACLU was supposed to represent me at last Wednesday's status call but instead he sat in the audience, with Jim's Nader group lawyer, and they both let Jim appear for himself and me when there remains the conflict of interest. I've had no explanation so I can offer none.

I started to write Lynch before the status call but was not able to finish that letter until after it was over so except by phone he's not had time to respond. It also is probably the kind of situation he should think about first. And I presume he is usually fairly busy anyway. Among the things I said, and I'm not looking for any attention to this, is that if I feel up to it, in the end I may opt jail, on principle.

If I knew and could get the kind of lawyer Phil Hirschkop used to be years ago I think it would be possible to sue these wretched authoritarian bastards in DJ and FBI for what they've done. But he's been quiet since after more than paying his dues he latched on to wealthy clients, did a remarkable job for them and I suppose was at least properly rewarded. He's more than earned a pleasant, untrobbled life. I think, however, that the kind of lawyer he used to be would enjoy what all of this makes possible, and that it would do much good.

Sufficant unto the day....But if and when the day comes I hope I'll be in a position to say if you want a pound of flesh, start cutting.

Best,

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/EBI 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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