

OCT 18 1974

Dear Jim,

10/16/74

Again an update that will also be notes, but nothing covered by the "protective" order of the court.

Yesterday Bud's office received a series of papers from the court that add up to the State's backing down on just about everything the judge did not deny except two things: a "discovery" of material that we do not know exists and I suspect if it does it will be known to the State as a consequence of surveillance of such a nature that it would ordinarily be totally exculpatory, that is, make trial impossible. Not so much in anticipation of this in particular but because of specifics in hand I have been pressing for weeks for the preparation of a motion that would include this. As of after noon yesterday it had not been prepared and Bud's partner promised to prepare it from an ACLU model he has.

Because I began disclosing my apprehensions to Bud's partner, Bill, four years ago it was possible to communicate the essence of my letter by phone. He understood, shares and will undertake to use good offices. I hope it works so I won't have to be the heavy now that we are about to be in court and his preparation can't be adequate as it is.

The situation is and has been so bad that I had to keep the most important evidence secret. When I knew I could trust Jim and that Jim shared my concerns I did acquaint him with it, show it to him and explain it, and tell him how to duplicate it should anything happen to my copies. It is close to completely exculpatory by itself and was all publicly available. I first found it where I expected to, in the morgues of the local papers. The metro editor of the Commercial-Appeal denied it. (I'm taking his letter.) He got his education while employed by the FBI and there is a case that he still works for it, officially or otherwise. When he refused it I asked Bud to finance my getting it by other means, without telling him what it is. When he offered \$50 toward my expenses, which meant a trip to NYC and several days there, I told him to stick his \$50 and did it all on my own.

It is The Purloined Letter all over again. If UPI did not have all the pictures it received in NYC, it had enough. I established a rapport with the pix editor and a black assistant and they searched the dead files, too. Bud knows nothing about these pix. I'll now have to risk telling him about them pre-trial and showing them to him, I hope on the plane on the way down this evening. AP, which wanted half again as much for its pix, had some supplementing what I'd gotten from UPI. However, they managed never to copy and send them and were, in general, obstructionist. So, I'm taking my correspondence and the check Meyer Goldberg returned. One of his henchmen told me in 3/71 when I did all this that my work on the Matgens picture with/fpr the, had made them much money.

The pictures show the impossibility of the official accounts they address and make a prima facie case of conspiracy to frame, to obstruct justice, etc. Discovery has added confirmation of my earlier work that is relevant but only that. I had this ~~outside~~ outside discovery, had located and interviewed all but one witness, did interview him in Lesar's presence and anticipate that he'd testify truthfully....As I think I once told you, this is the easiest investigation I ever conducted. Of course I was prepared for it by the analysis already in F-U and by the evidence collated in it.

In addition to having his part of the case outlined for him before he was here Sunday I also had ready a list of potential witnesses to be subpoenaed. There are several reasons which Jim hadn't anticipated for he was surprised to learn of this list yesterday. He'll understand it and the need to announce them in advance the only way of being sure of them. Also pressure, for the other side will read and scream. I restricted myself to those within the subpoena power of the court under local rules. All Memphians. Limit 100 miles in this kind of case.

I gave Bud a complete package on moving dismissal all charges on the basis of irreparable violation of Constitutional rights. As the most dramatic precedent I cited what I called The Ellsberg case and was astounded to learn that he didn't understand it! Yesterday, when I learned that despite the explanations he still did not have a copy of the decision, I asked Bill if they'd have it in their office. He said they'd have the judge's order only and would have copies of it ready. Isn't this all something?!!! Give an idea of some of the problems.

Best
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