

Ted Kaczynski's Letters to Judge Garland

Dec. 1, 1997—Jan. 21, 1998

Contents

From Ted to Judge Garland — Dec. 1, 1997	3
From Ted to Judge Garland — Dec. 17, 1997	5
From Ted to Judge Garland — Jan. 21, 1998	8

From Ted to Judge Garland — Dec. 1, 1997

To Judge Garland E. Burrell from Theodore J. Kaczynski
Your Honor:

Last Tuesday, November 25, I unexpectedly learned for the first time in this courtroom that my attorneys had deceived me. Specifically:

1. I was told that if I allowed myself to be examined by mental-health experts, the results of the examinations, and even the fact that I had been examined, were covered by attorney-client privilege and would never be known to anyone outside the defense team without my consent. Last Tuesday I learned that much of this information had been made known to the government without my consent.

2. I was told that in the coming trial my attorneys would help me to pursue certain personal concerns of my own, even if these were inconsistent with my attorneys' professional concern to do what they considered to be in my best interest in a legal sense. In particular, I was led to believe that I would not be portrayed as mentally ill without my consent. But last Tuesday I learned that I had indeed been portrayed as mentally ill without my consent.

3. When I was being urged to consent to a "12.2 b" [mental defect] defense, I was misled as to the nature of such a defense. I was led to believe that it would not necessarily involve an effort to portray me as suffering from mental illness, but was only a legal device to enable a certain mental-health professional whom I know and like to tell the jury what kind of person I am. I was not informed that a 12.2 b defense would require the release of the results of mental-health examinations. Moreover, I was not informed until last Friday, November 28, of the most important results of those examinations.

4. On November 28, when I received, for the first time, copies of the briefs concerning the issue of the government's request for an opportunity to examine me, I discovered that the declarations of the defense's mental-health experts contained statements about me that I believe to be false and misleading.

I have discussed these matters with my attorneys. They admitted that they had deceived me, they expressed regret for having done so, and they promised not to do so again. But, as Your Honor can well understand, I do not find their assurances 100% convincing. I also discussed with my attorneys their future plans for my case, but I am not certain that their plans are in my best interest as I interpret it, and I found their reasoning in support of their plans unconvincing.

I therefore feel strongly the need for legal advice from some source outside my present defense team that would help me to resolve my conflicts with my own attorneys. I need such advice at the earliest possible moment, so as to avoid the risk that certain decisions will become irrevocable.

Can Your Honor help me to obtain such advice?

Theodore J. Kaczynski

From Ted to Judge Garland — Dec. 17, 1997

Your Honor:

In order to show you that my objection to the [mental illness] defense planned by my attorneys is not frivolous or petty, I have to explain to you my feelings on this subject, which are extremely intense.

Though I object to the [mental condition] defense planned by my attorneys, the nature of that defense in itself is not the most important problem. What I find unendurable is the circumstances surrounding my attorneys' use of that defense.

During my adolescence I was subjected to frequent psychological abuse by both my parents and to bullying by my schoolmates. Perhaps for that reason, or perhaps for some other, the most horrible punishment that I can imagine is to be subjected to anything that I perceive as an injustice and to be completely helpless to defend myself against it or escape from it. And my attorneys are subjecting me to this kind of punishment in its worst form, as I will explain.

During a year and several months preceding my trial, the members of my defense team treated me kindly, they performed many services for me, they professed affection and friendship for me. Since I'd had no close friends during my adult life apart from my brother, I was very susceptible to this treatment and I soon developed strong feelings of friendship toward the members of my defense team. Some of them I even loved.

When locked up in jail, one can do very little for oneself and must depend on people on the outside to do things for one. I had nobody to help me except my defense team, and as a result I became heavily dependent on them.

I do not have a "pathological dread" of psychiatrists, but, as a matter of choice, I am averse to examination by them (unless perhaps under circumstances in which I can set the terms of the interview myself and put limits on it). The reasons are that I do not believe that science has any business probing the workings of the human mind, and that my personal ideology and that of the mental-health professions are mutually antagonistic. One may be willing to bare one's soul to a person whose ideology and values are friendly, but it is humiliating to have one's mind probed by a person whose ideology and values are alien to one's own.

Consequently, when Mr. Sowards asked me to cooperate with Dr. Foster, I was extremely reluctant to comply. Mr. Sowards, who is a very forceful and persuasive talker, subjected me to heavy pressure, which I found very difficult to resist because of my dependence on my defense team and my feelings of affection and friendship

for them. But I would have resisted all the same if Mr. Sowards had not told me that the results of the examination would be covered by attorney-client privilege and would never be revealed to anyone outside the defense team without my permission. Later, in order to get me to agree to a 12.2b [mental defect] defense, Mr. Sowards misrepresented to me what that defense entailed. These and other lies, false promises, and misrepresentations were the work of Mr. Sowards, but Mr. Denvir and Ms. Clarke were aware of the most important ones.

On November 25, when I unexpectedly learned in your courtroom that my attorneys had broken the promises that Mr. Sowards had made to me, I was shocked and horrified. The people who I thought were my friends had betrayed me. They had calculatedly deceived me in order to get me to reveal my private thoughts, and then without warning they made accessible to the public the cold and heartless assessments of their experts. Assessments that were not even truthful - and I am not attempting to dispute here the *conclusions* of their experts, I am referring to false statements of *fact* and to ideas from my writings that were taken out of context and reworded to make them sound like paranoid fantasies.

To me this was a stunning blow. I felt then and still feel that it was the worst experience I ever underwent in my life. What made it so terrible was not the assessments of the experts or their public revelation, but the sense of *injustice*. I had been tricked and humiliated by people for whom I'd had warm affection and in some cases love, and with whom I'd worked hard to cooperate. It was made still worse by the fact that, in subsequent discussion with my attorneys, they admitted they had broken their promises, and they said they were sorry for it, but they said they would go ahead with their [mental condition] defense whether I liked it or not, and there was nothing I could do about it.

So there it was - a profound injustice, as I perceived it, and there was nothing I could do to defend myself against it or escape from it. This would have been extremely bad if it had been done to me by a declared enemy; but because it was done to me by people who I thought were my friends and to whom I had given my heart, it was unendurable.

That was why I wrote Your Honor my letter of December 1. I delayed giving it to you in hope of a settlement that would have eliminated the need for a trial. But that settlement has not been reached, and my lawyers again say they are going to force the [mental defect] defense on me whether I like it or not. The [mental defect] defense in itself would be endurable. What is not endurable is my helpless sense of injustice over the way I was tricked into providing the information on which it is based. I would rather die, or suffer prolonged physical torture, than have the [mental defect] defense imposed on me in this way by my present attorneys. I know that that sounds like an exaggeration, but I can assure you that it is literally true.

My feelings on this subject are so intense that there is no conceivable way I can continue to cooperate, or even communicate, with my present attorneys if they go ahead with the [mental illness] defense. There is no way I can cooperate any longer

with Mr. Sowards under *any* circumstances. Ever since I learned how he deceived me I have had a strong aversion to him. That aversion has grown stronger every time I remember how eloquently and convincingly he spoke to me of “trust,” knowing all the while that the promises he was making me would not be kept. By this time it makes me feel sick just to look at him.

Once again, Your Honor, my refusal to go forward under present conditions is not petty or willful. I simply *cannot continue* to cooperate with my attorneys.

Dec. 18, 1997 Theodore J. Kaczynski

From Ted to Judge Garland — Jan. 21, 1998

To The Honorable Garland E. Burrell, Jr.

From Theodore John Kaczynski

Your Honor:

In court on January 20, 1998 you cited a passage from the December 22, 1997 *ex parte* hearing in support of your belief that my agreement with my attorneys allowed them to use mental-health evidence provided by non-expert witnesses. This passage reads as follows (according to pages 38, 39 of my copy of the reporter's draft, which is marked "Not proofed or certified - do not cite").

"MR. DENVIR:... I want to make sure ... we ... agree ... that at some point soon we would withdraw the [mental condition defense notice] and would not present any mental health expert testimony at the guilt phase..."

In response to this I would offer the following arguments.

1. Your Honor seems to feel that the statement, "we would withdraw the [mental defect defense notice] and would not present any mental health expert testimony" is equivalent to a statement that withdrawing the [mental defect defense notice] means nothing more than not presenting mental-health expert testimony.

But it is not at all clear that the two statements are equivalent. I personally do not feel that they are equivalent, and from the passage cited, I do not understand that withdrawing the [mental condition] defense means no more than not using mental-health expert testimony.

2. The validity of Your Honor's argument depends on the exact wording of the passage cited, and court reporters do not always achieve word-for-word accuracy. Your Honor may recall that my last words at the bench conference on January 20 were, "I have no objection to that." Later on January 20, Mr. Clymo showed me the reporter's draft of the bench conference, and I pointed out to him that the reporter had put down my words incorrectly. Mr. Clymo answered, "I think you're right," and added that such errors on the part of court reporters are common.

3. In the case of a written agreement it is reasonable to expect adherence to the exact wording of the agreement, because the parties can study the wording with the necessary care. In the case of an *oral* agreement, it is unrealistic to expect adherence to the exact wording of the agreement unless the words in question are repeated and strongly emphasized; for, inevitably, much of the detail in oral communication is not absorbed by the listeners.

Your Honor yourself - trained in legal matters - at first interpreted my agreement with my counsel to mean that all mental-health evidence would be omitted from the guilt phase of the trial. You did not find and interpret the passage cited above until after the dispute arose between me and my counsel over the substance of our agreement. Hence it is not reasonable for you to expect that I should have understood from that passage what my counsel was promising me.

4. It was on Friday, December 19, that my attorneys first offered to withdraw the [mental defect defense] notice. They and I discussed the matter at length over the weekend in preparation for the *ex parte* hearing on December 22. Thus they had plenty of opportunity to make clear to me that they still intended to use lay testimony on mental-health issues in the guilt phase; yet they failed to make this clear to me.

5. I would call Your Honor's attention to a passage that appears in my (uncertified) copy of the reporter's draft, just shortly after the passage cited earlier (page 39 of my copy). Mr. Denvir said that part of the agreement was:

6. . . that we will keep the defendant apprised of the case as it develops, what we're going to put on in the case.

"THE DEFENDANT: In other words, Your Honor, that they won't spring any more surprises on me."

Yet my lawyers still did not inform me until the evening of January 4 - the eve of the opening of proceedings on January 5 - that they intended to use lay testimony in the guilt phase. Thus they sprang a very big surprise on me and failed to keep me "apprised of the case as it develops, what we're going to put on in the case." So they failed to keep that aspect of the agreement.

Your Honor, I recognize that you are an unusually compassionate judge, and that you sincerely believe yourself to be acting in my best interest in seeking to prevent me from representing myself. In an ordinary case your course would be the most compassionate one, and the one most likely to preserve the defendant's life. But I beg you to consider that you are dealing with an unusual case and an unusual defendant, and that preventing me from representing myself is not the most compassionate course or the one most likely to preserve my life.

Theodore John Kaczynski

January 21, 1998

The Ted K Archive

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