

SportsLetter Interviews

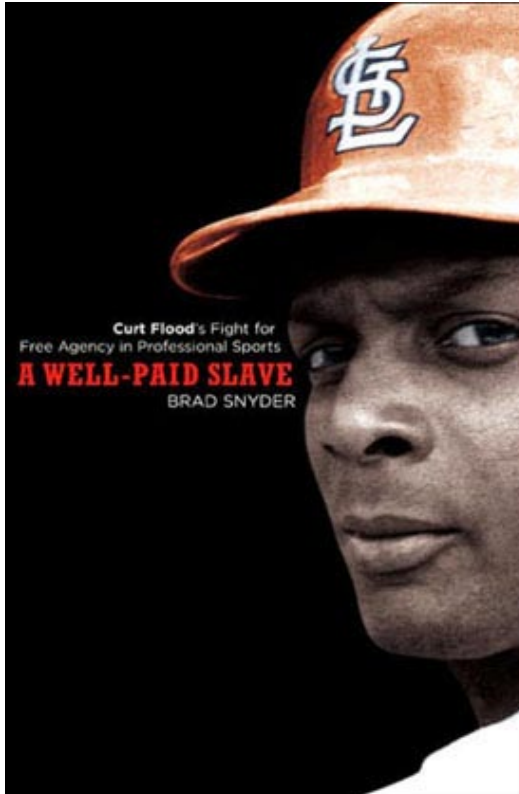
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Brad Snyder

Just days after the 1969 season ended, the St. Louis Cardinals' Gold Glove-winning centerfielder Curt Flood was informed that he had been traded to the Philadelphia Phillies. After 12 seasons with the Cards, the 31-year-old Flood had found a home in St. Louis; he was a quiet force on the Cards' World Series teams of 1964, 1967 and 1968. He did not want to move to Philadelphia.

At the time, professional athletes had little control over their fate. Even stars like Flood had only two options in this situation: he could either report to the Phillies or retire. Flood, however, decided to buck the system. He refused to report to the Phillies' training camp; instead, he challenged Major League Baseball's reserve clause, which bound a player to the team that owned his rights in perpetuity. Flood sat out the 1970 season and, with help from the nascent Major League Baseball Players Association, sued Major League Baseball. The lawsuit eventually reached the U.S. Supreme Court.

In "A Well-Paid Slave: Curt Flood's Fight for Free Agency in Professional Sports" (Viking), Brad Snyder delves into the lawsuit that forever changed professional sports. As Snyder relates, Flood was not successful in his effort. The Supreme Court ruled against him, and his baseball career was



finished.

But the fallout from Flood's lawsuit eventually opened the door to free agency, thereby changing the power structure of professional sports. Thanks to Flood, athletes could enjoy multi-million-dollar salaries and greater control over their careers. Sadly, despite the players' many gains, Flood was largely forgotten. When he died in 1997, no active Major League Baseball player attended his funeral.

SportsLetter talked with Snyder by telephone from his home in Washington, D.C.

— David Davis

SportsLetter: Your background is as a lawyer. What made you decide to write books?

Brad Snyder: It's sort of the other way around. I always wanted to write books. I was at the Baltimore Sun newspaper right after college covering the Baltimore Orioles, the team I grew up watching. That fulfilled a childhood dream. I thought I was some sort of Roger Kahn-like character out of the "Boys of Summer," growing up and covering my childhood baseball team. Then, I went to law school because I covered a Supreme Court case, and I got seduced with the idea of covering the Supreme Court.

I thought if I could ever be happy as a lawyer, it would be as a first amendment lawyer, defending newspapers from libel suits, doing pre-publication review of copy to avoid libel suits. I liked it, but I didn't love it. I realized my passion was writing, and I felt like I was watching other people do the work that I wanted to do. Eventually, after two-and-a-half years, I decided I was going to leave the firm, with no book agent and no book contract.

SL: Your first book was about the Homestead Grays in the Negro Leagues ["Beyond the Shadow of the Senators: The Untold Story of the Homestead Grays and the Integration of Baseball"]. What got you

interested in that topic?

BS: I was a history and Afro-American Studies major [at Duke University]. I decided that I wanted to write about baseball for my history honors thesis, and I started looking into the Negro Leagues. It started with a paper on Satchel Paige. Then, after my junior year I got some grant money to go interview some of the old players and, more importantly, old-time black Washingtonians. It was a pivotal time to do this because a lot of these guys were dying off. These were people who had come of age in the '30s and '40s, so it was important to get their memories and recollections down. I didn't realize it at the time how lucky I was.

SL: How did you come to write this book about Curt Flood?

BS: The Curt Flood book goes all the way back to the summer of '94, when I'm covering baseball for the Sun. The baseball strike happened, and I'm now covering Congressional hearings on Capitol Hill and writing stories about baseball's antitrust exemption. That's how I got into Curt's story. I thought, this is a great one-man-takes-on-the-establishment story, sort of like the book that [New York Times reporter] Anthony Lewis wrote about Clarence Earl Gideon, "Gideon's Trumpet," in which an indigent inmate writes a hand-written petition to the Supreme Court because he wasn't given counsel at his felony trial for petty theft.

I thought that Curt Flood was baseball's version of "Gideon's Trumpet." It had all the elements: it had an underdog, someone who sacrifices everything for a cause. Curt gives up everything for a principal, not for money. It's a degree of altruism that is so rare in today's world and in professional sports. Pat Tillman, the late Arizona Cardinals' safety, is the only other guy I can think of who did something like that. Of course, Tillman paid the ultimate price, but Curt paid dearly for what he did.

One of the big questions I went into this book with was, Why did Curt do it? It was the question everybody asked me when I pitched the project. I spent a long time trying to figure out what motivated Curt and figured out that it was basically Curt's experiences during the Civil Rights Movement and the influence of people like Jackie Robinson and Martin Luther King that caused Curt to do what he did.

SL: After Flood was virtually ignored for decades, two books were published about him this year — your's and Alex Belth's "Stepping Up: The Story of Curt Flood and His Fight for Baseball Players' Rights" [published by Persea]: Were you worried that your book would be lost in the shuffle?

BS: I was confident that I possessed both the baseball knowledge and the legal skills to write the definitive book about Curt Flood. When I started this project, there were four or five other people writing Curt Flood books. I wasn't concerned because, even though some of those people had a huge head start, I thought I had a clear vision for what the book was about and I thought that my vision was different than everyone else's. I got affirmation along the way that told me I was on the right track. When I told Curt's widow, Judy Pace, the reason why I thought Curt sued — that he was strongly influenced by the Civil Rights Movement — she said, "You're the only one who gets what was driving Curt on this."

As for the phenomenon of everybody writing about Curt at the same time: I think that when someone dies, their death causes people to re-evaluate them and to place them in some sort of historical context. Also, when people die, they tend to become martyred. I think those two things — the re-evaluation of Curt's place in history and the martyrdom of this guy who died and never saw any of the money from free agency that the ballplayers are seeing now — caused people to examine his case.

SL: With Flood having passed away, how did you go about researching his life?

BS: I think when someone dies in a lot of ways it makes it easier to write a book about them than when they're alive. I'll give you an example. When Jane Leavy wrote her terrific book on Sandy Koufax, she didn't need Koufax to write that book, although he met with her once. She needed Koufax to make it okay for his friends to talk to her. When someone dies, it allows their friends to be more candid about them than if they were living. Feelings won't be hurt that way.

I used typical journalistic strategies. I consider myself part historian and part journalist, and I tried to put both of those caps on. That meant just digging, interviewing everyone I could possibly find who had a good Curt

Flood anecdote, doing Freedom of Information Act requests with the FBI and the State Department. That produced some incredibly helpful material, for example, about Curt's time in Spain. I didn't feel that it would be helpful for me to go to Majorca, but the State Department's files on Curt's travels were a gold mine for me.

SL: You write about unflattering aspects of his life, including alcoholism and the fact that he probably didn't paint many of the portraits for which he took credit. Was that difficult to write about?

BS: I could not ignore the painting situation or the alcoholism because they were central facts of his life. The drinking that was debilitating became evident going back to the State Department reports. The fact that Flood was charged with shop-lifting and ended up in a Barcelona psychiatric hospital for alcoholism gave me a clue to the depths of his problem. It was almost like Curt knew he had to stay sober when he was an athlete. When baseball was taken away from him, he had a huge void in his life. Without baseball, the alcoholism took over.

People were more candid about that after he died. Alcoholism was Curt's Achilles' heel, and it is one of the most important aspects, sadly, of Curt's life. So, I don't think you could write about Curt without writing about his alcoholism because, from the day he quit baseball at the end of the '69 season until 1986, Curt was not alcohol-free. That's a huge swatch of his life.

The portrait-painting thing I devote three pages to out of 350. No one had ever written that Curt had not painted either some of, or all of, his portraits. It's impossible for me to prove a negative, so I can't say with 100 percent certainty that Curt didn't paint a single portrait. But I had two people volunteer to me that he did not paint his portraits. It was only when I got written evidence — letters in Curt's hand to the artist and letters from the artist to Curt — that confirmed to me that this is something I have to write about, even though it might diminish people's respect for Curt. The fact that he was selling these paintings — the fact he was doing interviews about the Martin Luther King portrait — I thought I had to write about. I look at it this way: all heroes have flaws. I didn't want to make Curt to be the hero who had no flaws.

SL: How would you describe Curt Flood as a ballplayer and as a person?

BS: Despite the portrait-painting debacle, Curt was a man of amazing character. He was incredibly principled and inquisitive. He was multi-talented: he was a musician, and he could sketch beautifully. In some ways, he was a self-taught renaissance man who defied the stereotypes of ballplayers. He was a free-thinker, but also very quiet and understated, without the loud defiant, Muhammad Ali-like boasting. If you went through the Cardinals' locker-room in the late 1960s, you wouldn't think that Curt would be the guy to stand up against the reserve clause. You would think it would be Bob Gibson, or Joe Torre, or Tim McCarver, or Bill White. I would also describe him as a womanizer and a partier, too. There's no getting around that — that Curt liked to have a good time off the field.

As a ballplayer, in some ways he was a lot like David Eckstein, with his size and the way that he was a tough guy to get out. He was a real ballplayers' ballplayer who always did the little things. He was a number-two hitter who moved Lou Brock over. Defensively, he was outstanding, a spectacular fielder despite his gaffe in the '68 World Series. Curt was really the first one to leap over outfield fences on a regular basis and pull the ball back into the field of play. In that respect, he had a lot of Kenny Lofton's athleticism out in center field. Sports Illustrated put him on the cover in August of '68 and called him "Baseball's Best Center Fielder." That's a bold statement considering Willie Mays is still playing. But Mays was getting up in years, and the magazine was recognizing that Curt was in his prime and that he was the best at going after the ball the way Mays once used to be. I think had Curt played in a different time, with weight training and physical conditioning being more of a priority, he could have played into his late 30s.

SL: Many reporters in the press and many players in the locker-room slammed Flood for taking on the reserve clause. Why was his stance so revolutionary in sports at that time? And, did his critics understand what was at stake?

BS: I just assumed that the players would have been behind him, and I just assumed that the media would have gotten it a little more. That's

looking backwards at history. We know now that free agency was going to benefit the players, but at the time there was a lot of ignorance on the part of players and the media. Among the players, there was an enormous culture of fear because the owners had so much power over them. Players, and particularly star players, did not want to get out of line because they wanted to get that salary increase the next season, they wanted to have a future in management, they didn't want to get traded against their will. So, they toed the company line, and that's why you saw the superstars of the game abandon Curt when it came to the reserve clause. I was shocked when I read the quotes from Willie Mays, Hank Aaron, Carl Yastrzemski, Frank Howard and Harmon Killebrew not supporting Curt.

Also, the owners' line was, if you get rid of the reserve clause, you're going to destroy the game of baseball. No one wanted to see the game of baseball destroyed, particularly the players whose livelihood depended on it. So, most people bought the owners' rhetoric.

The media's relationship with the owners and baseball teams was just different then. Bob Broeg, the esteemed sports columnist for the St. Louis Post Dispatch, and Gussie Busch, the owner of the Cardinals, were good buddies. Sportswriters in every city were riding on the team planes. On the way to the '67 World Series, Bob Broeg rode with the players on the team bus. Could you imagine that today, a journalist riding on the team bus to Game 7 of the World Series? It wouldn't happen. Reporters then were the ultimate homers and were completely devoted to management. That's why it took guts for a few free-thinkers — Jim Murray in L.A., Red Smith in New York, Howard Cosell, and a few others — to stand by Curt and say, "Hey this is absurd."

SL: Given the times, do you think Curt's "slave" quote contributed to his problems?

BS: By comparing himself to chattel and slavery, Curt's quote — "A well-paid slave is nonetheless a slave" — fanned the flames of discontent. What was happening during Curt's lawsuit was, in a sense, a backlash to the Civil Rights Movement. People perceived there to be excesses in the Civil Rights Movement, in the form of Ali, the Black Panthers, school

busing. All these things are going on, and people are reacting to them in a reactionary way. Curt's slavery comparison gave the reactionaries something to grab hold of and say, "Look at this ungrateful guy, making \$90,000 a year, comparing himself to a slave."

SL: After sitting out the 1970 season, Flood signed and played briefly with the Senators in 1971. In retrospect, did that hurt his case?

BS: Absolutely. He desperately needed the money, but that was a terrible P.R. disaster. I think Curt lost all sympathy when he came back. If he had still been sitting on the sidelines in '72, waiting for the justices to rule, it would have seemed like there was a real controversy going on. I think the public's support for Curt would have been greater. I think each individual justice's sympathy would have been greater. By the time they decided the case in '72, I think the justices were feeling like, "What are we doing here? Curt Flood tried to come back and couldn't. Nobody's career is at stake." So, I think they saw no harm in ruling for baseball.

SL: Your legal background informs much of this book. Why, ultimately, did Flood lose the case? What could he have done differently?

BS: There were a bunch of things that Curt could have done differently and Curt's legal team should have done differently. Whether the outcome would have changed, we'll never know. The first thing was when [attorney] Arthur Goldberg decided to run for governor of New York and broke his promise to Marvin Miller on that score. He should have stepped aside from the case. Then, [attorney] Jay Topkis should have taken the lead at trial. Curt's direct examination would have been better, and the trial record to take it up on appeal would have been better.

The second thing, as Miller pointed out, was to have players show up at Curt's trial to show support. The public's perception of a lawsuit is important. Judges are real people; they read the newspapers. So, if public opinion on Curt's lawsuit had turned in his favor during the lawsuit, the Supreme Court might have reacted differently.

The third thing was Arthur Goldberg should never have argued that case before the Supreme Court. Jay Topkis should have argued the case before

the Supreme Court. The justices never received Curt's best arguments at oral argument, and Curt did not have an advocate up there to counter Major League Baseball arguments. Lou Hoynes, Major League Baseball's counsel before the Supreme Court, did a phenomenal job, but there were holes in his argument that a skillful advocate could have exploited. And no one did that.

SL: What of the machinations of the Supreme Court during the Flood case? Why did Chief Justice Warren Burger switch his vote?

BS: In some ways, we'll never know because Burger's papers are sealed until 2026. I think the main reason Chief Justice Burger switched his vote was an institutional one. He saw a 4-4 tie initially, which meant the lower court's opinion would have stood, and I think he saw his leadership role as chief justice was to get a majority opinion on the case. Also, I think he wasn't above playing politics with opinions. I think he saw that if the case ended up in a 4-4 tie, that would have been a huge blow to his good friend Harry Blackmun. I think he wanted to boost Blackmun's confidence. I also think he was trying to curry favor with Justice Blackmun for future cases. I do not think there was a direct trade — that Burger said, "If I vote on this case this way, will you vote on that case in that way?" — but I think Burger saw his role as chief was to break the tie.

Usually, there aren't ties in Supreme Court cases, because there are nine justices. To me the most significant event in the machinations of Supreme Court was Justice [Lewis] Powell's recusal [Powell recused himself because he owned stock of Anheuser-Busch, which owned the Cardinals]. If Powell does not recuse, then you have a 5-4 decision for Curt, with no tie to break. What was curious about what Justice Powell did was that he recused himself after he participated in the oral arguments and the deliberations.

SL: Was his decision to recuse himself legitimate?

BS: As we learned from the controversy of Chief Justice [Antonin] Scalia going duck-hunting with Dick Cheney, it's entirely up to the opinion of the justice. So, why I can't say whether Powell was wrong or right to recuse himself? I think it was an excessive adherence to the ethics rules. I mean,

here's Powell voting against Anheuser-Busch; certainly, in voting for Curt Flood, he's not helping Anheuser-Busch. What was going through Powell's mind was the promise that he made to the Senate Judiciary Committee that he would not vote on cases in which he owned stock.

SL: In 1972, when the Supreme Court ruled in favor of baseball, the Court also urged Congress to take away sports' antitrust exemption. Why hasn't Congress acted on this?

BS: Because baseball has the best and strongest lobby. Let's be honest: Major League Baseball owners are mega-millionaires who make huge campaign contributions. I don't think Congress will ever overturn the antitrust exemption because every individual congressman is allied with the owners of baseball teams. There's a Major League Baseball team in many states, and then there are minor league teams in almost every town in this country. One of the big arguments for the antitrust exemption is, if you get rid of that exemption, you'll destroy the minor leagues. There is no way that some congressman who lives where the minor league team is one of the biggest things going would do something to hurt the fortunes of that team.

SL: While Flood lost in court, his position ultimately prevailed in baseball and throughout sports. What is the legacy of Flood and his case?

BS: Curt Flood got the players a lot of things that people don't realize. Labor negotiations were going on all through the Flood lawsuit, from 1970 to 1972, but the lawsuit took the reserve clause off the negotiating table. So, you have the biggest sticking point no longer a sticking point because of the lawsuit. You also had the owners arguing in court that the Flood case isn't an antitrust issue, that it's a labor issue that they can solve at the negotiating table. So, they had to show that they could be reasonable, and they gave the players three big concessions: salary arbitration, which is still in full force today and the product of enormous gains for young players; grievance arbitration, which led to Andy Messersmith and Dave McNally being able to challenge the reserve clause before an independent arbitrator and become baseball's first real free agents; and the 10-5 rule, where if a player has ten years of Major League service time, five with the same team, he can veto every trade. That rule would have enabled Curt

Flood to veto the trade that started everything. So, the benefits from his lawsuit aren't necessarily direct, but the players made gains as a result of the momentum from the lawsuit. And, they're still benefiting players today.

Flood's legacy is that he helped the players gain their rightful share of the economic pie. Flood brought to the public's attention the huge imbalance that existed during much of baseball's so-called glory days, from the 1940s to the 1960s, when the owners were taking home more than 80 percent of the money and the players were being exploited to the extent where they had to take second jobs during the off-season. Flood showed that this was an unequal situation. His lawsuit and the Supreme Court's ridiculous opinion helped to change public opinion on this.

Obviously, his legacy is free agency. I know people have mixed feelings on this subject, but to my way of thinking baseball is a better game because of free agency. To see seven World Series winners in the last seven years is a direct product of free agency. You see teams in the middle of the pack economically winning the World Series, while the team with the most money is not winning the World Series every year. Certainly, there are problems. Certainly, the higher ticket prices are problematic. But I think that's a trend in society: people overvalue entertainment. It's the same reason why actors get \$20 million for a movie.

Curt's other legacy was standing up for himself and taking a stand. We don't see that so much today, and with good reason. Look at what happened to Curt Flood. Look at what happened to Muhammad Ali. Ali lost three prime years of his career and was one justice's vote away from going to prison. Flood's stand cost him everything. Ballplayers and athletes today get that message: the money is so great — and their ties to corporate America are so close, with all of their endorsements — that for a Tiger Woods or a LeBron James to speak out on a racial or a social or a political issue would almost be career suicide.

SL: Do you think Curt Flood has received his due recognition?

BS: No. I hope my book goes some way to rectifying that. A lot of people asked me, "Isn't it awful that the modern-day player doesn't know who Curt Flood is?" I say to them, "Look, baseball players usually come right

out of high school. Only a few of them are going to college. You can't expect these guys to be baseball historians when they enter the league." But it's the union's fault for not educating their members about Curt. The union should have educated the players and told them the story of Curt Flood, of Catfish Hunter, of Marvin Miller, of Andy Messersmith and Dave McNally, so the players recognize how they got to where they are today.

In 1994, during the players' strike, about 50 players gave Curt a standing ovation at a meeting in Atlanta after Curt spoke to the players and encouraged them not to put the genie back into the bottle. Of those players who participated in the '94 baseball strike, there's only 80 left of the 800 current players. So, 90 percent of today's players have no idea what it's like to sacrifice their salaries for a players strike.

SL: You write that Marvin Miller, the longtime head of the Players Association, was very supportive of Flood throughout the legal process. And yet, Miller hired the attorney, Arthur Goldberg, who did a poor job, and, when Flood was in financial need, the Players Association didn't find a job for him. Could they have done better?

BS: Marvin stepped down in '85, '86. Curt didn't sober up until '86. So, I don't think that was going to happen then. I do blame the union leadership for not giving Curt a job later in his life and recognizing his accomplishments that way. Marvin certainly shoulders some of the blame. Most of the blame for not hiring Curt, and for not recognizing Curt later on, falls on Don Fehr's shoulders. At the same time, Fehr and the Players Association quietly paid a lot of Curt's medical bills at the end of Curt's life.

There are two places where I think the union went wrong with Curt. First, not a single active player showed up to Curt's funeral. Marvin had David Cone and Tom Glavine issue written statements when Curt died that were very complimentary. But given all the players who live in Southern California — and this was in January, during the off-season — Don Fehr could have called a few players and had them come to the funeral. That showed a lack of P.R sense, but also a lack of respect for Curt.

The second thing was — and Jesse Jackson said this during the eulogy at Curt's funeral — the union should set up an award in Curt's name, almost

like the union's version of the Roberto Clemente Award that Major League Baseball gives out. It would help educate people about who Curt Flood was. That has never happened, and that was something they could have done.

SL: What most surprised you in researching and writing this book — about Flood, about the case itself?

BS: The first thing was, how few of Curt's fellow players backed him at the time of his lawsuit and how outspoken some of the superstars, like Carl Yastrzemski and Harmon Killebrew, were [against him], and how reticent guys like Willie Mays, Hank Aaron, Ernie Banks, and others were to say, "Curt's doing the right thing here." That was really shocking.

Also, the depths of Curt's despair, particularly when he was completely destitute and drunk in Europe. The shop-lifting charge, the Barcelona psychiatric hospital stay, his father having to send over a plane ticket so that Curt could get back to the States. That was a rock-bottom situation, and I didn't realize how sad some aspects of the story would be.

The ineptitude of Arthur Goldberg really shocked me. I have a real reverence for the Supreme Court and Supreme Court justices, and I was shocked at how bad a lawyer Goldberg was at that point of his career. He was like Willie Mays stumbling around in the outfield during the '73 World Series, just a guy who was past his prime.

The last thing was, I was really disappointed in the Supreme Court itself, as an institution, that Justice Blackmun would treat Curt's lawsuit so cavalierly and not realize what Curt had sacrificed and what was at stake. And, how shoddy the reasoning of the opinion was and how, with sports cases, justices become fans and become irrational. Be it baseball, basketball, or football, you can almost throw all the legal precedents out the window because the justices' love of sports overtakes any logical argument.

SL: Does Curt Flood deserve to be in the Hall of Fame? Does Marvin Miller?

BS: Marvin Miller definitely deserves to be in the Baseball Hall of Fame. Miller, along with Branch Rickey and Kenesaw Mountain Landis would be my Mount Rushmore of non-players having an enormous impact on the history of the game. The fact that Miller is not in there de-legitimizes the entire institution and shows how conservative the veteran's committee is in making selections.

Under the new rules system, I think the chances of the veteran's committee selecting Curt Flood are slim and none. Certainly, Curt's baseball numbers don't warrant his inclusion in the Hall of Fame. He had about 2,200 hits. That's a far cry from even guys like Vada Pinson, who had close to 2,800 hits and who's not in the Hall of Fame. But I think there's a case to be made for Curt — just like there was a case to be made for Larry Doby — that Curt's accomplishments and legacy to the game warrant his inclusion. You know, Larry Doby got in a few years ago more for being the American League's first black player and not for his statistics. I think that was well-deserved. So, I think that under some Larry Doby-like logic, you could make a good argument for Curt.

SL: Before his death, Curt said that he was writing a sequel to his first book, "The Way It Is." Does the sequel exist or was that just something that he told everybody?

BS: I don't know because I haven't seen what [Flood's widow] Judy Pace has. She told me that Curt was trying to work on the sequel and that he did a lot of talking into a tape recorder. "The Way It Is" is a wonderful book. I rank it up there with "Ball Four" and "The Long Season" for its candidness about the way ballplayers really talked and thought and acted. "Ball Four" and "The Way It Is" were revolutionary books in this tell-all genre that's so commonplace today. I'd love to see it. It would be a wonderful artifact, and it would be a wonderful resource for future writers and historians. But I don't think we'll ever see it. I don't think there is a sequel out there — not without a substantial amount of work from another writer to complete it.