F.O.I.A.

JULIUS ROSENBERG ET AL.

FILE DESCRIPTION

HQ FILE

SUBJECT Morton Sobell

FILE NO. 101-2483

VOLUME NO. 37

SERIALS

1392

1419

NOTICE

THE BEST COPIES OBTAINABLE ARE INCLUDED IN THE REPRODUCTION OF THE FILE. PAGES INCLUDED THAT ARE BLURRED, LIGHT OR OTHERWISE DIFFICULT TO READ ARE THE RESULT OF THE CONDITION AND OR COLOR OF THE ORIGINALS PROVIDED. THESE ARE THE BEST COPIES AVAILABLE.

Inventory Worksheet
FD-503 (2-18-77)

Sec 37

File No: 101-2483 Re: Morton Sobell Date: 11-19-84 (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages Actual	No. of Pages Released	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
1392	5-18-57	NY AT Hq	2	2	b1
NR	5-29-57	NY AT Hq	3	3	b1
1393	7-15-57	NY let Hq	1	1	
NR	7-16-57	memo Belmont	1	1	b1
1394	8-5-57	NY let Hq	1	1	
NR	8-22-57	newspaper clipping + R/s	1/1	1/1	
1394	8-14-57	Hq let NY	1	1	
1395	8-21-57	Hq let AAG	1	1	b1
NR	8-23-57	Hq let DAG	2	2	b2 b7D
NR	8-13-57	mexico city airgram	1	1	b1
1396	8-28-57	NY ltr	10	9	b7D
1397	8-28-57	NY let Hq	4	4	b1 b7D b2
			29	28	1 0 0 0

NW NR deny ref presumed preproc

FBI/DOJ

Inventory Worksheet
FD-503 (2-18-77)

Sec 37

File No: 101-2483 Re: morton sobell Date: 11-19-84 (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages Actual	No. of Pages Released	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
NR	8-28-57	Ottawa let Hq	2	0	b1
NR	8-29-57	Hq let SA	1	1	
1398	8-29-57	Hq let AAG w/enc	1/2	1/2	
1399	9-16-57	Hq let Solicitor general	1	1	
1400	9-12-57	Hq let State	1	1	b1
1401	9-17-57	Hq let Solicitor general	2	2	b1
1402	9-16-57	Nichols memo Tolson	1	1	
1403	9-11-57	Branigan memo Belmont	2	2	
NR	9-23-57	New York City rept	4	3	b1
1404	10-3-57	Hq let NY	1	1	b1
1405	10-7-57	Solicitor General let Hq w/enc	1/31	1/31	
NR	10-12-57	NY TT Hq	1	1	
			51	48	3

NR NR deny ref presumed prepon

FBI/DOJ

Inventory Worksheet Sec 37
FD-503 (2-18-77)

File No: 101-2483 Re: Morton Sobell Date: 11-19-86 (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages Actual	No. of Pages Released	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
1406	10-12-57	Stacey memo Belmont	1	1	
1406	10-21-57	Hq let Solicitor General	2	2	
1407	10-16-57	Branigan memo Belmont	1	1	
1408	10-21-57	3rd party let Nichols	3	3	
	10-22-57	search slips	8	8	b2b7C
1408	10-25-57	Hq let NY	1	1	
1409	10-30-57	EBF Kick sheet w/EBF	7/11	7/11	
1410	10-24-57	Branigan memo Belmont	3	2	1p refer to CIA + army
NR	10-21-57	LA AT Hq	1	1	b2b7D
NR	10-23-57	DAG let Hq tencl.	1/1	1/1	
1411	10-30-57	Hq let Solicitor General	2	2	
NR	9-26-57	Hq let DAG	1	1	

38 37 0 1 0 0
rev rel deny ref preaume prepros

FBI/DOJ

Inventory Worksheet
FD-503 (2-18-77)

Sec 37

File No: 101-2483 Re: Morton Sobell Date: 11-19-86 (month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages Actual	No. of Pages Released	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
1412	10-31-57	NY rept	8	8	
1413	10-31-57	NY let Hq	2	2	b1
1414	8-22-57	Nichols memo Tolson Andend.	1/2	1/2	
NR	9-13-57	Hq let DAG	2	2	
1415	11-8-57	Branigan memo Belmont	2	2	
1416	11-13-57	Solicitor General let Hq	1	1	
NR	12-3-57	monthly report	1	1	
1417	12-13-57	NY rept	22	21	1 p referred to CIA b7C, D
1418	12-13-57	NY let Hq	7	4	3 pages referred to CIA b2 b7D b7E
1419	12-23-57	Branigan memo Belmont	2	1	1 page referred to CIA

50 rev 45 rel 0 deny 5 ref 0 preassume 0 prepros

FBI/DOJ

FD-36 (Rev. 3-13-56)

F B I

Date: 5/18/57

Transmit the following message via AIRTEL

SECRET

(Priority or Method of Mailing)

Mr. Tolson
Mr. Nichols
Mr. Boardman
Mr. Belmont
Mr. Mohr
Mr. Parsons
Mr. Rosen
Mr. Tamm
Mr. Trotter
Mr. Nease
Tele. Room
Mr. Holloman
Miss Gandy

TO: DIRECTOR, FBI

FROM: SAC, NEW YORK (65-17264)

SUBJECT: UNSUB, wa "STONE", AMERICAN KNOWN TO REINO HAYHANEN AS A SOVIET AGENT
ESPIONAGE - R

OO - NY

Classified by 3042 Post-DIC
OADR
4/24/87

On 5/6/57, subject advised [redacted] b1
that "MARK" had agent, cryptonym was "STONE", who was convicted of espionage in 1955 or 1956 and sentenced to thirty years imprisonment. "STONE" had wife named "ROSA" and it was dangerous to attempt to contact "ROSA" after the conviction.

On 5/17/57, subject questioned re knowledge of "STONE" and "STONE's" wife, "ROSA". Subject stated that he never met "STONE", did not know when "STONE" was arrested, but was positive arrest was prior to his coming to US. Subject exhibited four newspaper photographs of MORTON SOBELL taken 1950-1956. Subject unable to identify any photograph. Subject stated that "MARK" told him (subject) that "STONE" was convicted, date uncertain, and "STONE" was connected with ROSENBERG case.

prior to whose coming?

Subject stated that he has never met "STONE'S" wife. Five photographs of HELEN SOBELL, wife of MORTON SOBELL, exhibited to subject. Subject identified a newspaper photograph of HELEN SOBELL as identical with photograph given him by "MARK" for subject's assistance in location of HELEN SOBELL. Subject stated that "MARK" told him HELEN SOBELL lived on 137th St., or 139th St. Subject stated that he did not check out above address

101-2483-1392

SE 48

3 - Bureau (RM)
1 - NY 65-17265
STE
R 2 1
JAB:aeo
(6)

Mr. Belmont

RECORDED-46

ESP. SQUAD

MAY 23 1957

Approved: _____ Sent _____ M Per _____
Special Agent in Charge

SECRET

. D-36 (Rev. 5-13-56)

FBI

Date:

Transmit the following message via _____

(Priority or Method of Mailing)

NY 65-17265

Subject stated that he and "MARK" burried $5000.00, which was to be given to HELEN SOBELL, in two drops at Bear Mt. When "MARK" left for Moscow, he (subject) was to pick up money and give to HELEN SOBELL. However, he picked up money and kept same.

Photograph of HELEN SOBELL identified by subject was newspaper photograph as set out in New York "Mirror" newspaper, dated August 19, 1950.

Re address furnished to subject by "MARK" for HELEN SOBELL, itis noted that HELEN SOBELL has maintained for past five years address of 506 West 135th St., NYC, and/or 2400 Davidson Ave., c/o LOUIS SOBELL, Bronx, NY. LOUIS SOBELL is father of MORTON SOBELL.

Above for info.

KELLY

SECRET

Approved: _____ Sent _____ M Per _____

Special Agent in Charge

5/29/57

SECRET AIRTEL

TO: DIRECTOR, FBI (65-64521)
ATTENTION: INSPECTOR DONALD E. MOORE
FROM: SAC, NEW YORK (65-17259)

SUBJECT: FINCASE
ESP - R

RC INSTRUCTIONS AS TO DISSEMINATION SEE FILE 65-64521-52

Rebuphonecall to New York, 5/29/57.

Re "Stone"

On 5/6/57 REINO HAYHANEN advised that "MARK" had agent, cryptonym "STONE," who was convicted of espionage in 1955 or 1956 and sentenced to 30 years imprisonment.

On 5/17/57 HAYHANEN identified newspaper photograph of HELEN SOBELL as being identical with photograph given him by "MARK" for HAYHANEN's assistance in location of HELEN SOBELL.

HAYHANEN further stated on 5/21/57 that he was given $5,000.00 by "MARK" which was to be given by him to the wife of "STONE," HELEN SOBELL.

In view of aforementioned info regarding identity of "STONE," all information relating to "STONE" is being consolidated into the case file on MORTON SOBELL.

6-Bureau (65-64521) (RM)
(2-101-2483) (MORTON SOBELL)
[redacted] S-b1
(1-[illegible])
1-New York (100-37158)
1-New York (65-17263)
1-New York (65-17208)
1-New York (65-17259)

JFK/JAB: jam
(11)

101-2483 ✓
NOT RECORDED
170 JUN 10 1957
INITIALS ON ORIGINAL

65-64521-171

Classified by 3042 [illegible]
Declassify on: OADR
4/24/81
Brackets classif per CIA release packet #2 7-7-87

57 JUN 11 1957

Orig - Belmont

SECRET

ORIGINAL COPY FILED IN

SECRET

AIRGRAM TO DIRECTOR
NY 65-17456

Re [redacted]S

REINO HAYHANEN advised that the Soviets had recruited an individual in the American Embassy in Moscow whose code name was [redacted] and that [redacted] at the time of his recruitment was a Sergeant in the United States Army. b1

During the search of HAYHANEN's person, a belt was found which was later ascertained to be hollow. Inside of the belt was a message which identified [redacted]S as NOT A. HAYHANEN. b1

[redacted]S has been tentatively identified at this point as NOT ADAIR HAYHANEN, presently a Master Sergeant in the United States Army and stationed at Fort Monmouth, New Jersey. b1

Pursuant to Bureau instructions and set forth to Bureau and all interested offices in HQtel, 5/20/57, all investigation of HAYHANEN was temporarily discontinued and this investigation is presently being held in abeyance pending the decision of the Bureau after conferences with the Intelligence Section of the United States Army.

Re HAYHANEN: Colonel Pastelnjak

REINO HAYHANEN advised 5/17/57 that he was directed to one Colonel PASTELNJAK, who was Assistant Minister of MGB in Estonia in 1949. PASTELNJAK advised HAYHANEN that he was in the United States for eight years prior to being in Estonia. HAYHANEN furnished a brief description of PASTELNJAK. However, he was unable to furnish additional information regarding PASTELNJAK's activities in the United States.

SECRET

AIRTEL TO DIRECTOR
RE 65-17859

NYO indices contain no identifiable derogatory information concerning PAHLEVIAN. NYO continuing attempts to identify PAHLEVIAN through further questioning of HAKHAMI, review of all [redacted] photographs and descriptions, review of [redacted] Album, and case files of known Red Army intelligence officers who have traveled in the United States.

b1

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (101-2483) DATE: 7/15/57

FROM : SAC, NEW YORK (100-37158)

SUBJECT: MORTON SOBELL, was
ESPIONAGE - R

Re NY letter 5/25/57, and Bureau letter 6/4/57.

Referenced Bureau letter instructed that in addition to identifying the owners of beauty parlors located between 139th and 142nd Streets on Broadway, NY, NY, to determine if subject's wife, HELEN SOBELL, had or has any interest in any of these shops, that informant be reinterviewed concerning the address of this beauty shop since the 1400 block of Broadway, the number mentioned by informant, is not located between 139th and 142nd Streets on Broadway, but is in the vicinity of Times Square.

The identity of owners of the beauty shops located between 139th and 142nd Streets on Broadway is being determined from available sources but a reinterview of the informant will be delayed inasmuch as interviews with him have temporarily been suspended for the last several weeks. Upon resumption of interview of informant, he will be questioned concerning this matter and the Bureau will be promptly advised.

(2) Bureau (101-2483)(RM)
1 - NY 100-37158

RECORDED - 88

101-2483-1393

RTH:hkl
(3)

INDEXED - 88

17 JUL 17 1957

62 JUL 26 1957

STANDARD FORM NO. 64

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. A. H. BELMONT

DATE: July 16, 1957

FROM : MR. D. E. MOORE

Classified by 3042 Supt-Dfc
Declassify on: CADR 5/1/87

Brackets classified per CIA release #2 7-7-87

5/1/87 3042 Supt-Dfc

Tolson
Belmont
Mohr
Parsons
Rosen
Tamm
Trotter
Nease
Tele. Room
Holloman
Gandy

SUBJECT: FINCASE
ESPIONAGE (R)

Re attached memo from you to Mr. Boardman in which it was recommended and approved that we suggest to the Department that they consider dropping [redacted] from the proposed indictment at this time and also consider including as part of the indictment the information concerning Helen Sobell.

b1

This was discussed with Departmental attorneys Tom Hall and Kevin Maroney on July 15, 1957, and they advised that [redacted] will be dropped from any indictment. Both advised they will give consideration to including information about Helen Sobell in the Registration Act count of the indictment but at the present time they feel that such inclusion might appear obviously made for publicity purposes. Hall advised on July 16 that inasmuch as Hayhanen has not expressed a willingness to testify they are not in a position to proceed with grand jury action and will continue to consider the Helen Sobell possibility but are inclined to feel it would be inadvisable to include this material. Hall stated that should Hayhanen agree to be a witness, they are all set up to proceed with taking this matter before a grand jury and he expected an indictment could be returned within a matter of hours should it be necessary.

b1

ENCLOSURE

101-2483

NOT RECORDED
JUL 19 1957

ACTION:

For information.

Enclosure
DEM:mfl
cc-- Mr. Belmont
Mr. Moore
Mr. Branigan
Mr. Litrento
(5)

54 JUL 26 1957

50 JUL 30 1957

SECRET

65-64521 4782

ORIGINAL COPY FILED IN

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (101-2483) DATE: 8/5/57

FROM : SAC, NEW YORK (100-87158)

SUBJECT: MORTON SOBELL, was
ESPIONAGE - R

NATIONAL GUARDIAN newspaper, issue dated 8/5/57, page 2, reflects editorial advising readers that on 9/4/57, defense lawyers for MORTON SOBELL will petition the Supreme Court for a review of his conviction, and that an amicus curiae brief will accompany the petition.

Page 4 reflects amicus curiae brief blank to be signed by readers and mailed with a contribution to the COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL, 940 Broadway, NYC. Same page explains nature of amicus curiae brief; briefly reviews SOBELL's trial; quotes from a letter from SOBELL's wife, calling the new appeal, "Our moment of greatest hope", and mentions the improving situation for individual liberties manifested by the Supreme Court. Request is made for return of signed amicus curiae briefs by August 28th, for inclusion with the appeal to be filed September 4th, and the readers are advised that regional offices of the SOBELL COMMITTEE will supply additional copies of the brief.

For information. The Bureau will be kept advised of developments.

Let to NY 8/14/57 WAA

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3042 Post-DJC

2 - BUREAU (101-2483) (RM)
1 - NEW YORK (100-107111)
1 - NEW YORK (100-87158)

101-2483-1394

12 AUG 7 1957

RTH/mca
(4)

EX-110

RECORDED - 75

57 AUG 22 1957

are given daily to those persons in ... of her 160,000,000 admirers.

On Your Guard

Red-Backed Drive Coming

By JACK LOTTO
International News Service Writer

THOUSANDS of American individuals and organizations will be approached this month by Communist supporters anxious to squeeze money from them to blacken the name of America.

The Communist backed drive is aimed at winning signatures—and funds—for a third appeal in September to the United States Supreme Court for a new trial for atomic spy conspirator Morton Sobell.

The phony claim of anti-Semitism will be raised in the nation-wide campaign to make people forget the admitted anti-Jewish activities in the Soviet Union and the satellites.

The pro-Communist "National Guardian" announced the kickoff of the new drive for the *amicus curiae* (friend of the court) signatures by the "Committee to Secure Justice for Morton Sobell."

This Communist front—on the U. S. Attorney General's subversive list—was formed originally in 1953 to defend the executed Rosenbergs as well as Sobell, now serving 30 years in Alcatraz prison.

Through the use of fraud and misrepresentation, the committee collected over a half million dollars from well-meaning persons and the money was used to vilify the U. S. and its institutions.

Encouraged by the recent Supreme Court rulings which upheld Communist appeals in certain cases, the Red backers thought they saw new opportunities to capitalize on the situation.

Said a Guardian editorial:

"A new trial for Sobell, even a hearing for a new trial, would further air, in a new atmosphere, the shocking processes of incrimination which brought about death sentences for the Rosenbergs and a 30-year term for Sobell. We most fervently urge your signature and support.

"This is an opportunity to join in righting a great wrong and restoring American justice to the high level which is its tradition."

The brief which will go to the court with signatures states:

"Morton Sobell's present appeals offer documentary evidence that the prosecution knowingly used fraud and perjury to obtain his conviction. None of the new evidence has been refuted."

This statement is false. Such so-called "new evidence" was reviewed by the lower courts and the appeals courts and rejected.

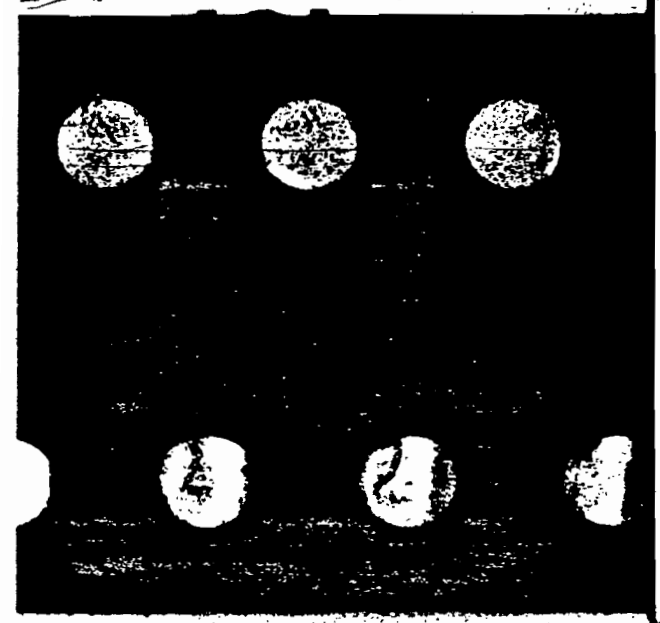
Federal Judge Irving Kaufman, in an opinion of over 50 pages on a Sobell appeal, declared:

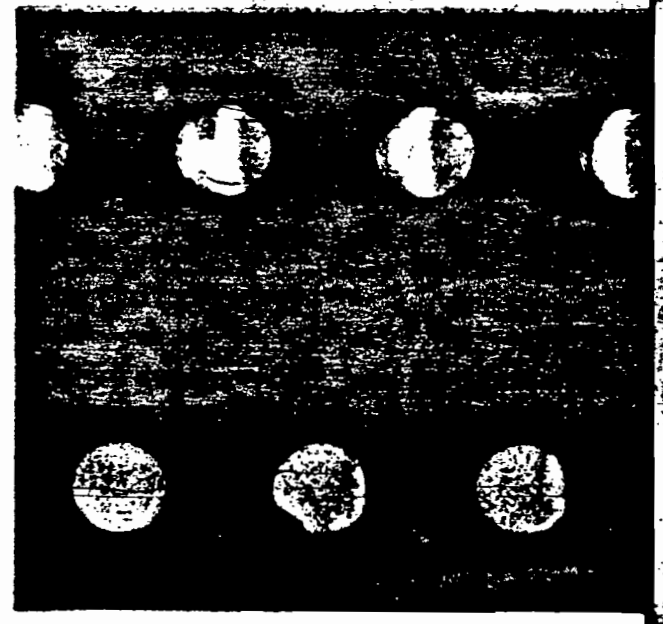
"The petition is so entirely devoid of merit that perhaps it has been unduly dignified by the minute consideration and analysis it has received in this opinion."

The judge explained he had given the petition detailed attention in order to "lay to rest with finality baseless contentions and accusations which have been repeated, not primarily to aid the petitioner but rather to embarrass and injure our courts and our country."

101-2483-1
NOT RECORDED
141 AUG 21 1957

63 AUG 22 1957





FBI

OFFICE OF DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

TO

OFFICIAL INDICATED BELOW BY CHECK MARK

Mr. Tolson	
Mr. Nichols	
Mr. Boardman	
Mr. Belmont	
Mr. Mohr	
Mr. Parsons	
Mr. Rosen	
Mr. Tamm	
Mr. Trotter	
Mr. Holloman	
Miss Gandy	

See Me	
Note and Return	
Prepare Reply	
For Your Recommendation	
Per Your Request	
Remarks	

CLASSIFIED BY
DECLASSIFY ON: OADR

Tickler

August 14, 1957

SAC, New York (100-37158)

Director, FBI (101-2483) 1394

RECORDED-45

MORTON SOBELL, aka
ESPIONAGE - R

Ex-137

Reurlet 8/5/57 captioned as above, in which New York advised that the "National Guardian," 8/5/57 issue, page 2, contained an editorial advising readers that on 9/4/57 defense lawyers for Morton Sobell will petition the Supreme Court for a review of his conviction and that an amicus curiae brief will accompany the petition.

It is further noted that page 4 of the "National Guardian" contained a brief blank to be signed by readers and mailed with a contribution to the Committee to Secure Justice for Morton Sobell.

The New York Office is requested to immediately furnish the Bureau two positive photostats of the pertinent items appearing in the 8/5/57 issue of the "National Guardian" in order that this information may be furnished with appropriate exhibits to the Internal Security Division of the Department of Justice.

NOTE: The Department has been previously advised in connection with the investigation of the Committee to Secure Justice for Morton Sobell and that an amicus curiae brief was contemplated by this group.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 11-22-81 BY 3042 /at DC

COMM - FBI
AUG 14 1957
MAILED 28

cc - 1 - 100-387835

WAA:jaa
(5)

Mail Room CB

AUG 20 1957

Nelson
Nichols
Boardman
Belmont
Mason
Mohr
Parsons
Rosen
Tamm
Trotter
Winterrowd
Tele. Room
Holloman
Gandy

137

Tickler: Mr. Lee

~~CONFIDENTIAL~~

Assistant Attorney General
William F. Tompkins

August 21, 1957

SECRET

Director, FBI

MORTON SOBELL
ESPIONAGE - R

Reference is made to our letter of June 5, 1957.

Information has been received from an informant who has furnished reliable information in the past that [redacted] (S)

b1

The above is furnished to you for your information.

101-2483

Classified by 3042 Ret-DK
Declassify on: OADR
4/23/87

APPROPRIATE AGENCIES
AND FIELD OFFICES
ADVISED BY ROUTING
SLIP(S) OF
DATE 4/23/87

JPL:lmc
(4)

NOTE: The above information was obtained by [redacted] who furnished the above information to that office. This is classified "Confidential" in order to protect the Bureau's source of information.

Classified by 3/88
Exempt from GDS, Category 2
Date of Declassification Indefinite

b1

SECRET

Tolson
Nichols
Boardman
Belmont
Mason
Mohr
Parsons
Rosen
Tamm
Nease
Winterowd
Tele. Room
Holloman
Gandy

COMM — FBI
AUG 21 1957
MAILED 25

RECORDED - 18

~~CONFIDENTIAL~~

EX-108

101-2483-1395

FBI OFFICE

60 AUG 28 1957

7 AUG 23 1957

Mr. William P. Rogers
Deputy Attorney General

August 23, 1957

Director, FBI

PERSONAL AND CONFIDENTIAL

PETER McCORMACK
Protestant Chaplain
United States Penitentiary
Alcatraz
San Francisco, California
INFORMATION CONCERNING (SCI)

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3142 Paul Ab

Information has been received that Peter McCormack, a Protestant Chaplain at the United States Penitentiary at Alcatraz, has been unusually friendly with Morton Sobell, who is presently serving a sentence at that institution as the result of his conviction along with Julius and Ethel Rosenberg for espionage.

The source providing this information indicated that Chaplain McCormack's interest in Sobell was unusual in that the Chaplain had devoted considerable time and effort to effect Sobell's transfer from Alcatraz.

Additional information concerning this matter is being obtained and further details will be furnished to you in the immediate future.

cc: 1 - Assistant Attorney General (Personal and Confidential)
William F. Tompkins

1 - Mr. James V. Bennett (Personal and Confidential)
Director, Bureau of Prisons

1 - San Francisco (Under separate cover)
1 - 100-387635
1 - 101-2483

T-101-2483-
NOT RECORDED

YELLOW DUPLICATE
AUG 26 1957
MAILED

NOTE: The San Francisco Office has advised that Chaplain McCormack has been reported by Warden Paul J. Madigan as displaying an unusual interest in Morton Sobell. According to Madigan, McCormack described Sobell as "one of the finest men I have ever met." Madigan suspects McCormack of being used by Sobell and his wife to carry information to and from the prison by word of mouth and he is regarded by Warden Madigan as a "go-between" for Sobell and the Sobell Defense Committee. San Francisco

JEO:bdw
-9-

(Note continued on page 2)

63 AUG 28 1957

Mr. William P. Rogers

[redacted] advised that the [redacted] This, together with background information concerning McCormack, was furnished to the Bureau for consideration as to whether an investigation should be initiated under Executive Order 10450.* Bureau files do not disclose information concerning McCormack. San Francisco is being instructed to set forth this and more detailed information in a blank memorandum suitable for dissemination. The complete information is not being furnished to the Department and Bureau of Prisons at this time since the Warden at Alcatraz is the source of the information and to disseminate the information attributing same to the Warden without his knowledge might compromise relations between the San Francisco Office and Warden Madigan.

* There is a question as to whether the position of Chaplain at a Federal penal institution is covered by Executive Order 10450. This question must be resolved by the Department.

4-3 (Rev. 1-25-57)

DECODED COPY

SECRET

XXX Airgram Cablegram

Tolson
Nichols
Boardman
Belmont
Mohr
Parsons
Rosen
Tamm
Trotter
Nease
Tele. Room
Holloman
Gandy

Morton Sobell

DECODE OF CODED MESSAGE NUMBER 566 DATED AUGUST 13, 1957 AT MEXICO CITY, MEXICO. RECEIVED VIA AIRGRAM.

NATIONAL COMMITTEE TO SECURE JUSTICE IN THE ROSENBERG CASE, IS-C. RE MYAIRGRAM MAY 24 LAST. [redacted] UNQUOTE. THIS OFFICE FOLLOWING CLOSELY.

(S)

JOHN N. SPEAKES

b1

RECEIVED: 8-15-57 2:25 PM MA

Classified By 3042 Just-DJC
Declassify on: OADR 4/23/81

101-2483

APPROPRIATE AGENCIES AND FIELD OFFICES ADVISED BY ROUTING SLIP(S) OF DATE

NOT RECORDED
101 AUG 26 1957

Let to AAG Tompkins 8-20-57 JPL:lme

2355 WAR/DEB

Exempt from GDS, Category 1
Date of Declassification Indefinite

10/21/75

SECRET

71 AUG 30 1957

INT. SEC.

cc Mr. Belmont
Mr. Ferri

ORIGINAL COPY FILED IN 100-387835-17

The intelligence contained in the above message is to be disseminated outside the Bureau, it is suggested that it be suitably paraphrased in order to protect the Bureau's cryptographic system.

Report Form
FD-263 (5-12-55)

FEDERAL BUREAU OF INVESTIGATION

CONFIDENTIAL

REPORTING OFFICE	OFFICE OF ORIGIN	DATE	INVESTIGATIVE PERIOD
NEW YORK	NEW YORK	8/28/57	6/4,10,13;7/3,9,11,15,22,31;8/2,6,8,9/57

TITLE OF CASE	REPORT MADE BY	TYPED BY
SECRET NORTON SOBELL, was	RICHARD T. HRADSKY	el
	CHARACTER OF CASE ESPIONAGE - R	

SYNOPSIS:

Observation of former residence of HELEN SOBELL at 506 West 135th Street, NYC, reflects that it is the fourth numbered entrance from the corner of Amsterdam Avenue. Beauty shops located between 139th and 142nd Street on Broadway, NYC, identified, and the names of the owners obtained. NYC telephone directories reflect a beauty shop listing for one HELENE SOBEL, Beauty Salon, 602 West 145th Street, NYC, and a HELENE SOBEL at 601 West 141st Street, NYC. Telephone service was instituted to the Helene Sobel Beauty Salon in 1939. Rental records of 30 Charlton Street, NYC, where HELEN SOBELL resides at present, reflect that the first month's rent was paid on December 1, 1956.

- P -

APPROVED JJK | SPECIAL AGENT IN CHARGE

DO NOT WRITE IN SPACES BELOW

COPIES MADE:

101-2483-1396

RECORDED - 25

INDEXED - 25

DECLASSIFIED ON 4/23/87 BY 3642 PWT-DBC

AUG 30 1957

EX. - 118

7 - Bureau (101-2483) (RM)
3 - New York (100-37158)

AGENCY Tompkins
REQ. REC'D
DATE FORW. 9-5-57
HOW FORW. R50-6
BY JPL (pg)

ESP. SEC.

COPIES DESTROYED
F 2 1 MAR 10 1961

CONFIDENTIAL

70 SEP 6 1957

DETAILS Background Brief

On May 8, 1957, T-1, another government agency (CIA) which conducts intelligence investigations, advised that information was received on May 6, 1957, from T-2, a defected illegal Soviet intelligence agent, that he had learned from "MARK", whom he knew to be an illegal Soviet intelligence agent, that a Soviet Agent in the United States "[redacted]STONE", was convicted of espionage and sentenced to 30 years imprisonment. (AEMO: HAY)

T-2 advised that "MARK" exhibited two photographs in June, 1955, one of which was a snapshot evidently quite old, and the other a newspaper clipping. "MARK" informed T-2 at this time that one "HELEN SOBEL or SOBELL" was the wife of a man who had been sentenced to 30 years for espionage on the basis of inconclusive evidence.

"MARK" had $5,000 which he had been instructed to give to "HELEN". "MARK" alleged to T-2 that he had not been able to find "HELEN" either because he was unable to or because he was concerned about going to her beauty shop because of the Federal Bureau of Investigation (FBI).

T-2 advised that HELEN SOBELL resided at 306 West 137th or 138th Street, New York City, which house was located three or four doors from the corner, and that she had a beauty shop located between 139th and 142nd Streets on Broadway, New York City.

On May 13, 1957, T-2 stated that "MARK" had informed him during the last half of 1956, that Moscow wanted to know if HELEN SOBELL could be used as an agent.

T-2 stated that the beauty shop, supposedly operated by HELEN SOBELL, was not necessarily that of the wife of "STONE"; however, he stated that one time, while

attempting to locate HELEN SOBELL, he located a beauty shop under the name of HELEN SOBELL in the Manhattan telephone directory.

On May 17, 1957, T-2 identified a newspaper photograph of HELEN SOBELL as being identical with the photograph given him by "MARK" for his assistance in locating HELEN SOBELL.

HELEN SOBELL is the wife of "MORTON SOBELL" who is presently serving a 30 year sentence at the United States Penitentiary, Alcatraz, California, after having been convicted in the United States District Court, Southern District of New York, on March 29, 1951, of conspiracy to commit espionage in behalf of the Soviet Union. She resided at 506 West 135th Street, New York City, but moved to 30 Charlton Street, New York City, where she now resides.

T-2 advised on May17, 1957, that he had never met "STONE" nor did he know when "STONE" was arrested. However, he indicated that he was positive the arrest of "STONE" was prior to his arrival in the United States.

Informant advised that "MARK" told him that "STONE" was convicted, date uncertain, and that "STONE" was connected with the ROSENBERG case.

JULIUS and ETHEL ROSENBERG were convicted in the United States District Court, Southern District of New York, on March 29, 1951, of conspiracy to commit espionage in behalf of the Soviet Union. The ROSENBERGS were sentenced to death on April 5, 1951, and were legally executed in Sing Sing Prison, Ossining, New York on June 19, 1953.

Investigation was conducted to determine when HELEN SOBELL moved to her current address at 30 Charlton

Street, New York City, from 506 West 135th Street, New York City; where the address 506 West 135th Street, New York City, is located in relation to the corner, inasmuch as T-2 thought that her residence was three or four doors removed from the corner, and to determine the identity of the owner of beauty shops located on Broadway between 139th and 142nd Streets, to ascertain if HELEN SOBELL had or has an interest in any of these shops.

Location of
506 West 136th Street
New York City
in Relation to Corner

On July 11, 1957, observation of the location 506 West 135th Street, where HELEN SOBELL formerly resided, determined that this building is located on the south side of West 135th Street, between Broadway and Amsterdam Avenue. The corner building faces Amsterdam Avenue with about a 35-foot frontage and extends west on 135th Street, for about 70 feet. The corner building has an entrance on 135th Street known as 500 West 135th Street. A 10 foot areaway separates the corner building from the adjacent row of buildings of 135th Street. This row consists of a series of six joined five-story apartment buildings which occupy the approximate middle of the block and are numbered starting at the areaway referred to as 502 through 512 West 135th Street, New York City.

506 West 135th Street is the third building in this row. This numbered entrance is the fourth from the corner of Amsterdam Avenue.

Beauty Shops on Broadway
Between 139th and 142nd Streets
New York City

Observation on July 11, 1957, of the identity and location of beauty shops on Broadway, between 139th and 142nd Street, New York City, reflected the following:

Gilbert Beauty Shop
3420 Broadway
New York City

Majestic Beauty Shop
3423 Broadway
New York City

Carmelitas Beauty Shop
3436 Broadway
New York City

Herman Beauty Salon
3469 Broadway
New York City

Tete's Beauty Salon
3466 Broadway
New York City

[redacted]

b7D

4-750 (Rev. 4-17-85)

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☑ Deleted under exemption(s) b7D with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s):

_____

_____

☐ For your information: _____

_____

☑ The following number is to be used for reference regarding these pages:

101-2483-1396 p6

XXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

FBI/DOJ

[redacted]

On July 22, 1957, EDWARD L. BRAUNE, Agent, New York Telephone Company, 140 West Street, New York City, advised SA ROBERT D. WARDEN that telephone service was instituted to the Herman Beauty Salon, 3469 Broadway, New York City, in February, 1940, and that the bills are sent to HERMAN WEINHARDT whose residence is 24 Major Applebys Road, Ardsley, New York.

b7D

On August 9, 1957, at the New York County Clerk's Office, New York City, the business certificate for Tete's Beauty Salon was checked by SA RICHARD T. HRADSKY. The business certificate was filed on March 14, 1957, and certified that MARIA THERESA BETANCOURT, 640 Riverside Drive, New York, New York, was conducting and transacting business at 3466 Broadway, New York City, under the name of Tete's Beauty Salon; that BETANCOURT did not succeed in another business, using this name previously. The business certificate was notarized by AURORA CARDONA, Notary Public, New York State number 31-0562800, and bore an ink notation

of MELVIN E. CARDONA, 200 West 96th Street, New York City.

On July 3, 1957, at the business office of the New York Telephone Company, 140 West Street, New York City, telephone directories for Manhattan, 1952-1955, were checked by SA RICHARD T. HRADSKY for a listing of a Beauty shop under HELEN SOBELL'S name. The only similar spelling noted was a listing for Helene Sobel Beauty Salon, 602 West 145th Street, New York City, telephone number AUdubon 3-9884, and a HELENE SOBEL residing at 601 West 141st Street, New York City, telephone number AUdubon 3-4773. No listings were noted under the spelling of HELEN SOBELL.

T-3 advised on July 15, 1957, that an undated report on record reflected that Miss HELENE SOBEL was the owner of the Helene Sobel Beauty Parlor, 602 West 145th Street, New York City, which shop was also known as Helen and Ida Beauty Shop in 1945. No additional reports have been written by T-3 on this business since July 16, 1945.

EDWARD L. BRAUNE, Agent, New York Telephone Company, 140 West Street, New York City, advised SA ROBERT D. WARDEN on July 22, 1957, that business service to the Helene Sobel Beauty Salon, 602 West 145th Street, New York City, was instituted on September 28, 1939; that the owner of the Salon was HELENE SOBEL and bills have been sent to the Salon as no residence address was given at the time service was connected.

BRAUNE further advised that AUdubon 3-4773 was listed to HELEN SOBEL, 612 West 144th Street, New York City, with an additional listing for LEAH SOBEL, residential service to this number being instituted on January 5, 1940.

HELENE SOBEL'S occupation was listed as Beautician with a note that she had moved from 601 West 141st Street,

New York City, on November 29, 1956. A reference was furnished as Manufacturers Trust Company, 144th Street and Broadway, New York City.

On August 6, 1957, records of the Credit Bureau of Greater New York were checked by SA PAUL A. ROWLANDS and no record was found for any of the above named beauty salons or for HELENE SOBEL, Helene Sobel Beauty Shop; BRETUHILDA OTERO, Carmelitas Beauty Shop; EDUARDO STASZESKI, Carmelitas Beauty Shop; HERMAN WEINHARDT, Herman's Beauty Salon.

Indices of the New York Division were checked on all the above beauty salon names and no references were located. New York Division indices were checked on the names JOSEPHINE FALSMAN, CESARIO and LAURA NUNEZ, ANGELICA BERDECIA, EDUARDO STASZESKI, BRETUHILDA OTERO, HERMAN WEINHARDT, and MARIA TERESA BETANCOURT, and no references were located.

References were located to the name JOSE RAMOS and are being checked to determine if any are identical with JOSE E. RAMOS of the Majestic Beauty Parlor.

On July 31, 1957, EDWARD L. BRAUNE, Agent, New York Telephone Company, New York City, was requested to check the records on Tete's Beauty Salon, 3466 Broadway, New York City.

Inquiry of 30 Charlton Street
New York City

On August 2, 1957, Mrs. HERBERT NICHOLAS, who is the wife of the superintendent of the building at 30 Charlton Street, New York City, where HELEN SOBELL resides, advised SA RICHARD T. HRADSKY that the records she maintains in the building office did not reflect the date that HELEN SOBELL moved into this building.

Mrs. NICHOLAS stated that she could obtain this information from the Managing Corporation's Office, the 30 Charlton Street Corporation, 44 Court Street, Brooklyn, New York, by telephone. Mrs. NICHOLAS telephonically contacted a girl in the Managing Corporation's Office whom she addressed as PHYLLIS who advised that her records reflected that the first month's rent paid on apartment 5B, when rented by HELEN SOBELL, was December 1, 1956. The specific dated that HELEN SOBELL moved into the apartment was not of record.

Mrs. NICHOLAS advised that she and her husband assumed the job of superintendent of the 30 Charlton Street, New York City, property, in May, 1957, and that she had no knowledge of the activities of HELEN SOBELL.

- P -

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : DIRECTOR, FBI (101-2483) DATE: 8/28/57

SECRET

FROM : SAC, NEW YORK (100-37158)

SUBJECT: MORTON SOBELL, was
ESP-R

Re report of SA RICHARD T. HRADSKY, dated at at New York, and blank memorandum captioned "MORTON SOBELL", was enclosed herewith.

Classified by 3042 Sect-DJC
Declassify on: OADR
4/23/87

INFORMANTS

Identity of Source	Date of Activity And/or Description of Information	Date Received	Agent to Whom Furnished	File Number Where Located
T-1 CIA, Washington, D.C.				100-37158-1834
T-2 REINO HAYHANEN	Information furnished on 5/6/57, to [redacted](S) b1 concerning the subject			100-37158-1834
	Information concerning subject furnished to [redacted](S) b1			100-37158-1838
	Information concerning subject, 5/13/57		SA LAWRENCE MC WILLIAMS SA EDWARD H. MOODY	65-17259-45
	Information concerning subject, 5/17/57		SA EDWARD H. MOODY SA EDWARD J. MURPHY	100-37158-1837

1-D

(2) - Bureau (101-2483) (Encs. 1) (RM)
3 - New York (100-37158)

RTH:el
(5)

ENCLOSURE

RECORDED - 25 101-2483-1397

AUG 30 1957

ESP. SEC.

70 SEP 6 1957

Identity of Source	Date of Activity And/or Description of Information	Date Received	Agent to Whom Furnished	File Number Where Located
T-3	[redacted]		SA WILLIAM D. HOSKINS	Instant report

b2
b7D

Careful consideration has been given to each source concealed and T symbols have been utilized in the report only in those instances where the identities of the sources must be concealed.

ADMINISTRATIVE

This report is being classified "Confidential" inasmuch as it contains national defense information beyond the unauthorized disclosure/which would not be in the best interests of the United States.

No dissemination of information received from REINO HAYHANEN is to be made outside the Bureau unless it is sppcifically authorized by the Bureau.

LEADS

NEW YORK

At New York, New York

Will check NYC voting records for identifying information on HELENE and LEAH SOBEL who resided at 601 West 141st Street, NYC, until 11/29/56, check indices and compare with identifying informatinn on subject's wife.

X 1397

At New York, New York (Cont'd)

Will report results of requested check on Tete's Beauty Salon, 3466 Broadway, New York City, made of EDWARD L. BRAUNE, Agent, New York Telephone Company, on 7/31/57.

Will report the results of the re-interview of REINO HAYHANEN as instructed by the Bureau in referenced Bureau letter dated 6/4/57.

Will check references noted in NY Division Indices on JOSE RAMOS to ascertain if any are identical with JOSE E. RAMOS of the Majestic Beauty Salon.

REFERENCES: Report of SA JOSEPH A. BENDER dated 6/10/57, at NY, and Bureau letter to NY dated 6/4/57.

United States Department of Justice
Federal Bureau of Investigation

New York, New York
August 28, 1957

Re: Morton Sobell, was.

Informant T-3 utilized in the report of Special Agent Richard T. Hradsky, dated 8/28/57, at New York, has furnished reliable information in the past.

This is loaned to you by the Federal Bureau of Investigation, and neither it nor its contents are to be distributed outside the agency to which loaned.

AGENCY Tompkins
REQ'D REC'D BY
DATE REC'D 9.5.57
HOW FORW. R&A 6
BY JPL(prg)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/23/87 BY 3042 fwt DJC

COPIES DESTROYED
[illegible] MAR 10 1961

101-2483-1397

ENCLOSURE

4-750 (Rev. 4-17-85)

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION

FOIPA DELETED PAGE INFORMATION SHEET

2 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☑ Deleted under exemption(s) b1 with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

_____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

_____ Page(s) withheld for the following reason(s):

_____

_____

☐ For your information: _____

_____

☑ The following number is to be used for reference regarding these pages:

101-2483-NR 8-28-57

XXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

FBI/DOJ

SAC, San Antonio (65-1584) August 29, 1957

Director, FBI (65-64538)

UNKNOWN SUBJECT, aka.
"Mark" etc.
ESPIONAGE - R

Rerep SA Clay Zachry, Jr., made at San Antonio 8-19-57.

Page 8 of rerep reflects results of interview of subject during which the subject discussed the implosion method of setting off an atomic bomb and said that in the case against the Sobles, they were accused of passing information to Russia relating to the implosion process. For your information, Jack and Myra Soble were not accused of passing such information. During the trial of Julius and Ethel Rosenberg and Morton Sobell for conspiracy to commit espionage, the main Government witness, David Greenglass, testified he had given Rosenberg information relating to the implosion method of triggering the atomic bomb. You should recheck the information furnished by the subject to determine if he said Sobell, referring to Morton Sobell, rather than the Sobles, referring to Jack and Myra Soble. In the event subject did refer to Sobell, appropriate corrections should be made in copies of rerep in your office and New York and the Bureau should be advised.

cc - 1 - New York (65-17875)

101-2483-
NOT RECORDED
176 SEP 20 1957

PL:jdb

EX-126
RECORDED-45

65-64538-427

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3042 Conn FBI

MAILED 31

19 SEP 17 1957

Tolson
Nichols
Boardman
Belmont
Mason
Mohr
Parsons
Rosen
Tamm
Trotter
Winterrowd
Tele. Room
Holloman
Gandy

58 SEP 20 1957

ORIGINAL FILED IN 65-64538-427

Tic: Lee

Assistant Attorney General
William F. Tompkins

August 29, 1957

Director, FBI

MORTON SOBELL
ESPIONAGE - R

Reference is made to our memorandum of August 20, 1957.

There are attached Photostats of two pages of the "National Guardian" for August 5, 1957. You will note these pages include an advertisement by the "Committee to Secure Justice for Morton Sobell" which appeals for names to be included in an Amicus Curiae brief to be filed on Sobell's behalf. It is to be noted that Sobell currently has an appeal pending to the United States Supreme Court from the lower court decisions denying his motions for a new trial.

The Committee on Un-American Activities report entitled "Trial by Treason; the National Committee to Secure Justice for the Rosenbergs and Morton Sobell" dated August 25, 1956, on page 12 describes the "National Guardian" as follows: "Established by the American Labor Party in 1947 as a 'progressive' weekly...Although it denies having any affiliation with the Communist Party it has manifested itself from the beginning as a virtual official propaganda arm of Soviet Russia."

This is furnished for your information.

Enclosures (2)

101-2483

2 ENCLOSURE ENCLO. ATTACHED

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3042 Asst-DJC

COMM-FBI
AUG 29 1957
MAILED 19

Tolson
Nichols
Boardman
Belmont
Mason

JPL:mhs
(4)

RECORDED - 15 101-2483-F39

EX-101

AUG 30 1957

1957

VOL. 9, No. 42 401 August 5, 1957

REPORT TO READERS

The Sobell appeal

ON SEPT. 4 defense lawyers for Morton Sobell will for the third time petition for a Supreme Court review of his conviction (see p. 4). Twice before, once in the context of the Rosenberg Case and once by itself, the case has been denied a review. At the time Justice Douglas granted the brief stay for the Rosenbergs in June, 1953, and was reversed by the full court summoned back from summer recess by Chief Justice Vinson, Justice Black noted with concern that the Court had never reviewed the cases nor passed on the fairness of the trial. Justices Black, Douglas and Frankfurter voted for the stay at that time, but were the minority in a 6-3 reversal.

Since that tragic period, the Court has gained a new Chief Justice and three new members and, in its term just recessed, the unchanging views of Black and Douglas, especially on matters of individual liberty and Constitutional rights, have won majority adherence.

SINCE THE LAST SOBELL petition to the Court, a significant body of new evidence has been accumulated indicating to a damaging degree that Sobell's abduction from Mexico was deliberately and falsely pictured to the jury as a deportation. He was made to appear a fugitive (untrue) captured and delivered to the U.S. in the normal course of international relations (untrue).

Beyond this the case against Sobell was the wispy and eventless tale of an admitted perjurer and self-server, Max Elitcher, whose testimony could not have stood up alone even in the freebooting atmosphere of a Federal conspiracy case. (New York laws in conspiracy cases, for example, would have excluded Elitcher's testimony.)

Should a review of the Sobell conviction be granted, and argument invited by the Supreme Court, the whole flimsy structure of the case presented against the Rosenbergs and Sobell would almost necessarily come into perspective for the first time at the Supreme Court level. (Justice Black stated in open court during argument on the stay in June, 1953, that none of the justices had then read the record of the case.)

A NEW TRIAL for Sobell, even a hearing for a new trial (which has been denied since 1951), would further air, in a new atmosphere, the shocking processes of incrimination which brought about death sentence for the Rosenbergs and a 30-year term for Sobell.

We believe there is now—for the first time since 1951—a real likelihood of gaining a Supreme Court review of the Sobell Case with all its attendant possibilities. The petition before the Court Sept. 4 will be accompanied by one or more amicus curiae briefs. One of these, reprinted on p. 4, seeks your signature and your financial help toward presenting the case.

WE MOST FERVENTLY urge your signature and support. For you who brought the Rosenberg Case to world attention and fought to the final hour for clemency and justice for them, this may perhaps be an almost automatic action. For others who may not have held these cases in such perspective when the Rosenbergs were alive—as is the case with many now actively and urgently backing the Sobell petition—this is an opportunity to join in righting a great wrong and restoring American justice to the high level which is its tradition.

—THE GUARDIAN

BASED ON RECENT COURT DECISIONS

Hope is high for Sobell review

THIS MONTH the many thousands of Americans seeking justice for the imprisoned scientist Morton Sobell will have a chance to join personally in his appeal to the Supreme Court in September for freedom or a new trial on charges of complicity with Ethel and Julius Rosenberg in an espionage conspiracy.

An amicus curiae (friend of the court) brief, reprinted on this page and now gathering signatures throughout the country, will accompany Sobell's third request to the Supreme Court since his conviction in 1951 for a review of his case. In the light of new evidence obtained since his last appeal and the concern for constitutional rights shown by the Court in its last term, Sobell's family, attorneys and friends are confident that this time the Court will grant certiorari, which means that the case will be reviewed. A letter from Sobell's wife, Helen, to supporters of their fight calls the new appeal "our moment of greatest hope."

FRAUD IS CHARGED: "Our excellent legal motions and the improving climate for individual liberties provide our best opportunity to finally obtain a Supreme Court review," she writes. "This can only be possible through the help of each person who wants to see justice done. To inform the Court of the deep legal and moral issues troubling thousands of Americans, we need your signature on the Amicus Brief."

One of Sobell's motions asks a new trial on grounds that documentary evidence proves the prosecution knowingly resorted to fraud, perjury and suppression of evidence to convict him. The other asks freedom on the ground that Sobell was kidnaped with his wife and children from Mexico in violation of the U. S. extradition treaty with Mexico and that therefore the prosecution had no power even to try him.

At Sobell's trial the prosecution pictured him as a fugitive deported from Mexico. The new evidence includes official Mexican documents disproving that Sobell was deported. The Sobell motions contend that the prosecution suppressed evidence which would have controverted the deportation story at the trial. Judge Irving Kaufman, who presided at the Rosenberg-Sobell trial and sentenced all the defendants, denied Sobell's motions last year. His decision was affirmed early this year in a Court of Appeals decision written by Judge Harold Medina, who presided at the first Smith Act trials in Foley Square in 1949 and sentenced not only all the defendants but their attorneys to jail. In his confirming opinion, Medina wrote of the kidnapping charge that "unlawful and unauthorized acts of Mexican police acting in behalf of subordinate agents of the executive branch of the U.S. Government" were not really acts of the U.S. and therefore were not in violation of the extradition treaty.

MEXICAN REACTION: Dr. Luis Sanchez Ponton, former Mexican minister of education who appeared before Medina to argue the extradition issue in behalf of Sobell, commented in the Mexican newspaper Excelsior:

"Mexico isn't 'just anybody's land.' Mexico is an independent and sovereign country, and has laws similar in every respect to the United States. Respect for treaties is the basis for international law and of relationships between civilized and friendly nations. Furthermore, I could state, basing myself on official documents, that the government of Mexico did not participate in any way in this illegal act, that therefore the myth of deportation entirely lacks validity in the trial."

Dr. Ponton and other Latin American public figures plan to submit an amicus curiae brief of their own to the U. S. Supreme Court at the time of the presentation of Sobell's request for certiorari. Still another such brief is expected from England, where mathematician Bertrand Russell and other leading citizens have concerned themselves deeply with the campaign for justice for Sobell.

THE FIFTH AMENDMENT: The Supreme Court in a review of the Sobell case could also grant a new trial on the same grounds on which a new trial was ordered this year in the Grunewald-Halperin tax case, involving improper inference drawn for the jury by a trial judge because one of the defendants had pleaded the Fifth Amendment.

In the Rosenberg-Sobell trial, prosecutor Irving Saypol (now a N. Y. Supreme Court judge) implied that Ethel Rosenberg's testimony was suspect because she had used the Fifth Amendment before the Grand Jury. Defense attorneys called for a mistrial but were overruled by Judge Kaufman, who later made the same point in his charge to the jury when he said that Ethel Rosenberg's failure to answer questions before the Grand Jury "may be considered by you in determining the credibility of her answers to these same questions at this trial."

In a conspiracy trial such as this was, judicial error against any defendant taints the entire proceeding; thus Sobell can demand a new trial on this count with the force of the Grunewald-Halperin decision to back him up.

MORTON SOBELL
His "moment of greatest hope"

APPEAL TO PRESIDENT: Since early last year an increasing number of prominent individuals have joined in an appeal to President Eisenhower to free Sobell or order the Attorney General to consent to a new trial. Initiated by scientist Harold Urey, radio commentator Elmer Davis and others, the appeal now has some 200 signatures including those of scientist Linus Pauling, author Lewis Mumford, former Gov. Culbert Olson of Calif., author Waldo Frank, historian William Appleman Williams, Warren Billings, co-victim of the Tom Mooney frameup of 1916; cellist Pablo Casals, Nobel Prize winner Emily Greene Balch and dozens of clergymen, educators, lawyers, writers and others.

Others who have spoken out for Sobell's freedom or at least a new trial include Walter Millis, editor of Protestant Digest; U. S. Sen. William Langer, Judge Patrick O'Brien of Detroit, Rabbi Max Felshin of New York, John M. Swomley Jr., of the Fellowship of Reconciliation.

WHERE TO WRITE: Signatures to the public amicus curiae brief should be in the hands of the Committee for Justice for Morton Sobell, 940 Broadway, New York 10, N. Y., by Aug. 25 for inclusion with the appeal to be filed with the Supreme Court Sept. 4. Copies of the brief for additional signatures may be obtained by writing to the above office or to regional Sobell Committees at 462 N. Western Av., Los Angeles; 345 Franklin, San Francisco; 30 West Jackson, Chicago; 1300 Cumberland Av., Syracuse, N. Y.; 9715 La Salle St., St. Louis, Mo.

A 4-page newspaper setting forth the issues in the case and also including the full list of signers of the appeal to President Eisenhower on behalf of Sobell may be ordered for 5¢ each a copy, $3 a hundred, $20 a thousand at any of the above addresses, where a 30-minute film strip on the case is also available.

[redacted]

cc: 1 Belmont
Nichols
Re
Branigan

September 16, 1957

The Solicitor General

Director, FBI

MORTON SOBELL, with aliases
ESPIONAGE - R

It is noted that the attorneys for Morton Sobell petitioned the United States Supreme Court on September 9, 1957, to review the denial of his motions for a new trial by the District Court and the Circuit Court of Appeals and that he has filed a motion to vacate the orders of the Supreme Court denying petitions for a writ of certiorari and rehearings. We would appreciate being kept advised of developments with relation to this action in the United States Supreme Court and would like to be furnished with a copy of the Government's reply to these petitions and motion.

101-2483

JPL:jdb
(7)

Cover memo Branigan to Belmont, same caption, was prepared by JPL:jdb 9-11-57 in connection this outgoing mail.

RECORDED - 63

101-2483-1397

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/22/87 BY 3042 Put-Dfc

EX-137

17 SEP 16 1957

MAILED 17
SEP 16 1957
COMM-FBI

60 OCT 15 1957

CONFIDENTIAL

; - Liaison
Lee

SECRET

101-2483

Date: September 18, 1957

To: Mr. E. Tomlin Bailey
Director
Office of Security
Department of State
515 22nd Street, N.W.
Washington, D. C.

Classified by 3042 fwt-DJC
Declassify on: OADR
4/23/87

From: John Edgar Hoover, Director
Federal Bureau of Investigation

Subject: MORTON SOBELL, with aliases
ESPIONAGE - R

Reference is made to our letter of February 13, 1957.

Information has been received from an informant who has furnished reliable information in the past that [redacted]

b1 S

He has been advised by [redacted] S

BY COURIER SVC.
20 SEP 13
COMM - FBI

SECRET

This is furnished to you for your information.

RECORDED - 101-2483-1400

NOTE: Classified Confidential in order to protect identity of infor[mant] who is [redacted]

17 1957

b1

cc - 2 - New York
cc - 1 - Los Angeles
cc - 1 - San Francisco
cc-AAG Tompkins (0-6 same date)
cc-J. V. Bennett, Dir. of Prisons
(0-6 same date)

CONFIDENTIAL

Tolson
Nichols
Boardman
Belmont
Mason
Mohr
Parsons
Rosen
Tamm
Nease
Winterrowd
Tele. Room
Holloman
Gandy

FBI

54 SEP 19 1957

CONFIDENTIAL cc - Lee
Belmont

The Solicitor General September 17, 1957

SECRET

Director, FBI

MORTON SOBELL, with aliases
ESPIONAGE - R

Reference is made to our letter of September 16, 1957.

An informant who has furnished reliable information in the past advised that [redacted]

b1

Classified by [illegible]
Declassify on: OADR
4/23/87

EX-120 RECORDED 3 101-2483

REC'D-READING ROOM
SEP 17 1957
FBI

[redacted]

Date of Declassification Indefinite

JPL:jdl
(5)

SEE NOTE PAGE 2.

Parsons
Rosen
Tamm
Nease
Winterrowd
Tele. Room
Holloman
Gandy

SECRET
68 SEP 19 1957

957

~~CONFIDENTIAL~~

~~SECRET~~

The Solicitor General

[redacted] b1

The above is furnished to you for your information.

NOTE: This is classified Confidential in order to protect the informant who is [redacted] b1 who has furnished info re this matter in the past. Morton Sobell was convicted along with Julius and Ethel Rosenberg of conspiracy to commit espionage and is now serving 30 yrs. in Alcatraz Prison. He made motions for a new trial 5-25-56 which were denied by the District Court and this denial was affirmed by the Circuit Court of Appeals. On 9-9- he filed petitions for writs of certiorari before the United States Supreme Court from the lower court decision.

Statement from Mexican Department of Interior refers to an exhibit filed with defendant's petition for a writ of certiorari which is a letter from the Dept. of Interior of the Mexican Government mailed 3-14-57 which states that the files of that Dept. contain no record indicating that Sobell was ordered expelled from Mexico. This dept. handles such matters.

SEP 17 2 11 PM

REC'D-READING ROOM

140

8 1957

~~SECRET~~

~~CONFIDENTIAL~~

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. Tolson

DATE: 9/16/57

FROM : L. B. Nichols

SUBJECT: MORTON SOBELL
101-2483

Tolson
Nichols
Boardman
Belmont
Mohr
Parsons
Rosen
Tamm
Trotter
Nease
Tele. Room
Holloman
Gandy

Irving Kaufman is very much upset over the new motion filed by the Committee to Free Sobell in the Supreme Court where for the first time they raise the issue the trial judge committed prejudicial error in allowing the prosecution to impeach the credibility of a defendant by showing the defendant claimed the privilege of the 5th Amendment before a grand jury. Sobell, of course, didn't take the stand and Rosenberg did. Sobell is claiming that the action of permitting cross examination of Ethel Rosenberg, who took the 5th Amendment, had had an adverse affect upon him.

Irving is afraid that the court might upset the case unless the Department vigorously defends it. I note that a memorandum was sent to Tompkins on September 12 merely asking that the Bureau be kept advised. I wonder if it wouldn't be a good idea to send a memorandum to the Attorney General pointing out Judge Kaufman's concern and the urgent necessity for a vigorous presentation on the part of the Government.

LBN:hpf
(4)

cc - Mr. Boardman
Mr. Belmont

No. It would be futile.

101-2483-1402

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3042

RECORDED 76

INDEXED - 76

EX-116

6 SEP 18 1957

DEPT OF JUSTICE
FBI
RECEIVED - TOLSON
SEP 18 5 21 PM '57

51 SEP 19 1957

94-4-5046-

UNRECORDED COPY FILED IN

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : A. H. Belmont

cc - Belmont
Branigan
W. C. Sullivan
Nichols
Lee

DATE: September 11, 1957

FROM : W. A. Branigan

SUBJECT: MORTON SOBELL, was.
ESPIONAGE - R

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3042 put/dc

Tolson
Nichols
Boardman
Belmont
Mason
Mohr
Parsons
Rosen
Tamm
Nease
Winterrowd
Tele. Room
Holloman
Gandy

Subject convicted 1951 with Julius and Ethel Rosenberg for espionage conspiracy and sentenced to 30 years. On 5-8-56 he filed motion in District Court, Southern District of New York for a new trial and a hearing claiming illegal deportation from Mexico and that the United States Government was aware of this fact; therefore, the Government knowingly used perjured testimony to the effect that he was legally deported. On 5-25-56 he filed a second motion for a new trial and a hearing claiming that since he was not legally extradited, the Government lacked jurisdiction to try him. On 6-20-56 Judge Irving Kaufman, District Court, denied both motions and on 5-14-57 Circuit Court of Appeals, Second Circuit unanimously affirmed the District Court's denial of the subject's motions.

On 9-9-57 subject filed petitions for writs of certiorari to the United States Supreme Court from the lower court decision. He has also filed a new motion, namely, a motion to vacate the order of the United States Supreme Court denying his petition for writ of certiorari and rehearing (10-13 and 11-17-52) and requesting a new trial. The basis for this motion is that the U.S. Supreme Court in Grunewald vs. United States held that the trial judge committed prejudicial error in allowing the prosecution to impeach the credibility of a defendant who had taken the stand by showing the defendant claimed the privilege against self-incrimination before a grand jury with regard to questions which he answered during the trial. Sobell claims that the trial court permitted such a cross examination of Ethel Rosenberg which was in error. He claims such cross examination had an adverse effect on him even though he did not take the stand because Ethel Rosenberg was a codefendant and if the jury discounted her testimony, it was obviously binding on him.

The petition for certiorari from the motion of 5-8-56 restates the claims made in the lower courts, namely that Sobell was abducted from Mexico by agents of the prosecution and that the Government knowingly used perjured testimony at the trial in an attempt to leave the impression with the jury that he was legally deported from Mexico. This refers to the testimony of INS Inspector James Huggins who introduced at the trial a manifest card bearing the words: "Deported from Mexico." Huggins testified he made such entry from his own observation when he saw Sobell escorted to the border by a group of Mexican police officials. Sobell claims that the District Court ignored his claims and decided there was no willful perjury without holding a hearing which violates the

Enclosure sent 9-16-57 15
JPL:jdb
(6)

101-2483-1403

SEP 18 1957

60 OCT 15 1957 RECORDED - 21

101-2483-1403

EX-127

67 SEP 24 1957 9566

due process clause of the Constitution. Sobell claims that while the abduction was done by Mexican police officials, they were acting as agents of the United States Government. The District Court held that regardless of the words used, Sobell was, in fact, expelled from Mexico and the testimony of Huggins was used to show that Sobell did not return to the United States voluntarily, not that he was legally deported.

The petition ~~from~~ for his motion of 5-25-56 claims that since Sobell was not extradited in accordance with the United States - Mexico Extradition Treaty, the court did not have the jurisdiction to try him for the offense. He contends such a treaty creates an exclusive means of obtaining custody over fugitives in Mexico. He also contends this question was not previously litigated in his motion in arrest of judgment made on the day of sentencing since that motion dealt only with personal jurisdiction and not total jurisdiction. Judge Kaufman in his opinion of 6-20-56 held that this current motion is the same as the motion in arrest of judgment and there is no question of the jurisdiction of his court to try a person for espionage committed in the Southern District of New York. Kaufman also held that treaties are made between nations, and individuals have no rights under these treaties unless a specific treaty is used for extradition. For example, if a man is extradited for one crime and tried for another then he would have rights under the treaty.

Dove 9-17 Copies of the above-mentioned petitions and motion were borrowed by WFO from the clerk of the United States Supreme Court and have been returned.

ACTION:

There is attached for your approval a letter to Solicitor Gen. requesting that the Bureau be kept advised of developments in this case and furnished with a copy of the Government's reply to these petitions and motion.

FEDERAL BUREAU OF INVESTIGATION

SECRET

Form No. 1
THIS CASE ORIGINATED AT BUREAU

REPORT MADE AT	DATE WHEN MADE	PERIOD FOR WHICH MADE	REPORT MADE BY
MEXICO, D. F.	9/23/57	9/19/57	JAMES T. HAVERTY pak

TITLE	CHARACTER OF CASE
JUAN MANUEL GOMEZ GUTIERREZ	INTERNAL SECURITY - MEXICO

SYNOPSIS OF FACTS:

Subject, member of Mexican Communist Party, attended 6th World Festival of Youth and Students for Peace and Friendship held in Moscow, Russia, 7/28-8/11/57. He is an attorney by occupation and was instrumental in conducting investigations in Mexico for defense attorney of MORTON SOBELL.

- RUC -

Classified by 3042 Aut-DJC
Declassify on: OADR
4/23/87

Classified by 2355 CIAB/DLB
Exempt from GDS category
Date of declassification Indefinite

CONFIDENTIAL

APPROVED AND FORWARDED:	SPECIAL AGENT IN CHARGE	DO NOT WRITE IN THESE SPACES
SECRET		101 - 2483 - 1

COPIES OF THIS REPORT

5 - Bureau
1 - American Embassy & CIA, Mexico City (circulation)
1 - Mexico City (105-925)

NOT RECORDED
191 SEP 30 1957

PROPERTY OF FBI - THIS CONFIDENTIAL REPORT AND ITS CONTENTS ARE LOANED TO YOU BY THE FBI AND ARE NOT TO BE DISTRIBUTED OUTSIDE OF AGENCY TO WHICH LOANED.

SEP 1957

U. S. GOVERNMENT PRINTING OFFICE 16—80255-2

Memo dtd in 105-69346-1

United States Department of Justice
Federal Bureau of Investigation

SECRET

Washington, D. C.

~~CONFIDENTIAL~~ September 23, 1957

Re: JUAN MANUEL GOMEZ GUTIERREZ

BACKGROUND INFORMATION

T-1 on [redacted] reflected the following information on JUAN MANUEL GOMEZ GUTIERREZ [redacted] ~~SECRET~~ b1

[redacted] S ~~SECRET~~ b1

CONNECTION WITH MORTON SOBELL CASE

T-2 made available information which reflected that [redacted] S ~~SECRET~~ b1

MORTON SOBELL was convicted with JULIUS and ETHEL ROSENBERG for conspiracy to commit espionage against the United States. The ROSENBERGS were executed and SOBELL is serving a sentence of thirty years at Alcatraz Penitentiary, California.

~~SECRET~~

VISIT TO SOVIET UNION

T-2 described subject as a [redacted] S b1

T-1 stated that [redacted] S b1

SECRET

[redacted] b1

[redacted] SECRET

"La Voz de Mexico," central organ of the PCM, in its issue of September 5, 1957, carried an article concerning the Mexican "youths" who had attended the 6th World Festival in Moscow, Russia. According to this article, one JUAN MANUEL GUTIERREZ was among the delegates to this festival.

ACTIVITIES

SECRET

"La Voz de Mexico" in its issue of July 8, 1955, carried an article concerning the "Conferencia Latino-Americana Por Libertades" (Latin-American Conference for Freedoms). According to this article, one JUAN MANUEL GOMEZ GUTIERREZ voiced his support of this conference. Among others voicing such support were DIEGO RIVERA and DAVID ALFARO SIQUEIROS, both publicly known Mexican Communists.

SECRET

[redacted] b1

SECRET b1

[redacted]

SECRET

[redacted] b1

SECRET

[redacted] b1

DESCRIPTION

T-2 has furnished the following description of subject:

4-750 (Rev. 4-17-85)

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

1 Page(s) withheld entirely at this location in the file. One or more of the following statements, where indicated, explain this deletion.

☑ Deleted under exemption(s) b1 with no segregable material available for release to you.

☐ Information pertained only to a third party with no reference to you or the subject of your request.

☐ Information pertained only to a third party. Your name is listed in the title only.

☐ Documents originated with another Government agency(ies). These documents were referred to that agency(ies) for review and direct response to you.

____ Pages contain information furnished by another Government agency(ies). You will be advised by the FBI as to the releasability of this information following our consultation with the other agency(ies).

____ Page(s) withheld for the following reason(s):

_____

_____

☐ For your information: _____

_____

☑ The following number is to be used for reference regarding these pages:

101-2483 - NR 9-23-57 p3

XXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
XXXXXXXXXXXXXXXXXXX

XXXXXX
XXXXXX
XXXXXX

FBI/DOJ

Lee

SAC, New York (100-37158) October 3, 1957

SECRET

Director, FBI (101-2483)

MORTON SOBELL, aka.
ESPIONAGE - R

There is attached a letter received from the Legal Attache, Mexico City, captioned "National Committee to Secure Justice in the Rosenberg Case." This letter sets forth information received from

[redacted] sbl

This information should be carefully reviewed and pertinent portions of it included in the next investigative report submitted.

Enclosure

JPL:jdb
(4)

Classified by 3042 fwt-DJC
Declassify on: OADR
4/23/87

Classified by 2355 WMB/DLB
Exempt from GDS Category
Date of Declassification Indefinite

MAILED 4
OCT 3 - 1957
FBI

101-2483-1404

RECORDED

19 OCT 4 1957

EX-107

SECRET

52 OCT 1957

87

MAIL ROOM

Tolson
Nichols
Boardman
Belmont
Mason
Mohr
Parsons
Rosen
Tamm
Nease
Winterrowd
Tele. Room
Holloman
Gandy

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

Mr. Tolson
Mr. Belmont
Mr. Mohr
Mr. Parsons
Mr. Tamm
Mr. Trotter
Mr. Nease
Tele. Room
Mr. Holloman
Miss Gandy

TO : Director, FBI

DATE: October 7, 1957

FROM : The Solicitor General

SUBJECT: Morton Sobell, with aliases
Espionage - R

Reference is made to your memorandum of September 16, 1957.

Attached hereto are copies of the brief and memorandum which we will file today in opposition to the petitions for certiorari and motion to vacate the orders denying petitions for a writ of certiorari filed by the attorneys for Morton Sobell on September 9. Also attached hereto is a copy of the memorandum for the United States in the case of Hupman v. United States, which is incorporated by reference in our Sobell memorandum.

We will keep you advised of developments with relation to this action in the Supreme Court.

Attachments

ENCLOSURE

ENCLO. ATTACHED

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3042 Just-DJC
Per release

105

101-2483-1405

101-2483

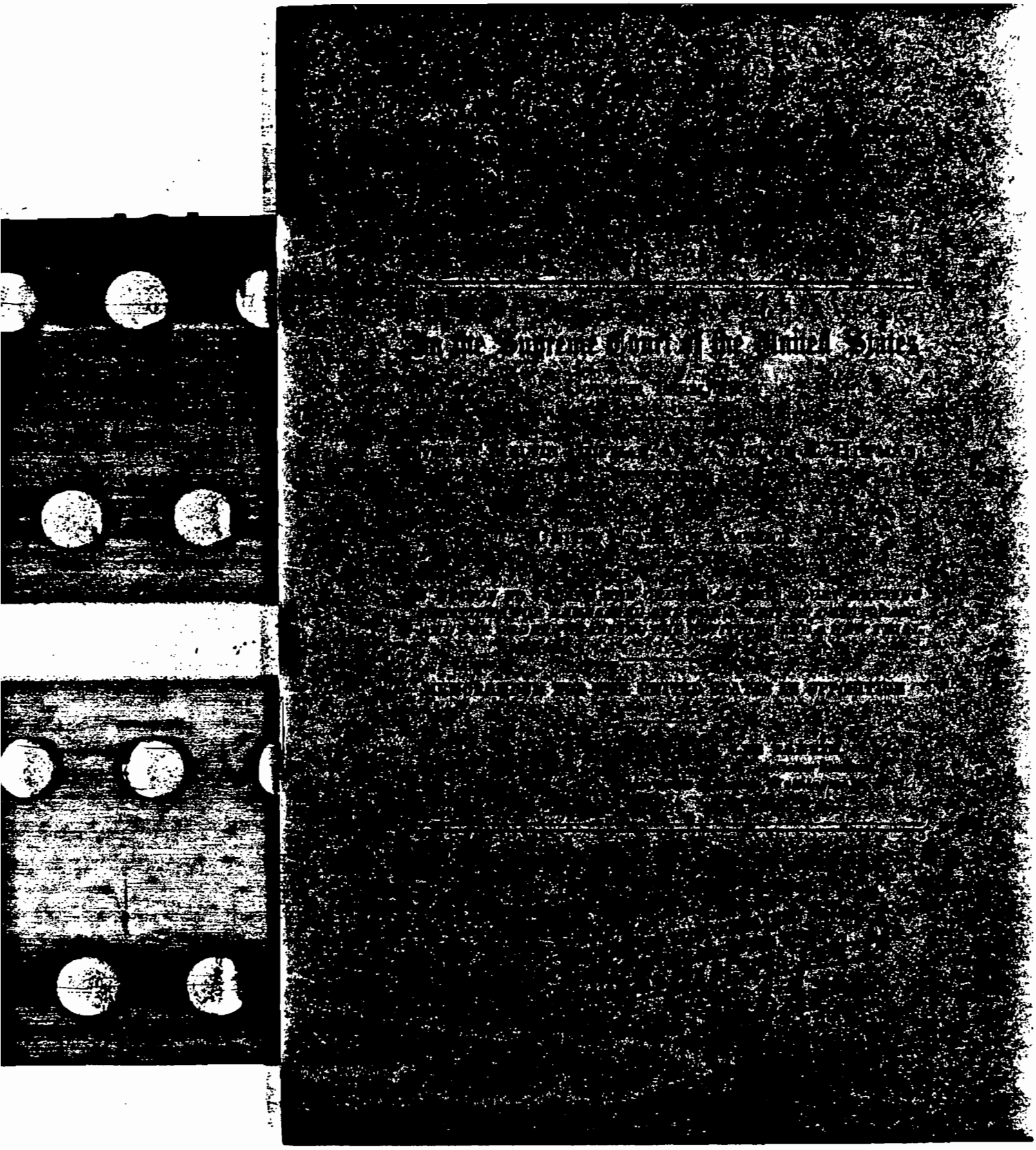
EX 105
RECORDED - 94

OCT 10 1957

EXP. PROC.

OCT 7 1957

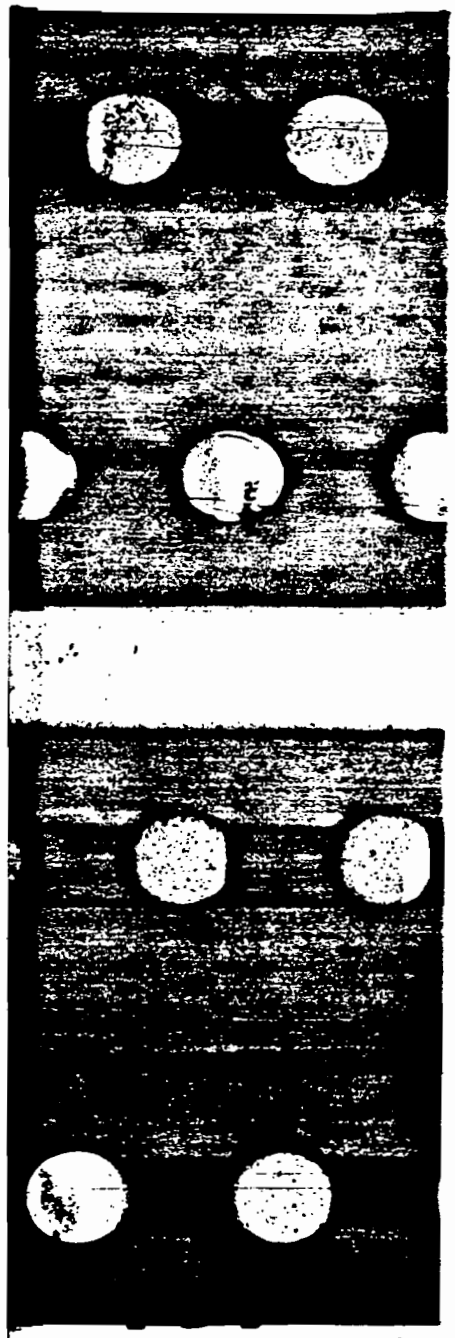
30 OCT 15 1957



enclosure
101-2483-1405

INDEX

CITATIONS



101-483-1405

In the Supreme Court of the United States

OCTOBER TERM, 1954

No. 764

EVEREST MELVIN HUPMAN, A/K/A MELVIN E. HUPMAN,
PETITIONER

v.

UNITED STATES OF AMERICA

ON MOTION TO VACATE THE ORDERS OF THIS COURT DENYING PETITIONS FOR REHEARING AND FOR A WRIT OF CERTIORARI, AND FOR ORDERS GRANTING THE PETITIONS AND A NEW TRIAL

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

On January 15, 1954, petitioner was convicted in the United States District Court for the Southern District of Ohio on both counts of a two-count indictment charging him with having falsely stated, in an affidavit filed with the National Labor Relations Board, that he was not a member of (count 1) or affiliated with (count 2) the Communist Party, in violation of 18 U. S. C. 1001 and § 9 (h) of the National Labor Relations Act, as amended by the Labor Management Relations Act of 1947 (29 U. S. C. 159 (h)). He was sentenced to five years' imprisonment on each count, the terms to run concurrently, and to pay a fine of $5,000 (Pet. 1). On February 7, 1955,

the judgment of conviction was affirmed by the Court of Appeals for the Sixth Circuit (219 F. 2d 243). A petition for a writ of certiorari to review this judgment (No. 764, Oct. Term, 1954) was denied by this Court on June 6, 1955 (349 U. S. 953), and a petition for rehearing was denied on October 10, 1955 (350 U. S. 855). Since June 1955, petitioner has been incarcerated in the United States Penitentiary at Lewisburg, Pennsylvania, serving his sentence.

On June 17, 1957, more than two years after the denial of certiorari, and some 20 months after the denial of the petition for rehearing, petitioner filed the present motion, in which he seeks to have the Court vacate those orders, grant certiorari, reverse his conviction, and order a new trial, on the authority of its decision in *Jencks* v. *United States,* No. 23, Oct. Term, 1956, decided June 3, 1957.[1]

The motion, we submit, should be denied. It is, in effect, a "consecutive" petition for rehearing of a denial of certiorari, filed long out of time and, under Rules 58 (2) and (4) of the Rules of this Court, such petitions "will not be received." It is true that the Court has said that "the interest in finality of litigation must yield where the interests of justice would make unfair the strict application of our rules," *United States* v. *Ohio Power Co.,* 353 U. S. 98, 99, but the interests of justice in this case strongly militate in favor of adherence to, rather than any extraordinary departure from, the rules of the Court.[2]

[1] An application for bail pending disposition of the motion was denied by Mr. Justice Burton on June 22, 1957. A renewed application for bail was denied by Mr. Justice Brennan on July 8, 1957.

In his much-belated motion to vacate and reverse, petitioner seeks this relief on the authority of the *Jencks* decision. However, the fact is that neither the petition for certiorari nor the original (timely) petition for rehearing raised the production-of-documents question which was the basis for that decision. In the petition for certiorari itself, the point was presented neither in the "Questions Presented for Review" (pp. 2–3) nor in the "Reasons for Granting the Writ" (pp. 23–52),[3] and the original petition for rehearing was completely silent on the matter. Under Rule 23 (1) (c) of the Rules of this Court, "Only the questions set forth in the petition or fairly comprised therein will be considered by the court."[4] Here, the

[2] We assume, *arguendo*, that the Court has the power to grant rehearing of a judgment or order entered, as here, two full years and two full terms prior to the date of the application for such rehearing (see however, Wiener, *The Supreme Court's New Rules*, 68 Harv. L. Rev. 20, 84–86 (1954); Stern and Gressman, *Supreme Court Practice* (2d ed., 1954), pp. 347–351; cf. *United States* v. *Ohio Power Co.*, 353 U. S. 98, 99–111 (dissenting opinion)).

[3] The petition for certiorari, at pp. 20–21, under the heading "Summary Statement of the Matter Involved", did refer to petitioner's requests for production of documents at the trial, but it did not seek review of the orders denying these requests, or even assign as error the making of the orders.

[4] See also Rule 15 (1) (c) (1), providing similarly with respect to jurisdictional statements. In *Alberts* v. *California*, No. 61, Oct. Term, 1956, decided June 24, 1957, the Court re-

issue now urged by petitioner was not only not "fairly comprised" within the questions presented by the petition for certiorari; it was not mentioned or referred to in those questions.

Petitioner does not claim that any unusual circumstances such as fraud or mutual mistake of fact are present in his case. His claim is limited to the contention that he "would obtain a reversal of the conviction and a new trial if the case were before an appellate court today." Motion, p. 3.[5] Petitioner thus asserts merely that, almost two years after this Court twice declined to review his case, a conflict has developed between a holding of this Court and an earlier ruling of the trial judge below. Surely, if such a showing, without more, would constitute a basis for departing from this Court's rules and the principle that "litigation must at some definite point be brought to an end" (*Federal Trade Commission* v. *Minneapolis-Honeywell Regulator Co.*, 344 U. S. 206, 213; cf. *United States* v. *Ohio Power Co.*, 353 U. S. 98, 102 (dissenting opinion)), both the rules and the principle would be sapped of all vitality. See *Sunal* v. *Large*, 332 U. S. 174, 182.[6]

fused to consider a contention, belatedly advanced in that case, on the ground that the issue was "not before us because not fairly comprised within the questions presented" (slip opinion, p. 12, fn. 27).

[5] Of course, if petitioner were now claiming that there had been such a denial or infringement of his constitutional rights as to render the judgment vulnerable to collateral attack, his proper remedy would be in a proceeding instituted in the district court under 28 U. S. C. 2255. We do not concede that the facts alleged in petitioner's motion form a sufficient basis for collateral attack. Our point is that Congress has provided an adequate remedy where the rules of finality would otherwise continue in custody one whose constitutional rights had been violated.

The alternative ground assigned by petitioner (pp. 3, 10–12) is equally misconceived. Petitioner points out that in the *Jencks* case three members of the Court were of the view that the instructions to the jury as to the meaning of "membership" in and "affiliation" with the Communist Party were deficient, and that similar instructions were given in petitioner's case. In view of the fact, however, that *Jencks* did not decide the issue as to the adequacy of these instructions (a majority of the Court having found it unnecessary to reach it), the facts relied on by petitioner with respect to the alternative ground of his motion are, we submit, far from sufficient to warrant the Court in taking the unprecedented action which petitioner urges, *viz.*, vacating an order of denial of certiorari entered two full years and two terms ago.

Petitioner's reliance (Motion, p. 2) on *United States* v. *Ohio Power Co.*, 350 U. S. 862, 350 U. S. 919, 351 U. S. 958, 351 U. S. 980, 353 U. S. 98, is, we submit, entirely misplaced. There, the Court, on October 17, 1955, denied a petition for a writ of certiorari, filed by the Government, to review a judgment of the Court of Claims (350 U. S. 862). In a petition for rehearing filed in November 1955, the Government

[6] A claimed development of a conflict was urged as a basis for granting rehearing out of time in thirteen cases since the adoption of Rule 58 in 1954, and such relief was in each case denied. See cases collected in *United States* v. *Ohio Power Co.*, 353 U. S. 98, 108–109 (dissenting opinion). *Cf. Item Company* v. *N. L. R. B.*, No. 450, Oct. Term, 1956, certiorari denied, 352 U. S. 917.

called attention to the *National Lead* case, then pending before the Second Circuit and involving the identical issue presented in *Ohio Power,* and requested the Court to defer further consideration of the case pending the Second Circuit's decision in *National Lead.* The petition for rehearing requested that, in the interests of expeditious determination of the issue as well as protection of the revenue, the Court keep the case open to await the outcome of *National Lead.*

On December 5, 1955, this timely petition for rehearing was denied (350 U. S. 919). Subsequently, in the same term, the Government filed a motion for leave to file a second (untimely) petition for rehearing, based on the intervening conflict of decisions, which motion was denied on May 28, 1956 (351 U. S. 958). On June 11, 1956, still in the same term, the Court, *sua sponte,* vacated its order of December 5, 1955, denying the original (timely) petition for rehearing, and ordered that the petition be continued as the Government had requested (351 U. S. 980). Thereafter, on April 1, 1957, at the next term, the petition for rehearing was granted, the order denying certiorari vacated and certiorari granted, and the judgment of the Court of Claims reversed, on the authority of the intervening resolution of the issue by this Court (353 U. S. 98). Thus, in *Ohio Power,* unlike the case at bar, the continuation of the matter on the ground of a potential conflict was sought by the Government's first (timely) petition and was, in effect, granted by the Court's order of June 11, 1956, *supra,* within the same term of Court. Furthermore, the petition for certiorari in *Ohio Power* had squarely presented the

precise issue with respect to which rehearing was sought. The *Ohio Power* case is thus totally distinguishable from the instant case and constitutes no precedent for the extraordinary action which petitioner asks the Court to take here.

For the foregoing reasons, it is respectfully submitted that petitioner's motion should be denied.

J. LEE RANKIN,
Solicitor General.

JULY 1957.

U. S. GOVERNMENT PRINTING OFFICE: 1957

INDEX

CITATIONS

448118—57

In the Supreme Court of the United States

OCTOBER TERM, 1952

No. 112

MORTON SOBELL, PETITIONER

v.

UNITED STATES OF AMERICA

ON MOTION TO VACATE THE ORDERS OF THIS COURT DENYING PETITIONS FOR REHEARING AND FOR A WRIT OF CERTIORARI, AND FOR ORDERS GRANTING THE PETITIONS AND A NEW TRIAL

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

On April 5, 1951, petitioner, together with Julius and Ethel Rosenberg, was convicted in the United States District Court for the Southern District of New York of conspiracy to commit espionage, in violation of former 50 U. S. C. 32 and 34 (now 18 U. S. C. 794.) Petitioner was sentenced to thirty years' imprisonment. On February 25, 1952, the judgment of conviction was affirmed by the Court of Appeals for the Second Circuit (*United States* v. *Rosenberg,* 195 F. 2d 583). A petition for a writ of certiorari to review petitioner's conviction (No. 112, Oct. Term, 1952)[1] was denied by this Court on Oc-

[1] A separate petition (No. 111) was filed on behalf of Julius and Ethel Rosenberg. See fn. 5, *infra.*

tober 13, 1952 (344 U. S. 838), and a petition for a rehearing was denied on November 17, 1952 (344 U. S. 889).

(For a partial list of subsequent judicial proceedings, see record on appeal, Pets. Nos. 440 and 441, this Term, pp. 95–97. Apart from the two motions which are involved in petitions Nos. 440 and 441, "The record shows that in one form or another the case was before the United States Court of Appeals six times, always concluding with an affirmance, and before the United States Supreme Court six times on applications of one sort or another, always ending with the conviction remaining undisturbed, and this tally does not include the numerous proceedings at the District Court level and the various applications to other judges of the District Court". *United States* v. *Sobell,* 142 F. Supp. 515, 518.)

On September 9, 1957—five terms and nearly five full years after the denial by this Court of the aforementioned petitions for certiorari and rehearing—petitioner filed the present motion, in which he seeks to have the Court vacate those orders, grant certiorari, reverse his conviction, and order a new trial, on the ground that doubt has been cast on the propriety of a trial ruling, made in accordance with what was then concededly the governing law in the Second Circuit (see Motion, p. 12, 1st footnote), permitting a line of cross-examination of one of his co-defendants. Petitioner predicates his motion on this Court's decision in *Grunewald* v. *United States,* 353 U. S. 391, decided May 27, 1957. The particular aspect of that decision upon which petitioner relies is its holding

that, where a defendant at a criminal trial had taken the witness stand in his own defense and on direct examination answered a series of questions in a manner consistent with innocence, it was error, in the particular circumstances of that case, to permit the Government, on cross-examination, to adduce the fact that the witness had previously, in testifying before the grand jury, declined to answer the same questions on the ground that his answers might have tended to incriminate him (353 U. S. at 415–424).[2]

The motion, we submit, should be denied. It is nothing more than an attempt to obtain direct review of a judgment which, under all the principles of just and orderly legal procedure, has long since attained finality. Moreover, as we shall show, petitioner is in error when he states (Motion, p. 8) that, on the merits, this case is "unquestionably governed by *Grunewald.*"

1. The motion is, in effect, a "consecutive" petition for rehearing of a denial of certiorari, filed long out of time and, under Rule 58 (2) and (4) of the Rules of this Court, such petitions "will not be received." See our Memorandum in Opposition to the Motion to Vacate in *Hupman* v. *United States,* No. 764, Oct. Term, 1954, filed June 17, 1957, and presently pending before this Court. The present motion is, in fact, so similar to the *Hupman* motion that what we have said

[2] The concurring opinion of Mr. Justice Black, in which the Chief Justice, Mr. Justice Douglas, and Mr. Justice Brennan joined, indicated that, in the opinion of those Justices, the result reached should not have been predicated "on the special circumstances of" that case. They were of the view that, as a general rule, such cross-examination is prejudicial error as to the person who asserts the privilege (at 425–426).

in our Memorandum in Opposition to that motion has equal—indeed, *a fortiori* (see fn. 4 below)—applicability here.[3] Here, as there, the motion was filed long out of time.[4] And here, as there, the question which was decided in the supervening decision of this Court, on the basis of which relief is sought (here *Grunewald*, there *Jencks* v. *United States*, 353 U. S. 657), was not raised either in the petition for certiorari or in the original (timely) petition for rehearing.[5] Accord-

[3] The only point in our *Hupman* Memorandum in Opposition which has no present relevance is the paragraph (on p. 5) in which we reply to the "alternative ground" assigned by Hupman for the extraordinary action which he asks the Court to take in his case.

[4] The *Hupman* motion was filed two years after the denial of certiorari (20 months after the denial of the petition for rehearing). The instant motion was filed nearly five years after the denial of certiorari (four years and ten months after the denial of the petition for rehearing). Our *Hupman* memorandum sets forth (at pp. 5–7) why, in our judgment, Hupman's reliance on *United States* v. *Ohio Power Co.*, 350 U. S. 862, 350 U. S. 919, 351 U. S. 958, 351 U. S. 980, 353 U. S. 98, is "entirely misplaced." What we there say thus applies, *a fortiori*, to the instant case, in which petitioner likewise relies on *Ohio Power* (Motion, pp. 2, 11).

[5] Petitioner concedes that neither his appeal to the Court of Appeals nor his petition for a writ of certiorari presented "the precise question disposed of in *Grunewald*" (Motion, pp. 11, 12). Nor is there basis for what appears to be a suggestion on petitioner's part (*ibid.*) that the *Grunewald* question might be deemed, by a loose reading of one of the "Questions Presented" ("2(c)") in the petition, to have been raised in that question.

Question Presented No. "2 (c)" was whether petitioner "was deprived of a fair trial" by virtue of alleged misconduct on the part of "the trial judge and prosecutor, in particular of a consistent and repeated pattern of the questioning of witnesses by the trial judge evidencing belief in the government's witnesses, and disbelief in the defense," which, it was said, "was calculated to implant in the jury the court's belief in petitioner's guilt" (Petition for certiorari, No. 112, Oct. Term, 1952, pp. 16–17). At the

ingly, we will not repeat what we said in our *Hupman* memorandum, but respectfully refer the Court to the reasons, there set forth, why the Court should not

place in the body of the petition (under "Reasons for Granting the Writ") corresponding to this "Question Presented," petitioner merely adopted by reference what the Rosenbergs' petition for certiorari said on the subject of "the claim of prejudicial misconduct of the trial judge" (*id.* at 44). He referred, in particular (see *ibid.*), to "the appendix to [the Rosenbergs'] petition particularizing such conduct as well as the portion of their petition discussing it (No. 4 of 'Questions Presented' in that petition, discussed at pages 31–39 therein)." Nowhere in the referred-to pages of the Rosenbergs' petition (No. 111, Oct. Term, 1952), or in the appendix thereto, or anywhere else therein, is there any reference to the *Grunewald* issue. The very closest which the Rosenbergs' petition came to presenting that issue was in the next to the last paragraph of the 38-page appendix. In that paragraph, reference was made to the prosecuting attorney's interrogation of Ethel Rosenberg with respect to her prior invocation of privilege before the grand jury, and to the court's "iterat[ion]" and "reiterat[ion]" of the same subject. But not even there was it claimed that such cross-examination was error; the only claim was that the judge permitted it to be unduly emphasized.

(The claim of bias on the part of the trial judge has been conclusively rejected on the merits. However, since reference is again made to it, it seems appropriate to note, in the context of this Motion, that the trial judge, who, as we have noted (*supra*, p. 2), is conceded to have ruled in accordance with the law as it had then been established by the Court of Appeals for the Second Circuit, did not seek to prolong or unduly emphasize this testimony, as petitioner has alleged; in fact, the trial judge sought to curtail it. See, *e. g.*, R. 1395, where, addressing the government attorney, the trial judge stated: "I think we have had enough on this subject, Mr. Saypol, and for this particular purpose, and the purpose for which it is limited [to impeach credibility], I don't see anything would be added by constant questioning and more assertion of the privilege. So I am going to ask you to go on to another topic." Moreover, subsequent to this cross-examination, defense counsel specifically acknowledged the fairness of the trial judge. (R. 1452–1453, 1588, 1603.))

make the extraordinary departure from its Rules which petitioner asks.

2. Furthermore, on the merits, this case is not "unquestionably governed by *Grunewald*" (Motion, p. 8). The relevant aspect of that case was the reversal of the conviction of the defendant Halperin (353 U. S. at 415–424). Unlike petitioner, Halperin had taken the witness stand in his own defense. The Government was allowed to bring out on cross-examination that he had pleaded his privilege against self-incrimination before the grand jury as to the very questions which he answered at the trial. This Court held that, in the particular circumstances of that case,[6] this line of cross-examination was prejudicial error. However, petitioner's case is clearly distinguishable from that of Halperin in *Grunewald*.

In the first place, in *Grunewald,* Halperin's conviction was reversed because *he* had been subjected to cross-examination concerning *his* prior invocation of the privilege against self-incrimination. Here, petitioner, who did not take the stand, claims that the cross-examination of a co-defendant, as to matters which, as we show *infra* pp. 7–8, related to him only insofar as they were relevant to the existence of any conspiracy at all, incidentally prejudiced him. Whether one can validly claim that such cross-examination of another witness-defendant warrants the reversal of the conviction of a co-defendant who, like petitioner, did not testify, is a matter not decided by

[6] As previously noted (see fn. 2, *supra*, p. 3), the concurring Justices would have broadened the holding in that case into a rule of general applicability.

this Court's decision in *Grunewald*. Mr. Justice Harlan, writing for the majority (353 U. S. at 415, fn. 26), states that Grunewald and Bolich, Halperin's co-defendants, also contended, on their own behalf, that the cross-examination of Halperin was a ground for the reversal of their convictions. Since the convictions of Grunewald and Bolich were reversed on other grounds, it was not necessary for the Court to pass upon this contention.[7] And the concurring opinion of Mr. Justice Black, although it would, as we have noted, broaden the Court's holding beyond the circumstances presented by the facts of the *Grunewald* case, states that "I can think of no special circumstances that would justify use of a constitutional privilege to discredit or convict *a person who asserts it*" (353 U. S. at 425; emphasis added). Suffice it to say, for the purposes of this motion, that the grounds set forth in the motion would, if timely raised, present a question not "unquestionably decided" but clearly not passed upon by the *Grunewald* decision.

Moreover, in determining whether anyone other than the defendant who asserted the privilege may claim prejudice because of such cross-examination, an obviously relevant factor would be the extent to which that cross-examination tended to implicate the person claiming prejudice. Here, none of the evidence which directly related to petitioner (*i. e.*, the testimony of Max Elitcher and that related to flight; briefly sum-

[7] Petitioner also relies on the decision of the Tenth Circuit in *Travis* v. *United States*, No. 5379 (see Motion, p. 11, note). There, the fact that the defendant had invoked the privilege was brought to the attention of the jurors in the cross-examination of character witnesses. This case, therefore, also fails to present the question whether anyone other than the defendant who asserted the privilege may validly claim prejudice.

marized in our Brief in Opposition to Pets. Nos. 440 and 441, filed herewith, pp. 6–10) was touched upon in the cross-examination of Ethel Rosenberg. Indeed, Sobell's name was not even mentioned nor was he otherwise referred to at any time in this cross-examination. At most, the cross-examination of Ethel Rosenberg tended to show participation by the Rosenbergs in a conspiracy, but it did not in any way relate to whether Sobell was a member of that conspiracy. By contrast, in *Grunewald,* the cross-examination of Halperin was designed, not only to show the general existence of a conspiracy, but Halperin's direct participation in that conspiracy. Thus, in short, not only was petitioner not the person shown to have invoked the privilege, but the cross-examination of the witness who had previously invoked the privilege did not even relate to petitioner's participation in the crime.[*]

For the foregoing reasons, it is respectfully submitted that petitioner's motion should be denied.

J. LEE RANKIN,
Solicitor General.

OCTOBER 1957.

[*] We have, of course limited ourselves herein to the question of possible prejudice to the petitioner, rather than his co-defendants, because, on the merits, that would be the sole question raised by the motion. Cf. *Delli Paoli* v. *United States*, 352 U. S. 232, 239–243 (introduction of confession, proper as to one defendant, not prejudicial error as to co-defendant because of the circumstances of the case). Although the question of the propriety of the cross-examination as it related to petitioner's co-defendants is not therefore necessarily involved in this motion, we do not wish our silence on this point to be in any way construed as acquiescence in the proposition that, in the circumstances of this case (different from those of *Grunewald*), that cross-examination was improper.

U. S. GOVERNMENT PRINTING OFFICE: 1957

INDEX

CITATIONS

101 - 2483 - 1405

In the Supreme Court of the United States

OCTOBER TERM, 1957

Nos. 440 and 441

MORTON SOBELL, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITIONS FOR WRITS OF CERTIORARI TO UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINIONS BELOW

The opinion of the District Court[1] (A. 197–228)[2] is reported at 142 F. Supp. 515. The opinion of the Court of Appeals (Pet., No. 440, App. 2–12) is reported at 244 F. 2d 520.

[1] The District Court decided both of the two 28 U. S. C. 2255 motions herein involved in a single opinion. The Court of Appeals, similarly, disposed of both appeals in a single opinion and we respond to both petitions in this single brief in opposition.

[2] In conformance with the method adopted by petitioner, we shall designate with the letter "A." references to the current record on appeal, and with the letter "R." references to the printed record of the original trial (Nos. 111 and 112, O. T. 1952). The petitions for writs of certiorari will be referred to as "Pet., No. 440" and "Pet., No. 441," and the appendices to these petitions as "Pet., No. 440, App." and "Pet., No. 441, App."

JURISDICTION

The judgment of the Court of Appeals (Pet., No. 440, App. 1) was entered May 14, 1957. A petition for rehearing was denied on June 3, 1957. On August 28, 1957, Mr. Justice Harlan extended the time for filing petitions for writs of certiorari to and including September 10, 1957. The petitions were filed on September 9, 1957. The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1).

QUESTIONS PRESENTED

1. The question presented in No. 440 is whether, on the basis of the allegations of petitioner's motion under 28 U. S. C. 2255, charging that his conviction of conspiracy to commit espionage was obtained through the knowing use of perjured testimony, he was entitled to a hearing for the introduction of testimony, or whether "the files and records of the case conclusively show" that he "is entitled to no relief."

2. The question presented in No. 441 is whether, on the basis of the allegations of another motion filed by petitioner under 28 U. S. C. 2255, charging that he was expelled from Mexico by the Mexican Secret Police at the instance and through the collusion of agents of the United States government, by means which were allegedly in violation of a treaty of extradition between the United States and Mexico, and by which means he allegedly came within the jurisdiction of the trial court, petitioner was entitled to a hearing to inquire into the truth of these charges with a view to determining whether the trial court had jurisdiction

to try him, or whether "the files and records of the case conclusively show" that he "is entitled to no relief."

STATUTE INVOLVED

Title 28, U. S. C., Section 2255 provides:

> § 2255. *Federal custody; remedies on motion attacking sentence.*
>
> A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.
>
> A motion for such relief may be made at any time.
>
> Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the

judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

A court may entertain and determine such motion without requiring the production of the prisoner at the hearing.

The sentencing court shall not be required to entertain a second or successive motion for similar relief on behalf of the same prisoner.

An appeal may be taken to the court of appeals from the order entered on the motion as from a final judgment on application for a writ of habeas corpus.

* * * * *

STATEMENT

On March 29, 1951, petitioner and two co-defendants, Julius and Ethel Rosenberg, were found guilty by a jury verdict, returned in the United States District Court for the Southern District of New York, of conspiracy to commit espionage, in violation of former 50 U. S. C. 32 and 34 (now 18 U. S. C. 794) (R. 1579). On April 5, 1951, a motion in arrest of judgment, which raised for the first time the question of the court's jurisdiction over petitioner was denied. See *infra*, pp. 11–13. On April 5, 1951, petitioner was sentenced to thirty years' imprisonment (R. 30). His conviction was thereafter affirmed by the Court of Appeals for the Second Circuit in *United States* v. *Rosenberg*, 195 F. 2d 583, certiorari denied, 344 U. S. 838.

On May 8, 1956, pursuant to 28 U. S. C. 2255 (see pp. 3–4, *supra*), petitioner filed in the trial court, a motion (A. 8–40) to vacate and set aside his conviction and sentence, alleging that the prosecution had knowingly used perjured testimony at his trial, made false representations to the court, and suppressed evidence which would have impeached testimony given against him (A. 10). It is this motion which gave rise to the proceedings in No. 440.[3] On May 25, 1956, likewise pursuant to 28 U. S. C. 2255, petitioner filed, in the same court, a second motion[4] (A. 79–87) to vacate and set aside his conviction and sentence on the ground that the criminal proceedings against him had, allegedly, been instituted "in violation of the Constitution and laws of the United States, including *inter alia* the extradiction treaty between the United States and Mexico" (A. 80),[5] with the alleged consequence that the United States and its courts "thereby lacked all sovereignty and power" to conduct those proceedings (A. 81). It is this motion which gave rise to the proceedings in No. 441.

[3] The charge of conscious use of perjurious testimony, relating to other matters, was also the subject of one of the two prior applications under Section 2255, in which petitioner joined, and which were found to be without merit. *United States v. Rosenberg*, 108 F. Supp. 798, 804 (S. D. N. Y.), affirmed, 200 F. 2d 666 (C. A. 2), certiorari denied, 345 U. S. 965. For a partial list of the judicial proceedings involving attempts to set aside petitioner's conviction, see A. 95–97; see also Memorandum for the United States in Opposition, No. 112, O. T., 1952, filed herewith, p. 2.

[4] This motion was, therefore, petitioner's fourth application under Section 2255, see fn. 3, *supra*.

[5] Petitioner referred in his petition to the "Treaty on Extradition signed on February 22, 1899, at Mexico City, 31 Stat. 1818" (A. 80).

Affidavits in opposition to these motions were filed by the Government (A. 41–64, 88–106), and reply affidavits were filed by petitioner (A. 65–77, 107–110). Thereafter, on June 20, 1956, following oral argument of both motions (A. 111–196), the District Court (Judge Irving R. Kaufman, who had presided at petitioner's trial) denied both motions (A. 197–228), setting forth in detail, in a "well reasoned and comprehensive opinion" (Pet. No. 440, App. 4), the reasons why, in the court's judgment, "[t]he motions and the files and records of this case show conclusively that the prisoner is entitled to no relief" (A. 228).

On May 14, 1957, the decision of the District Court was unanimously affirmed by the Court of Appeals for the Second Circuit (Pet., No. 440, App. 2–12).

Before considering the specific allegations of the two Section 2255 motions which gave rise to these proceedings, it will be necessary to set forth certain background facts.

THE NATURE OF THE EVIDENCE ADDUCED AGAINST PETITIONER AT THE TRIAL

The evidence against petitioner fell into two categories. First, Max Elitcher, a close friend of petitioner, testified that petitioner had taken an active part in the conspiracy and had attempted to get him to reveal secret information concerning the national defense (R. 197–263). This testimony was described by the trial judge, in his opinion denying the instant

motions, as "totally damning and convincing" (A. 214).[6]

The second category of evidence against petitioner was evidence tending to indicate an intent on his part to flee to Europe via Mexico, which was received as indicative of consciousness of guilt. Judge Kaufman, in his opinion denying the instant motions, summarized the major part of this evidence as follows (A. 214–216):

> * * * It had been brought out previously by David Greenglass that Julius Rosenberg, the head of the espionage ring, had urged him and his family to flee if the FBI started to close in, and had given Greenglass $4,000 to flee to Mexico and thence to Europe via Tampico (R.[7] 522–537). Subsequently, it was established that Sobell had gone to Mexico with his family in the Spring of 1950. He had gone openly and under his own name; however, it was shown without contradiction that while in Mexico Sobell traveled to both Tampico and Vera Cruz using aliases; that he had inquired as to how he might leave Mexico for Europe without proper papers; that while in Tampico and Vera Cruz he had enclosed letters to his wife in

[6] Elitcher "was subjected to an intensive and exhaustive cross-examination," which "lasted two days and occupied 121 pages in the printed record" (A. 214; see R. 264–379, 388–394). The jurors were specifically instructed that if they did not believe Elitcher they were to acquit petitioner (R. 1560; A. 214).

[7] Judge Kaufman's "R." references, like ours, refer to the printed trial record.

Mexico City in unmarked envelopes sent to a neighbor; and that while in Mexico he had sent letters to his family in America, not directly, but enclosed in envelopes which listed false names as return addresses, and he had sent these envelopes to a friend requesting that he forward the letters. These facts were brought out by six disinterested witnesses, and the defense made no attempt to cross-examine them and even conceded the use of several of these different aliases.

William Danziger, an old friend of Sobell's, testified that he had received letters from an M. Sowell and M. Levitov as the return addresses residing in Mexico; that he had opened them and found a note from Sobell requesting that he forward the enclosed letters to other members of the Sobell family. Sobell also requested Danziger to tell another relative that Sobell could be reached under the name of M. Sowell at a specified street address in Mexico. Danziger was not cross-examined (R. 857–867).

Thereafter, the government called to the stand Manuel Giner De Los Rios, a neighbor of the Sobells in Mexico City. De Los Rios testified that Sobell had approached him for information as to how a person could leave Mexico without papers, saying that he was afraid to return to the United States because he did not want to go back into the Army, having already experienced one war (R. 922). It was subsequently shown that Sobell had never been in the Army, having been continually deferred (R. 955). De Los Rios also testified that Sobell had left his family and traveled to both Tampico and Vera Cruz. He knew this because during Sobell's absence, he had received two unmarked envelopes bearing postmarks from those two cities; inside each he found a letter beginning "Dear Helen" (the name of Sobell's wife), and he had turned both letters over to Mrs. Sobell. Again there was no cross-examination (R. 924–926).

Subsequently, Minerva Bravo Espinosa, a clerk in a Vera Cruz optical store, testified that Sobell had ordered a pair of glasses from her using the name M. Sand, and defense counsel conceded this fact (R. 927–930). Similarly, Jose Broccado Vendrell testified that Sobell had registered at his hotel in Vera Cruz as Morris Sand; again this fact was conceded and there was no cross-examination (R. 931–932). Dora Bautista, a hotel clerk in Tampico, testified that Sobell had registered in her hotel as Marvin Salt, and this too was conceded (R. 933–934). Glenn Dennis, an official of the Mexican Airlines, was called to testify, and via his testimony and defense concessions it was established that Sobell had flown from Vera Cruz to Tampico under the name of N. Sand, and from Tampico to Mexico City under the name of Morton Solt (R. 935–938).

"Not once during the trial," as Judge Kaufman notes, "did the defense attempt to explain the strange actions of this man and thus eradicate the impression of flight and guilty consciousness thus created. In summation defense counsel merely referred to these

actions as 'a brainstorm' which he said was none of anyone's business (R. 1503–1504)" (A. 216–217).*

2. THE ALLEGEDLY PERJURIOUS TESTIMONY

The testimony which petitioner claims to have been perjurious, and the perjurious character of which he says the Government knew when it adduced it (see *infra,* pp. 13–18), was that of James S. Huggins, an immigration inspector at Laredo, Texas, to whom petitioner was delivered on the occasion of his being forcibly ejected from Mexico by the Mexican Secret Police on the morning of August 18, 1950. The nature of Huggins' testimony and the circumstances under which it was given are summarized in the opinion below of Judge Kaufman as follows (A. 217):

> Immediately after these "flight" witnesses were called, the government attempted to introduce an immigration manifest card noting Sobell's return to the United States; the card was marked "deported from Mexico". The government attempted to introduce it as a record made in the ordinary course of business by the Immigration Service, but upon objection, the card was not allowed into evidence until the following day when James S. Huggins, the Immigration Inspector who had filled out the card, was flown to New York from Texas to authenticate it. He testified that the card was made out in the regular course of his duties, that he had obtained the information on it from Sobell himself when Sobell was brought to the border, except for the information regarding Sobell's "deportation". He explained that he had made the notation based on his *personal observation* that Sobell had been brought across the border by Mexican police. Despite repeated insistent questioning by defense counsel, he never suggested that he had made the entry because of any official information given him by the Mexican authorities or agents. He reiterated that the entry was based solely upon his observations at the time, and that he obtained Sobell's signature by telling him that all deportees must sign such cards (R. 1025–1037). [Emphasis in the original.]

3. THE MOTION IN ARREST OF JUDGMENT

Though both petitioner and his wife were well aware, before and during the trial, of the circumstances under which petitioner was allegedly taken from his Mexico City apartment by Mexican Secret Police and delivered at the border to immigration inspector Huggins and waiting agents of

---

*Petitioner has personally admitted under oath his use of aliases in Mexico and the making of inquiries about passage to Europe and South America. In an affidavit dated September 23, 1953, filed with the Court of Appeals for the Second Circuit, in opposition to the Government's motion to affirm the denial by the District Court of a previous Section 2255 motion, petitioner stated (A. 49, 167):

> * * * I left the family in the Mexico City apartment and travelled around Mexico to Vera Cruz and Tampico, even using false names and inquiring about passage to Europe and South America for all of us.

His affidavit continued (A. 167):

> It is hard to understand how I might have been allowed to do such a stupid thing but it did not take long for me to recognize how inept and pointless it was. Of course I had no idea how it could be misinterpreted and how dangerous it would turn out to be. * * *

the Federal Bureau of Investigation (A. 22–24; R. 31–33), neither he nor his wife nor his attorneys made any move, either before trial or during the trial, by motion, testimony, or even by cross-examination of the witness Huggins, to bring these alleged facts to the attention of the court (A. 219–223). Petitioner first brought these alleged facts to the court's attention in a motion and supporting affidavit in arrest of judgment (R. 31–33, 1587–1599), filed April 4, 1951 (R. 33), six days after the jury's verdict of guilty, and the day prior to the imposition of sentence.* The motion was denied (R. 1599), and the denial affirmed on appeal (*United States* v. *Rosenberg,* 195 F. 2d 583, 602–603 (C. A. 2), certiorari denied, 344 U. S. 838). Speaking for the Court of Appeals, Judge Frank, after pointing out that Rule 12 (b) (2) of the Federal Rules of Criminal Procedure requires that "[d]efenses and objections based on defects in the institution of the prosecution or in the indictment or information other than that it fails to show jurisdiction in the court or to charge an offense may be raised only by motion before trial" and that "[f]ailure to present any such defense or objection as herein provided constitutes a waiver thereof," and after noting that petitioner had made no such pre-trial motion despite the fact that "all the information contained in the post-trial affidavit was known to him at that time" (195 F. 2d at 603), observed:

> He preferred to take his chances on the verdict, withholding his trump card until the trial was over. The Federal Rules of Criminal Procedure allow no such tactic. (*Ibid.*)

*At the hearing below, in reply to the court's query, "Why didn't the defense * * * raise the question of lack of personal jurisdiction if this was all true," counsel for petitioner replied that "that is something that would have to be asked of" petitioner's trial counsel (A. 134).

4. THE INSTANT MOTIONS

(*a*) *The motion charging the knowing use of perjured testimony.*—On May 8, 1956, as we have previously noted, petitioner filed a motion under 28 U. S. C. 2255 (the motion involved in No. 440) charging that his conviction was null and void on the grounds that, allegedly, the prosecution had knowingly used perjured testimony against him at his trial, suppressed evidence helpful to his defense, and made false representations to the court (A. 8–40).

Briefly summarized, the motion alleged as follows: That petitioner, his wife, and their two children, on June 22, 1950, departed from the United States "on a trip for Mexico" (A. 21, 23); that, prior to departure, they had obtained "tourist cards" in their own names from the Mexican Consulate (A. 21); that petitioner had purchased the airplane tickets in his own name, the manifest of the air flight bore his true name, and on his arrival in Mexico he rented living quarters in his true name (A. 21–22); that he "would have voluntarily returned to the United States, had it not been for his unlawful abduction on August 16, 1950" (A. 22); that on the latter date, while he and his family were having supper in their Mexico City apartment, "[t]hree Mexicans in civilian clothes, who iden-

tified themselves as officers of the Secret Police of the Federal District of Mexico," after knocking and being admitted to the apartment, seized him and accused him of robbing a bank in Acapulco (A. 22); that they "seized and refused to return the credentials he tendered to establish his identity" (A. 22); that he was physically assaulted (A. 22); that he "was taken to the offices of" the Federal District of Mexico, where he was kept under guard until early the following morning, August 17th (A. 22); that throughout this time "no legal proceedings were held, no hearing was conducted, nor was [he] presented with any charges or warrant of arrest or written authority for the action taken" (A. 23); that on August 17th he and the other members of his family were placed under guard in two automobiles, which proceeded northward (A. 23); that on August 18th, after a day of continuous driving, during which periodic stops were made, on which occasions one of the guards would make a telephone call, they arrived in Nuevo Laredo on the Mexico-Texas border (A. 23); that on the Mexican side of the border, an agent of the Federal Bureau of Investigation "entered the automobile" in which petitioner was riding "and instructed the driver to continue to the United States immigration office in Laredo, Texas" (A. 23); that this agent "stated he had been waiting for petitioner for many hours" (A. 23); that at the United States immigration office petitioner "was removed from the car by the FBI agent and taken before the witness Huggins [the immigration inspector who gave the allegedly perjurious testimony (see *supra*, pp. 10–11)] and was told to sign a card" (A. 23);

that he was then immediately placed in custody by another FBI agent [10] (A. 23–24); that his and his wife's baggage were examined and various objects removed (A. 24); that "[i]n petitioner's presence, one of the Mexican Secret Police turned over to the FBI the personal documents that had been unlawfully taken from him in Mexico City" (A. 24); that petitioner informed both the arresting FBI agent and Huggins "of his unlawful abduction by the Mexican secret police" (A. 24, 37); and that he was thereafter taken to the office of a United States Commissioner, where FBI agents showed petitioner personal effects which had been taken from his person and apartment in Mexico and "questioned him in respect thereto" (A. 24).

The motion further alleged that at the time of his arrival at the immigration office in Laredo "[h]is appearance clearly indicated that he had been physically assaulted" (A. 37); that the FBI agents and Huggins "were aware that the required [Mexican] deportation procedures had not been complied with" (A. 37); that within a day of petitioner's arrival "Huggins and other employees of the United States immigration office * * * were informed by Hector Rangel Obregon, chancellor of the Mexican consulate at Laredo, that petitioner had not been deported [*i. e.*, by the duly constituted Mexican immigration

[10] The motion alleged that "[p]etitioner was arrested without a warrant" (A. 24). However, a warrant for petitioner's arrest had been outstanding since August 8, 1950 (A. 92). The arresting officer need not have the warrant in his possession at the time of the arrest (Rule 4 (c) (3), F. R. Crim. P.).

authorities]" (A. 27); that Obregon "expressed concern and alarm that this matter had been handled without the knowledge or approval of the Mexican Government or its duly constituted authorities" (A. 27); that the prosecution "was fully informed of the circumstances of petitioner's seizure, from the abduction in Mexico to the time he arrived in Laredo" (A. 28); and that the FBI agent who arrested petitioner in Laredo (A. 23–24) "aided the prosecution in its pre-trial preparation" and "sat at the prosecution's table throughout the trial" (A. 28).

On the basis of these and other alleged facts set forth in the motion, the motion charged that, "The prosecution in the course of the trial introduced evidence to prove that petitioner was deported by the Government of Mexico. The testimony in support of this contention was perjurious; the documentary evidence tendered in support thereof was false.[11] This false evidence was essential to the prosecution's entire case against petitioner. The prosecution, knowing this evidence to be false and perjurious, willfully and intentionally used it to the prejudice of petitioner * * *" (A. 11).

[11] The motion alleged that witness Huggins "testified that the information on the front portion of the record"—*i. e.*, the "immigration manifest card" (see *supra*, pp. 10–11)—"was furnished by petitioner, save for the notation 'Deported from Mexico.' This notation, according to the witness, was based on *information and observation* (R. 1027–1028)" (A. 13; emphasis added). However, as is clear from the very pages of the trial record which the motion cites—R. 1027–1028—Huggins testified that the notation in question was based on his own personal "observation" alone, and not on any "information" supplied him by anyone else.

On the matter of the pertinency of the allegedly false evidence, the motion averred that "[t]he evidence was used to represent falsely that petitioner would not have returned voluntarily to the United States" (A. 16); that in fact petitioner "would have voluntarily returned" "had it not been for his unlawful abduction" (A. 22); and that "[t]he prosecution used the false evidence of a deportation from Mexico to distort petitioner's innocent and lawful departure from the United States," "falsely pictur[ing] a desire to visit Mexico as a plan to avoid apprehension because of a consciousness of guilt" (A. 16–17).

The items of evidence helpful to his defense which petitioner charged had been suppressed by the Government (in addition to evidence tending to establish that petitioner had not been deported by the regularly constituted immigration authorities of the Government of Mexico) consisted of his "tourist card," evidencing his "lawful entry into Mexico" (A. 33), and his "vaccination certificate," which, it was asserted, "was obtained in preparation for his return to the United States" (A. 33)—these documents being among his personal effects which, according to the motion, were taken from petitioner at the time of his abduction and subsequent arrest (A. 33).

The allegedly false representations made to the court by the prosecuting attorney consisted of the latter's statements to the court, during oral argument on the motion in arrest of judgment (see *supra*, pp. 11–13), to the effect (1) that petitioner's affidavit in support of the motion in arrest "contains a falsehood in the statement that there was exhibited amongst other

things to the Mexican authorities visas. Counsel ought to know that his client never went into Mexico with a visa," and (2) that the same affidavit "portrays certainly that this defendant was not honorably escorted from Mexico, but that literally he was kicked out as a deportee" (A. 15). The motion charged that "[t]he representations that petitioner had entered Mexico without a visa (tourist card) and was subsequently deported by the Government of Mexico were both false * * *" (A. 15).

(*b*) *The motion charging violation of the extradition treaty between the United States and Mexico.*—On May 25, 1956, petitioner filed the second Section 2255 motion herein involved (that presented in No. 441) (A. 79–87). It is similar to the first motion, adopting many of its allegations by reference, but bases the alleged invalidity of petitioner's conviction on the claim that the manner in which he was arrested constituted a violation of the 1899 Treaty of Extradition between the United States and Mexico (31 Stat. 1818) (A. 80, 84–86). By virtue of this alleged violation, the motion contends, "The United States itself, as well as its courts, thereby lacked all sovereignty and power to conduct the proceedings herein" (A. 81), with the alleged consequence that petitioner's conviction was null and void (A. 86).

ARGUMENT

The sole question presented by each of these petitions is whether the allegations made in the respective Section 2255 motions were such as to require a hearing for the taking of evidence on the issues raised, or

whether "the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief" (28 U. S. C. 2255, *supra,* pp. 3–4, par. 3.) Judge Kaufman, in denying these motions (after full argument as to the sufficiency of their allegations (A. 111–196)), was, of course, well aware of the function of a Section 2255 motion (A. 202) and acted on the assumption that the court, "[i]n passing on these motions," should "accept all of petitioner's averments as true insofar as they are not inconsistent with the record" (A. 203). We submit that the decision of the trial judge (with which the unanimous Court of Appeals agreed) that "[t]he motions and the files and records of this case show conclusively that the prisoner is entitled to no relief" (A. 228) is clearly correct, and that, accordingly, the petitions for writs of certiorari present no question requiring further review by this Court.

1. THE MOTION CHARGING THE KNOWING USE OF PERJURY (PETITION FOR CERTIORARI NO. 440) IS WITHOUT MERIT

(*a*) We submit that there was no "knowing use of perjury" because there was, in fact, no perjury. We believe that, for the reasons set forth by Judge Kaufman (at A. 217–219), it sufficiently appears from the trial record itself that "Huggins' testimony was not perjurious, nor was the [immigration] manifest false, as it could rise no higher than Huggins' explanation regarding the 'deportation' notation" (A. 219). As noted by the trial judge, "petitioner's contention that Huggins perjured himself when he testified that Sobell had been deported as he then well knew that Sobell's seizure had been contrary to Mexican deporta-

tion procedure" is "clearly refuted by the cold record which shows that time after time Huggins insisted that his notation was not based on official sources, but was based solely upon his own observations of Sobell's summary ejection. It is entirely clear that he was using the word 'deported' to mean expelled or ejected, and clearly even Sobell must have understood the notation to have that meaning as he himself signed the card when told that all deportees must do so" (A. 217–218).[12]

Moreover, as Judge Kaufman further remarks, it "should also be noted that in summation, Mr. Kuntz, Sobell's attorney, pointed out that Sobell had not been legally deported from Mexico; he argued that if Sobell had been deported the government would have shown it by other more competent evidence (R. 1505–1506). When Mr. Saypol, the prosecutor, summed up, he nowhere stated—or even inferred—that Sobell had been legally deported, but stated instead that 'the FBI caught up with him and brought him back and you have him here' (R. 1534). Patently, this does not show an attempt by the prosecution to create the impression of legal deportation as is now charged. Manifestly, it was the prosecution's intention to use Huggins' testimony to point up that Sobell's return to this country had been involuntary. Thus it was the natural capstone to the clear and convincing testimony regarding Sobell's attempt to

[12] It is to be noted, furthermore, that on the reverse side of the manifest card, under "Remarks," there appears the notation "Brought to Immigration office by Mexican police" (R. 1031).

flee. Obviously, the defense attorneys also believed this was the sole purpose of introducing that evidence. They did not even attempt to bring the question of improper deportation procedures to the attention of the Judge out of presence of the jury—a device they had frequently employed throughout the trial—despite the fact that 24 hours elapsed between the time defense counsel saw the immigration manifest and the time that it was finally introduced into evidence via Huggins' testimony" (A. 218–219).

(*b*) Nor did the Government "suppress" any evidence favorable to petitioner, as charged.

As noted by the trial judge, "the prosecution cannot suppress evidence or facts if they are known to the defense, and if it is true that Sobell was abducted, this fact was clearly and admittedly within the possession of Sobell and his counsel before the trial. Indeed, his affidavit makes it clear that Sobell knew that this alleged illegal seizure was highly irregular. The petitioner now alleges that the defense was not in possession of sufficient facts showing that the FBI had instigated this procedure as is charged now—but this is hard to believe in light of Sobell's assertions in his first affidavit, submitted in support of his motion in arrest of judgment [see R. 31–33]—that an FBI agent was waiting for him on the Mexican side" (A. 219–220).[13]

[13] See also A. 220–221, where the judge points out that it would have been perfectly possible for petitioner to adduce at his trial the facts surrounding his forcible abduction from Mexico (and thus refute any idea that he had been formally deported by Mexico) without taking the witness stand himself

Similarly, there is no basis for petitioner's contention that the two documents which were taken from him—his "tourist card" and "vaccination certificate" (see *supra,* p. 17)—were suppressed by the prosecution. In the first place, as Judge Kaufman notes, "Sobell knew of the evidence" and "knew who had it," yet "never sought its production, though he sought the production of numerous other documents" (A. 223–224). Furthermore, "the two items in question were not material to petitioner's case" (A. 224).[14]

(*c*) With respect to the alleged misrepresentations by the prosecuting attorney to the court (see *supra,* pp. 17–18), it is sufficient for present purposes to point out that both alleged misrepresentations, as observed by Judge Kaufman, "were made* * * after the verdict had been rendered, upon argument of the motion in arrest of judgment" (A. 224). They accordingly could not in any event have influenced the verdict.[15]

(*e. g.*, by putting his wife on the stand, by cross-examining Huggins, etc.); but that, in any event, even if to do so had required his taking the stand, this would not have entailed the deprivation of any constitutional right, since "The Constitution," while it "safeguards the right of a defendant to remain silent," "does not assure him that he may remain silent and still enjoy the advantages that might have resulted from testifying" (*[illegible]n v. New York*, 346 U. S. 156, 177).

[14] The "tourist card," as Judge Kaufman explains, "could have established merely that Sobell went to Mexico under his own name; this was never denied or mentioned by the prosecution, and was specifically referred to by Mr. Kuntz [petitioner's attorney] in summation. Further, defendant's exhibits in this motion indicate that Sobell's attorneys had manifests of the airline on hand which clearly showed he traveled in his own name. They obviously decided, for trial strategy, not to introduce them" (A. 224). "As for the vaccination certificate, Sobell claims this shows he intended to return to the United States as it would be necessary for re-entry; he neglects to mention that this was an international certificate equally valid and equally necessary for entry into many foreign countries" (A. 224).

2. THE MOTION CHARGING VIOLATION OF THE EXTRADITION TREATY BETWEEN THE UNITED STATES AND MEXICO (PETITION FOR CERTIORARI NO. 441) SIMILARLY LACKS MERIT

This motion charged, in substance, that petitioner's alleged forcible abduction from Mexico by officers of the Mexican Secret Police, at the instigation or through the collusion of agents of the FBI, constituted a violation of the Treaty of Extradition between the United States and Mexico (31 Stat. 1818), which, in turn, had the effect of totally depriving the trial court of jurisdiction to try him for the offense of which he was convicted (A. 80–86). This argument was likewise rejected after thorough consideration by the trial judge (A. 204–213) as well as by the court below (Pet., No. 440, App. 10–12).

(*a*) At the outset, we submit that petitioner has already fully litigated this issue. Immediately after his conviction, as we have seen, he moved, in a motion in arrest of judgment, to set aside the conviction on the ground that the court lacked jurisdiction because he had been illegally brought before it (R. 31–33, 1596),

[15] See also A. 224–225, where Judge Kaufman points out that (and explains why) (1) the prosecuting attorney's comments "had no effect on post-trial proceedings" (A. 224) and (2) "were not false" in any event (A. 225). In view of the fact that the allegedly false representations were made to Judge Kaufman himself, it is evident that the latter's appraisal both of their over-all significance in the case and of their truthfulness should be conclusive.

which motion was denied (R. 1599). The Court of Appeals, on the original appeal from petitioner's conviction, likewise fully considered this contention and held that the issue raised was one of jurisdiction over petitioner's person, which had been waived by his failure to raise it until after trial. *United States* v. *Rosenberg,* 195 F. 2d 583, 602–03 (C. A. 2).[16] And in his petition for certiorari to review the affirmance of his conviction, which this Court denied at 344 U. S. 838, the question of jurisdiction was again pressed (see A. 104–106). Both in his brief in the Court of Appeals and in his petition for certiorari, petitioner relied upon *United States* v. *Rauscher,* 119 U. S. 407, and *Cook* v. *United States,* 288 U. S. 102, the same two cases upon which he relies now (Pet., No. 441, pp. 10–14). While petitioner, to be sure, has now modified his argument from one of lack of personal jurisdiction to "a total failure of all national and hence judicial power" (Pet., No. 441, p. 28), and from alleged violation of international law to alleged violation of the treaty of extradition between the United States and Mexico (Pet., No. 441, p. 7–14), the substance of his argument remains unchanged. As Judge Kaufman observed (A. 208):

> It is clear that petitioner's present argument

[16] Petitioner's brief to the Court of Appeals on the original appeal fully argued the issue (see A. 98–103) under the heading (A. 98):

> THE UNITED STATES, AND HENCE THE COURT BELOW, HAD NO JURISDICTION OF THE PERSON OF SOBELL, SINCE HE WAS FORCIBLY SEIZED IN ANOTHER COUNTRY BY OR AT THE INSTANCE OF THE F. B. I., AND THE COURT BELOW SHOULD HAVE DIRECTED A HEARING ON THIS ISSUE.

> re jurisdiction is but a twice-told tale in a new semantic guise. He seems to believe that by the mere device of changing attorneys and relabeling his claims, he may return to court time after time with the same basic argument.

Furthermore, since a court is required to raise the question of jurisdiction over the subject matter on its own motion (*Defiance Water Co.* v. *City of Defiance,* 191 U. S. 184; *United States* v. *Bradford,* 194 F. 2d 197 (C. A. 2), certiorari denied, 343 U. S. 979), the District Court and the Court of Appeals, having been presented with the allegation of abduction and the argument of lack of jurisdiction, necessarily considered the question of jurisdiction over the subject matter as well as personal jurisdiction. An issue must be considered litigated where the basic subject has been presented to three separate courts even though counsel later develops slightly different legal phraseology.

(*b*) Though petitioner now labels the issue arising from the alleged abduction as one of jurisdiction over the subject matter as distinguished from jurisdiction over his person, it is clear that the real issue, nevertheless, is personal jurisdiction—which, as has been noted, he waived by failure to raise it until after his trial.[17] For, labels apart, the only issue is whether he

[17] It is well settled that jurisdictional objections, except as to jurisdiction over the subject matter, are waived by failure to present them in a timely manner. *Albrecht* v. *United States,* 273 U. S. 1, 8–9; *Pon* v. *United States,* 168 F. 2d 373 (C. A. 1). Indeed, petitioner's counsel expressly conceded at the hearing below that "if we were dealing with the matter of personal jurisdiction, we are out of court" (A. 132).

was properly before the trial court. Two of the very cases relied upon by petitioner (Pet., No. 441, pp. 26–28) make it clear that the irregular seizure of a person involves only the question of personal jurisdiction. *United States* v. *Rauscher, supra,* 119 U. S. at 433 ("jurisdiction of the person"); *United States* v. *Ferris,* 19 F. 2d 925, 926–927 (N. D. Cal.) ("jurisdiction over the person").[18] *Ford* v. *United States,* 273 U. S. 593, 606, settles the question:

> The issue whether the ship was seized within the prescribed limit did not affect the question of the defendant's guilt or innocence. *It only affected the right of the court to hold their persons for trial.* It was necessarily preliminary to that trial. The proper way of raising the issue of fact of the place of seizure was by a plea to the jurisdiction. A plea to the jurisdiction must precede the plea of not guilty. Such a plea was not filed. The effect of the failure to file it was to waive the question of the jurisdiction of the persons of defendants. [Emphasis added.][19]

[18] Petitioner's reliance on *Cook* v. *United States, supra,* 288 U. S. 102 (Pet., No. 441, pp. 26–27) is also misplaced. There, proper objection was made before trial (288 U. S. at 108), and the Court merely stated that such an objection is not "lost by the entry of an answer to the merits" (*id.* at 122).

[19] Petitioner attempts to distinguish *Ford* by claiming that "[t]here was no such jurisdictional issue in *Ford*, because there was no extraterritorial action or seizure in violation of the treaty. The seizures in *Ford* were made strictly in accordance with treaty" (Pet., No. 441, p. 28). This Court, however, clearly stated in *Ford* that "[t]he main questions presented are, first, whether the seizure of the vessel was in accordance with the treaty * * *"

(*c*) Finally, even if petitioner had raised the instant issue of personal jurisdiction in time, and conceding *arguendo* all of the facts alleged by petitioner in his motion, those facts would not have constituted a sufficient basis to oust the trial court of jurisdiction to try him. Petitioner admits that he was apprehended by officers of the Secret Police of the Federal District of Mexico and that he was taken to the offices of the *Direccion Federal de Seguridad* of the Federal District of Mexico (A. 22).[20] His wife and children were also seized by Mexican police officers and taken to their offices (A. 23). On the following day, according to the motion, petitioner and his wife and children were driven north in separate automobiles toward the United States, still in the custody of Mexican police officers (A. 23). Not until he reached the border was petitioner turned over to agents of the FBI (A. 23–24).

Since the authorities agree that there is no right of asylum in a foreign country even where there is an extradition treaty (*e. g., Ker* v. *Illinois,* 119 U. S. 436, 442), Mexico had the unquestioned right to reconduct petitioner from its territory with or without cause or procedural protection. See Article 33 of the Mexican Constitution, Pet., No. 440, App. 20–21; 1 Oppenheim, *International Law* (8th ed. Lauterpacht,

(273 U. S. at 600). The statement quoted in the text, *supra,* was made on the assumption that the seizure had been illegal (*id.* at 605).

[20] The latter fact indicates that the reconduction of the petitioner to the border was participated in or approved by Mexican officials of considerable standing.

1955), § 326; Wheaton, *International Law* (6th ed. Keith, 1929), p. 210. While petitioner claims that his seizure and reconduction were the result of a plan organized and supervised by agents of the FBI (Pet., No. 441, p. 7), the substantial participation of Mexican officials is enough to bring the case within the above principle. Preuss, *Kidnapping of Fugitives From Justice on Foreign Territory,* 29 Am. J. of Inter. Law 502, 507. In the *Savarkar* case, reported in Scott, *Hague Court Reports* (1916), p. 275, the Permanent Court of Arbitration held that neither an extradition treaty nor international law obligated Britain to return to France a British fugitive who had escaped to France and been restored to a British ship through the cooperation of subordinate French and British police. The Permanent Court held that such cooperation by the French police, without immediate disavowal by their superiors, constituted legitimate reconduction. There thus exist no grounds for considering the forcible removal of petitioner from Mexico as in violation of either the extradition treaty or international law.

Moreover, even if petitioner was removed from Mexico in violation of the extradition treaty, it is well settled that, except for the totally different circumstances presented by the *Rauscher* case, discussed *infra* at pp. 30–31, jurisdiction over the person of a defendant in a criminal case is not impaired by the manner in which he is brought before the court. See Note, 165 A. L. R. 947. The federal courts have thus consistently held that only the government whose

sovereignty has been violated, not the defendant,[21] may validly protest a seizure illegal under either international law or extradition treaties. *E. g., Ker* v. *Illinois, supra,* 119 U. S. at 443, 444;[22] *Chandler* v. *United States,* 171 F. 2d 921 (C. A. 1), certiorari denied, 336 U. S. 918; *United States* v. *Unverzagt,* 299 Fed. 1015 (W. D. Wash.), affirmed, 5 F. 2d 492 (C. A. 9), certiorari denied, 269 U. S. 566; *United States* v. *Insull,* 8 F. Supp. 310 (N. D. Ill.).[23] In

[21] The only remedy of the defendant is to sue his abductors for trespass and false imprisonment. *Ker* v. *Illinois, supra,* 119 U. S. at 444.

[22] Petitioner's attempts to distinguish the *Ker* case (Pet., No. 441, pp. 20–22) are competely lacking in substance. (1) While *Ker* involved a state prosecution, treaties govern state and federal courts equally and subsequent federal cases have refused to make any distinction between cases arising in state and federal courts. *E. g., United States* v. *Toombs,* 67 F. 2d 744 (C. A. 5); *United States* v. *Unverzagt,* 299 Fed. 1015 (W. D. Wash.), affirmed, 5 F. 2d 492 (C. A. 9), certiorari denied, 269 U. S. 566. (2) Whether or not the treaty between the United States and Peru was in fact in force, the Court throughout its opinion assumed that it was in force. (3) Not only is there no indication in the decision that the Court considered the case as if Ker had been expelled by the duly constituted governing authority, but the Court explicitly stated that "it was a clear case of kidnapping * * * without any pretence of authority under the treaty * * *" (119 U. S. at 443).

[23] Petitioner also tries to distinguish the lower court decisions here cited (Pet., No. 441, p. 24). But these attempted distinctions are likewise baseless since the courts expressly state that the defendant has no standing to challenge a violation of a treaty. Compare the rule that international immunities are for the benefit of the state, rather than the individual, and may be waived without the consent of the individual. See, Brief for the Petitioners, *Wilson, et al.* v. *Girard,* No. 1103, O. T., 1956, pp. 34–37 (authorities cited).

Frisbie v. *Collins,* 342 U. S. 519, 522, this Court reaffirmed the holding of *Ker,* which is dispositive of the merits of the present issue, in the most emphatic terms: "This Court has never departed from the rule announced in *Ker* v. *Illinois* * * * that the power of a court to try a person for crime is not impaired by the fact that he had been brought within the court's jurisdiction by reason of a 'forcible abduction.' No persuasive reasons are now presented to justify overruling this line of cases."

Neither *United States* v. *Rauscher, supra,* nor *Cook* v. *United States, supra,* relied upon by petitioner (Pet., No. 441, pp. 10–14), in any way undermines the holding of *Ker* as approved in *Frisbie.* The *Cook* case was a civil suit involving the illegal seizure of a foreign vessel. In the present case, petitioner is an individual and a citizen of this country. The *Cook* case itself carefully distinguished prior cases involving seizures of vessels of American registration (288 U. S. at 122). In addition, the courts have consistently differentiated between civil and criminal cases in which jurisdiction of the defendant has been secured by illegal means. In *In re Johnson,* 167 U. S. 120, 126, this Court stated that "[t]he law will not permit a person to be kidnapped or decoyed within the jurisdiction for the purpose of being compelled to answer to a mere private claim, but in criminal cases the interests of the public override * * *." The *Rauscher* case, which held that a defendant extradited for one offense under an extradition treaty cannot be tried for a different offense, provides the one exception to the rule that the federal courts do not concern themselves with how the defendant comes before them. But *Ker,* which was decided on the same day as *Rauscher,* both the opinions being written by the same Justice (Miller), distinguishes *Rauscher* on the ground that (119 U. S. at 443) "it is quite a different case when the plaintiff in error comes to this country in the manner in which he was brought here, clothed with no rights which a proceeding under the treaty could have given him * * *."

In summary, apart from the fact that petitioner first waived the contentions which he now seeks to assert, and that they have been previously litigated, it is perfectly plain that the contentions are entirely lacking in merit.

CONCLUSION

For the foregoing reasons, the petitions for writs of certiorari should be denied.

Respectfully submitted.

J. LEE RANKIN,
Solicitor General.
WILLIAM F. TOMPKINS,
Assistant Attorney General.
PHILIP R. MONAHAN,
CARL G. COBEN,
BRUCE J. TERRIS,
Attorneys.

OCTOBER 1957.

U. S. GOVERNMENT PRINTING OFFICE: 1957

FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

OCT 12 1957

TELETYPE

Mr. Tolson	
Mr. Nichols	
Mr. Boardman	
Mr. Belmont	
Mr. Mohr	
Mr. Parsons	
Mr. Rosen	
Mr. Tamm	
Mr. Trotter	
Mr. Nease	
Tele. Room	
Mr. Holloman	
Miss Gandy	

URGENT 10-12-57 1-560. SM

TO DIRECTOR

FROM SAC NEW YORK

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3042

HELEN SOBELL, WAS, SM-C. SUBJECT GUEST ON JOHN WINGATE-S NY CHANNEL FIVE, WABD, DUMONT TELEVISION SHOW, "NIGHT BEAT", ELEVEN THIRTY P.M. TEN ELEVEN FIFTYSEVEN. SUBJECT CLAIMS HUSBAND, MORTON SOBELL, INNOCENT OF ANY CRIME. SECRET OF ATOM BOMB NO SECRET AT ALL. SHE REFERRED TO PRESENT APPEAL TO US SUPREME COURT. STATED THREE MOTIONS PRESENTLY BEFOR COURT FOR REVIEW. ONE, PROSECUTION USED PERJURED TESTIMONY. CLAIMS SHE HAS DOCUMENTARY PROOF OF PERJURY. TWO, EXTRADITION LAWS VIOLATED WHEN MORTON SOBELL "KIDNAPPED" FROM MEXICO. THREE, GREENWALD-WALPERIN CASE RULING OF US SUPREME COURT, WHERE PREJUDICIAL REFERENCE TO DEFENDANT-S FIFTH AMENDMENT PLEA RESULTED IN REVERSAL. SUBJECT ASKED BY WINGATE WHY HUSBAND DID NOT TAKE STAND IN HIS OWN BEHALF. SHE SAID THEIR ATTORNEY TOLD THEM THE GOVERNMENT HAD NOT MADE A CASE AGAINST HIM. WINGATE QUOTED EMANUEL BLOCH-S POST-TRIAL TRIBUTE TO JUDGE KAUFMAN AND STATED THERE WAS SEEMING INCONSISTENCY BETWEEN THIS STATEMENT AND PRESENT STAND OF HELEN SOBELL THAT TRIAL WAS UNFAIR. HELEN ANSWERED THAT BLOCH LATER REGRETTED MAKING HIS ORIGINAL TRIBUTE. HELEN SOBELL DENIED ANY KNOWLEDGE OF COMMUNIST SUPPORT IN PRESENT CAMPAIGN TO FREE HUSBAND. WOULD ACCEPT SUPPORT FROM ANYONE AND WOULD NOT REPUDIATE COMMUNIST SUPPORT IF OFFERED.

100-358983
NOT RECORDED
87 OCT 16 1957

END AND ACK

File in 101-358983

ORIGINAL—DIRECTOR

2-00 PM OK FBI WA HN

65 OCT 16 1957

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. A. H. BELMONT

DATE: October 12, 1957

FROM : MR. V. T. K. STACEY

SUBJECT: MORTON SOBELL, wa
ESPIONAGE
101-2483

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/22/86 BY 3042 Nut Pfc

Tolson
Boardman
Belmont
Mohr
Parsons
Rosen
Tamm
Trotter
Nease
Tele. Room
Holloman

Special Agent Goodwin, New York Office, called at 12:15 a.m., 10-12-57, and advised that the interview of Helen Sobell by John Wingate on the program "Night Beat" from 11:30 p.m. to 12:00 midnight, 10-11-57 on Station WABD, Channel 5, NYC, was monitored by the New York Office at the request of Mr. Nichols.

During the program, Mrs. Sobell stated her husband, Morton Sobell, is innocent and that the atomic bomb secret was no secret according to scientists who reviewed facts in the case. Mrs. Sobell said the legal problems confronting the Supreme Court consist of three motions. The first is based on the prosecution's use of perjured testimony. The second has to do with the extradition laws of Mexico which were violated by virtue of Sobell's being kidnaped, and the third is based on a recent opinion of the Supreme Court in the Gruenwald-Halperin case in which the trial of these two individuals was invalidated because of the prosecution's reference to their taking the Fifth Amendment which was prejudicial.

Wingate asked Helen Sobell why Morton Sobell did not take the witness stand and she said defense attorneys told him that no case had been presented by the Government.

Helen Sobell said she is willing to take funds from any source and would not repudiate communist support.

Goodwin said New York would send in a summary teletype on above on 10-12-57 and a transcript of interview would be forwarded by 10-14-57.

Mr. Nichols was advised of the above at 12:30 a.m., 10-12-57.

RECOMMENDATION:

None, this is for information.

RECORDED-45
INDEXED-45
TO OCT 16 1957

101-2483-1406

1 - Mr. Nichols
1 - Mr. Belmont
1 - Mr. Litrento
1 - Mr. Stacey

EX-131

VTKS:bam

7 2 OCT 22 1957

GIR 15

The Solicitor General October 21, 1957

Director, FBI

I noticed a wire service story on Friday indicating that the attorneys for Morton Sobell had filed a memorandum with the Supreme Court as a result of the "Look" magazine article on the Rosenberg case. I do not know whether you intend to file an answer, but for your ready reference I am transmitting herewith the transcript of an interview between Helen Sobell and John Wingate on the "Lighthouse" program on Channel 5, October 11. Mrs. Sobell, of course, has been going around the country making similar speeches and the propaganda is continuing on behalf of the Rosenbergs and Sobell. It, therefore, would seem that at some point the Department of Justice would have the right of straightening the record to correct the falsehoods being disseminated by this group.

Enclosure

cc-Mr. Boardman
cc-Mr. Belmont

LEN:rm:ifc
(8)

ENCLOSURE

EX-131

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3042 Pwt DTC

RECORDED-18 101-2483-1406

INDEXED OCT 22 1957

EX-131

Tolson
Nichols
Boardman
Belmont
Mohr
Parsons
Rosen
Tamm
Trotter
Nease
Tele. Room
Holloman
Gandy

OCT 22 10 06 AM '57

MAILED 2
OCT 22 1957
COMM-FBI

67 OCT 23 1957

UP211

(SOBELL)

ATTORNEYS FOR MORTON SOBELL, CONVICTED WITH THE ROSENBERG ATOM SPIES IN 1951, ATTACKED THE GOVERNMENT TODAY FOR ALLEGEDLY FEEDING INFORMATION ABOUT THE CASE TO A MAGAZINE.

IN A MEMORANDUM FILED WITH THE SUPREME COURT, THE LAWYERS CHARGED THE JUSTICE DEPARTMENT WITH IGNORING "THE DEMANDS OF FAIR PLAY."

SOBELL, WHO IS SERVING A 30 YEAR TERM IN ALCATRAZ FEDERAL PRISON, HAS A NEW APPEAL BEFORE THE HIGH COURT WHICH MAY BE ACTED UPON NEXT MONDAY.

THE MEMORANDUM SAID "LOOK MAGAZINE" FOR OCT. 29 CARRIES AN ARTICLE ABOUT THE CASE FOR WHICH IT HAD ACCESS TO INFORMATION PREVIOUSLY HELD SECRET BY THE GOVERNMENT.

THE MEMORANDUM TOOK PARTICULAR ISSUE WITH A STATEMENT IN THE ARTICLE ABOUT SOBELL'S DEPORTATION FROM MEXICO. SOBELL CONTENDS THAT HE WAS ILLEGALLY KIDNAPED FROM MEXICO CITY AT THE TIME OF HIS ARREST.

10/17--WP909P

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3042 pwt-D fc

Memo to Solicitor General 10-21-57 [illegible]

101-2483-1406

ENCLOSURE

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : A. H. Belmont

DATE: October 16, 1957

FROM : W. A. Branigan

SUBJECT: MORTON SOBELL
ESPIONAGE - R

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3042 /mtc-sdc

Tolson
Nichols
Boardman
Belmont
Mason
Mohr
Parsons
Rosen
Tamm
Nease
Winterrowd
Tele. Room
Holloman
Gandy

On 10-11-57 John Wingate, who conducts interviews on Dumont television show "Night Beat" interviewed Helen Sobell, wife of the subject. By airtel 10-14-57 New York Office furnished transcript of the interview.

A review of the transcript fails to reflect any new information. Helen Sobell repeated the stereotyped claims she has been making as a paid employee of the National Committee to Secure Justice in the Rosenberg Case, stating that her husband was innocent, that the trial was not fair, the Government had no case against her husband and only one witness testified against him. (This last statement refers to Max Elitcher, main Government witness against Sobell; actually William Danziger testified as to his actions as a mail drop for Sobell, six Mexican witnesses testified to his activities in Mexico, and INS Inspector Huggins told of Sobell's deportation). She also told of the subject's latest appeal to the United States Supreme Court and related the grounds for this appeal. When asked why her husband did not take the stand in his own defense, she stated his trial attorneys told him that no case had been made against him. When confronted with complimentary statements made by Emanuel Bloch, Rosenberg defense attorney, at the end of the trial to the court, she retorted that Bloch was not the attorney for Sobell.

When asked if any of her money came from communist sources, she answered, "As far as I know, no." She stated she would welcome support from anyone and would not question the person's political affiliation.

No mention was made of the FBI.

ACTION:

For your information.

101-2483-1407

101-2483
APL:jdb
(5)
1 - Belmont
1 - Branigan
1 - Nichols
1 - Lee

OCT 22 1957

RECORDED - 24
INDEXED - 24

EX. - 137

ESP. SEC.

7 2 OCT 30 1957

United States Senate

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE TO INVESTIGATE THE ADMINISTRATION OF THE INTERNAL SECURITY ACT AND OTHER INTERNAL SECURITY LAWS UNDER S. RES. 366 (81ST CONGRESS)

October 21, 1957

Mr. Louis B. Nichols
Federal Bureau of Investigation
Room 5640
Washington, D. C.

Dear Lou:

Enclosed herewith is a copy of an anonymous letter we received which I am sending you at Judge Morris' suggestion. The letter sounds extremely interesting. Is there any possibility that you can supplement the information in such a way that we can use it for a hearing?

Sincerely yours,

BEN MANDEL

BENJAMIN MANDEL
Research Director
Internal Security Subcommittee

ENCLOSURE

BM:ht

RECORDED-61
INDEXED-61

62-82217-1

62-1

62-82217-1 UNRECORDED COPY FILED IN

AUTO STAT

memo Belmont from Branigan 10-24-57
JPL:jdb
let to new york 10-25-57 JPL:jdb

100-2483-1408

NO OCT 29 1957

[redacted]

ESPIONAGE SECTION

TO WHOM IT MAY CONCERN

If you will look into the activities of one Symie Amitin, From 1950 to 1955 you will find that there is a strong connection between she and Morton Sobel, both being employed by Reeves Instrument in Project Cyclone....

She may be known in the party as Sadie or Selma or Sylvia Schwartz or Black. She was the only secretary in the project cyclone, and altho she was classified as secret she handled all the typing including top secret papers. She also knew where Sobel went when he ran . She also registered as a democrat and worked for the party at election time.

Benjamin Heimlish or as he is known now as Hemlock, her sisters husband was arrested for distributing communist literature . But not convicted. His daughter left home because of his political activities. He hides behind the fact that his brother is a Luit.Colonel in the Air Force.

Dr. Julius Jaffe, another brother-in -law, is the mind behind all of them, he and his wife have been very active in the support of both Sobel and the Rosenbergs.

Mrs Amitin has for the past six years sent her son th a communist frontcamp. Camp Woodland, which is run by Norman Studer, who was investigated recently for his activities with children.

Best of Luck

Disgruntled American

Ico made + sent to new york by let 10-25-57 JPL: jdb

101-2483-1408

ENCLOSURE .

BEN MANDEL
Research Director
SENATE INTERNAL SECURITY SUB
COMMITTEE
WASHINGTON. D.C.

AIR MAIL

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/22/87 BY 3042 Just-DIC

4-22 (Rev. 12-17-56)

Federal Bureau of Investigation
Records Branch

__________, 1957

- [ ] Name Check Unit - Room 6523
- [ ] Service Unit - Room 6524
- [ ] Forward to File Review
- [ ] Attention ________
- [ ] Return to *J. P. Lee* *1734*
  Supervisor Room Ext.

Type of References Requested:

- [ ] Regular Request (Analytical Search)
- [ ] All References (Subversive & Nonsubversive)
- [ ] Subversive References Only
- [ ] Nonsubversive References Only
- [ ] Main ________ References Only

Type of Search Requested:

- [ ] Restricted to Locality of ________
- [ ] Exact Name Only (On the Nose)
- [ ] Buildup [ ] Variations
- [ ] Check for Alphabetical Loyalty Form

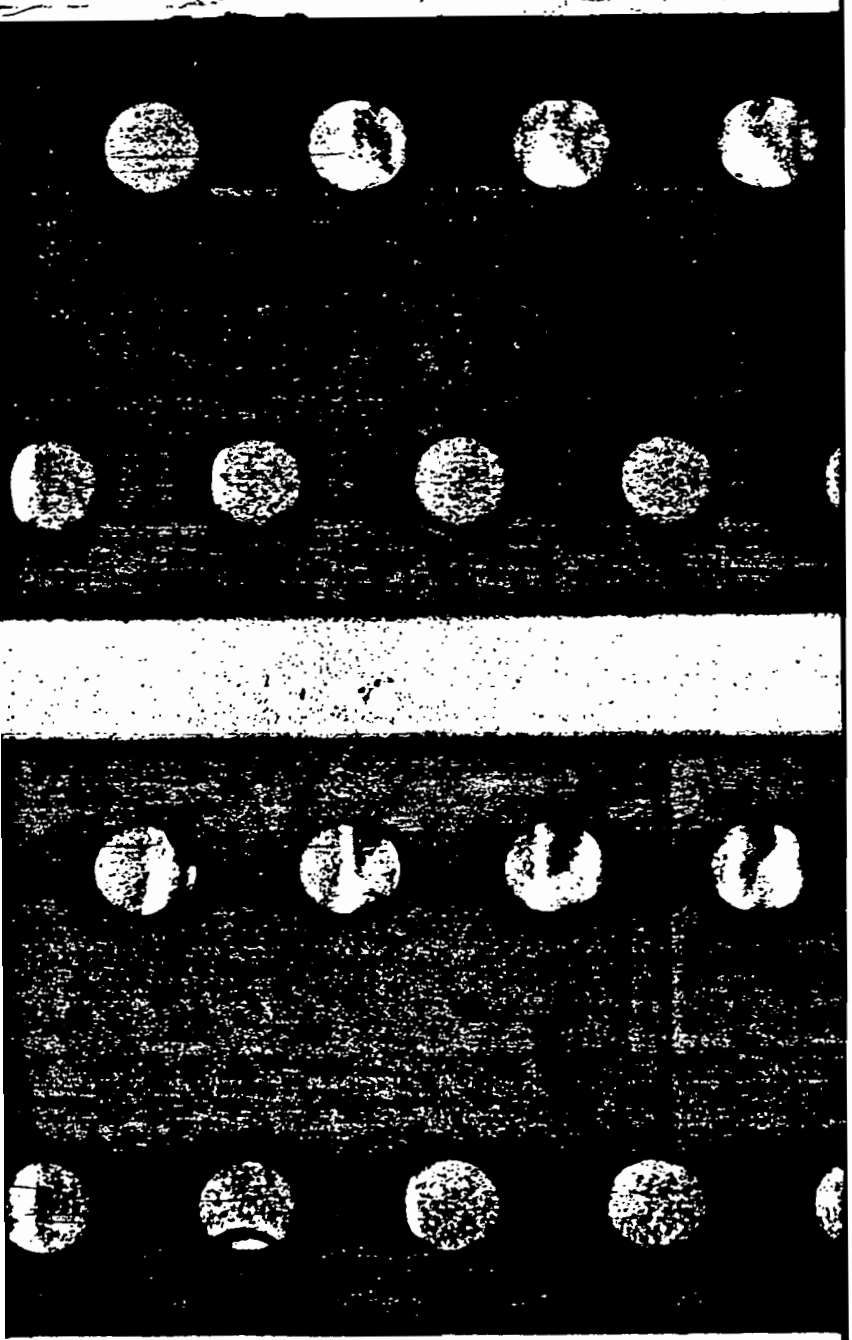
Subject *Sadie Black*
Birthdate & Place ________
Address ________

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE *4/22/87* BY *3042* [illegible]

Localities ________
R# ________ Date *10-22* Searcher Initials [illegible]

FILE NUMBER SERIAL

Sadie Black
[redacted] *b2 b7C*
140-11133-6
100-3-4-3864
118-7065-8
100-36635-32
62-75147-32-3 p99
100-3-4-4114
[redacted] *b2 b7C*
100-3-14-2629 p23
Selma Black
NR



4-22 (Rev: 12-17-56)

Federal Bureau of Investigation
Records Branch

_____, 1957

- ☐ Name Check Unit - Room 6523
- ☐ Service Unit - Room 6524
- ☐ Forward to File Review
- ☐ Attention _____
- ☐ Return to Lee 1934
  Supervisor Room Ext.

Type of References Requested:

- ☐ Regular Request (Analytical Search)
- ☐ All References (Subversive & Nonsubversive)
- ☐ Subversive References Only
- ☐ Nonsubversive References Only
- ☐ Main _____ References Only

Type of Search Requested:

- ☐ Restricted to Locality of _____
- ☐ Exact Name Only (On the Nose)
- ☐ Buildup ☐ Variations
- ☐ Check for Alphabetical Loyalty Form

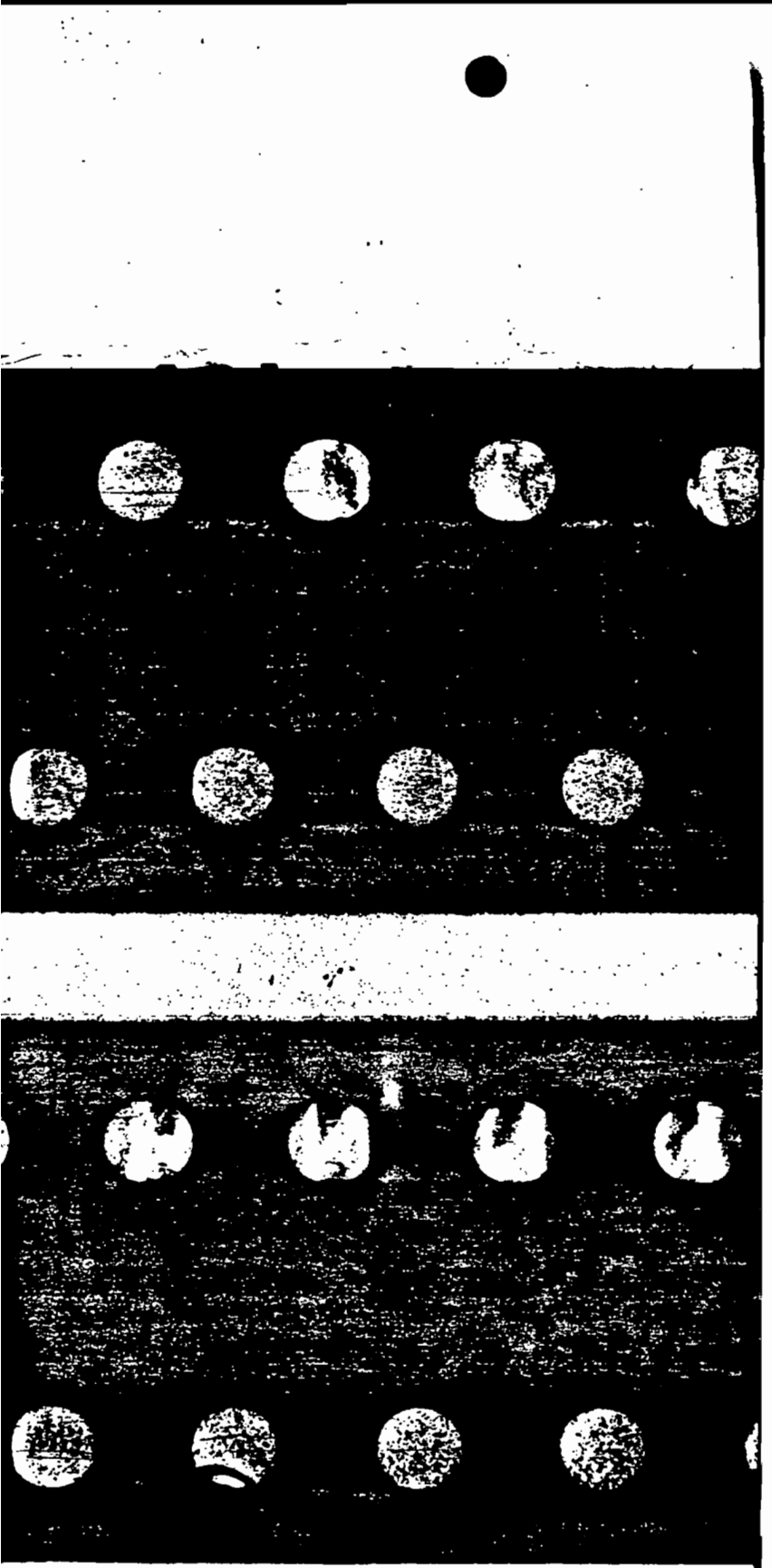
Subject Sadie Schwartz
Birthdate & Place _____
Address _____
Localities _____

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/22/87 BY 3042

Ref _____ Date 10-22 Searcher Initials _____

FILE NUMBER	SERIAL
100-16300	
100-336860	
100-52466	
100-407164	
77-73079	
pp. 50 cannot list	
Selma	
61-7341-34-364 p 24; 591; 827 p 8	
94-2-25864	
100-353282-1	
65-54459-134	
100-376005-7; 6	
123-9727-9	
100-242531-X	
100-32655-3	
100-873593-1	
65-40602-67	
100-349050-39 p 2	
100-332404-1	

Ref 3:30



4-22 (Rev. 12-17-56)

Federal Bureau of Investigation
Records Branch

_____, 1957

- ☐ Name Check Unit - Room 6523
- ☐ Service Unit - Room 6524
- ☐ Forward to File Review
- ☐ Attention _____
- ☐ Return to Lee 1734
  Supervisor Room Ext.

Type of References Requested:

- ☐ Regular Request (Analytical Search)
- ☐ All References (Subversive & Nonsubversive)
- ☐ Subversive References Only
- ☐ Nonsubversive References Only
- ☐ Main _____ References Only

Type of Search Requested:

- ☐ Restricted to Locality of _____
- ☑ Exact Name Only (On the Nose)
- ☐ Buildup ☐ Variations
- ☐ Check for Alphabetical Loyalty Form

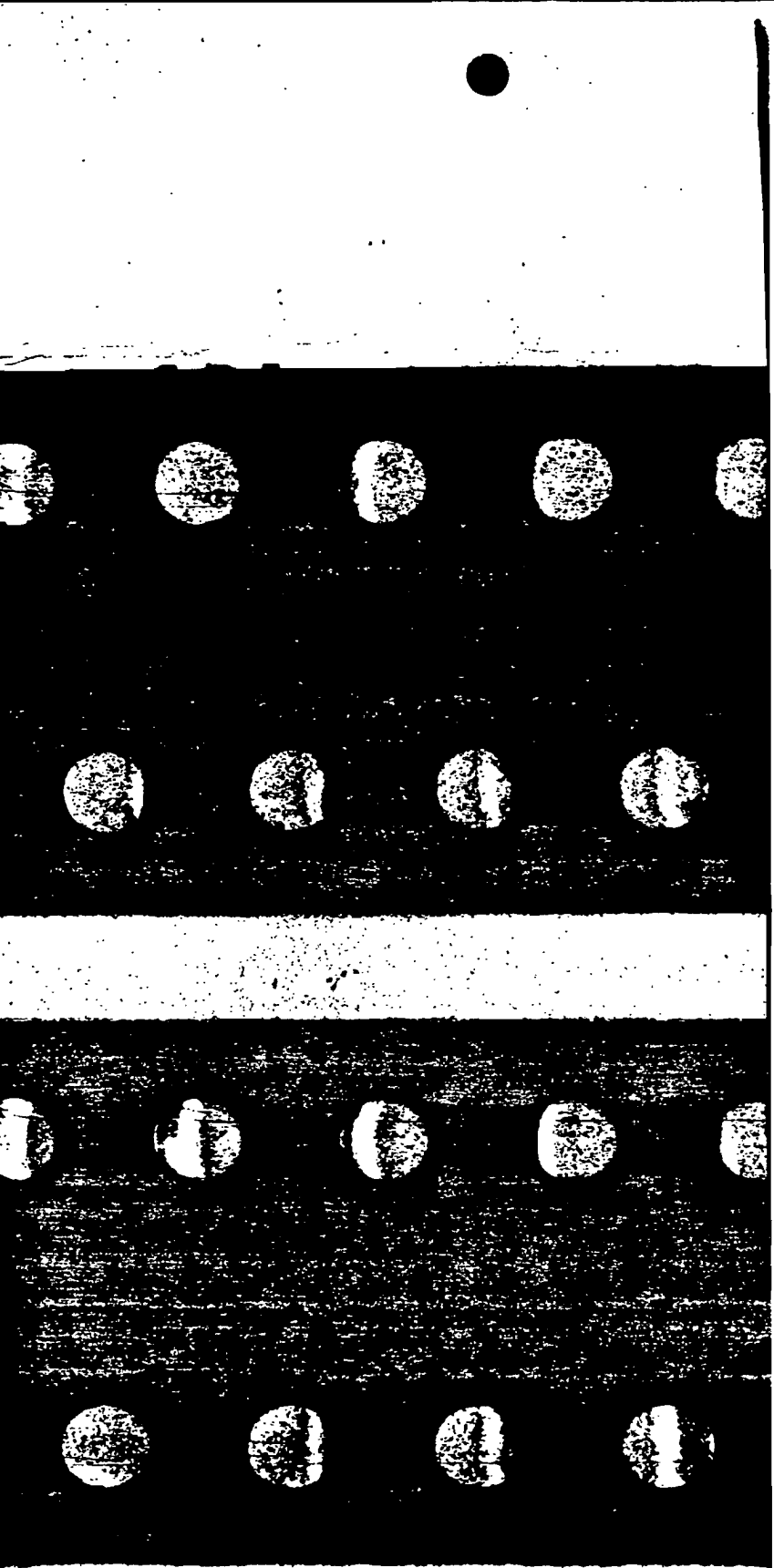
Subject Syme Amitin
Birthdate & Place _____
Address _____

Localities _____

R# _____ Date 10-22 Searcher Initials _____

FILE NUMBER	SERIAL
65-60008-62 p17	

file hung 9:00



4-22 (Rev. 12-1[illegible])

Federal Bureau of [illegible]estigation
Records Br[illegible]ch

_____, 1957

- ☐ Name Check Unit - Room 6523
- ☐ Service Unit - Room 6524
- ☐ Forward to File Review
- ☐ Attention _____
- ☐ Return to Lee 1734
  Supervisor Room Ext.

Type of References Requested:

- ☐ Regular Request (Analytical Search)
- ☐ All References (Subversive & Nonsubversive)
- ☐ Subversive References Only
- ☐ Nonsubversive References Only
- ☐ Main _____ References Only

Type of Search Requested:

- ☐ Restricted to Locality of _____
- ☐ Exact Name Only (On the Nose)
- ☐ Buildup ☐ Variations
- ☐ Check for Alphabetical Loyalty Form

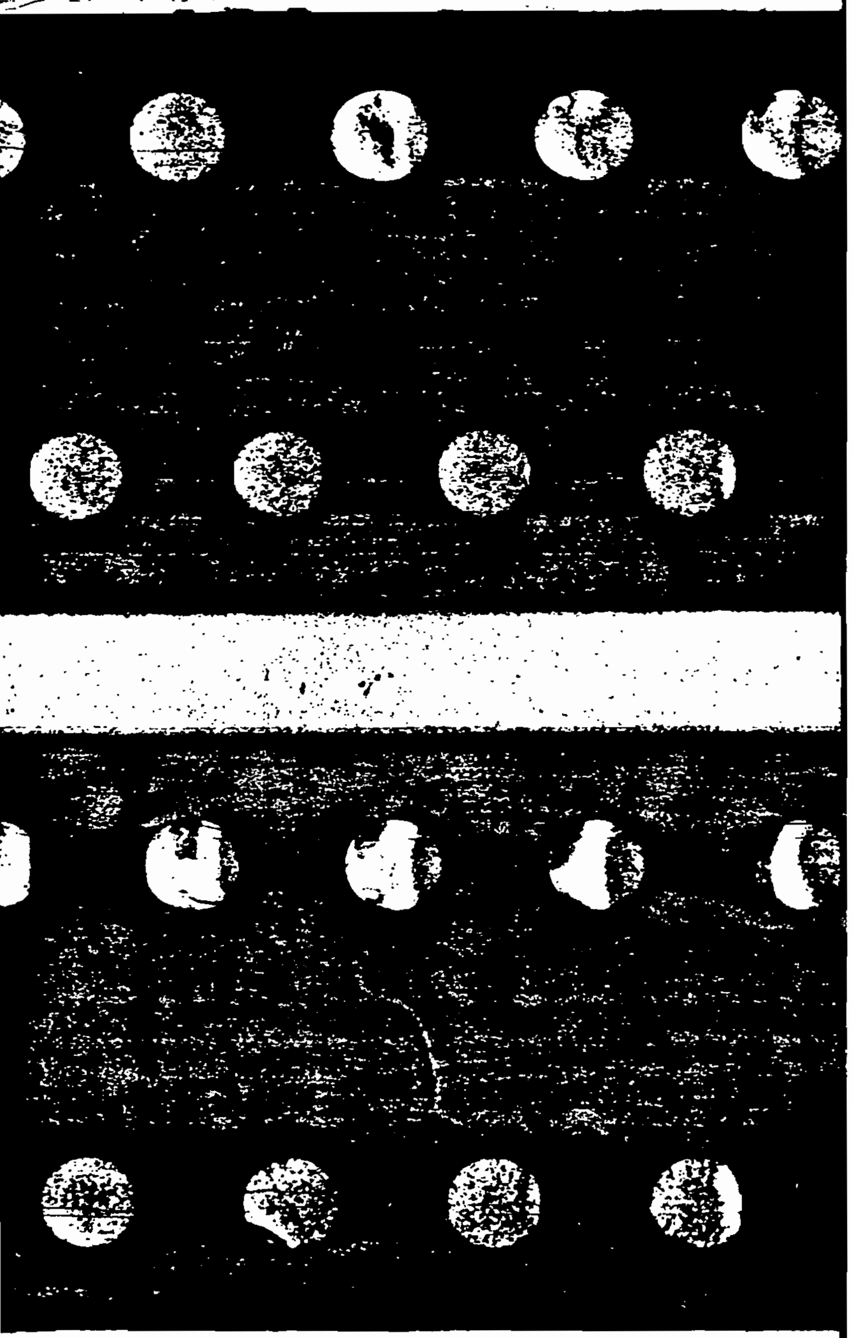
Subject Norman Studer
Birthdate & Place _____
Address _____

Localities _____

R# _____ Date 10-22 Searcher Initials [illegible]

FILE NUMBER	SERIAL
100-325062	
9pgs 2 docs not listed	

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/22/81 BY 3042 [illegible]



4-22 (Rev. 12-17-56)

Federal Bureau of Investigation
Records Branch

______________, 1957

- [ ] Name Check Unit - Room 6523
- [ ] Service Unit - Room 6524
- [ ] Forward to File Review
- [ ] Attention ______________
- [ ] Return to *Lee* *1734*
  Supervisor Room Ext.

Type of References Requested:
- [ ] Regular Request (Analytical Search)
- [ ] All References (Subversive & Nonsubversive)
- [ ] Subversive References Only
- [ ] Nonsubversive References Only
- [ ] Main ______________ References Only

Type of Search Requested:
- [ ] Restricted to Locality of ______________
- [ ] Exact Name Only (On the Nose)
- [ ] Buildup [ ] Variations
- [ ] Check for Alphabetical Loyalty Form

Subject *Lt. Col Hemlock*
Birthdate & Place ______________
Address ______________

Localities ______________

R# ______ Date *10-22* Searcher Initials *JS*

	FILE NUMBER	SERIAL
N1	~~105-55574-485 p72~~	~~1206~~
N1	~~100-203581-2785~~	
	[redacted] b2 b7C	micro film
	Heimlich, one	
	mc	
	Heimlich, one	
	mc	
	Heimlich, one (Col.)	
I	~~65-63174-79~~	

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/22/87 BY 3042 [illegible]

[illegible] 9/08

4-22 (Rev. 12-17-56)

Federal Bureau of Investigation
Records Branch

__________, 1957

- [ ] Name Check Unit - Room 6523
- [ ] Service Unit - Room 6524
- [ ] Forward to File Review
- [ ] Attention __________
- [ ] Return to Lee 1734

Supervisor Room Ext.

Type of References Requested:

- [ ] Regular Request (Analytical Search)
- [ ] All References (Subversive & Nonsubversive)
- [ ] Subversive References Only
- [ ] Nonsubversive References Only
- [ ] Main __________ References Only

Type of Search Requested:

- [ ] Restricted to Locality of __________
- [ ] Exact Name Only (On the Nose)
- [ ] Buildup [ ] Variations
- [ ] Check for Alphabetical Loyalty Form

Subject Benjamin Heimlich

Birthdate & Place __________

Address __________

Localities __________

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/21/87 BY 3042

R# __________ Date 10-22 Searcher Initials JS

	FILE NUMBER	SERIAL
	MC	
	Heimlich, Benjamin	
	MC	
	Heimlich, Benjamin	
	MC	
	Hemlock, Benjamin	
M	~~61-10149-2804 p199~~	
M	~~61-7341-34-627 Ep6;~~	
	~~-364 Ep495;~~	
	~~2433X p320;~~	
	~~1044 p4~~	
N1	61-10149 - 2451 p67	
	100-36491-216	
	Ben Hemlock	
M	~~40-3998-2-1p13~~	
N1	~~100-3-4-3521~~	
N1	~~100-36491-145~~	
M1	~~100-3-4-4124~~	
Serial		

4-22 (Rev. 12-17-56)

Federal Bureau of Investigation
Records Branch

_______________, 1957

- [ ] Name Check Unit - Room 6523
- [ ] Service Unit - Room 6524
- [ ] Forward to File Review
- [ ] Attention _______________
- [x] Return to Lee 1734

Supervisor Room Ext.

Type of References Requested:
- [ ] Regular Request (Analytical Search)
- [ ] All References (Subversive & Nonsubversive)
- [ ] Subversive References Only
- [ ] Nonsubversive References Only
- [ ] Main _______ References Only

Type of Search Requested:
- [ ] Restricted to Locality of _______________
- [x] Exact Name Only (On the Nose)
- [ ] Buildup [ ] Variations
- [ ] Check for Alphabetical Loyalty Form

Subject Dr. Julius Jaffe
Birthdate & Place _______________
Address _______________

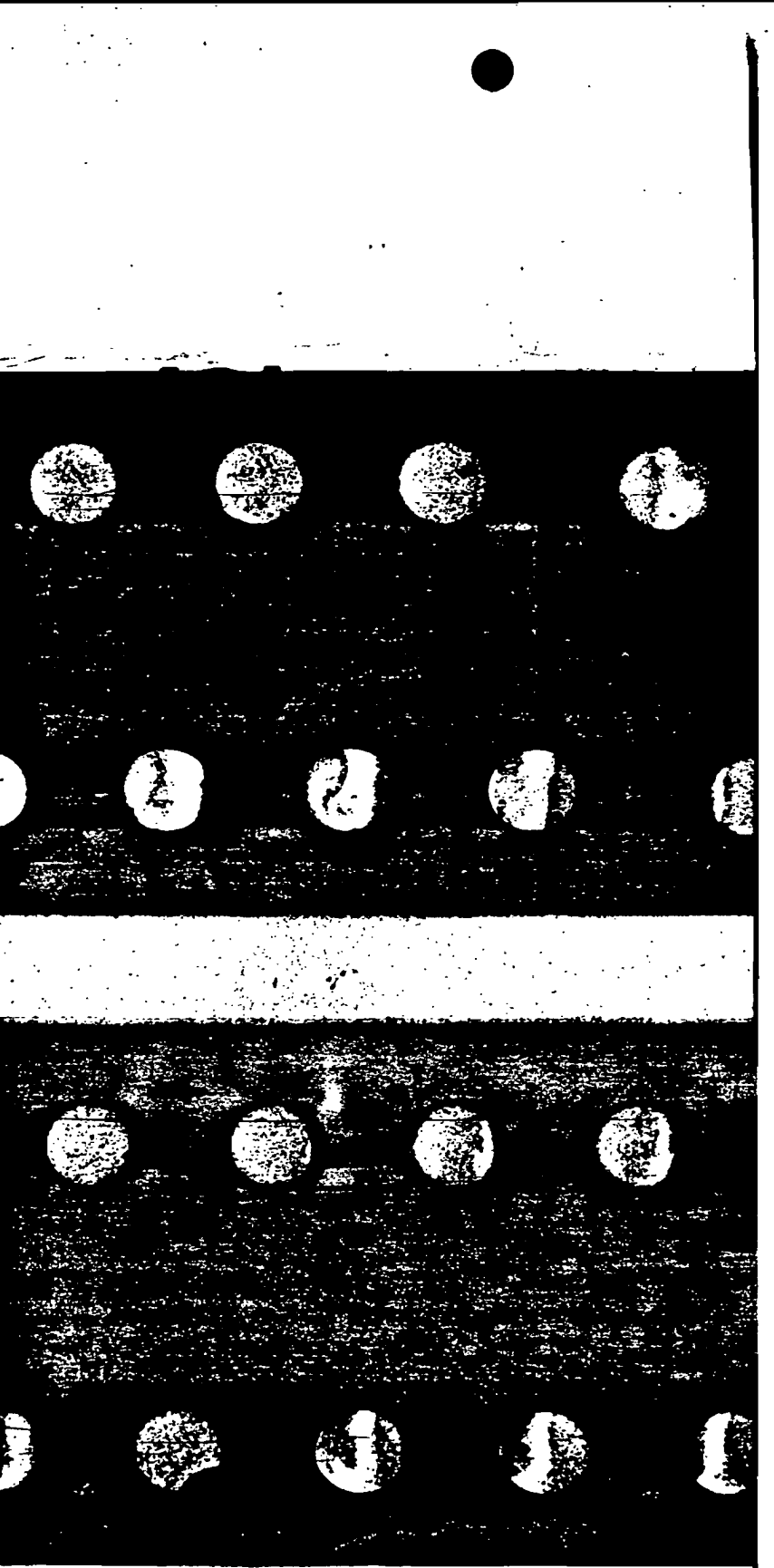
Localities _______________

R# _______ Date 10-22 Searcher Initials gf

	FILE NUMBER SERIAL
	121-4-322073
	61-7341-34-364 E p 496; 433X p321
N1	~~66-62836-36; 58 p9,10~~
N1	~~100-88434-396~~
N1	~~100-207395-184~~
	100-364421-20 p279
N1	~~61-7559-2948X9~~
N1	~~61-7841-34-629 E p7~~
N1	~~100-88434-393 p24,26,45,47~~
N1	~~100-7221-6~~
N1	[redacted] b7C
	b2

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/22/87 BY 3042 [illegible]

[illegible] 9:50



4-22 (Rev. 12-1

Federal Bureau of Investigation
Records Branch

_____, 1957

- ☐ Name Check Unit - Room 6523
- ☐ Service Unit - Room 6524
- ☐ Forward to File Review
- ☐ Attention _____
- ☑ Return to Lee 1734
  Supervisor Room Ext.

Type of References Requested:

- ☐ Regular Request (Analytical Search)
- ☑ All References (Subversive & Nonsubversive)
- ☐ Subversive References Only
- ☐ Nonsubversive References Only
- ☐ Main _____ References Only

Type of Search Requested:

- ☐ Restricted to Locality of _____
- ☐ Exact Name Only (On the Nose)
- ☐ Buildup ☐ Variations
- ☐ Check for Alphabetical Loyalty Form

Subject Project Cyclone
Birthdate & Place _____
Address _____

Localities _____

R# _____ Date 10-23 Searcher Initials RL

FILE NUMBER	SERIAL
Cyclone Project	
or	
Project Cyclone	
Inc	

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/22/87 BY 3042 Auth DFC