

FILE DESCRIPTION

NEW YORK FILE

SUBJECT MORTON SOBELL

FILE NO. 100-37158

VOLUME NO. 38

SERIALS 2293

THRU

2374

NOTICE

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File No: 100-37158

Re:

Morton Sobell

Date:

11/77

(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2293	6-14-66	N.Y. SA to SAC memo	1	1		
2294	6-16-66	N.Y. LHM to HQ (Encl. to ser 2295)	7	0	yes	BoFile 101-2483
2295	6-17-66	N.Y. Airtel to HQ	2	0	yes	BoFile 101-2483
2296	5-27-66	News Article from, "Hearst Tribune" (Encl to ser 2297)	1	1		
2297	5-27-66	Op letter to N.Y.	1	1		
2298	7-21-66	Identification rap sheet	5	0	yes	BoFile 101-2483
2298	7-21-66	Copy of Identification Rap sheet	5	0	yes	BoFile 101-2483
2299	6-21-66	Phil. letter to HQ	1	0	yes	BoFile 101-2483
2299	6-21-66	Copy of Phil. letter to HQ	1	0	yes	BoFile 101-2483
2300	6-23-66	FD-306 Informant Report	1	0		
2301	6-23-66	FD-306 Informant Report	1	0		
2302	6-23-66	FD-306 Informant Report	1	1		

*Designated to or from Bureau and/or Albuquerque New York

VOLUME

38

REVIEWED BY

EAS

File No: 100-37158

Re: Morton Sabell

Date:

11/77
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2303	6-24-66	N.Y. letter to Ag.	77 2	2	yes	process 3 rd party
2304	6-24-66	FD-306 Informant Report	1	0		
2305	6-27-66	N.Y. Airtel to HQ	1	0	yes	BoFile 101-2483
2306	6-28-66	N.Y. Airtel to HQ	2	0	yes	BoFile 101-2483
2307	7-1-66	N.Y. SA to SAC memo	1	1		
2308	7-5-66	N.Y. SA to SAC memo	1	1		
2309	7-7-66	N.Y. Airtel to HQ	1	0	yes	BoFile 101-2483
2310	7-7-66	FD-306 Informant Report	2	0		
2311	7-6-66	HQ letter to AA-B (Encl. to ser. 2312)	2	0	yes	BoFile 101-2483
2312	7-6-66	HQ letter to 3 rd party	1	0	yes	BoFile 101-2483
2313	6-24-66	FD-306 Informant Report	1	0		
2314	6-28-66	N.Y. SA to SAC memo	1	1		

*Designated to or from Bureau and/or Albuquerque New York

FBI/DOJ

File No: 100-37158

Re:

Morton Sobell

Date:

11/77
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2315	6-30-66	N.Y. letter to Mil.	8	0		
2316	7-8-66	FD-306 Informant Report	2	0		
2317	7-8-66	Phil. Airtel to HQ	3	3	yes	In process - Admin. tracking
2318	7-12-66	N.Y. SA to SAC memo	5	5		
2319	7-12-66	N.Y. Airtel to HQ	1	0	yes	BoFile 101-2483
2320	7-19-66	N.Y. Airtel to HQ (Encl - petition)	4	0	yes	BoFile 101-2483
2321	7-20-66	N.Y. letter to L.A.	8	87		
2322	7-14-66	AA's letter to 3rd party (Encl to ser. 2323)	2	0	yes	BoFile 101-2483
2323	7-14-66	AA's letter to HQ	1	0	yes	BoFile 101-2483
2324	7-25-66	N.Y. Airtel to HQ	2	0	yes	BoFile 101-2483
2325	7-26-66	N.Y. Airtel to HQ	2	0	yes	BoFile 101-2483
2326	7-28-66	N.Y. Airtel to HQ	1	0	yes	BoFile 101-2483

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VOLUME

38

REVIEWED BY

EAS

File No: 100-37158

Re: Morton Schell

Date: 11/77

(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2327	7-27-66	HQ Airtel to N.Y.	1	0	yes	BUFile 101-2483
2327	7-27-66	Copy of HQ Airtel to N.Y.	1	0	yes	BUFile 101-2483
2328	7-29-66	N.Y. SA to SAC memo	1	1		
2329	7-29-66	HQ Airtel to N.Y.	1	0	yes	BUFile 101-2483
2329	7-29-66	Copy of HQ Airtel to N.Y.	1	0	yes	BUFile 101-2483
2330	7-29-66	N.Y. Airtel to HQ	3	0	yes	BUFile 101-2483
2331	8-2-66	N.Y. Airtel to HQ	2	0	yes	BUFile 101-2483
2332	8-4-66	N.Y. letter to L.A.	7	21		
2333	7-27-66	N.Y. Airtel to HQ	2	0	yes	BUFile 101-2483
2334	7-6-66	DA letter to USA / envelope (Encl. to ser. 2340)	2	2		
2335	5-24-66	DA letter to USA / court order (Encl. to ser. 2340)	3	3		
2336	8-8-66	Petition By Defendant (Encl. to ser. 2340)	11	11		

*Designated to or from Bureau and/or Albuquerque New York

File No: 100-37158

Re: Morton Sobell

Date: 11/77

(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2337	8-8-66	AUSA memo in opposition to petition (Encl. to 2340)	68	68		
2338	8-8-66	Affidavit of AUSA in opposition to motion (Encl. to ser 2340)	18	18		
2339	8-8-66	Brief filed by defense (Encl. to ser 2340)	37	37		
2340	8-8-66	N.Y. SA to SAC Memo	1	1		
2341	8-4-66	al Airtel to HQ	1	0	yes	BuFile 101-2483
2342	8-3-66	N.Y. Airtel to HQ	2	0	yes	BuFile 101-2483
2343	8-4-66	FD-306 - N.Y. to Mil. Informant Report	2	0		
2344	8-9-66	FD-306 Informant Report	1	1		
2345	8-11-66	N.Y. Airtel to HQ	2	0	yes	BuFile 101-2483
2346	8-10-66	N.Y. SA to SAC Memo	2	2		
2347	8-16-66	N.Y. Airtel to HQ	1	0	yes	BuFile 101-2483
2348	5-4-64	al. LHM to HQ, Boston (Encl. to ser 2349)	1	0	yes	processed - Third party

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FBI/DOJ

File No: 100-37158

Re:

Morton Sobell

Date:

11/77

(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2349	11-24-64	Al. Report caption - third party	3	0	yes	process - third party
2350	8-16-66	Boston LHM to HQ, N.Y. (Encl. to 2351)	3	0	yes	process - third party Encl. to Ser 2351
2351	8-16-66	Boston Airtel to HQ, N.Y.	2	2	yes	process - administrative
2352	8-23-66	N.Y. Airtel to HQ	2	0	yes	BUFile 101-2483
2353	8-25-66	N.Y. Airtel to HQ	1	0	yes	BUFile 101-2483
2354	8-25-66	HQ Teletyped to Ag.	1	0	yes	BUFile 101-2483
2355	8-29-66	N.Y. Teletyped to HQ Typed copy	1	0	yes	BUFile 101-2483
2355	8-29-66	N.Y. Teletyped to HQ Transmittal copy	1	0	yes	BUFile 101-2483
2356	8-15-66	FD-306 Informant Report	1	0		
2357	8-22-66	FD-306 Informant Report	2	0		
2358	8-20-66	FD-306 Informant Report	3	0		
2359	8-27-66	HQ Teletyped to N.Y.	1	0	yes	BUFile 101-2483

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VOLUME

38

REVIEWED BY

SLS

File No: 100-37158

Re:

Morton Sobell

Date:

11-1-77

(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2359	8-27-66	Copy of HQ Teletyped to N.Y.	1	0	yes	BoFile 101-2483
2360	8-28-66	Ag. Teletyped to HQ	2	0	yes	BoFile 101-2483
2361	8-29-66	FD-306 Informant Repo	2	2		
2362	8-30-66	HQ letter to N.Y.	1	0	yes	BoFile 101-2483
2363	8-31-66	HQ Teletyped to Ag.	1	0	yes	BoFile 101-2483
2364	9-2-66	HQ Teletyped to Ag.	1	0	yes	BoFile 101-2483
2365	8-31-66	N.Y. Teletyped to HQ Typed copy	2	0	yes	BoFile 101-2483
2365	8-31-66	N.Y. Teletyped to HQ Transmittal copy	2	0	yes	BoFile 101-2483
2366	9-3-66	Ag. Teletyped to HQ	3	0	yes	BoFile 101-2483
2366	9-3-66	Copy of Ag. Teletyped to HQ	3	0	yes	BoFile 101-2483
2367	9-4-66	OLLA Teletyped to HQ	2	0	yes	BoFile 101-2483
2367	9-4-66	Copy of OLLA Teletyped to HQ	2	0	yes	BoFile 101-2483

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FBI/DOJ

File No: 100-37158

Re:

Morton Sobell

Date:

11/77
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2368	9-7-66	N.Y. Airtel to HQ	3	0	yes	BoFile 101-2483
2369	9-8-66	FD-306 Informant Report	1	0		
2370	9-10-66	N.Y. Airtel to HQ	2	0	yes	BoFile 101-2483
2371	9-8-66	HQ letter to AA#1	2	0	yes	BoFile 101-2483
2372	9-7-66	Ag. Teletyped to HQ	2	0	yes	BoFile 101-2483
2373	9-13-66	N.Y. Airtel to HQ	2	0	yes	BoFile 101-2483
2374	9-14-66	N.Y. Airtel to HQ	5	0	yes	BoFile 101-2483

*Designated to or from Bureau and/or Albuquerque New York

CONFIDENTIAL

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

100-37158

CONFIDENTIAL

of

INVESTIGATION

Serial File Number 101-2483

DO NOT FURNISH INFORMATION
FROM THIS FILE TO ANY
OUTSIDE AGENCY WITHOUT
AUTHORIZATION OF SECT. 33

SI

cc. Sub A

paperclipped

2293-2374 38

b7C

[REDACTED]

33

11-1-65

Office Memorandum • UNITED STATES GOVERNMENT

TO : SAC, New York
FROM : E. F. MCCARTHY
SUBJECT: MORTON SOBELL
ESP-R.

DATE:

6/14/66

100-37158

Please make two copy of
Subject's brief filed with USA 6/14/66
for retention N.Y. file and forwarding
to Bureau

100-37158-2293

Done
fb
6/14/66

SEARCHED	INDEXED
SERIALIZED	FILED
JUN 14 1966	
FBI - NEW YORK	

8m

**Seems Defense Charges
Evidence Was Fabricated**

[The following text is heavily obscured by noise and artifacts, making it largely illegible. It appears to be a news article or report.]

100-37158-2296

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 3 1966	
FBI - NEW YORK	

UNITED STATES GOVERNMENT
M E M O R A N D U M

TO : SAC, NEW YORK (REG. MAIL)

FROM: SAC, DETROIT (100-1549, Sub A)

RE : "GLOS LUDOWY"
("PEOPLE'S VOICE")
IS - PO; RA

DATE: 5/27/56

RE Hooten Sobell

ATTENTION: FBI ANNEX

The _____ edition of the _____ newspaper, "GLOS LUDOWY" is enclosed for translation by the Bureau. The translations should follow suggestions previously furnished. Original newspaper should be returned to Detroit with the translations.

-XX The April 9, 1956 issue of "GLOS LUDOWY," Page 11 Column 2-3 of the English Section, contained an article which reveals information pertaining to individuals or organizations within your jurisdiction.

A photostat of the article is being furnished for informational purposes and for any action you deem necessary.

The attached is a summary of information translated from the Polish Section of "GLOS LUDOWY," issue dated _____, page _____, column _____.

The information which pertains to individuals or organizations within your Division is being furnished for informational purposes and for any action deemed appropriate.

Translated by:

Bureau Translator _____

Detroit Translator _____

The Guide to Subversive Organizations and Publications, revised and published 12/1/51, prepared and released by the Committee on Un-American Activities, U.S. House of Representatives, Washington, D.C., on page 189 cites "GLOS LUDOWY" ("PEOPLE'S VOICE," Polish) as a publication published in Detroit, Michigan, which "has never faltered in its program of active cooperation with the Soviet Regime. *** Two men who have been responsible for directing policy of 'GLOS LUDOWY' are arrested members of the Communist Party, USA. *** 'GLOS LUDOWY' stops at nothing in its frantic efforts to glorify the Soviet Union. ***" (Committee on Un-American Activities House Report, 1951, on the American Slav Congress, 1/26/50 NEW YORK-ALL released 6/28/49, pp. 68, 70, and 71.)

(1)
DM

b7C

100-37158-2297

FILE # 100-37158

SUBJECT MORTON SOBELL

SERIAL 2300 DATE 6-23-66

CONSISTING OF 1 PAGES

is exempt from disclosure, in its entirety, under (b)(7)(D) as information contained in this serial would identify an informant to whom an expressed promise of confidentiality has been given. This information includes dates and places of meetings which were attended by a limited number of people known to the informant and/or information from these meetings and situations in which an informant was in close contact with members of these organizations, disclosure of which would reveal his identity.

FILE # 100-37158

SUBJECT MORTON SOBELL

SERIAL 2301 DATE 6-23-66

CONSISTING OF 1 PAGES

is exempt from disclosure, in its entirety, under (b)(7)(D) as information contained in this serial would identify an informant to whom an expressed promise of confidentiality has been given. This information includes dates and places of meetings which were attended by a limited number of people known to the informant and/or information from these meetings and situations in which an informant was in close contact with members of these organizations, disclosure of which would reveal his identity.

DATE: 6/23/66

Date received b7D	Received from (name or symbol number) b7D	Received by b7C
(Reliable-Conceal)		SA b7C

Method of delivery (check appropriate blocks)

☒ in person ☐ by telephone ☐ by mail ☐ orally ☐ recording device ☐ written by Informant

If orally furnished and reduced to writing by Agent:

Date

Dictated _____

Transcribed _____

Authenticated
by Informant _____

Date of Report

Exhibit

Date(s) of activity

Brief description of activity or material

Pamphlet entitled, "The Facts In The Rosenberg-Sobell Case 1950-1964" issued by the Sobell Committee.

Current

File where original is located if not attached

b7D

Remarks:

b7D

- 1 - **b7D**
1 - 100-37158 (MORTON SOBELL)(31)
1 - 100-107111 (CSJMS)(41)

HEN:map
(3)

Block Stamp

100 - 37158-2302

SEARCHED	INDEXED
SERIALIZED	FILED
JUN 23 1966	
FBI - NEW YORK	

b7C

6/24/55

SAC, NEW YORK (100-107111)

COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL
IS-C
(OO:NY)

b7D

This Petition, Number C 134-245, is addressed to the United States District Court, Southern District of New York, and requests that MORTON SOBELL's sentence be vacated and that he be discharged from imprisonment on the grounds that his conviction was illegally procured.

This Petition is dated 5/9/56, at NY, NY, and lists MORTON SOBELL's attorneys as follows:

VERE COUNTRYMAN
3 Suzanne Road
Lexington, Massachusetts

BENJAMIN O. DREYFUS
341 Market Street
San Francisco, California

- 2 - Albuquerque (RM)
- b7D 1 - Boston
- b7C 1 - San Francisco
- b7D 1 - New York
- 1 - New York
- 1 - New York
- b7D 1 - New York
- b7C 1 - New York
- 1 - New York

100-31158-2303
(MORTON SOBELL) (31)
(MARSHALL PERLIN) (45)

REB:al
(10)

SEARCHED	INDEXED
SERIALIZED	FILED
JUN 24 1956	
FBI - NEW YORK	

b7C

NY 100-107111

MILCOLM STARP
University of New Mexico Law School
Albuquerque, New Mexico

MARSHALL PERLIN
580 Fifth Avenue
New York, New York

ARTHUR KINCY
WILLIAM M. KUESTLER
511 Fifth Avenue
New York, New York

The above mentioned Petition is located in NY 100-107111-
1B1563.

FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2304 DATE 6.24.66

CONSISTING OF 1 PAGES

is exempt from disclosure, in its entirety,
under (b)(1) as it has been classified pursuant
to Executive Order 11652 as it contains
information which would disclose an intelligence
source. This serial bears the Classification
Officers number 2040.

Office Memorandum • UNITED STATES GOVERNMENT

TO : SAC, New York

DATE: 7/1/66

FROM : F. F. MCINTYRE

SUBJECT:

MORTON SOBELL
ESP-R

100-38157

ANSA ROBERT L. KING SDNY. requested
if possible a copy of WILLIAM A. REUBEN's "The
Atom Spy Hunt".

This was obtained from the SAH & loc.
Liding and loaned to KING

100-37158-2307

Returned by
AUSA Stone Williams
8/5/66

Rfi

UNITED STATES GOVERNMENT

Memorandum

TO : SAC (100-37158)

DATE: 7/5/66

FROM : SA [REDACTED] b7C

SUBJECT: MORTON SOBELL
ESP - R

On 7/5/66, AUSA ROBERT L. KING, SDNY, who is handling this matter, advised the writer that he desired to obtain a copy of the transcript of the sentencing of HARRY GOLD by Judge MC GRANERY on December 7, 1950. He asked whether FBI files in NY or Philadelphia contained a copy. He was advised that NYO files did not disclose a copy and that Philadelphia would be requested to advise whether they have a copy.

At 1:30 p.m. on 7/5/66, SA [REDACTED] b7C of the Philadelphia Office was contacted by the writer telephonically and requested to review his files for a copy of the transcript and advise. He was also requested to expedite reply to NYairtel 6/28/66, wherein Philadelphia was requested to determine whether a psychiatric examination was made of HARRY GOLD prior to the sentencing of GOLD by Judge MC GRANERY.

EFH:mfd
(1)

2308

SEARCHED	INDEXED
SERIALIZED	FILED
JUL 7 1966	
FBI - NEW YORK	



FILE # 100-37158

SUBJECT MORTON SOBELL

SERIAL 2310 DATE 7-7-66

CONSISTING OF 2 PAGES

is exempt from disclosure, in its entirety,
under (b)(1) as it has been classified pursuant
to Executive Order 11652 as it contains
information which would disclose an intelligence
source. This serial bears the Classification
Officers number 2040.

FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2313 DATE 6.7.66

CONSISTING OF 1 PAGES

is exempt from disclosure, in its entirety,
under (b)(1) as it has been classified pursuant
to Executive Order 11652 as it contains
information which would disclose an intelligence
source. This serial bears the Classification
Officers number 2040.

UNITED STATES GOVERNMENT

Memorandum

TO : SAC, New York

DATE: 6/28/66

FROM : [REDACTED] b7C

SUBJECT: MORTON SOBELL
ESP-R.

N.Y. 100-37158

AUSA ROBERT L. KING, SDNY,
who is preparing reply to Subject's motions
requested that he be furnished if available:

- ① Copy of JOHN WEXLEY's "THE JUDGMENT OF JULIUS & ETHEL ROSENBERG"
- ② Testimony of Harry Gold before the Senate Sub Committee on Internal Security on 4/26/56.

On 6/28/66 the above book and pamphlet
were secured from the 8th Floor Library and
loaned to Mr. King. They are to be returned to
8th Floor Library when King is finished with them.

100-37158-2314

SEARCHED _____ INDEXED _____
SERIALIZED _____ FILED _____
JUN 29 1966
FBI - NEW YORK

b7C



FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2315 DATE 6.30.66

CONSISTING OF 8 PAGES

is exempt from disclosure, in its entirety,
under (b)(1) as it has been classified pursuant
to Executive Order 11652 as it contains
information which would disclose an intelligence
source. This serial bears the Classification
Officers number 2040.

FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2316 **DATE** 7.8.66

CONSISTING OF 2 **PAGES**

is exempt from disclosure, in its entirety,
under (b)(1) as it has been classified pursuant
to Executive Order 11652 as it contains
information which would disclose an intelligence
source. This serial bears the Classification
Officers number 2040.

7/8/66

AIRTEL

TO: DIRECTOR, FBI (101-2483)
FROM: SAC, PHILADELPHIA (65-4372) (P)
SUBJECT: MORTON SOBELL
ESP - R

(OO - New York)

Re New York airtel 6/28/66.

Enclosed for both the Bureau and New York is a Xerox copy of pages 1 and 133 of the sentencing proceedings for 12/7/50 under Criminal No. 15769 in the case of, "United States of America vs. HARRY GOLD," and a copy of transcript of sentencing.

It is noted the proceedings took place on 12/7/50 and 12/9/50 with the actual sentence being imposed by Judge JAMES P. MC GRANERY on 12/9/50.

In the review of the entire proceedings, page 133 is the only one where comment was made relative to any psychiatric examination being made of the defendant by Judge MC GRANERY or anyone else. Judge MC GRANERY stated a psychiatric examination had been made.

GOLD's attorney, JOHN D. M. HAMILTON, in the proceedings of 12/7/50 made the statement that neither he nor his assistant, AUGUSTUS S. BALLARD, Esq., had any question as to GOLD's sanity from the legal standpoint. He

- 3 - Bureau (101-2483) (Enc. - 2) (RM)
- ② - New York (100-37158) (Enc. - 2) (RM)
- 1 - Philadelphia (65-4372)

BJT:lat
(6)

PLACE COPY OF THIS
COMMUNICATION &
ENCLOSURE IN
65-15324 - HARRY GOLD

b7c

2317

SEARCHED	INDEXED
SERIALIZED	FILED
JUL 9 1966	
FBI - NEW YORK	

PH 65-4372

did raise the point that he possibly should have brought a psychiatrist into the case and may have been remiss in this regard.

The U. S. District Court, EDPa., record was reviewed by SA [REDACTED] on 7/7/66. b7c

On 7/6/66 [REDACTED] U. S. District Court, Eastern District of Pennsylvania, advised SA [REDACTED] that his file on HARRY GOLD contained the following dated 6/9/50 as part of the pre-sentencing investigation conducted by the U. S. Probation Office: b7c, b7D

"Statement as to the Work, Conduct, Character of Harry Gold While Employed at the Heart Station, Division of Cardiology, Philadelphia General Hospital, Philadelphia, Pa."

This statement was signed by [REDACTED]

and [REDACTED] This statement contained a remark to the effect that GOLD showed no latent or potential psychopathic tendencies. b7D

The file also contained a separate letter from [REDACTED]

[REDACTED] to the [REDACTED] U. S. District Court, Philadelphia, Pa., dated 10/9/50. This letter contained a report of an examination of HARRY GOLD at the House of Correction, Holmesburg, Philadelphia, on 9/26/50. b7D

The report indicated that GOLD has above-normal mentality. He is not insane but shows a neurotic personality, characterized by extreme orderliness and compulsions. He has poor relationship to the world, dominated by resentful ideas and with immature psychosexual development.

This personality is present in the mystic, the fanatic and the revolutionary with exaggerated ego and over-sensitivity, repressed hostility. His early history with economic difficulties and racial prejudices, poor religious influence and a mother with early radical political ideas - all have added to his imbalance. His fanatic drive when he thought he was right made him totally oblivious of everything.

PH 65-4372

A review of the Philadelphia Office file on HARRY GOLD reflects no information relative to any psychiatric examination being afforded GOLD.

In the event the U. S. Attorney in New York desires to consult the U. S. Attorney in Philadelphia, this matter has been discussed with J. SHANE CREAMER of the U. S. Attorney's Office in Philadelphia, who indicated he will be glad to render any assistance possible to the U. S. Attorney's Office in New York City.

Memorandum

TO : SAC, NEW YORK (100-107111)

DATE: 7/12/66

FROM : SA [REDACTED] b7C

SUBJECT: COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL
IS - C

Identity of Source
Description of Info

b7D [REDACTED] (Reliable)
CSJMS Meeting, NYC
6/17/66

Date Received
Received By
Original Location

[REDACTED]
[REDACTED] b7D, b7C

Pertinent printed material furnished by the source is being disseminated by separate memoranda.

The names [REDACTED]
and [REDACTED] are being indexed to captioned file.

b7D

A copy of informant's written report follows:

- 1 - [REDACTED] b7D
- 1 - 100-37158 (MORTON SOBELL) (31)
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - 100-140813 (PACIFICA FOUNDATION) (41)
- 1 - 100-107111 (CSJMS) (41)

b7C, b7D

HEN:mtc
(13)

100-37158-2318

b7C

SEARCHED	INDEXED
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JUL 16 1966	
FBI - NEW YORK	



NY 100-107111

Memorial Meeting - 13th Anniversary
of the Rosenberg Execution

Date: Friday June 17, 1966, 7:00 p.m.
Place: Hotel Sheraton-Atlantic, New York City
Sponsor: Sobell Committee, 150 Fifth Avenue,
New York City
Truth Exhibit: New evidence Sobell case
Attendance: 300 people

Exhibit - were posters depicting, testimonials and character witnesses for Sobell; press clippings from around the world - photostatic copies of Sobell's trip to Mexico and return (visa and other legal procedures) copies of the Hotel Hilton registration which Sobell claims is a fraud.

The mistress of ceremonies Ruth Gage Colby. The purpose of our meeting is threefold.

1. Anniversary of Rosenberg Execution.
2. Truth Exhibit
3. Rescue from living death of Sobell.

Principal Speaker William Kunstler, lawyer and literary great. Lawyer to Martin Luther King and Sobell.

Krutzler:

He is serving on a panel of six lawyers.

If we can get a hearing we are near to victory.

If we can get a trial we will raise doubt as to what our government says or does in error. This will be important in the affairs of all men. Innocent men must not die in vain.

The Dreyfus case in France freed him after twelve years imprisonment. Forged government documents in that case may have been duplicated in the United States. Assistant Prosecutor Roy Cohn later admitted cropping photographs in the McCarthy hearings. He proved he was capable of such an act. When he was asked about this Sobell forging he said "Do you

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think we would have done such a poor job." In other words, when the government forges it does a good job of forging.

Review of the history re Rosenberg trial:

1945 US explodes Atomic Bomb on people.
1949 Soviet explodes bomb.
1950 Fuchs confesses sentenced to 14 years.

The FBI and security agencies were now hysterical about leakage. A story had to be created.

May 23, 1950, Harry Gold arrested and confessed he met Fuchs.

The FBI needed a trial to cover the lack of security.

June 15, 1950 David Greenglass confessed he gave information to Gold.

June 16, 1950, Rosenberg picked up and released.

June 25, 1950, Korean War.

July, 1950 Rosenberg arrested.

August 11, 1950, Ethel Rosenberg arrested.

August 16, 1950, Sobell abducted from Mexico and arrested.

Now they had a major spy trial because the last three (Rosenbergs and Sobell) would not confess.

It is Krutzler's theory that Sobell was brought in because he was an outsider and not a member of the Greenglass - Rosenberg family group.

Rosenbergs sentenced to death. Sobell - 30 years without chance of parole; Greenglass 10 years.

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Many attempts to stay execution or get a new hearing were tried."

The Rosenbergs refused to lie to save their lives so heroically they chose to die - true nobility.

Never since the trial has a hearing been granted. Sobell is a symbol of the truth. The government is running away.

No one wants to see a frailty in our Judicial system but if there is injustice it must be exposed.

We will have to watch the hands of Democracy with blood dripping from its fingertips.

If we are granted a hearing with power of subpoena we will see on the stand.

1. Gold
2. Cohn
3. David and Ruth Greasglass

We will introduce new facts and evidence.

If we lose, we lose honestly, if we win and we will win if we have a hearing. If we win, we will see Democracy with help of willing people rise to new heights.

Peter Steger sang songs.

Helen Sobell introduced for a bow Walter and Mariam Schneir authors of "Invitation to An Inquest" Doubleday.

Helen Sobell

Tonight we will change the name of our committee from "Justice for Morton Sobell" to the "Committee to Free Morton Sobell."

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Recently the US attorney fought bitterly to prevent Morton Sobell from coming from Lewisburg to New York to confer with his attorney. The US attorney also stipulated that no social contact was to be included.

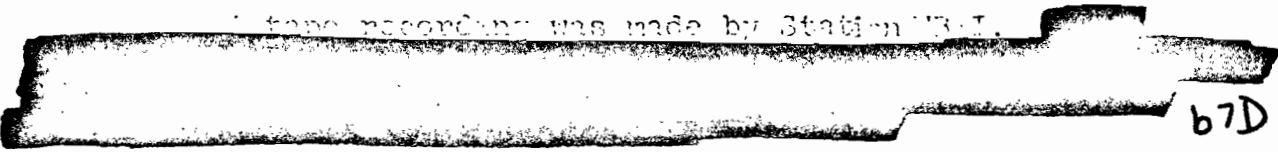
Fund raising was instituted two checks were announced \$400.00 and \$750.00 from Morton Sobell Committee in other cities. No names were given. Edith Segal - Poets read two poems in honor of Morton Sobell, Mrs. Ruth Sobell - mother of Morton extorted the people to continue their fight to stop unnecessary deaths (Rosenbergs) and bring home the boys from Vietnam.

Mrs. Ruth Gage Colby introduced for a bow Bill Rueben and Virginia Gardener.

Entertainment by the Penny Whistles who recorded on "Hon Such Level" sang Russian, Serbian, American Folk Song.

Note:

tape recording was made by Station W.I.



b7D

Appendix

1. Facts of Rosenberg Sobell case 1950-1964
2. Petition to US District Court
Sobell vs. USA #C134245
3. Hara Stone and Associates Inc.
Public Relations
4. Sources -

FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2321 DATE 7.20.66

CONSISTING OF 8 PAGES

OF WHICH PAGES 2 + 8

are exempt from disclosure, in its entirety,
under (b)(1) as it has been classified pursuant
to Executive Order 11652 as it contains
information which would disclose an intelligence
source. This serial bears the Classification
Officers number 2040.

MEMORANDUM

HPB: bc a
(24)

NY 100-107111

[REDACTED]

[REDACTED] (c)

[REDACTED] (c)

[REDACTED] (c)

[REDACTED] (c)

A fellow who introduced himself as GEORGE KISTLER, who was in prison in Springfield, at the time MORTON was, wore a button, "Be Kind to Communists". He said that WM. KUNSTLER was his attorney and had after five years removed the Gov't from his back; that KUNTZLER hadn't taken a cent for this; had invited him to dinner after the program. He had 500 copies of words he had written to the Music of "Mc Namara's Band, ridiculing Mc Namara. Also music to "Old King Lyndon", and "Beagle Boy Boss", all of a ridicule nature. He explained the theory that if more ridicule had been made of Adolf Hitler he would not have become the power he did.

(Xu)

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When asked why the mimeographed music he was distributing did not have on it the name he introduced himself by, but bore the name of "Daniel Shays Society, Apt. 2FN, 278 Mott St., NY, he replied that he was the Society of one; that he distributed his material this way to confuse the FBI, and that his attorney had told him that he couldn't be touched by being a society of one. (X)

RUTH GAGE COLBY opened the program on the courage of the Rosenbergs and of their honor to stick to the truth and went to their death in a noble way. She said that Governments do not always tell the truth. She brought in that our Gov't had ridiculously accused No. Vietnam of aggression and this was an untruth just as there were lies built up to convict the Rosenbergs and MORTON SOBELL. She deplored the state of the present Gov't which daily glorifies in the reporting of the number of Communists killed. She introduced WILLIAM KUNTZLER as the brilliant attorney who, besides heading the team of MORTON SOBELL's attorneys is also the attorney of the wonderful MARTIN LUTHER KING. (u)

WILLIAM KUNTZLER gave the names of the other attorneys and said he, along with them, are doing nothing now more or less than the attorneys that MORTON SOBELL had prior to their entry into the case. They all contributed to the advancement of the case and in trying to tell the truth, but were up to now denied a hearing because the Gov't has not wanted the embarrassment of the opening of the case. He said that when it is opened and the truth told, it will rock the nation and the world to what lengths the Gov't has gone to obtain the death of the Rosenbergs and the sentencing of MORTON SOBELL. He said that the attorneys are not asking the Gov't to free MORTON SOBELL. They are asking for a hearing in which to tell the truth and this will free SOBELL; that they want to open the case again to show that the conviction was based on the prosecutor's and witnesses' lies, and false evidence. (u)

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He went back to the time events of the Rosenberg-Sobell case. He said that he had a theory that the only reason Sobell had been brought into the case was to show what the prosecutor wanted to show, that the so called espionage had extended outside of the Rosenberg family into a larger plotting of espionage, so that the Gov't could convict the Rosenbergs by blaming them for the Korean War.

He said that innocent people are unaware to what lengths the Gov't will go and that it is capable of committing base acts as well as any corrupt individual. He said that his experience has been such that he is in a position to know this.

After a prelude and linkup of SOBELL with the Rosenberg case and of SOBELL's innocence, and of his own, (KUNTZLER's) theory that SOBELL had been strategically linked up with the Gold, Greenglasses and Rosenbergs so the Gov't could secure the conviction it wanted, KUNTZLER went on to say that the truth of the matter was that the Rosenbergs could have been given freedom if they chose to admit guilt and cook up a fabrication, but they chose to die rather than do this. He said that he could see eyes being wiped and he too felt tears in recounting their last day and the last thing they could see was the telephone and the FBI agents sitting there. They could have given them the fabrication but they went to a noble death instead for non-existent crimes. Convicted under the espionage act, they were denied certiorari. Frankfurter, Black and Douglas dissented; that there was a cycle of events for which no one can give the real reasons for the forged evidence.

In conclusion, KUNTZLER asked the audience to help obtain a hearing for MORTON SOBELL. He dramatically reported their meeting in NY in West St. prison, and how each put their arms around the other in silent human understanding like two humans naked and unashamed together. He said that prior to this NY meeting, he had met SOBELL only briefly and short periods before.

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KUNTZLER said that if granted a hearing -- a chance for impartial truth -- they will win the case. He said, "If we have the opportunity and the necessary subpoena power, you will be able to see HARRY GOLD, the Greenglasses and ROY COHN, all back on the stand again. And if we lose, we will lose honestly, but I believe we will win.

He received much applause for this. He also had injected his surprise that ROY COHN, who had been a classmate of his, and who back in school days had been known to step out of line, had been given the position he had with the Gov't.

He reminded the audience that if they obtain the hearing with your help, we promise you freedom for MORTON SOBELL.

RUTH GAGE COLBY introduced PETE SEEGAR as a voice known all over the world. He sang seven songs of freedom and protests against war and invited the audience to accompany him which they did. He also said his reason for being present was more than just entertainment, that he was there because he wanted to help in getting freedom for MORTON SOBELL, and to remember the courage of the Rosenbergs.

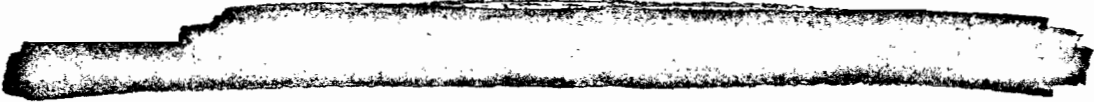
RUTH GAGE COLBY next introduced HELEN SOBELL as a poet, a teacher and physicist in her own right, devoted to the cause of freedom for her husband.

HELEN SOBELL said that 'once upon a time, one was not a hero just because they told the truth, nor a martyr just because they stood up to evil, but since the days of the Rosenbergs now people involved have told everything but the truth. The Rosenbergs symbolize a period of heroism, and some day the truth will come forth.

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HELEN dramatically told the incident of the Gov't attorney's bitter, malicious and vindictive behavior in court. She said that when MORTIE's attorneys asked that he be brought on to NYC for legal consultations with his attorneys, and this was granted. The Gov't attorney, who had fought this, then endeavored to make it clear that the two business days that MORTIE was to be in the West St. prison and available to the attorneys from 9 to 5, was to be for consultations with his attorneys only and sought to eliminate the family from seeing him. She said that when she heard this she laughed. Did he think that MORTIE's family who traveled miles to see him at Alcatraz and elsewhere would be defeated in their efforts to see him or travel less because of the imposed barriers. This meant nothing to her or his family who have traveled far and will continue to do so to see him. She said she hopes that there will be a day when such people as the Gov't attorney will be booted at and will lose his status for stooping to such behavior and trying to do what he did.

In closing, HELEN said, "It is too late to give justice to Morton Sobell, so from this night forth, the Committee to Secure Justice for Morton Sobell will be known as the Committee to Free Morton Sobell. We will need your help in the office, to distribute our books everywhere, to obtain signatures for petitions, and your money. Will you please put what you can in the envelope given to you on your entry and the ushers will collect it."



HELEN introduced MIRIAM and WALTER SCHNIER on the platform, as making it possible, through their investigations and their book, "Invitation To An Inquest" for the bringing to a head the present legal action, and bringing focus on the forged evidence. (The exhibit featured a letter in Feb. from J. EDGAR HOOVER that the matter which the matter the attorneys wrote him on, the hotel card registration, had been turned over to Internal Security Division).

b1

NY 100-107111

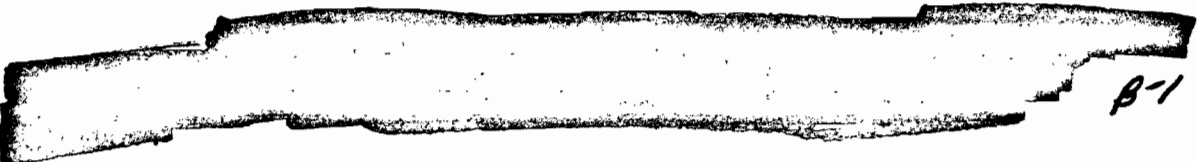
The Chairman introduced MORTON's mother, ROSE SOBELL. She said that throughout the case she had refused to cry to give those persecuting her son the satisfaction, but the evening had brought tears forth just hearing what Mr. KUNTZLER and HELEN and all the other wonderful people had said that evening. She said she had hope still that the truth would come out and this wonderful man, Mr. KUNTZLER, would win the case if he and the other wonderful people working for MORTON's freedom finally bring this about after this long struggle.

RUTH GAGE COLEY called upon the audience to dedicate themselves to working for freedom for MORTON SOBELL, so as not to disappoint his mother who has high hopes for his freedom. She called upon the audience to dedicate themselves not only to work for freedom for MORTON SOBELL, but also to work to bring home every mother's son from the jungles of Vietnam. Don't let Mrs. SOBELL down!

EDITH SIEGEL had been on the platform and had been called upon to read two of her poems, "Lean Heavily on the Memory of Ethel and Julius Rosenberg and "When Winter Comes Can Spring Be far Behind."

The program ended with the songs of the (7) Penny Whistlers singing folk songs about freedom war and love, in Ukrainian and Russian. Their final freedom song, they asked PETE SEEGER to join them, which he did, and the audience.

RUTH GAGE COLEY had announced two guests present-- BILL RUBEN and VIRGINIA GARDENER. She also announced a receipt of a check in the amount of \$700 from Los Angeles Sobell Committee and \$400 from San Francisco.



UNITED STATES GOVERNMENT

Memorandum

TO : SAC, NEW YORK (100-37158)

DATE: 7/29/65

FROM : SA [REDACTED] b7C

SUBJECT: MORTON SOBELL
ESP-R

On this date [REDACTED] Atomic Energy Commission, NYC, advised that his office had received a phone call from MARSHALL PERLIN of 36 W. 44th Street, NYC, inquiring about the rules governing classification and declassification of AEC documents. b7C

WALSH was desirous of knowing if the FBI had any information regarding the identity of MARSHALL PERLIN.

WALSH was advised that PERLIN was SOBELL's attorney of record.

1 - NY

TGS:HC
(1)

AUSA R.L. King
SDNY advised
RSP.

100-37158-2328

b7C



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FILE # 100-37158

SUBJECT MORTON Sobell

SERIAL 2332 DATE 8-4-66

CONSISTING OF 7 PAGES

OF WHICH PAGES 1 + 3-7

were exempt from disclosure, in their entirety under (b)(1) as it has been classified pursuant to Executive Order 11652 as it contains information which would disclose an intelligence source.

~~CONFIDENTIAL~~

NY 100-107111

[REDACTED] (c)
[REDACTED] (c)
[REDACTED] (c)
[REDACTED] (c)

HELEN reported that a postponement of the case had taken place because a new Gov't attorney had asked for a delay in which to become familiar with the case. He then had asked that the next day in court be July 11th. BILL KUNTZLER did not want this date as it would have come before Judge RYAN, so he protested that he found it to be unsatisfactory. When the judge asked him why he couldn't be in court, KUNTZLER said he had a big desegregation case on then. *fu*

The judge set the date in court for July 25th, *fu*
10:00 A.M., Room 315, Foley Sq.

[REDACTED] (c)
[REDACTED] (c)
[REDACTED]

- 2 -

~~CONFIDENTIAL~~

100-37158-2332

DONNER & PIEL
ATTORNEYS AT LAW
36 WEST FORTY-FOURTH STREET
NEW YORK 36, N. Y.

FRANK J. DONNER
ELEANOR JACKSON PIEL
MANHATTAN N. Y. 10018

MURRAY HILL 2-8208

CABLE: DONRIPP

July 6, 1966

John Martin, Esq.
Asst. U. S. Attorney
U. S. Attorneys Office
Foley Square
New York, New York

Re: U.S. v. Morton Sobell

Dear Mr. Martin: .

Pursuant to the order of the Court of April 14, 1966 in the above entitled case, this is to advise you that the petitioner, through his counsel, intends to consult with Dr. Philip Morrison, a scientist, on July 7, 1966.

Dr. Morrison has signed a copy of the April 14, 1966 order of the Court agreeing to comply with its terms.

Sincerely yours,

Eleanor Jackson Piel
Eleanor Jackson Piel
Associate Counsel
for Morton Sobell

EJP/df

2334.

100-37158

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FBI - NEW YORK	

DONNER & PIEL
36 WEST 44TH STREET
NEW YORK 36, NEW YORK

John Martin, Esq.
Asst. U. S. Attorney
U. S. Attorneys Office
Foley Square
New York, New York



DONNER & PIEL
ATTORNEYS AT LAW
36 WEST FORTY-FOURTH STREET
NEW YORK 36, N. Y.

FRANK J. DONNER
ELEANOR JACKSON PIEL
SAMFORD M. KATZ

MURRAY HILL 2-0200

CABLE: DONRIPP

May 24, 1966

John Martin, Esq.
Asst. U. S. Attorney
U. S. Attorneys Office
Foley Square
New York, N.Y.

Re: U. S. v. Morton Sobell

Dear Mr. Martin:

Pursuant to the order of the Court of April 14th, 1966 in the above entitled case, this is to advise you that the petitioner, through his counsel, intends to consult with Dr. Henry Linschitz, a scientist, on May 24, 1966.

A copy of the agreement of Dr. Linschitz to comply with the terms of the April 14th order is enclosed.

Very truly yours,

Eleanor Jackson Piel
Eleanor Jackson Piel
Associate Counsel
for Morton Sobell

EJP:at

Enclosure

100-37158-2335

SEARCHED	INDEXED
SERIALIZED	FILED
FBI - NEW YORK	
17/51	

FILE
ROOM
R601
340
R602

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-against-

MORTON SOBELL,

Defendant.

ORDER

Cr. 134-245

This cause having come on for hearing on the motion of defendant for an order directing the United States of America to produce for his inspection and study the original of Government Exhibit 8 and the heretofore untranscribed stenographic notes of the testimony of David Greenglass and John A. Derry relating thereto, properly and fully transcribed, and the Court having considered the affidavit of William M. Kunstler, duly verified the 15th day of March, 1966, in support of said motion, and there being no opposition thereto other than a request by the United States of America that said material not be made public; it is

ORDERED, that the defendant's motion be and the same hereby is granted; and it is

FURTHER ORDERED that the original of Government Exhibit 8 shall be made available to defendant for study and reproduction; and it is

FURTHER ORDERED that the appropriate court reporters of the United States District Court for the Southern District of New York shall forthwith transcribe the aforesaid hitherto untranscribed stenographic notes of the testimony of David Greenglass and John A. Derry relating to Government Exhibit 8, and shall thereupon, upon the payment of their requisite and customary charges, furnish to defendant's counsel one copy each thereof; and it is

FURTHER ORDERED that defendant's counsel shall not make public, other than in documents filed in this Court, the information contained in Government Exhibit 8 or the transcribed testimony of David Greenglass and John A. Derry relating thereto, but that defendant's scientific, handwriting, documentary and other experts shall be permitted to examine same provided that a list of their names together with their agreement to abide by the aforesaid restriction shall be furnished to the United States Attorney for this District prior to their inspection of said material.

s// PALMIERI J.
United States District Judge

Dated: New York, N. Y.
April 14, 1966.

I have this date read the above order and I agree to be bound by the provisions thereof.

Dated:

April 30, 1966

Henry Ginschitz

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
MORTON SOBELL,

Petitioner,

No. C 134-245

-against-

UNITED STATES OF AMERICA,

O R D E R

Respondent.
-----X

Upon the oral motion of the Petitioner, MORTON SOBELL, and the affidavit of MARSHALL PERLIN, Esq. sworn to the 25th day of July, 1966 in support of said motion for an order granting the Petitioner leave to file an amended petition and other relief and upon the matter coming on for hearing and upon hearing the position of the Respondent, UNITED STATES OF AMERICA and upon due deliberation, it is

ORDERED, that the Petitioner is granted leave to file an amended petition by August 9, 1966 and that the United States of America shall have until the day of , 1966 to answer to the petition, and the Petitioner shall have until the day of ,

on the day of , 1966.

100-37158-2336

United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MORTON SOBELL,

Petitioner,

No. 0 134-245

-against-

AFFIDAVIT

UNITED STATES OF AMERICA,

Respondent.

MARSHALL PERLIN, being duly sworn, deposes and says:

He is one of the attorneys for the Petitioner, MORTON SOBELL, and submits this affidavit in support of his application for leave to amend and supplement the petition previously filed pursuant to Section 2255, Title 28, United States Code.

Prior to the institution of the instant Section 2255 proceedings, application was made to this Court for an order directing the government to produce for inspection and study the original Government Exhibit 8 and certain untranscribed stenographic notes of the testimony of David Greenglass and John A. Derry relating thereto, and presented in the course of the trial in the absence of the public, and immediately thereafter impounded. On the 14th day of April, 1966 the Honorable Edmund L. Palmieri signed an order, a copy of which is attached hereto and made a part hereof, unimpounding, under certain terms and conditions, the aforesaid testimony and exhibit. Some weeks thereafter, at a hearing before Judge Palmieri, the testimony and exhibit were unimpounded. It was then learned for the first time that sometime in 1959.

the stenographic notes and exhibits had been unimpounded by the Department of Justice without notice to petitioner's counsel, the testimony transcribed and examined by one of the attorneys of the Department of Justice and re-impounded.

On the 13th day of May, counsels' motion for an order directing the transfer of the petitioner from the Federal Penitentiary at Lewisburg, Pennsylvania to the Federal House of Detention in New York so as to permit the Petitioner to examine the previously impounded evidence and also to consult his counsel with reference thereto, was granted by the Hon. Marvin Frankel, a Judge of this Court. The Petitioner was transferred to the Federal House of Detention in New York. Thereupon, I and associate counsel consulted with him with reference to the formerly impounded evidence and its possible relationship to the petition previously filed and the entire past record of the case. These consultations took place throughout the period June 4th through June 11th, 1966.

With the material available to us it was necessary to have several consultations with co-counsel, as well as with scientists and then to engage in other areas of scientific and factual research, examine the entire transcript and all post-trial proceedings in light of the recently unimpounded evidence. After receiving additional vital information, and upon the factual and scientific research, it was established that the Petitioner was entitled to apply for and receive relief pursuant to Section 2255. It was further established that the new evidence and the nature of the evidence was directly interrelated with the petition previously filed and served as additional proof of the al-

legations made in the original petition. The government's answer was received late on the day of June 11, 1966.

Since the early part of June, 1966 and after the return date of certain collateral motions relating to the original petition, both myself and Mr. Kunstler have been heavily engaged in litigation in New York City and out of town. Commencing on June 10th, 1966 I was involved in a temporary injunction proceeding in upstate New York involving 9 full court days in the Supreme Court, County of Chemung, June 13, 15, 16, 17, 18, 20, 21, 27 and July 14, 1966. In the interim, it was necessary for me to be out of town on various days in relation to that trial and to submit various pleadings and briefs. That matter is still pending and has taken a substantial portion of my time each day. Mr. Kunstler has been involved in the matter of State v. Ruby which required submission of a brief and argument in Texas on June 25, 1966 and the preparation of a petition for certiorari in a collateral proceeding relating thereto. He has also been engaged in the matter of Rosenberg v. The School Board in the Federal Court for the Southern District of New York. He is also chief trial counsel in the matter of Hobson v. Hansen in the U. S. District Court for the District of Columbia and has been on trial continuously since July 18, 1966. On this case he was required to be in Washington in July for pre-trial conferences and preparation, and the matter has not yet been concluded.

These necessary legal involvements did delay our accumulation of the necessary data for the preparation of the amended petition based upon the unimpounded evidence.

On Thursday, July 14, 1966 I made a telephone call from Ithaca, New York to Mr. King, Assistant United States Attorney handling this matter. I advised him of the various other matters with which I was engaged and stated that additional time would be required to formulate papers in response to the government's answer to the original petition. After my return to New York I received new additional information and was in a position to conclude that it was absolutely necessary to proceed forthwith to amend or supplement the original petition in light of this new evidence.

Thereafter, I again communicated with Mr. King on Monday, July 18, 1966 advising him that in view of the unimpounding of the evidence and as a result of the material obtained, the original petition was to be amended and supplemented and that I would further advise him by telephone of the manner and form of the amendment of the original petition. Accordingly, on July 20, 1966 I called Mr. King and stated that in view of the interrelationship of the new material with the material presented in the original petition, we were filing an amended petition which would incorporate the new material. Since that time I have been working on these papers and in view of the nature and scope of ~~the material~~ and the matters involved, these papers are not as yet completed so as to submit them to this court on July 25, 1966.

I, therefore, request two weeks within which to complete, serve and file the new amended petition. Naturally, the respondent should and would be afforded time within which to respond to the amended petition.

The original petition was based inter alia upon the fact that the government had knowingly created, contrived and used false and perjurious testimony to establish an alleged meeting between Harry Gold and David Greenglass on June 3, 1945 at Albuquerque, New Mexico, and that the government had knowingly used a false and forged document said to corroborate the false testimony of Harry Gold and David Greenglass that such a meeting had taken place. This document was a photostat of an alleged registration card of the Hilton Hotel in Albuquerque, New Mexico, dated on its face June 3, 1945. The petitioner seeks by a hearing to establish that no meeting was ever held on June 3, 1945 between Gold and Greenglass and that the card used to corroborate the same was false and fabricated; that the government knowingly suppressed evidence in its possession which would establish the false and perjured nature of the testimony of Harry Gold and David Greenglass relating to the alleged June 3, 1945 meeting. I do not wish here to summarize the entire contents of the petition in this affidavit.

It is, nevertheless, worth noting that the government, in its response to the petition and its supporting memorandum, maintains that in making this attack upon the fraudulent testimony of Gold it inevitably brings into question the testimony of Greenglass relating thereto.

(government memorandum, p. 28)

The new and amended petition flowing from the unimpounding of the testimony will establish inter alia:

- (a) The government represented to the court that the impounded testimony and Government Exhibit 8 presented into evidence through the testimony of

David Greenglass, had been first seen and evaluated prior to its presentation in court, by the Atomic Energy Commission and the Joint Congressional Committee on Atomic Energy in conjunction with the prosecutors. Counsel for the defendants relied on these representations.

(b) In making these preliminary statements in this light in the presence of the representatives of the Atomic Energy Commission, the court and jury were made to believe that the evidence to be presented was authentic and accurate in nature and represented the basic secret of the atomic bomb and further, was of world-shaking importance.

(c) The government knew that the testimony of David Greenglass and his sketch (Gov. Ex. 8) was a false and a clearly erroneous description and drawing of the alleged cross-section of the atomic bomb. (See attached testimony of David Greenglass, and Government Exhibit 8.) Whatever the source of the Greenglass testimony, whether he was intentionally lying, or whether he was simply ignorant of the facts, there is no question concerning the falsity of the evidence.

(d) Thereafter the government called as its witness, John A. Derry, for the openly declared purpose of establishing the authenticity and accuracy of the information testified to by Greenglass and to establish the authenticity of the out-away sketch, Government Exhibit 8.

(e) The government held out Mr. Derry as an expert, competent to authenticate and vouch for the accuracy of the impounded evidence. Mr. Derry did, by his testimony, support, substantiate and verify the accuracy of the testimony of Greenglass and the sketch in the presence of the court and jury and representatives of the Atomic Energy Commission.

His testimony was, whether intentional or not, clearly false in many significant respects. He failed to correct any of the grossly erroneous and false testimony of Greenglass and his description of Government Exhibit 8. He did not acknowledge or comment upon the gross errors contained in that exhibit. Assuming Mr. Derry's testimony was given in complete innocence, based upon his lack of knowledge, the government knew his testimony would be and was false and incorrect and that it did not constitute a truthful verification of the authenticity or accuracy of the Greenglass testimony and Exhibit 8.

(f) The government well knew that by falsely authenticating and corroborating the testimony of Greenglass and his sketch, it served to corroborate and authenticate the general testimony of Greenglass including that portion relating to the alleged, but actually non-existent meeting of June 3, 1945.

(g) The government through its representations in court, and the use of Derry's testimony falsely vouched for and gave approval to the authenticity of Greenglass' testimony with the explicit and implied approval of the Atomic Energy Commission and its scientists, as well as the Joint Congressional

Committee on Atomic Energy. The jury would not question, and indeed, defense counsel innocently but incorrectly did not doubt that the impounded evidence given by Greenglass was of tremendous importance affecting the very security and existence of the United States. This, in turn, created a prejudicial atmosphere precluding any possibility of a verdict of innocence to be rendered by the jury in behalf of any of the defendants.

(h) It not only forcibly affected the jury and the court, but it so intimidated and overawed counsel for the petitioner and his co-defendants as to cause them to request, in the interests of national security, that the court impound the false testimony of Greenglass and the exhibit introduced into evidence through him. Counsel were understandably deceived by relying upon the statements of the prosecution in the presence of representatives from the Atomic Energy Commission with their implied approval and acquiescence. In light of the above, counsel for the defendants could not or would not seek to obtain scientific aid, even if such assistance were available, to properly conduct effective cross-examination in this area either of David Greenglass or John A. Derry.

I do not attempt to set forth in this affidavit all of the allegations and other evidentiary material which will be included in the amended petition, or set forth in detail the inherent interrelationship of the application for relief relating to the most recently obtained evidence and

the matters set forth and encompassed in the original petition. In summary, new grounds for relief will be set forth in the amended petition and the material will closely relate and strengthen the grounds for relief as originally set forth in the first petition.

While the primary obligation for the work in the preparation of the amended petition must lie with New York counsel, it is nevertheless the fact that there are other counsel involved who must be fully apprised of the content of the amended petition and they must be afforded an opportunity to comment upon and approve the same. This, necessarily, takes some time. In addition, the preparation of supporting papers in conjunction with persons other than counsel is a time-consuming process. The petitioner should be afforded an opportunity to be apprised in greater detail of the petition and its contents in light of his involvement in the discussions of the unpounded evidence at the very outset.

This in no way prejudices the respondents. The necessary delay only protracts the period of incarceration of the petitioner. All of the evidence which is new to the petitioner is not new to the government. They have not revealed by their answering papers any new facts which prejudice their position. In any event, petitioner, in a proceeding such as this and by the nature of the issues involved, would and should have the right not only to reply to the answering papers but to amend the petition in light thereof. In this instance, there are special and unique circumstances --the obtaining of new and significant evidence relating to the original petition and affording additional grounds for relief.

One of the contentions of the respondents in attempting to demurr to the original petition, is that petitioner has engaged in piece-meal litigation. By serving an amended petition encompassing the new and supplementary data we would avoid the very thing the respondents complain of.

Absent counsels' other engagements, the unique nature of the new evidence, requires the expenditure of much time in not only acquiring the facts but in drawing the petition.

WHEREFORE, it is respectfully requested that this Court grant an order allowing petitioner to file an amended petition by August 9, 1966, and that petitioner be afforded an opportunity to reply to any answering papers submitted by the government and for such other and further relief as to the court may seem necessary and proper in the premises.

MARSHALL PERLIN

Sworn to before me this
day of July, 1966.

MOSES J. OELBAUM
Notary Public, State of New York
No. 24-819967
Qualified in Kings County
Certificate filed in New York County
Commission Expires March 30, 1968

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ERICH SOBELL,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

ORDER WITH AFFIDAVIT

IN SUPPORT

MARSHALL PERLIN

ATTORNEY AT LAW

205 WEST 10TH STREET

NEW YORK, N.Y.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
MORTON SOBELL, :
 :
 Petitioner, :
 : 66 Civ. 1328
 - v - :
 :
 UNITED STATES OF AMERICA, :
 :
 Respondent. :
-----X

MEMORANDUM OF THE UNITED STATES OF
AMERICA IN OPPOSITION TO SECTION
2255 PETITION OF MORTON SOBELL.

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100-37187-2337

SEARCHED	INDEXED
SERIALIZED	FILED
FBI - NEW YORK	

[Signature]

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

MORTON SOBELL, :

Petitioner, : 66 Civ. 1328

- v - :

UNITED STATES OF AMERICA, :

Respondent. :

- - - - - x

MEMORANDUM OF THE UNITED STATES
OF AMERICA IN OPPOSITION TO SECTION
2255 PETITION OF MORTON SOBELL

Preliminary Statement

By order to show cause, returnable May 13, 1966,
petitioner Morton Sobell brought his sixth motion, pursuant
to 28 U.S.C. §2255, to vacate and set aside his 30-year prison
sentence and his judgment of conviction entered on April 5,
1951. Said motion also seeks the following interim relief:
(1) a hearing to determine the issues; (2) the release of
petitioner on bail or in the alternative, a direction that
he be present at the hearing; (3) authority to take the

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deposition of Harry Gold,* a Government witness at the trial; (4) the furnishing to petitioner of the confession of Klaus Fuchs, not a witness at the trial; and (5) the furnishing to petitioner of any and all pre-trial statements of David and Ruth Greenglass and Harry Gold, each of whom testified for the Government at the trial.

The return date of the motion was adjourned either by consent or by order of this Court to July 25, 1966.

The Government submits this memorandum in opposition to petitioner's said motion and to each and every request for relief sought therein. The grounds of the Government's opposition are that (1) the motion constitutes an abuse of 28 U.S.C. §2255, and (2) the motion and the files and records of this case conclusively show that petitioner is entitled to no relief.

* Mr. Gold's release from prison on May 18, 1966 was the reason the instant motion was initiated by order to show cause. Upon assurance given by the Government to Judge Marvin E. Frankel on May 13, 1966, that Mr. Gold will be available should this Court order a hearing on the motion, the question whether Gold should be produced was deferred pending a determination on whether a hearing is necessitated by the motion.

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Statement of Facts

Indictment C. 134-245, filed on January 31, 1951, charged Julius and Ethel Rosenberg, Morton Sobell, David Greenglass and Anatoli A. Yakovlev with conspiring between 1944 and 1950 to violate 50 U.S.C. §32* by combining to communicate to the Union of Soviet Socialist Republics documents, writings, sketches, notes and information relating to the national defense of the United States, with intent and reason to believe that they would be used to the advantage of the Soviet Union. Named as conspirators but not as defendants were Harry Gold and Ruth Greenglass; and a severance for trial purposes was granted to David Greenglass, who pleaded guilty, and as to Anatoli Yakovlev, who had left the United States.

Trial of the Rosenbergs and Sobell commenced before Hon. Irving R. Kaufman and a jury on March 6, 1951, and concluded on March 29, 1951 with a verdict of guilty as to each

* Repealed June 25, 1948, C.645, §21, 62 Stat. 862, effective September 1, 1948; now covered by Title 18, United States Code, Sections 792 and 2388.

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defendant. The evidence at the trial was summarized by the Court of Appeals on the Rosenbergs and Sobell's direct appeal from the conviction as follows:

"At the trial, witnesses for the government testified to the following: In November 1944, Ruth Greenglass planned a visit to her husband, David, stationed as a soldier in the Los Alamos atomic experimental station. Before her visit, Ethel and Julius Rosenberg, sister and brother-in-law of David Greenglass, urged Ruth to obtain from David specific information concerning the location, personnel, physical description, security measures, camouflage and experiments at Los Alamos. Ruth was to commit this information to memory and tell it to Julius upon her return to New York, for ultimate transmittal to the Soviet Union. David, reluctant at first, agreed to give Ruth the information Julius had requested. He told her the location and security measures of the station, and the names of leading scientists working there. When David returned to New York in 1945 on furlough, he wrote out a fuller report on the project for Julius, and sketched a lens mold used in the atomic experiment. A few nights later, at the Rosenberg home, the Greenglasses were

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introduced to Mrs. Sidorovich whom Julius explained might be sent as an emissary to collect information from David in New Mexico. It was agreed that whoever was sent would bear a torn half of the top of a Jello box which would match the half retained in Ruth's possession. Ethel Rosenberg, at this time, admitted her active part in the espionage work Julius was carrying on, and her regular typing of information for him. Julius introduced David to a Russian, who questioned David about the atomic-bomb operation and formula. In June 1945, Harry Gold arrived in Albuquerque with the torn half of the Jello box and the salutation, "I come from Julius." He had been assigned to the mission by Yakolev, his Soviet superior, and had, the day before his trip, met pursuant to Yakolev's command, with Emil Fuchs, British scientist and Russian spy working at Los Alamos. David delivered to Gold information about personnel in the project who might be recruited for espionage, and another sketch of the lens mold, showing the basic principles of implosion used in the bomb construction. Gold relayed the information to Yakolev. On a revisit of the Greenglasses to New York, David turned over a sketch of the

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cross-section and a ten-page exposition of the bomb to Rosenberg. Ethel typed up the report, and, during this meeting, Julius admitted he had stolen a proximity fuse from a factory, and had given it to Russia. After the war, David went into business -- a small machine-shop -- with Julius, and Julius several times offered to send David to college on Russian money. Julius confided to David that he was helping the Russians subsidize American students, that he had contacts in New York and Ohio, and supplied information for siphoning to Russia, that he transmitted information to Russia on microfilm equipment, and that he received rewards for his services from the Russians in money and gifts. In 1950, Julius came to David and told him to leave the country immediately, since Dr. Fuchs, one of Gold's collaborators, had been arrested; he, Julius, would supply the money and the plan to get to Russia. A month later, after Gold's arrest, Julius repeated the warning to flee, adding that he and his family intended to do likewise, and giving David \$1,000.

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Julius said his own flight was necessitated by the fact that Jacob Golos, already exposed as a Soviet agent, and Elizabeth Bentley, probably knew him. Julius said he had made several phone calls to her and that she had acted as a go-between for him and Golos. Julius gave David an additional \$4,000 for the trip. Julius had passport photos taken telling the photographer that he and his family planned to leave for France. After David's arrest for espionage, Ethel asked Ruth to make David keep quiet about Julius and take the blame alone, since Julius had been released after admitting nothing to the F.B.I. In 1944, Julius several times solicited Max Elitcher, a Navy Department engineer, to obtain anti-aircraft and fire-control secrets for Russia, and in 1948 asked him not to leave his Navy Department job because he could be of use there in espionage. A month or so later Elitcher accompanied Sobell to deliver "valuable information" in a 35-millimeter can to Julius.

"According to the government's witnesses, Sobell a college classmate of Rosenberg's suggested to Rosenberg that Elitcher would be a good source of espionage information, and he, Sobell, later joined Julius, in urging Elitcher not leave the Navy Department. According to Julius, Sobell regularly

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delivered information for transmittal to Russia. Sobell (as noted above) delivered "valuable information" to Julius on an emergency midnight ride after learning that Elitcher was being followed by the F.B.I. He asked Elitcher for a fire-ordinance pamphlet and for the names of young engineers who might supply military information to the Russians. In 1950, Sobell fled to Mexico, used various aliases there, and made inquiries about leaving Mexico for other countries. He was, however, deported from Mexico to the United States.

The Rosenbergs took the stand and testified as follows: They had never solicited the Greenglasses for atomic information or participated in any kind of espionage work for Russia. Julius denied stealing a proximity fuse. He did not, he said, ever know Harry Gold or call Elizabeth Bentley. He admitted that he and David went into business together after the war, but said they did not enjoy good business relations. In 1950, David, according to Julius, excited, asked Julius to get a smallpox vaccination certificate from his doctor and to find out what kind of injections were necessary for entrance into Mexico. Ruth had told Julius that David stole things while in the Army, and Julius

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thought David was in trouble on this account. David asked for a few thousand in cash and, when Julius refused, told Julius he would be sorry. Julius denied that he gave David any money to flee, or had any passport pictures of his own family taken preparatory to flight. He never discussed anything pertaining to espionage with either Sobell or Elitcher although he saw both socially. In short, the Rosenbergs denied any and every part of the evidence which the government introduced in so far as it connected them with Soviet espionage. Sobell did not take the stand but he pleaded not guilty."

Testimony of Harry Gold

Harry Gold testified on March 15, 1951, as part of the Government's direct case as follows: He was engaged in espionage work for the Soviet Union from the spring of 1935 until the time of his arrest on May 23, 1950 (R. 1161).^{*} From March 1944 until late December 1946, he engaged in espionage work with Anatoli Yakovlev as his Soviet superior, a man he knew only as "John" (R. 1155, 1158-59, 1171).^{**} Gold had meetings with Klaus Fuchs in June and July, 1944, and January, 1945 in New York and Massachusetts and secured information which he reported to Yakovlev (R. 1172-76, 1183-85).

In May, 1945, Yakovlev told Gold he was to meet Fuchs on the first Saturday in June, 1945 (June 2, 1945) in Sante Fe, New Mexico and then to proceed to an additional

^{*} References with the prefic "R." are to the transcript of the proceedings at the trial.

^{**} Government's Exhibit 15 showed Yakovlev to be a Soviet national and an official of the Soviet government (R. 1225-28).

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mission in Albuquerque, New Mexico (R. 1185-86).

Concerning this additional mission, Yakovlev said a woman who was supposed to make the trip was unable to go and that it was vital that Gold do it (R. 1187). Yakovlev gave Gold a piece of paper with the name "Greenglass", an address on High Street, Albuquerque, New Mexico, and the notation "Recognition signal. I come from Julius", together with a piece of cardboard cut in an odd shape from a packaged food container and an envelope containing \$500 for Greenglass (R. 1187-88).

Gold met with Fuchs in Santa Fe, New Mexico for a half hour on June 2, 1945 (R. 1190). That evening he went to Albuquerque and to the designated address on High Street, but ascertained that the Greenglasses were out for the evening and would return the next morning (R. 1191). He stayed the night at a rooming house and on Sunday morning, June 3, 1945, registered at the Hilton Hotel in Albuquerque (R. 1191-92).

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At about 8:30 a.m. on June 3 he went again to the High Street address and there encountered David Greenglass. When Gold said "I came from Julius" and showed David the piece of cardboard Yakovlev had given him, David produced a matching piece of cardboard. Gold then introduced himself as "Dave from Pittsburgh" and David Greenglass introduced Gold to his wife Ruth (R. 1192-93).

David told Gold the information on the atom bomb was not ready and said he would have it ready at 3:00 or 4:00 p.m. that afternoon (R. 1194). When Gold returned at that time, David Greenglass gave him an envelope, saying it contained the information on the atom bomb for which Gold had come. He also told Gold that he expected to get a furlough at Christmas and would return to New York, at which time he could be contacted through his brother-in-law Julius. He gave Gold the telephone number of Julius in New York City. (R. 1195-96.)

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Gold returned to New York on June 5, 1945 and on the same evening met with Yakovlev and turned over to him information which he had received from Fuchs and Greenglass (R. 1198-1200). Two weeks later, he again met with Yakovlev, at which time Yakovlev told Gold the information had been sent to the Soviet Union and that the information received from Greenglass "was extremely excellent and very valuable" (R. 1201).

Gold also testified to several additional meetings with Yakovlev and a further meeting with Fuchs in September, 1945 (R. 1202-23).

It should be noted that Gold did not testify that he ever met the Rosenbergs or Morton Sobell. Indeed, Judge Kaufman recognized that Gold's testimony in no way implicated Sobell as a member of the conspiracy charged when he instructed the jury as follows:

"To determine whether Morton Sobell was a member of the conspiracy you are only to consider the testimony of Max Elitcher, William Danziger and the testimony relating to the defendant Sobell's alleged attempt to flee the country.

"If you do not believe the testimony of Max Elitcher as it pertains to Gold, then you must acquit the defendant Sobell." (R. 2355.)"

Though given overnight to make their decision, counsel for both Rosenbergs and for Sobell chose not to cross-examine Gold (R. 1230). In his summation, the Rosenbergs' counsel made perfectly clear what his trial strategy was in this respect. He conceded the June 3, 1945 meetings between Gold and Greenglass but emphasized that Gold had never claimed to have met Rosenberg (R. 2205-06, 2215). Counsel accepted the Jello-box evidence, except for the Greenglasses testimony that their half was obtained from the Rosenbergs. He stated: "Is it too unreasonable to infer that maybe David got his one-half of the Jello box from the very man who gave the other half to Gold?" (R. 2216.)** He added that Gold:

* When he sentenced Sobell, Judge Kaufman remarked that "the evidence in the case did not point to any activity on your part in connection with the atom bomb project." (R. 2461.)

** The references to "Culius" were explained away by Mr. Bloch as code names rather than true names (R. 2219-20)

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"got his 30-year bit [his sentence upon his conviction on a similar charge in Philadelphia] and he told the truth. That is why I didn't cross-examine him. I didn't ask him one question because there is no doubt in my mind that he impressed you as well as impressed everybody that he was telling the absolute truth, the absolute truth." (R. 2215; emphasis added.)

Counsel for Sobell, in his summation, adopted the strategy of attacking the testimony of Elitcher and the flight evidence, emphasizing that this was the only evidence against his client (R. 2243, 2258). Harry Gold was not mentioned once in the entire summation (R. 2239-65).

The Hotel Hilton Registration Card

To corroborate Gold's testimony concerning his June 3, 1945 activities in Albuquerque, New Mexico, the Government on March 16, 1951, introduced in evidence a photostat of a Hotel Hilton registration card showing Gold's registration at the Albuquerque Hotel on June 3, 1945. The circumstances of the introduction of the photostat are as follows:

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"MR. SAYPOL [the prosecutor]: I now have some testimony which it is possible there may be a stipulation on: The fact of the registration of Harry Gold at the Hotel Hilton on June 3. I have a photostat of the registration card. I also have the original on the way, together with a witness if required. . . ." (R. 1258.)

"MR. SAYPOL: I want to offer in evidence and have received a copy of the registration card as a record regularly kept in the course of business and show it to the jury.

"MR. E.H. BLOCH [Rosenberg's counsel]: I certainly have no objection to that introduction.

"MR. KUNTZ [Sobell's counsel]: We have no objection." (R. 1259.)

Since the foregoing proceedings took place outside the presence of the jury, they were repeated when the jury returned (R. 1261-62). The photostat of the registration card was then received as Government Exhibit 16 and the record reflects:

"MR. SAYPOL: Yes. I will ask leave to read it to the jury and exhibit it to the jury, both the face and the reverse side of the photostat received.

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May I proceed to read it to the jury?

THE COURT: Yes.

(Government's Exhibit 16 exhibited and read to the jury.)" (R. 1262; emphasis added.)

Sobell's Post-Conviction Proceedings

Upon the conviction of the Rosenbergs and Sobell on March 29, 1951, sentencing was scheduled for April 5, 1951. On that day, counsel for Sobell made a motion in arrest of judgment, claiming that Sobell's conviction was obtained upon false testimony about which the F.B.I. must have known (R. 2402-19).^{*} Judge Kaufman denied the motion and sentenced Sobell to 30 years imprisonment (R. 2425, 2462).

* The alleged false testimony was that of James S. Huggins, an Immigration official from Laredo, Texas, who wrote on an Immigration record that Sobell was "Deported from Mexico" (R. 1516-35). In support of the motion, Sobell submitted an affidavit alleging in substance that he was forceably kidnapped from Mexico (R. 2406-14).

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The Rosenberg and Sobell convictions were affirmed on appeal, 195 F.2d 583 (2d Cir. 1952). One of the attacks on appeal concerned "the reliability of the damaging testimony given against . . . [the defendants] by the government's chief witnesses who are all self-confessed spies, and particularly the credibility of the testimony of the Greenglasses. . . ." 195 F.2d at 592. Pointing out that Judge Kaufman had instructed the jury that they must consider the accomplice testimony of the Greenglasses and Gold "carefully and act upon it with caution" (R. 2364), the Court of Appeals declined to enter the province of the jury and consider the matter of credibility. 195 F.2d at 592. Rehearing of the appeal was denied at 195 F.2d 609 (2d Cir. 1952).

Petition for certiorari was denied, 344 U.S. 838 (1952) and rehearing denied, 344 U.S. 839 (1952). In 1954 Sobell moved for leave to file a second petition for rehearing, which was denied at 347 U.S. 1021. Again, in 1957 Sobell moved to vacate the orders denying certiorari and rehearing, which motion was denied at 355 U.S. 860.

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Sobell and the Rosenbergs joined in a motion under 28 U.S.C. §2255 in late 1952. Among the grounds of the Rosenberg motion, in which Sobell joined, was the contention that "the prosecuting authorities knowingly used false testimony to bring about petitioners' conviction." Rosenberg petition, November 24, 1952, p. 5; 108 F. Supp. 800 N.1.*

The claim of knowing use of perjured testimony in this motion was threefold. First, it was contended that David Greenglass lied when he testified that he had cooperated with the authorities from the time of his arrest on June 15, 1950, as was evidenced by a statement of Mr. Saypol, the prosecutor, at the time of David Greenglass' sentencing. Rosenberg petition, supra at 60-64. Second, David Greenglass allegedly perjured

* Another ground urged was that pre-trial and trial publicity "created a trial atmosphere of prejudice and hostility toward" the petitioners. Rosenberg petition, supra at p.4, 108 F. Supp. 800 N.1.

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himself when he testified that Government Exhibits 2, 6, 7 and 8 (reproductions of sketches of atomic bomb information turned over to Rosenberg and Gold) were prepared from his memory alone without outside aid. To demonstrate the falsity of this testimony, petitioners adduced affidavits of scientists saying it was "impossible" or "improbable" that Greenglass could have prepared these sketches solely from memory; and petitioners alleged that Gold had assisted Greenglass while both were lodged under the same roof at the "Tombs" (the New York City prison). Rosenberg petition, supra at 64-68. Finally, petitioners asserted that rebuttal witness Ben Schneider perjured himself to the knowledge of the prosecution when he testified on March 28, 1951 that the last time he saw Julius Rosenberg before that day was in May or June 1950, when Rosenberg came into his shop for passport photos. Petitioners relied upon reports that Schneider had been brought into court the day before, March 27, 1951, to ascertain whether he could identify Rosenberg. Rosenberg petition, supra at 68-70.

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These motions of the Rosenbergs and Sobell were denied by Hon. Sylvester J. Ryan on December 10, 1952 at 108 F. Supp. 798 (S.D.N.Y. 1952), and the denial was affirmed on December 31, 1952, 200 F.2d 666 (2d Cir.). Certiorari was denied on May 25, 1953, 345 U.S. 965 and rehearing denied on June 15, 1953, 345 U.S. 1003.*

By notice of motion, dated June 5, 1953, the Rosenbergs moved for a new trial under Rule 33, F.R. Crim. P., and for an order pursuant to Section 2255 vacating and setting aside their judgments of conviction. By order to show cause, dated the same day, Sobell made a similar motion based on the evidence set forth in the Rosenberg petition. The grounds of the motion were (1) newly discovered evidence, and (2) the use by the prosecuting authorities of knowingly perjured testimony. Rosenberg petition, June 5, 1953, p. 4.

* A further motion of the Rosenbergs under Section 2255 and Rule 35, F.R. Crim. P., was denied by Judge Kaufman on June 1, 1953, affirmed June 5, 1953, 204 F.2d 688 (2d Cir.). A motion by Sobell under Rule 35 to reduce sentence was denied by Judge Kaufman on January 9, 1953, 109 F. Supp. 381.

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The newly-discovered evidence consisted of a console table said to belong to the Rosenbergs, about which David and Ruth Greenglass had testified at the trial, and certain pre-trial statements of Ruth and David Greenglass to their attorneys and inter-office memoranda of those attorneys, which had been stolen from the office of those attorneys. Upon the basis of these items, the following contentions were made: (1) Ruth and David Greenglass perjured themselves in their testimony concerning the console table, and the Government knowingly sponsored this testimony and suppressed the console table, knowing that it could expose Ruth Greenglass' perjury with respect thereto, Rosenberg petition, supra at 13-15; (2) Greenglass was a "hysteric" and a habitual liar, id. at 15-17; (3) the Government suppressed the fact that David Greenglass was questioned in February 1950 concerning the theft of uranium from Los Alamos, id. at 17; (4) David Greenglass' pre-trial statements to his attorneys omitted mention of portions of his trial testimony which tended to connect Julius Rosenberg to the conspiracy, e.g., he stated he identified

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Gold by a "torn or cut piece of card" rather than by a Jello box and he stated "I did not know who sent Gold to me", id. at 19-23.

These motions were heard by Judge Kaufman on June 8, 1953 and he orally rendered his opinion denying the motions the same day. Transcript of Hearing, June 8, 1953, pp. 122-37. Concerning the relief sought under Section 2255, Judge Kaufman, while noting "that this Court does not in its discretion believe that this motion should be entertained",* proceeded to decide the application "on its merits or lack of merit" (id. at 123). He treated "as true all the basic facts stated in the moving papers", noting that "this does not mean, of course, that I am obliged to accept conclusory allegations asserted by petitioners" (id. at 123-24). In substance, Judge Kaufman expressed doubts whether

* In this connection, Judge Kaufman adverted to the claim of knowing use of perjurious testimony in the earlier Section 2255 motion decided by Judge Ryan (id. at 122-23).

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the evidence adduced even indicated perjury, but in any event held it was no proof whatsoever of knowing use of perjury. It consisted rather of "a series of conjectures", "hypothetical charges" and "incredible" conclusions. (Id. at 126-32.) Judge Kaufman concluded:

"Bold allegations and charges, which have been unfortunately characteristic of the defense, have been made, but in the realm of facts nothing of significance has been uncovered. I have said many times that I cannot remember a case in our courts which has received the meticulous attention of so many judges on so many occasions. The fervor and persistence of counsel cannot supply substance and merit where such is lacking, and the present attack is devoid of substance and at best cumulative." (Id. at 136.)

The denial as to the Rosenbergs was affirmed on June 11, 1953, 204 F.2d 638 (2d Cir.) and as to Sobell was affirmed on October 8, 1953, with rehearing denied on October 31, 1953 (unreported, Docket No. 22825). A petition by Sobell for certiorari was denied on February 1, 1954, 347 U.S. 904.

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By notice of motion, dated May 8, 1956 and May 25, 1956, Sobell brought his third and fourth Section 2255 motions. The grounds for relief in the May 8 motion were that:

"the prosecuting authorities knowingly, wilfully and intentionally used false and perjurious testimony and evidence, made false representations to the Court, and suppressed evidence which would have impeached and refuted testimony given against petitioner, all to cause and sustain his conviction. . . ." Sobell petition, May 1956, p. 2.

Renewing the claim that he had been kidnapped from Mexico at the time of his arrest, see page 17 supra, Sobell again claimed the prosecution had suborned perjury when it introduced evidence to show he had been "deported" from Mexico. He further asserted that the Government deliberately suppressed evidence relating to the alleged abduction and made misrepresentations to the Court about it. (Id. at 3-18.) Judge Kaufman carefully considered each of these contentions and denied the motion on its merits, 142 F. Supp. 515 (S.D.N.Y., June 20, 1956). He found neither perjury, nor suppression nor misrepresentation. Id. at 527-31. Once again he observed:

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"It is difficult to find a case in the history of American jurisprudence, or indeed in the judicial annals of any other country, where the defendants' convictions and contentions have received the attention of so many judges at so many levels of a judicial system." Id. at 519.

Finally, Judge Kaufman indicated to Sobell's counsel, three of whom have brought the petition now before this Court, that they should consider the effect of "repeated abuses of . . . [the] processes" of the writ of habeas corpus and Section 2255 on the meaning of this great writ and the consequences of unfounded attacks on all associated with the prosecution of this case. Id. at 531-32.

Judge Kaufman's decision denying both motions was affirmed on May 14, 1957, 244 F.2d 520 (2d Cir.). Petition for rehearing was denied on June 3, 1957, Docket Nos. 24299 and 24300. Petitions for certiorari and for rehearing were denied on November 12, 1957 and January 6, 1958, 355 U.S. 873, 920.

A fifth motion by Sobell under Section 2255 was denied by Hon. John F.X. McGohey on April 5, 1962, 204 F. Supp. 225. No claim of use of perjured testimony was

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made in this motion. The denial was affirmed on February 6, 1963, 314 F.2d 314 (2d Cir.) and certiorari was denied on June 17, 1963, 374 U.S. 857.

Sobell's Present Petition

The petition currently before this Court is Sobell's sixth motion pursuant to Section 2255 and comes over 15 years after his conviction. It is his fourth such motion which is premised on the ground that the Government knowingly used perjured testimony at the trial; his third such motion which alleges that David Greenglass perjured himself with knowledge of the prosecution; and his second such motion making a similar claim with respect to the testimony of Ruth Greenglass.

The petition alleges that "the government [vaguely defined in the petition to include all prosecutive and investigative agencies, their agents and representatives, involved in the investigation or prosecution of the case (p. 3 fn.)] knowingly created, contrived and used false, perjurious testimony and evidence and induced and allowed government witnesses

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to give false testimony in order to obtain the conviction of petitioner and his co-defendants" (p. 3; emphasis added). That the "witnesses" referred to are David and Ruth Greenglass and Harry Gold is made clear by petitioner's allegation that "this application is based upon the fact that Gold neither met Greenglass on June 3, 1945, nor registered at the Hotel Hilton on June 3, 1945" (p. 10), meetings testified to in detail by both Greenglasses and by Gold. Though the petition is carefully drawn to obscure the fact that the truthfulness of the Greenglasses' testimony is being attacked, that this is so is further shown: (1) by petitioner's request that he be furnished with the pre-trial statements of Ruth Greenglass, David Greenglass and Harry Gold and (2) by the allegation of petitioner's attorney, William M. Kuntsler, on pages 5-6 of his affidavit of May 9, 1966 in support of that request that "the pitch of . . . [petitioner's] attack in his main motion is that their [Greenglasses and Gold's] trial testimony