F.O.I.A.

JULIUS ROSENBERG ET AL.

FILE DESCRIPTION

HQ FILE

SUBJECT

FILE NO. 65-58236

VOLUME NO. 28

SERIALS

1376 to

1460

NOTICE

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

File No: 65-58236 Section 28 Re: Julius Rosenberg Meerscheid V. Meese Date: 11/86 (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)
1376	12/11/52	Paris Let to HQ	1	0	1 pg referred - State R
1377	12/10/52	NY TT to HQ	1	1	b2, b7D
1378	12/11/52	NY TT to HQ	2	2	b2, b7D
1379	12/16/52	NY TT to HQ w/encl	1/2	1/2	
1380	12/29/52	NY Let to HQ w/encl	1/6	1/6	
1381	12/5/52	Third party Let to Horner	2	2	
1381	12/12/52	HQ Let to Third party	1	1	
1382	12/11/52	Jones Memo to Nichols	3	3	
1383	12/10/52	NY TT to HQ	1	1	
1384	12/19/52	NY TT to HQ	1	1	b2, b7D,
1385	12/12/52	NY TT to HQ	1	1	
1386	12/12/52	NY TT to HQ	2	2	

25 rev 24 rel 0 deny 1 ref 0 presumed 0 preproc

FBI/DOJ

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

(27)

File No: 65-58236 Section 28 Re: Julius Rosenberg, Morgan v. Morris Date: 11/66 (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)
1387	12/23/52	HQ Let to Asst. Atty Gen.	1	1	
1388	12/20/52	Belmont Memo to Ladd	4	4	
1389	12/19/52	Hennrich Memo to Belmont	2	2	
1390	12/20/52	Nichols Memo to Tolson	2	2	
1391	12/20/52	NY Let to HQ w/encl.	1/3	1/3	
1391	12/23/52	HQ Let to AEC	1	1	
1392	12/24/52	Belmont Memo to Ladd	1	1	
1393	1/6/53	NY Let to HQ w/encl	2/3	2/3	
1394	1/2/53	Hennrich Memo to Belmont	1	1	
1395	12/31/52	Hennrich Memo to Belmont	1	1	
1396	12/29/52	NY TT to HQ	4	4	
1397	1/5/53	Cleveland Memo to Belmont	1	1	
			27 new	27 rel	0 deny, 0 ref, 0 processed, 0 propose

FBI/DOJ

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

(3)

File No: 65-58236 Section 28 Re: Julius Rosenberg Meeropol v. Meese Date: 11/82 (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)
1398	12/23/52	NY TT to HQ	2	2	
1399	1/2/53	NY TT to HQ	9	9	
1399	1/3/53	HQ TT to NY	2	2	b1
1400	12/30/52	NY TT to HQ	12	12	
1401	1/5/53	NY TT to HQ	1	1	
1402	12/22/52	NY TT to HQ	1	1	
1403	12/29/52	Laddel Memo to Director	1	1	
1404		Let to HQ	1	0	1 w/H b1
1405	1/2/53	Hennrich Memo to Belmont	1	1	
1406	12/31/52	NY Let to HQ w/EBF	1/47	1/47	
1407	12/26/52	Third party Let to Hoover	1	1	b7C, b7D
1407	12/31/52	HQ Let to Third party	1	1	b7C
			80	79	1
			rev	rel	deny

0 ref 0 presumed 0 preproc.

FBI/DOJ

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

(8)

File No: 65-58236 Section 28 Re: Julius Rosenberg Meergel v. Meese Date: 11/86 (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)
1408	1/10/53	NY Let to HQ	1	1	
1409	1/9/53	HQ Let to Atty. Gen.	20	20	
1410	1/9/53	HQ Let to Atty Gen	2	2	
1411	1/2/53	NY Let to HQ w/FBI	1/24	1/24	
1412	1/3/53	NY TT to HQ	1	1	
1413	12/12/52	BROADCAST EXCERPTS FR Foreign RADIO	1	1	b2
1414	1/6/53	NY TT to HQ	1	1	
1415	1/7/53	Nichols Memo to Tolson	1	1	
1416	1/7/53	NY TT to HQ	1	1	b2, b7D
1417	1/9/53	PG Let to HQ - Lawl.	1/4	1/4	
1418	1/5/53	NY TT to HQ	2	2	
1419	12/31/52	NY TT to HQ	7	7	
			67	67	0 0 0 0
			rev	rel	deny ref presumed preproc

FBI/DOJ

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

(5)

File No: 65-58236 section 28 Re: Julius Rosenberg Meanwhile V. Meanwhile Date: 11/86 (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)
1420	1/5/53	Third party let to Hoover w/encl.	1/6	1/6	
1420	1/9/53	Hoover let to third party	1	1	
1421	1/9/53	Keay Memo to Belmont	2	0	2 ref to CIA - Return b1
1422	1/12/53	Keay Memo to Belmont w/encl.	1/6	1/6	b7C, b7D
1423	1/10/53	NY TT to HQ	1	1	b2, b7D
1424	1/10/53	NY TT to HQ	2	2	b2, b7D
1425	1/14/53	Asst. Atty. Gen. Let to HQ	1	1	
1425	1/14/53	HQ Let to Asst. Atty. Gen.	1	1	
1426		Charge out Form	1	1	
1427	1/9/53	Ladd Memo to Director	1	1	b1
1428	1/12/53	On Western Union to HQ	1	1	
1428	1/13/53	HQ Let to Third Party	1	1	
			26	24	0 2 0 0
			new	rel	deny ref presumed prepon

FBI/DOJ

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

(6)

File No: 65-58236 Section 29 Re: Julius Rosenberg, Morgan v. Mine Date: 11/86 (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)
1429	1/15/53	NY TT to HQ	1	1	
1429	1/19/53	HQ TT to NY	1	1	
1430	12/10/52	NY Let to HQ	1	1	
1431	1/16/53	Ottawa Let to HQ w/encl	2/3	2/3	
1432	12/11/52	w/enc Branigan Memo to Belmont	5/33	5/33	
1433	1/14/53	NY Let to HQ w/encl	1/9	1/9	
1434	1/16/53	Keay Memo to Belmont	1	1	b7C - FBI b3 - Natl Sec. Act 1947 - CIA
1435	1/9/53	Third Party Let to HQ w/encl	1/5	1/5	
1435	1/14/53	HQ Let to Third party	1	1	
1436		Third party Let to HQ w/encl.	1/7	1/7	
1436	1/14/53	HQ Let to Third party	1	1	
1437	1/15/53	NK TT to HQ	1	1	
			74	74	0 0 0 0
			rev	rel	deny ref presumed preprov

FBI/DOJ

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

(7)

File No: 65-58236 Section 28 Re: Julius Rosenberg, Morton U. Sobell Date: 11/88 (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)
1438	1/9/53	Nichols Memo to Tolson	1	1	
1439	1/7/53	NY TT to HQ	3	3	
1440	1/6/53	Third Party Let to HQ w/encl.	2/4	2/4	
1440	1/13/53	HQ Let to Third Party	1	1	
1441		USIS Feature	12	12	
1442		USIS Feature	4	4	b2
1443	1/9/53	BROADCAST EXCERPTS FR. FOREIGN RADIO	1	1	b2
1444	1/14/53	Todd Memo to Director	1	1	
1445	1/9/53	Rosen Memo to Todd	1	1	
1445	1/14/53	HQ Let to Asst. Atty. Gen	1	1	
1446	12/31/52	Asst. Atty. Gen. Let to HQ	—	1	Handled by D.R. Referral to DOJ (1)
1447	1/5/53	Third party Let to HQ	2	2	
			33	33	0 0 0 1
			rw	rel	deny ref presumed prepro

FBI/DOJ

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

(8)

File No: 65-58236 Section 28 Re: Julius Rosenberg Meeropol v. Meese Date: 11/86 (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)
1447	1/13/53	HQ Let to third party	1	1	
1448	1/21/53	LA Let to HQ	2	2	
1449	1/16/53	NY TT to HQ	1	1	b2 b7D
1450	1/7/53	Third party Let to HQ w/encl.	2/1	2/1	
1450	1/15/53	HQ Let to third party	1	1	
1451	1/21/53	NY Let to HQ w/encl	1/2	1/2	
1451	1/30/53	HQ Let to third Party	2	2	
1452	1/20/53	NY Let to HQ	1	1	
1453	1/16/53	Letrem to Memo to Branigan	1	1	
1454	1/20/53	NY TT to HQ	2	2	b7C, b7D
1454	1/22/53	HQ Let to Asst. Atty. Gen.	1	1	
1455	1/21/53	NY TT to HQ	2	2	b7C, b7D
			20 rev	20 rel	0 deny, 0 ref, 0 presumed, 0 preproc

FBI/DOJ

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

(4)

File No: 65-59236 Section 28 Re: Julius Rosenberg Moscropol V. Meese Date: 11/86 (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)
1456	1/22/53	NY TT to HQ	1	1	b2, b7D
1457	1/14/53	Third party Let to HQ w/encl.	1/2	1/2	
1457	1/19/53	HQ Let to Third Party	1	1	
1458	1/16/53	Hennrich Memo to Belmont	1	1	
1459	1/16/53	Paris Let to HQ	2	1	1 w/h b2, b7D
1460	1/26/53	Hennrich Memo to Belmont	1	1	

9 new, 8 rel, 1 deny, 0 ref, 0 presumed, 0 preproc

FBI/DOJ

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

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

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

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☐ 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.

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65-58236-1376

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XXXXXX
XXXXXX

FBI/DOJ

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

DEC 10 1952

TELETYPE

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

FBI NYC 12-10-52 10-53 PM TM

DIRECTOR URGENT

DAYLET. JULIUS ROSENBERG, ESP.DASH R. CONFIDENTIAL INFORMANT [redacted] ADVISED TODAY THAT INQUIRIES HAVE BEEN MADE OF EDITH ROSENBERG CONCERNING THE CLEMENCY TRAIN THAT IS GOING TO SING SING ON THE FOURTEENTH NEXT. AN UNKNOWN MAN ADVISED ROSENBERG THAT THEY HAD ABOUT FORTY PERSONS FROM BROOKLYN WHO WISHED TO MAKE THE TRIP BUT THEY PREFERRED TO DRIVE RATHER THAN GO BY TRAIN. C.I [redacted] ADVISED THAT A MEETING WAS HELD TODAY BY THE CRC. THE NCSJRC IS OPPOSED TO THE TRIP PLANNED FOR THE FOURTEENTH. AS A RESULT, THE TRIP MAY BE POSTPONED OR IT MIGHT BE CANCELLED. INFORMANT ADVISED THAT THE CP IS BRINGING PRESSURE ON THE COMMITTEE THAT THE TRIP SHOULD BE HELD. A MEETING IS SCHEDULED FOR THE PM, ELEVENTH NEXT WHEN A DECISION WILL BE MADE. RA AT WHITE PLAINS ADVISED OF FOREGOING.

RECORDED - 57 65 T 58236 BOARDMAN 1377

HOLD

DEC 19 1952

cc Mr Dooley

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HEREIN IS UNCLASSIFIED
DATE 10/21/78 BY 3040 PWT/lmw

LITREND

68 JAN 5 1952

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

DEC 11 1952

TELETYPE

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

FBI NYC 12-11-52 9-00 PM JCS

DIRECTOR URGENT

JULIUS ROSENBERG, ESP R. POLICE COOPERATION-DAYLET. CONF.

INFORMANTS [redacted] AND [redacted]

ADVISED TODAY THAT SCHEDULED TRIP TO SING SING ON DEC FOURTEEN NEXT HAS BEEN POSTPONED TO DEC TWENTY ONE NEXT. [redacted]

[redacted] ADVISED THAT WILLIAM PATTERSON OF CRC REQUESTED ALBERT KAHN OF CROTON ON HUDSON TO FIND A HALL IN OSSINING THAT CAN BE USED FOR A DISCUSSION AFTER THE DEMONSTRATION ON THE TWENTY FIRST. KAHN ADVISED THAT HE AND HARRY ANDERSON OF THE ALP WOULD ATTEMPT TO FIND SUCH A HALL. CONF INFORMANT [redacted] ADVISED THAT THERE WAS A DIFFERENCE OF OPINION BETWEEN THE CP AND THE CRC ON THE ONE SIDE AND THE NCSJRC ON THE OTHER. THIS IS A POLITICAL DIFFERENCE. NCSJRC BELIEVES IT WOULD NOT BE TO THEIR ADVANTAGE TO HAVE A DEMONSTRATION AT SING SING IN VIEW OF THE FUTURE APPLICATION TO PRESIDENT TRUMAN FOR CLEMENCY. CRC AND CP ARGUE THAT THERE WAS TO BE A LARGE DEMONSTRATION IN WASHINGTON, DC ON JAN FOUR NEXT AND A PRIOR DEMONSTRATION WOULD PROBABLY HAVE NO

END PAGE ONE

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60 JAN 6 1953

DEC 22 1952

PAGE TWO

b7D

ADVERSE EFFECT. [redacted] BELIEVES THAT POSTPONEMENT WAS A COMPROMISE. RA AT WHITE PLAINS AND COMMISSIONER MC GINNIS OF NY STATE DEPARTMENT OF CORRECTION ADVISED OF POSTPONEMENT. BUREAU WILL BE ADVISED OF DEVELOPMENTS.

BOARDMAN

HOLD PLS

cc. Mr. Dooley

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

NEW YORK, N.Y.
DEC. 16, 1952

Mr. Tolson
Mr. Clegg
Mr. Nichols
Mr. Belmont
Mr. Mohr
Mr. Gurnea
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

Transmit the following Teletype message to: BUREAU

DAYLET.

JULIUS ROSENBERG, ET AL, ESP-R. MR. C. R. VAN HORN, GENERAL PASSENGER AGENT, B & O RAILROAD, NYC, ADVISED THAT ABE WEISBERG AND AARON SCHNEIDER MADE A RESERVATION FOR ONE THOUSAND MEMBERS OF THE NATIONAL COMMITTEE TO SECURE JUSTICE IN THE ROSENBERG CASE TO GO TO WASHINGTON, D.C. ON SPECIAL COACH TRAINS OF B & O RR ON JAN. FOUR NEXT. THIS GROUP WILL LEAVE NYC AT SEVEN AM AND PART OF GROUP WILL RETURN FROM WASHINGTON AT TWELVE PM. SEVERAL HUNDRED WILL STAY OVER AND COME BACK FROM WASHINGTON ON THE NIGHT OF JAN. FIVE. WEISBERG AND SCHNEIDER IDENTIFY THEMSELVES AS BEING THE LABOR COMMITTEE TO SAVE THE ROSENBERGS, ADDRESS ONE ZERO FIVE ZERO SIXTH AVE, NYC. MR. VAN HORN RECD A CERTIFIED CHECK IN SUM OF TWO THOUSAND FIVE HUNDRED FORTYONE DOLLARS DRAWN TO ORDER OF B & O DATED DEC. FIFTEEN LAST, CHECK NO. SIX ZERO SEVEN DRAWN ON CHASE NATL BANK, TIMES SQUARE BRANCH ON ACCOUNT OF THE NATIONAL COMMITTEE TO SECURE JUSTICE IN THE ROSENBERG CASE AND SIGNED BY JOSEPH BRAINEN AND EMILY ALMAN. MR. VAN HORN MADE THIS CHECK AVAILABLE AND PHOTOSTATIC COPY OF SAME IS BEING FORWARDED HEREWITH TO BUREAU.

65-58236-1379

3 - Bureau (enc-1)
NY 65-15348
1 - NY 100-107111
JAH:DM

ENCLOSURE ATTACHED

J. L. R. & RECORDED - 32

INDEXED - 32

BOARDMAN

DEC 17 1952

USED IN DAYLET 12-24-52

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Approved: _____ Special Agent in Charge

Sent _____ M Per _____

53 JAN 6 1953

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DATE 7-28-86 BY 3042 Jwt-RJC

ENCLOSURE

65-58236-1379

1329

Enc to Bureau-1

NY 65-15348

NEW YORK Dec 15 1952 No. 607

THE CHASE NATIONAL BANK

OF THE CITY OF NEW YORK

TIMES SQUARE BRANCH

1-74
210

PAY TO THE ORDER OF Baltimore Ohio $ 2541 00

Twenty five hundred and forty one DOLLARS

National Committee to Secure Justice in the Rosenberg Case

CERTIFIED

THE CHASE NATIONAL BANK OF THE CITY OF NEW YORK TIMES SQUARE BRANCH

CHECK GENERALLY ENDORSED AND CANCELLED AT CLEARING HOUSE BY THE NEW YORK CLEARING HOUSE ASSOCIATION

ORIGINAL TERED SINCE ISSUANCE

DO NOT DESTROY

Emily Johnson

SEC. AND FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

DATE: 12/29/52

TO : Director, FBI

FROM : SAC, New York (65-15348)

SUBJECT: JULIUS ROSENBERG
ESPIONAGE - R

There is being forwarded herewith to the Bureau, Albany and Newark, respectively, copies of a letter forwarded to Judge IRVING R. KAUFMAN by ALBERT EINSTEIN of Princeton University and by HENRY LINSCHITZ, Associate Professor of Chemistry at Syracuse, University, NY.

It is noted that these letters request a commutation of sentence for the ROSENBERGS and further that Professor LINSCHITZ states that he was a research group leader at Los Alamos on the development of high explosive lenses. His position was similar to that of Dr. WALTER KOSKI, who testified in the trial for the ROSENBERGS.

This submitted for the information of the Bureau, Newark and Albany.

1-Newark (Enc. 1)
1-Albany (Enc. 1)

ENCS. 2

JAH:ABD

RECORDED-89
INDEXED-89
65-58236-1380
62 JAN 30 1953

ALL INFORMATION CONTAINED
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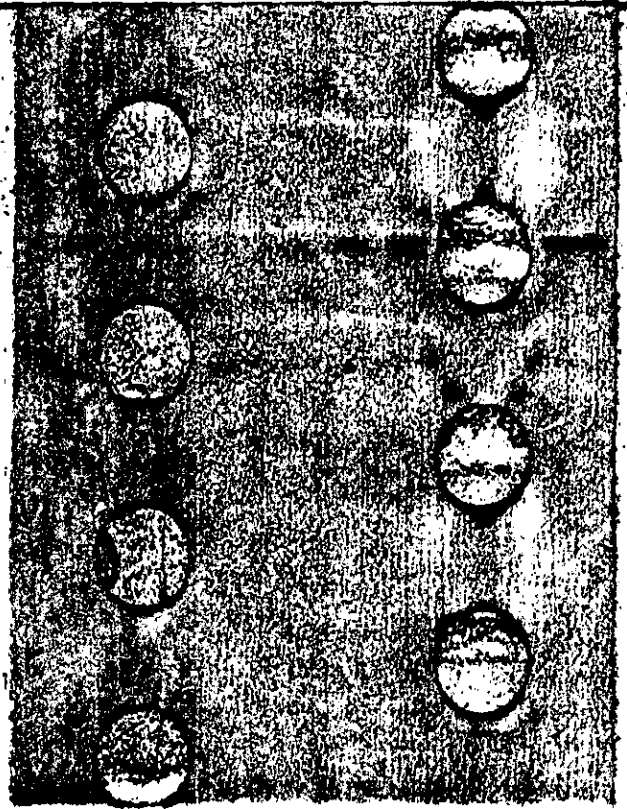
DATE 7/23/86 BY 3042 [illegible]

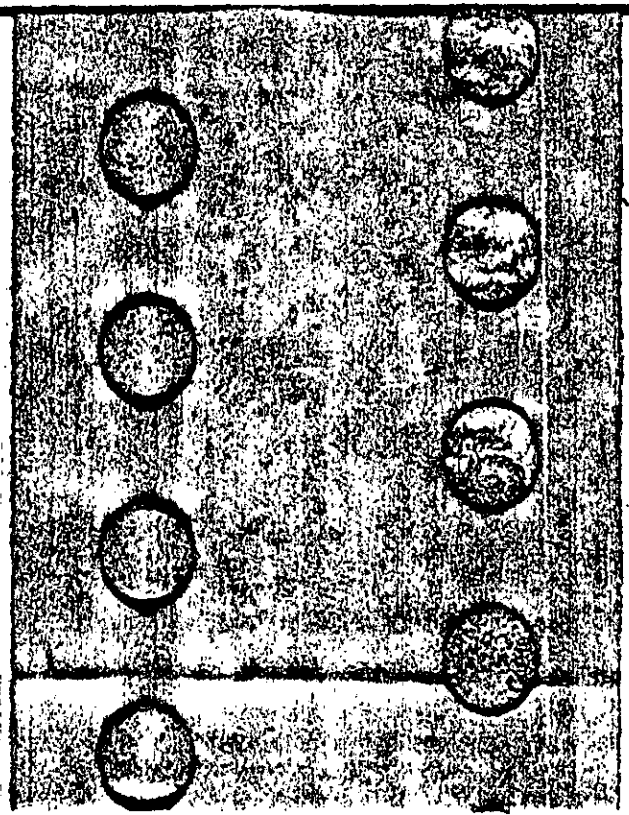
[redacted]

ENCLOSURE

Honorable Irving R.Kaufman
Judge of the U.S.District Court
Federal Building
Foley Square
New York N.Y.

REGISTERED
396972
RETURN RECEIPT





December 23,1952

Honrorable Irving R.Kaufman
Judge of the U.S.District Court
Federal Building
Foley Square
New York N.Y.

Dear Judge Kaufman:

I am writing to suggest that the death-sentence of Mr.and Mrs.Rosenberg be commuted to a less severe punishment, since my conscience compels me to do so. Nobody will ever learn from me that I have addressed this letter to you. Similarily, I have rigorously avoided to make any public statement concerning the Rosenberg case. The reason for this secrecy is my conviction that every effort should be made lest the desire to do justice and to act humanely be used for political purposes.

I am convinced that it would be a tragedy if the death-sentence would be executed. In making this statement I do not wish to challenge the jury's verdict as such, although I do want to mention that for anyone who was not present in court during the trial the guilt of the defendants was not established beyond any reasonable doubt.

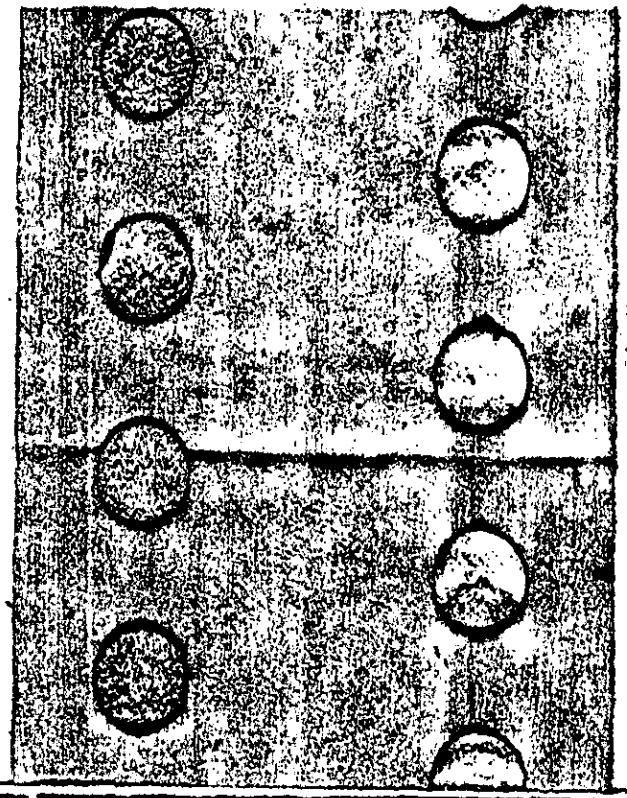
In any event, from all that has become known one must gain the conviction that the defendants could only have played a minor role in the transmission to a Soviet representative of the document prepared by Mr. Greenglass. This is why it would be incomprehensible if the Rosenbergs should be made to suffer a more severe punishment than Greenglass whose crime was confirmed by his own confession. It is also to be considered that not one of all the other persons who were found guilty of having betrayed information about atomic energy and who, no doubt, surrendered more important material than the incompetent Greenglass, was executed.

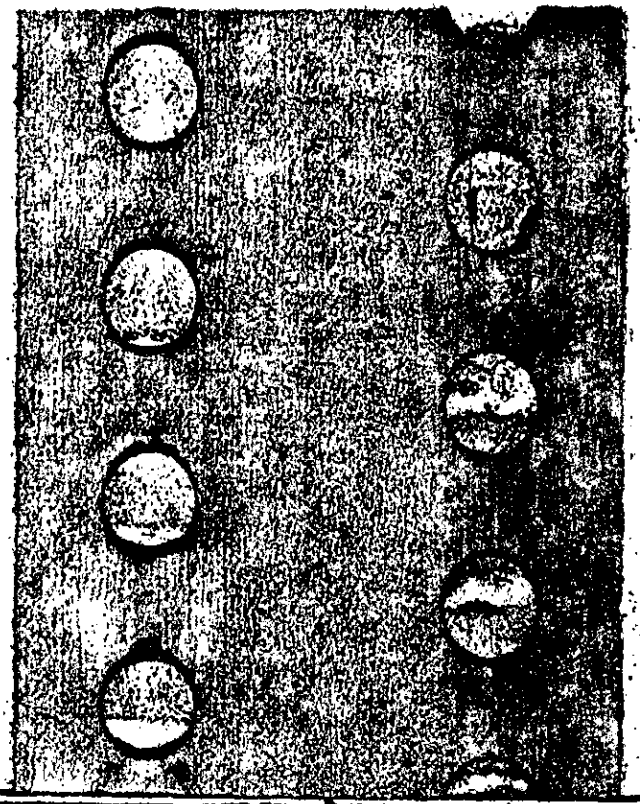
May I finally appeal to you as a fellow human being to use the authority given to you by law lest an irreparable action be taken.

Respectfully yours,

A. Einstein

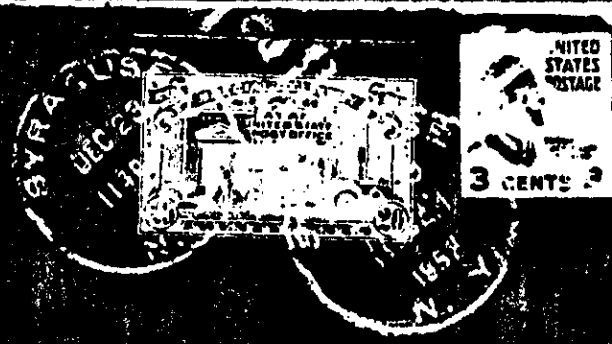
Albert Einstein.





Prof. Henry Linschitz
SYRACUSE UNIVERSITY
SYRACUSE 10, N. Y.

DEPARTMENT OF CHEMISTRY
BOWNE HALL



Judge Irving Kaufman
Federal Court Building
Foley Square
New York, New York

SPECIAL DELIVERY

SYRACUSE UNIVERSITY
SYRACUSE 10, NEW YORK

DEPARTMENT OF CHEMISTRY
BOWNE HALL

December 22, 1952

Judge Irving Kaufman
Federal Court Building
Foley Square
New York, New York

Dear Judge Kaufman:

During World War II I worked as a research Group Leader at Los Alamos on the development of high explosive lenses. My status on the project was similar to that of Dr. Walter Koski, who testified at the trial. I helped assemble the Nagasaki bomb as a member of the Atomic Bomb Field Group in the Marianas, in August, 1945. David Greenglass occasionally did jobs for my group in the shop. My interest in the Rosenberg case is in part due to my acquaintance with the facts disclosed and one of the individuals involved, in part to my reactions as a Jew, and finally, to my concern, as an American, that justice be administered by our American courts.

I believe that the death sentence should be commuted because:

1. There is good reason to doubt the credibility of the testimony given by David Greenglass. The evidence for this is first, my own personal impressions of his character and second, the fact that, with utter lack of concern for the truth, he denounced innocent people to the F.B.I. Presumably, this was due to his eagerness to be "co-operative". Commutation of the sentence, or even delay of the execution, will afford a chance to investigate further the credibility of this key witness.

2. The distressingly obvious fact that the defendants and confessed spies in this case are all Jews should not, on the other hand, cause a Jewish judge to lean over backward to expiate, in the eyes of the Christian world, the crimes of his co-religionists, or to avoid all possible criticism of partiality. If this attitude contributed at all to the severe sentence, moral courage and honesty requires that the sentence be modified.

3. One may be reasonably certain that if the Rosenbergs had been brought to trial in 1945, or if the foreign power involved had been any other than Russia, then the death sentence would not have been imposed. It thus appears that the severity of the sentence arises not from the crime itself, but out of the bitter international feelings that have developed since the crime was committed. These feelings have led to a climate of public opinion

December 22, 1952

in which it is all too easy to pass harsh judgments, and all too difficult to sustain a just sentence.

Of the various other aspects of the case, such as the enormous discrepancy between the treatment of Ethel Rosenberg and Ruth Greenglass, the opportunity for propaganda given to the Communists by making martyrs of the Rosenbergs, we need not here speak. I am concerned simply with the justice of the death penalty in this case.

I am fully aware, Judge Kaufman of the difficult and responsible position which your duties have placed you in. It is a sign of moral strength to rectify, if any doubt exists in your mind, the wrong done by this sentence. Please accept this letter in the spirit in which it is sent - as a request again to reconsider and weigh the factors involved. I hope you will see fit to commute the sentence while there is still time.

Sincerely yours

Henry Linschitz

Henry Linschitz
Associate Professor of
Chemistry

HL e

IBSTONE HO
IBSTONE,
Nr HIGH WYCOMBE.
BUCKS.

23732

JULIUS ROSENBERG

December 5, 1952.

9-1
CM

Dear Mr Hoover,

Mr Simperman of the American Embassy here in London has encouraged me to write to you, to ask if your office could kindly furnish me with some information.

I am writing an analysis of the Rosenberg trial for the London PICTURE POST. I have the transcript of the trial which has been sent out by the Defence Committee, and I am puzzled by certain elements in the case.

I wonder if I could possibly find out what Greenglass's pay was at the time he was at Los Alamos. I do not understand why he and his wife appeared to be in such need of money at that time, judging from the reports I have heard of the rates of pay on the Atomic Projects.

I am also puzzled by the finances of Rosenberg's various corporations. It seems to me indeed possible that he was running this business as a front, but if this were so and he had some money at his disposal, it is odd that he kept his brothers-in-law short of money to the point that so obviously aroused their enmity. But it occurs to me that perhaps Rosenberg had ceased to be useful to the Russians, and they had withdrawn their support. It would interest me greatly to know if there were any bank accounts traced which bear on this question.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 2-23-78 BY

RECORDED 65-58236-13

xmd
ack 12-12-52
RPL

memo to Nichols
12-11-52
RPL

DEC 29 1952

12

CRIME REC

I would be most grateful if I could be given any details of the cases of Vivian Glassman, Surant, and Joel Barra.

I should also like to know what justification there is for the statement of the Defence propagandists that the prosecution challenged all Jewish witnesses, for it seems to me from the names that this was not the case. Needless to say I would handle this matter carefully, for certainly there can be no justification for the charge of anti-Semitism in this case, considering the Judge.

Forgive me asking so many questions, but as Mr Simperman told me that you were kind to enquirers I have let my curiosity range. Please believe that I am not foolish enough to ask for anything but facts that have already been the subject of a general release.

I am,
Yours very sincerely,

Rebecca West

23791

December 12, 1952

RECORDED 2
65-58236-1381

AIR MAIL

Miss Rebecca West
Ibstone House
Ibstone
Turville Heath 310
Nr. High Wycombe
Buckingham, England

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-23-86 BY 3042

Dear Miss West:

I have received your letter of December 5, 1952, and I sincerely appreciate the interest which prompted your writing me.

Although I would like very much to be of assistance, in view of the fact that certain aspects of this case are still pending, I am precluded from being of service at this time.

Your request will be kept in mind, however, and when the situation becomes clarified it will be a pleasure to be of whatever assistance is possible.

Sincerely yours,

(s) J. Edgar Hoover
~~Mailed by the Director~~

cc - Legal Attache, London, England, with copy of incoming

cc - Foreign Liaison Desk

NOTE: Address per Reading Room, Ford Atlas, Webster's Geographical Dictionary.

HPL:grs:pa

SENT FROM D. C.
TIME PM
DATE 12-12-52
BY

78 JAN 16 1953 APPROVAL

STANDARD FORM NO. 64

Office M NMENT

TO : Mr. Nich

FROM : M. Jones

SEC RET

DATE: December 11, 1952

SUBJECT: REQUEST FOR INFORMATION REGARDING ROSENBERG CASE RECEIVED FROM REBECCA WEST

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE.

JULIUS ROSENBERG

SYNOPSIS:

By letter dated December 5, 1952, Rebecca West, well-known British novelist, requested certain data regarding the Rosenberg case explaining that she was not asking for any data that had not already been released. Miss West wanted this material for use in an analysis of the Rosenberg trial she is writing. Bufiles are generally favorable regarding Miss West. Recommendation is made that she be advised that appeal action is still pending in this case and that a review will be made of her request and, should public source material be available, her inquiries will be answered insofar as possible.

Classified by 3040 PWT/lmw
Declassify on: OADR 10/01/82

PURPOSE:

To recommend handling of letter from Miss West in which she sets forth a request for detailed data regarding various aspects of the Rosenberg trial.

DECLASSIFIED BY 3040 PWT/lmw
ON 11/1/88

BACKGROUND:

Rebecca West is a well-known British novelist, author of "The Meaning of Treason," and who has been characterized by Time magazine as one of the greatest of living journalists. Time magazine for December 8, 1952, contained a cover story regarding her literary works.

The New Yorker magazine in its June 14, 1947, issue carried an article captioned "A Reporter At Large" which relates to a lynching investigation conducted in Greenville, South Carolina, in 1947. This article is by Rebecca West, probably identical with correspondent, and its references to the FBI are generally favorable. However, the author indicates that statements taken by the FBI were "dubious material to bring before a jury" and indicates the case was mishandled. (94-3-4-230)

Attachment

HPL:grs

RECORDED - 2 65-58236-1382

INDEXED - 2

DEC 29 1952

Classified by 2355 WAB/DVN 10/7/75
Exempt from GDS, Category 2 & 3
Date of Declassification Indefinite

SEC RET

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436 NOV 9 1960

SECRET

Bufile 100-371420-20 reflects Miss West was interviewed on August 17, 1951, by the Legal Attache in London regarding the Marcia Davenport Espionage Investigation. Miss West was the original informant in this matter and she was very cooperative. This same file reflects that Miss West in 1951 was doing a book on the Hiss Case and also a book exposing Max Lowenthal as his book smearing the FBI had received favorable comment from the left-wingers in London. SECRET

Bufile 94-43040 reflects Miss West's American representative, called the Bureau regarding the disposition of the Slack Case. On 11-4-50 she was referred to the Department for information regarding the disposition of this case.

Bufile 100-371420 reflects that the Legal Attache in London described Miss West as emphatically opposed to Communism.

The only additional pertinent reference to Miss West is contained in Bufile 74-1333-4674. In 1949 a representative of "Coronet" magazine advised that his wife had met Miss West, that Miss West had told her that a Czech refugee had asked her (Miss West) to inform John Foster Dulles that Alger Hiss was known to him (Czech refugee) as a Communist. Miss West allegedly decided this was no affair of hers and did not report the matter.

With respect to Miss West's request for data, it should be borne in mind that the Joint Committee on Atomic Energy in April, 1951, made a release captioned "Soviet Atomic Espionage." This pamphlet contains excerpts from the testimony in the Rosenberg Case. For example, Miss West wants to know how much Greenglass was paid at Los Alamos. This pamphlet reflects he was a T4 in the army; however, this release does not contain pertinent data regarding Vivian Glassman, Surant, and Joel Barre about whom Miss West makes inquiries. Miss West probably has this AEC release as it contains an article by her printed originally in the New York Times on 3-4-51 and captioned "The Terrifying Import of the Fuchs Case."

It should be also borne in mind that the National Committee to defend the Rosenbergs has released the transcript of the testimony in this case.

SECRET

Memorandum to Mr. Nichols December 11, 1952

SECRET

RECOMMENDATION:

FOR APPROVAL

It is recommended that the attached letter be forwarded to Miss West in which she is informed that as the Rosenburg case is in appeal restrictions are imposed upon data which could be made available to her; however, that a review would be made of the details of her request and, should public source material be available, it would be forwarded to her in the near future.

OK.

SECRET

U.S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

DEC 10 1952

TELETYPE

FBI NYC 12-10-52 3-37 PM JLW

DIRECTOR URGENT

ATTENTION, INSPECTOR CARL HENNRICH

JULIUS ROSENBERG, WA, ETAL, ESP DASH R. AUSA JAMES KILSHEIMER, SDNY, ADVISED THAT HE HAD A TELEPHONIC CONVERSATION WITH CHIEF JUDGE THOMAS W. SWANN OF THE COURT OF APPEALS. KILSHEIMER ASKED JUDGE SWANN TO CONVENE A SPECIAL BENCH TO HEAR THE ROSENBERG APPEAL. JUDGE SWANN SUGGESTED TO KILSHEIMER THAT ON THE ELEVENTH NEXT, WHEN BLOCH MAKES APPLICATION FOR A STAY OF EXECUTION THAT KILSHEIMER SUGGEST TO THE COURT THAT THIS APPLICATION FOR A STAY NOT BE CONSIDERED UNTIL SUCH TIME AS JUDGE SWANN COULD CALL A SPECIAL BENCH TO HEAR THE APPEAL. JUDGE SWANN WILL BE IN THE COURT HOUSE ON THE MORNING OF THE ELEVENTH NEXT AND FURTHER APPLICATION WILL PROBABLY BE REFERRED TO HIM PERSONALLY.

BOARDMAN

END

3133 PM OK FBI WA RB

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-23-86 BY 3042 Pat-BFC

CC: MR. BELMONT
AND SUPERVISOR
DOM. INTEL. DIVISION

Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

RECORDED - 63 165-58236-1383
EX-112
DEC 12 1952

69 JAN 7 1953

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

DEC 19 1952

TELETYPE

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

FBI NYC 12-19-52 8-14 PM JCS

DIRECTOR URGENT

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7/28/86 BY 3042 Put DJC

JULIUS ROSENBERG, ETAL, ESP DASH R, POLICE COOPERATION. DAYLET. INSPECTOR HOGAN, NYCRR PD, ADVISED THAT MOLLY BROCK OF CRC PAID FOR FOUR HUNDRED EIGHTY TICKETS FOR QUOTE CLEMENCY TRAIN UNQUOTE FOR THE TWENTYFIRST NEXT. TRAIN WILL LEAVE LOWER LEVEL GRAND CENTRAL AT ELVEN THIRTY AM, ARRIVING OSSINING TWELVE SIXTEEN PM. A SMALL DESK WILL BE SET UP IN LOWER LEVEL OF GRAND CENTRAL TERMINAL AT TEN AM FOR THE SALE OF ADDITIONAL TICKETS UNTIL ELEVEN THIRTY AM. BROCK EXPECTS SIX HUNDRED TO MAKE THE TRIP. TRAIN WILL CONSIST OF EIGHT DASH TEN COACHES. CI [redacted] ADVISED THAT THE CRC PROPOSED THAT THE TRIP WOULD BE COMPLETELY PEACEFUL. THERE WOULD BE NO PARADES, NO BANNERS, NO PLACARDS, BUT THE DELEGATION WOULD BRING FLOWERS OF SYMPATHY TO LEAVE AT SING SING FOR THE ROSENBERGS. WARDEN OF SING SING, COMMISSIONER MC GINNIS, NY DEPT. OF CORRECTION AND RA AT WHITE PLAINS ADVISED. THE NATIONAL GUARDIAN, DEC EIGHTEEN, ON PAGE FOUR ANNOUNCES THAT THE LEASE OF THE NATIONAL GUARD ARMORY AT WASH., DC FOR JAN FOUR NEXT HAD BEEN CANCELLED. UNKNOWN WOMAN AT NCSJRC CONFIRMED CANCELLATION OF USE OF ARMORY AND ADVISED THAT NO DELEGATION WOULD GO TO WASHINGTON ON JAN FOUR BUT THAT A DELEGATION WOULD LEAVE NY FOR WASHINGTON ON JAN FIVE. NO TRAIN RESERVATION FOR THIS DATE HAS BEEN ARRANGED AS YET. UNKNOWN WOMAN ADVISED THAT A MEETING WOULD BE HELD IN WASHINGTON BUT THAT NO HALL HAS BEEN LEASED AS YET. BUREAU WILL BE ADVISED OF FURTHER DEVELOPMENTS.

b2
b7D

RECORDED 65-58236-1384

EX-101

DEC 24 1952

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

DEC 1 1952

TELETYPE

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

FBI NYC 12-12-52 12-07 PM JLW

DIRECTOR URGENT

JULIUS ROSENBERG, ESP-R. AUSA JAMES KILSHEIMER, SDNY, ADVISED THAT JUDGE THOMAS W. SWANN HAD NOTIFIED USA AND DEFENSE ATTORNEYS THAT A SPECIAL BENCH OF THE US CIRCUIT COURT OF APPEALS WILL SIT DECEMBER TWENTY TWO, FIFTY TWO TO DECIDE THE APPEAL OF DEFENDENTS MOTION FROM THE ORDER OF JUDGE RYAN. JUDGE SWANN HAS ALSO ADVISED DEFENSE COUNSEL THAT NO STAY OF EXECUTION WILL BE ORDERED BY THE COURT PENDING THIS HEARING, THAT IF THE DECISION OF THE COURT SUPPORTS THE GOVERNMENT, NO STAY OF EXECUTION WILL BE GRANTED TO THE DEFENSE. THIS SPECIAL BENCH WILL CONSIST OF JUDGES FRANK CHASE AND SWANN.

BOARDMAN

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-23-86 BY 3042 Put etc

END

12-08 PM OK FBI WA RD

65-58236-1385

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DEC 1 1952

DO: MR. BELMONT AND SUPERVISOR DOM. INTEL. DIVISION

EX-101

53 JAN 8 1953

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436 NOV 9 1960

OF INVESTIGATION
MENT OF JUSTICE
CATIONS SECTION

DEC 12 1952

TELETYPE

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Mr. Gandy

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-23-86 BY 3042 put/pc

FBI NYC 12-12-52 7-46 PM TM

DIRECTOR URGENT

JULIUS ROSENBERG, ET AL, ESP DASH R. AUSA KILSHEIMER ADVISES TODAY THAT CHIEF JUDGE SWAN USCCA STATED IN CHAMBERS HE HAS ORDERED SPECIAL BENCH CONSISTING OF JUDGES CHASE, FRANK, AND HIMSELF TO SIT ON DECEMBER TWENTYTWO , FIFTYTWO FOR PURPOSE OF HEARING APPEAL FROM JUDGE RYAN-S DECISION ON MOTION OF SECTION TWO TWO FIVE FIVE. HE STATED FURTHER THAT ATTEMPT WOULD BE MADE TO HAND DOWN DECISION IN SUFFICIENT TIME BEFORE WEEK OF JANUARY TWELVE, FIFTYTHREE, TO PRECLUDE THE NECESSITY OF STAYING OF ROSENBERGS EXECUTION PENDING CCA APPEAL. JUDGE SWAN TELEPHONICALLY ADVISED EMANUEL H. BLOCH ABOVE INFO AND BLOCH MADE ORAL APPLICATION FOR ACTION BY JUDGE SWAN ON HIS ORDER TO SHOW CAUSE FOR A STAY THAT BLOCH SUBMITTED TO CCA ON THE ELEVENTH LAST. JUDGE SWAN DENIED THIS APPLICATION AND TOLD BLOCH THAT THERE IS NO NECESSITY FOR A STAY NOW AND ADVISED HIM THAT IF THE ORDER OF JUDGE RYAN WAS AFFIRMED ON APPEAL THAT NO STAY WOULD BE GRANTED. JUDGE SWAN DIRECTED THE CLERK OF THE COURT OF APPEALS TO RETURN TO BLOCH HIS PETITION AND ORDER TO SHOW CAUSE FOR A STAY. ARRANGEMENTS BEING MADE BY CLERK TO CONSOLIDATE APPEAL OF ROSENBERG WITH

RECORDED-84 65-58236-1386

DEC 24 1952

53 JAN 8 1953 339

COPIES DESTROYED - 101

17

cc Branigan NOV 9 1960

SOBELL AS REQUESTED BY SOBELL COUNCIL ON HEARING BEFORE JUDGE RYAN. WILLIAM CARROLL, USM, ADVISED THAT HE HAD A TENATIVE APPOINTMENT TO GO TO WASHINGTON ON THE SEVENTEENTH NEXT, TO MAKE FINAL ARRANGEMENTS CONCERNING THE EXECUTION OF THE ROSENBERGS. HE ADVISED THAT THIS APPOINTMENT WAS CONCELLED AND THAT JAMES V. BENNETT, DIRECTOR OF BUREAU OF PRISONS, TELEPHONICALLY TOLD CARROLL THAT HE WAS COMING TO NEW YORK ON THE SEVENTEENTH, NEXT, AND REQUESTED CARROLL TO ACCOMPANY HIM TO SING SING TO SEE TO FINAL ARRANGEMENTS IN THE PRISON. CARROLL STATED THAT HIS QUESTIONS AS TO WHO WOULD STAY THE EXECUTION IN THE EVENT THE ROSENBERGS CARED TO TALK HAVE NOT BEEN ANSWERED AND THAT HE INTENDS IN THE NEAR FUTURE TO BRING UP THESE QUESTIONS AGAIN WITH THE DEPARTMENT. BUREAU WILL BE ADVISED OF FURTHER DEVELOPMENTS.

BOARDMAN

HOLD PLS

Assistant Attorney General
Charles B. Murray
Director, FBI

December 23, 1952

CONFIDENTIAL

JULIUS ROSENBERG, et al
ESPIONAGE - R

DECLASSIFIED BY 3042PWT/lmb
ON 10/21/86

Enclosed herewith is a Photostat of a letter received by Judge Irving Kaufman of the Southern District of New York from Professor Harold C. Urey of the University of Chicago, a world-renowned nuclear physicist, wherein Urey urges clemency for the Rosenbergs.

Professor Urey is presently a consultant to the Argonne National Laboratory, an Atomic Energy Commission facility, and a consultant to the Carbide and Carbon Chemical Corporation, a prime contractor with the Atomic Energy Commission. Urey was formerly a member or an affiliate of a number of Communist dominated organizations. He claims to have analyzed the Rosenbergs' trial record and is most critical of the evidence upon which the Rosenbergs were convicted.

It is noted that Urey sent a copy of this letter to Emanuel H. Bloch, attorney for the Rosenbergs.

Judge Kaufman has advised that he is not answerin Urey's letter.

The above is for your information.

Enclosure

G L R-8

65-58236-1387

RECORDED - 55

EX-113

DEC 29 1952
137

APL:brg

69 JAN 7 1953

Office Memorandum UNITED STATES GOVERNMENT

TO : MR. D. M. LADD

DATE: December 20, 1952

FROM : A. H. BELMONT

SUBJECT: JULIUS ROSENBERG, et al
ESPIONAGE - R

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-23-86 BY 3642 pwt-DJS

On the morning of December 20, 1952, ASAC Whelan called from New York to advise that Judge Irving Kaufman, who passed sentence on the Rosenbergs, had called to advise that he received a letter from Professor Harold Urey of the University of Chicago. In this letter, Urey analyzed the testimony given at the trial of the Rosenbergs and criticized the testimony. Urey sent a copy of the letter to Defense Attorney Bloch. Judge Kaufman said he is not going to answer Urey's letter. Mr. Whelan is getting a copy of the letter for the Bureau's information.

Subsequently, Special Agent Linehan of the New York Office called and read the letter as follows:

"The University of Chicago
Chicago 37, Illinois
Institute for Nuclear Studies
December 16, 1952

"Judge Irving Kaufman
Federal Building, Foley Square
New York, New York

I. R. -8

Dear Judge Kaufman:

"I am writing to urge you to change the sentence of death imposed on Ethel and Julius Rosenberg to a lesser punishment. I have read the testimony given at the trial, and though I have no legal experience in matters of this kind, my competence is comparable to that of the jurors and the great public who are concerned about this matter.

"My reaction to the testimony is as follows: (1) The testimony of Max Elitcher was not entirely credible to me. He did not

AHB:mcn

RECORDED-12

INDEXED-12

65-58236-1388

67 JAN 9 1953

implicate the Rosenbergs of his own knowledge. He says that they talked about espionage but never transferred any information for some five years. (2) No certain connection with espionage involving Sobell and the Rosenbergs is established. Elitcher does not know that Sobell actually delivered secret documents to Rosenberg. No other connection is suggested. (3) The connections to others than David and Ruth Greenglass are not established. Could not Miss Bentley's informer have used 'This is Harold' instead of 'This is Julius,' and then might not I have been on trial? She was unable to identify her Julius with Julius Rosenberg. If this Julius did not refer to him in this case, it probably did not when Harry Gold said, 'I come from Julius.' Gold apparently knew nothing of Rosenberg at all. It seems incredible to me that the name of the arch spy should be used in an identification code. No contact between the Rosenbergs and Anatoli A. Yakovlev is established. (5) The Government's case rests on the testimony of David and Ruth Greenglass, and this was flatly contradicted by Ethel and Julius Rosenberg. I found the testimony of the Rosenbergs more believable than that of the Greenglasses. Is it customary for spies to be paid in console tables and wrist watches? Gold, Greenglass, and Fuchs were paid in cash. Again, do spies talk about their activities with college friends and relatives? Gold and Fuchs did not. Does Julius Rosenberg appear to be a man who would spend $50 or $75 a night in Manhattan night clubs? Not to me. Would the master spy want Rosenberg throwing money about recklessly and thus making himself obviously and unaccountably rich to associates? He appears to have been as poor as a church mouse and would be quite out of character in an expensive night club. Evidently the jury and court believed David and Ruth Greenglass, and of course they had the advantage of listening to them directly.

"However, accepting the verdict as correct, I am amazed and completely outraged by the unequal punishment which has been given. For the same crime Ruth Greenglass is never brought to trial though she admitted her guilt under oath; David Greenglass gets fifteen years' imprisonment; Morton Sobell and Harry Gold get thirty years' imprisonment; and Ethel and Julius Rosenberg get death. Only the last two took the witness stand and maintained that they are innocent, and they were convicted on testimony which I do not believe is conclusive beyond a reasonable doubt. If we are going to begin

to give the death penalty for espionage, I should like to have it introduced in a case in which the court is certain. There is the consideration that helping the prosecution justifies lower sentences, but in spite of this, I find the disparity of sentences most unjust.

"We are engaged in a cold war in which the loyalty and approval of the good people of the world are important objectives. I believe the Rosenbergs are or have been Communists or very sympathetic to Communist ideas. I regard such people as unreliable generally, but I do not believe in punishing people unless they commit crimes. Would it not be embarrassing in this general situation if, after execution of the Rosenbergs, it could be shown that the United States had executed two innocent people and let a guilty one go free; and, of course, somewhere there is a representative of the U.S.S.R., probably Yakovlev, who knows the answer with certainty.

"I strongly urge a careful reconsideration of this sentence.

"Very sincerely yours,

(signed)

"Harold C. Urey - Summ ok

"CC: E. H. Bloch, for his use only in connection with an appeal on this point."

The New York Office is Photostating the letter and sending it to the Bureau. A copy will be sent to the Department for its information.

As you will recall, Dr. Urey is a prominent scientist who has won the Nobel Prize and other honors and who was in the upper echelon of scientists connected with development of the atomic bomb. An Atomic Energy Applicant investigation in 1947, and a loyalty investigation in March, 1952, were conducted concerning him. Investigation reflected that immediately after World War II Dr. Urey believed in international control of Atomic Energy, that many of his views coincided with Communist Party policies and that he was affiliated with numerous Communist front organizations.

According to associates, he later became convinced that Russia did not desire world peace and that he had been duped by the front organizations and he thereafter became openly anti-Communist. For this he was strongly criticized by the Daily Worker. Inasmuch as he continues to be employed as a consultant at atomic energy installations, and since he may be a security risk, his status is being followed and checked every six months. (116-18315; 121-34744)

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. A. H. BELMONT

DATE: December 19, 1952

FROM : C. E. HENRICH

SUBJECT: JULIUS ROSENBERG
ETHEL ROSENBERG
ESPIONAGE - R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-23-86 BY 3042 Pwt-RTC

Mr. Ray Whearty called from the Department on the evening of December 19, 1952. He referred to the Bureau's letter of December 2, 1952, concerning arrangements being considered by the Department as to action in the event either of the Rosenbergs indicated a desire to "talk" just prior to their executions which will occur on January 12, 1952. Whearty pointed out that the Bureau's letter had indicated that we would have Agents available if interviews appear warranted and "you authorize the same."

Whearty stated that Mr. James Bennett, Director of the Bureau of Prisons, has been conferring with the Department concerning various problems in connection with these executions. He stated that there are a number of inconsistencies between the State and Federal regulations in this regard. He said that one of the problems they are trying to resolve is that of communications to and from Sing Sing. He said he understands that there are no communications to and from Sing Sing for a certain period just prior to executions, but that he did not know specifically all of the facts in this regard but that these would be determined. He further stated that so far as the Department can determine at the moment any stay of execution, should the Rosenbergs indicate a desire to "talk" just prior to the time of execution, would have to be in the form of an order from either Judge Kaufman or the President of the United States. He indicated that the Department might consider asking Judge Kaufman to be available within communication range so that he could be consulted.

Mr. Whearty stated that he wanted to be sure of the Bureau's feeling in connection with a possible interview with the Rosenbergs and whether there was reluctance on the part of the Bureau to have Agents present at the execution.

I told Mr. Whearty that I saw no reason for Agents to be present at the execution. I told him that should the Rosenbergs indicate a desire to "talk" that a Bureau Agent would conduct an interview with them if the Department felt such an interview was desired under the immediate circumstances.

RECORDED-120 65-58236-1389

CEH:fjb

JAN 2 1953

79 JAN 8 - 1953

With reference to his question as to where the Agents would be available, I told him that the Agents would be available within the scope of existing communication facilities. I told him that when the Department has determined these facts and made known its desires to the Bureau we will advise as to the action we will take. Whearty stated that he just wanted to know what the Bureau's position was in going forth with the Department's plans since if there was any reluctance on the part of the Bureau to conduct interviews with the Rosenbergs at the "last hour" the Department could make arrangements for a Department representative to handle such interviews. I told him this would be unnecessary.

ACTION:

For your information.

After discussing this matter with the Director, I called Ernst and told him I had mentioned the matter to the Director and we were agreed here that we frankly were not in a position to give him any advice. He then wondered who he could talk to and I told him we simply were not in a position to advise him, that we did not know and could not under any circumstances become involved.

STANDARD FORM NO. 64

Office Memorandum · UNITED STATES GOVERNMENT

TO : MR. TOLSON

DATE: December 20, 1952

FROM : L. B. Nichols

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-23-86 BY 3042 Put-DEC

SUBJECT: JULIUS AND ETHEL ROSENBERG

Tolson
Ladd
Nichols
Belmont
Clegg
Glavin
Harbo
Rosen
Tracy
Laughlin
Mohr
Winterrowd
Tele. Rm.
Holloman
Gandy

For record purposes, Morris Ernst called me on the afternoon of December 19, stating that Rosenberg's two sisters and brother had been to see him on two occasions. They want him to intersede in the Rosenberg case. They have represented to him that Rosenberg's attorney, Bloch, was not only agreeable, but wanted Ernst to take the case over at this point.

Ernst stated he would be interested on only one ground, namely, that he could make some contribution; that he knows the Russians have dropped the German warfare propaganda all together and their whole propaganda approach, not only in Russia, but this country as well, is going to save the Rosenbergs; that he is convinced if Rosenberg breaks and tells all he knows, this would be a terrific story and probably would be most helpful to the Bureau; that he is considering seeing Bloch and agreeing to get in on the case, on one condition, that he see Rosenberg with Bloch once, and then talk to Rosenberg privately, at which time he will give his final decision as to whether he will enter the case; that he realizes it is a 100 to one shot; that he is interested from a psychological standpoint. For example, all the members of the family who have seen Rosenberg say that Rosenberg insists he is innocent, that his sentence was the result of a frameup and he is hysterical, but never once does he mention Communism; that he, Ernst, is convinced that if Rosenberg made a complete confession, this would save their lives, but that he did not want to contact Rosenberg or get into this case unless this was agreeable and he also wanted to have as much information as possible on the Rosenbergs to aid him in talking to them.

I told Morris I seriously doubted whether we could give him any advice as the case was now out of our hands and Rosenberg was awaiting sentence of the court. I told Ernst I would like to think it over and would call him back.

cc: Mr. Ladd
Mr. Belmont

INDEXED-37

65-58236-4390

RECORDED-37

LBN:MP

JAN 8 1953

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Director, FBI

DATE: 12/20/52

FROM : SAC, New York (65-15348)

SUBJECT: JULIUS ROSENBERG
ESPIONAGE - R

Confirming SA JOHN P. LINEHAN's conversation with Assistant Director BELMONT of this date, there is being submitted herewith two photostatic copies of a letter received by Judge IRVING KAUFMAN from HAROLD C. UREY, which information was telephonically furnished to the Bureau.

ILLINOIS

Enc. (2) - (enclosure to Dept 12/31/52 Ltr)

1 - NY (100-37158)

REGISTERED

EXPEDITE PROCESSING

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-23-86 BY 3042 Pwt-Dfe

EX-101

2 ENCL

RECORDED - 9
INDEXED - 9

65-58236-1391

DEC 31 1952

EX-107

JPW:FJC

ENCLOSURE TO BUREAU [illegible]
NEW YORK FILE 65-15[illegible]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-23-86 BY 3042 [illegible]

65-58836-139

ENCLOSURE

THE UNIVERSITY OF CHICAGO
CHICAGO 37 · ILLINOIS
INSTITUTE FOR NUCLEAR STUDIES

December 16, 1952

Judge Irving Kaufman
Federal Building
Foley Square
New York, N. Y.

Dear Judge Kaufman:

I am writing to urge you to change the sentence of death imposed on Ethel and Julius Rosenberg to a lesser punishment. I have read the testimony given at the trial, and though I have no legal experience in matters of this kind my competence is comparable to that of the jurors and the great public who are concerned about this matter.

My reaction to the testimony is as follows: (1) The testimony of Max Elitcher was not entirely credible to me. He did not implicate the Rosenbergs of his own knowledge. He says they talked about espionage but never transferred any information for some five years. (2) No certain connection with espionage involving Sobell and the Rosenbergs is established. Elitcher does not know that Sobell actually delivered secret documents to Rosenberg. No other connection is suggested. (3) The connections to others than David and Ruth Greenglass are not established. Could not Miss Bentley's informer have used "This is Harold" instead of "This is Julius," and then might not I have been on trial? She was unable to identify her "Julius" with Julius Rosenberg. If this "Julius" did not refer to him in this case, it probably did not when Harry Gold said, "I come from Julius." Gold apparently knew nothing of Rosenberg at all. It seems incredible to me that the name of the arch spy should be used in an identification code. (4) No contact between the Rosenbergs and Anatoli A. Yakovlev is established. (5) The government's case rests on the testimony of David and Ruth Greenglass, and this was flatly contradicted by Ethel and Julius Rosenberg. I found the testimony of the Rosenbergs more believable than that of the Greenglasses. Is it customary for spies to be paid in console tables and wrist watches? Gold, Greenglass, and Fuchs were paid in cash. Again, do spies talk about their activities with college friends and relatives? Gold and Fuchs did not. Does Julius Rosenberg appear to be a man who would spend $50 or $75 a night in Manhattan night clubs? Not to me. Would the master spy want

Rosenberg throwing money about recklessly and thus making himself obviously and unaccountably rich to associates? He appears to have been as poor as a churchmouse, and would be quite out of character in an expensive night club. Evidently the jury and Court believed David and Ruth Greenglass, and of course they had the advantage of listening to them directly.

However, accepting the verdict as correct, I am amazed and completely outraged by the unequal punishment which has been given. For the same crime Ruth Greenglass is never brought to trial though she admitted her guilt under oath; David Greenglass gets 15 years imprisonment; Morton Sobell and Harry Gold get 30 years imprisonment; and Ethel and Julius Rosenberg get death. Only the last two took the witness stand and maintained that they are innocent, and they were convicted on testimony which I do not believe is conclusive beyond a reasonable doubt. If we are going to begin to give the death penalty for espionage, I should like to have it introduced in a case in which the guilt is certain. There is the consideration that helping the prosecution justifies lower sentences, but in spite of this I find the disparity of sentences most unjust.

We are engaged in a cold war in which the loyalty and approval of the good people of the world are important objectives. I believe the Rosenbergs are or have been Communists or very sympathetic to Communist ideas. I regard such people as unreliable generally, but I do not believe in punishing people unless they commit crimes. Would it not be embarrassing in this general situation if after execution of the Rosenbergs it could be shown that the United States had executed two innocent people and let a guilty one go free. And, of course, somewhere there is a representative of the U.S.S.R., probably Yakovlev, who knows the answer with certainty.

I strongly urge a careful reconsideration of this sentence.

Very sincerely yours,

Harold C. Urey

Harold C. Urey

cc: E.H.Bloch, for his use only in connection with an appeal on this point.

EX - 107

65-58236-1391

RECORDED - 9

CONFIDENTIAL
BY SPECIAL MESSENGER

Date: December 23, 1952

To: Captain John A. Waters
Director of Security
Atomic Energy Commission
Room 805B
333 Third Street, Northwest
Washington, D. C.

From: John Edgar Hoover, Director
Federal Bureau of Investigation

Subject: JULIUS ROSENBERG, et al
ESPIONAGE - R

DECLASSIFIED BY 3042PWT/1MW
ON 10/21/82

This Bureau has been recently advised by Federal Judge Irving Kaufman, who presided at the Rosenberg trial, that he is in receipt of a letter from Professor Harold C. Urey of the University of Chicago wherein Urey urges clemency for the Rosenbergs.

It is our understanding that Professor Urey is presently a consultant to the Argonne National Laboratory, an Atomic Energy Commission facility, and a consultant to the Carbide and Carbon Chemical Corporation, a prime contractor with the Atomic Energy Commission. Urey claims to have analyzed the Rosenbergs' trial record and is most critical of the evidence upon which the Rosenbergs were convicted. He further indicated in his letter that he sent a copy thereof to Emanuel H. Bloch, attorney for the Rosenbergs, for his use in connection with an appeal.

Judge Kaufman has advised that he is not answering Urey's letter. The above is for your confidential information. It is requested that it be given no further dissemination.

APL:brg

BY SPL. MSGR.
16 DEC 24
COMM - FBI

53 JAN 12 1953

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : D. M. Ladd

DATE: December 24, 1952

FROM : A. H. Belmont

SUBJECT: JULIUS ROSENBERG, et al
ESPIONAGE - R

Supervisor Tom McAndrews called from New York at 11:00 A.M., on December 23, 1952, to advise that Judge Kaufman had last night received the family of Julius Rosenberg, namely, Mrs. Rosenberg, the mother; David Rosenberg, brother; and sisters, Lena Cohen and Ethel Goldberg. They made a moving plea for clemency for the Rosenbergs. They became hysterical. Judge Kaufman was considerably upset but told them that the subjects had been found guilty by a jury and under the circumstances, he could not have done anything but sentence them to death. During the conversation he told the family that any time that Julius and Ethel wanted to avoid execution they could tell their full story and he would see that clemency was afforded. The family insisted that Julius and Ethel were innocent and the interview was closed at that point.

McAndrews advised that Judge Kaufman attempted to call the Director today but was advised that he was out of town. He did not desire to talk to anyone else. McAndrews surmised that the purpose of the call to the Director was to advise of this plea by the family and to get moral support from the Director. McAndrews said that the Judge is still firm and is going to maintain his present stand but apparently feels in the need of some moral support.

This is for your information.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-23-86 BY 3042 fwt

AHB:eme

RECORDED - 96 165-58236-1392

EX-130 13 DEC 30 1952

62 JAN 12 1953

FD-36 (REVISED FORM NO. 84)

Office Memorandum • UNITED STATES GOVERNMENT

DATE: 1/6/53

TO : Director, FBI (65-58236)

FROM : SAC, New York (65-15348)

SUBJECT: JULIUS ROSENBERG, ET AL
ESPIONAGE
Ethel Rosenberg

Forwarded herewith for the info of the Bureau is a copy of an order signed today by Judge IRVING R. KAUFMAN and consented to by EMANUEL H. BLOCH, attorney for the ROSENBERGS and MYLES J. LANE, USA.

The Bureau is advised that when BLOCH examined this order this morning, he objected to it in form, particularly to condition number two. After a conference with Judge KAUFMAN and AUSA KILSHEIMER, BLOCH still refused to consent to this order and went before the Circuit Court of Appeals for clarification.

He objected to the form of the order on the ground that if he consented to it, there was a possibility that it could be construed that he had abandoned his right to appeal to the Supreme Court for certiorari. He based this contention on the fact that the Pardon Attorney of the Department had advised that no Application for Clemency would be processed while any proceeding was pending in the courts. He further objected on the ground that if President TRUMAN did not act on the Petition for Clemency, it was possible that President-elect EISENHOWER also might fail to act on the Petition until such date that BLOCH'S time to appeal to the Supreme Court had expired.

He construes his time to appeal to the Supreme Court under the Section 2255, proceeding to be 90 days. Since such proceeding has been considered a civil proceeding rather than a criminal proceeding in the latter case, his time is limited to 30 days.

Judge KAUFMAN'S reason for inserting condition number two was that he did not intend to give BLOCH a stay under which he could prosecute his appeal to the Supreme Court.

ENCLO. ATTACHED

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-23-86 BY 3042 pmt-pdc

SPECIAL DELIVERY

RECORDED-84 65-58236-1393

JAN. 7 1953

EX-112

Enc. (1)

JAH:MAC

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After some discussion in the Circuit Court of Appeals, Chief Judge THOMAS W. SWAN stated that "it would not be the understanding of this court that you have abandoned your right to petition the Supreme Court for a Writ of Certiorari".

After the hearing, BLOCH advised the reporters that if the President did not act on his Petition for Clemency within twenty days, he would then proceed with his Petition for Cert. to the Supreme Court. He further stated that if the President acted unfavorably on his Petition for Clemency, he would then return to the Circuit Court, obtain a stay and then apply to the Supreme Court for Cert.

Arrangements have been made to secure for the Bureau copies of the papers to be submitted by the United States Attorney to the Pardon Attorney.

ENCLOSURES TO BUREAU (1)
Bureau File 65-58236
New York File 65-15348

INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-23-86 BY 3042 pwt-Dc

ENCLOSURE

65-58236-1393

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- - - -

JBK:mgl/c

affidavit of counsel for the defendants be filed with the Clerk of this Court attesting that a petition for Executive clemency has been duly filed for submission to the President; and

2. The instant stay is to be granted for the sole purpose of permitting the President to pass upon the defendants' plea for Executive clemency and if any action be taken or legal proceeding be instituted, the effect of which is to cause delay in or interference with the expeditious processing of the said application for Executive clemency, or its submission to or determination by the President, the stay shall be vacated; and

3. That such stay as herein granted will expire five days after the determination by the President upon the petition for Executive clemency, and the Court may make such further order as will carry out the sentences originally imposed or take such other action as would be appropriate in the light of the President's determination, or this order.

Dated: New York, N.Y. January 6, 1953.

U. S. D. J.

The foregoing order is consented to.

SAMUEL H. BLOCK
Attorney for Julius Rosenberg
and Ethel Rosenberg

WILLIS J. LONG,
United States Attorney for the
Southern District of New York

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. A. H. BELMONT

DATE: January 2, 1953

FROM : MR. C. E. HENNRICH

SUBJECT: JULIUS ROSENBERG
ETHEL ROSENBERG
MORTON SOBELL
ESPIONAGE - R

Supervisor Tom McAndrews of the New York Office advised at 12:45 p.m., January 2, 1953, that this morning Emanuel Block, attorney for the Rosenbergs, had called Mr. Lyons, Pardon Attorney of the Department of Justice, and had asked whether a petition could be made for executive clemency before final appeal in the Rosenberg case is taken, stating he intended to appeal the decision of the Circuit Court of Appeals by applying for a writ of certiorari to the U. S. Supreme Court. The U. S. Attorney's office, which furnished the above information, indicated that no definite answer was furnished by Mr. Lyons.

The USA's office has indicated that Block has stated he will serve papers today (1/2) on the USA in connection with a motion for a stay of execution of the Rosenbergs, pending an appeal from the Circuit Court decision.

The USA's office has also stated that Judge Kaufman has indicated he will grant a stay of execution for the purpose of a petition for executive clemency, but will not grant such a stay for an appeal.

The Circuit Court of Appeals today (1/2) denied a second petition of Morton Sobell for a rehearing on a petition to vacate the judgment.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-23-86 BY 3042 pwt-DSC

ACTION:

For your information.

CEH:LL

INDEXED - 93

RECORDED-131

65-58236-1394

JAN. 5 1953

12

JAN 14 1953

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. A. H. BELMONT

DATE: December 31, 1952

FROM : MR. C. E. HENNRICH

SUBJECT: JULIUS ROSENBERG
ETHEL ROSENBERG
ESPIONAGE - R

Tolson
Ladd
Nichols
Belmont
Clegg
Glavin
Harbo
Rosen
Tracy
Mohr
Tele. Rm.
Nease
Gandy

Supervisor Tom McAndrews called from New York at 2:45 p.m. today (December 31). He advised information had just been received that the Circuit Court of Appeals was filing an opinion this afternoon affirming the opinion of Judge Ryan denying the motion by the defense for a stay of execution for the Rosenbergs.

ACTION:

For your information.

CEH:LL

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-23-86 3042 pwt-DTG

RECORDED - 66

65-58236-1395

53 JAN 13 1953

FD-86

AIR-TE

OF

Un. DEPARTMENT OF JUSTICE

NEW YORK
12/29/52

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

Transmit the following Teletype message to: BUREAU

JULIUS ROSENBERG, ET AL; ESPIONAGE - R. EMANUEL BLOCH SUBMITTED ON USA A SEVENTEEN PAGE AFFIDAVIT SIGNED BY JULIUS AND ETHEL ROSENBERG IN THEIR MOTION TO BE HEARD ON DECEMBER THIRTY, 1952 BY JUDGE IRVING R. KAUFMAN. THIS MOTION IS FOR A REDUCTION OF SENTENCE UNDER RULE THIRTYFIVE OF THE FEDERAL RULES OF CRIMINAL PROCEDURE. THE AFFIDAVIT STATES THE FAMILY RELATIONSHIP OF JULIUS AND ETHEL AND ASSERTS THAT THEY ARE INNOCENT. IT REFERS TO THE NEWSPAPER PUBLICITY, CHARGES OF COMMUNISM RECITED IN THE PRESS, AND THE DIFFICULTY OF THE JURORS IN COMING TO A FAIR CONCLUSION. IT STATES THAT THE GOVERNMENT CASE RESTED ON DAVID GREENGLASS AND RUTH, HIS WIFE, AND REFERS TO DAVID AS A "CAIN" AND TO RUTH AS THE "SERPENT", AND CLAIMS THAT THEY BARGAINED AWAY LIVES OF THE DEFENDANTS FOR THEIR OWN LIVES. THE AFFIDAVIT ATTACKS DAVID'S ABILITY AS A MECHANIC AND STATES "WE KNOW DAVID TO BE, EVEN AS A SIMPLE MACHINIST, INCOMPETENT AND OTHERWISE A SCIENTIFIC ILLITERATE." THE AFFIDAVIT REFERS TO THE TESTIMONY OF BEN SCHNEIDER REFERRING TO THE FACT THAT HE TESTIFIED FALSELY ABOUT WHEN WAS THE LAST TIME THAT HE HAD SEEN THE ROSENBERGS.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-22-86 BY 3042 pwt

(3) - Bureau (AIR MAIL)

RECORDED - 53 65-58236-1396

EX-107 12 DEC 30 1952

JAH:FJC ((#6)
NY 65-15348

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

COPIES DESTROYED
436 NOV 9 1960

8 JAN 13 1953

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

PAGE TWO

THE AFFIDAVIT REFERS TO THE REMARKS MADE BY THE COURT WHEN IT SENTENCED THE ROSENBERGS, AND IT REFERS TO THE "REPORT ON SOVIET ATOMIC ESPIONAGE DISTRIBUTED BY THE JOINT COMMITTEE ON ATOMIC ESPIONAGE THROUGH THE EIGHTY SECOND CONGRESS." THIS REPORT RATED FUCHS, MAY, AND GREENGLASS (ALONG WITH BRITISH BRUNO PONTECORVO) AS THE ONLY IMPORTANT ATOMIC ESPIONAGE AGENTS AND SUPPORTED THE ROSENBERGS TO MINOR PLAGUE. THE AFFIDAVIT ALSO REFERS TO THE "OPA PAUL YEARS" SUBMITTED BY THE HOUSE COMMITTEE ON UN-AMERICAN ACTIVITIES. THE AFFIDAVIT REFERRED TO STATEMENTS MADE BY THE COURT IN THE SENTENCE WHEREIN THE COURT STATED "I BELIEVE YOUR CONDUCT IN PUTTING INTO THE HANDS OF THE RUSSIANS THE A BOMB YEARS BEFORE OUR BEST SCIENTISTS PREDICTED RUSSIA WOULD PERFECT THE BOMB, HAS ALREADY CAUSED, IN MY OPINION, THE COMMUNIST AGGRESSION IN KOREA, WITH THE RESULTANT CASUALTIES EXCEEDING FIFTY THOUSAND AND WHO KNOWS, BUT THAT MILLIONS MORE OF INNOCENT PEOPLE MAY PAY THE PRICE OF YOUR TREASON. INDEED, BY YOUR BETRAYAL, YOU UNDOUBTEDLY HAVE ALTERED THE COURSE OF HISTORY TO THE DISADVANTAGE OF OUR COUNTRY." THE AFFIDAVIT CHARGES THAT IN THIS STATEMENT THE COURT ARRIVED AT IT UNJUSTLY AND AGGRAVATED, ASSURED OF THE IMPORTANCE AND CONSEQUENCES OF THE ROSENBERGS ALLEGED CRIME. THEY CLAIMED THAT THE CONCLUSIONS

Approved:_____ Sent_____M Per_____

Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

OF JUDGE KAUFMAN DO NOT SQUARE WITH THE FACTS OF SCIENCE OR WITH EXPERT RECITATIONS OR THAT THE MATERIAL TRANSMITTED COULD HAVE BEEN OF ANY SUBSTANTIAL VALUE TO THE SOVIET UNION. THE AFFIDAVIT REFERS TO THE PRISON SENTENCES MEATED OUT TO DAVID GREENGLASS, HARRY GOLD, ALLAN NUNN MAY, AND TO THE FACTS THAT THE SENTENCES PASSED UPON THE ROSENBERGS WERE NOT MANDATORY. THE AFFIDAVIT REFERS TO THE FACT THAT THE SENTENCE OF DEATH WAS IN THE DISCRETION OF THE JUDGE, AND THAT IT WAS NOT IN ACCORD WITH THE ABOVE SENTENCES OF PRISON TERMS. IT STATES "THIS SHOCKING DEPARTURE FROM THE AMERICAN TRADITION AGAINST VENGEFUL PUNISHMENT AND THE INVERSE DISPARITY BETWEEN THESE SENTENCES AND THE PUNISHMENT MEATED OUT TO OTHERS, ACCORDING TO THE GOVERNMENT, MORE CULPABLE, IS THE MARK OF A PROPER EXERCISE OF THE SENTENCE POWER. TO ATTACK FOR THE REDUCTION OF THIS SENTENCE, THEREFORE, IS TO ATTACK FOR JUSTICE, NOT FOR CHARITY NOR FOR MERCY." IT CONTINUES: "NOR IS IT IN THE INTERESTS OF THE AMERICAN PEOPLE TO SUBSTITUTE FOR THE DISDAINED 'THUMB SCREWS' AND 'THE RACK', THE COERCIVE POWER OF SENTENCES BEYOND THAT JUSTIFIED BY THE NATURE OF THE ALLEGED CRIMINAL ACT, TO SECURE 'COOPERATION' WHICH CANNOT, IN TRUTH AND GOOD CONSCIENCE, BE FORTHCOMING. AMERICAN PEOPLE WOULD BE FOREVER SHAMED IN THEIR OWN EYES AND IN THE EYES OF THE WORLD IF THE FORCES OF LAW ASSUMED

Approved:_____ Sent_____M Per_____

Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

PAGE FOUR

TO COERCION TO ABANDON THEIR TRADITIONAL INDEPENDENCE OF MIND AND FORTHRIGHT SPIRIT." SUBMITTED TO AUSA KILSHEIMER WERE ABOUT TWO HUNDRED COPIES OF LETTERS ADDRESSED TO EMANUEL BLOCH AND THE NATIONAL COMMITTEE TO SECURE JUSTICE IN THE ROSENBERG CASE FROM INDIVIDUALS ALL OVER THE US AND ABROAD. THESE LETTERS REFERRED TO LETTERS SUBMITTED BY BLOCH AND TO PORTIONS OF THE TRIAL TRANSCRIPT, WHICH HAVE BEEN FORWARDED IN BLOCH'S LETTER. ALL OF THESE LETTERS ASSERT THAT THE SENTENCE IS EXCESSIVE AND TRUST THAT THE SENTENCE WILL BE REDUCED. WHEN AVAILABLE, PHOTOSTATIC COPIES OF THE AFFIDAVITS AND LETTERS WILL BE SECURED AND COPIES WILL BE SUBMITTED TO THE BUREAU. THE BUREAU WILL BE ADVISED OF THE ARGUMENTS IN COURT ON THE THIRTIETH, AND OF JUDGE KAUFMAN'S DECISION.

BOARDMAN

cc Mr Belmont

Approved:_____ Sent_____M Per_____

Special Agent in Charge

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. A. H. BELMONT

DATE: January 5, 1953

FROM : MR. W. V. CLEVELAND

SUBJECT: JULIUS ROSENBERG
ETHEL ROSENBERG
ESPIONAGE - R

At 1:10 p.m., January 5, Supervisor Tom McAndrews of the NYO telephonically advised that Judge Kaufman, Southern District of New York, has granted a stay of execution of the Rosenbergs, provided that within five days from today (1/5) Emanuel Bloch, defense attorney, files an affidavit with the Clerk of the District Court declaring that his papers and petition for executive clemency have been filed with the Clerk of the District Court in New York and with the Pardon Attorney in the Justice Department. This stay of executive will expire five days after a determination by the President of the petition for executive clemency.

ACTION: None. The above is for your information.

WVC:LL

cc-Mr. Nichols

G.I.R.-8

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RECORDED - 79 65-58236-1397

JAN 6 1953

12

87 JAN 14 1953

INVESTIGATION
T OF JUSTICE
SECTION

DEC 23 1952

TELETYPE

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

FBI NYC 12-23-52 6-49 JCS

DIRECTOR URGENT

G.I.R. 6

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-23-86 BY 3042

INDEXED

JULIUS ROSENBERG, ESP DASH R. DAYLET. AUSA KILSHEIMER ADVISED TODAY THAT BLOCK, ATTORNEY FOR ROSENBERGS, WILL MAKE A MOTION RETURNABLE THE THIRTIETH NEXT BEFORE JUDGE KAUFMAN FOR REDUCTION OF SENTENCE. BLOCK ADVISED KILSHEIMER THAT HIS MOTION WOULD BE BASED ON THE FOLLOWING GROUNDS, ONE, THAT THE SENTENCE OF DEATH IS EXCESSIVE IN VIEW OF THE SENTENCES IMPOSED UPON KLAUS FUCHS, ALLAN NUNN MAY, AXIS SALLY, TOKYO ROSE, DAVID GREENGLASS, ETECTERA. TWO, THAT JULIUS ROSENBERG DID NOT PLAY A PRINCIPAL ROLE IN THE ESP NETWORK AS ALLEGED BY JUDGE KAUFMAN. THREE, THAT HE WAS NOT RESPONSIBLE FOR THE KOREAN WAR. FOUR, THAT NOTHING SUBSTANTIAL WAS GIVEN BY THE ROSENBERGS TO THE RUSSIANS. FIVE, THAT ATTACHED TO THE PAPERS WILL BE STATEMENTS BY MANY PROMINENT PEOPLE ASKING FOR A REDUCTION OF SENTENCE. KILSHEIMER ADVISED THAT THE BASIS FOR POINT TWO IS THE REPORT OF THE COMMITTEE ON ATOMIC ENERGY WHICH LISTS KLAUS FUCHS AND DAVID GREENGLASS AS THE PRINCIPAL ESP AGENTS. KILSHEIMER HAS ASKED THE DEPARTMENT FOR ITS OPINION IN OPPOSING THE MOTION FOR REDUCTION OF SENTENCE AND HAS ASKED THE DEPARTMENT TO FURNISH HIM WITH THE NAMES OF ALL PEOPLE RECENTLY CONVICTED OF ESP AND TREASON AND TO STATE THE SENTENCES IMPOSED AND WHETHER OR NOT

65-58236-1398

67 JAN 14 1953 RECORDED-8 JAN 7 1953

END PAGE ONE INDEXED-8 21

USED IN DAYLET 12-31-52

THE PEOPLE COOPERATED. MR. VAN HORN OF THE B AND O RR ADVISED THAT THE PREVIOUS RESERVATIONS FOR A TRAIN TO WASHINGTON ON JAN. FOUR NEXT HAVE BEEN CHANGED TO JAN. FIVE. THE TRAIN WILL LEAVE LIBERTY ST. STATION, NYC, AT SIX FORTYFIVE AM AND WILL ARRIVE WASH., DC ABOUT ELEVEN NAUGHT FIVE AM. AARON SCHNEIDER OF THE NCSJRC WILL ADVISE MR. VAN HORN WHETHER THE CONTINGENT OF SEVEN HUNDRED FIFTY TO ONE THOUSAND PERSONS EXPECTED TO GO TO WASHINGTON WILL RETURN AT SEVEN OR TEN PM ON JAN FIVE. MR. EFFLER, CHASE NATIONAL BANK, TIMES SQUARE BRANCH, ADVISED THAT A NO ACCOUNT WAS OPENED TODAY UNDER THE TITLE, EMERGENCY COMMITTEE OF ARTS AND PROFESSIONS TO SECURE CLEMENCY FOR THE ROSENBERGS. THE ACCCOUNT WAS OPENDED BY A ONE THOUSAND DOLLAR CHECK OF BERNARD GERSTEN DRAWN OF THE AMALGAMATED BANK. THE PRINCIPALS OF THIS COMMITTEE ARE ADOLF C. GLASSGOLD, CHAIRMAN, JOAN ISSERMAN, TREASURER, AND BERNARD GERSTEN, SECRETARY. BUREAU WILL BE ADVISED OF DEVELOPMENTS.

BOARDMAN

END

HOLD PLS

6-55 PM OK FBI WA MFC

cc: Mr Belmont
Mr. Baumgardner
Mr. Dooley

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

JAN 2 1953

TELETYPE

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

FBI NYC 1-2-53 10-08 PM TM

DIRECTOR URGENT

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 7-23-86 BY 3042 put-DTC

JULIUS ROSENBERG, ET AL, ESPIONAGE - R. JUDGE IRVING R. KAUFMAN TODAY FILED A TWENTYTHREE PAGE OPINION DENYING THE APPLICATION OF JULIUS AND ETHEL ROSENBERG FOR A REDUCTION OF SENTENCE UNDER RULE THIRTYFIVE OF THE RULES OF CRIMINAL PROCEDURE. THE OPINION REVIEWS THE VARIOUS PROCEEDINGS HAD IN THE COURT OF APPEALS AND THE SUPREME COURT ON THE ORIGINAL CONVICTION AND THE APPLICATION UNDER SECTION TWO TWO FIVE FIVE. THE OPINION STATES, "IN RESPONSE TO THIS APPLICATION I HAVE NOT ONLY HEARD COUNSEL AT GREAT LENGTH AND STUDIED THE DEFENDANTS PETITION BUT HAVE ALSO RESTUDIED THE VOLUMINOUS RECORDS OF THE TRIAL AND REFRESHED MY RECOLLECTION OF THE DEMEANOR OF THE WITNESSES. REEXAMINING THE QUESTION DE NOVO, I AM AGAIN COMPELLED TO CONCLUDE THAT THE DEFENDANTS- GUILT AS FOUND BY THE UNANIMOUS VERDICT OF THE JURY WAS ESTABLISHED BEYOND DOUBT." THE OPINION NOTES THAT CHARGES OF PERJURY HAD BEEN MADE AGAINST GOVERNMENT WITNESSES AND THAT THE JURY AND JUDGE RYAN HAD DECIDED TO THE CONTRARY, AND JUDGE KAUFMAN NOTES THAT HE BELIEVES THE WITNESSES TOLD THE TRUTH. THE OPINION THEN NOTED THAT THE ONLY QUESTION TO BE DECIDED WAS WHETHER THE SENTENCES

END OF PAGE ONE RECORDED - 22 JAN 6 1953

65-58236-1399

EX-130

SHOULD BE REDUCED. THE JUDGE STATED THAT AT THE TIME OF THE ORIGINAL SENTENCE HE HAD DAYS OF DELIBERATION AND SINCE THAT TIME HAS HAD TWENTYONE MONTHS TO RECONSIDER, TO REEXAMINE THE RECORD, TO MEDITATE AND SEARCH HIS CONSCIENCE. THE JUDGE STATES IT WOULD INDEED BE SIMPLE AND LESS TRYING UPON THE COURT WERE HE TO DISPOSE OF THE ROSENBERGS-APPLICATION BY THE REDUCING THE SENTENCES. HE STATED THAT HE HAD A SOLEMN TRUST PLACED IN HIS HANDS BY THE PEOPLE AND WAS CONVINCED THAT ANY CHANGE OF THE SENTENCES BY HIM WOULD BE A VIOLATION OF THE TRUST. THE OPINION STATES, "DEVOTION TO DUTY AND JUSTICE MUST PREVAIL OVER ACTION WHICH COULD BE ATTRIBUTABLE ONLY TO THE EMOTIONS." HE NOTES THAT THE ROSENBERGS WERE ON THE TOP RUNG OF THE CONSPIRACY AND HAD CONTACT WITH THE RUSSIANS, DISBURSED FUNDS AND RECRUITED OTHERS. HE NOTES HOW THROUGHOUT HISTORY THE CRIMES OF TRAITORS WERE MOST ABHORRED. THE OPINION STATES, "THE MURDERER KILLS ONLY HIS VICTIM WHILE THE TRAITOR VIOLATES ALL THE MEMBERS OF HIS SOCIETY, ALL THE MEMBERS OF THE GROUP TO WHICH HE OWES HIS ALLEGIANCE." HE THEN TAKES UP THE LETTERS HE HAD RECEIVED URGING JUDICIAL CLEMENCY AND NOTES THAT "THE OVERWHELMING PREPONDERANCE OF WHICH ARE IN RESPONSE TO A SELF-SERVING SOLICITATION BY COUNSEL FOR THE ROSENBERGS." SOME OF THESE LETTERS CHARGED THAT THE SENTENCES WERE UNPRECEDENTED FOR PEACETIME ESPIONAGE. THE OPINION STATED, "I HASTEN TO CORRECT THIS MISAPPREHENSION AND EMPHASIZE, THEREFORE, THAT THE SENTENCES WERE NOT IMPOSED FOR PEACETIME ESPIONAGE BUT

FOR WARTIME ESPIONAGE." THE OPINION THEN NOTES HOW SEVERAL GERMAN SPIES HAD BEEN EXECUTED AFTER A MILITARY TRIAL IN NINETEEN FORTYTWO. HE THEN NOTES THE FACT THAT RUSSIA WAS OUR ALLY IN NINETEEN FORTYFOUR AND NINETEEN FORTYFIVE AND THE COURT IN IMPOSING SENTENCE WAS USING HINDSIGHT, AND NOTES THAT CONGRESS DID NOT DISTINGUISH BETWEEN A FRIENDLY OR AN ENEMY COUNTRY IN PRESCRIBING PUNISHMENTS FOR ACTS OF ESPIONAGE. THE LAW WAS INTENDED TO PROTECT AND TO KEEP INVIOLATE OUR MILITARY SECRETS FROM ALL FOREIGN POSERS. THE OPINION STATES, "OUR LEADERS, CHARGED WITH THE RESPONSIBILITY OF MAKING THE DECISION TO GIVE TO OR WITHHOLD SECURITY INFORMATION FROM A FOREIGN POWER, HAVE DETERMINED TO WITHHOLD FROM THIS TOTALITARIAN GOVERNMENT INFORMATION CONCERNING THE MOST DEADLY WEAPON KNOWN TO MAN, A WEAPON WHICH GAVE AMERICA SUPERIORITY IN MILITARY WEAPONS. SHOULD THE ROSENBERGS WITH THEIR DEDICATION TO SOVIET RUSSIA HAVE BEEN FREE TO OVERRIDE THE DECISION OF OUR GOVERNMENT ON THIS CRUCIAL MATTER. SHOULD ANY INDIVIDUAL HAVE SUCH A RIGHT REGARDLESS OF THE COUNTRY HE INTENDS TO BENEFIT. THE ANSWER IS SELF-EVIDENT." THE COURT NOTES THAT THE CONTENTION THAT RUSSIA WAS OUR ALLY IN NINETEEN FORTYFOUR AND NINETEEN FORTYFIVE "EVAPORATES IN THE FACE OF EVIDENCE THAT THEIR ACTS OF ESPIONAGE DID NOT CEASE UPON THE TERMINATION OF HOSTILITIES BUT CONTINUED AND INTENSIFIED IN THE POSTWAR YEARS WHEN IT WAS APPARENT THAT RUSSIA HAD BECOME HOSTILE TO THE UNITED STATES. FURTHERMORE, "NO ONE WAS MORE AWARE THAN THE DEFENDANTS OF THE TRUE NATURE OF AN ALLY WHICH WOULD TAKE THESE FURTIVE STEPS TO SET UP AN EXTENSIVE ESPIONAGE NETWORK IN OUR COUNTRY TO STEAL OUR MOST VITAL SECRETS. EVEN AS THE SOVIET UNION TOOK ALL OUR HELP AND DEMANDED MORE WHILE WE WERE BATTLING A COMMON ENEMY, THEY WERE

STEALTHILY PICKING OUR POCKETS OF OUR MOST SECRET ATOMIC DATA. WHAT RIGHT HAVE THESE DEFENDANTS NOW TO CRY "RUSSIA WAS OUR ALLY" WHEN THEY WERE THE VERY ONES CAUGHT WITH THEIR HANDS IN OUR POCKETS TRYING TO FILCH FROM OUR OWN COUNTRY THIS WEAPON WHICH, WERE ITS SECRETS INVIOLATE, MIGHT HAVE BEEN CRUCIAL IN MAINTAINING PEACE IN THE POSTWAR WORLD. IT IS APPARENT THAT RUSSIA WAS CONSCIOUS OF THE FACT THAT THE UNITED STATES HAD THE ONE WEAPON WHICH GAVE IT MILITARY SUPERIORITY AND THAT, AT ANY PRICE, IT HAD TO WREST THAT SUPERIORITY FROM THE UNITED STATES BY STEALING THE SECRET INFORMATION CONCERNING THAT WEAPON. THE TRAGEDY OF IT IS THAT IT WAS SUCCESSFUL." THE OPINION THEN TAKES UP THE FACT THAT THE JUDGE HAD IMPOSED A LESSER SENTENCE ON DAVID GREENGLASS AND NOTES THAT THE DEGREE OF IMPLICATION OF EACH CONSPIRATOR AND HIS SUBSEQUENT AID TO THE GOVERNMENT IN FERRETING OUR CO-CONSPIRATORS MUST BE CONSIDERED. JULIUS AND ETHEL ROSENBERG WERE THE PRIME MOVERS IN THIS CONSPIRACY, INTO WHICH THEY SUCKED DAVID & RUTH GREENGLASS, AND THE OPINION NOTES THE COOPERATION OF THE GREENGLASSES AND STATES THAT THE ROSENBERGS HAVE NOT TALKED AND "THEIR LIPS HAVE REMAINED SEALED AND THEY PREFER THE GLORY WHICH THE BELIEVE WILL BE THEIRS BY THE MARTYRDOM WHICH WILL BE BESTOWED UPON THEM BY THOSE WHO ENLISTED THEM IN THIS DIABOLICAL CONSPIRACY /AND WHO, INDEED, DESIRE THEM TO REMAIN SILENT/." THE OPINION NOTES THAT HARRY GOLD RECEIVED THIRTY YEARS AND KLAUS FUCHS

END OF PAGE FOUR

RECEIVED FOURTEEN YEARS. THE OPINION THEN NOTES THAT THE ROSENBERGS WERE BORN, REARED AND EDUCATED IN AMERICA AND HAD ALL THE ADVANTAGES OF OUR AMERICAN CITIZENSHIP AND "THEY CHOSE THE PATH OF TRAITORS AND DECIDED TO ABANDON THOSE WHO HAD NURTURED AND FED THEM IN FAVOR OF A NATION WHOSE IDEOLOGY WAS REPUGNANT TO EVERYTHING WE HAVE LEARNED, LIVED FOR AND TO WHICH WE HAVE BEEN DEDICATED. THEY KNEW WELL THAT THE STAKES WERE HIGH AND THE CONSEQUENCES OF FAILURE WERE DIRE. THIS COURT HAS NO DOUBT BUT THAT IF THE ROSENBERGS WERE EVER TO ATTAIN THEIR FREEDOM THEY WOULD CONTINUE IN THEIR DEEP-SEATED DEVOTION AND ALLEGIANCE TO SOVIET RUSSIA, A DEVOTION WHICH HAS CAUSED THEM TO CHOOSE MARTYRDOM AND TO KEEP THEIR LIPS SEALED. THE DEFENDANTS, STILL DEFIANT, ASSERT THAT THEY SEEK JUSTICE, NOT MERCY. WHAT THEY SEEK THEY HAVE ATTAINED. DESPITE THIS I MUST NEVERTHELESS CONSIDER WHETHER THEY ARE DESERVING OF MERCY. WHILE I AM DEEPLY MOVED BY CONSIDERATIONS OF PARENTHOOD AND WHILE I FIND DEATH IN ANY FORM HEARTRENDING, I HAVE A RESPONSIBILITY TO METE OUT JUSTICE IN A MANNER DICTATED "BY THE STATUTES AND THE INTERESTS OF OUR COUNTRY. MY PERSONAL FEELINGS OR PREFERENCES MUST BE PUSHED ASIDE FOR MY PRIME OBLIGATION IS TO SOCIETY AND TO AMERICAN INSTITUTIONS. THE FAMILIES OF THESE DEFENDANTS ARE VICTIMS OF THEIR INFAMY BUT I AM MINDFUL THAT COUNTLESS OTHER AMERICANS MAY ALSO BE

VICTIMS OF THAT INFAMY. THE DEFENDANTS WERE NOT MOVED BY ANY CONSIDERATION FOR THEIR FAMILIES AND THEIR CHILDREN IN COMMITTING THEIR CRIMES, BUT HAVE URGED SUCH CONSIDERATION UPON THE COURT, IN ORDER TO MAKE DIFFICULT AN ALREADY TRYING TASK. IN CONSIDERING MERCY I AM REMINDED OF THIS PASSAGE FROM MARY ANN EVANS-/GEORGE ELIOT/, ROMOLA, III EIGHTEEN SIXTHTHREE- "THERE IS A MERCY WHICH IS WEAKNESS, AND EVEN TREASON AGAINST THE COMMON GOOD." MR. JUSTICE CARDOZO POINTED OUT, "BUT JUSTICE, THOUGH DUE TO THE ACCUSED IS DUE TO THE ACCUSOR ALSO."" THE OPINION THEN NOTES THAT THE FORFEITURE OF THE LIFE OF A SPY WILL SERVE AS AN EXAMPLE TO THOSE WHO MAY THEREAFTER BE TEMPTED TO COMMIT SIMILAR ACTS AND STATES, "THIS IS VITAL IN THE WORLD IN WHICH WE LIVE, INFILTRATED AS WE ARE BY THE HOMEGROWN AND FOREIGN VARIETY OF SPIES, WHICH ARE AND WILL BE A CONTINUING THREAT TO OUR SECURITY SO LONG AS A FOREIGN NATION PROVIDES INCENTIVE FOR THIS SPYING. ON THIS SCORE I BELIEVE MY WORDS AT THE SENTENCING ARE STILL APPROPRIATE, "OUR NATIONAL SECURITY IS MORE IMPOSTANT THAN ANY PERSONAL FEELINGS THAT I MIGHT HAVE ON THE SUBJECT AND IT IS MORE IMPORTANT, I THINK, THAN THE PUNISHMENT OF ANY SINGLE INDIVIDUAL."" THE OPINION THEN NOTES THAT FORCES ARE ATTEMPTING TO USE THE CASE TO FAN ANTI-AMERICAN FIRES AND STATES THAT THE COURT HAD NOT CONSIDERED THE INTERNATIONAL CONSEQUENCES OF THE SOVIET PROPAGANDA CONCERNING THE SENTENCES, AND NOTES IT IS POSSIBLE THAT THE FALSE CHARACTERIZATIONS OF THE TRIAL MIGHT SUPPLY GRIST TO THE

CORR LINE ELEVEN WDXXX LAST WD SHLD BE " LIVE "

END OF PAGE SIX

MILLS TO POISON THE MINDS OF THE PEOPLES OF THE WORLD. THE OPINION NOTES THAT THE COURT IS NOT EQUIPPED TO APPRAISE THE EFFECTIVENESS OF SUCH PROPAGANDA NOR IS IT A MATTER FOR THE JUDICIAL TO CONSIDER, BUT THAT SUCH QUESTIONS "MERIT CAREFUL CONSIDERATION BUT THEY ARE PROPERLY ADDRESSED TO THE EXECUTIVE DEPARTMENT. THE PRESIDENT IS VESTED WITH THE POWER TO SPEAK AND LISTEN AS THE REPRESENTATIVE OF THIS NATION. HE IS ALSO VESTED WITH POWER TO GRANT REPRIEVES AND PARDONS FOR OFFENSES AGAINST THE UNITED STATES." THE OPINION THEN NOTES THAT JUSTICE HOLMES POINTED OUT THAT EXECUTIVE CLEMENCY WAS A PART OF THE CONSTITUTIONAL SCHEME AND WHEN GRANTED WAS A DETERMINATION THAT THE PUBLIC WELFARE WOULD BE BETTER SERVED BY INFLICTING LESS THAN THE JUDGMENT FIXED. THE OPINION CONCLUDES, " I HAVE MEDITATED AND REFLECTED LONG AND DIFFICULT HOURS OVER THE SENTENCE IN THIS CASE. I HAVE STUDIED AND RESTUDIED THE RECORD AND I HAVE SEEN NOTHING, NOR HAS ANYTHING BEEN PRESENTED TO ME TO CAUSE ME TO CHANGE THE SENTENCE ORIGINALLY IMPOSED. I STILL FEEL THAT THEIR CRIME WAS WORSE THAN MURDER, NOR HAVE I SEEN ANY EVIDENCE THAT THE DEFENDANTS HAVE EXPERIENCED ANY REMORSE OR REPENTANCE. UNFORTUNATELY, IN ITS PLACE THIS COURT HAS BEEN SUBJECTED TO A MOUNTING ORGANIZED CAMPAIGN OF VILIFICATION, ABUSE AND PRESSURE. THIS COURT, HOWEVER, IS NOT SUBJECT TO SUCH ORGANIZED CAMPAIGN AND THE PRESSURES WHICH HAVE BEEN BROUGHT TO BEAR IN THIS CASE, NOR DOES IT REQUIRE SUCH TACTICS TO MAKE IT COGNIZANT OF THE HUMAN TRAGEDY INVOLVED."

END OF PAGE SEVEN

AUSA KILSHEIMER ADVISED THAT BLOCH TOLD HIM THAT HE WOULD FILE MOTION PAPERS TODAY WITH THE COURT OF APPEALS RETURNABLE ON THE FIFTH NEXT FOR AN ORDER STAYING THE EXECUTION. BLOCH TOLD KILSHEIMER THAT HE HAD CONTACTED DANIEL LYONS, PARDON ATTORNEY OF THE DEPARTMENT, TO DETERMINE WHETHER AN APPLICATION FOR EXECUTIVE CLEMENCY WOULD BE ENTERTAINED WHILE THERE WERE PROCEEDINGS STILL IN COURT. LATER, KILSHEIMER SPOKE TO LYONS AND ADVISED THAT SUCH APPLICATION WOULD BE ENTERTAINED AND PROCESSED BUT THAT IT WOULD NOT BE PRESENTED TO THE PRESIDENT UNTIL ALL PROCEEDINGS IN COURT WERE FINISHED. BLOCH TOLD KILSHEIMER HE WAS REQUESTING THE STAY IN THE CIRCUIT COURT TO ENABLE HIM TO APPLY TO THE SUPREME COURT FOR A WRIT OF CERTIORARI. HOWEVER, BLOCH HAS NOT MADE A FINAL DECISION AS TO HIS COURSE OF ACTION. KILSHEIMER ADVISED THAT JUDGE KAUFMAN WOULD GRANT A STAY OF EXECUTION ONLY IF NO OTHER STAYS OR APPLICATIONS OR COURT PROCEEDINGS WERE BEING FOLLOWED. THE JUDGE-S STAY WOULD ONLY BE FOR THE PURPOSE OF PERMITTING BLOCH TO APPEAL TO THE PRESIDENT FOR EXECUTIVE CLEMENCY. IN THIS EVENT, THE EXECUTION WOULD BE STAYED AND NO OTHER DATE WOULD BE SET UNTIL AFTER THE PRESIDENT HAD ACTED UPON THE APPLICATION FOR CLEMENCY. KILSHEIMER STATED THAT IT WOULD BE NECESSARY FOR HIM TO PREPARE PAPERS FOR THE BENEFIT OF THE PARDON ATTORNEY AND IN THIS REGARD REQUESTED ALL OTHER

END OF PAGE EIGHT

INFORMATION CONCERNING THE ROSENBERGS- PARTICIPATION IN ESPIONAGE WHICH HAS BECOME KNOWN TO THE BUREAU SINCE THE TRIAL OR WAS NOT PRODUCED AT THE TRIAL. BUREAU INSTRUCTIONS IN THIS REGARD ARE IMMEDIATELY REQUESTED. A PHOTOSTATIC COPY OF THE OPINION OF JUDGE KAUFMAN IS BEING FORWARDED UNDER SEPARATE COVER, ATTENTION OF INSPECTOR HENNRICH.

BOARDMAN

HOLD

cc: Mr. Belmont

TOP SECRET JANUARY 3, 1953 ~~CODE IN FULL~~ ~~URGENT~~

SAC, NEW YORK AIR MAIL

RECORDED 65-58236-1399

EX-130

JULIUS ROSENBERG, ET AL, ESPIONAGE DASH R. REURTEL JANUARY TWO ONE NINE FIVE THREE. ALL ESPIONAGE INFORMATION DEVELOPED IN THIS CASE SET FORTH IN INVESTIGATIVE REPORTS DISSEMINATED IN THIS CASE MAY BE FURNISHED TO AUSA KILSHEIMER FOR BENEFIT OF PARDON ATTORNEY. THIS, OF COURSE, EXCLUDES ALL [redacted] TOP SECRET INFORMATION. THIS INCLUDES THE FOLLOWING: INFORMATION FROM DAVID GREENGLASS THAT IN ONE NINE FOUR EIGHT ROSENBERG MENTIONED HE HAD RECEIVED FROM "ONE OF HIS BOYS" THE MATHEMATICS FOR THE CONSTRUCTION OF AN ATOMIC ENERGY MOTOR; INFORMATION FROM GREENGLASS RE ROSENBERG'S CONTACT WHO WAS A CONSULTANT ON AN EGYPTIAN DAM PROJECT; INFORMATION FROM JEROME TARTAKOW THAT ROSENBERG TOLD HIM WILLIAM PERL HAD FURNISHED MUCH VALUABLE INFORMATION, INCLUDING THE PLANS FOR THE NUCLEAR FISSION TO PROPEL AIRPLANES, APPARENTLY REFERRING TO THE HIGHLY CONFIDENTIAL NEPA PROJECT; INFORMATION FROM TARTAKOW THAT ROSENBERG ADVISED THAT AN INDIVIDUAL, WHO HAS BEEN TENTATIVELY IDENTIFIED AS MAXWELL FINESTONE, HAD ON ONE OCCASION DRIVEN ROSENBERG TO ITHACA, NEW YORK, TO PICK UP ESPIONAGE MATERIAL FROM ALFRED SARANT. HOWEVER, KILSHEIMER SHOULD BE ADVISED INVESTIGATION IN CONNECTION WITH FOREGOING INFORMATION STILL PENDING AND UNDER NO CIRCUMSTANCES SHOULD THIS INFORMATION BE MADE AVAILABLE TO DEFENSE. COPY OF PAPERS PREPARED BY KILSHEIMER FOR BENEFIT OF PARDON ATTORNEY SHOULD BE SECURED AND FORWARDED TO BUREAU.

TOP SECRET

APL:amb

Note on page

65-58236

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JAN 3 1953
COMM-FBI

62 JAN 15 1953

HOOVER

Classified by 2395
Exempt from GDS, Category 2
Date of Declassification Indefinite

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE.

Classified by 3040 PWT/lmw
Declassify on: OADR 10/31/82

TOP SECRET

NOTE:

On 1-2-53 Judge Kaufman denied Rosenbergs' plea for clemency. Emanuel Bloch, Rosenbergs' attorney, is filing motion before USCCA returnable 1-5-53 for order staying execution in order to apply to Supreme Court for certiorari. Bloch also expected to apply to President for executive clemency. In connection with latter, AUSA Kilsheimer advised it would be necessary for him to prepare papers for benefit of Pardon Attorney of Department and requests all other information re Rosenberg espionage activities which has become known to Bureau since the trial or not produced at the trial. NYO requests Bureau instructions.

TOP SECRET

TEL

U OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

NEW YORK, NEW YORK
12/30/52

Mr. Tolson
Mr. Nichols
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Hollman
Miss Gandy

Transmit the following Teletype message to: BUREAU

JULIUS ROSENBERG, ESPIONAGE - R. MOTION FOR REDUCTION OF SENTENCE WAS ARGUED TODAY BEFORE JUDGE IRVING R. KAUFMAN. EMANUEL BLOCH ARGUED FOR THE ROSENBERGS. IN HIS OPENING REMARKS HE STATED THAT HE HOPED TO PRESENT ARGUMENTS TO THE JUDGE WHICH MIGHT PERSUADE HIM THAT HIS ORIGINAL SENTENCE WAS WRONG. HE STATED HIS CLIENTS WERE NOT PHYSICALLY PRESENT IN COURT BUT THAT HIS WORDS ARE THOSE OF HIS CLIENTS. HE MENTIONED THAT MILLIONS OF PEOPLE IN THE WORLD OVER KNOW ABOUT THE CASE AND QUESTION WHAT PROMPTED FIFTEEN MEMBERS OF THE ISRAELI GOVERNMENT TO WRITE TO HIM REQUESTING THAT THE SENTENCE BE REDUCED. JUDGE KAUFMAN INTERRUPTED AND STATED THAT HE HAD BEEN POUNDED BY VILIFICATION AND THAT HE WAS RESENTFUL. HE STATED HE BELIEVED THE PRESSURE BEING BROUGHT UPON HIM WAS DONE BY DESIGN. HE STATED THAT PRESSURE FROM NEITHER SIDE WOULD EFFECT HIS JUDGMENT. BLOCH THEN STATED HE WANTED TO APPEAL TO THE JUDGE AS A HUMAN BEING. HE STATED HIS CLIENTS ARE INNOCENT AND THAT THEY HAVE STEADFASTLY ASSERTED THEIR INNOCENCE. KAUFMAN

99-1

G.I.R.-8

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 2-29-76 BY 3042 Pat-Lib

3 - BUREAU (AM)
1 - NY100-107111

RECORDED-20

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65-15348 (#6)

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Approved: _____ Special Agent in Charge

Sent _____ M Per _____

53 JAN 13 1953

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

INTERRUPTED AND STATED HE BELIEVED THAT WHAT DROVE THE ROSENBERGS INTO THE CONSPIRACY IS WHAT IS KEEPING THEM QUIET. BLOCH STATED THEY ACT THIS WAY BECAUSE THEY ARE INNOCENT. BLOCH ASSERTED THAT THE FBI AND THE PROSECUTING STAFF HAD HOODWINKED THE JUDGE, AND REFERRED TO THE PERJURED TESTIMONY OF DAVID GREENGLASS AND HERBERT SCHNEIDER. KAUFMAN ASKED WHO SUBORNED THE PERJURY OF SCHNEIDER. BLOCK DID NOT ANSWER DIRECTLY BUT STATED THAT IT WAS INCREDIBLE TO BELIEVE THAT SCHNEIDER WOULD NOT HAVE BEEN UNCOVERED BY THE FBI LONG BEFORE HE ASSERTED HE WAS UNCOVERED. KAUFMAN STATED THAT IT WOULD APPEAR THAT THE TAKING OF THE PASSPORT PICTURES OF THE ROSENBERGS FITTED INTO THE FLIGHT PATTERN AND REMARKED THAT DAVID GREENGLASS AND HIS FAMILY HAD TAKEN PASSPORT PICTURES IN PREPARATION OF FLIGHT AND THAT SOBELL HAD ACTUALLY FLED TO MEXICO. KAUFMAN STATED THAT IN ALL CASES AFTER A JURY CONVICTS A PERSON THE CONVICTED CAN COME BACK INTO THE COURT AND SAY WE ARE INNOCENT, BUT HE REMARKED IT COULD NOT BE SAID WITH MERIT. BLOCH STATED HE IS DEEPLY CONCERNED WHEN PERJURY IS BEING COMMITTED AND HE CAN SENSE IT. KAUFMAN STATED THAT QUOTE WHAT YOU URGE IS THAT AFTER THE JURY HAS SPOKEN AND THE CIRCUIT COURT AND

Approved:_____ Sent_____M Per_____
Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

SUPREME COURT HAVE UPHELD THE VERDICT AND BECAUSE YOU URGE THAT YOUR CLIENTS ARE INNOCENT AND THAT I IN EFFECT SHOULD ADOPT YOUR IMPRESSIONS AFTER I HAVE LISTENED AND SEEN THE WITNESSES IN COURT UNQUOTE. KAUFMAN REMARKED THAT JUDGE JEROME FRANK OF THE CIRCUIT COURT, WHO HAS OFTEN CRIED OUT AGAINST REPRESSION, SCRUTINIZED EVERY WORD OF THE RECORD AND CONCLUDED THAT THE VERDICT WAS SOUND. BLOCH REMARKED THAT JUDGE FRANK STATED THAT IF YOU DO NOT BELIEVE THE GREENGLASSES, THE ROSENBERGS CANNOT BE CONVICTED. KAUFMAN STATED THAT IF GREENGLASS WAS A PERJURER COULD HE NOT HAVE COMMITTED PERJURY IN A NORMAL WAY, AND SHIELD THOSE CLOSE TO HIM AND WHOM HE LOVED, SUCH AS HIS WIFE AND HIS SISTER, ETHEL. BLOCH STATED THAT GREENGLASS HAD TO EXTRICATE HIMSELF AND SO HE BROUGHT IN HIS BROTHER-IN-LAW JULIUS. KAUFMAN STATED WHY DID HE HAVE TO BRING IN HIS SISTER. BLOCH STATED THAT HE HAD TO BRING IN HIS WIFE BECAUSE THE FBI HAD FOUND RUTH'S BANK ACCOUNT IN ALBUQUERQUE, WHICH WAS THE DEPOSIT OF FOUR HUNDRED DOLLARS, THE DAY AFTER HARRY GOLD VISITED THE GREENGLASSES. BLOCH STATED THAT THERE WAS SOMETHING ABOUT THE CASE WHICH WAS NOT JUST RIGHT. KAUFMAN ASKED HIM WHAT IS IT OR IS IT MERELY AN IMPRESSION.

Approved:_____ Sent_____M Per_____
Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

BLOCH REPLIED THAT EVEN SUCH A MAN AS DOCTOR UREY BELIEVED THERE WAS SOMETHING WRONG ABOUT THE CASE AND SO WROTE HIM. THE JUDGE INTERRUPTED AND STATED THAT THE LETTER SENT BY UREY WAS MOST PRESUMPTUOUS, STATING THAT UREY ADMITTED THAT HE HAD NOT READ ALL OF THE RECORD AND WAS NOT ADVISED OF ALL OF THE FACTS BUT THAT HE PREFERRED TO BELIEVE THE STORY OF JULIUS AND ETHEL ROSENBERG RATHER THAN THAT OF RUTH AND DAVID GREENGLASS. BLOCH THEN WENT ON AT LENGTH EXPLAINING THAT IF THERE EVER WAS A DOUBT OF ANY KIND, FOR ANY REASON, ON ANY BASIS, THAT THE ROSENBERGS WERE NOT GUILTY THE JUDGE SHOULD REDUCE THEIR SENTENCE. HE AGAIN DISCUSSED THE POSSIBLE PERJURY OF THE GREENGLASSES AND THE JUDGE INTERRUPTED SAYING ARE YOU SAYING THAT RUTH GREENGLASS ALL BY HERSELF WENT DOWN TO DAVID AND TOLD HIM TO GIVE HER ATOMIC SECRETS TO PASS ON TO SOM OTHER PERSON WHO WAS A CONDUIT. THE JUDGE CONTINUED YOU ADMIT THERE WAS A RING, OTHERWISE, HOW DO YOU ACCOUNT FOR ELITCHER, WHO HAD KNOWLEDGE OF THE GREENGLASSES? BLOCH REPLIED SOMETIMES THE FBI WANTS TO GET A FEATHER IN ITS CAP AND THEY KNEW THAT ELITCHER HAD COMMITTED PERJURY WHEN HE FILLED OUT HIS LOYALTY OATH AND THEY KNEW HE WAS A COMMUNIST

Approved:_____ Sent_____M Per_____

Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

AND TOLD HIM THAT HE HAD BEEN FOOLING AROUND WITH ESPIONAGE. BLOCH STATED HE HAD GREAT RESPECT FOR THE FBI'S ABILITY TO INVESTIGATE CRIME BUT WONDERED WHETHER IN THE PRESENT SITUATION THEY HAD BEEN TRYING TO BUILD UP A CASE. BLOCH THEN STATED THAT THE TRIAL HAD BEEN CONDUCTED WITH PROPRIETY BUT THAT SOMETHING COULD NOT BE KEPT OUT: NAMELY, THE CLIMATE THAT PERVADED THE CITY FOR FOURTEEN MONTHS AFTER THE ARREST OF KLAUS FUCHS. HE STATED THAT UNCONCIOUSLY THIS WAS ABSORBED BY THE JURORS AND THE POISON WAS DIRECTED AGAINST THE ROSENBERGS. HE STATED NOT ONLY THE PRESS AND THE PROSECUTING OFFICIALS WHO TRIED THE CASE IN THE PRESS BEFORE THE CASE WAS STARTED CREATED THE CLIMATE PREJUDICIAL TO THE ROSENBERGS. BLOCH STATED THAT EVIDENCE WAS FED TO THE PRESS BY MR. HOOVER AND MR. SAYPOL. AFTER A SHORT RECESS BLOCH CONTINUED THAT FACTS HAD COME TO HIS ATTENTION SINCE THE TRIAL WHICH SHOULD BE CONSIDERED BY THE JUDGE: NAMELY, THAT IT WAS NOT UNTIL AFTER THE TRIAL THAT SAYPOL STATED THAT IT WAS RUTH GREENGLASS WHO WAS RESPONSIBLE FOR THE RECANTATION OF DAVID GREENGLASS' ASSERTION OF INNOCENCE, FOLLOWED BY SUBSEQUENT COOPERATION.

Approved:_____ Sent_____M Per_____
Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

HE STATED THAT SAYPOL GAVE THE LIE TO GREENGLASS THAT HE HAD COOPERATED FROM THE BEGINNING. BLOCH THEN TURNED TO THE SKETCHES PRODUCED IN EVIDENCE AT THE TRIAL WITH A HIGH EXPLOSION LENS. HE STATED IT WAS NECESSARY FOR HIM TO GO OUTSIDE THE COUNTRY WHERE HE FOUND BRITISH SCIENTISTS WHO ASSERTED IN AFFIDAVITS THAT IT WAS IMPLAUSIBLE AND IMPOSSIBLE FOR DAVID GREENGLASS, WITHOUT COACHING TO REPRODUCE SKETCHES WITH A HIGH EXPLOSION LENS AND THE ATOMIC BOMB HE HAD LAST SEEN OR WORKED ON FIVE YEARS PREVIOUS. THE JUDGE INTERRUPTED REMARKING, YOU'RE SAYING IN EFFECT THAT DAVID GREENGLASS LIED HIMSELF INTO JAIL BECAUSE HE ACTUALLY DID NOT TURN OVER TO THE RUSSIANS THE SKETCHES THAT IT WAS CLAIMED THAT HE DID. THE JUDGE CONTINUED THAT IT WAS POSSIBLE THAT GREENGLASS HAVING PRODUCED THOSE SKETCHES WHICH HE KNEW WERE TO BE TURNED OVER TO THE RUSSIANS CONSTANTLY KEPT THEM IN HIS MIND AND CONTINUED TO THINK ABOUT IT, AND IT IS PLAUSIBLE THAT HE WOULD NOT FORGET IT. BLOCH REPLIED THAT THERE WERE OTHER PLAUSIBLE EXPLANATIONS THAT SHOULD CAUSE DOUBT IN THE JUDGE'S MIND AND QUESTIONED WHETHER DAVID GREENGLASS WAS THE KIND OF WITNESS THE JUDGE SHOULD RELY UPON TO SEND TWO PEOPLE TO DEATH. BLOCH THEN TURNED

Approved:_____ Sent_____M Per_____
Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

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Transmit the following Teletype message to:

TO THE QUESTION OF THE TESTIMONY OF SCHNEIDER, STATING IF SCHNEIDER COULD IDENTIFY JULIUS FROM PHOTOGRAPHS WHY WAS IT NECESSARY FOR HIM TO BE QUOTE SMUGGLED UNQUOTE INTO COURT. BLOCH ASKED DID HE MAKE A MISTAKE OR DID HE LIE. BLOCH REPLIED THAT THERE WAS A POSSIBILITY OF BOTH INSTANCES. KAUFMAN ASKED HIM WHAT DID HE BELIEVE, DID HE LIE OR DID HE MAKE A MISTAKE. BLOCH REPLIED I GOT THE FEELING THAT IT WAS PERJURY. KAUFMAN REMINDED HIM THAT WHAT WEAKENS THIS ARGUMENT IS THE FACT THAT BLOCH COULD NOT BREAK SCHNEIDER DOWN ON CROSS-EXAMINATION. KAUFMAN ASKED HIM IF HE WAS ATTRIBUTING PERJURY OR SUBORNATION OF PERJURY TO THE BUREAU. BLOCH DID NOT MAKE A DIRECT REPLY AND THE JUDGE STATED, QUOTE I BELIEVE HE DID NOT LIE. HOW WOULD IT HELP IF THE FULL FACTS HAD BEEN BROUGHT FORTH? UNQUOTE. BLOCH ASKED WHY DID THEY HAVE TO CONCEAL WHAT THEY DID. HE STATED IT WAS BECAUSE THEY HAD DISREGARDED THE COURT'S DIRECTION TO EXCLUDE WITNESSES FROM THE COURT ROOM. KAUFMAN STATED THAT MAYBE IT WAS BECAUSE THE FBI WANTED TO BE CAREFUL. BLOCH STATED WHEN I READ OLIVER PILIT'S BOOK I CAME ACROSS THE PASSAGE HOW SCHNEIDER WAS TAKEN INTO COURT BY AN FBI AGENT AND I CALLED PILIT AND ASKED HIM IF HE

Approved:_____ Sent_____M Per_____
Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

WOULD TESTIFY TO THIS FACT AS COMING FROM A GOVERNMENT OFFICIAL. KAUFMAN STATED THAT BLOCH WAS OVERLOOKING THE FACT THAT PILIT GOT THE INFO FROM THE GOVERNMENT AND ASKED IF IT WAS REASONABLE THAT THEY WOULD DO THIS AND FURTHER SUBMIT AN AFFIDAVIT AS TO WHAT HAD HAPPENED IF PERJURY HAD BEEN COMMITTED. BLOCH REPLIED THAT UNWITTINGLY, THE GOVERNMENT GAVE SOMETHING AWAY AND SUGGESTED TO THE JUDGE THAT HE SHOULD CONSIDER THE VERDICT OF THE JUDGE OF THE COURT WITH DOUBT. BLOCH AGAIN REFERRED TO THE FACT THAT INDIVIDUALS WHO HAVE BEEN SENTENCED GUILTY CAN LATER CLAIM THEIR INNOCENCE AND KAUFMAN STATED AGAIN IN EVERY CASE IN THE LAND PEOPLE CAN COME FORTH AFTER THEIR CONVICTION AND CLAIM THEY WERE INNOCENT. KAUFMAN POINTED OUT THAT IF SCHNEIDER WAS COMMITTING PERJURY IT WOULD NOT HAVE BEEN NECESSARY FOR HIM TO COME INTO COURT AND VIEW ROSENBERG BEFORE HE TESTIFIED. BLOCH THEN TALKED ABOUT THE FACT THAT THE GOVERNMENT HAD NOT PRESENTED ANY PHYSICAL EVIDENCE TO SUPPORT THE CHARGES THAT ROSENBERG HAD MICROFILMED ANY MATERIAL. KAUFMAN SAID THERE IS A LOGICAL ANSWER THAT WHAT HAD BEEN MICROFILMED HAD BEEN PASSED ON. BLOCH THEN DISCUSSED THE FACT THAT THEY DID NOT FIND A CAMERA

Approved:_____ Sent_____M Per_____
Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

OR THE CONSOLE TABLE. KAUFMAN ASKED HIM IF HE THOUGHT THE TESTIMONY OF EVELYN COX WAS MISTAKEN OR SUBORNED. BLOCH REPLIED, QUOTE I THINK SUGGESTIONS WERE MADE TO HER UNQUOTE. IT IS EASY TO DIRECT WITNESSES ALONG LINES OF TESTIMONY. BLOCK NEXT TOOK UP THE PERSONAL LIFE OF JULIUS AND ETHEL IN KNICKERBOCKER VILLAGE, LIVING ON THE EDGE OF POVERTY AND QUESTIONED WHETHER THIS WAS THE KIND OF MAN WHO WAS PAYING OFF AN ESPIONAGE RING. BLOCH THEN CONTINUED STATING, LET'S ASSUME THAT EVERYTHING THAT WAS MENTIONED IN THE TRIAL WAS TRUE AND THAT THEY WERE GUILTY. HE ASKED WHETHER THE CONVICTION WARRANTED THE DEATH PENALTY. HE REFERRED TO THE REPORT OF THE JOINT COMMITTEE ON ATOMIC ENERGY, WHICH MADE DAVID GREENGLASS, HARRY GOLD, FUCHS, PONTECORVO AND MAY AS ONLY IMPORTANT AGENTS AND RELEGATED DAVID TO A MINOR ROLE. KAUFMAN REMINDED BLOCH THAT THE HIGHER POSITION THEY PLACED DAVID GREENGLASS IN THE WORST CRIME COMMITTED BY ROSENBERG BECAUSE THE TESTIMONY WAS TO THE EFFECT THAT IT WAS ROSENBERG WHO HAD INFLUENCED DAVID IN GIVING INFO. BLOCH THEN REFERRED TO THE REMARKS OF JUDGE KAUFMAN WHEN HE SENTENCED THE ROSENBERGS, STATING THAT HE BELIEVED THAT DAVID WAS RESPONSIBLE FOR THE KOREAN WAR, WERE INCORRECT.

Approved:_____ Sent_____M . Per_____

Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

KAUFMAN REMINDED HIM THAT HE HIMSELF FOUND IT HORRIBLE TO HAVE HAD TO IMPOSE THE SENTENCE UPON THE ROSENBERGS AND THAT HE DID. HE REMARKED THAT CONGRESS PASSED THE ESPIONAGE STATUTE IN NINETEEN SEVENTEEN WHEN WE HAD NO ATOM BOMBS OR ANY CONTEMPLATION OF THEM AND HE ASKED WHAT WAS IN CONGRESS' MIND IN NINETEEN SEVENTEEN WHEN SUCH A STATUTE WAS PASSED WITH A CAPITAL PUNISHMENT. BLOCH REVERTED TO THE FACT THAT THIS WAS THE LAST RESORT WITH THE ROSENBERGS TO HAVE THEIR SENTENCE REDUCED AND THE JUDGE INTERRUPTED AND STATED THAT THIS WAS NOT TRUE THAT THE DEATH PENALTY CAN BE REVIEWED BY THE PRESIDENT, AND TOLD BLOCH THAT HE MIGHT JUST AS WELL TELL HIM NOW AND STATED QUOTE I WILL GIVE YOU ADEQUATE TIME TO MAKE AN APPEAL TO THE PRESIDENT AND I WILL RESERVE DECISION ON THIS CASE, UNQUOTE. BLOCH ASKED THE JUDGE IF HE HAD THE POWER TO GRANT A STAY. THE JUDGE ASKED BLOCH WOULD HE OBJECT TO THE STAY. BLOCH ANSWERED NO AND THE JUDGE CONTINUED THAT HE BELIEVED IT WAS PART OF THE INHERENT POWER OF A JUDGE TO GRANT A STAY. BLOCH THEN TALKED ABOUT THE IMPORTANCE OF THE MATERIAL PASSED BY THE ROSENBERGS AND KAUFMAN REMINDED HIM THAT THE SAME REPORT OF THE JOINT COMMITTEE STATED THAT THE INFO GIVEN BY

Approved:_____ Sent_____M Per_____

Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

FUCHS AND GREENGLASS HAD EXPEDITED THE RUSSIANS IN SECURING THE ATOM BOMB. BLOCH AGAIN REVERTED TO THE KOREAN WAR AND THE JUDGE REPLIED THAT ADLAI STEVENSON, A GREAT STATESMAN, STATED THE SOLUTION OF THE KOREAN WAR LIES IN MOSCOW AND THE JUDGE CONTINUED THAT THUS MOSCOW WAS THE CAUSE OF AGRESSION IN THE KOREAN WAR. BLOCH THEN DISCUSSED THE SENTENCE METED OUT TO THE ROSENBERGS AS AGAINST THE SENTENCE METED OUT TO OTHERS SUCH AS MAY, FUCHS, AXIS SALLY, TOKYO ROSE. KAUFMAN STATED THAT WHAT THE PEOPLE WERE TRAFFICKING, IN REFERRING TO AXIS SALLY AND TOKYO ROSE, WAS NOT ATOMIC INFO AND SO IN SOME CASES TREASON CAN BE LESS SEVERE THAN ESPIONAGE. BLOCH ARGUED ABOUT THE MORALE EFFECT OF TREASON WITH THE ARMED FORCES. BLOCH THEN STATED THAT THE ROSENBERGS ASKED FOR JUSTICE NOT MERCY AND KAUFMAN TOLD HIM THAT THEY GOT JUSTICE. BLOCH THEN BEGAN A DRAMATIC AND HISTRIONIC PLEA TO THE JUDGE FOR CLEMENCY REMARKING THAT HIS ACTION IN NOT REDUCING THE SENTENCE MAY EFFECT OUR RELATIONSHIP WITH OUR ALLIES, AND THAT HIS ACTION MAY ALTER THE COURSE OF HISTORY AND ENDED BY ADMONISHING THE JUDGE QUOTE DON'T BE A JUDGE THAYER UNQUOTE. IT IS NOTED THAT BLOCH WAS REFERRING TO JUDGE

Approved:_____ Sent_____M Per_____

Special Agent in Charge

FEDERAL BUREAU OF INVESTIGATION

UNITED STATES DEPARTMENT OF JUSTICE

Transmit the following Teletype message to:

THAYER WHO IMPOSED THE DEATH PENALTY ON SACCO AND VANZETTE. AFTER RECESS FOR LUNCH LANE OPENED THE ARGUMENT FOR THE GOVERNMENT REMARKING THAT THE ONLY COMMENTS HE HAS SEEN RECENTLY ABOUT JUDGE THAYER HAVE BEEN IN THE COMMUNIST PRESS. HE THEN LIKENED JULIUS AND ETHEL AS PROFESSIONAL SPIES AND NOTED THAT THE REMARK THAT THIS WAS NO TIME TO BE SOFT WITH HARDBOILED SPIES. THE GOVERNMENT'S ARGUMENT WAS FINISHED BY AUSA KILSHEIMER WHO REFERRED TO THE LETTERS WRITTEN BY MANY INDIVIDUALS AND MADE PART OF THE MOVING PRESS. HE CHARACTERIZED THESE LETTERS AS BEING WITHOUT WEIGHT SINCE MOST OF THEM STATED THEY HAD NOT READ THE RECORD AND DWELLED AT LENGTH ON THE LETTER OF DR. UREY. AT THE END OF THE HEARING KAUFMAN STATED THAT HE WOULD BE GUIDED BY THE EVIDENCE AND THAT HE WOULD BE GUIDED BY WHAT BLOCH AND THE GOVERNMENT COUNSEL HAD STATED. COURT THEN RECESSED. BUREAU WILL BE ADVISED OF THE JUDGE'S DECISION WHEN IT IS HANDED DOWN.

BOARDMAN

CC: MR. BELMONT
AND SUPERVISOR
[illegible] DIVISION

Approved:_____ Sent_____M Per_____
Special Agent in Charge

FD-36

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

L. BUREAU OF INVA

UNITED STATES DEPARTMENT OF JUSTICE NEW YORK, NEW YORK

AIRTEL JANUARY 5, 1953

Transmit the following Teletype message to: BUREAU

JULIUS ROSENBERG, ETAL; ESP. R. REBUTEL JAN TWO LAST. BUREAU PERMISSION REQUESTED TO FURNISH USA, SDNY WITH REPORTS OF SA ROBERT F. ROYAL, N.Y., DATED JUNE THREE FIFTYTWO, SEPTEMBER THREE FIFTYTWO AND DECEMBER ONE FIFTYTWO, ENTITLED "MAXWELL FINESTONE, WAS.; ESP R, INTERNAL SECURITY ACT NINETEEN FIFTY" AND REPORTS OF SA ROYAL, N.Y., JANUARY EIGHT FIFTYTWO, AUGUST TWENTYFIVE FIFTYTWO AND NOVEMBER SEVENTEEN FIFTYTWO ENTITLED "ALFRED EPAMINONDAS SARANT, WAS., ETAL; ESP. R" AND SUMMARY REPORT OF SA PETER F. MAXSON, ALBANY, MARCH TWENTYSIX FIFTYTWO ENTITLED "LOUISE ROSS SARANT, WAS.; ESP R."

G.I.R.-6

Brad Gen Litigation

1/6/53 Dominic amp all Dissemination to Justice

1/6/53 Sup Tom McAndrews 7140 altering for USAC when instructed to furnish to USA

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BOARDMAN

3 - Bureau

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1 - 65-15735

65-58236-1401

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JAN 6 1953

21

RFR:FC (#6)

65-15348

EX-111

CC: MR. BELMONT
~~ANTI-SUBVERSIVE~~
DOM. INTEL. DIVISION

Approved: _____ Special Agent in Charge

Sent _____ M Per _____

79 JAN 13 1953

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

DEC 22 1952

TELETYPE

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

FBI NYC 12-22-52 8-03 PM JJM

DIRECTOR URGENT

G. I. R. 8

JULIUS ROSENBERG, ET AL, ESP-R. HEARING ON APPEAL FROM ORDER OF JUDGE RYAN HELD DEC. TWO TWO AT CCA. BLOCH AND MEYER ORALLY ARGUED SUBSTANTIALLY SAME AS THEY ARGUED BEFORE JUDGE RYAN AND THEIR BRIEFS IN CCA COVER SAME POINTS AS PREVIOUSLY. NO NEW POINTS WERE RAISED. JUDGE SWANN ADJOURNED COURT UNTIL JAN. FIVE NEXT. USA BELIEVES DECISION WILL NOT BE HANDED DOWN UNTIL DEC. TWO NINE. NO FORMAL REQUEST FOR STAY OF EXECUTION. BLOCH TOLD COURT THAT IN EVENT THE DECISION OF JUDGE RYAN WAS AFFIRMED HE WOULD APPLY TO SUPREME COURT FOR CERTIORARI. QUESTIONING OF BLOCH AND MEYER BY BENCH INDICATED NO SYMPATHY OR CONCURRENCE WITH ARGUMENTS PROPOUNDED BY EITHER. REBUAIRTEL DEC. EIGHTEEN LAST. LIAISON HAS BEEN ESTABLISHED FOR LONG PERIOD OF TIME WITH WARDEN DENNO AT SING SING. IN EVENT EITHER OF THE ROSENBERGS EVIDENCE ANY DESIRE TO COOPERATE WITH GOVT, WARDEN WILL IMMEDIATELY ADVISE THIS OFFICE. BUREAU WILL BE ADVISED OF DEVELOPMENTS.

RECORDED-21 65-58236-1402

JAN 5 1953

BOARDMAN

20

HOLD

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cc: MR. BELMONT
~~SEND SUPERVISOR~~
DOM. INTEL. DIVISION

JAN 14 1953

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : THE DIRECTOR

DATE: December 29, 1952

FROM : D. M. Ladd

SUBJECT: JULIUS AND ETHEL ROSENBERG

Tolson
Ladd
Clegg
Glavin
Nichols
Rosen
Tamm
Harbo
Belmont
Mohr
Tele. room
Nease
Gandy

Judge Irving Kaufman of New York called for you and in your absence was transferred to me.

He was very much perturbed over the pressure being brought to bear to lighten the sentence of the Rosenbergs. He stated "they have really turned the pressure on full scale--they are bothering me and my wife at my home." I asked him for the nature of the disturbance and he stated his wife has received several phone calls; that obviously the persons calling did not identify themselves, but asked her to use her influence on the Judge in an effort to have the sentence lightened, and he likewise has received numerous pleading letters. He stated he has not received any threats, either by telephone or in the letters, but that the pressure was "like the Chinese water treatment."

The Judge stated he was worried only because of the children; that he was wondering whether he should request the New York Police Department to station an officer near his home. He thought this would ease his wife's mind with reference to the children. I told him I could see no objection to having the New York Police Department assign a police officer to the vicinity of his home if he felt it would ease his wife's mind.

Judge Kaufman just wanted to talk this over with someone, and had no particular problem to raise.

Subsequently, SAC Boardman of the New York Office called me and advised he had just received a call from Judge Kaufman who stated he had talked with the Bureau and wanted to know if Boardman would call Commissioner Monaghan of the New York Police Department and advise the Commissioner that the Judge would like to have a patrolman stationed near his house for the next few days. I told Mr. Boardman I could see no objection to his making this call in accordance with the request of the Judge.

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65-58236-1403
JAN. 5 1953

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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).

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☐ For your information:

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

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. A. H. BELMONT

DATE: January 2, 1953

FROM : MR. C. E. HENNRICH

SUBJECT: JULIUS ROSENBERG
ETHEL ROSENBERG
ESPIONAGE - R

Supervisor T. Scott Miller called from the New York Office at 10:05 a.m., January 2. He advised that Assistant U. S. Attorney Kilsheimer had just informed that Judge Kaufman has filed his opinion denying the clemency application of the Rosenbergs.

ACTION:

For your information.

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CEH:LL

cc-Mr. Nichols

RECORDED - 28 65-58236-1405

JAN 9 1953

JAN 14 1953

LITRENTON

STANDARD FORM NO. 64

Office Memorandum — UNITED STATES GOVERNMENT

TO : Director, FBI
ATTN: INSPECTOR CARL HENRICH

DATE: 12/31/52

FROM : SAC, New York (65-15348)

SUBJECT: JULIUS ROSENBERG, ET AL
ESPIONAGE - R

Re NY tel to Bureau, 12/31/52.

There is forwarded herewith for the information of the Bureau, a photostatic copy of the opinion of Chief Judge THOMAS SWAN, which affirmed the Orders on Appeal from the opinion of Judge SYLVESTER J. RYAN on the application of the ROSENBERGS and MORTON SOBELL to set aside the judgments of conviction and sentence.

It is noted that the opinion was concurred by Judges HARRIE B. CHASE and JEROME N. FRANK.

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G. I. R. -8

ENCLO. BEHIND FILE

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JAN 14 1953

ENCLOSURE

ALL INFORMATION CONTAINED
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DATE 7-23-86 BY 3092

United States Court of Appeals

FOR THE

SECOND CIRCUIT

UNITED STATES OF AMERICA,

v.

ROSENBERG, et al.

OPINION

SWAN, C. J.

UNITED STATES COURT OF APPEALS
FILED
DEC 31 1952
A.M. BELL, CLERK
SECOND CIRCUIT

UNITED STATES COURT OF APPEALS

For the Second Circuit

.....

UNITED STATES, :

-v- :

ROSENBERG, ET AL. :

.....

Before: SWAN, Chief Judge,
and
CHASE and PARKER, Circuit Judges.

Consolidated appeals from orders dismissing petitions under 28 U.S.C.A. §2255, Ryan, Judge. AFFIRMED.

Emanuel Bloch, Attorney for appellants Julius Rosenberg and Ethel Rosenberg.

Howard M. Meyer, Harold M. Phillips and Edward Kuntz, Attorneys for appellant Morton Sobell.

Myles J. Lane, United States Attorney, for appellee; James B. Hilsheimer, III, of counsel.

SWAN, Chief Judge:

The appellants were convicted of conspiracy to violate the Espionage Act.[1] They were sentenced on April 5, 1951. Their conviction was affirmed by this court,[2] and thereafter petitions for certiorari and for rehearing were denied by the Supreme Court. The present appeals are from orders dismissing petitions under 28 U.S.C.A. §2255 by which the petitioners sought release from custody upon the ground that their sentences were imposed in violation of the Constitution or laws of the United States. Under this section the court must grant a prompt hearing, determine the issues and make findings of fact and conclusions of law with respect thereto "unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief."

1. The Act as it now reads is 18 U.S.C.A. §794.

2. United States v. Rosenberg, 195 F.(2d) 583.

After hearing argument on behalf of petitioners and of the United States Attorney, Judge Ryan ruled that it was conclusively shown that the petitioners were entitled to a hearing and that an evidentiary hearing should be ordered [illegible] a "hearing." The court [illegible] memorandum opinion, Petitioners will [illegible] the appeal without repeating herein his discussion of the points considered.

The relief afforded by this statutory proceeding is analogous to that afforded by a writ of habeas corpus. United States v. Hayman, 342 U.S. 205. It, like that writ, "cannot ordinarily be used in lieu of an appeal to correct errors committed in the course of a trial, even though such errors relate to Constitutional rights." United States v. Walker, 2 Cir., 187 F.(2d) 287, 289; Adams v. United States, ex rel. McCann, 317 U.S. 269, 275. Nor can it be used to obtain a retrial according to procedure which the petitioner voluntarily abandoned and waived at the trial upon which he was convicted. Adams v. United States, ex rel. McCann, 317 U.S. 269, 281; Carruthers v. Reed, 9 Cir., 192 F.(2d) 933, 939; United States v. Snyder, 2 Cir., 160 F.(2d) 351, 352; Rowen v. United States, 9 Cir., 192 F.(2d) 515, 517; Smith v. United States, C.A.D.C., 187 F.(2d) 192, 195, cert. den. 341 U.S. 927. These limitations on the function of a petition under §2255 must be borne in mind in considering the present appeals.

Since Judge Ryan held no hearing at which testimony could be presented, it is necessary to treat as true all facts stated in the petitions and in accompanying affidavits and exhibits, and to disregard all contrary statements of fact in the government's affidavits. This does not mean, however, that Judge Ryan was obliged to accept as facts conclusionary allegations asserted by the petitioners. See United States

v. Sturm, 7 Cir., 100 F.(2d) 413, 414; United States v. Fisciotta, 2 Cir., _____ F.(2d) _____ (November 2, 1950). For example, the fact that newspapers printed the stories set out in the exhibits must be accepted, but the conclusion that such publicity made impossible the selection of an impartial jury is an inference which the judge is not necessarily bound to accept. If, so treating the allegations of fact, the petitioners would be entitled to relief on any particular item, we should remand as to that item for the taking of testimony and the making of findings of fact. With this preliminary statement as to the necessary approach to the problem we turn to the particular items upon which the petitioners relied as entitling them to relief.

1. Alleged prejudicial newspaper publicity. The first ground of attack upon their conviction asserted by the petitioners is that newspaper publicity before and during their trial, some of which was government-inspired, was such as to bring about "a communal prejudgment of their guilt" and thus deprive them of their Constitutional right to trial by an impartial jury. A great mass of newspaper clippings was submitted as exhibits attached to their petitions. They cover a period from February 1, 1950 to April 3, 1951. Nothing with specific reference to the petitioners appeared until about the time of their arrest. Julius Rosenberg was arrested July 17, Ethel Rosenberg August 11, and Morton Sobell August 18, 1950. The trial commenced March 6, 1951 and ended March 29th. There was considerable newspaper comment when they were arrested. During September, October and November, newspaper references to the case were few and brief. From November to February 21, 1951, there were no news items whatever concerning the pending prosecution. When a defendant believes that pre-trial publicity has been such as to render impossible the selection of an impartial jury, there are well-recognized methods of raising this issue before the

trial commences. He may move for a change of venue or for a continuance until the public clamor shall have subsided. The petitioners took neither of these courses. On the voir dire the prospective jurors were carefully questioned as to whether they had read or heard about the case and a jury was selected satisfactory to the defendants, who did not even use all the peremptory challenges permitted them. Nor do they allege that any trial juror was in fact prejudiced by the publicity now asserted to have made a fair trial impossible.[3] Their present position is obviously an after-thought, inspired by the hope of securing a new trial after having exhausted all hope of reversing the verdict by appeal and petitions for certiorari. The excuse offered by counsel for the Rosenbergs is that he did not realize at the date of trial the extent and the inflammatory character of the publicity as it could not have been revealed to him "by the usual sporadic reading of an average newspaper reader," and he was so busy that he "read the newspapers" infrequently. But if he did not realize it, there is no reason to suppose that the jury was more seriously affected. Sobell's argument also urges that he and his counsel could not until the government rested its case have been aware of how detrimental the publicity regarding "atom spies" was. In essence this argument appears to be that the evidence at the trial showed that there were two conspiracies in only one of which was Sobell involved, a contention which was ruled against him on the prior appeal. Moreover, Sobell's petition alleges that the publicity concerning Julius Rosenberg "obviously rebounded to the prejudice of all defendants." If so, this should have been as obvious to him at the time of trial as now. The only evidence

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3. Whether in appropriate circumstances such a showing may be dispensed with, we need not now decide.

[illegible] petitioners wished to offer as to the effect of the newspaper publicity, upon hearing were accepted, was the opinion of [illegible] an advanced expert on mass psychology. Judge Ryan did not abuse his discretion in declining to grant a hearing to receive such opinion evidence. The situation in Delaney v. United States, 1 Cir., 199 F.(2d) 102, upon which the petitioners so strongly rely, was very different. Not only was the Delaney publicity more obviously damaging and much closer to the date of trial but there the defendant did move for a continuance and the denial of this motion was the ground on which the court reversed the appellant's conviction. The best that can be said in the instant case is that, at the time of trial, private counsel decided that the publicity did their clients no harm, and now want this court to decide otherwise.[4]

With respect to newspaper publicity during the trial, the petitioners' principal complaint relates to stories concerning the indictment of one Perl. He was indicted for perjury committed in denying that he knew Sobell, Julius Rosenberg and certain persons whose names were prominently mentioned in the trial of the petitioners. The indictment, when returned, was ordered sealed. It was made public on March 15, 1951. The affidavits show that Mrs. Greenglass was still on the witness stand when the story of the Perl indictment was published in the city papers, and that the New York Times carried a statement ascribed to the United States Attorney then in office, as follows:

> "Mr. Saypol said also that Perl had been listed as a witness in the current espionage trial. His special role in the stand, Mr. Saypol added, was to corroborate certain statements made by David Greenglass and the latter's wife, who are key Government witnesses at the trial."

The petitioners assert that the unsealing of the Perl indictment and the statement by Mr. Saypol were timed by the prosecution with the purpose of prejudicing them in their trial. Since no hearing was accorded, we must, as already stated, assume that publication of the indictment was deliberately "timed" and the statement attributed to Mr. Saypol was made

Redacted

4. Of the four trial counsel, [illegible] must be deemed to have been fully cognizant of this newspaper publicity. For the assertion to the contrary is not made by trial counsel for [illegible] nor by one of the [illegible] trial counsel for Sobell.

[illegible] Stein, Harried [illegible] the court [illegible] condemned [illegible] the conduct of the [illegible] does not [illegible] the [illegible] prejudicial [illegible] the attention of the jury. When [illegible] to be [illegible] with trial, [illegible] a mistrial [illegible] that the [illegible] caution the jury to disregard it. United States v. [illegible], 2 [illegible], 197 [illegible] (2d) 237, 239. In this case the defendants did neither. We may assume that, in this case, a cautionary instruction would not suffice, and that, if defendants had moved for a new trial, it should have been granted. But they did not so move. This was their deliberate choice after conferring with the judge out of the presence of the jury. They now seek to excuse the omission because when they conferred with the judge Mr. Carroll gave assurance that he had not "tipped" the Paul indictment. Such assurance they then accepted as true but they have recently concluded that it was false, because Paul has not yet been brought to trial. This is not a valid argument. As stated above, Mr. Carroll's motive and "timing" in opening the indictment are irrelevant; the more consequential is the statement made to the press to the effect that the Government had expected to use Paul's testimony to corroborate the Orr-Glasses, and the intimation that because Paul had backed out he had been indicted for perjury. Such a statement to the press in the course of a trial we regard as wholly reprehensible. Nevertheless, we are not prepared to hold that it vitiates the jury's verdict when there is no allegation or evidence that any juror read the newspaper story and the defendants did not [illegible] to see fair trial. [illegible] v. Brown, 212 U.S. 20[illegible], 213-215. As they thus chose to have the trial continue, they obviously concluded that the prosecutor's statement to the press had not prejudiced the jury. Because they, having themselves so concluded, they may not,

after an adverse verdict, as the court to reach a contrary conclusion. Indeed, the petitioners did not mention the prosecutor's statement in their motions for a new trial nor on their previous appeal.

2. Alleged use of perjurious testimony. The second ground of attack on their convictions is that the prosecution knowingly used false testimony. There are three specifications. The first relates to Greenglass' testimony that on the night of his arrest he did not withhold any facts from the FBI. When he was sentenced on April 5, 1951, the day after the petitioners' sentencing, the United States Attorney stated to the court, "He never protested his innocence" at the arraignment. "Through Ruth Greenglass, his wife, came the subsequent recantation of these protestations, their repudiation and the disclosure of the facts by both of them." On the basis of this statement the petitioners argue that the testimony was false and known to be false by the prosecuting officer. Judge Ryan said that when read in context with all the proceedings on April 6th he did not regard it as an admission that Greenglass had committed perjury and that there was no factual basis for inferring that perjurious testimony had been knowingly used. We agree. It is notable that petitioners made no mention of these facts on their previous appeal although then well aware of them.

The second specification relates to Greenglass' testimony that, the day before he began to testify, he made from memory certain drawings of lens molds used several years before at Los Alamos in the atom-bomb project. The petitioners contend that it would have been impossible for him to make these sketches from memory and hence his testimony that he did so was false and the prosecution must have known it to be false. This is nothing new.

For, at the trial, the defendants, on cross-examination, had brought out the details of Greenglass' education, with the patent purpose of persuading the jury that he had lied. In support of their renewed assertion of his perjury, defendants on the §2255 motion, presented the affidavits of four scientists who express the opinion that Greenglass, with his limited education as shown at the trial, could not have made the sketches from memory. Since none of them knew Greenglass, none was in a position to give an opinion about the quality of his memory which, no matter what his education, may have been amply sufficient for this purpose. As additional evidence concerning Greenglass' memory, these opinions, assuming arguendo they would be admissible at a trial, are wholly inadequate to justify a new trial. The affidavits bear solely on the credibility of his testimony and that issue was properly submitted to the trial jury for decision. As to this specification the moving papers were insufficient on their face.

The third specification relates to the rebuttal witness Schneider. He was a photographer. He testified that in May or June 1950 Mr. and Mrs. Rosenberg and their two children came to his shop and had passport photographs taken. He was asked whether that was the last time he had seen Julius Rosenberg "before today," and he replied "That's right." In fact he had been brought into the court room by an FBI agent the day before he testified and had identified Rosenberg at that time. Counsel lays stress upon the word "today" to prove the testimony perjurious, but on cross-examination of Schneider at the trial both court and counsel treated the question as meaning "before the trial." Judge Ryan was correct in ruling that there was not the slightest evidence that Schneider's testimony was intentionally false and that in any event it was on an immaterial point, i.e., identification of

the Rosenbergs as persons whose pictures he had taken, since the defendants had not denied that they might have gone to his shop for that purpose, although Julius Rosenberg categorically insisted that they were not passport pictures.

3. Alleged character of information transmitted. The petitioners' next point is that their conviction should be set aside because one item of information classified as secret which they were charged with having conspired to transmit to Russia, was so generally known that transmitting it was not forbidden by the Espionage Act. This matter was thoroughly discussed by Judge Ryan. We have nothing to add to his opinion, except to say that United States v. Heine, 2 Cir., 151 F.(2d) 813, cert. den. 328 U.S. 833, upon which the appellants rely, is so different in its facts as to be completely inapposite.

4. The treason clause of the Constitution. Appellant Sobell in his §2255 petition advanced an additional ground for relief which we understand to be as follows: As to him the evidence showed at most "treachery and general intent to betray"; such an intent does not suffice to prove the specific intent required by the Espionage Act but would meet only the general intent called for by the treason clause of the Constitution; and there was here no compliance with the procedural demands of that clause. This contention raises a question of law as to which there was no need for the taking of evidence on the motion. It could have been raised on the prior appeal in support of the argument then made as to the insufficiency of the evidence to prove specific intent which we then held was adequately proved. It was raised before the Supreme Court in the petition for rehearing which was denied. Assuming without decision that nevertheless it may now be raised in its present form by a motion under §2255, we hold that it is without merit.

5. Also without merit is the contention that the court erred in permitting the transfer of Sobell from New York to Alcatraz, California, pending the presentation of

his petition and in declining to direct his return while it was under consideration. Since no issues were raised which required his presence as a witness, it does not appear that his absence was in any respect harmful. See United States v. Ansfeldt, 2 Cir., ___ F.(2d) _____ (November 3, 1952).

The orders on appeal are affirmed.

United States v.
Rosenberg

- - -

United States v.
Sobell

I concur
H.R.C.

12/30/52.

U.S. v. Rosenberg
et al

I concur
J.M.-T.
Dec 30, 52

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

vs.

JULIUS ROSENBERG and ETHEL ROSENBERG, and MORTON SOBELL.

APPEARANCES:

MYLES J. LANE, ESQ., United States Attorney, for the Government;
Myles J. Lane, Esq., United States Attorney, and
James B. Kilsheimer III, Esq., and
Robert Martin, Esq., Assistant United States Attorneys.

EMANUEL H. BLOCH, ESQ., Attorney for Julius Rosenberg and Ethel Rosenberg.

HOWARD W. MEYER, ESQ., Attorney for Morton Sobell.

RYAN, J.

DECISION

Petitions under Section 2255, Title 28 USCA, have been filed by Julius Rosenberg, Ethel Rosenberg and Morton Sobell praying for an order vacating and setting aside judgments of conviction and sentences imposed upon them on April 5, 1951 after a jury trial at which one of my brothers in this District Court presided as the trial judge. He, for reasons which he has placed upon the record, has disqualified himself from hearing these petitions and they have come on to be heard before me on assignment from the Chief District Judge. Petitioners seek in the alternative

a hearing on the petitions "to determine the issues and make findings of fact and conclusions of law, and upon such findings and conclusions, vacating and setting aside the respective sentences of the petitioners and discharging them from detention and imprisonment."

I find no relevant or material issue of fact raised by the petitions, which requires a hearing thereon or which renders the taking of oral testimony either necessary or helpful. I have concluded, after affording the attorneys for petitioners full opportunity to argue the legal problems presented by the petitions and to make proffers of proof, that the petitioners are entitled to no relief, that the court which rendered judgment had jurisdiction, that the sentences imposed were authorized by law and are not otherwise open to collateral attack on any of the grounds urged by the petitioners (1), and that full and complete enjoyment of the constitutional rights of petitioners has been extended them and has in no way been denied or infringed.

These petitions were filed twenty months after the verdict of guilty was returned by the jury, following a trial which petitioners' attorneys stated "had been conducted . . . with that dignity and that decorum that befits an American trial" (R.1453), (2) and that defense counsel had been afforded "every privilege that a lawyer should expect in a criminal case".

The trial record reveals a defense intelligently conducted by able counsel of petitioners' own choice and selection. The verdict of the jury has now been challenged, although when it was returned the attorney for petitioners Rosenberg stated that from the length of time the jury had taken in their deliberations, as well as from the questions they had asked during the course of their deliberations, he was satisfied that the jury had examined the evidence very carefully. (R.1563).

Since the petitioners were sentenced, they have had the benefit of an appeal to the Court of Appeals, petition for rehearing of that appeal, a petition to the Supreme Court for a writ of certiorari and a further petition to the Supreme Court seeking a rehearing. I have annexed, as an Appendix, a schedule showing in detail the points and objections the petitioners have heretofore urged on the various appeals and petitions they have filed. These appeals and proceedings operate to buttress the presumption of regularity and of due process attending judgments of conviction, especially in the complete absence of credible evidence to the contrary. (3).

I have considered each ground urged by petitioners as the basis for the granting of the relief they now seek.

Petitioners complain of the pre-trial and trial publicity and argue in substance that it so adversely re-

flected on their innocence and created a trial atmosphere of such prejudice and hostility toward them as to make impossible the selection of an impartial jury and the conduct of a fair trial. They object to the "newspaper publicity developed by the independent initiative and private enterprise of the newspapers" and say it contributed to a situation by which they were denied the essential requirement of fair play and of justice - a trial by an impartial jury.

We enjoy a free press; neither the policies nor writings of the press may be censored or dictated by the state or government agencies. Jurors cannot be treated as unable to withstand any effect of newspaper publications. Indeed such a ruling would make it practically impossible to conduct trials in metropolitan centers and would treat the average skeptical juror as a "helpless person." (4).

Newspapers, unquestionably, in response to popular demand, feature with large headlines and considerable space reports of investigations of corruption, crime, vice and espionage activities. The trials of those charged with these offenses have been made "sensational" and have been the source of what is well-high universally considered by the newspapers as "good copy." I need not here consider the wisdom of attempts at judicial curtailment of such publications, or the dangers to our constitutional guarantees of freedom of speech and press which would flow in the wake

of unwarranted judicial restrictions on free expression."

A reading of the newspaper articles submitted by petitioners reveals nothing of an unusual or inflammatory character. The articles were but a fair response to a legitimate public interest in a matter of vital concern to all, the atom bomb and atomic energy and the hope for its employment for the benefit and not the destruction of mankind. The accounts of the arrests and subsequent indictments of petitioners tended to allay a public anxiety and to give assurance that those charged with the protection of vital information were alert and diligent in the performance of their obligations.

When these publications are measured against the field in which they were circulated their effect upon the general public is seen as negligible.(5). There was no unseemly haste to bring the petitioners to trial. Julius Rosenberg was arrested on July 17, 1950; Ethel Rosenberg on August 11, 1950 and Morton Sobell on August 18, 1950. The trial began on March 6, 1951, shortly less than seven months after the arrest of Sobell, the last defendant to be taken into custody. Any public prejudice which might be ascribed to newspaper publicity incident to the arrest of these defendants had long since been dissipated among the people of the area from which talesmen were drawn - an area where occurrences no matter how sensational lose their news value and no longer attract public interest after a

a much shorter space of time than seven months.

When the indictment was called for trial no application was made for a continuance and the petitioners announced that they were ready. No objection was then urged that newspaper publicity had produced so hostile an atmosphere or so prevalent a public preconception of guilt as to make the selection of a fair and impartial jury either difficult or impossible. Although I recognize that a defendant "is not obligated to forego his constitutional right to an impartial trial in the district wherein the offense is alleged to have been committed" (6), I feel that the failure of the petitioners to apply for a change of venue has added significance when considered with their omission to make application for an adjournment of the trial. This neglect of the petitioners to avail themselves of long-established remedies supports the conclusion that the publicity of which they now complain was neither so damaging nor widespread in effect as they now urge. The petitioners and their attorneys were no strangers to the great metropolitan district in which the trial took place. It would be ridiculous to hold that if the publicity before trial had been so prejudicial as to inflame and infect the public mind they could have been ignorant of it. (7).

The voir dire examination of the prospective jurors was fully and fairly conducted by the trial judge. (8). The petitioners were granted ten additional peremptory challenges; they did not exercise all of these and informed the court that

the jury was satisfactory.(9). This was the considered judgment and decision of the "highly competent and experienced"(10) attorneys who represented the petitioners on the trial.

Quite aside from the question of whether this objection may now for the first time be advanced as a ground for a new trial (11) I find no evidence to support the claim that the trial proceeded under conditions which deprived the petitioners of the opportunity for a fair trial before an impartial jury.

In fact, an examination of the chart which petitioners have submitted purporting to analyze "Quantitative Reportage, Feb. 1, 1950 to April 3, 1951" dealing with news items classified in four groupings - "Atomic Espionage", "Communists as Spies", "Atomic Bomb and Rosenberg-Sobell Case" - sustains this conclusion. I find that from the latter part of August 1950 to November 1950 there was only minor and sporadic coverage and that from November 1950 until February 21, 1950, which was approximately two weeks prior to the commencement of the trial, there were no news items whatsoever concerning the pending proceedings. During the following week from February 21 to 26, 1951, the publicity was negligible, and when the trial commenced the attendant publicity reveals nothing extraordinary or unusual.

Petitioners next object to publicity which resulted from "press-releases" and "statements" emanating from the office of the United States Attorney and the Department of Justice.

It appears from the exhibits submitted by petitioners that as the trial proceeded there were daily reports in the newspapers of the progress of the trial, the witnesses called and the testimony given. On a few occasions during the trial "statements" were made to the press by those charged in law with conducting the prosecution. It appears further that following the arrest of the petitioners and prior to trial "press-releases" were issued by the prosecuting and law enforcement agencies of the Government.

The issuance of "releases" and "statements" by the quasi-judicial officials entrusted with the heavy burden and grave responsibility of prosecution giving in advance of trial details of evidence which it is expected will be introduced at trial is an all too prevalent practice which should not be encouraged. It does not aid in the administration of justice and often hampers and impedes complete investigation of the crime, which might be productive of further evidence if not of other crimes. It is opposed to all fundamental concepts of due process and, if carried to an extreme, might result in conviction by public opinion without the benefit of jury. The process requires compliance not only with the outward form of the jury but with

well that is implicit in the concept of ordered liberty" (12) and with the immutable principles of justice. But, even though the "press-releases" and "statements" of public officials may have prompted, encouraged or generated publicity, there is no evidence that these publications resulted in "manifestations of public sentiment, or any other form of disorder, calculated to influence court or jury." (13).

There is no evidence that any juror after being sworn violated the trial judge's instruction and read any newspaper report or article concerning the trial of petitioners. There is no proof to sustain a finding that the judgment of the jurors was in any manner influenced or swayed adversely to the petitioners, either prior to or during the trial. This is not an instance where "the trial was but a ritual gesture to register a verdict already dictated by the press and the public opinion which it generated." (14).

The petitioners also claim that the publicity attending the indictment for perjury and the arrest of William Reed, which occurred while the trial was in progress, had the effect of prejudicing the minds of the jurors against the petitioners.

The facts concerning the Reed indictment and arrest are not in dispute. He had been a witness before a Grand Jury in this district; he was indicted by that Grand

Jury on March 13, 1951 and when the indictment had been returned it was ordered sealed. Late the following day the indictment was unsealed upon application to the judge presiding at petitioners' trial; the application was made to him because the judge then assigned to that duty was not available. Perl was then arrested and arraigned on March 15, 1951, not before the trial judge, but in the part where such arraignments are held. There was nothing unusual in the procedure followed. The indictment against Perl charged perjury before the Grand Jury; it contained four counts: the first count was with respect to his testimony concerning the petitioners Sobell; the second count contained charges with respect to his testimony concerning Helene Kitchen, the wife of Max Kichter who had appeared as a Government witness on the trial of the petitioners before the return of the Perl indictment; the third count concerned his testimony as to his knowledge of the petitioner Julius Rosenberg; and the fourth count concerned his testimony as to his knowledge of Ann and Michael Sidorovich, who had been listed as prospective Government witnesses on the trial of petitioners. The allegedly false testimony upon which counts one, two and three of the indictment were based, it is charged, was given before the Grand Jury on August 18, 1950; the fourth count was predicated upon testimony given by Perl on September 11, 1950.

The petitioners argue that the filing of the indictment and the arrest of Perl were deliberately scheduled so as to provide an occasion during the trial for publicity unfavorable to the petitioners. They ask that this inference be drawn from the foregoing facts and from the circumstance that Perl has not yet been brought to trial on this indictment.

By affidavit, the United States Attorney now reveals that it was not until March 6, 1951 that he came into possession of evidence sufficient in law to sustain Perl's indictment for perjury. This satisfactorily explains why Perl was not indicted until March 13, 1951 for perjury alleged to have been committed on August 16, 1950 and on September 11, 1950. The United States Attorney further states that the Perl indictment has not yet been brought to trial because of a purpose on his part to prevent disclosures which would interfere with other prosecutions. I find no basis for withholding my into the reasons which prompted the prosecutor to adjourn the trial of the Perl indictment. Upon the explanation given certainly the delay does not warrant drawing the inference which petitioners press.

As to this indictment of Perl, there is not the slightest proof that any of the trial jurors read of the Perl indictment of perjury that it came to their attention in any manner.

A defendant may not demand that the machinery of law enforcement be stopped while his trial proceeds, or that the prosecution of others, who, as he, are charged with violating the law, be held in abeyance until his trial has been completed. If an incident occurs during his trial arising either from the prosecution of another or from any other cause which acts to his prejudice, the law provides that steps be taken by the defendant. The matter should first be called to the attention of the trial judge with a request for appropriate action. The judge is not confined within mechanical rules, but his authority to exercise the discretion to secure the situation thereof to a defendant (15). The trial judge upon proper application by the petitioners might have "ruled(ed) that they not be influenced by anything seen in the newspapers" or declare a mistrial (16). The petitioners did urge the matter of Ford's indictment before the trial judge but they did not move for a mistrial; they may not now object.

The petitioners also contend that the United States Attorney "knowingly used false testimony" on the trial. Three specifications are made in support of this claim: (1) that the witness David Grimsley, called by the Government, testified falsely concerning his cooperation with the law enforcement officers; (2) that the same Grimsley testified falsely concerning his prior criminal record; and

he could himself be readily relating to the subject matter and the information unlawfully transmitted to him; and (3) that the Government witness Ben Schneider falsely testified that up to his appearance as a witness he had never seen the petitioner Julius Rosenberg since his visit to Schneider's photography store to have passport photographs taken. X

Shall consider each specification of this claim.

1. Greenglass testified that he had been arrested on June 15, 1950 (R.567) by four agents of the Federal Bureau of Investigation, who had come to his home at about 7 P.M. on that day; that the agents had remained with him in his home until 7 or 7:30 P.M.; that once in a while one of them questioned him; that he was then taken down to the office of the Federal Bureau of Investigation where he right stated that he would make a statement; that a stenographer was brought in and that his statement was stenographically recorded (R.575).

When he was pressed on the trial as to the exact time when he had said he would make the statement, Greenglass testified: "You can't pinpoint me on when I said I was going to give a statement, because I don't remember those things." (R.575). Questioned further on the subject he added that he hadn't "read that statement since and I certainly don't know exactly what I put in it" (R.577), but he added that he hadn't "conscientiously" withheld any facts that night and that the statement he had then made was substantially the same as his testimony on the trial. (R.577).

At no time did petitioners' attorneys call for the production of the statement, or ask the trial judge to examine it for the purpose of determining whether it did in fact contain statements contradictory to the testimony he had given on the trial. No request was made for a direction that the statement be delivered to petitioners' attorneys for their private examination and searching cross-examination of Grangelos (R,537 to 676).

It is now argued that Grangelos falsely testified concerning his discussions on the night of his arrest and that he did not in fact make full disclosure to his interviewer until a later date. This argument has been predicated upon a statement by the United States Attorney made when Grangelos appeared for sentence on April 6, 1953 (R,1623). When this is read in context with all the pleadings and what transpired, and particularly the statement of Grangelos' attorney that Grangelos "did cooperate with the Government and admit from the beginning" (R,1628), we do not take it as an admission understandingly made that Grangelos had committed perjury. We do not have to consider the affidavits of Special Agents Lewis and Franklin to arrive at a finding that there is no factual basis for inferring that Grangelos' testimony was perjurious or that it was knowingly, willfully and intentionally false." (17).

Full opportunity during trial was available to petitioners' attorneys to demand at least a preliminary

examination of Greenglass' statement; no such application was made. I do not feel called upon to now examine the statement on the flimsy showing made.

8. The second objection centers around Government's Exhibits 2, 6, 7 and 8, which were introduced in evidence during and on the basis of the Greenglass testimony.

Exhibit 2 - according to Greenglass - was a copy of a sketch of the lens mold which Greenglass testified he had delivered to Julius Rosenberg in January 1945 (R.439-40). He had prepared this copy of the sketch during the trial (R.440).

Exhibit 6 - according to Greenglass - was his recollection of the sketch of the face view of the flat type lens mold which he had given to Gold in June, 1945 (R.460,461).

Exhibit 7 - Greenglass testified - was his recollection of a sketch of a schematic view of the lens mold shown on Exhibit 6 being used on experiment (R.462), which he also gave to Gold in June, 1945.

Exhibit 8 - Greenglass testified - represented his recollection of a sketch of a cross-section of the atom bomb, which he gave to Rosenberg in September, 1945. (R.466).

Greenglass testified that "high explosive lens molds" were made in his shop (R.495); that the job from which he had obtained his knowledge was of a different type from that used at Hiroshima, and was a type that worked on an implosion

Greenglass also testified that when he had given Gold the sketches of which Exhibits 6 and 7 were replicas, he also "gave some scientists' names" and "some possible recruits for espionage" (R.497). He testified that it all took up about 12 pages of written material including the sketch of the cross-section of the atom bomb.

On cross-examination, Greenglass testified that when drawing Exhibits 2, 6 and 7 he had relied solely on his memory of information he had acquired while working at the Los Alamos project, and that he had last worked there in February, 1946, - four and one-half years before he testified (R.461, 463, 609); and, that since his arrest and during his confinement in jail he had not been given any reference work, texts or scientific books, (R.610). He further testified that he had not received help from anybody in the preparation or drawing of these exhibits.

Exhibit 8 was impounded by the trial judge after being introduced in evidence.

Petitioners now submit affidavits from three individuals, represented as experts in the field of physics, who express the opinion that it is "improbable" that Greenglass could have reproduced the sketches from memory. A fourth affidavit from a scientific writer or correspondent for a newspaper records his opinion as to the "impossibility"

[illegible] being able to make these sketches from memory. It is upon these "opinions" that petitioners [illegible] have the gall that Greenglass gave perjurious testimony concerning the circumstances surrounding the drawing of these exhibits. None of these four affiants could possibly have seen exhibits 6, which had been impounded.

There may be some rare instances when a trial judge permits testimony by medical experts as to the competency or probity of a witness when appraised solely on his mental ability to testify truthfully, - that is, whether the witness is a pathological liar or mentally incapable of telling the truth. But it is hornbook law that the credibility of a witness and the weight to be given his testimony rests exclusively with the jury. Opinion evidence when offered by one who has neither observed the witness while he testifies nor ever seen him is inadmissible on any trial and may not be considered by us in the made for a conclusion that perjury was committed.

3. The next objection as to the knowing use of perjurious testimony concerns the witness Ben Schneider, who was called in rebuttal by the Government.

Schneider testified that he was a photographer and that he had a studio at 99 Park Row, where his main

business was taking photographs for passports and identification purposes; that in May or June, 1950 the petitioners Rosenberg and two children visited his shop and ordered and paid for three dozen photographs, passport-size, for which he was paid $9.; that Julius Rosenberg at the time told him that he was going to Israel; that some property had been left his wife and that they were going to take care of it. (R. 1428-29). Schneider further testified that he had first been told he would be a witness at about 11:30 A.M. on the day before he testified when he had been visited by three agents of the Federal Bureau of Investigation (R.1425).

Just prior to the close of his direct examination, Schneider was asked, with reference to the last time he had seen Julius Rosenberg, the following question to which he made the following response:

"Q. And is that the last time you saw him before today?
A. That's right."

It is not disputed that on the day prior to Schneider's testimony he had been brought into the trial courtroom for the purpose of seeing whether he could identify Rosenberg as the person whose photograph he had taken. There was no motive for falsehood on the part of Schneider and there is not the slightest evidence that Schneider's testimony on this was intentionally false. I hold it to be on an immaterial point whether the petitioner Rosenberg did [illegible]

day on cross-examination prior to Schneider's appearance as a witness that they had been in Schneider's store.

Thus, Julius Rosenberg was questioned:

"Q. Did you go to a photographer's shop at 99 Park Row and have any photos taken?
A. I have been in many photographers' shops and had photos taken.
Q. Did you have any taken in May or June of 1950?
A. I don't recall. I might have had some photos taken.

* * *

Q. Now, do you recall, or are you sure now that you didn't have any passport pictures taken in 99 Park Row, in May or June 1950?
A. I may have taken pictures, but I didn't take any passport pictures.
Q. May or June 1950?
A. I might have taken pictures.
Q. For what purpose have you taken pictures in May or June 1950?
A. I have already answered that.
Q. May we have an answer?
A. Just taken pictures." (1276-79).

The testimony of petitioner Ethel Rosenberg at this point shows a categorical denial that she and her family had gone to the photographer's shop at 99 Park Row in May or June 1950.

The vital portion of Schneider's testimony was his recollection of what Julius Rosenberg had told him; on that a sharp issue was raised and it appears from the verdict to have been resolved by the jury adversely to the petitioners. The challenge now made to Schneider's testimony does not show him as a perjurer.

Petitioners also argue that Shelf's testimony should

be set aside because the evidence failed to show that all the information which they conspired to transmit was of such a character as could properly be classified secret.

To establish need for the secrecy of some of the information unlawfully transmitted, the Government called a physical chemist who had been employed as an engineer at the Los Alamos Scientific Laboratories from 1944 through part of 1947. He testified that the work was concerned with implosion research connected with the atomic bomb (R.470). He identified Exhibit 2 as a reasonably accurate portrayal of a type of lens used at Los Alamos. (R.472). He gave similar testimony as to Exhibit 6 (R.474). He identified Exhibit 7 as a rough sketch of an experimental set-up (R. 477), and testified that Greenglass in his employment had access to the information shown on these exhibits. (R. 479). He testified that information relating to the lens mold, the lens and the experimentation was classified as secret. (R.478-9). He gave his expert opinion that of the experimentation "there was so little in text books or technical journals on this subject" (R.479) and that it concerned "a new and original field." (R.479). Just before this witness left the stand the court inquired of him -

> "Q. While there might have been some other details that might also have been of some use to foreign nations which were not contained on Exhibits 5 & 6 that if the substance of your testimony in that there was sufficient on Exhibits 5 & 6 and 7 to reveal to an expert which was going on it did disclose?
>
> A. Yes, your Honor." (R.485-6).

The Government also called another engineer who was familiar with the work at Los Alamos. He verified that the sketch in Government's Exhibit 5 - when considered with the material Greenglass testified he had disclosed - demonstrated "substantially and with substantial accuracy the picture that involved in the operation of the 1945 atomic bomb" (R. 510) and that it was classified as top secret (R. 511).

Although petitioners were found guilty of conspiring to transmit many types of classified information, their present attack on such classification as "arbitrary and capricious" is directed to but one item - information relative to the use of the lens in the atomic bomb.

They contend that there was nothing informative or new about the details of the high-explosive lens used in atomic weapons, that the theory underlying the use of the lens and implosion has been known for many years, that they have listed the names and authors of various treatises and texts in the field of nuclear physics, and from this would have one conclude that the experimentation in the use of the atomic bomb which was disclosed was a matter of public knowledge.

Assuming that what they say is true, that the theory of atomic energy in the explosive field was known or contemplated years ago by scientists and physicists, it does not follow that the practicability and feasibility of applying this theory to the construction of modern war implements was common knowledge to any other country. Certainly, we cannot say that in the United States this information has been made public, nor can we assume that "it has become available in one way or another to any foreign government." (18). Petitioners offer no evidence to support their contention that the classification of this information was arbitrary, or that the United States Government had information which would have led it to believe it was well-known.

The claim now made by petitioners cannot be held to constitute newly-discovered evidence. The very basis of their argument that prior knowledge of this use of atomic energy is revealed by the recorded experiments and treatises of numerous physicists was evidence available to them during the trial and an issue which could have been presented them and considered by the jury in its determination of the nature of the information which petitioners conspired to transmit. (19).

This issue of fact was presented to the jury by the trial judge (R. 1554); it was resolved against the petitioners; it may not be retried on this application.

An additional ground for relief is urged by petitioner which under the treason clause of the Constitution (Art. 3, Sec. 3, Cl. 1), which provides in part that "no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court."

It is urged that this clause was violated by the admission of evidence of a "general intent to betray", unsupported by the testimony of two witnesses; that such testimony was improperly admitted to prove the specific treasonable intent to give enemy information required by the indictment; and that absent a prior showing of specific criminal intent, evidence of a general treasonable intent can under the treason clause only be established by the testimony of two witnesses.

In brief there was testimony offered and received over objection by petitioner's attorney (R. 190, 209) that petitioner was from a member of the Communist Party in 1939-1940. At the trial in a long discussion concerning the admissibility of this evidence, the trial judge inquired of the United States Attorney the theory on which it was offered, and the prosecutor stated:

> The Court: On what theory are you offering this?
>
> Mr. Hayes: On the theory that we have shown that he was a member of the Communist Party, we have shown that he was trained in espionage, we have shown that this is the other which this is proved.
>
> The Court: That you will overrule the objection. (R. 197).

Later the trial judge said that he was admitting the evidence "purely on the question of motive and not as proving the charge" (R. 200); still later the trial judge observed "you have to have intent; you have to have criminal intent," at which point Kobelin's attorney remarked "this statute, every word of it, the statute reads with intent, we reason to believe." (R. 201).

The objection interposed to the reception of this testimony was covered in terms that it was "incompetent, irrelevant and immaterial to the issues in this case and can only inject an extraneous issue that will confuse the jury and prejudice the defendants." (R. 199). At no time was objection made that the introduction of this testimony in the prosecution of an indictment returned for violation of Section 14, Title 50 U.S.C., would in effect convert the charges in the indictment to allege treason instead of espionage, or result in denial to the petitioners of the constitutional guarantee that "the testimony of two witnesses to the same overt act" be required to sustain a conviction of treason against the United States. No mention was made by the petitioners of Cramer v. United States (1944), 325 U.S. 1, as being the basis upon which the objections were made.

The trial judge specifically instructed the jury that this evidence was to be considered solely as the

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

section 2255 (28); for I conclude that this objection is

without merit.

The petitions are denied; the files and records

of this case show that the prisoners are entitled to no

relief. (28); and I find no substantial question of law

raised by these proceedings; the application made on behalf

of the petitioners hereunder for a writ of certificate of lf

judicial proceedings in forma pauperis is denied.

U.S.D.J.

December 10, 1952.

[illegible] of police called on by politicians calling members and public to whether the prepared and submitted by the District Attorney.

In [illegible] and brief publicity, beginning on the leaders of the politicians' claims otherwise reflected upon the [illegible] personnel[illegible] the public and in the [illegible] District of New York in the acceptance of their [illegible] the [illegible] of provision and [illegible] Court Clerk. Thereby

(a) Proper publicity developed by the Independent Citizens and private attorneys of the newspapers and other mass media of communication circulated within the Southern District of New York;

(b) Information leading the guilt of the politicians and to the press and state and federal of communication circulated within the City of New York by the Federal Bureau of Investigation, the Department of Justice, the office of the United States Attorney for the Southern District of New York and other officials of government, and [illegible] within the state [illegible] Attorney;

(c) The [illegible] of the [illegible] Bar Association in the prosecution of the [illegible] in the Southern District of New York in the course of the [illegible] the [illegible] of the [illegible] [illegible] the effect of publicity by the [illegible] of the [illegible] in the politicians [illegible] the politicians.

[illegible] the [illegible] and [illegible] [illegible] of the [illegible] politicians' convictions.

(a) Almost [illegible] of Bar[illegible] [illegible] [illegible] [illegible] [illegible]

(b) [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

(c) [illegible] [illegible]

[illegible]

34 of Title 50 U.S.C.A.

Summary of Points Relied on by petitioner, Morton Sobell, as prepared and submitted by his attorneys.

(a) Abuse of process of court by Jury Indictment plus press statements made in connection with it.

(b) Creation of hostile pretrial atmosphere to Sobell by knowingly false allusions to him as "atom spy" and "member of Julius Rosenberg spy ring".

(c) Feeding prejudicial material to grand jury, to deprive all defendants of presumption of innocence.

(a. to c. also to be considered together as one point)

(d) Violation of Brown claims by use of "circumstantial and general intent to injury".

(e) Knowing use of false testimony (from Rosenberg petition).

(f) Arbitrary classification of information as secret (from Rosenberg petition).

2. "R" denotes record on petition to the Supreme Court for certiorari.

3. Cahalin v. New York (1946) 327 U.S.[illegible].

4. United States v. Kennan (C.C.A.1948), 161 F.2d [illegible]

5. "The effect of inflammatory reporting in large metropolitan communities, where it is most likely to occur, is especially open to question. The fully conditioned mind represented to a sophisticated population are seldom impressed nor are they effective in changing attitudes. Given large [illegible] lists and the lack of [illegible] of those accused [illegible] should always be reliable in this [illegible] have not been [illegible] by [illegible] Law Journal, Vol. 59, No. 5, p. 1357, Nov. 1950.

6. Delaney v. U.S. (C.A.1, 1952), 199 F.2d 107, 116.

7. In his reply affidavit submitted on this application, he stated that counsel for petitioners remembers that the "unique panorama" of pretrial publicity could not have been revealed to him by the usual sporadic reading of an average newspaper reader in New York City, and that he was "unaware of the total picture." p. 3, aff. of E. Hook, 12/2/52.

8. Record pp. 43-158.

9. The trial record contains the following:

"The Court: You waive your last challenge?
Mr. A. Hook: That is correct.
Mr. Marzoli: Challenges waived and the jury is satisfactory to the Government.
The Court: Very well.
Mr. Kuntz: Satisfactory to the defendant.
The Court: Jury satisfactory all around.
Mr. E. H. Hook: Satisfactory all around." (R.152).

10. U.S. vs. Rosenberg, (C.A.2, 1952), 195 F.2d 583, 593.

11. Reid v. U.S., (C.A.D.C. 1950), 187 F.2d 192, Dennis v. U.S., 341 U.S. 527; U.S. vs. Walker, (C.A.2, 1952) 197 F.2d 287; Cf. U.S. vs. Snyder, (C.A.2, 1947), 160 F.2d 351.

12. Wolf v. Colorado, (1949) 338 U.S. 25,27; citing Palko v. Connecticut, (1937), 302 U.S. 319.

13. Frank v. Mangum, (1915), 237 U.S. 969, 984.

14. Shepherd v. Florida, (1951), 341 U.S. 50,51.

15. Cf. Marden v. U.S. (1939), 308 U.S. 339, 342.

16. U.S. vs. Weber, (C.A.2, 1952), 197 F.2d 237, 239).

17. Miles v. U.S., (C.A.10, 1952), 198 F2d. 199, 200.

18. U.S. vs. Milne, (C.A.2, 1943), 151 F.2d 813.

19. Corin v. U.S., (1942), 312 U.S.19, 31-32; rehearing den. 312 U.S. 713

20. In his charge the trial judge said:

Now, I ask you to determine at this point that I have indicated testimony as to membership or activity in the Communist Party and the testimony as to the fact that the Communist Party is dedicated to furthering the interests of the Union of Soviet Socialist Republics solely on the question of the defendant's intent to cause to believe that the classified secret information to be disclosed would be used to the advantage of a foreign nation in this case the Union of Soviet Socialist Republics which is an element of the charge that the Government must prove beyond a reasonable doubt.

I think to sanction your most strenuous that proof of Communist Party membership or activity does not prove the offense charged in this indictment but may be considered by you solely on the question of intent which is one element of the crime charged here in (a 1950).

21. Yates v. United States, supra, 990

22. Id.

23. On the importance of this and similar testimony to the overall concern of the Government's case, the Court of Appeals wrote, "If the jury believed her (this witness) the Government had a strong link connecting the Communist Party with the Soviet Union and making Communist Party membership, possibility of motive or intent to aid Russia." U.S. v. Rosenberg, supra, 593-6.

24. Cf. U.S. v. Walker, supra; Smith v. U.S., supra; U.S. v. Scott, supra.

25. U.S. v. Rayman, (1952), 342 U.S. 205.

APPENDIX

The following is a list of the points which have heretofore been raised by the petitioners.

In the petitions of Rosenberg.

In the Court of Appeals

1. Constitutionality of Espionage Statute
   a. Statute is vague and indefinite.
   b. Instant provisions are vague and indefinite.
   c. Statute does not establish a sufficiently certain standard of guilt.
2. Sufficiency of indictment.
3. Conduct of trial judge is a deprivation of fair trial
4. Prejudicial instructions to jury.
   a. Special rule to enforced law.
   b. Burden of defendants proof.
   c. Refusal to grant instruction to jury.
5. Errors in admission of evidence.
   a. Communist belief and affiliations as evidence of guilt and intent.
   b. Testimony-Julius Coleman's trial.
   c. Trial by Rosenberg's (co-defendant) jury.
   d. Use of nevadas in the Nuclear bomb.
   e. Knowledge of Soviet Military.
6. Invalid as Penal Statutes which are unusual punishment.

In the Court of Appeals on Petition for Rehearing

1. The Execution violated the reason given in the denial of certiorari.
2. The capital punishment provision of the Espionage Statute is unconstitutional.

In the Supreme Court on Petition for Writ of Certiorari

1. Constitutionality of Espionage Act under First and Fifth Amendments.
2. Sufficiency of indictment under Sixth Amendment.
3. Various Questions as to Trial Judge's Conduct.
4. Whether conduct of trial judge was prejudicial to defendants of fair trial.
   a. Aid to rulings.
   b. Improper instructions.
   c. Admission of evidence.

5. Improper Receipt of Evidence:
   a. Communist Evidence relating to Defendants' Intent.
   b. Bentley-Julius telephone calls.
   c. Schneider Testimony.
6. The Sentence of Death is Cruel and Unusual Punishment.

In the Supreme Court on Petition for Rehearing:

1. Espionage Act as construed violates Treason Clause of Constitution.
2. Espionage Act as construed rendered criminal offenses of the same kind as treason, but not treason.
3. Proof of Criminal Intent by Imputation from Continued Affiliation was improper.
4. Sentences were based on Improper Factual Basis.
5. Sentences were Excessive.

By the petitioner, Sobell.

In the Court of Appeals:

1. Insufficiency of Evidence.
2. Testimony showed two Conspiracies.
3. Insufficiency of Indictment.
4. Errors in Reception of Evidence or Misconduct depriving defendant of fair trial:
   a. The Communist issue as evidence of motive or intent.
   b. Evidence establishing Sobell had been deported from Mexico.
   c. Conduct of court (relying on issue as [illegible] Rosenberg).
   d. Conduct of prosecutor.
5. Court had no jurisdiction over person of Sobell because he was forcibly seized in a foreign country.

In the Court of Appeals on Petition for Rehearing:

1. Double conspiracy argument.
2. Error in receipt of Evidence of Political [illegible] of Intent.
3. Denial of Bill of Particulars was proper.

In the Supreme Court on Petition for Writ of Certiorari:

1. Double conspiracy argument.
2. Whether Sobell was denied a fair trial:
   a. References to treason.
   b. Testimony relating to Communist [illegible] and activity.
   c. Conduct of trial judge and prosecutor.
   d. Evidence of flight to Mexico.
   e. Evidence that defendant was deported [illegible]

2. Sufficiency of Evidence.
3. Evasion of Treason Clause of Constitution.
4. Constitutionality of Statute and Sufficiency of Indictment.
5. Alleged Kidnapping of Defendant.

In the Supreme Court on Petition for Rehearing:

1. Construction of Espionage Act Conflicted with Treason Clause of Constitution.
2. Proof of Communist Party Membership Did Not Prove Requisite Intent.
3. Sentence was Arbitrary and Appellate Courts Should Modify It.

[redacted]

b7c

Mr. Tolson
Mr. Ladd
Mr. Nichols
Mr. Belmont
Mr. Clegg
Mr. Glavin
Mr. Harbo
Mr. Rosen
Mr. Tracy
Mr. Laughlin
Mr. Mohr
Mr. Winterrowd
Tele. Room
Mr. Holloman
Miss Gandy

(4)

Hon. John Edgar Hoover
Federal Bureau of Investigation
Department of Justice
Washington, D.C.

Dear Edgar:

I don't know how it slipped my mind, but years ago I represented the [redacted] and [redacted] Company, owned by a fast friend of mine, [redacted] a man of honor and decency, and I recall that the employees who made trouble leading to a case before the NRLB were the Greenglasses of recent spy fame. Before the NRLB I was faced with [redacted] and [redacted] whose behavior [redacted] inexplicable at the time. The matter even came before [redacted] who was then in OPA. I felt at that time that because I was fighting communist infiltration in labor unions, that a particular crudge was being evidenced against me, and I advised the client to retain other counsel for a court proceeding. They retained [redacted] The case went up through the courts. [redacted] was unable to overcome the record which the NRLB had made. This record, in my opinion, was peculiarly distorted and possibly because of the inter-relationship of the persons above named.

b7D
b7C

I thought it might be of value to you to have this information in your files, although the source must be held anonymous both in so far as the client and myself are concerned.

Yours,

[redacted]

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-23-86 BY 3042 pwt-Dtc

65-58236-1409

RECORDED-147

INDEXED-147

EXPEDITE PROCESSING

December 31, 1952

INDEXED-147
RECORDED-147

65-58236-1407

[redacted]

New York 17, New York

b7c

ac 4-1

G.I.K.-8 ac 4-1

Dear [redacted]

I have noted with interest the data contained in your letter of December 26, last, and am deeply appreciative of your thoughtfulness in furnishing this information to me.

Sincerely,

Edgar

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 9/23-86 BY 3042 Put-DJC

cc - 2 - New York

NOTE: [redacted], advised that years ago he represented the [redacted] and [redacted] company and that certain employees of this company who had made trouble for it before the NLRB were the Greenglasses. [redacted] believed that it would be of value to have this information in our files.

b7c

~~Ernst~~ is obviously referring to Ethel Rosenberg, nee Greenglass, convicted spy, who was employed by this company from [redacted] and according to information developed by your office, actively participated in employees' strike against this company. For your information.

b7c

65-58236)

APL:awy

JAN 14 1953

MAILED 11
JAN 2 1953
COMM-FBI

6 JAN '53
FBI
JUSTICE
DIRECTOR

STANDARD FORM NO. 64

Office Memorandum • UNITED GOVERNMENT

TO : Director, FBI

DATE: 1/10/53

FROM : SAC, New York (65-15348)

SUBJECT: JULIUS ROSENBERG, ET AL
ESP - R
(USDJ IRVING R. KAUFMAN)

39545

39545

9-1

Judge KAUFMAN advised on 1/9/53, that he was leaving for Florida on 1/12/53 for a three week vacation, in Palm Beach, Fla.

He stated that he was very satisfied with the arrangements that have been effected through this office with the NYCPD for the protection of his family and himself. He stated that a police officer has been stationed outside his house and that a police woman is stationed in his apartment from 4:00 p.m. to 10:00 p.m. each day.

He made available a letter sent to him by MORTON SOBELL from Alcatraz Prison. This letter requests the Judge to reduce SOBELL's sentence to seven or five years. It will not be answered by the Judge.

A copy of this letter is being secured and will be forwarded to the Bureau under the case of "MORTON SOBELL, ESP - R."

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 7-23-86 BY 3042 pwt-bkc

I.R.S.

65-58236-1408

RECORDED
12 JAN 12 1953

JAH:EJB

JAN 16

SEC ITY INFORMATION - [redacted]

THE ATTORNEY GENERAL [redacted] January 9, 1953

DIRECTOR, FBI

JULIUS ROSENBERG;
ETHEL ROSENBERG
ESPIONAGE - R

Classified By [redacted] SECRET
Exempt from GDS, Category [redacted]
Date of Declassification Indefinite

In connection with the plea for clemency by Julius and Ethel Rosenberg, I thought that you might desire to have at this time a concise summary of the pertinent data in our files concerning their espionage activities. You will recall that through the admissions of Harry Gold concerning his espionage mission to Albuquerque, New Mexico, in June, 1945, David Greenglass was identified as a Soviet espionage agent. Admissions made by Greenglass and his wife, Ruth, resulted in the identification of Julius and Ethel Rosenberg as the persons to whom David and Ruth Greenglass were responsible.

DECLASSIFIED BY 3042 PWT/lmb 10/21/82

THE ROSENBERG-GREENGLASS ESPIONAGE CONSPIRACY

Knowledge of the espionage activities of Julius and Ethel Rosenberg first came to the attention of Ruth Greenglass in November, 1944, when she was preparing to visit her husband, David, a soldier stationed at Los Alamos. Prior to her departure from New York City, she visited the Rosenbergs. Julius Rosenberg told her that he and his wife, Ethel, had discontinued their open affiliation with the Communist Party because he had always wanted to do more than be just a Communist Party member. He stated he had searched for two years and had made contact with a group through whom he could directly help Russia. He then told Ruth that her husband, David, was working on the atom bomb in New Mexico. He requested her to ask David if he would make scientific information available to the Russians. She was reluctant to do so, but under urging from David's sister, Ethel Rosenberg, she agreed to ask David.

Prior to her departure, Julius Rosenberg gave Ruth Greenglass about $150 to help finance the trip. She arrived in Albuquerque the last part of November, 1944, and told her husband of her conversation with the Rosenbergs. David at first refused and then agreed to furnish data available to

RJL:mh

RECORDED 41 65-58236-1409

SECURITY INFORMATION - [redacted]

[redacted] SECRET

56 JAN 21 1953

MAILED 2
JAN 9 1953
COMM-FBI

Classified By [redacted]
Exempt from GDS, Category [redacted]
Date of Declassification Indefinite

[redacted] SECRET

him at Los Alamos concerning the work going on to produce an Atom Bomb. He furnished to her for delivery to Rosenberg the names of some of the personnel at Los Alamos whom he believed were ideologically suited for development as sources by the Soviets. He explained to her the physical set-up at Los Alamos.

In January, 1945, David arrived in New York City on furlough. Julius Rosenberg came to his apartment and requested David to write up in detail all of the experiments and work known to David at Los Alamos, and requested sketches of the lens molds used on the Atom Bomb. Rosenberg said he would be back the following morning to pick up the material. After the material was prepared, Rosenberg called at the apartment and took the information. Ruth Greenglass commented on David's poor handwriting and Rosenberg said that his wife, Ethel, would type up the report. That night the Greenglasses went to the Rosenberg apartment for dinner. Present was Anne Sidorovich, who was introduced by Julius to the Greenglasses. After Anne Sidorovich left the apartment, Ruth mentioned to Ethel that she (Ethel) looked tired and Ethel replied that between typing up material that Julius received and caring for her child, she did get tired.

During the evening, Julius got out the side of a Jello box and cut it into two parts. He handed one part to Ruth and said that Anne Sidorovich would be given the other part and would contact the Greenglasses in either Denver or Albuquerque to receive data developed by David Greenglass. Harry Gold, however, made the contact with the Greenglasses in Albuquerque in June, 1945, and used the side of the Jello box as a recognition signal. He also gave $500 to Greenglass for the information which David provided to him. Gold has related that he received instruction to contact Greenglass from his Soviet espionage superior Anatoli A. Yakovlev, a Soviet Consulate official in New York City. Yakovlev gave Gold the box side and $500 for transmittal to Greenglass. Yakovlev also instructed Gold to pick up atomic energy data from Klaus Fuchs, then at Los Alamos. Gold turned over to Yakovlev the information he had obtained from both Fuchs and Greenglass.

Greenglass also stated that during a furlough in New York City, Rosenberg arranged for Greenglass to meet an individual in a car. This individual questioned Greenglass about a high explosive lens which was being experimented upon at Los Alamos. Greenglass, because of the darkness in the car, has been unable to identify this individual.

[redacted]

Greenglass had a furlough in September, 1945, and returned to New York City. Julius came to his house for information and David informed him that he had a pretty good description of the Atom Bomb. Under Julius' instruction, David prepared this material and took it to the Rosenberg apartment. The preparation of this report took from three to six hours. Later, he turned this material over to Rosenberg, and the material contained sketches of the Atom Bomb. Julius gave the material to his wife, Ethel, who prepared the report in the presence of the Greenglasses and Julius. The handwritten notes exclusive of the sketches were then destroyed. $200 was furnished to David Greenglass by Julius. [redacted]

In about February, 1950, when Fuchs was arrested in England, Rosenberg told Greenglass that Greenglass would have to leave the country, because Fuch's arrest would lead to the arrest of Fuch's contact. When Gold was arrested in May, 1950, Rosenberg gave Greenglass $1,000 to leave the United States and a few days later an additional $4,000 with instructions on how Greenglass should travel to Mexico and from there to Czechoslovakia.

Harry Gold has also advised that he went to Elmhurst, Long Island, for a prearranged meeting with a Soviet superior on the first Sunday in February, 1950. He was to meet a man who was to have a cigar in his mouth. No one contacted him but he observed a man with a cigar in his mouth walk by him. Gold has identified this individual as Julius Rosenberg.

In September, 1945, while Ethel Rosenberg was typing up the Greenglass material mentioned heretofore, Julius told David that he, Julius, had taken a proximity fuse when he was working at Emerson Radio Company which was highly secret at that time, and he had given it to the Russians.

After World War II was ended, Rosenberg requested Greenglass to try to continue his employment at Los Alamos in a civilian capacity. Greenglass declined. Rosenberg also attempted to persuade Greenglass to become a student of nuclear physics at Massachusetts Institute of Technology or the University of Chicago at Russian expense in order to make contacts in this field and obtain information for the Russians.

From 1946 to 1949, Greenglass was asso[redacted]h Rosenberg in business. During this period, Rosenberg told Greenglass that he had people going to school; that he had people in upstate New York and in Ohio giving him information for the Russians and mentioned he had another contact at General Electric in Schenectady, New York.

[redacted]

Late in 1947, Rosenberg told Greenglass about a sky platform project and Rosenberg said he received this information from "one of his boys." Rosenberg also said that he had a way of communicating with the Russians by putting material or messages in the alcove of a theatre.

[redacted]

For photographic work in connection with his espionage activities, Rosenberg told Greenglass that he used two apartments, one in Greenwich Village section of New York City and the other in the vicinity of 12th Street and Avenue B, New York City.

BENTLEY'S INFORMATION ABOUT JULIUS ROSENBERG

Elizabeth Bentley advised that during her association with Jacob Golos, her former espionage superior, that she became aware of the fact that Golos knew an engineer named "Julius" and that he obtained information from "Julius." In the Fall or in December of 1942, an individual named "Julius" who was the leader of a Communist cell of engineers was turned over to Jacob Golos to be developed in Soviet espionage. "Julius" was to be the contact between Golos and the group; Bentley believed this cell of engineers was capable of development. The first two meetings that Golos had with "Julius" were held in the early evening on the lower east side of New York City. Bentley accompanied Golos to the scene of the meetings but remained in his automobile. She saw Golos conferring with "Julius" on the street but at some distance. Golos told Bentley that "Julius" lived in Knickerbocker Village in New York City. Bentley described "Julius" as being about five feet, ten or eleven inches in height, slim and wearing glasses. Investigation disclosed that from 1942 on Julius Rosenberg resided at 10 Monroe Street, in what is known as Knickerbocker Village. Julius Rosenberg is five feet ten inches tall, slim and wears glasses. Bentley has been unable to make a positive identification of "Julius."

Max Elitcher advised on August 9, 1950, that Morton Sobell had mentioned that Rosenberg once said he had spoken to Elizabeth Bentley on the telephone although she did not know who he was. David Greenglass also stated Rosenberg told him that he, Rosenberg, knew Jacob Golos and that Bentley probably knew him (Rosenberg).

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[redacted]

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INFORMATION FROM TARTAKOW INDICATING ESPIONAGE ACTIVITIES OF JULIUS AND ETHEL ROSENBERG

TOP SECRET

Jerome Eugene Tartakow, Confidential Informant, whose identity has not been disclosed, was a fellow inmate of Julius Rosenberg at the Federal House of Detention, New York City, during the time Rosenberg was an inmate there. Tartakow voluntarily furnished information concerning conversations he had with Rosenberg during this period. The information furnished by Tartakow which relates to other persons involved with Julius Rosenberg is set out under their individual captions. Certain of the information furnished by Tartakow has been corroborated but the great bulk of his information cannot be corroborated [redacted] due to the lack of cooperation on the part of the Rosenbergs [redacted]

Rosenberg stated that he had plenty of money but only he or his wife had access to it. Rosenberg said he did not flee the United States as he had to "take care of" some friends but if he had had another week he could have escaped. In speaking of the death penalty, Rosenberg stated "he had played the game and lost and would have to take the results. [redacted]

Rosenberg stated that there were two units operating in the New York area and that he had headed one unit and two men headed the other unit. He said one was in Europe at the time of his, Rosenberg's, arrest and the other fled one week after his arrest. [redacted]

Rosenberg stated he had no direct connection with the American Communist Party but that he did "extra-legal work." Rosenberg indicated it had taken a long time to get into underground activities and that the breaking up of the Canadian spy ring had caused him to lose contact for almost two years. Rosenberg, as an illustration of the time needed to build an organization, told of a young couple in a mid-West city to whom he gave money to operate a business as a front and said during his recent operations this man operated as a go-between for [redacted] the transmission of microfilm to Rosenberg for further tran[redacted]

Rosenberg also explained how he had meetings with his Russian contacts and the prearranged signals such as marks on store windows, standing in front of theaters, stuffing tobacco in his pipe and how he had discovered a hole in the floor of a theater which was thereafter used by him as a depository for [redacted] the transmitting of information. Rosenberg named his Russ[redacted]

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contacts as Alex, Henry and Dennis but did not further identify these persons. Rosenberg also related how he had contacted a Russian superior in a railroad station in an unnamed city and had passed information to him by switching brief-cases. He also described a meeting with a superior while driving in a car with Morton Sobell on Long Island. Rosenberg said he had had contact with a Russian several times a month. [redacted]

Rosenberg stated that if his wife, Ethel, were released she could make contacts as "she is a very capable person, one thoroughly checked by my friends, as all the wives of agents are and one who has assisted me on many of my projects." Rosenberg indicated he had $7,000 in cash and a Leica camera in his apartment at the time he was first questioned by Federal Bureau of Investigation Agents (June 16, 1950) but he refused to consent to a search. The following morning Ethel removed the money and the camera in a shopping bag and took it to the apartment of a Communist Party member in Kickerbocker Villag[redacted]

Rosenberg said during the week end of July 4, 1949, he had spent 17 hours in company with William Perl and two other men photographing material in the Rosenberg apartment which material had been taken from Columbia University by William Perl, who will be referred to hereinafter. [redacted]

INFORMATION CONCERNING OTHER ASSOCIATES OF JULIUS ROSENBERG

Information received from Elizabeth Bentley, David Greenglass, Max Elitcher and Jerome Tartakow reflects that Julius Rosenberg had other persons involved with him who were engaged in espionage activities. Information concerning certain associates of Julius Rosenberg is being set forth hereinafter, as developed by investigation, which connects various persons with Julius Rosenberg and his espionage activities. [redacted]

Max Elitcher

Max Elitcher, a classmate of Julius Rosenberg at the College of the City of New York, was employed as an electrical engineer, Bureau of Ordnance, Department of the Navy, Washington, D.C., from 1938, to 1948. Elitcher advised Agents of the Federal Bureau of Investigation on July 21, 1950, that Julius Rosenberg visited him at his residence, 247 Delaware Avenue, Southwest, Washington, D.C., in the Summer of 1944, and requested him to

obtain reports and blueprints concerning his work at the Bureau of Ordnance and give them to Rosenberg for transmittal to Russia. Elitcher stated that Rosenberg contacted him at least nine times during the next three years on which occasions he attempted to persuade Elitcher to obtain information for him. According to Elitcher, in early 1948, he told Rosenberg that he definitely would not cooperate with him. Elitcher stated that he never furnished Rosenberg any information. Elitcher stated that he, Elitcher, was a Communist Party member from 1939 to 1948.

Elitcher stated that Rosenberg told him Morton Sobell was working with him or was "in this with me" or used some phrase indicating that Sobell was cooperating with Rosenberg in obtaining information for the Russians.

Elitcher stated that prior to September, 1948, and again in 1949, Morton Sobell asked him if he knew of any engineers who might be approached to engage in espionage activities. Elitcher stated he advised Sobell that he did not know anyone.

Elitcher advised that at the end of June, 1948, when he had decided to quit his job at the Bureau of Ordnance, Rosenberg expressed disappointment and attempted to persuade him to remain with the Bureau of Ordnance as "they" needed someone to work in the Navy Department. Elitcher said Rosenberg told him he had made elaborate plans for someone to maintain contact with Elitcher in Washington, D. C.

Elitcher stated that in July, 1948, while visiting at the home of Sobell in Flushing, New York, Sobell told him that he had some "good material" for Rosenberg. Elitcher observed Sobell put a 35 millimeter film can in his coat pocket. They drove to the lower east side, to Catherine Slip Street, and Sobell left the car for about fifteen minutes. When he returned he said he had seen Rosenberg. Sobell stated that Rosenberg had just told him he once spoke with Elizabeth Bentley on the telephone, but that she did not know who he was, and, therefore, there was nothing to worry about.

Morton Sobell

As referred to in the foregoing, Max Elitcher, former classmate of Julius Rosenberg and Morton Sobell, advised Federal

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Bureau of Investigation Agents on July 21, 1950, that Rosenberg told him that Sobell was either working with, or cooperating with, Rosenberg in his espionage activities.

Elitcher advised that in about the middle of 1946, and on several occasions subsequent thereto, Sobell asked him to obtain reports or pamphlets on the Mark 56 Project which Elitcher was then working on in the Bureau of Ordnance, Department of the Navy, Washington, D.C. Elitcher stated he put Sobell off and never furnished him any reports or pamphlets.

Elitcher advised that Sobell, on several occasions subsequent to 1947, made arrangements for Elitcher's future discussions with Rosenberg in connection with the latter's efforts to recruit Elitcher into the espionage network.

As previously stated, Elitcher was visiting Sobell's home, in July, 1948, was informed by Sobell that he had some "good material" for Rosenberg, whereupon Elitcher observed Sobell put a can of 35 millimeter film into his pocket. They drove to Catherine Slip Street in New York City where Sobell left the car. Upon his return fifteen minutes later, he informed Elitcher that he had seen Rosenberg.

It was previously mentioned that prior to September, 1948, and again in 1949, Sobell asked Elitcher if he knew of any engineers who might be approached to engage in espionage activities. Elitcher stated he advised Sobell that he did not know of anyone.

Officials of the Reeves Instrument Company, employers of Sobell, advised that Sobell failed to report to work after June 16, 1950. This was the date of the arrest of David Greenglass on espionage charges in New York City. Officials of the Corn Exchange Bank, York Avenue, New York City, advised that on June 21, 1950, Sobell withdrew $700 leaving a balance of $10.56 in the bank. He normally carried a $600 balance. American Airlines records, La Guardia Field, New York, reflected that Sobell, his wife, Helen, his stepdaughter, Sydney, and his son, Mark, departed for Mexico on June 22, 1950. American Airlines records in Mexico City reflected that the return trip portions of the tickets issued in New York were cashed in on July 22, 1950, in Mexico City.

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As stated in the foregoing, David Greenglass advised that a few days prior to the arrest of Harry Gold, May 23, 1950, Rosenberg instructed him to go to Mexico City immediately and gave him approximately $5,000 to defray the expenses of the trip to Mexico, from which point passage to Europe would be arranged.

Sobell was located in Mexico City on August 16, 1950, by the Mexican Federal Security Police and was arrested. He resisted the arresting officers in a violent manner and it was necessary to subdue him by a blow on the head. He had steamship schedules in his possession for boats leaving Mexico for South America and Europe. On August 18, 1950, Sobell admitted to Federal Bureau of Investigation Agents that prior to leaving for Mexico he had signed over the title to his automobile to Edith Levitov of Arlington, Virginia, and assumed she would sell it and furnish the proceeds to him. [redacted]

Elitcher advised he was induced to join the Communist Party in Washington, D.C., by Sobell in 1939, and Sobell informed him that he, himself, was a member of the Communist Party.

Sobell was employed as an engineer by the General Electric Company, Schenectady, New York, from June 15, 1942, to June 18, 1947, and had access to classified material, including that on fire control radar. He was employed as an engineer by Reeves Instrument Company, New York City, from June, 1947, to June 16, 1950, and had access to secret data.

William Perl

William Perl was indicted for perjury in the Southern District of New York on March 13, 1951, the charges growing out of false statements made by him concerning his association with Julius Rosenberg and other persons closely connected with Julius Rosenberg. Perl was a classmate at the College of the City of New York, in the Engineering School, with Joel Barr, Morton Sobell and Rosenberg. Perl began employment with the National Advisory Committee for Aeronautics in 1939 and was assigned to Langley Field, Virginia, from 1939, to 1944, at which time he was transferred to Cleveland. He remained employed by the National Advisory Committee for Aeronautics at Cleveland until September, 1950, with the exception of a period between 1946 and 1948, when he was studying at Columbia University in New York City. During his employment with the National Advisory Committee for Aeronautics he had access to highly classified information.

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David Greenglass has stated he believes Julius Rosenberg told him in September or October, 1948, that he had received from "one of his boys" the mathematics involved in the construction of an atomic energy airplane motor. Jerome Tartakow, an informant of unknown reliability, states Rosenberg told him William Perl gave him the plans on "nuclear fission to propel airplanes," that Perl was a brilliant man in the field of aerodynamics, and some of the material furnished to Rosenberg by Perl was "terrific." Dr. Abraham Silverstein, Perl's superior at the National Advisory Committee for Aeronautics in Cleveland did have in his possession in the Fall of 1948 a secret mathematical analysis dealing with the "Nuclear Energy for the Propulsion of Aircraft project."

David Greenglass has stated he learned from Rosenberg that Rosenberg had two apartments which were used for photographing material given to Soviet Intelligence. Greenglass learned from Rosenberg that Joel Barr worked with Rosenberg in Soviet espionage activities. An apartment at 65 Morton Street, New York City, was located which had been rented by Alfred Sarant and in which Sarant, Joel Barr and William Perl all lived at various times. The superintendent of this apartment house observed photographic type equipment in this apartment. Perl has admitted residing in this apartment through arrangements made by him with Barr and Sarant. Max Elitcher states he attended social gatherings at this apartment attended by Rosenberg, Barr, Perl, Sarant and Morton Sobell.

Perl, on July 27, 1950, advised that on July 23, 1950, Vivian Glassman, whom he had known as the girl friend of Joel Barr, contacted him at his apartment in Cleveland. She wrote him a note in which she said she had been instructed by a stranger to speak to an aeronautical engineer in Cleveland to give him money and instructions on how to leave the country for Mexico. She wrote that she had money for him. Perl claims, following her departure, he flushed the note down the lavatory bowl. As will be set forth hereinafter, Vivian Glassman has admitted making this trip to Cleveland and contacting Perl, at which time she offered him a roll of bills she understood to contain $2,000.

Information was also secured from David Greenglass that Rosenberg indicated to him in the Spring of 1948 that he had an espionage contact who had been working on a dam project in Egypt and from whom Rosenberg had borrowed money. The Hugh L. Cooper Company in New York City was engaged in work on the Aswan Dam Project in Egypt and hired Theodore Von Karman to work on certain principles of aerodynamics involved in the construction of the dam. Von Karman in turn had William Perl work under him in doing some of the calculations.

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Vivian Glassman [redacted]

As noted in the foregoing, William Perl, in a statement to Federal Bureau of Investigation Agents, on July 27, 1950, related that Vivian Glassman visited him at his residence in Cleveland on July 23, 1950, and in handwritten notations advised him she had a sum of money for him and gave him instructions for leaving the United States, and that some reference was made to Mexico.

Vivian Glassman confirmed the fact of her visit to Perl on the above date in an interview with agents on August 3, 1950. She explained that she did so at the request of a man who was unknown to her, but who came to her home on July 21, 1950, introducing himself as an acquaintance of Joel Barr, her former fiance, who is subsequently identified in this memorandum. She stated that her unidentified visitor asked her to go to Cleveland to visit her friend, an aeronautical engineer, who was interested in her sister. She understood that he was referring to William Perl, a friend of her sister's and the only aeronautical engineer she knew in Cleveland. Her visitor asked her to tell Perl to go to Mexico, and gave her a roll of money which he said amounted to $2,000. After obtaining Perl's address from her sister's correspondence, Glassman took a plane to Cleveland the next day, obtaining reservations in the name of Mrs. S. Goldberg, and took a room under the same name at the Regent Hotel, in Cleveland. The following day she visited Perl at his residence at 666 East 103rd Street, Cleveland.

Glassman said she wrote notations on a pad furnished by Perl, giving him the instructions the stranger had given her concerning going to Mexico, and advising him she had money for him. She said Perl told her she must be crazy to get mixed up in such a deal, professed to know of no reason why anyone should want him to go to Mexico and told her to return to New York and wash her hands of the whole affair. She

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[redacted]

returned to New York, retaining the money until the evening of July 27, 1950, when she stated the unidentified man again visited her apartment; after informing him of her contact with Perl, she returned the money to the stranger and he departed. She had no further contact with this man.

Vivian Glassman, in the course of the interview on August 3, 1950, said she was very friendly with Julius Rosenberg and his wife, met them in 1945, and frequently visited the Rosenbergs socially thereafter. She stated Julius Rosenberg had been in her apartment at 131 East 7th Street on several occasions, and said she was more friendly with Ethel Rosenberg than with Julius.

In the course of the interview of August 8, 1950, Vivian Glassman acknowledged being acquainted with Alfred Sarant, identified in the foregoing. Questioned concerning a money order deposited in Sarant's account in an Ithaca, New York bank, Glassman explained that she had sent money orders to him in payment of rent on the apartment at 65 Morton Street. This apartment, and its connection with Rosenberg's espionage activity, have been previously referred to herein. Glassman advised that she considered taking over the apartment in question after Sarant moved out, and while making up her mind, paid the rent to Sarant in July and August, 1948. It is noted, however, that money order 988487, issued on August 8, 1949, to Vivian Glassman, was deposited to Sarant's account on August 11, 1949.

Mrs. Nathan Sussman, 56-55 205th Street, Bayside, Long Island, an admitted former member of

[redacted] TOP SECRET

the Communist Party, stated she met Vivian Glassman with Alfred Sarant and Joel Barr on at least two occasions in 1944. She also stated she met Vivian Glassman at the home of Julius and Ethel Rosenberg, 10 Monroe Street, on one occasion in the early part of 1944.

David Greenglass has identified a photograph of Vivian Glassman, and has stated that he met her at Julius and Ethel Rosenberg's apartment on several occasions in 1946 and 1947.

Stephen L. Javna, interviewed on August 17, 1950, said he was visited in the Spring of 1946 at his residence at 131 East 7th Street, New York City, by Vivian Glassman, who, on that occasion, was accompanied by Julius Rosenberg.

Jerome Tartakow, who has been referred to in the foregoing, advised on January 18, 1951, that he learned from Julius Rosenberg that the latter was concerned about information given the government by a woman, who was on intimate terms with Ethel Rosenberg. Rosenberg, according to Tartakow, said this woman travelled to a distant city to bring funds to a man there, so that he could leave the country, and for some reason the funds were refused by this man. The woman returned to New York, and, according to this account, was picked up by the government with the money. If this, in fact, referred to Vivian Glassman, it is not true, of course, that she was picked up with the money [redacted]

On April 5, 1951, Tartakow stated Julius Rosenberg told him that he had furnished his Russian contact with the name of Perl, among others, as a person to be helped to flee the United States, and that his contact selected Vivian Glassman as a courier for the job, a choice which Rosenberg considered unwise, since she was too well known as a Communist to be used in such capacity. [redacted]

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Tolson
Tadd
Michols
Belmont
Clegg
Glavin
Harbo
Rosen
Tracy
Laughlin
Mohr
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Nellosen
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[redacted]

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Joel Barr

In his signed statement dated July 17, 1950, David Greenglass declared that after the arrest of Harry Gold on May 23, 1950, Rosenberg attempted to persuade Greenglass and his wife to flee from the United States via Mexico. According to Greenglass, Rosenberg told him that more important persons than Greenglass had left the country already, and said that Joel Barr had left the United States before Fuchs was arrested and is now working for the Russians in Europe.

David Greenglass also stated that Rosenberg told him, probably in 1949, after Barr had left the United States, that Barr had gone to Europe to study music. In a later conversation, however, Rosenberg told Greenglass that Barr is actually using his music studies in Europe as a cover for his espionage activities.

Confidential Informant Jerome Tartakow, previously described, has advised that in a conversation with Rosenberg in the Federal House of Detention in New York City, Rosenberg stated there were two espionage units operating in New York City, that Rosenberg headed one of these units and that the other unit was headed by two men. Regarding these two men, Rosenberg told the informant that one of them was in Europe at the time of Rosenberg's arrest. [redacted]

It will be noted that Rosenberg was arrested by the FBI on July 17, 1950. Joel Barr is known to have left the United States on January 21, 1948, for Paris, France. He disappeared from his residence in Paris on June 16, 1950, and his present location is not known.

Max Elitcher, elsewhere described as an admitted associate of Rosenberg, has stated that Barr was acquainted with Julius Rosenberg. Elitcher stated that he was present at social gatherings at Apartment 6-1, 65 Morton Street, New York City, attended by Rosenberg, Barr, Alfred Sarant, William Perl, and Morton Sobell.

[redacted]

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Alfred Sarant, elsewhere described as an associate of Rosenberg, stated in an interview with the FBI in July, 1950, that he associated closely with Joel Barr beginning in 1941. Sarant stated that Barr frequently visited him at his apartment at 65 Morton Street, that Barr had a key to that apartment, and that in 1946 when Sarant moved to Ithaca, New York, he let Barr take over that apartment. Sarant stated Barr subsequently turned the apartment over to William Perl, also identified as an associate of Rosenberg.

Sarant also stated that he believed Joel Barr was a member of the Communist Party.

It is also noted that Vivian Glassman, elsewhere described as an acquaintance of Rosenberg, has stated that Joel Barr was formerly her fiance.

Alfred Sarant

In his signed statement dated July 17, 1950, David Greenglass stated that Julius Rosenberg told him that he had two untenanted apartments in New York City, one of which was located in the Greenwich Village section, which were used for photographic activities of the Rosenberg espionage network. Investigation to locate this apartment has revealed that this is probably Apartment 6-1, 65 Morton Street, which is in the Greenwich Village section of New York. This apartment was leased by Alfred Sarant from October, 1943, to January 31, 1950. Sarant himself vacated the apartment in the Fall of 1946, when he moved to Ithaca, New York, but he thereafter allowed various of his friends to use the apartment, including Joel Barr, William Perl and Vivian Glassman, all of whom have been identified as associates of Julius Rosenberg.

The superintendent of the premises at 65 Morton Street, Floyd Elwyn, Sr., advised that in 1944 when he had occasion to enter this apartment in connection with his custodial duties, he observed that the apartment contained very little furniture. He said there were three iron single cots in the apartment, that the living room contained work

benches, a considerable quantity of electrical tools, and that there were several black tool boxes in the closet. Floyd Elwyn, Jr., son of the superintendent, said that in the Winter of 1949 - 1950 when he entered the apartment he observed a reflector type flood bulb suspended from a wall bracket over the kitchen table which was in the living room, and that there was very little furniture in the apartment.

Confidential Informant Jerome Tartakow, previously described, has advised that while Rosenberg was confined in the Federal House of Detention, New York City, he confided to Tartakow that Alfred Sarant was "a member of his organization." The informant interpreted from this and other statements made by Rosenberg that Sarant was a Soviet espionage agent affiliated with the Rosenberg group. The informant also stated that Rosenberg told him he had made two trips to Ithaca, New York, to see Sarant and to make "pickups." The informant interpreted this to mean that Sarant was furnishing information to Rosenberg. Rosenberg described Sarant to the informant as "an extremely intelligent man," and the informant said that Rosenberg thought a lot of Sarant. [redacted]

Informant Tartakow also advised that in another conversation he had with Rosenberg in the Federal House of Detention in New York City, Rosenberg told him that there were two espionage units operating in New York City, and that Rosenberg headed one of these units and that the other unit was headed by two men. Regarding these two men, Rosenberg told the informant that one of them was in Europe at the time of Rosenberg's arrest and that the other man had fled from this country one week after Rosenberg's arrest. [redacted]

It will be noted that Sarant fled from the United States to Mexico early in August, 1950. Rosenberg was arrested by the FBI in New York on July 17, 1950.

Sarant, upon interview by the FBI in July, 1950, admitted being an acquaintance of both Julius and Ethel Rosenberg, stating he had first met them sometime between 1942 and 1945.

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[redacted]

Sarant admitted membership in the Communist Party in 1943 - 1944, in New York City, admitted being an acquaintance of William Perl, and admitted close association with Joel Barr since 1941. He said he probably met Rosenberg through Barr.

Sarant admitted having met with both Rosenberg and Barr at his apartment at 65 Morton Street, and said that Barr had a key to this apartment. Sarant also admitted that he, himself, had considerable interest and proficiency in photography and admitted having film-development equipment and flood lamps in the Morton Street apartment. He also said that Joel Barr had a Leica camera when Barr was residing with him in that apartment.

Sarant admitted that on one occasion Julius Rosenberg had propositioned him but Sarant stated he "didn't bite." Sarant then refused to furnish any further details concerning this "proposition," and denied participating in any espionage activities with Rosenberg.

Sarant fled from the United States in August, 1950, shortly after Rosenberg was arrested by the FBI. He was last known to have been in Mexico on August 13, 1950, and his present location is unknown.

Michael and Anne Sidorovich

Michael and Anne Sidorovich presently reside in Cleveland, Ohio. David and Ruth Greenglass identified Anne Sidorovich as having been in the Rosenberg apartment in New York City in January, 1945, where the Greenglasses were introduced to her. Subsequent to her departure from the apartment, Rosenberg told the Greenglasses that Anne Sidorovich would contact them in Denver or Albuquerque to secure the atomic energy data Greenglass was to develop. Rosenberg gave to Ruth Greenglass a portion of the side of a Jello box, and said that Anne Sidorovich would have the matching piece as a method of identification. Actually it was Harry Gold who ultimately contacted the Greenglasses in Albuquerque.

[redacted]

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[redacted]

The Sidoroviches have denied engaging in espionage activity under the direction of Julius Rosenberg. When first interviewed on July 25, 1950, Michael Sidorovich indicated he did not know Rosenberg; although he and Anne Sidorovich later admitted a close friendship with Julius and Ethel Rosenberg. He said he had gone to Seward Park High School in New York City with Julius Rosenberg. Michael Sidorovich admitted that he knew Julius and Ethel Rosenberg in Young Communist League activities in New York City prior to 1937, at which time Sidorovich went to Spain to fight for the Loyalists.

It is of interest to note that according to Jerome Tartakow, referred to previously, Rosenberg, while in the Federal House of Detention in New York City, told him he advanced money to a young couple to open a business in the West. Rosenberg said the man had gone to school with him and had been in the Abraham Lincoln Brigade. According to Rosenberg this man had acted as a "go between" and had been used to send microfilm from others to Rosenberg. [redacted]

Michael and Anne Sidorovich have denied knowing William Perl who also resided in Cleveland. Perl has made a similar denial concerning the Sidoroviches. Evidence has been developed that in July, 1948, Michael and Anne Sidorovich purchased a used car in Cleveland, Ohio, and that William Perl accompanied them on this occasion. They arrived at the home of the prospective seller, Mr. Robert E. Ifleger, in a suburb of Cleveland in an automobile driven by William Perl. This evidence is one count in the indictment in the Southern District of New York against William Perl.

Edward James Weinstein and Maxwell Finestone

Jerome Tartakow, referred to previously, advised he learned from Rosenberg that the last person recruited by Rosenberg was an individual who was living with another man, the son of a wealthy family. This latter person was described [redacted]

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by Rosenberg as owning a black convertible Buick, 1949 or 1950 model, who had also studied law and differed ideologically from his family. Rosenberg also indicated that the "recruit" had borrowed the convertible Buick to drive him to Ithaca, New York, to see Alfred Sarant and make a pickup of espionage material. It was Tartakow's understanding that this man also was the man who contacted Vivian Glassman after Rosenberg's arrest and instructed her to contact William Perl in Cleveland, Ohio. Tartakow advised that this man assisted Rosenberg, Perl and another man in photographing material for 17 hours in the Rosenberg apartment on the week of July 4, 1949. [redacted]

Edward James Weinstein is the son of Joseph Weinstein, wealthy garment manufacturer in New York City. He attended Columbia University, School of Law, during the school year of 1949 - 1950 but did not re-enter in September, 1950. Weinstein owned a 1949 convertible Buick which he sold on July 19, 1950, two days after Rosenberg's arrest. Weinstein had had a disagreement with his father and moved into an apartment at 418 East 9th Street, New York City, which he shared with Maxwell Finestone from January to October, 1950. Finestone lived in an apartment at 65 Morton Street, New York City, during the year 1949, which apartment was rented in the name of Alfred Sarant, as described elsewhere herein. Both Finestone and Weinstein reportedly refused to answer pertinent questions before a Federal Grand Jury, Southern District of New York.

* * *

In addition to the above an informant of known reliability who is not available to testify has advised Julius Rosenberg operated a large network in the United States among whom were William Perl, Michael Sitorovich and Alfred Sarant. Rosenberg personally recruited agents who furnished technical and scientific data including data on the development of jet planes and guided missiles. According to the informant Ethel Rosenberg was cognizant of her husband's

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activity. The information from the informant reflects that Julius and Ethel Rosenberg could furnish extensive information which would enable the identification of a number of other persons involved in Soviet Intelligence activities during World War II. TOP SECRET

You will note from the foregoing information that Julius Rosenberg was involved in activity in behalf of Soviet Intelligence from at least 1944 until 1950, and that his wife, Ethel, participated in these activities. As has been shown hereinbefore, there is considerable available information to show that other individuals were involved with Rosenberg, and that he directed their activities. The only persons prosecuted in this subordinate group to date have been Morton Sobell and David Greenglass. The Criminal Division and the United States Attorney's office in the Southern District of New York have expressed the opinion that insufficient proof, particularly as to the nature and identity of information relating to the National Defense, is available to prosecute others involved, in the absence of assistance from Julius and Ethel Rosenberg. While Judge Irving Kaufman characterized their crime as "worse than murder," he has indicated that were the Rosenbergs to make a complete disclosure he would grant clemency. To date the Rosenbergs have not seen fit to do so.

The above is being furnished to you so that you may have a concise summary of the pertinent data in connection with this case.

CC - 1 - Mr. Ross L. Malone, Jr.
Deputy Attorney General

1 - Assistant Attorney General
Charles B. Murray

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The Attorney General

Director, FBI

January 9, 1953

CONFIDENTIAL

(ec: MRS) JULIUS ROSENBERG
ETHEL ROSENBERG
ESPIONAGE - R

DECLASSIFIED BY 3042PWT/lmw
ON 10/21/78

Mrs. Tessie Greenglass, mother of Ethel Rosenberg, advised that she had visited Ethel at Sing Sing on January 5, last, for about one hour and a half. She stated that Ethel did most of the talking and accused David and Ruth Greenglass of saving themselves. Further, she questioned her mother why she was not on her (Ethel's) side. Ethel stated she would never make any deal with the FBI to drag in innocent victims. Mrs. Greenglass asked Ethel what she could do and Ethel told her to see her attorney, Emanuel Bloch. Mrs. Greenglass advised that Ethel was calm and collected and obviously glad to see her.

On Mrs. Greenglass' return to New York City she contacted Bloch and made an appointment to visit him at his office on January 6, last. On the latter date she talked to Bloch for two hours and asked Bloch what he wanted her to do. Bloch answered that Ruth Greenglass was shrewd and clever, had gotten under David's skin and made him do what he did. Bloch asked her to visit David and make him "take out his heart to you." Bloch offered to send Mrs. Greenglass to Lewisburg by automobile. However, she told him she would go by train. She stated that Bloch was very friendly to her and acted "like a real comedian." She stated, "I wanted to bust out at him but kept my mouth shut." On January 7, last, she telephoned Bloch and advised him she would visit David in a few weeks.

Mrs. Greenglass also advised that when she first entered Bloch's office, Bloch made a telephone call to Washington, D. C., and told someone that there was a misunderstanding in the court and that he believed he had until March 31, apparently referring to the time to complete his appeal to the United States Supreme Court for a writ of certiorari.

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Mrs. Greenglass further advised that she would see O. John Rogge next week and try to work out a plan to make Ethel talk. She intends to see Ethel again within the next two weeks. She also stated that when the proper time comes she will let everybody know her attitude about Ethel and Bloch. She stated that there is no doubt that Ethel and Julius Rosenberg are guilty and that she wanted to ask Bloch, "Where do you think David got the $5,000?"

The foregoing is for your information.

cc - 1 - Mr. Ross L. Malone, Jr.
Deputy Attorney General

cc - 1 - Assistant Attorney General
Charles B. Murray

STANDARD FORM NO. 64

Office Memorandum • UNITED GOVERNMENT

DATE: 1/2/53

TO : Director, FBI
ATTN: Inspector CARL HENNRICH

FROM : SAC, New York (65-15348)

SUBJECT: JULIUS ROSENBERG; ET AL
ESPIONAGE - R

Enclosed herewith for the benefit of the Bureau is a photostatic copy of the opinion of Judge IRVING R. KAUFMAN denying the application of JULIUS and ETHEL ROSENBERG under Rule 35 of the Rules of Criminal Procedure for a reduction of the sentences of death which were imposed upon them by Judge KAUFMAN on 4/5/51.

Enc.

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SPECIAL DELIVERY

JAN 1 1953

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C 134-245

United States District Court
FOR THE
Southern District of New York

UNITED STATES OF AMERICA,

vs.

JULIUS ROSENBERG and
ETHEL ROSENBERG,

Defendants

OPINION

Irving R. Kaufman, D.J.

65-5836-1/11
Enclosure

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

op# 20261

- x

UNITED STATES OF AMERICA, :

vs. :

JULIUS ROSENBERG and :
ETHEL ROSENBERG,

Defendants :

- x

C 134-245

U.S. DISTRICT COURT
S.D. N.Y.
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APPEARANCES:

MYLES J. LANE
United States Attorney

JAMES B. KILSHEIMER, III
Assistant U. S. Attorney

EMANUEL H. BLOCH
Attorney for Defendants

IRVING R. KAUFMAN, D. J.

Having virtually exhausted every avenue of judicial review of their convictions, Julius and Ethel Rosenberg now move for a reduction of the sentences of death which this Court imposed on April 5, 1951,(1) subsequent to the conviction of the Rosenbergs, after trial by jury, of the crim

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(1) Rule 35 of the Federal Rules of Criminal Procedure provides inter alia that:

> "The Court may reduce a sentence within 60 days after . . . receipt by the Court of a mandate issued upon affirmance of the judgment or dismissal of the appeal, or within 60 days after receipt of an order of the Supreme Court denying an application for a writ of certiorari."

65-58236-1411

of having conspired between 1944 and 1950 to violate Title 18, United States Code, Section 794, by combining among themselves and with others to communicate to the Union of Soviet Socialist Republics documents, writings, etc., relating to the national defense of the United States, with intent and reason to believe that the matter transmitted would be used to the advantage of the Soviet Union. The government opposes the motion.

The conviction has been examined and affirmed by the Court of Appeals, (C.A.2, Feb. 15, 1952) 195 F. 2d 583, rehearing denied (April 8, 1952) 195 F. 2d 609 (2). The Supreme Court declined to review the case, 344 U.S. 838 (October 13, 1952). The defendants then applied to the Supreme Court of the United States for re-hearing on their application for certiorari which was also denied. 344 U.S. 889 (Nov. 17, 1952).

Thereafter the defendants made an application to the District Court to set aside the judgment pursuant to Title 28, United States Code, Section 2255. I asked to be relieved of the necessity of hearing that application. Accordingly, the application was heard by the Honorable Sylvester J. Ryan of this Court and was denied on December 10, 1952. An appeal was taken

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(2) The evidence was well summarized in this opinion, 195 F. 2d at 588-590.

from that decision to the United States Court of Appeals which unanimously affirmed (Dec. 31, 1952)

In response to this application, I have not only heard counsel at great length and studied the defendants' petition but have also re-studied the voluminous record of the trial and refreshed my recollection of the demeanor of the witnesses. Re-examining the question de novo, I am again compelled to conclude that the defendants' guilt - as found by the unanimous verdict of the jury - was established beyond doubt. None of the so-called later discoveries or revelations which counsel contend create doubt of guilt touch the basic matters disclosed by the testimony of Ruth and David Greenglass, Max Elitcher, Ben Schneider, and the other government witnesses, which the jury chose to believe and which points unmistakably to the full and conscious participation of the defendants in this conspiracy. On this application baseless charges of perjury have been hurled at several government witnesses. The jury has already decided this question to the contrary, so did my colleague Judge Ryan, so did the United States Court of Appeals. I am also convinced that these witnesses told the truth. Therefore we observe several judicial determinations attesting to the credence of the challenged government witnesses.

The issue which now confronts this Court therefore is whether, assuming the guilt of the defendants, and the overwhelming character of the evidence renders such assumption inescapable, there nevertheless exist

other considerations which would warrant reduction of the sentence.

The statute under which the Court imposed sentence provides for a maximum prison sentence of 30 years,[3] or death.[4] The Court was not empowered to impose a life sentence even if it had entertained such thought.

At the time of the original sentence I had the benefit of days of deliberation and study of the record in addition to a vivid recollection of the conduct of the witnesses. Since the time of the sentences I have had approximately 21 months to reconsider, to re-examine the record, to meditate and search my conscience. It would be, indeed, simple and less trying upon this Court were I to dispose of the Rosenbergs' application by reducing the sentences. I stated at the time of the original sentences (p. 2454),

> " * * * it is only human to be merciful and it is natural to try to spare lives".

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(3) A 30 year sentence would make the offender eligible for parole after service of one-third of his sentence, i.e., in 10 years. Title 18, United States Code, Sec. 4202.

(4) Title 18, United States Code, Sec. 794(b): Whoever violates subsection (a) in time of war shall be punished by death or by imprisonment for not more than thirty years.

The Court, however, has had a solemn trust placed in its hands by the people of this land and I am convinced that any change of these sentences by this Court, in the light of the evidence adduced in this case, would be a violation of that trust. Devotion to duty and justice must prevail over action which could be attributable only to the emotions.

We are dealing with the type of offense which is a crime of the mind and the heart. While the law under which the defendants Rosenberg were convicted does not recognize degrees of their offense, the court may, upon sentencing, take that factor into consideration. Their traitorous acts were of the highest degree. They turned over information to Russia concerning the most deadly weapon known to man thereby exposing millions of their countrymen to danger or death.

The Rosenbergs were not minor espionage agents; they were on the top rung of this conspiracy. Julius had direct contact with the representative of the foreign government, to wit, Yakolev, a Russian Vice-Consul in New York City. He had contacts with other representatives of the U.S.S.R. He disbursed large amounts of Russian espionage funds - for example the $5000. given to Greenglass

to flee the jurisdiction. He was always the principal recruiter for scientists and technicians and the guiding spirit of the conspirators. And at all times Ethel Rosenberg, older in years, and wise in Communist doctrine, aided and abetted and advised her husband.

Throughout history the crimes of traitors stand as those most abhorred by people. At the time of the imposition of the sentences in this case I pointed out that the crime for which these defendants stood convicted was worse than murder. The distinction is based upon reason. The murderer kills only his victim while the traitor violates all the members of his society, all the members of the group to which he owes his allegiance. Our forebears attached extreme odium to the crime of betraying one's country. (Pound, Criminal Justice in America 103 (1945); 4 Blackstone Commentaries, 93). The fact that the acts of the defendants were not characterized as treason, or that the indictment in this case was not one for treason, does not reduce the enormity of the offense, for the United States Supreme Court pointed out in Cramer v. U.S., 325 U.S. 1, 45 (1944):

> ". . . the treason offense is not the only nor can it well serve as the principal legal weapon to vindicate our national cohesion and security. In debating this provision, Rufus King observed to the Convention that the 'controversy relating to Treason might be of less magnitude than was supposed; as the legislature might punish capitally under other names than Treason.' (2 Farrand 347)."

In the many letters urging judicial clemency, which have been submitted to this Court, the overwhelming preponderance of which are in response to a self-serving solicitation by counsel for the Rosenbergs, it has frequently been urged that the sentences were unprecedented, being the first such sentences imposed for peacetime espionage. I hasten to correct this misapprehension and emphasize, therefore, that the sentences were not imposed for peacetime espionage but for wartime espionage. This court would not have the power to impose these sentences for peacetime espionage.(5) The letters referred to, for the greater part indicate that the writers have never read the record, are unfamiliar with the facts in the case, or have been misinformed concerning them. Some of these writers do not hesitate to pass judgment on the credibility of witnesses even though they have not observed them on the witness stand, a basic essential to judging credibility. They nevertheless assume the role of a super-jury, sitting in absentia.

While it is true that these sentences are in some respects unprecedented, we are all cognizant of the fact that we are not living in a static world; times change and conditions change. Indeed, it has been recognized that punishment for traitorous acts was little

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(5) See footnote (4) supra.

used in the past because of our position of great internal and external security. The following passage is found in Hurst, Treason in the United States, 58 Harv. Law Review, 226 806 (1945).

> "As the Supreme Court observed in the Cramer case (65 Sup. Ct. at 931) 'we have managed to do without the treason prosecutions to a degree that probably would be impossible except while a people was singularly confident of external security and internal stability.' (Cf. 1 Stephen, A History of the Criminal Law of England (1883) 251, 283."

Can it be said that we are today singularly confident of external security and internal stability?

When several German spies were apprehended on our shores soon after their arrival, and executed after a military trial for the crime of espionage in 1942, few, if any, voices were heard in opposition to this course of conduct by our government. Perhaps the offense of these offenders was brought home in a more dramatic fashion for they were representatives of a foreign nation at war with us. Is the act not perhaps more treacherous and reprehensible when our own fellow Americans,

decide to traffic in our deepest military secrets and to transfer the information concerning these secrets to a foreign power while we are engaged in war; then continue to traffic in our military secrets when this allegedly friendly country becomes hostile to us and engages in a cold war with America? We can expect citizens of a foreign nation to do everything to benefit their country but we have a right to expect Americans not to enlist in a conspiracy to destroy their own country.

The law under which these defendants were convicted was enacted in 1917, at a time when the atom bomb was non-existent. The law provides that if acts of espionage are committed in time of war the court can impose a maximum prison sentence of 30 years, or death. It is difficult to imagine acts of espionage, at any time presented to a court, which could be of greater consequence than those presented by this case.

But the Rosenbergs urge that Russia was our ally in 1944 and 1945 and hence this Court in imposing sentence was using hindsight. To accept this contention is to approve the theory that this is not a government of responsible civil and military leaders, charged with the duty of determining what military secrets are to be given to a foreign power, but that the decision rests with any

individual who might be disgruntled with the determination made by our leaders on matters affecting our security. Such a government, it is quite obvious, could not long exist. The ultimate end would be anarchy; each individual would decide for himself what is best for our country and then pursue that end.

Furthermore, Congress wisely did not distinguish between a friendly or an enemy country in prescribing punishments for acts of espionage. The law was intended to protect and to keep inviolate our military secrets from all foreign powers. That there was good reason for this was pointed out by the United States Supreme Court in upholding the constitutionality of this statute by a unanimous Court in Gorin v. United States, 312 U.S. 19, 29-30, (1940) where the Court said:

> "The statute is explicit in phrasing the crime of espionage as an act of obtaining information relating to the national defense 'to be used * * * to the advantage of any foreign nation.' No distinction is made between friend or enemy. Unhappily the status of a foreign government may change. The evil which the statute punishes is the obtaining or furnishing of this guarded information, either to our hurt or another's gain." (Emphasis supplied).

Our leaders, charged with the responsibility of making the decision to give to, or withhold security information from a foreign power, had determined to withhold from this totalitarian government information concerning the most deadly weapon known to man, a weapon which gave America superiority in military weapons. Should the Rosenbergs with their dedication to Soviet Russia have been free to over-ride the decision of our government on this crucial matter? Should any individual have such a right regardless of the country he intends to benefit? The answer is self-evident.

Furthermore, the evidence is clear that the conspiracy continued right down to 1950. The United States Court of Appeals, commented at p. 608

> ". . . the trial judge, in sentencing the Rosenbergs, relied on record evidence which (if believed) shows a very different picture. If this evidence be accepted, the conspiracy did not end in 1945, while Russia was still a 'friend', but, as the trial judge phrased it, continued 'during a period when it was apparent to everybody that we were dealing with a hostile nation.' For, according to government witnesses, in 1948 Julius Rosenberg was urging Klitcher to stay with the Navy Department so that he might obtain secret data; in 1948, Rosenberg received 'valuable' information from Sobell; in 1950, Rosenberg gave Greenglass money to flee to Russia. This court cannot rule that the trial judge should have disbelieved those witnesses whom he saw and heard testify.

> " . . . the trial judge could properly consider the injury to this country of their conduct, in exercising his discretion as to the extent of sentences within the statutory limits."

The last quoted statement should dispose of the defendants' contention that their culpability is to any degree lessened by virtue of the absence of an allegation in the indictment of intent to injure this country. As the Supreme Court said in Gorin v. United States, supra, pp. 29,30:

> "Nor do we think it necessary to prove that the information obtained was to be used to the injury of the United States. The statute is explicit in phrasing the crime of espionage as an act of obtaining information relating to the national defense 'to be used . . . to the advantage of any foreign nation.' . . . If we accept petitioners' contention that 'advantage' means advantage as against the United States, it would be a useless addition, as no advantage could be given our competitor or opponent in that sense without injury to us." (Emphasis supplied.)

Judge Jerome Frank concluded the opinion of the United States Court of Appeals as follows, at p. 609.

> "We must, then, consider the case as one in which death sentences have been imposed on Americans who conspired to pass important secret information to Russia, not only during 1944-1945, but also during the 'cold war'. Assuming the applicability of the community-attitude test proposed by these defendants, it is impossible to say that the community is shocked and outraged by such sentences resting on such facts . . . . "

Apart from these considerations, the defendants can draw little comfort from their argument that the Soviet Union was an ally of the United States when this conspiracy began. This contention evaporates in the face of evidence that their acts of espionage did not cease upon the termination of hostilities but continued and intensified in the post-war years when it was apparent that Russia had become hostile to the United States. Furthermore, no one was more aware than the defendants of the true nature of an "ally" which would take these furtive steps to set up an extensive espionage network in our country to steal our most vital secrets.

In Canada, in Britain and in the United States the Soviet Union had its spies busy in this traitorous work. These defendants knew all this as well as the Kremlin itself, because they were themselves part of

that conspiracy - indeed they were leaders in it. Even as the Soviet Union took all our help and demanded more, while we were battling a common enemy, they were stealthily picking our pockets of our most secret atomic data. What right have these defendants now to cry "Russia was our ally" when they were the very ones caught with their hands in our pockets trying to filch from their own country this weapon which, were its secret inviolate, might have been crucial in maintaining peace in the post-war world. It is apparent that Russia was conscious of the fact that the United States had the one weapon which gave it military superiority and that, at any price, it had to wrest that superiority from the United States by stealing the secret information concerning that weapon. The tragedy of it is that it was successful.

The defendants contend that the acts of which they have been found guilty were not detrimental to the United States or of benefit to the Soviet Union, because the information which was transmitted to the Russian agents was not secret but was available in publicly distributed scientific periodicals. But it is

ludicrous to assert that the defendants' elaborate precautions to escape detection and the furtive conduct which characterized all their acts as members of the Soviet-run espionage ring were directed at the attainment of information already in the public domain. Suffice it to say that the jury found the documents to be secret and the Court of Appeals in affirming stated that the defendants "conspired to pass important secret information to Russia" (supra p. 609).

It has also been urged that others have received lesser sentences. Indeed, this Court imposed a lesser sentence upon the co-conspirator, David Greenglass. There are several answers to this. The degree of implication of each conspirator and his subsequent aid to the government in ferreting out co-conspirators must be considered. Julius and Ethel Rosenberg were the prime movers in this conspiracy; into it they sucked David and Ruth Greenglass. Indeed, Ruth Greenglass did not know what her husband was doing in Los Alamos until Julius had told her that ~~he~~ David was working on the atom ~~bomb~~ bomb and that he wanted information which he specified in detail.

Harry Gold received the maximum prison sentence of 30 years from the Honorable James P. McGranery, then a United States District Judge in Philadelphia. Gold has been a most cooperative and penitent witness since his apprehension. He has testified at several trials, before several Grand Juries, and unquestionably due consideration was given by Judge McGranery to Gold's expression of his intention to cooperate.

Klaus Fuchs received the maximum prison sentence under the English law and his cooperation is now a matter of record. It was the result of Klaus Fuchs' confession that the trail ultimately led to these defendants. It should be noted that Fuchs was not convicted of violating an espionage statute but of violating an act known as the Official Secrets Act. To be bound by the sentences imposed on Fuchs and Alan Nunn May, would be to say that this country has no right to pass its own laws to deal with offenses as its Congress determines but must blindly follow the law of a foreign nation even though it materially differs from our own. Of course, both Fuchs and May pleaded guilty. (6)

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(6) The evidence in May's case showed that he transmitted information on atomic research calculators. May's counsel emphasized, at the time of his sentencing, that he had not worked on the atomic bomb itself. Unlike the Rosenbergs, he was not a participant in a general conspiracy to furnish security information to Russia on all phases of military preparations.

I am advised that the English court stated, upon sentencing Fuchs:

> "The maximum sentence I can give you under the Official Secrets Act is 14 years, and I therefore give you 14 years."

The defendants were born in America, reared in America and educated in the public schools of America. They had lived their entire lives among us; they had all the advantages of our free institutions and had enjoyed the privileges of American citizenship. They have been allowed to progress and develope in freedom and self-respect. As citizens of America, being numbered as one of us, they chose the path of traitors and decided to abandon those who had nurtured and fed them in favor of a nation whose ideology was repugnant to everything we have learned, lived for and to which we have been dedicated. They knew well that the stakes were high and the consequences of failure were dire.

This Court has no doubt but that if the Rosenbergs were ever to attain their freedom, they would continue in their deep-seated devotion and allegiance to Soviet Russia, a devotion which has caused them to choose martyrdom and to keep their lips sealed.

The defendants, still defiant, assert that they seek justice not mercy. What they seek they have attained. Despite this, I must nevertheless consider whether they are deserving of mercy. While I am deeply moved by considerations of parenthood and while I find death in any form heartrending,

I have a responsibility to mete out justice in a manner dictated by the statutes and the interests of our country. My personal feelings or preferences must be pushed aside for my prime obligation is to society and to American institutions. The families of these defendants are victims of their infamy but I am mindful that countless other Americans may also be victims of that infamy. The defendants were not moved by any consideration for their families and their children in committing their crimes, but have urged such consideration upon the Court, in order to make more difficult an already trying task. In considering mercy I am reminded of this passage from Mary Ann Evans' (George Eliot), Romola, III, 1863,

> "There is a mercy which is weakness, and even treason against the common good."

Mr. Justice Cardozo pointed out in Snyder v. Massachusetts, 291 U.S. 97, 122 (1933)

> "But justice, though due to the accused is due to the accuser also."

Penologists and Judges may differ as to whether capital punishment can serve as a deterrent. Underlying the provision for capital punishment in espionage and treason acts is the tenet that forfeiture of the life of the spy or traitor will serve as an example to those who may thereafter be tempted to commit similar acts.

This is vital in the world in which we live, infiltrated as we are by the home grown and foreign variety of spies, which are and will be a continuing threat to our security so long as a foreign nation provides incentive for this spying. On this score, I believe my words at the sentencing are still appropriate;

> "Our national security is more important than any personal feelings that I might have on the subject and it is more important, I think, than the punishment of any single individual." (Record, p. 2493).

I recognize that some forces are attempting to use this case to fan anti-American fires. This is an unfortunate by-product of the case. The passing of time and the blurring of the memory of men permits the true evidence established at the trial to become beclouded by propaganda. But, I repeat, the guilt of the defendants was established by overwhelming direct evidence which the jury found credible, and indeed it is my belief that their guilt was established beyond any doubt.

I have not considered the international consequences of the Soviet propaganda concerning these sentences.

It is entirely possible that their false characterizations of this trial and the sentences of this Court might supply grist to their mills dedicated to the poisoning of the minds of the peoples of the world.

This Court is not equipped to a praise the effectiveness of such propaganda upon our foreign relations nor, in my opinion, is this a matter for the judiciary to consider. It may be that such questions merit careful consideration but they are properly addressed to the Executive Department.

The President is vested with the power to speak and listen as the representative of this nation. He is also vested with power to grant reprieves and pardons for offenses against the United States. (U. S. Constitution Article II., Section 2, clause 1.)

Mr. Justice Holmes in Biddle v. Perovich, 274 U. S. 480, (1926), pointed out that executive clemency was not a private act of Congress; it was a part of the Constitutional scheme, and when it was granted, it was the determination of the ultimate authority that the public welfare (and this included international as well as national situations) will be better served by inflicting less than the judgment fixed.

So, we observe, that it is over one year and nine months since this Court discharged the unpleasant duty of sentencing these defendants. During that time their appeal has been carried from this Court through all the appropriate Appellate Courts and the sentence and judgment have not been disturbed. No legal recourse has been denied the defendants. I have already pointed out that I withdrew from hearing a motion so that another Judge, not previously involved in this case, might rule on this motion to set aside the judgment of conviction. Through all of this no other court has been able to find a reversible error or the legal justification to set aside the sentence. Now, because our judicial procedures provide that the case may go back to the original court, for consideration upon a motion to reduce the sentence, I have been once again faced with the unpleasant task of reviewing the crime and sentence of these defendants.

I have meditated and reflected long and difficult hours over the sentence in this case. I have studied and restudied the record and I have seen nothing nor has anything been presented to me to cause me to change the sentence originally imposed. I still feel that their crime was worse than murder. Nor have I seen any evidence that the defendants have experienced any remorse or repentance.

Unfortunately, in its place this Court has been subjected to a mounting organized campaign of vilification, abuse and pressure. This Court, however, is not subject to such organized campaign and the pressures which have been brought to bear in this case, nor does it require such tactics to make it cognizant of the human tragedy involved.

The application is denied.

Dated: New York, N.Y.
January 2nd 1953.

Irving R. Kaufman
U.S.D.J.