LAW OFFICES
PEPPER, HAMILTON & SCHEETZ
FIDELITY-PHILADELPHIA TRUST BUILDING
PHILADELPHIA, PA. 19109
215-KI 5-1234
CABLE ADDRESS
"PEPFIL PHILADELPHIA"

February 24, 1966

William M. Kunstler, Esq.
Kunstler, Kunstler & Kinoy
511 Fifth Avenue
New York, New York 10017

Re: Harry Gold

Dear Mr. Kunstler:

We have received instructions from Harry Gold to refuse the request made in your letter of February 16, 1966.

Very truly yours,

Augustus S. Ballard

Augustus S. Ballard

jl

February 16, 1966

Augustus Ballard, Esq.
123 South Broad Street
Philadelphia, Penna.

Re: Harry Gold

Dear Mr. Ballard:

You may remember that we discussed the case of Morton Sobell some time ago and I informed you that I and several other attorneys were working on a new petition pursuant to 28 U.S.C. 2255 on his behalf.

In connection with the preparation of this petition, I am most interested in looking at the originals of the Gold pre-trial statements, photostatic copies of which ypu furnished to Miriam and Walter Schneir. If it is at all possible to obtain the original documents for a limited period of time I would be most appreciative.

Because of the immediacy of our petition I would be most grateful for your prompt attention to this request.

Cordially yours,

William M. Kunstler

WMK:bkf

Exhibit B

FD-36 (Rev. 5-22-64)

8 3

FBI

Date: 5/18/66

Transmit the following in ______ (Type in plaintext or code)

Via AIRTEL ______ (Priority)

TO : DIRECTOR, FBI (101-2483)

FROM : SAC, NEW YORK (100-37158) (P)

SUBJECT: MORTON SOBELL
ESP-R
(OO:NEW YORK)

ReNYairtel, 5/13/66.

Review of NY files discloses following information re "Confession" of KLAUS FUCHS and "statements" of HARRY GOLD and DAVID and RUTH GREENGLASS which subject's attorneys have moved to have Government produce.

FUCHS' "Confession"-Copy of statement made by FUCHS to British authorities was forwarded NY by Bulet, 3/27/50 (Bufile 65-58805). Portions of this statement as paraphrased were used in court hearing on FUCHS in London 2/10/50. Signed statement of FUCHS dated 5/26/50 at Wormwood Scrubs Prison, London, given to Assistant Director H. H. CLEGG, SA R. J. LAMPHERE and W. J. SCARDON of U. K. Security Service, was forwarded NY, 6/6/50 in the HARRY GOLD (Bufile 65-57449) case with copies of photos of GOLD identified by FUCHS. Other information obtained from FUCHS was set forth in various Bureau communications.

4-Bureau (RM)
(1-62-106323) (WALTER D. SCHNEIR)
1-New York (100-109849) (HELEN SOBELL)
1-New York (100-135206) (WALTER D. SCHNEIR)
1-New York (100-107111) (CSJMS)
1-New York

EFM:kxb
(10)

REC 20 101-2483-1604

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/87 BY 3042 PWT/hmr

10 MAY 19 1966

J. P. Lee
SOVIET SECTION

Approved: 54 MAY 25 1966 ______ Sent ______ M Per ______
Special Agent in Charge

UNRECORDED COPY FILED IN 62-106323

Numerous signed statements were taken from GOLD and the GREENGLASSES. Other information supplied by them was set forth in various reports, teletypes, etc.

Statements of Hotel Hilton for HARRY GOLD dated 6/3/45 and 9/19/45, together with the 6/3/45 hotel registration card of HARRY GOLD, were forwarded to Albuquerque for return to the hotel in 1951 and presumably destroyed along with other records by the hotel.

AUSA ROBERT T. KING, SDNY, advised that he is now handling this matter and is studying subject's motions.

Bureau will be advised of developments.

FD-3[illegible] ev. 5-22-64)

FBI

Date: 5/20/66

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO : DIRECTOR, FBI (101-2483)
(ATT: CRIME RECORDS)

FROM : SAC, NEW YORK (100-37158) (P)

SUBJECT: MORTON SOBELL
ESP-R
(OO:NEW YORK)

ReNYairtel, 5/13/66.

Enclosed for the Bureau is one photocopy of letter of subject's attorney, WILLIAM M. KUNSTLER, to USDJ MARVIN FRANKEL, SDNY, requesting hearing of motion to obtain pretrial statements of HARRY GOLD and DAVID and RUTH GREENGLASS. Also enclosed is photocopy of affidavit of AUSA JOHN S. MARTIN, JR., SDNY, in opposition to motion to transfer subject to Federal House of Detention, NYC, from Lewisburg.

On 5/20/66, Judge FRANKEL denied request of subject to be supplied with GOLD and GREENGLASS statements now and left this point to be argued on 6/20/66 when subject's petition under Section 2255 is argued.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/87 BY 3042 PWT/lmw

4-Bureau (Encs. 2) (RM)
(1-62-106323) (WALTER D. SCHNEIR)
(ATT: CRIME RECORDS)
1-New York (100-109849) (HELEN SOBELL)
1-New York (100-135206 (WALTER D. SCHNEIR)
1-New York (100-107111) (CSJMS)
1-New York

REC-114 101-2483-1605

MAY 27 1966

EFM:kxb
(10)

2 ENCLOSURE

CRIME RESEARCH SOVIET SECTION

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

62-106323

UNRECORDED COPY FILED IN

NY 100-97168

After oral argument on SOBELL's transfer, Judge FRANKEL ordered Government to transfer SOBELL to Federal House of Detention, NYC, for a period of two days for consultation with his attorneys, and experts specified by defense, on sealed trial exhibits which were turned over to defense. Exact dates of SOBELL's presence in NY to be arranged between subject's attorneys and USA, SDNY.

Bureau will be advised of developments.

UNITED STATES OF AMERICA

-against-

MORTON SOBELL,

Defendant.

AFFIDAVIT IN OPPOSITION

Cr. 134-245

STATE OF NEW YORK)
COUNTY OF NEW YORK : ss.:
SOUTHERN DISTRICT OF NEW YORK)

JOHN S. MARTIN, JR., being duly sworn, deposes and says:

1. I am an Assistant United States Attorney in the office of Robert M. Morgenthau, United States Attorney for the Southern District of New York, and as such, am familiar with the facts in the above-captioned action. The facts set forth herein are based upon my own personal knowledge and belief.

2. This affidavit is submitted in opposition to the motion of Morton Sobell asking the Court to have him brought to the Federal House of Detention in New York City from the Lewisburg prison.

3. Movant seeks to be brought here in order to consult with counsel concerning his present application to have his sentence set aside pursuant to 28 U.S.C. § 2255. § 2255 provides that:

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

While the Government concedes that the Court does have discretion to order a prisoner produced prior to the filing of the hearing on a § 2255 motion, some showing should be made by the defendant to justify such extraordinary relief.

4. In this case, movant has failed to give any reason that would justify the Court in ordering his return to this District from the Federal Penitentiary at Lewisburg. Movant's counsel has claimed that movant should be brought here so that his counsel can show him a sealed portion of the transcript of his trial and a sealed exhibit, both of which were recently made available to counsel upon his agreement not to make public their contents. However, this transcript and the exhibit both relate to the manufacture of the Atomic Bomb. Since movant is an electrical engineer and not an atomic scientist, it is difficult to see what purpose would be served by bringing him here to study these materials. His counsel has secured permission to show these materials to competent scientists for their evaluation and it is apparent that movant would not provide significant help to his counsel in evaluating these materials.

5. I have spoken to Mr. Howard Francisous who is in charge of custody and treatment of the inmates at the Federal Detention Headquarters. He has informed me that his facility is heavily congested at present. He also advised that in view of the fact that movant is serving a thirty-year sentence special security precautions would have to be taken which would impose an extra burden on the administration of the Detention Headquarters.

6. In view of the fact that movant has failed to show any reason which would justify transporting him from Lewisburg to the Federal Detention Headquarters in New York, the Government prays that his motion to be transferred be denied.

JOHN S. MARTIN, JR.
Assistant United States Attorney

Sworn to before me this
19th day of May, 1966.

RALPH L. LEE
Notary Public, State of New York
No. 41-2292838 Queens County
Term Expires March 30, 1967

KUNSTLER KUNSTLER & KINOY
ATTORNEYS AT LAW
511 FIFTH AVENUE
NEW YORK, N.Y. 10017

MURRAY HILL 2-8317

CABLE ADDRESS
"RANDALEX"

WILLIAM M. KUNSTLER
MICHAEL J. KUNSTLER
ARTHUR KINOY

May 18, 1966

Honorable Marvin Frankel
United States District Judge
United States District Court
for the Southern District
Foley Square, New York

Re: Sobell v. United States of America
66 Civ. 1328

Dear Judge Frankel:

After the hearing last Friday, we were not quite sure of the status of our motions for the production of the pre-trial statements of Harry Gold and David and Ruth Greenglass, as well as the confession of Dr. Klaus Fuchs. As you will recall, we predicated these motions on the necessity of having these documents at a time sufficiently prior to the hearing to determine whether we were entitled to a hearing under 28 U.S.C. 2255, so that their contents could be used thereat.

Because of the vital importance of these documents in view of the tack of our position, it would be appreciated if, at the hearing next Friday before you, we could bring these motions up once more for your determination. A copy of this letter has been sent to Assistant United States Attorney John Martin so that he will be apprised of this request.

Respectfully,

William M. Kunstler

WMK SKT
cc: John S. Martin, Jr., Esq.
Marshall Perlin, Esq.

5 days for purpose of studying by Counsel

101-2483-1685

ENCLOSURE

5/26/66

AIRTEL

TO : DIRECTOR, FBI (100-387835)

FROM : SAC, NEW YORK (100-107111)

SUBJECT: COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL (CSJMS)
IS-C
ISA 1950

Enclosed herewith for the Bureau are five copies of an LHM which sets forth a letter from CSJMS to U.S. Congressional members of Judiciary Committees requesting a Congressional investigation.

The confidential source mentioned is [redacted] b7D

The LHM is classified "Confidential" because it contains information furnished by [redacted] an informant of continuing value, and the unauthorized disclosure of the information could reasonably identify this informant and therefore jeopardize the national defense interests. b7D

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/20/87 BY 3042 PWT/IMW

(5)-Bureau (100-387835) (Encls. 5) (RM)
(1-62-106123) (WALTER SCHNEIR)
(1-101-2483) (MORTON SOBELL)
1-NY [redacted] (INV) (41)
1-NY 100-[illegible] (WALTER SCHNEIR) (41)
1-NY 100-37158 (MORTON SOBELL) (41)
1-NY 100-107111 (CSJMS) (41)

101-2483-
NOT RECORDED
[illegible] JUN 8 1966

PTB:eas
(10)

ORIGINAL FILED IN 100-387835-3152

72
69 JUN 7 1966

FD-36 (Rev. 5-22-64)

REC-49

FBI

Date: 5/27/66

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL (Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, BOSTON (65-3379) (RUC)

SUBJECT: MORTON SOBELL
ESP-R

(OO: New York)

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/81 BY 3046 PWT/lmw

Re New York airtel to Bureau, 5/24/66.

Enclosed for NEW York is one xerox copy of report of SA EDWARD J. DUNN, JR. dated 4/18/57, Boston, entitled OSCAR SEBORER, containing results of the 1957 interview of LINSCHITZ.

Review of Boston files reflects this is only interview conducted by Boston Office and that no additional data is available concerning LINSCHITZ which is not already known to Bureau and New York Office.

On 5/27/66, source at Brandeis University advised HENRY LINSCHITZ, MA and Ph.D. is currently on faculty as Professor of Chemistry. He resides at 35 Riverside Drive, Waltham, Mass., telephone number 891-4717.

(3) Bureau
1 - New York (100-37158) (Enc. 1)
1 - Boston
MJD:lz
(5)

REC-49 101-2483-1406

MAY 30 1966

SOVIET SECTION

55 JUN 8 1966

Approved: _____ Sent _____ M Per _____

Special Agent in Charge

FD-36 (Rev. 5-22-64)

FBI

Date: 5/27/66

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158)(P)

SUBJECT: MORTON SOBELL
ESP - R
(OO: NY)

ReNYairtel, 5/13/66, which set out schedule of service of pleadings.

SOBELL's attorneys were to file briefs supporting their motions on 5/27/66.

AUSA JOHN S. MARTIN, JR., SDNY, advised 5/27/66, that SOBELL's attorneys had requested and were allowed additional week to file their briefs. Hence schedule now calls for their briefs on 6/3/66; Government's answer on 6/20/66, and arguments on 6/27/66.

Bureau will be promptly advised of developments.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/30/87 BY 3040 PWT/IMW

4 - BUREAU (RM)
(1 - 62-106323)(WALTER D. SCHNEIR)
(Att: Crime Records)
1 - NY 100-109849 (HELEN SOBELL)
1 - NY 100-135206 (WALTER D. SCHNEIR)
1 - NY 100-107111 (CSJMS)
1 - NY 100-37158

REC-103 101-2483-1607

MAY 28 1966

EFM:mfd ($331)
(8)

C.C. Wick

SOVIET SECTION

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

69 JUN 1 1966

UNRECORDED COPY FILED IN 62-106323-

FD-36 (Rev. 5-22-64)

FBI

Date: 5/24/66

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158)(P)

SUBJECT: MORTON SOBELL
ESP - R
(OO: NY)

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/87 BY 3042 PWJT/lmn

ReNYairtel, 5/20/66.

AUSA JOHN S. MARTIN, SDNY, advised 5/24/66, that subject's attorneys named Dr. HENRY LINSCHITZ as the expert to whom they would show the sealed trial exhibit. LINSCHITZ was not further identified though on 5/20/66, at oral argument on motions subject's attorney mentioned the expert was from the New England area.

LINSCHITZ is undoubtedly identical with the subject of Bufiles 116-163696 and 100-374626.

In 1950, DAVID GREENGLASS, after reviewing his address book, said he believed he furnished, among other names, the name of LINSCHITZ to HARRY GOLD as a possible espionage recruit at Los Alamos.

4 - BUREAU (RM)
(1 - 62-106323)(WALTER D. SCHNEIR)
(Att: Crime Records)
2 - BOSTON (RM)
1 - NY 100-109849 (HELEN SOBELL)
1 - NY 100-135206 (WALTER D. SCHNEIR)
1 - NY 100-107111 (SJMS)(41)
1 - NY 100-37158

EFM:mfd (#331)
(12)

( ) Check of Bureau Files results
( ) No. record re
( ) No pertinent data re
( ) No identifiable data re
( ) No additional data re

101-2483-1608

REC-125

18 MAY 25 1966

EX 109

SOVIET SECTION

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

62-106323

LINSCHITZ reportedly developed the lens which was used in the atom bomb.

LINSCHITZ, on interview 2/23/51, advised he knew GREENGLASS as a machinist at Los Alamos. He denied that he ever knew JULIUS ROSENBERG or HARRY GOLD and that he had ever been approached directly or indirectly to furnish information to the Russian espionage system by them or anyone else. LINSCHITZ denied that he was or ever had been a member of the CP.

Federal Judge IRVING R. KAUFMAN, SDNY, received a letter dated 12/22/52, signed by HENRY LINSCHITZ, Associate Professor of Chemistry, Syracuse University, requesting a commutation of the death sentence given to JULIUS and ETHEL ROSENBERG. LINSCHITZ wrote that he had worked as a Research Group Leader at Los Alamos on the development of high explosive lenses.

Bulet, 2/28/57, in the OSCAR SEBORER; IS-R case (Bufile 105-38306) summarized information re LINSCHITZ and authorized interview. NY determined that LINSCHITZ was then at Brandeis University, Waltham, Mass. Buairtel, 3/18/57, in the SEBORER case authorized Boston to interview LINSCHITZ.

Bulet, 3/28/57 states that in AEC interview April, 1955, LINSCHITZ stated he had no doubt in mind that the ROSENBERGS were guilty. Albany airtel, 3/12/55, referring to AEC interview on 4/29/55, states that LINSCHITZ was asked by the Rosenberg Committee members to sign an affidavit stating that DAVID GREENGLASS did not have sufficient knowledge to use the information concerning the atomic bomb which he testified he had used in the trial of the ROSENBERGS. LINSCHITZ advised that he refused to sign affidavit.

Boston is requested to furnish results of 1957 and any later interviews of LINSCHITZ and also is requested to furnish current information obtainable from office indices and discreet sources as LINSCHITZ may still be affiliated with Brandeis University or otherwise employed in Boston Area.

Bureau is requested to advise whether its files may disclose later data re LINSCHITZ.

[redacted] USA MARTIN was apprised generally of information re [redacted] LINSCHITZ as possibly identical with the expert named by subject's attorney.

As it may be desirable to disseminate information re LINSCHITZ to USA, SDNY, the Bureau is requested to advise whether Bufiles contain such data in reports or other disseminable form.

Bureau will be promptly advised of developments.

[redacted]

5/31/66

1 - Mr. Lee

Airtel

To: REC 105 New York (100-37188)

From: Director, FBI (101-2483) 1608

EX 109

MORTON SOBELL,
ESP - R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/30/85 BY 3042 PWT/lmw

Reurairtel 5/24/66.

A review of Bufiles shows that all pertinent information contained therein regarding Dr. Henry Linschitz is contained in the files of your office. There is no single report or memorandum which contains all this information. You should, therefore, prepare a letterhead memorandum containing a summary of the information concerning Linschitz. You should furnish a copy of this memorandum to the Assistant United States Attorney, Southern District of New York, for his information. Copies of the memorandum should also be furnished to the Bureau for dissemination.

1 - Boston (65-3379)

JPL:ser (5)

NOTE: Sobell was convicted of conspiracy to commit espionage along with Julius and Ethel Rosenberg in 1951 and is serving a 30-year sentence. In connection with a motion for a new trial, his attorneys requested that a sketch of the atomic bomb prepared by David Greenglass, which was introduced at the trial and was then impounded, be released in order that it might be examined by defense experts. The Government did not oppose this motion and the sketch was so released. Henry Linschitz is the expert to be used by the defense. Linschitz was interviewed in 1951 at which time he advised he knew Greenglass at Los Alamos. He also signed a letter to Judge Kaufman protesting the death sentence given to the Rosenbergs. He also claimed in an AEC interview that he had no doubt the Rosenbergs were guilty and that he refused to sign an affidavit that Greenglass did not have enough knowledge to use the information he obtained about the atomic bomb. Linschitz is currently a Professor at Brandeis University, Waltham, Massachusetts.

MAILED 3
MAY 31 1966
COMM-FBI

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele.
Holmes
Gandy

248
JUN 9 1966

MAIL ROOM ☐ TELETYPE UNIT ☐

4-22 (Rev. 1-2…)

Federal Bureau of Investigation
Records Branch

May 26, 1966

- [ ] Name Searching Unit - Room 6527
- [ ] Service Unit - Room 6524
- [ ] Forward to File Review
- [x] Attention Anthony
- [x] Return to Lee 822 9AD.

Supervisor Room Ext.

Type of References Requested:

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

Type of Search Requested:

- [ ] Restricted to Locality of ______
- [ ] Exact Name Only (On the Nose)
- [ ] Buildup
- [ ] Variations

Subject Henry Linschitz

Birthdate & Place ALL INFORMATION CONTAINED

Address HEREIN IS UNCLASSIFIED

Localities DATE 4/30/87 BY 3042 PWT/tmw

R# ______ Date 5-26 Searcher Initials GR.

Prod. ______

	FILE NUMBER	SERIAL
TD	~~100-374626~~ MCP	
ID	~~46-163676~~ -MCP-M ong	
	~~65-58256 1091~~ … 5.23.51	
	-740 741, 998 818	
	-886 … 1330	
	~~65-59028 333 … 344, 345~~	
I·NYL	100-190625- ~~…~~	
	-34-28,3,4;	
I·NYL	~~100-354514-111~~	
I·NY	~~100-344453 170…~~	
I·NYL	~~100-244264~~	
	100-353404-286 E.P. 10:00 locate	
I·A	~~100-318… 1, 3…~~	
ID	~~100-374626-50~~	
	101-2115-176 P. 35 on locate	
I·NYL	~~11-11462-14, 15~~	
I "	~~46-1…~~	
I "	~~47-291-2~~	
I	~~140-9424-16~~ NY lee	

B&B's NR

FD-36 (Rev. 5-22-64)

FBI

Date: 5/31/66

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO : DIRECTOR, FBI (101-2483)

FROM : SAC, NEW YORK (100-37158) (P)

SUBJECT: MORTON SOBELL
ESP-R
(OO: NY)

ReNYairtel 5/20/66 concerning order to transfer SOBELL to Federal Detention Headquarters, NYC, for two days to consult with attorneys.

AUSA JOHN S. MARTIN, SDNY advised on 5/31/66 that SOBELL's attorneys had requested that SOBELL be brought to NY during the week of June 6, 1966.

HOWARD FRANCISCUS, Federal Detention Headquarters, NYC, advised that SOBELL would be transferred to NY for two days consultations with his attorneys on June 6 and 7 or June 7 and 8, 1966.

For information.

4 - Bureau (RM)
(1-62-106323) (WALTER D. SCHNEIR)
ATT: CRIME RECORDS
1 - New York (100-109849) (HELEN SOBELL)
1 - New York (100-135206) (WALTER D. SCHNEIR)
1 - New York (100-107111) (CSJMS)
1 - New York

EGM:ats
(9)

ALL INFORMATION CONTAINED REC 12 101-2483-1409
HEREIN IS UNCLASSIFIED
DATE 4/30/87 BY 3040PWT/lmw

JUN 1 1966

SOVIET SECTION

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

55 JUN 8 1966

62-106322-1

UNRECORDED COPY FILED IN

FD-36 (Rev. 5-22-64)

FBI

Date: 6/3/66

Transmit the following in ______________________ (Type in plaintext or code)

Via AIRTEL ______________________ (Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158)(P)

SUBJECT: MORTON SOBELL
ESP - R
(OO: NY)

ReNYairtel, 5/31/66.

HOWARD FRANCISCUS, Federal Detention Headquarters (FDH), NYC, advised 6/3/66, that SOBELL arrived at FDH 3:00 p.m. 6/3/66.

AUSA JOHN S. MARTIN stated that on 6/3/66, WILLIAM KUNSTLER, attorney for SOBELL, advised him that brief scheduled to be served on USA, SDNY, on 6/3/66, was not ready and would be served on 6/7/66. MARTIN also advised that under court order, SOBELL and his attorneys are to confer on 6/7 and 8/66.

Bureau will be advised of developments.

4 - BUREAU (RM)
(1 - 62-106323)(WALTER D. SCHNEIR)
(ATT: CRIME RECORDS)
1 - NY 100-109849 (HELEN SOBELL)
1 - NY 100-135206 (WALTER D. SCHNEIR)
1 - NY 100-107111 (CSJMS)
1 - NY 100-37158

101-2483-1610

REC. 112

EFM:mfd (#331)
(10)

JUN 4 1966

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/87 BY 3042PWT/MW

C. D. DeLoach Wick

SOVIET SECTION

62-106323

ORIGINAL FILED IN

Approved: 51 JUN 9 1966 ______________ Sent ______________ M Per ______________
Special Agent in Charge

CONFIDENTIAL

June 6, 1966

Mr. J. Walter Yeagley
Assistant Attorney General

Director, FBI

1 - Lee
1 - Kleinkauf

COMMITTEE TO SECURE JUSTICE FOR
MORTON SOBELL
INTERNAL SECURITY - C

MORTON SOBELL
ESPIONAGE - R

APPROPRIATE AGENCIES
AND FIELD OFFICES
ADVISED BY ROUTING
SLIP *Declassification*
DATE *5-23-78*

This will confirm the following information which was orally furnished to Departmental Attorney Paul Vincent by Special Agent John H. Kleinkauf of this Bureau on June 3, 1966.

A confidential source, who has furnished reliable information in the past, has advised that a meeting of captioned Committee was held on June 1, 1966, in New York City at which Helen Sobell, wife of Morton Sobell, announced that Sobell would be brought to New York City during the week of June 6, 1966, for a two-day conference with his attorneys. Sobell will be confined at the Federal Detention Headquarters, 427 West Street, New York City. [redacted]

101-2483 b7D

[redacted]

b7D

You will be kept advised of further pertinent developments in this matter.

100-387835
101-2483

CONFIDENTIAL

DECLASSIFIED BY *Declassified 6/4/21*
ON

GROUP 1
Excluded from automatic downgrading and declassification
SEE NOTE PAGE 2

291
55 JUN 8 1966
DUPLICATE YELLOW

8042 PWT/mw 4/30/67

100-387835-3144

ORIGINAL FILED IN

CONFIDENTIAL

Mr. J. Walter Yeagley

NOTE:

Classified "Confidential" as the unauthorized disclosure of the above information could compromise a current active informant, thereby having an adverse effect on the national defense interests of the country.

The information set forth above was contained in NYtel 6/1/66 captioned as above.

CONFIDENTIAL

TELETYPE UNIT
JUN 2 1966
ENCODED MESSAGE

Mr. Tolson
Mr. DeLoach
Mr. Mohr
Mr. Wick
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

FBI NEW YORK

5:46 PM EDT URGENT 6/2/66 M.F.R.

TO DIRECTOR (((11))) (100-387835) (101-2483) /// ENCODED

FROM NEW YORK (100-107111) (100-37158) 2P

COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL (CSJMS). IS - C, ISA - FIFTY; MORTON SOBELL, ESP - R.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/80 BY 3048 PWT/lmw

ON THIS DATE, [redacted] RELIABLE, ADVISED A MEETING OF CSJMS WAS HELD SIX ONE LAST, ONE FIFTY FIFTH AVE., NYC. b2 b7D HELEN SOBELL, WIFE OF MORTON SOBELL, ANNOUNCED THAT MORTON SOBELL WOULD BE BROUGHT TO NYC TO CONSULT WITH HIS ATTORNEYS FOR TWO DAYS DURING THE WEEK OF SIX SIX NEXT. AND WOULD BE HOUSED AT FEDERAL DETENTION HEADQUARTERS, FOUR TWO SEVEN WEST STREET, NYC. [redacted]

100-387835-3145

101-2483-17D

END PAGE ONE

54 JUN 15 1966

NOT RECORDED
202 JUN 8 1966

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

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

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

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

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

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

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

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

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

☐ For your information:

☑ The following number is to be used for reference regarding these pages:
101-2483-NR 6-2-64 p 2

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

XXXXXX
XXXXXX
XXXXXX

FBI/DOJ

5-113a (9-29-65)

Domestic Intelligence Division

INFORMATIVE NOTE

Date 6/2/66

Morton Sobell was convicted, along with Julius and Ethel Rosenberg, in 1951 of conspiring to commit espionage. The Rosenbergs were executed and Sobell is currently serving a sentence of 30 years.

Sobell's attorneys have petitioned for a new trial for him and his removal to New York City, as indicated in attached, is probably connected with the petition for a new trial.

The information in attached will be furnished to the Department.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/87 BY3042PWT/mi

JHK:TJS:ts

WP8/JXC

FD-36 (Rev. 5-22-64)

FBI

Date: 6/8/66

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158)(P)

SUBJECT: MORTON SOBELL
ESP - R
(OO: NY)

ReNYairtel, 6/3/66.

AUSA JOHN S. MARTIN advised on 6/8/66, that SOBELL's attorney stated that the brief to be served on USA, SDNY, would not be served until 6/13/66.

For information.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/87 BY 304 2PNT/lmw

4 - BUREAU (RM)
(1 - 62-106323)(WALTER D. SCHNEIR)
(ATT: CRIME RECORDS)
1 - NY 100-109849 (HELEN SOBELL)
1 - NY 100-135206 (WALTER D. SCHNEIR)
1 - NY 100-107111 (CSJMS)(41)
1 - NY 100-37158

EFM:mfd (#331)
(10)

REC-18 101-2483-1611

EX-112

JUN 9 1966

FBI

56 JUN 15 1966

SOVIET SECTION

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

UNRECORDED COPY FILED IN 62-106323-

FD-36 (Rev. 5-22-64)

FBI

Date: 6/13/66

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL (Priority)

TO : DIRECTOR, FBI (101-2483)

FROM : SAC, NEW YORK (100-37158) (P)

SUBJECT : MORTON SOBELL
ESP-R
(OO: NY)

ReNYairtel 6/8/66.

Mr. HOWARD FRANCISCUS, Federal Detention Headquarters, New York City, advised that MORTON SOBELL was returned to Lewisburg Penitentiary today, 6/13/66.

For information.

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/87 BY 3045 PWT/lmw

1 - Bureau (RM)
(1 - 62-106323)(WALTER D. SCHNEIR)
(ATT: CRIME RECORDS)
1 - NY 100-109849 (HELEN SOBELL)
1 - NY 100-135206 (WALTER D. SCHNEIR)
1 - NY 100-107111 (CSJMS)(41)
1 - NY 100-37158

EFM:HC (331)
(10)

REC-42 EX-111 101-2483-1612

14 JUN 14 1966

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

54 JUN 20 1966

UNRECORDED COPY FILED IN 62-106323

TELETYPE UNIT
JUN 6 1966
ENCODED MESSAGE

Mr. Tolson
Mr. DeLoach
Mr. Mohr
Mr. Wick
Mr. Casper
Mr. Callahan
Mr. Conrad
Mr. Felt
Mr. Gale
Mr. Rosen
Mr. Sullivan
Mr. Tavel
Mr. Trotter
Tele. Room
Miss Holmes
Miss Gandy

WA---7---

FBI NEW YORK

6-13 PM URGENT 6-6-66 JVD

TO DIRECTOR (100-387835) (101-2483) ---ENCODED---

FROM NEW YORK (100-110711) (100-37158) 1P

COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL (CSJMS), IS-C, ISA-FIFTY; MORTON SOBELL. ESP-R.

DECLASSIFIED BY 5042PWT/MW
ON 4/30/87

100-387835-3146

RENYTEL JUNE TWO LAST.

[redacted]

62 b7D

ABOVE FOR INFORMATION OF BUREAU.

END

WA...JRL

FBI WASH DC

Recorded
Place cc in 101-2483
101-2483-
NOT RECORDED
102 JUN 13 1966

ORIGINAL FILED IN

CONFIDENTIAL

Mr. J. Walter Yeagley
Assistant Attorney General

June 8, 1966

Director, FBI

1 - Mr. Lee
1 - Kleinkauf

COMMITTEE TO SECURE JUSTICE
FOR MORTON SOBELL
INTERNAL SECURITY - C

MORTON SOBELL
ESPIONAGE - R

APPROPRIATE AGENCIES
AND FIELD OFFICES
ADVISED BY ROUTING
SLIP(S) OF Declassification
DATE 5-23-78

Reference is made to my letter dated June 6, 1966, setting forth information [redacted]

b7D

This will confirm the following information which was orally furnished to Departmental Attorney Paul Vincent by Special Agent John H. Kleinkauf of this Bureau on June 7, 1966.

[redacted]

b7D

You will be advised of any further pertinent developments in this matter.

100-387835
101-2483

DUPLICATE YELLOW

JHK:pdb (6)
NOTE: Classified "Confidential" as the unauthorized disclosure of the above information could compromise a current active informant, thereby having an adverse effect on the national defense interests of the country.

CONFIDENTIAL

The source mentioned above is [redacted] and the information set forth above was contained in Nitel 6/6/66. b2 b7D

GROUP 1
Excluded from automatic
downgrading and
declassification

DECLASSIFIED BY
ON

56 JUN 20 1966

ORIGINAL FILED IN 100-387835-3146

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA FPMR 41 CFR 101-11.6

UNITED STATES GOVERNMENT

Memorandum

TO : DIRECTOR, FBI (101-2483) DATE: 6/21/66

FROM : SAC, PHILADELPHIA (65-4372) (P*)

SUBJECT: MORTON SOBELL
ESP - R

Re Philadelphia letter to Bureau dated 1/19/66.

On 6/2/66, Dr. W. H. WELLER, Chief Medical Officer, U. S. Public Health Service, U. S. Penitentiary, Lewisburg, Pa., advised SA PHILIP M. MORRIS there has been no change in SOBELL's mental or physical health since previous contact.

LEAD

PHILADELPHIA
AT LEWISBURG, PA.:

Will recontact Chief Medical Officer, U. S. Public Health Service, U. S. Penitentiary, Lewisburg, periodically for information regarding any change in the mental or physical health of SOBELL and advise Bureau of results.

101-2483-1613

16 JUN 21 1966

2 - Bureau (101-2483) (RM)
2 - New York (100-37158) (RM)
2 - Philadelphia (65-43-4372)

REC-24

PMM:kma
(6)

ST-108

SOVIET SECTION

50 JUL 1 1966

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

FD-36 (Rev. 5-22-64)

FBI

Date: 6/17/66

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL REGISTERED
(Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158) (P)

SUBJECT: MORTON SOBELL
ESP-R
(OO:NY)

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/87 BY 3042 PWT/lmw

ReBuairtel to NY 5/31/66.

Enclosed herewith for the Bureau are 5 copies of a LHM captioned "DR. HENRY LINSCHITZ" dated 6/16/66. It is noted that this individual has been named by the defense as the expert who would review trial exhibit in captioned case.

HENRY LINSCHITZ is the subject of NY file 100-101601 and 116-37937. In addition numerous references to him are contained in other files. The enclosed LHM contains pertinent background data as well as other information which would appear pertinent to his connection with SOBELL case. A copy of the enclosed LHM has been furnished to the AUSA, SDNY.

The first mentioned CS in the enclosed LHM is [redacted] who furnished information to SA KIRBY A. [redacted] in 9/50. The second CS is [redacted] who furnished information to SA [redacted] in 9/50.

b7C
b7D

4-BUREAU (RM)
(1-62-106323) (WALTER D. SCHNEIR) 101-2483-164
(ATT: CRIME RECORDS)
1-NEW YORK (100-109849) (HELEN SOBELL)
1-NEW YORK (100-135206) (WALTER D. SCHNEIR)
1-NEW YORK (100-107111) (CSJMS)
1-NEW YORK (100-101601) (HENRY LINSCHITZ)
1-NEW YORK

REC-96
20 JUN 18 1966

PFD:caw
(11)

1-AEC by Quinlan 9-1-66

5 ENCLOSURE

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

let to AAG Yeagley Jenner
APL:MAB
6/21/66

62-106323-

UNREC COPY AND COPY OF ENCL FILED IN

LINSCHITZ was interviewed on 2/23/51 by SAS JOHN D. MAHONEY and PETER G. ROTH.

The signed statement furnished on 9/20/55 by Prof. IRVING WALTCHER was taken by SA JOHN A. BEHRINGER.

Page 6 contains the summary of a letter sent by LINSCHITZ to Federal Judge KAUFMAN which appears pertinent to this case. Files of the NYO reflect that a copy of this letter is no longer available. The summary of this letter is set forth in the LHM was therefore taken from Buairtel to NY, 5/20/54 captioned "HENRY LINSCHITZ, AEAE".

UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION
New York, New York
June 16, 1966

In Reply, Please Refer to File No.

Doctor Henry Linschitz

On December 31, 1949, Dr. Henry Linschitz executed a personnel security questionnaire for another government agency, at which time he furnished the following background information concerning himself:

Dr. Linschitz indicated that he was born August 18, 1919, at New York City, of Polish parents who were naturalized United States citizens. He received a Bachelor of Science Degree from City College of New York, New York City, in 1940. He attended Duke University, Durham, North Carolina, from 1940 to 1946, receiving a Master of Arts Degree in 1941, and a Doctor of Philosophy Degree in 1946. He indicated that from 1940 to 1943, he was employed on a teaching and research fellowship at Duke University, Department of Chemistry. From 1943 to 1946, he was employed as a Section Leader by the University of California, doing research on the atomic bomb at Los Alamos, New Mexico. From June to September, 1945, he was employed as a scientific consultant for assembly of the atomic bomb at the 509th United States Army Airforce Squadron at Tinian and Marianas Islands. From February, 1946 to June, 1946, he was at Duke University completing work for his Doctor of Philosophy Degree. He indicated that from June, 1948, to September, 1948, he was employed on a research fellowship at the Institute for Nuclear Studies at the University of Chicago, Chicago, Illinois. From September, 1948, until the time of executing the above questionnaire, he was employed as Assistant Professor of Chemistry, at Syracuse University, Syracuse, New York.

In 1950, a confidential source who has furnished reliable information in the past, advised that Dr. Henry Linschitz was a member of the Town - Hill Forum, a group organized in Syracuse, New York, in February, 1950, for the purpose of discussing problems which were of interest to

101-2483-1614
ENCLOSURE

members of the arts, sciences, and professions. Source advised that this group was composed of approximately 35 persons who were divided about equally from among faculty members at Syracuse University and from persons active in business and professions in the city of Syracuse.

In 1950, a second confidential source who has furnished reliable information in the past advised that on February 13, 1950, Dr. Henry Linschitz gave a discussion at a meeting of the Town Hill Forum at which he raised the view that the American people should find some way of meeting Russia half way on the question of the atomic bomb. According to the source, Dr. Linschitz professed that he could see no harm in accepting the Russian plan for control of the atomic bomb. The source stated it was his opinion that Dr. Linschitz expressed a pro-Communist view upon the question of control of the atomic bomb and it appeared that the audience of the Town Hill Forum strongly sympathized with the views of Dr. Linschitz on this subject.

On June 15, 1950, the apartment of David Greenglass, 265 Rivington Street, New York City, was searched by Special Agents of the Federal Bureau of Investigation with the written consent of Greenglass. At that time an address book was found in the apartment belonging to Greenglass, in which was contained the name of Dr. Henry Linschitz.

In July, 1950, David Greenglass, a self-admitted Soviet espionage agent, was interviewed by Special Agents of the Federal Bureau of Investigation (FBI). He stated that Dr. Henry Linschitz was one of the scientists employed at the Los Alamos Atomic Bomb Project during the period that he (Greenglass) was employed there as a machinist. He stated that Dr. Linschitz was considered by him to be inclined to leftist tendencies politically. He stated that he had no specific information to substantiate this belief but had formulated this opinion of Dr. Linschitz as a result of general conversations among employees and from the fact that Dr. Linschitz at that time was one of the scientists who frequently came into the machine shop at which he worked at Los Alamos, to request tha.

certain special parts be made. Greenglass stated that he knew Dr. Linschitz was a member of the Association of Atomic Scientists and that he had received a Doctor of Philosophy Degree from Duke University. Greenglass stated that he had furnished the name of Dr. Linschitz to Harry Gold as a possible espionage recruit at the Los Alamos Atomic Project.

On February 23, 1951, Dr. Henry Linschitz was interviewed by Special Agents of the FBI at his office in the Chemistry Building at Syracuse University. Dr. Linschitz stated that he knew David Greenglass as "Greenie", a member of the Armed Forces who was employed as a machinist at Los Alamos, New Mexico. He denied that he knew Greenglass socially or that he had ever known the wife of David Greenglass. Dr. Linschitz stated that his job at Los Alamos was to conduct research on the properties of the detonation waves in the explosive section of the project at Los Alamos. He stated that due to the nature of his employment he came in contact with David Greenglass due to the fact that whenever he needed some small object of machinery made he would go himself directly to the machine shop and request it. Dr. Linschitz denied that he had ever known Julius Rosenberg or Harry Gold, or that he had ever been approached either directly or indirectly to furnish information to the Russian espionage system, by them or by anyone else.

At the time of the above interview, Dr. Linschitz was asked directly whether he was or had ever been a member of the Communist Party. He categorically denied that he was or had ever been a member of the Communist Party. When questioned as to why his name should have been mentioned as a possible recruit for espionage, Dr. Linschitz stated that this could probably be explained by the fact of the nature of his work at the project which was leading directly to the assembly of the atomic bomb which was a highly secretive part of the project.

In 1951, Mr. Alvin F. Ryan, Personnel Clearance Branch, Security Division, Atomic Energy Commission, New York, New York, advised that Dr. Henry Linschitz was granted

an informal interview by that office on May 5, 1951. According to Ryan, Dr. Linschitz recalled at that time a talk he had given at Syracuse University as a member of the Town Hill Forum in which he indicated that he felt the Acheson-Baruch-Lillienthal Plan which was presented to the United Nations was very notable, a statesmanlike thing, and appeared very practical. Dr. Linschitz stated this plan was proposed in 1947, and in 1950, there appeared little hope of getting an agreement, but he felt that some kind of compromise could be made which was important to both nations. He stated, however, that after the Korean War started in June, 1950, there appeared to be little hope of any kind of a rational approach to the problem as the United States could not accept any proposed plan of the Soviet Union. Dr. Linschitz stated that the door should not be closed, but that the United States should be hard-boiled and should wait for some really clearcut evidence that things are being carried out in good faith. Dr. Linschitz stated that he thought there were some Communist sympathizers at the Town Hill Forum who went along with the Russian viewpoint.

According to Ryan, at the time of the above interview, Dr. Linschitz stated that David Greenglass was a machinist at Los Alamos in his shop, and it was utterly fantastic that Greenglass should regard him as a possible spy. Dr. Linschitz denied again being in contact to the best of his knowledge either directly or indirectly with Harry Gold or with Julius or Ethel Rosenberg. Dr. Linschitz stated that he completely detests violence, tyranny, and the undemocratic way in which things are done by Communists. He stated he completely detests the entire system which they represent and stated he had never been a Communist or professed to be one. According to Ryan, Dr. Linschitz stated "I regard the Communist Party now as an extension of Soviet Russia, and I regard the Communist Party now as simply a tool for Russian foreign policy. Certainly they advocate the overthrow of the American Government. They want to make as much confusion as they possibly can and they are succeeding."

Doctor Henry Linschitz

According to Ryan, Dr. Henry Linschitz was again interviewed by the Atomic Energy Commission on April 29, 1955. During this interview he stated that he could recall having sent one letter to President Truman about 1951, requesting that the death sentence imposed on Julius and Ethel Rosenberg be changed to life imprisonment. He stated that he wrote such a letter on the basis of the fact that he was against capital punishment and he also believed that the United States was affording the Communists propaganda material by executing the Rosenbergs. He stated that a co-signer of this letter had been Professor Irving Waltcher of Syracuse University.

During the interview of April 29, 1955, Dr. Linschitz also stated that he had been visited at Syracuse University by members of the Committee to Secure Justice in the Rosenberg Case. He stated that at the time of the visit of this committee he requested that Dr. Wirth, Chairman of the Chemistry Department at Syracuse University be present during any discussion which transpired. He stated that at this time he was requested by members of the above committee to sign an affidavit stating that David Greenglass did not have sufficient knowledge to use the information concerning the atomic bomb as he had so testified during the trial of Julius and Ethel Rosenberg. Dr. Linschitz advised that he refused to sign such an affidavit. He also indicated that a tape recording of this interview was made.

On September 20, 1955, Professor Irving Waltcher, formerly of Syracuse University, Syracuse, New York, furnished a signed statement to Special Agents of the FBI. In this statement he indicated that he had met Dr. Linschitz in September, 1948, while teaching at Syracuse Univerasity, and had known him on a professional and social basis. He stated he considered Dr. Linschitz to be of the highest character, reputation, and associates. He stated that in approximately 1952, Dr. Linschitz and himself prepared a letter to former President Truman, requesting that the pending execution of Ethel and Julius Rosenberg be stayed and that their sentence be changed to life imprisonment. He stated

that he and Dr. Linschitz wrote this letter of their own free will and were not requested to write it by anyone. He stated that they wrote the letter only because they were against capital punishment and felt that the execution of the Rosenbergs would afford the Communists propaganda material. He stated that he and Dr. Linschitz did not sympathize with the Rosenbergs and are both opposed to Communism. He stated that the only reason they wrote the letter was because of the aforementioned reasons.

On February 3, 1951, Ben Bederson was interviewed by Special Agents of the FBI, at which time he stated that he had been formerly a member of the United States Army, stationed at Los Alamos, New Mexico. Bederson stated that he knew Dr. Henry Linschitz as a former civilian employee at the Los Alamos Project. He stated that he knew nothing unfavorable concerning the politics or activities of Dr. Linschitz. He stated that Dr. Linschitz had developed the lens which was used in the atomic bomb and that his efforts were responsible for the successful development of this lens. He advised that it was undoubtedly possible that David Greenglass was acquainted with Dr. Linschitz because of the fact that Greenglass did work on the lens mold.

On April 19, 1957, Mr. Alvin F. Ryan, mentioned above, advised that his records reflected that as of that time, Dr. Henry Linschitz was now employed by Brandeis University, Waltham, Massachusetts.

In December, 1952, Federal Judge Irving R. Kaufman, Southern District of New York, advised that he received a letter dated December 22, 1952, signed by Henry Linschitz, Associate Professor of Chemistry, Syracuse University, Syracuse, New York. The letter requested commutation of the death sentence given to Julius and Ethel Rosenberg. Linschitz stated that during World War II he worked as a Research Group Leader at Los Alamos on the development of high explosive lenses and helped assemble the Nagasaki Bomb as a member of the Atomic bomb field group in the Marianas in August, 1945.

Doctor Henry Linschitz

Linschitz stated he believed the sentence given the Rosenbergs should be commuted because he had reason to doubt the credibility of the testimony given by David Greenglass; the fact that the defendants and confessed spies were Jews might have caused a Jewish Judge to lean over backwards; and the timing of the trial during a period of bitter international feelings.

Julius and Ethel Rosenberg were convicted in United States District Court, Southern District of New York, on March 29, 1951, on charges of Conspiracy to Commit Espionage, and were sentenced to death. They were subsequently executed on June 19, 1953.

MAILED

JUN 24 1966

1 - Mr. Lee

NAME CHECK

Mr. J. Walter Yeagley
Assistant Attorney General

June 21, 1966

Director, FBI

MORTON SOBELL
ESPIONAGE - RUSSIA

In connection with the motion made by the above subject for a new trial under Title 28, United States Code, Section 2255, John S. Martin, Assistant United States Attorney, Southern District of New York, advised that the attorneys for Sobell had named Dr. Henry Linschitz as the expert to whom they would show the sealed trial exhibit in this case.

Attached for your information is a memorandum containing pertinent background information concerning Dr. Linschitz as well as other information pertinent to his connection with the Sobell case. A copy of this memorandum has been furnished to Assistant United States Attorney Martin.

Dr. Linschitz is currently on the faculty at Brandeis University, Waltham, Massachusetts.

Enclosure

101-2483 - 1614

REC-98

APL:mab (5)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/30/87 BY 3042 PWT/lmw

NOTE:

In connection with a motion for a new trial Sobell's attorneys requested that a sketch of the atomic bomb prepared by David Greenglass which was introduced at the Rosenberg-Sobell trial and impounded be released in order that it might be examined by defense experts. The Government did not oppose this motion and this exhibit was released. Linschitz, scientist formerly employed at the Los Alamos atomic bomb project, was interviewed by Bureau Agents in 1951 at which time he advised he knew Greenglass at Los Alamos. In an interview by an AEC official in 1951 Linschitz advised he had no doubt the Rosenbergs were guilty and in 1955 revealed he had refused to sign an affidavit for the Committee to Secure Justice in the Rosenberg case that Greenglass did not have sufficient knowledge to use the information he obtained about the atomic bomb. Linschitz

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

MAILED 3
JUN 21 1966
COMM-FBI

MAIL ROOM ☐ TELETYPE UNIT ☐

FD-36 (Rev. 5-22-64)

FBI

Date: 6/14/66

Transmit the following in ____________________
(Type in plaintext or code)

Via AIRTEL ____________________
(Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158)(P)

SUBJECT: MORTON SOBELL
ESP - R
(00: NY)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/30/87 BY 3042PWT/lmw

ReNYairtel, 6/8/66.

Enclosed for the Bureau is one copy of brief filed by SOBELL's attorneys on USA, SDNY. This was made available by AUSA JOHN S. MARTIN, SDNY, on 6/14/66.

Bureau will be advised promptly of all developments.

ENCLOSURE

4 - BUREAU (Encl. 1)(RM)
(1 - 62-106323)(WALTER D. SCHNEIR)
(ATT: CRIME RECORDS)
1 - NY 100-109849 (HELEN SOBELL)
1 - NY 100-135206 (WALTER D. SCHNEIR)
1 - NY 100-107111 (CSJMS)(41)
1 - NY 100-37158

EFM:mfd (#331)
(10)

REC 19 101-2483-1615

ENCLOSURE ATTACHED

14 JUN 1966

SOVIET SECTION

UNRECORDED COPY FILED IN 62-106323

Approved: ____________________ Sent __________ M Per __________
Special Agent in Charge

50 JUN 30 1966

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MORTON SOBELL,

Petitioner,

- against - 66 Civ. 1328

UNITED STATES OF AMERICA,

Respondent.

POINTS AND AUTHORITIES IN SUPPORT OF PETITIONER'S APPLICATION FOR AN EVIDENTIARY HEARING PURSUANT TO 28 U.S.C. 2255

ARTHUR KINOY
WILLIAM M. KUNSTLER
511 Fifth Avenue
New York, New York

MARSHALL PERLIN
36 West 44th Street
New York, New York

MALCOLM SHARP
University of New Mexico
Law School
Albuquerque, New Mexico

BENJAMIN DREYFUS
341 Market Street
San Francisco, Calif.

VERN COUNTRYMAN
3 Suzanne Road
Lexington, Mass.

Attorneys for Petitioner

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MORTON SOBELL,

Petitioner,

66 Civ. 1328

-against-

UNITED STATES OF AMERICA,

Respondent.

POINTS AND AUTHORITIES IN SUPPORT OF PETITIONER'S APPLICATION FOR AN EVIDENTIARY HEARING PURSUANT TO 28 U.S.C. 2255

ARTHUR KINOY
WILLIAM M. KUNSTLER
511 Fifth Avenue
New York, New York

MARSHALL PERLIN
36 West 44th Street
New York, New York

MALCOLM SHARP
University of New Mexico
Law School
Albuquerque, New Mexico

BENJAMIN DREYFUS
341 Market Street
San Francisco, Calif.

VERN COUNTRYMAN
3 Suzanne Road
Lexington, Massachusetts

Attorneys for Petitioner

INDEX

INDEX

Introductory Statement

In preparing this memorandum of points and authorities, petitioner has not had the benefit of any answering papers or memorandum for respondent and, accordingly, respectfully reserves the right to submit additional memoranda if he deems it necessary.

Statement of the Case

On May 9, 1966, petitioner, pursuant to Title 28, U.S.C. §2255, moved for an evidentiary hearing, and, upon the hearing, for an order vacating and setting aside the sentence and judgment of conviction on the grounds that his conviction was unjustly and illegally procured, in violation of the Constitution and laws of the United States, in that the prosecuting authorities, among other things, knowingly created, contrived and used false, perjurious testimony and evidence, induced and allowed government witnesses to give false testimony, suppressed evidence which would have aided petitioner, impeached the prosecution's case and exposed the falsity thereof, and made false representations to the court.

On May 13, 1966, the return date of the aforesaid motion, the attorneys for petitioner and respondent appeared before Hon. Marvin E. Frankel, United States District Judge,

at which time petitioner's application for an evidentiary hearing was set down for June 20, 1966.*/

Petitioner is presently detained in the United States Penitentiary at Lewisburg, Pa., and has been continuously in federal custody since August of 1950.

Prior Proceedings

On January 31, 1951, an indictment was returned against petitioner charging in a single count that he had conspired with others to transmit to the Union of Soviet Socialist Republics "documents, writings, sketches, notes and information relating to the national defense of the United States", all in violation of Title 50, U.S.C.,§34.**/

Petitioner, together with co-defendants Julius and Ethel Rosenberg, was subsequently tried in this district before a judge and jury. On April 5, 1951, following his conviction, a sentence of thirty years was imposed upon him pursuant to the wartime provisions of the statute.

---

*/ After the setting of this date by the court at respondent's request, petitioner's motion to be brought to New York, New York, to inspect certain material, was granted. Because of this, the numerous required consultations between him and his counsel resulted in a necessary revision of the time schedule previously established.

**/ Repealed June 25, 1948, c. 645, §21, 62 Stat. 862, eff. September 1, 1948, now covered by §§792 and 2388, Title 18, U.S.C.

On February 25, 1952, the United States Court of Appeals for the Second Circuit, one judge dissenting, affirmed the judgment of conviction. 195 F.2d 583, 609-611. A subsequent petition for a writ of certiorari was denied by the United States Supreme Court on November 17, 1952. 344 U.S.838, 889.

Since his conviction, petitioner has instituted several collateral proceedings pursuant to Rule 35 of the Federal Rules of Criminal Procedure and 28 U.S.C. 2255. In none of these was a single issue in the within petition raised, presented or litigated. Moreover, petitioner was never granted an evidentiary hearing in connection with any such application.

The Theory of the Prosecution

The theory of the government's case was that a single large conspiracy to commit espionage existed for the purspose of transmitting classified information to the Soviet Union in which petitioner, his co-defendants, David and Ruth Greenglass, Harry Gold, former Soviet Vice-Consul Anatoli A. Yakovlev and German-born scientist Klaus Fuchs, were involved. According to the government, Gold's role in this conspiracy was to serve as the sole courier between Yakovlev, Fuchs and the Greenglasses. At petitioner's trial, Gold, as an obvious stand-in for Fuchs, testified freely as to his courier function with him in order to lend credence to his false

claim of an alleged meeting with David and Ruth Greenglass in Albuquerque, New Mexico, on June 3, 1945, at which time he supposedly received atomic bomb data from them for transmission to Yakovlev.

The Present Motion

The present motion and supporting papers charge that:

1. The prosecution knowingly, wilfully and intentionally introduced false and perjured testimony and false, fraudulent and forged documentary evidence to establish that Harry Gold was present in Albuquerque, N.M. on June 3, 1945. In so doing the prosecution well knew that Harry Gold was not in Albuquerque on the aforementioned date and did not there meet with David and Ruth Greenglass.

2. The prosecution knowingly, wilfully and intentionally suppressed evidence which would have impeached this false testimony and would have disclosed its knowledge of the falsity of the evidence. Among other things, it suppressed its contrivance of false evidence eventually presented at the trial by Harry Gold.

3. The prosecution knowingly, wilfully and intentionally, and with knowledge that Harry Gold was an acknowledged and proven pathological liar, concealed same from the court and jury and unqualifiedly represented and vouched for his complete credibility.

4. The prosecution knowingly, wilfully and intentionally created and contrived the aforesaid false, perjurious testimony and false, fraudulent and forged documentary evidence to conform to the confession of Dr.Klaus Fuchs, who, in January of 1950, had confessed and subsequently pleaded guilty to having violated the British Official Secrets Act by transmitting theoretical data relating to atomic energy to the Soviet Union.

5. The prosecution, in order (a) to prevent petitioner and his co-defendants from ever viewing the original of a crucial government exhibit (hereinafter referred to as Exhibit 16), and (b) to prev nt the exposure of its fraud and forgery in connection therewith, arranged for its totally premature and unorthodox disposal and destruction shortly after petitioner's trial and long prior to the argument of his appeal.

The Facts

The substance of the false testimony of Harry Gold as to the alleged meeting with David and Ruth Greenglass in Albuquerque, N.M., on June 3, 1945, was as follows:

> 1. Some time in May of 1945, Yakovlev instructed Gold to see Greenglass. He gave Gold an onionskin paper bearing the name and address of Greenglass which also had typed thereon the words, "Recognition signal. I come from Julius." (R.822) */

*/ All references are to the designated page or pages of the printed Transcript of Record.

2. At the same time he was given a piece of cardboard which appeared to have been cut from a packaged food product in an odd shape, and was told that Greenglass would have the matching portion thereof. (R. 822).

3. He was also given an envelope allegedly containing $500 and was instructed to transmit it to Greenglass (R. 822).

4. He identified a purported reproduction of the cardboard side of a food package previously cut and shaped by Greenglass during the course of the trial as similar to the one purportedly given to him by Yakovlev in 1945 (R. 823).

5. After allegedly visiting Dr. Fuchs in Santa Fe on June 2, 1945, he left by bus for Albuquerque, and, at 8:30 that evening, he visited the Greenglasses' residence but failed to find them at home (R. 824).

6. He spent the night in the hallway of a rooming house and in the early morning of June 3, 1945, registered under his own name at the Hotel Hilton. Thereafter, at approximately 8:30 a.m. he returned to the Greenglass residence (R. 825).

7. Gold there stated to Greenglass, "I came [sic] from Julius" (R. 825).

8. He next brought out his cardboard piece and matched it with that produced by Greenglass (R. 825).

9. Gold then identified himself as "Dave from Pittsburgh" (R. 826).

10. After introducing Gold to his wife, Greenglass told him "that he had not expected me right on that day, but that nevertheless he would have the material on the atom bomb ready for me that afternoon" (R. 826).

11. When Mrs. Greenglass went into the kitchen to prepare some food, Gold gave Greenglass the envelope containing the $500 (R. 826).

12. Gold was instructed to return to the Greenglass residence at "3:00 or 4:00 o'clock in the afternoon" to receive the atomic bomb information. Before leaving he was told by Mrs. Greenglass that she had spoken to Julius "just before she had left New York to come to Albuquerque" (R. 826).

13. This meeting took "about 15 minutes" (R. 827).

14. Gold returned at about 3:00 o'clock, received an envelope containing "the information on the atom bomb" from Geenglass who informed him that he expected a furlough around Christmas time and "if I wished to get in touch with him then I could do so by calling his brother-in-law Julius, and he gave me the telephone number of Julius in New York City." (R. 827).

15. Immediately after this visit, which took 5 minutes, Gold left Albuquerque by rail (R. 828).

16. The material which he had received from Greenglass, consisting of "three or four handwritten pages plus a couple of sketches", he gave to Yakovlev at a prearranged meeting in Brooklyn on the evening of June 5, 1945 (R. 829).

The Fraud

The theme of the fraud connecting Fuchs with Gold and Gold with Greenglass and thereby implicating the Rosenbergs and petitioner, rested and depended upon the fraudulent claim of the above June 3rd meeting. Its importance is underscored by the stress laid thereon by the prosecutor in his summation and, the judge relying thereon, in his charge. See

Petition, Paragraphs 15-17. In part, this fraud was manifested as follows:

1. The Forged Hotel Hilton Registration Card

In order to establish the false fact that Gold had registered at the Hotel Hilton on the morning of June 3, 1945, respondent introduced Exhibit 16, a supposed photostatic copy of an alleged original Albuquerque Hilton registration card.

a. At the time of the introduction of Exhibit 16, respondent knew that this document had, at its inducement and suggestion, been falsely created and contrived by it and those active in concert therewith.

b. Notwithstanding this knowledge, respondent represented the authenticity of Exhibit 16 and thereby seduced defense counsel into stipulating to its introduction into evidence.

c. Exhibit 16 is a false, fraudulent, forged and after-contrived document and is not, as respondent well knew, a registration card signed by Gold on June 3, 1945 at the Albuquerque Hilton and kept by that hotel in the regular course of its business. Among other things establishing its falsity:

(1) Exhibit 16 bears an electronic date-time stamp purporting to show that a registration took place at 12:36 p.m. on June 4, 1945, when Gold, according to his testimony at the trial, was already en route to New York for a

pre-arranged meeting with Yakovlev.

(2) Exhibit 16 contains absolutely no identifying initials of any FBI agent, in marked and significant contrast to every other exhibit obtained by the FBI and introduced into evidence at the trial and in contradiction to uniform identification procedures employed by that agency.

(3) Exhibit 16 contains no date of receipt by FBI agents, in marked and significant contrast to every other exhibit obtained by the FBI and introduced into evidence at the trial, and in contradiction to uniform identification procedures employed by that agency.

(4) The original of Exhibit 16 was allegedly returned by the Department of Justice to the Hotel Hilton shortly after petitioner's trial and long before his appeal was ever argued in the United States Court of Appeals for the Second Circuit.

(5) The original of another alleged Hotel Hilton registration card in the name of Harry Gold, not used at the trial, was retained by the Department of Justice for nine years after the trial, and then destroyed "in the normal course of operations" on February 11, 1960.

(6) Mrs. Elizabeth McCarthy, a handwriting and document expert who regularly examines questioned documents for the Boston and Massachusetts State Police, has stated, as would any such expert, that "it is difficult in a case of this kind for a document expert to arrive at a definite, conclusive opinion from a study of photostats or photographs alone. A detailed microscopic study of the originals is necessary before a final opinion can be reached." The incredible destruction

of the original of Exhibit 16 of itself establishes the prosecution's knowledge of its spurious nature and, in any event, raises a presumption as a matter of law of its forged nature. It is to cover situations of this sort that the common law maxim of contra spoliatorem omnia praesumuntur was evolved over the centuries.

2. The Misrepresentation and Concealment as to Harry Gold

Moreover, with full knowledge that Harry Gold was an acknowledged and proven pathological liar, respondent offered him as its main and indispensable witness, representing and vouching for his complete credibility. In so doing, it concealed from the court and jury that:

a. It had felt compelled to submit him for psychiatric observation and testing.

b. He had testified in open court that he had lied before a federal grand jury.

c. He had admitted to his attorneys:

(1) that he had lied before another grand jury and,

(2) that he had for years woven a series of complete fantasies about a non-existent family.

d. He had, in pre-trial statements made to his attorneys, given information wholly inconsistent or at variance with his eventually anticipated testimony at the trial.

e. He had been subjected to untold hours of

preparation with and inducement by respondent and those acting in concert therewith, during which time his ultimate testimony was evolved and contrived. His attorneys only received the product of this preparation as it evolved and ch changed, hence requiring him to relate his story to them from notes previously drawn in conjunction with this process.

3. Conclusion

In its totality, the above new evidence, obtained since the trial, clearly and conclusively entitled petitioner at the very least to an evidentiary hearing thereon.

Statutes Involved

Title 28, U.S.C., §2255, provides in relevant part:

§2255. Federal custody: remedies on motion attacking sentence.

A prisoner in custody under sentence of a court established by Act of Congress claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the Court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

A A motion for such relief may be made at any time.

Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause

notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

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

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

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

Points and Authorities

I. The Substantive Grounds for Relief Set Forth in the Present Petition Are Authorized by 28 U.S.C. 2255

At the outset, counsel wish to make it quite plain that the issue before this court is not the ultimate facts but petitioner's unqualified right to an evidentiary hearing. Petitioner's innocence (which he has steadfastly maintained) or guilt as to the charges against him, or even the probabilities of his eventual success or failure in proving the truth of the factual allegations contained in this

motion are totally irrelevant to the matter at hand. The sole question before this court is whether, according to 28 U.S.C. 2255, "the motion and the files and records of the case conclusively show that [he] is entitled to no relief...." (emphasis supplied) Clearly, from the new facts presented by him, this cannot be held to be the case.

A. 28 U.S.C. 2255 affords the identical grounds for relief from a judgment of conviction as were formerly available by writ of habeas corpus.

It is now clear that a motion under 2255 is exactly commensurate with that previously available to federal prisoners by way of habeas corpus. For all practical purposes the motion and the writ are one and the same. United States v. Hayman, 342 U.S. 205; Hill v. United States, 368 U.S. 424; Sanders v. United States, 373 U.S. 1; Smith v. United States, 270 F.2d 921; Longsdorf, The Federal Habeas Corpus Acts, Original and Amended, 13 F.R.D. 407, 424 (1953).

Thus, in considering petitioner's right to an evidentiary hearing, we must, as Mr. Justice Brennan reminded us in Fay v. Noia, 372 U.S. 391, "bear in mind the extraordinary prestige of the great writ, habeas corpus ad subiiciendum, in Anglo-American jurisprudence: 'the most celebrated writ in the English law'. 3 Blackstone Commentaries, 1929" As the majority put it:

"It is no accident that habeas corpus has time and again played a central role in national crises, wherein the claims of order and of liberty clash most acutely, not only in England in the 17th century, but also in America from our very beginnings, and today. Although in form the great writ is simply a mode of procedure, its history is inextricably intertwined with the growth of fundamental rights of personal liberty. For its function has been to provide a prompt and efficacious remedy for whatever society deems to be intolerable restraints. Its root principle is that in a civilized society, government must always be accountable to the judiciary for a man's imprisonment: if the imprisonment cannot be shown to conform with the fundamental requirements of law, the individual is entitled to his immediate release. Thus there is nothing novel in the fact that today habeas corpus in the federal courts provides a mode for the redress of denials of due process of law. Vindication of due process is precisely its historic office."
(at p 402)

In discussing some of the arguments raised against the Supreme Court's consistent holding in habeas corpus cases that federal court jurisdiction is conferred by the allegation of an unconstitutional restraint and is not defeated by anything that may or may not have occurred in the state court proceedings, Mr. Justice Brennan referred specifically to the right to a hearing. His language deserves great consideration insofar as the present application is concerned:

"A number of arguments are advanced against this conclusion. One, which concedes the breadth of federal habeas power, is that a state prisoner who forfeits his opportunity to vindicate federal defenses in the state court has been given all the process that is constitutionally due him, and hence is not restrained contrary to the Constitution. But this wholly conceives the scope of due process of law which comprehends not only

the right to be heard but also a number of explicit procedural rights ...." (emphasis supplied) (at p. 427)

In order to eliminate the "backing and filling" */, which it had found so objectionable in federal habeas corpus, from the field of motions under §2255, the court, five weeks after its landmark opinion in Noia, decided Sanders v. United States, supra. In that case, involving a third such motion, the court expressly held that the remedy provided by §2255 was exactly commensurate with that previously available by federal habeas corpus.

> "As we said just last Term 'it conclusively appears from the historic context in which §2255 was enacted that the legislation was intended simply to provide the sentencing court a remedy exactly commensurate with that which had previously been available by habeas corpus in the court of the district where the prisoner was confined.' Hill v. United States, 368 U.S. 424, 427, 82 S.Ct. 468, 471, 7 L.Ed. 2d 417" (at p. 14)

In deciding Sanders, the Court laid down a series of criteria relating to the breadth, use and function of 2255 motions. In addition to its "exactly commensurate" status with federal habeas corpus, they are as follows:

(1) res judicata is inapplicable to 2255 proceedings.

(2) no controlling weight may be given to the denial of a prior 2255 application unless the same ground

*/ Fay v. Noia, supra, at 412.

presented in a subsequent application was determined adversely to applicant after a hearing on the merits.

(3) doubts as to whether two grounds of successive 2255 applications are different or the same should be resolved in favor of applicant.

(4) notwithstanding the number of prior applications for 2255 relief, the presentation of a new ground or one that has never before been litigated on the merits in a new application clearly entitles an applicant to an evidentiary hearing.

(5) in seeking to avoid an evidentiary hearing, the government has the burden of showing that there has been an abuse of the motion remedy by the applicant.

(6) the sentencing court cannot, when facts are presented in a 2255 motion which are outside the record, deny it on the ground that the files and records of the case conclusively showed that an applicant was entitled to no relief.

(7) The sentencing court has no power to deny a 2255 motion without an evidentiary hearing unless the allegations areso clearly frivolous as to be deemed an abuse of the remedy, or they can be conclusively determined from the files and records of the case:

See also, Waugaman v. United States, 331 F.182 and cases cited therein; Marchese v. United States, 304 F.2d 154, vacated and remanded, 374 U.S. 101; Rone v.United States, 305 F.722,

vacated and remanded, 374 U.S. 503; Harth v. United States, 330 F. 198; United States ex rel Smith v. Baldi, 344 U.S. 561 (dissenting opinion); Haier v. United States, 334 F.2d 441; Stone v. United States, 58 F. 503; cf. Malone v. United States, 299 F.2d 254, cert. den. 371 U.S. 863.

As has been indicated above and documented in petitioner's moving papers, he has presented numerous new and significant factual grounds to form a sufficient legal basis for granting the relief sought by the applicant. In Sanders, Mr. Justice Brennan, in discussing the Court's definition of the word or term "ground" stated as follows:

> "For example, the contention that an involuntary confession was admitted in evidence against him is a distinct ground for federal collateral relief."
>
> (at p. 16)

Can it be legitimately or logically denied that the admission of a forged document in evidence is any less a "distinct ground for federal collateral relief" than that of an involuntary confession? Merely to raise the question, is, of course, to answer it.

In Machibroda v. United States, 368 U.S. 487, petitioner's motion alleged that he had been induced to plead guilty to two charges of bank robbery by the promises of the prosecutor as to the lengths of the sentences that would be imposed upon him. The motion was denied by the sentencing court without a hearing.(184 F. Supp. 881) and affirmed,

per curiam, by the Court of Appeals for the Sixth Circuit, (280 F.2d 379). In vacating and remanding, the Supreme Court clearly stated that the failure to grant a hearing on "on controverted issues of fact" was at the heart of its decision.

In Mr. Justice Stewart's words:

> "This was not a case where the issues raised by the motion were conclusively determined either by the motion itself or by the 'files and records' in the trial court. The factual allegations contained in the petitioner's motion and affidavit, ... related primarily to purported occurrences outside the courtroom and upon which the record could therefore case no real light. Nor were the circumstances alleged of a kind that the district judge could completely resolve by drawing upon his own personal knowledge or recollection.
>
> "We cannot agree with the government that a hearing in this case would be futile because of the apparent lack of any eye-witnesses to the occurrences alleged, other than the petitioner himself and the assistant United States attorney. The peitioner's motion and affidavit contain charges which are detailed and specific. It is not unreasonable to suppose that many of the material allegations can either be corroborated or disproved by the visitors' records of the county jail where the petitioner was confined, the mail records of the penitentiary to which he was sent and other such sources. 'Not by the pleadings and the affidavits but by the whole of the testimony must it be determined whether the petitioner has carried his burden of proof and shown his right to a discharge. The government's contention that his allegations are improbable and unbelievable cannot serve to deny him an opportunity to support them by evidence. On this record it is his right to be heard.'
>
> Walker v. Johnston, 312 U.S. 275, at 287, 61 S. Ct. 574, 579.
>
> * * * * * *
>
> "There will always be marginal cases, and this case is not far from the line. But the specific and detailed factual assertions of the petitioner, while improbable, cannot at this juncture be said to be

incredible. If the allegations are true the petitioner is clearly entitled to relief. Accordingly, we think the function of 28 U.S.C.A. §2255, can be served in this case only by affording the hearing which its provisions require."

(at 495-496)

In Stone v. United States, supra; a 2255 motion was filed by the petitioner based upon the ground that he was not mentally competent at the time of his plea and sentencing. Subsequent to the filing of this motion, the district court entered an order denying it without an evidentiary hearing "on the ground that the record conclusively showed that appellant was entitled to no relief." (at 505) Petitioner then filed other 2255 motions each raising the same ground and each being denied in turn as a successive motion for similar relief under the statute. In reversing and remanding for a full evidentiary hearing, the Ninth Circuit held that the lower court had erred in denying petitioner's first motion without a hearing on the ground that his competency to stand trial was not reviewable by motion under §2255.

As the court put it:

"The petition presents a substantial factual issue going to the integrity of the judgment under which appellant may be denied his liberty for the greater part of his life. Since we have concluded that no legal bar prevents the resolution of this issue on its merits, we believe -- as the district court would doubtless have agreed had it shared our view of the law -- that the ends of justice would be served by reaching the merits of that issue."

(at 508)

In his motion petitioner has made substantial factual allegations, which, if true, go directly, to use the phraseology of the Ninth Circuit, "to the integrity of the judgment" under which he has been denied and will in the future be denied his liberty for a substantial number of years. The facts he presents are new -- they are significant -- and they are outside the record. The Sanders criteria patently apply.

B. B. The use of testimony or documentary evidence known by the prosecution to be false, fraudulent, perjured or forged renders a conviction and sentence void for want of due process of law.

There is not a remote shadow of a doubt that proof of any of these factual allegations would conclusively entitle petitioner to a vacation of his sentence. In a long, unbroken series of decisions from Mooney v. Holohan, 394 U.S. 103, to the present time, the Supreme Court has consistently affirmed and reaffirmed the principle that a conviction and sentence which rest upon a violation of a prisoner's fundamental constitutional rights are subject to collateral attack. The knowing use by the prosecution of false and perjured testimony and/or forged exhibits subjects any conviction and sentence to collateral attack requiring the vacating of the original sentence and judgment.

> "That requirement [due process of law], in safeguarding the liberty of a citizen against deprivation through the action of the state, embodies the fundamental conceptions

of justice which lie at the base of our civil and political institutions. Hebert v. Louisiana, 272 U.S. 312, 316, 317 ***. It is a requirement that cannot be deemed to be satisfied by mere notice and hearing, if a state has contrived a conviction through the pretense of a trial which in truth is but used as a means of depriving a defendant of liberty through a deliberate deception of court and jury by the presentation of testimony known to be perjured. Such a contrivance by a state to procure the conviction and imprisonment of a defendant is as inconsistent with the rudimentary demands of justice as is the obtaining of a like result by intimidation."

(Mooney v. Holohan, supra, at 112)

See also, Brown v. Mississippi, 297 U.S. 278; Hysler v. Florida, 315 U.S. 411; Ex parte Hawk, 321 U.S. 114; White v. Reagan, 324 U.S. 760; Hawk v. Olson, 326 U.S. 271; Burke v. Georgia, 338 U.S. 941; United States v. Hayman, 342 U.S. 205; Price v. Johnston, 344 U.S. 266; Ryles v. United States, 198 F.2d 199; Casebeer v. Hudspeth, 121 F.2d 914; United States v. Kaplan, 101 F. Supp. 7. */

The importance of this principle to the preservation of an ordered system of law was incisively stated by Mr. Justice Frankfurter in Hysler v. Florida, supra, at 413:

"The guides for decision are clear. If a state, whether by the active conduct or the connivance of the prosecution, obtains a conviction through the use of perjured testimony, it violates civilized standards for the trial of guilt or innocence and thereby deprives an accused of liberty without due process of law."

*/ The rule of Mooney v. Holohan, supra, applies, of course to the knowing use of perjured testimony in a federal court as well as in a state court. See for example Ryles v. United States, 198 F. 2d 199 (C.A. 10); Casebeer v. Hudspeth, 121 F.2d 914; United States v. Kaplan, 101 F. Supp.7. (D.C.N.Y.)

C. The prosecution's wilful and deliberate suppression of evidence impeaching its case and favorable to defendant renders a conviction and sentence void for want of due process of law.

The prosecution's suppression of evidence impeaching its case and favorable to petitioner equally renders a conviction and sentence void for want of due process of law. This charge, if sustained at a hearing, would, of course, subject a conviction and sentence to successful collateral attack. See Pyle v. Kansas, 317 U.S. 213, where Mr. Justice Murphy held that allegations of: "de

> "deliberate suppression by those same authorities of evidence favorable to [a defendant] * * * sufficiently charge a deprivation of rights guaranteed by the federal Constitution, and, if proven, would entitle [him] to release from his present custody."

See also, Mooney v. Holohan, and cases cited, supra; United States ex rel Almeida v. Baldi, 195 F.2d 815, cert. den. 345 U.S. U.S. 904.

In Kyle v. United States, 297 F.2d 507 (1961) a second application under §2255 by a prisoner who had been convicted of a conspiracy to violate the mail fraud laws was denied by the sentencing court without an evidentiary hearing. Despite the fact that the applicant, before the argument of the appeal, had served his sentence, a motion by the government to dismiss the appeal as moot was denied. See 288 F.2d 440. The basis of the second 2255 application was the government's

alleged suppression or loss of certain correspondence which petitioner claimed to have turned over to it. This claim had been asserted on petitioner's appeal and had constituted one ground of his first 2255 proceeding.

In reversing, Circuit Judge Friendly stated that:

> " ... a hearing ought to have been granted .... [T]rue, the hearing might show that the government had merely been negligent, perhaps not even that, but it might also show considerably more. Hence it would be premature to consider whether if the testimony were to show only negligence in the handling of material evidence, petitioner would be entitled to relief under §2255 as Consolidated Laundries held a defendant to be on a motion for a new trial." */

See also, United States ex rel Montgomery v. Ragen, 86 F.Supp. 382; Woollomes v. Heinze, 198 F. 2d 577 (9th Cir.); In re Curtis, 123 F. 2d 936; Robinson v. Johnston, 50 F. Supp. 774.

D. False representations made to the court by the prosecution in a criminal proceeding render the conviction void for want of due process of law.

Furthermore, charges that the prosecution made false representation to the court in the course of the original proceedings against petitioner, if sustained, would certainly render a conviction and sentence void for want of due process of law. Mooney v. Holohan, and cases cited, supra. Misrepresentations to a court by a prosecuting offi-

*/ United States v. Consolidated Laundries Corp., 291 F.2d 563, 2nd Cir. 1961.

cial offend against the very heart of a system of impartial administration of justice. As the Supreme Court has pointed out in Berger v. United States, 295 U.S. 78, at 88:

> "The United States attorney is the representative not of an ordinary party to a controversy, but of a sovereignty whose obligation to govern impartially is as compelling as its obligation to govern at all; and whose interest, therefore, in a criminal prosecution is not that it shall win a case but that justice shall be done. As such he is in a peculiar and very definite sense the servant of the law, the two-fold aim of which is that guilt shall not escape or innocence suffer. He may prosecute with earnestness and vigor -- indeed he should do so. But, while he may strike hard blows, he is not at liberty to strike foul ones. It is as much his duty to refrain from improper methods calculated to produce a wrongful conviction as it is to use every legitimate means to bring about a just one."

See also, Smith v. United States, 223 F.2d 750(5th Cir.,); Hazel-Atlas Glass Co. v. Hartford-Empire Co., 332 U.S. 238; Mesarosh v. United States, 352 U.S. 1.

II. The Allegations Charging That the Prosecution Knowingly Used Perjured Evidence, Suppressed Evidence and Made Misrepresentations to the Court and Jury Require That a Hearing be Granted Pursuant to 28 U.S.C. 2255.

Since Sanders, it is, as has been indicated above, the clear and unequivocal intent of the United States Supreme Court to make motions under §2255 the exact equivalent of applications for writs of habeas corpus. If, as the Court stated in Fay v. Noia, supra: "Habeas was available to remedy any kind of governmental restraint contrary to fundamental law," petitioner is certainly entitled to a

hearing on the serious and significant factual allegations made by him in his moving papers. Since he would, without a shadow of a doubt, have been afforded such a hearing if he had proceeded by way of habeas corpus prior to the enactment of §2255, he cannot be denied one because he has utilized the only equivalent procedure presently available to him.

In Sanders, the Supreme Court reiterated that an applicant invoking §2255 was entitled to the "same rights" as a habeas corpus applicant. "Indeed, if he was subject to any substantial procedural hurdles which made his remedy under §2255 less swift and imperative than federal habeas corpus, the gravest constitutional doubts would be engendered, as the Court in Hayman */ implicitly recognized." (at 14) Therefore, if petitioner would be entitled to a hearing under federal habeas, he is likewise entitled to one under §2255.

In the instant situation, there is no reason in logic or law not to afford him such an evidentiary hearing. There can be no doubt that, under countless decisions of the federal courts, the assertion of legally sufficient allegations which raise issues of fact require that a hearing be granted. Commonwealth of Pennsylvania ex rel Herman v. Claudy, 350 U.S. 116; Hawk v. Olson, 326 U.S. 271; Ex parte

*/ United States v. Hayman, 342 U.S. 205

Hawk, 321 U.S. 114; Pyle v. Kansas, supra; Smith v. United States, supra; United States v. Rutkin, 212 F. 2d 641; United States ex rel Almeida v. Baldi, supra; Wheatley v. United States, 198 F. 2d 325; Davis v. United States, 210 F. 2d 118; Waley v. Johnston, 316 U.S. 101; Smith v. O'Grady, 312 U.S. 329; Motley v. United States, 230 F. 2d 110; Mays v. United States, 216 F. 2d 186; McKinney v. United States, 208 F. 2d 844; Winhoven v. United States, 201 F. 2d 174; Martin v. United States, 199 F. 2d 279; United States v. Wantland, 199 F. 2d 237; Clark v. United States, 194 F. 2d 528; United States v. Paglia, 190 F. 2d 445; Martyn v. United States, 176 F. 2d 609; Garrison v. United States, 154 F. 2d 107; Hall v. Johnston, 91 F. 2d 363; United States v. Morgan, 202 F. 2d 67; United States v. Pisciotta, 199 F. 2d 603; Haywood v. United States, 127 F. Supp. 485; Buono v. United States, 126 F. Supp. 644; United States v. Bradford, 122 F. Supp. 915; United States v. DiMartini, 118 F. Supp. 601; Putnam v. United States, 337 F. 2d 313; Morse v. United States, 323 F. 2d 418; Burns v. United States, 321 F. 2d 803; Yates v. United States, 316 F. 2d 718; United States v. Cannon, 310 F. 2d 841; Morse v. United States, 304 F. 2d 876; United States v. Thomas, 291 F. 2d 478; Frand v. United States, 289 F. 2d 693; Hill v. United States, 236 F. Supp. 155; Hamby v. United States, 217 F. Supp. 318; McDonald v. United States, 341 F. 2d 378; Berry v. United States, 338 F. 2d 605, cert.

denied, 85 S.Ct. 1099, 380 U.S. 959, 13 L.Ed. 2d 975; Desmond v. United States, 333 F. 2d 378, on remand 345 F. 2d 225; Doyle v. United States, 336 F. 2d 640; Perry v. United States, 332 F. 2d 369; Waugaman v. United States, 331 F. 2d 189; Gill v. United States, 330 F. 2d 241; Pike v. United States, 330 F. 2d 53; Romero v. United States, 327 F. 2d 711; Olive v. United States, 327 F. 2d 646, cert. den'd 84 S.Ct. 1653, 377 U.S. 971, 12 L.Ed. 2d 740; United States v. Hill, 319 F. 2d 653; Green v. United States, 83 S.Ct. 948, 372 U.S. 951, 9 L.Ed. 2d 976, on remand 219 F. Supp. 750, aff'd 334 F. 2d 733, cert. denied 85 S.Ct. 1345, 380 U.S. 980, 14 L. Ed. 274; Milani v. United States, 304 F. 2d 627; United States v. Jones, 197 F. Supp. 421, aff'd 297 F. 2d 835.

No court can conclusively resolve the impact of false evidence on a jury. For this reason, a court will not weigh the extent of prejudice when a prosecutor knowingly, wilfully and intentionally uses false evidence. As stated in Coggins v. O'Brien, 188 F. 2d 130, 139 (C.A. 1):

> "* * * the burden is not on the petitioner to show a probability that in the jury's deliberations the perjured evidence tipped the scales in favor of conviction. If the prosecutor is not content to rely on the untainted evidence, and chooses to 'button up' the case by the known use of perjured testimony, an ensuing conviction cannot stand, and there is no occasion to speculate upon what the jury would have done without the perjured testimony before it."

Commenting on this principle, Mr. Justice Douglas, in Stein v. People of the State of New York, 346 U.S. 156, 205, stated:

> "A similar rule prevails where the prosecution has made knowing use of perjured testimony to convict an accused. Mooney v. Holohan, 294 U.S. 103 * * *; Hysler v. State of Florida, 315 U.S. 411 * * *; Pyle v. State of Kansas, 317 U.S. 213 * * *. It has never been thought necessary to attempt to weed the perjured testimony from the non-perjured for the purpose of determining the degree of prejudice which resulted."

See also Pyle v. Kansas, 317 U.S. 213.

III. The Ends of Justice Require That a Hearing be Granted Pursuant to 28 U.S.C. 2255.

According to the United States Supreme Court, habeas corpus (and necessarily §2255) "is one of the precious heritages of Anglo-American civilization." Fay v. Noia, supra, at 441. In all candor, can it be reasonably said that petitioner, who has spent more than fifteen years in a variety of federal prisons ranging from maximum-security Alcatraz to Lewisburg, where he is presently confined, has not raised factual issues at the very least worthy of a hearing? If the purpose of federal collateral procedures is to determine the truth, minimally he should be given the opportunity that is readily available to less notorious federal prisoners to present evidence as to the truth of their allegations.

The fact that he is a political prisoner and that an evidentiary hearing might prove distasteful to all concerned should play no part in the determination of this application. If the integrity of the courts and the administration of justice on a wholly impartial basis is to be maintained inviolate, then this court has no alternative but to grant the requested evidentiary hearing. As Mr. Justice Black pointed out in In re Murchison, 349 U.S. 136 (1955),

> "But to perform its high function in the best way 'justice must satisfy the appearance of justice'. Offutt v. United States, 348 U.S. 11,14"

It is high time that the government stops running away from an evidentiary hearing in this celebrated case. If it has nothing to hide, then it should welcome the opportunity to answer petitioner's serious charges in a free and open American forum. Its opposition on at least six prior occasions to such a hearing is highly susceptible of being interpreted as an admission of the fear of ultimate revelation.

Obviously this is not simply a case affecting a single individual, but one going to the very heart of our democracy. If there is the slightest consideration given to the nature of the crime of which petitioner has been convicted, then we stand in grave danger of sullying and possibly destroying our Constitution. As far as this Court is concerned, petitioner must be treated as any other applicant of a less controversial nature would be treated. To fail to do so would be to disserve the "ends of justice" which, the Supreme Court has recently reminded us is the ultimate test which "cannot be too finally particularized." Landers v. United States, at 17.

Petitioner has presented a wealth of facts which are concededly de hors the record and which raise the most crucial factual questions. For example, the destruction or its relinquishment by the Department of Justice of the original Exhibit 16 shortly after the trial and well before

the argument of petitioner's appeal, raises the most serious and searching doubts as to its authenticity. Moreover, it brings into play the question as to whether the government may release from its control crucial documentary evidence which it has presented in a criminal trial before the judgment therein becomes final.

But putting that consideration aside for the moment, there is no doubt that the circumstances of the disposition of Exhibit 16 fairly shout for an explanation on the part of the government in even more compelling fashion than its alleged suppression or loss of certain correspondence in Kyle v. United States, supra. As the Supreme Court stated in Sanders, with respect to 2255 motions, "The federal judge clearly has the power -- and if the ends of justice demand, the duty -- to reach the merits ... we are confident that this power will be soundly applied." (at 18-19)

In accordance with the ideals of American justice, the demands of due process and "the need for great care in criminal collateral procedure" (Sanders v. United States, supra, at 22) petitioner should be granted a hearing. It is particularly true in this case that the ability of our courts to recognize and undo wrong, a characteristic of our democratic tradition, will do great service to our nation and further enhance the prestige of our courts. As Mr. Justice Frankfurter has pointed out:

"Perfection may not be demanded of law, but the capacity to counteract inevitable, though rare, frailties is the mark of a civilized legal mechanism.

"Our heritage requires that questions concerning the corruption of justice be brought to the attention of the courts, where they will be accorded the most careful scrutiny with all the protections of a judicial hearing. The fullest litigation of such questions -- and counsel shares the natural revulstions of their implication -- is in the highest traditions of the bar and the courts."

A full evidentiary hearing, at which petitioner will be put to his proof, will be in the best interests of all concerned. If he fails to sustain the very serious charges he makes, his contention will fall. But if he prevails, justice will require that his conviction be vacated. In either event, our democracy will have proved once more that it is not afraid of the truth and that it wholeheartedly subscribes to the ideals and principles expressed in its Constitution and proclaimed by its lawful representatives.

The Supreme Court has stated that:

"... the untainted administration of justice is certainly one of the most cherished aspects of our institutions. Its observance is one of our proudest boasts ... therefore, fastidious regard for the honor of the administration of justice requires the Court to make certain that the doing of justice be made so manifest that only irrational or perverse claims of its disregard can be asserted." Mesarosh v. United States, supra, at 13.

Our nation cannot tolerate any man's conviction based upon fraud. The strength and vitality of our country and its responsible role in the world require the repudiation

of conduct inimical to the impartial administration of justice. As Mr. Chief Justice Warren has put it:

> "The dignity of the United States Government cannot permit the conviction of any person on tainted testimony ... the government of a strong and free nation does not need convictions based upon such testimony. It cannot afford to abide with them."
>
> Mesarosh v. United States, supra, at 10.

CONCLUSION

WHEREFORE, it is respectfully requested that petitioner be granted an evidentiary hearing as provided for in 28 U.S.C. 2255.

Respectfully submitted,

ARTHUR KINOY
WILLIAM M. KUNSTLER
511 Fifth Avenue
New York, New York

MARSHALL PERLIN
36 West 44th St.
New York, New York

MALCOLM SHARP
University of New Mexico
Law School
Albuquerque, New Mexico

BENJAMIN DREYFUS
341 Market St.
San Francisco, Calif.

VERN COUNTRYMAN
3 Suzanne Road
Lexington, Mass.

Attorneys for Petitioner

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27
5010-106

UNITED STATES GOVERNMENT

Memorandum

1 - Mr. DeLoach
1 - Mr. Wick
1 - Mr. Sullivan

TO : Mr. W. C. Sullivan

DATE: 6/16/66

1 - Mr. Branigan
1 - Mr. Lee

FROM : Mr. W. A. Branigan

SUBJECT: MORTON SOBELL
ESPIONAGE - RUSSIA

Tolson
DeLoach
Mohr
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/30/87 BY 3042PWT

This is an informative memorandum.

The above subject is presently serving a 20-year sentence for his conviction in the Julius Rosenberg espionage conspiracy case. Since his conviction in 1951, efforts have been made on numerous occasions to effect his release on various grounds with no success.

Subject has a motion pending before the United States District Court, Southern District of New York, under Title 28, United States Code, Section 2255, to set aside his conviction on the grounds it was obtained because the prosecution knowingly used perjured testimony and forged documents, and suppressed evidence which would have proven his innocence. He has requested the court to hold an evidentiary hearing on his claims. The court is expected to hear the arguments in connection with this request on June 20, 1966.

New York Office has furnished the Bureau a copy of the brief filed by Sobell's attorneys in support of his request for an evidentiary hearing. This brief in substance claims that the testimony of Harry Gold as to his alleged meeting with David and Ruth Greenglass in Albuquerque, New Mexico, on June 3, 1945, was knowingly false and that the photostatic copy of the Hotel Hilton registration card introduced by the prosecution to corroborate Gold's presence in Albuquerque had been falsely created and contrived by the prosecution and those active in concert therewith. Sobell has claimed the falsity of the registration card is established by the fact that the date stamp of the hotel on the reverse side of this card showed the registration to have taken place at 12:36 p.m., June 4, 1945, when Gold, according to his testimony at the trial, was already en route to New York for a prearranged meeting with his Soviet superior. Sobell has further claimed that this case contained absolutely no identifying initials of any FBI Agent and no date of receipt by FBI Agents which was in contradiction to the identification procedures employed by that Agency. Sobell points out that the original registration card was allegedly returned by the Department of Justice to the Hotel Hilton shortly after the trial and long before the appeal in this case.

REC-3 101-2483-1616

JUN 29 1966

101-2483

JUL 1 1966

APL:mab (6)

CONTINUED-OVER

Sobell has further claimed that the Governmnet was fully aware that Gold was an acknowledged and proven pathological liar but nevertheless vouched for his complete credibility.

Sobell has further claimed that the prosecution knowingly and wilfully created the forged document mentioned above and contrived the perjurious testimony of Gold to conform to the confession of Dr. Klaus Fuchs made in January, 1950, to British authorities.

The argument of Sobell is, of course, without foundation. The facts are that Gold's registration card of June 3, 1945, was obtained by our Albuquerque Office from Fletcher L. Brumit, Manager of the Hotel Hilton and forwarded to the Bureau by letter dated June 7, 1950. Our Albuquerque Office had asked Brumit about the discrepancy in the dates in view of the June 4 time stamp thereon and he stated that all the registration cards received in the hotel on June 3, 1945, were stamped June 4. He was of the opinion through a mechanical error the time and date stamp machine erroneously set the date for June 4 rather than June 3. In the letter our Albuquerque Office advised that Mr. Brumit had initialed the card and wanted it returned as the hotel preferred to retain it and would produce it in response to a subpoena. This was done. The original was not used at the trial inasmuch as the United States Attorney had obtained the consent of defense counsel Emanuel Bloch to admit a photostatic copy of this card without objection. It was admitted as Government exhibit 16 and read to the jury. The original registration card was subsequently destroyed by the hotel in the regular course of business.

The Department and the United States Attorney of the Southern District of New York have been previously made aware of the above facts.

With respect to Sobell's claim that the prosecution knew that Gold was a pathological liar and still vouched for his complete credibility, this, of course, is specious. The credibility of a witness is for the jury to decide.. Further, our investigation in this case corroborated the truth of Gold's story.

ACTION: None. For information.

FD-36 (Rev. 5-22-64)

FBI

Date: 6/27/66

Transmit the following in ______________________
(Type in plaintext or code)

AIRTEL ______________________
(Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158) (P)

SUBJECT: MORTON SOBELL
ESP-R
(OO:NY)

ReNYairtel, 6/14/66.

On 6/27/66 at USDC, SDNY, Government was given until 7/11/66 to serve its reply to subject's motion. Attorney for subject given until 7/15/66 for reply. 7/25/66, now set for argument of motions.

Bureau will be advised of developments.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/30/87 BY 3042PWT/lmw

62-106323-

18-AD

4-Bureau (RM)
(1-62-106323) (WALTER D. SCHNEIR)
(ATT: CRIME RECORDS)
1-NY 100-109849) (HELEN SOBELL)
1-NY 100-135206) (WALTER D. SCHNEIR)
1-NY 100-107111 (CSJMS) (41)
1-NY 100-37158

EX-113

REC 41 101-2483-1617

JUN 28 1966

SOVIET SECTION

EFM:jca
(10)

C.D. WICK

F239

50 JUL 6 1966

Approved: ______________ Special Agent in Charge

Sent ______________ M Per ______________

FD-36 (Rev. 5-22-64)

FBI

Date: 6/28/66

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL _____ (Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, NEW YORK (100-37158) (P)

SUBJECT: MORTON SOBELL
ESP-R
(OO:NY)

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/80 BY 3042 Plat/lmw

ReNYairtel 6/27/66.

For information of Philadelphia, subject's attorneys have brought on motions under Section 2255, USC in effort to upset subject's conviction. Motions attack credibility of HARRY GOLD.

Motion papers allege that GOLD was submitted by Government to psychiatric examination. This allegation is apparently based on quotation from statement by Judge MC GRANERY at sentencing of HARRY GOLD at USDC, Philadelphia on 12/7/50. The quotation as set forth in Chapter 13 of the book "Invitation to an Inquest" by WALTER and MIRIAM SCHNEIR reads:

"...Judge MC GRANERY assured HAMILTON (GOLD's attorney) 'that among other things we did have a psychiatric examination made of defendant, and you need have no fear as to his mental situation". Authors cite transcript of GOLD's

1-BUREAU (RM)
(1-62-106323) (WALTER D. SCHNEIR)
(ATT: CRIME RECORDS)
2-PHILADELPHIA (65-4372) (RM)
1-NEW YORK (100-109849) (HELEN SOBELL)
1-NEW YORK (100-135206) (WALTER D. SCHNEIR)
1-NEW YORK (100-107111) (CSJMS) (41)
1-NEW YORK

REC-92 101-2483-1618

15 JUN 29 1966

EFM:caw
(12)

E.C.-WFR

SOVIET SECTION
CRIME RESEARCH

55 JUL 26 1966

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

101-2483-CD

sentencing at USDC Eastern District of Pennsylvania (CR NO. 15769).

AUSA ROBERT L. KING, SDNY, who is preparing reply to subject's motions asked whether there had been a psychiatric examination of HARRY GOLD by the Government.

Review of NY files gives no indication that there was a psychiatric examination of HARRY GOLD. GOLD in interviews denied psychiatric treatment at any time. Files indicate that Judge MC GRANERY intended to have a pre-sentence investigation conducted by the probation office. It is not known whether such probation investigation may have included some type of psychiatric examination.

Philadelphia is requested to review its files and if necessary GOLD court record at USDC, Philadelphia to determine whether any type of psychiatric examination was given to GOLD prior to his testimony in the ROSENBERG SOBELL trial in 1951.

Philadelphia is requested to furnish results of its review promptly.

AUSA KING also requested a copy of Directors Hoover's article in the "Reader's Digest", May, 1951 entitled "The Crime of the Century", which is cited in subject's motion papers. The Bureau is requested to forward a copy of the Director's article which will be furnished to USA's office.

2 cc of article

OPTIONAL FORM NO. 10
MAY 1962 EDITION
GSA GEN. REG. NO. 27

5010-106

UNITED STATES GOVERNMENT

Memorandum

1 - Mr. DeLoach
1 - Mr. Sullivan
1 - Mr. Wick

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

TO : Mr. W. C. Sullivan

DATE: 7/1/66

1 - Mr. Branigan
1 - Mr. Lee

FROM : Mr. W. A. Branigan

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/82 BY 3042 PWT/JMW

SUBJECT: MORTON SOBELL
ESPIONAGE - RUSSIA

This memorandum recommends that a letter from the attorneys for Morton Sobell, convicted espionage agent, requesting information concerning the Bureau's procedure regarding handling of documentary evidence for use in trials be referred to the Internal Security Division, Department of Justice, for a reply since this deals with a motion which has been made by Sobell's attorneys to set aside his conviction.

BACKGROUND:

Sobell is currently serving a 30-year sentence in connection with his conviction in the Julius Rosenberg espionage conspiracy case. He was convicted in 1951. He now has a motion pending before the United States District Court, Southern District of New York to set aside his conviction on the grounds that it was obtained when the prosecution used perjured testimony and forged documents.*

CURRENT REQUEST:

By letter dated June 29, 1966, William M. Kunstler of the firm of Kunstler, Kunstler and Kinoy, attorneys for Sobell, requested that they be furnished with a copy of the standard operating procedures with reference to the receipt of documentary evidence procured by the Bureau for potential use in criminal trials and the preservation and eventual disposition thereof. The letter stated that if no copy of standards is available, a summary would be appreciated.

This probably refers to the registration card of Harry Gold at the Hotel Hilton, Albuquerque, on June 3, 1945. A photostat of this card was introduced at the trial to substantiate the testimony of Gold that he was in Albuquerque on that date which is the date of his meeting with David Greenglass. The card has a handwritten date of June 3 on the face and a time stamp date of June 4 on the reverse side. Based on this, Sobell is claiming the card is a forgery. We did determine in 1950 that all the cards for June 3 had a date stamp of June 4 on the back due to mechanical failure of the machine.

Enclosures sent 7-6-66

REC-94 101-2483-1618

WAB:nab
(6)
101-2483

CONTINUED-OVER

14 JUL 7 1966

55 JUL 8 1966

*This case has been the subject of numerous appeals the most recent of which was denied by the U. S. Supreme Court 6/17/63.

We obtained this registration card from the Hotel Hilton on June 6, 1950, forwarded it to the FBI Laboratory for handwriting examination and returned it to the hotel on June 20, 1950. This was done in response to a request of the hotel manager, Fletcher L. Brumit, who stated that he preferred to retain the card and would produce it in response to a subpoena. On March 14, 1951, the card was again obtained by the Albuquerque Office and forwarded to New York for possible use in the trial. The defense counsel agreed to the introduction of a photostat and this original card was never introduced. It was returned to the Albuquerque Office in July, 1951, and returned to the hotel on August 4, 1951.

The Manual of Rules and Regulations, Part II, Section 8, Paragraph E, captioned "Retention of Property" states in substance that property acquired or needed as evidence but not introduced in court as such is to be retained until the case is concluded by (1) a guilty plea, (2) a guilty jury verdict when time for appeal has lapsed and (3) an appeal has been disposed of. Thereafter, the United States Attorney should be requested to obtain a court order disposing of the property. Also, property which has been acquired and not needed as evidence must be returned to the owner as soon as possible.

OBSERVATIONS:

Since this letter pertains to a case in which a motion is pending, it is believed it should be referred to the Internal Security Division. The Internal Security Division will be advised of our rules and it will be requested that our rules not be set out in these hearings, if possible, inasmuch as this card was not used in evidence and was actually retained by the hotel.

ACTION:

There are attached (1) a terse letter to Kunstler, Kunstler and Kinoy advising that their letter has been referred to the Internal Security Division and (2) a letter to the Internal Security Division enclosing a copy of the letter from the attorneys and our reply thereto and also advising of the Bureau's rules pertaining to the retention of documentary evidence. This letter also requests that, if possible, the Bureau's rules not be made a matter of record in this proceeding.

[redacted]

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON 25, D. C.

J. Edgar Hoover
Director.

The following FBI record, NUMBER [illegible] , is furnished FOR OFFICIAL USE ONLY.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
FCC Wash DC	Morton Sobell #--	applicant FP 1-3-42		
[illegible]SCO NY NY	Morton Sobell #031 1393398-B	Ident Card 1-20-44		
CS Comm, Wash., DC	Morton Sobell #--	Junior Electrical Engineer FP 1-27-39		
SOS, Army	Morton Sobell #24-GES	student engineer 6-14-42		
USM, Laredo, Texas	Morton Sobell #6826	8-18-50	vio. Sec. 34, T-50; Espionage	pending removal to Sou. Dist. of New York (see notations)
USM NY NY	Morton Sobell #C 1150-50	8-24-50	espionage	pending; 4-5-51, 30 yrs on chg of espionage-conspira Sec 34, T. 50 USC
Fed. Det. Hdqtrs., NYC., N.Y.	Morton Sobell #60361	8-24-50	info. pert'd. to Nat. Def. to for'n ctr.	11-26-52 trans to Alcatraz see notations
US Pen Atlanta Ga	Morton Sobell #71342	6-2-51	conspiracy & espionage	30 yrs
USP Alcatraz Island Calif	Morton Sobell #996-AZ	11-26-52	consp to commit espionage	30 yrs sent 4-5-51

MCT-1A 101-2483

NOT RECORDED
JUN 29 1966

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 4/30/87 BY

Notations indicated by * ARE NOT BASED ON FINGERPRINTS IN FBI files. The notations are based on data formerly furnished this Bureau concerning individuals of the same or similar names or aliases and ARE LISTED ONLY AS INVESTIGATIVE LEADS.

101-2483

53 JUL 13 1966

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON 25, D. C.

The following FBI record, NUMBER [redacted] is furnished FOR OFFICIAL USE ONLY.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
[redacted]	Morton Sobell [redacted]	[redacted]	[redacted]	
Medical Center for Fed Prisoners Springfield Mo	Morton Sobell #14535-H	5-30-63 trans from USP Atlanta Ga	consp to commit espionage	30 yrs
USP Levisburg Pa	Morton Sobell [redacted]-NE	1-30-65 trans from Medical Center for Fed Prisoners Spring-field Mo	consp to commit espionage	
Fed Det Hdqtrs NY NY	Morton Sobell #25388	6-3-66	Writ of HC fr. 51408-NE (espionage)	

Residence - 30 Charlton St., NYC NY

Notations indicated by * ARE NOT BASED ON FINGERPRINTS IN FBI file. The notations are based on data formerly furnished this Bureau concerning individuals of the same or similar names, some of whom may ARE LISTED ONLY AS INVESTIGATIVE LEADS.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON 25, D. C.

[redacted]

J. Edgar Hoover
Director.

The following FBI record, NUMBER 3[redacted], is furnished FOR OFFICIAL USE ONLY.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
	#6826 USM Laredo Texas, 8-22-50, transferred to Houston Texas for removal to Sou Dist of NY on chg of Sec 34, T-50; Espionage #60361 NY 5-23-51 to USP Lewisburg on chg of consp to divulge information pertaining to National Defense, to a Foreign Country.			

Notations indicated by * ARE NOT BASED ON FINGERPRINTS IN FBI file. The notations are based on data formerly furnished this Bureau concerning individuals of the same or similar names or aliases and ARE LIMITED ONLY AS INVESTIGATIVE LEADS.

[redacted]

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON 25, D. C.

The following FBI record, NUMBER [illegible], is furnished FOR OFFICIAL USE ONLY.

CONTRIBUTOR OF [illegible]	NAME AND NUMBER	ARRESTED OR RECEIVED	[illegible]	[illegible]

WANTED BY BUREAU: As Morton Sobell, wa Morton Sobell for [illegible] in connection with Soviet Espionage Ring. Notify by telephone BFD, New York, NY, of any inquiries received concerning this subject per inf rec therefrom by wire dated 7-26-50

NO LONGER WANTED: per Bu Memo dated 8-18-50 (located 8-18-50, Laredo Texas)

WANTED BY BUREAU: As Morton Sobell, was, Morton Sobill, Morton Zobe Fug Index #27949, Bu File #101-2483, CO, NY NY inf rec 8-10-50

NO LONGER WANTED: per Bu Memo dated 8-18-50 (located 8-18-50, Laredo Texas

Refer two copies of record on all inquiries re: Morton Sobell, aka, Morton Sobill, Morton Zobell, Morton Bolt, Marvin Bolt, Morris Sands Morris Sand, to BFD NY NY their file #100-37158, per inf rec therefrom 2-16-51 Bu File #101-2483 (ident FBI #38[illegible]3293)

[illegible]

Notations indicated by * ARE NOT BASED ON FINGERPRINTS IN FBI files. [illegible] ONLY AS INVESTIGATIVE LEADS.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
WASHINGTON, D.C. [redacted]

[redacted]

62-BU

The following FBI record, NUMBER [redacted] is furnished FOR OFFICIAL USE ONLY.

CONTRIBUTOR OF FINGERPRINTS	NAME AND NUMBER	ARRESTED OR RECEIVED	CHARGE	DISPOSITION
[redacted]				

CC: [redacted]
[redacted]

62: Subversive Control Section
Domestic Intell Div

Additional information has been added to this record

[redacted]

[redacted]

5

1 - Mr. DeLoach
1 - Mr. Sullivan

Mr. J. Walter Yeagley
Assistant Attorney General

July 6, 1966

Director, FBI

1 - Mr. Wick
1 - Mr. Branigan
1 - Mr. Lee

MORTON SOBELL
ESPIONAGE - RUSSIA

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/82 BY 3042PWT/1MW

Reference is made to our letter dated May 12, 1966.

There is attached one copy of a letter dated June 29, 1966, received from Kunstler, Kunstler and Kinoy, attorneys for Morton Sobell. There is also enclosed a copy of our reply to that letter.

In response to the question raised in this letter the Manual of Rules and Regulations, Part II, Section 8, Paragraph E of this Bureau reads as follows:

"Personal property may be acquired during investigations in accordance with the law on searches and seizures and by voluntary delivery by the owner. If a request is made by anyone that property be taken into possession in any other manner, employees must explain their lack of authority.

"Whenever the United States Attorney directs that property of a witness be retained by the Federal Bureau of Investigation, a letter must be obtained from the United States Attorney authorizing the retention of such property. Further, after the property is obtained on authority of the United States Attorney, and is subsequently turned over to the United States Attorney, a letter confirming the transaction should be prepared.

EX 110 REC-9 101-2483-1620

"Property which has been acquired and which may be needed as evidence but is not introduced as evidence in court is to be retained until a case is concluded which may be by (1) a plea of guilty and imposition of sentence; (2) a jury trial with a guilty verdict when time for an appeal has lapsed and no notice has been filed; (3) when an appeal has reached its final disposition. In the absence of any information indicating further activity concerning the case in the courts, the United States Attorney should be requested to petition the court for a court order directing the disposition of the property. An order of a court of competent jurisdiction directing disposition of property either introduced in evidence or not

MAILED 11
JUL 6 1966
COMM-FBI

MAIL ROOM / READING ROOM
JUL 6 11 56 AM '66

JUL 7 1966

101-2483

1 - New York (100-37158)

JPL:mab (9)

SEE NOTE PAGE TWO

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

55 JUL 18 1966

MAIL ROOM ☐ TELETYPE UNIT ☐

introduced in evidence must be obeyed. If the court declines to issue an order for the property not introduced in evidence, the recommendations of the United States Attorney as to the disposition of the property should be followed. If the ownership of the property is in doubt, the property should be turned over to the United States Marshal if possible, and if it is not possible Bureau authority should be secured as to the disposition.

"Property which has been acquired and which will not be needed as evidence must be returned to the owner as soon as possible. If such property remains in the possession of a field division for 30 days, the Bureau must be advised by letter of the nature of the property and the reason for its retention. If such property is of a value of $100 or less and has been on hand for six months or longer, the United States Attorney is to be contacted for authority to turn the property over to the United States Marshal."

This inquiry from defense counsel probably refers to the registration card of Harry Gold at the Hotel Hilton for June 3, 1945, which the defense alleges is a forgery. This card was obtained from Fletcher L. Brunit, Manager of the Hotel Hilton, on June 6, 1950, was sent to the Federal Bureau of Investigation Laboratory on June 7, 1950, and was returned to the hotel on June 20, 1950. Mr. Brunit initialed the reverse side of the card when he turned it over to our Agents on June 6, 1950, and asked that it be returned to the hotel and that he would produce it in response to a subpoena if necessary. Our Albuquerque Office again obtained the card on March 14, 1951, which was during the course of the trial and forwarded it to our New York Office for possible use by the United States Attorney, Southern District of New York, at the trial. Since the defense counsel consented to the introduction of a Photostat, the original card was not used but was returned to our Albuquerque Office and returned to the hotel on August 4, 1951. This is the reason that this card bears the initials of Mr. Brunit and none of the Agents handling the card initialed it.

With reference to the hotel registration card for September 10, 1945, this card was never introduced into evidence and was destroyed in 1950.

It is requested that, if possible, the regulations of this Bureau pertaining to the obtaining and handling of documentary evidence mentioned above not be set out in these hearings in view of the fact that neither of these cards were introduced into evidence at the trial.

NOTE: See Memorandum W. A. Branigan to W. C. Sullivan captioned "Morton Sobell, Espionage - Russia," dated 7/1/65, prepared by JPL:mab.

KUNSTLER KUNSTLER & KINOY
ATTORNEYS AT LAW
511 FIFTH AVENUE
NEW YORK, N.Y. 10017

MURRAY HILL 2-6317

CABLE ADDRESS
"KANDKLEX"

WILLIAM M. KUNSTLER
MICHAEL J. KUNSTLER
ARTHUR KINOY
STEVEN J. HYMAN

June 29, 1966

10-

J. Edgar Hoover, Director of
Federal Bureau of Investigation
Department of Justice
Washington, D. C.

Re: Morton Sobell

Dear Sir:

It would be appreciated if you would forward to this office a copy, if available, of your standard operating procedures with reference to the receipt of documentary evidence procured by your agency for potential use in criminal trials and the preservation and eventual disposition thereof. If no copy is available but there are written or unwritten standards, instructions or procedures relating to the above, we would be grateful for a summary thereof.

Because of various matters relating to the above named person, presently pending in the United States District Court for the Southern District of New York, an immediate reply would be appreciated.

Very truly yours,

William M. Kunstler

WMK:bkf

EX-113

REC-87 101-2483-1621

16 JUL 12 1966

let to Kunstler, Kunstler & Kinoy
7-6-66 - JPL:mAB 1-AAG

let to Yeagley 7-6-66 JPL:mAB

W.A Branigan to W.C Sullivan
JPL:mAB - 7-1-66

SOVIET SECTION

1 - Mr. DeLoach
1 - Mr. Sullivan
1 - Mr. Wick
1 - Mr. Branigan
1 - Mr. Lee

July 6, 1966

REC-87
EX-113

101-2483-1621

Kunstler, Kunstler and Kinoy
511 Fifth Avenue
New York, New York 10017

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/80 BY 3040 PWT/lmw

Attention: Mr. William M. Kunstler

Gentlemen:

Reference is made to your letter of June 29, 1966.

You are referred to my letters of December 2, 1965, and February 25, 1966. Since your letter of June 29, 1966, pertains to a motion filed on behalf of Morton Sobell, it has been referred to the Internal Security Division of the Department of Justice.

Very truly yours,

J. Edgar Hoover

John Edgar Hoover
Director

1 - Mr. J. Walter Yeagley (SEPARATELY)
Assistant Attorney General

JPL:mab (8)

NOTE: See memorandum W. A. Branigan to W. C. Sullivan captioned "Morton Sobell, Espionage - Russia," dated 7/1/66, prepared by JPL:mab.

1 - New York (100-37158) (SEPARATELY)

MAILED 30
JUL 6 1966
COMM-FBI

54 JUL 18 1966

Jul 6 10 56 AM '66
FBI - RECEIVED ROOM

Tolson
DeLoach
Mohr
Wick
Casper
Callahan
Conrad
Felt
Gale
Rosen
Sullivan
Tavel
Trotter
Tele. Room
Holmes
Gandy

FD-36 (Rev. 5-22-64)

FBI

Date: 7/8/66

Transmit the following in _____ (Type in plaintext or code)

Via AIRTEL (Priority)

TO: DIRECTOR, FBI (101-2483)

FROM: SAC, PHILADELPHIA (65-4372) (P)

SUBJECT: MORTON SOBELL
ESP - R
(OO - New York)

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 4/30/82 BY 3042 PWT/lmw

Re New York airtel 6/28/66.

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

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

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

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

REC-65 1-a483-1622

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

1 JUL 9 1966

EX-113

BJT:lat
(6)

ENCLOSURE

SOVIET SECTION

CC - Mich

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

25 JUL 19 1966

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

The U. S. District Court, EDPa., record was reviewed by SA BLAZE J. TOMASONI on 7/7/66.

On 7/6/66 H. F. STORELLI, U. S. Probation Officer, U. S. District Court, Eastern District of Pennsylvania, advised SA FRANCIS J. GAFFNEY that his file on HARRY GOLD contained the following dated 8/9/50 as part of the pre-sentencing investigation conducted by the U. S. Probation Office:

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

This statement was signed by Dr. THOMAS MC MILLAN, Dr. SAMUEL BELLET, Dr. JOHN R. URBACH, Dr. WILLIAM A. STEIGER and Miss DOROTHY BELL. This statement contained a remark to the effect that GOLD showed no latent or potential psychopathic tendencies.

The file also contained a separate letter from SAMUEL LEOPOLD, M.D., Director, Neuropsychiatric Division, Municipal Court, Philadelphia, Pa., to the U. S. Probation Officer, U. S. District Court, Philadelphia, Pa., dated 10/2/50. This letter contained a report of an examination of HARRY GOLD at the House of Correction, Holmesburg, Philadelphia, on 9/26/50.

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

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

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

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

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA : Criminal

vs. :

HARRY GOLD; JOHN DOE alias "JOHN"; RICHARD ROE, alias "SAM" : No. 15769

FILED

DEC 2 1950

Philadelphia, Pa., December 7, 1950

Before HON. JAMES P. McGRANERY, J.

PRESENT: GERALD A. GLEESON, ESQ., United States Attorney

JOHN D. M. HAMILTON, ESQ., and AUGUSTUS F. BALLARD, ESQ., representing Harry Gold

---

SENTENCE

---

by both the Attorney General and Mr. Hoover.

MR. MILLER: That is correct, sir.

THE COURT: May I ask you to convey to Director Hoover the commendation of the Court for a tremendous task well done.

I had my own privately conducted investigation made. I want to assure Mr. Hamilton that among other things we did have a psychiatric examination made of the defendant, and you need have no fear as to his mental situation.

I do feel now that I would like to reflect and will reflect on the summary and recommendations made.

I want to dispose of the matter quickly, and with your indulgence I will do it Saturday morning at eleven o'clock. I will pass formal sentence at that time.

MR. GLEESON: Could I suggest any day but that, sir?

THE COURT: I would not like to, I will tell you why, Mr. Gleeson: I shall be away on Monday. I had my argument list set for Monday and we postponed it from Monday to Tuesday. I do not think we ought to delay this.

MR. GLEESON: Very good, sir.

THE COURT: We will adjourn this until Saturday morning at eleven o'clock.

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	Criminal
vs.	:	
HARRY GOLD; JOHN DOE alias "JOHN"; RICHARD ROE, alias "SAM"	:	No. 15769

Philadelphia, Pa., December 9, 1950.

Before HON. JAMES P. McGRANERY, J.

PRESENT: GERALD A. GLEESON, ESQ., United States Attorney.

JOHN D. M. HAMILTON, ESQ., and AUGUSTUS S. BALLARD, ESQ., representing Harry Gold.

SENTENCE