

Memorandum for Mr. Belmont

ACTION:

I do not believe we should make a specific recommendation to the Department with regard to KILLSHEIMER. If we did so and something went wrong in the case, the Bureau would have to shoulder the blame for anything that happened.

I do feel that KILLSHEIMER's past experience and knowledge of the case could be tactfully called to the attention of the Department and, if you agree, when I am talking with Tom Hall with whom I have previously discussed the case, I will take note of the fact that KILLSHEIMER is assisting in the preparation of the Government's case and inquire as to whether the Department is considering using him to argue the motion. In this way at least we can insure that the Department gives KILLSHEIMER consideration.

Yes. He is able & this case is vital to the Govt.

5/17/56
Memo to Belmont
for KILLSHEIMER
CEH

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. A. H. BELMONT

DATE: May 16, 1956

FROM : MR. C. E. HENNRICH

SUBJECT: MORTON SOBELL
ESPIONAGE (R)

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

Supervisor Tom McAndrews, New York Office, informed me on the morning of May 16 that former Special Agent John Harrington has advised him that he was talking with James KILLSHEIMER on the evening of May 15th. KILLSHEIMER handled much of the prosecution of the Sobell case and the various appeals in the case. Harrington was then a Bureau Agent and conducted extensive investigation of the case.

According to Harrington, KILLSHEIMER has indicated that he has insisted to the United States Attorney's office that the arguments on the motion on Monday, May 21st should be kept strictly to the issues raised by the motion and no collateral matters should be gone into by the Government in order to avoid becoming involved in a hearing on the motion. KILLSHEIMER indicated to Harrington that he has been in touch with Judge KAUFFMAN and has pointed out to Judge KAUFFMAN that all of the issues raised in the motion have been previously raised in one form or another and have been "knocked down." KAUFFMAN has indicated that if the motion comes before him, he will deny the motion without a hearing.

KILLSHEIMER has stated that he will review the final draft of the Government's papers and will probably be in court on Monday, May 21st, when the motion is presented.

ACTION:

For your information.

CEH:mn
(3)

cc - Mr. Belmont
Mr. Hennrich

101-2483-1264

MAY 24 1956

RECORDED - 93

EX-109

53 JUN 4 1956

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-7-87 BY 3042 PWT-JAR

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

MAY 16 1956

TELETYPE

WASH 7 FROM NY 16

7-15 PM

DIRECTOR URGENT
ATTN- INSPECTOR HENNRICH

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-7-87 BY 3042 p...

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

MORTON SOBELL, WAS., ESP-R, FOR INFO OF BUREAU ON MAY FIFTEEN LAST
ASST. U.S. ATTORNEY
 WHILE AGENT IN OFFICE OF AUSA ROBERT KIRTLAND WHO IS PREPARING ANSWER
 TO SOBELL-S MOTION OF MAY EIGHT LAST CONVERSATION OVERHEARD BETWEEN
 KIRTLAND AND FORMER AUSA JAMES KILSHEIMER WHO RESEARCHED AND ARGUED
 ALL MOTIONS IN THE ROSENBERG CASE. KILSHEIMER EXPRESSED OPINION GOV.
 COULD WIN SUMMARY DISMISSAL AND AVOID A HEARING IF GOV. AFFIDAVIT IS
 CONFINED TO LEGAL ISSUES PREVIOUSLY ARGUED, THAT EVERY PARAGRAPH OF
 THE PETITION HAS BEEN PREVIOUSLY IN ISSUE AND HAS BEEN PASSED ON BY THE
 COURTS IN THE GOV.-S FAVOR. KILSHEIMER EXPLAINED THAT GOV. WITNESS
 HUGGINS TESTIFIED AND MADE IT CLEAR THAT HIS NOTATION "DEPORTED FROM
 MEXICO" ON THE INS MANIFEST WAS BASED UPON HIS OBSERVATION OF SOBELL-S
 EJECTION FROM MEXICO BY MEXICAN POLICE AND WAS MADE IN THE ORDINARY
 COURSE OF BUSINESS AND NOT BASED ON ANY KNOWLEDGE OF ANY OFFICIAL
 MEXICAN DEPORTATION PROCEEDING. KILSHEIMER CAUTIONED AGAINST PURSUING
 POINT OF RETURN OF SUBJECT-S PROPERTY STATING GOV. ANSWER SHOULD BE
 THAT THERE IS NO ALLEGATION IN PETITION THAT PROPERTY WAS REQUESTED BY
 DEFENSE AND THAT DEFENSE COULD HAVE AT ANYTIME OBTAINED PROPERTY BY

INVOKE RULE SIXTEEN THAT CARE MUST BE EXERCISED BY GOV. OR FBI

END PAGE ONE Mr. Belmont

EX-109

RECORDED - 93
 101-2483-1265
 MAY 24 1956
 JUN 8 1956
 Mr. Belmont

PAGE TWO

AGENTS WHO EFFECTED ARREST AND SEARCH COULD BE CALLED UPON FOR TESTIMONY PERTAINING THERETO. KILSHEIMER DIRECTED AUSA ATTENTION TO PREVIOUS MOTIONS FILED IN THE CASE THAT HAVE COVERED THE ISSUES RAISED IN SOBELL'S LATEST MOTION WHICH AUSA APPARENTLY WAS NOT YET AWARE OF. AUSA INDICATED HIS INTENTION TO USE INFO TIEING THE NATIONAL COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL IN THE ROSENBERG CASE TO THE FINANCING OF THE FILING OF THE NEW MOTION AND TO SHOW THAT THE FILING OF MOTION IS PART OF PROPAGANDA CAMPAIGN BY COMMUNISTS., THAT COURT COULD REBUKE DEFENSE ATTORNEYS. KILSHEIMER CAUTIONED AGAINST OPENING AVENUE OF SUBJ OF COMMUNISM TO DEFENSE AND URGED STRICTLY LEGAL ARGUMENT BASED ON THE RECORD. ON INSTANT DATE KILSHEIMER COMMENTED ON DEFENSE EXHIBIT NUMBER THREE REFLECTING AMERICAN AIRLINES TICKETS ISSUED TO SUBJ AND WIFE WITH ACCOMPANYING NOTE "CONFORMED TO AND CERTIFIED TO BE A TRUE COPY OF THE ORIGINAL DOCUMENT" DATED MARCH TWENTY SEVEN, FIFTY ONE AND SIGNED FOR AMERICAN AIRLINES BY G.B. JONES, TREASURY-INSURANCE. HE OBSERVED THAT DATE IS TWO DAYS BEFORE END OF TRIAL AND THAT IF EXHIBIT WAS THEN IN POSSESSION OF DEFENSE GOV. CAN MAINTAIN PRESENT DATE NO TIME TO BRING IT INTO COURT. INFO WAS RECEIVED INSTANT DATE THAT KILSHEIMER WILL REVIEW GOV. ANSWERING AFFIDAVIT PRIOR TO MOTION DATE., THAT JUDGE IRVING KAUFMAN IS EXPECTED TO HEAR THE MOTION AND USA PAUL WILLIAMS WILL ARGUE MOTION.

KELLY

END AND ACK

NY R 7 WA WX

TU DIS

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

*I hope they hate Kilsheimer
as he knows the law.*
Mr. [unclear]
Mr. Lee *K.*

Office Memorandum • UNITED STATES GOVERNMENT

TO : A. H. Belmont *AB*

DATE: May 17, 1956

FROM : W. A. Branigan *WAB*

SUBJECT: *lp* MORTON SOBELL, was.
ESPIONAGE - R

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

The above-captioned individual filed a notice of motion for a new trial on 5-8-56 and the petition accompanying this motion was analyzed in a memo from Mr. Belmont to Mr. Boardman dated 5-11-56. One point raised in this petition was that Chancellor Hector Rangel Obregon of the Mexican Consulate, Laredo, Texas, made an investigation of the deportation of Sobell from Mexico and his report was sent to the Mexican Embassy, Washington, D. C. Further, that Embassy, upon information and belief, made representation in the matter to the United States Government.

O. H. Bartlett, Liaison Section, advised that on May 17, 1956, he determined from the State Department it has received no protest from the Mexican Government either in Washington, D. C., or Mexico City concerning the deportation of Sobell. Further, State has received no report prepared by the Chancellor of the Mexican Consulate, Laredo, Texas, concerning the Sobell deportation.

ACTION:

(1) There is attached a teletype to NYO informing it of this information and instructing that the United States Attorney be advised.

(2) There is attached a letter to the Department furnishing this information.

101-2483
Enclosures *5-18-56*

cc - Belmont
Branigan
Nichols
Liaison
Lee

RECORDED - 93

101-2483 - 1266

11 MAY 24 1956

JPL:nlh
(6) *52 JUN 8 1956*

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-7-87 BY 3042 PWT-JAR

5-17-56

TELETYPE

URGENT

OKLAHOMA CITY 5-17-56 (TDE) JLO:jm

SAC, NEW YORK

MORTON SOBELL, WAS, ESPIONAGE - R. RE NY TEL MAY FIFTEEN, LAST.
 MR. G. E. TERHOST, REVENUE DEPT., AMERICAN AIRLINES, TULSA, OKLA,
 ADVISED THAT FLIGHT TICKET AND COUPONS ARE DESTROYED AFTER FOUR
 YEARS, THEREFORE, ORIGINAL TICKETS ISSUED TO MR. AND MRS.
 SOBELL ARE NOT AVAILABLE, UNLESS THEY WERE PLACED IN A SPECIAL
 FILE WHICH HE HAS BEEN UNABLE TO LOCATE. REFUND CHECKS ARE
 AVAILABLE THROUGH MR. TOM SMITH, CASHIER, AMERICAN AIRLINES,
 NEW YORK CITY. NEW YORK CONTACT SMITH TO OBTAIN REFUND CHECKS.
 TERHOST FURTHER ADVISED THAT HE HAS NO INFORMATION REGARDING
 SOBELL'S ATTORNEYS OBTAINING PHOTOSTATIC COPIES OF AMERICAN
 AIRLINES TICKETS, AND G. B. JONES NOT EMPLOYED AMERICAN AIRLINES,
 TULSA. RUC.

RYCE

END

2 - Bureau (AM)
 1 - Okla. City
 JLO:jm
 (2)

55-276 MAY 18 10 33 AM '56

MVA 51 1580/2483 - ✓

NOT RECORDED

MAY 21 1956

FBI REC'D - ESPIONAGE

ALL INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 6-7-87 BY 2042 PWT-3 JSC

55 JUN 6 1956

Prokopyan
 EST 1956
 [Handwritten initials]

Office Memorandum • UNITED STATES GOVERNMENT

TO : MR. A. H. BELMONT

DATE: May 17, 1956

FROM : MR. C. E. HENNRICH

SUBJECT: MORTON SOBELL
ESPIONAGE - R

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

In accordance with my memorandum of 5/15/56, I talked with Mr. Tom Hall of the Department on the afternoon of May 17 regarding the motion which will be argued in New York on May 21. I pointed out to Hall I had noted that James Kilsheimer was assisting the U. S. Attorney's office in New York in the preparation of the Government's answers to the motion. I recalled that Kilsheimer had assisted in the prosecution of the case originally and had also handled the various arguments on motions and appeals for the Government following the original trial. I asked Hall if the Department planned to have Kilsheimer handle the arguments on Monday, May 21.

Mr. Hall stated that U. S. Attorney Williams was personally handling the matter in New York. He said that Mr. Tompkins has personally conferred with Mr. Williams, pointing out the importance of this case to the Government, and that he (Hall) feels sure Williams will competently represent the Government. Hall noted that Kilsheimer is giving active assistance in the case in New York and that he is a very able man, thoroughly cognizant with the facts and the law in the matter, and that he will be available for consultation and assistance.

Mr. Hall stated that the Government contemplates no particular difficulty in handling the matter. He said the Department had offered to have an assistant go to New York to help out, but that as of this time it is considered unnecessary.

Hall said he would keep me promptly advised of any matters which come up in connection with this case.

ACTION:

For your information.

- CEH:LL
- (4)
- cc--Mr. Belmont
- cc--Mr. Hennrich
- cc--Mr. Branigan

RECORDED - 93
101-2483-1267

11 MAY 24 1956

EX-109

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-7-87 BY 3042 PWT-JAR

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

MAY 18 1956

TELETYPE

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

Boakujan

WASH 16 PHILA 1 FROM NY 18 9-50 PM
DIRECTOR AND SAC URGENT

MORTON SOBELL, WAS., ESPIONAGE DASH R. AUSA KIRTLAND, ADVISED TODAY, TELEPHONE CALL RECEIVED FROM SUBJECT-S ATTORNEY, MARSHALL PERLIN, WHO INQUIRED FOR COPY OF GOV. AFFIDAVIT IN ANSWER TO SUBJECT-S MOTION OF FIVE EIGHT FIFTY SIX. KIRTLAND TOLD PERLIN AFFIDAVIT NOT YET COMPLETED. PERLIN SAID DEFENSE WOULD PROBABLY ASK FOR A WEEKS ADJOURNMENT ON RETURN DATE AS SERVICES OF PH ATTORNEY NAMED MC BRIDE SECURED TO ARGUE MOTION, THAT MC BRIDE WAS DEFENSE ATTORNEY FOR THE PH SMITH ACT SUBJECTS. KIRTLAND STATED INFO AVAILABLE INDICATES MC BRIDE A REPUTABLE PH ATTORNEY. IDENTITY OF MC BRIDE PROBABLY KNOWN TO BUREAU.

KELLY

END AND ACK IN 0
MAY 16 WA CU
PH NY R1 PH JOG
TUBIS

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-7-87 BY 3042 PWT

RECORDED - 93

EX-109
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101-2483-1268

11 MAY 24 1956

53 JUN 4 1956

Mr. Belmont

Mr. Belmont

RECEIVED - COMMUNICATIONS SECTION

RECEIVED - GOVERNMENT

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

MAY 18 1956
aw
TELETYPE

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

FBI OKLAHOMA CITY 5-18-56 1-58 PM CST

DIRECTOR, FBI..... U R G E N T

MORTON SOBELL, WAS, ESPIONAGE - R.

RE NY TEL MAY FIFTEEN, LAST.

MR. G. E. TERHOST, REVENUE DEPT., AMERICAN AIRLINES, TULSA, OKLA. ADVISED THAT FLIGHT TICKET AND COUPONS ARE DESTROYED AFTER FOUR YEARS. THEREFORE, ORIGINAL TICKETS ISSUED TO MR. AND MRS. SOBELL ARE NOT AVAILABLE, UNLESS THEY WERE PLACED IN A SPECIAL FILE WHICH HE HAS BEEN UNABLE TO LOCATE. REFUND CHECKS ARE AVAILABLE THROUGH MR. TOM SMITH, CASHIER, AMERICAN AIRLINES, NEW YORK CITY. NY CONTACT SMITH TO OBTAIN REFUND CHECKS. TERHOST FURTHER ADVISED THAT HE HAS NO INFORMATION REGARDING SOBELL-S ATTORNEYS OBTAINING PHOTOSTATIC COPIES OF AMERICAN AIRLINES TICKETS, AND G. B. JONES NOT EMPLOYED AMERICAN AIRLINES, TULSA.

BRYCE

END

4-03 PM OK FBI WA EP

DISC

RECORDED - 93

EX-109 101-2483-
MAY 24 1956

MAY 18 4 03 PM '56

RECEIVED

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-7-87 BY 3042 PWT-JAN

Mr. Belmont

55 JUN 6 1956

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

MAY 21 1956

TELETYPE

Mr. Tolson	_____
Mr. Nichols	_____
Mr. Boardman	_____
Mr. Mason	_____
Mr. Mohr	_____
Mr. Parsons	_____
Mr. Rosen	_____
Mr. Tamm	_____
Mr. Nease	_____
Mr. Winterrowd	_____
Tele. Room	_____
Mr. Holloman	_____
Miss Gandy	_____

WASH 7 FROM NEW YORK
DIRECTOR URGENT

21 3-07 P

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-7-87 BY 3012 PWT-JAR

MR. HANIGAN

MORTON SOBELL, WAS. ESP DASH R. ATTORNEY FOR SUBJ ADVISED MOTION JUDGE SYLVESTER RYAN ON INSTANT DATE THAT ATTORNEY THOMAS MC BRIDE HAS AGREED TO ARGUE MOTION FOR DEFENSE BUT THAT HE WAS ATTENDING CONFERENCE TODAY IN WASHINGTON DC. USA PAUL WILLIAMS REQUESTED MOTION BE ASSIGNED TO JUDGE IRVING KAUFMAN WHO CONDUCTED TRIAL AND SENTENCED SUBJ. RYAN STATED JUDGE KAUFMAN DISQUALIFIED HIMSELF ON A PREVIOUS MOTION FOR A NEW TRIAL AND THAT HE, RYAN, HEARD THE MOTION, THAT UNLESS JUDGE KAUFMAN IS WILLING TO HEAR INSTANT MOTION IT WOULD NOT BE ASSIGNED TO HIM. JUDGE RYAN SUGGESTED DEFENSE AND GOV. ATTORNEYS CONFER IMMEDIATELY WITH JUDGE KAUFMAN TO DETERMINE HIS INCLINATION. ATTORNEYS CONTACTED KAUFMAN AND RETURNED TO REPORT TO RYAN THAT KAUFMAN ADVISED THAT HE WOULD BE WILLING TO HEAR MOTION. JUDGE RYAN GRANTED ONE WEEK ADJOURNMENT AND SET DATE OF MAY TWENTYEIGHT FOR ARGUMENT. COPY OF GOV. AFFIDAVIT IN ANSWER TO SUBJECTS MOTION OF FIVE EIGHT FIFTYSIX, OBTAINED AND FORWARDED INSTANT DATE.

KELLY COPIES DESTROYED

END R2 1 MAR 9 1961

NY R7 WA JWC

55 JUN 15 1956

Mr. Belmont

RECORDED - 93

EX-109

11 MAY 24 1956

101-2483-1270

cc: Mr. Lee

XXXXXX
XXXXXX
XXXXXX

FEDERAL BUREAU OF INVESTIGATION
FOIPA DELETED PAGE INFORMATION SHEET

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

- Deleted under exemption(s) _____ 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).

1 Page(s) withheld for the following reason(s):
Disposition handled in Rosenberg 65-58236-2255

For your information: _____

The following number is to be used for reference regarding these pages:
101-2483-NR 5-21-56

XXXXXX
XXXXXX
XXXXXX

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

MORTON Sobell

We will analyze this 19-page petition immediately upon receipt and prepare a memorandum setting forth what the facts are. If you approve, we will also furnish a copy to the Department so that the Department can assist the United States Attorney in proper answer to the petition. We will find out just how the Department plans to handle this.

AHB:mn
5-9-56

Yes & Expedited -

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-7-87 BY 3042 PWT-dAR

RECORDED - 93
EX-109

D
101-2483-1271

MAY 24 1956

[Signature]
55 JUN 4 1956

[Signature]
ESP *[Signature]*

~~SECRET~~

Assistant Attorney General (Orig. & 1)
William F. Tompkins

May 24, 1956

Director, FBI

fr

MORTON SOBELL
ESPIONAGE - R

Reference is made to our memorandum of
May 23, 1956.

[REDACTED]

[REDACTED]

~~SECRET~~

~~SECRET~~

This is furnished to you for your information.
Our New York Office has been instructed to furnish the
above information to the Assistant United States Attorney,
Southern District of New York.

57-10

101-2483

RECORDED - 73

101-2483-1272

JPL:pan
(4)

17 MAY 25 1956

NOTE: Morton Sobell convicted espionage agent was arrested
by Mexican Federal Security Police 4-16-56 and reported
from that country.

Subject filed a motion for new trial 5-9-56 and
in connection with [REDACTED]

[REDACTED] also requested
investigation to locate this order.

COMM - FBI
MAY 24 1956
MAILED 25

- ___ Miss
- ___ Mr. Tolson
- ___ Mr. Boardman
- ___ Mr. Belmont
- ___ Mr. Mohr
- ___ Mr. Parsons
- ___ Mr. Rosen
- ___ Mr. Tamm
- ___ Mr. Nease
- ___ Mr. Gandy
- ___ Mr. [unclear]
- ___ Mr. [unclear]
- ___ Mr. [unclear]
- ___ Mr. [unclear]
- ___ Mr. [unclear]

63

MAY 31 1956

RECEIVED - BOARDMAN

Classified by 2355 WAB/DUN
Exempt from GDS, Category 1, 2, 3
Date of Declassification Indefinite
10-17-75

~~SECRET~~

Classified by 3042 PWT/3042
Declassify on: OADR
RECEIVED - BOARDMAN
MAY 27 1956

b1

4-3
(12-2-54)

~~SECRET~~

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

PAGE TWO

[REDACTED] b7D

INVESTIGATION CONTINUING TO DETERMINE
IF COPY OF DEPORTATION ORDER EXISTS.

JOHN N. SPEAKES

b7c
b7D

RECEIVED:

5-17-56

4:25 PM

DR

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

~~SECRET~~

May 17, 1956

~~SECRET~~ ENCODE

TELETYPE

101-2483-1273

URGENT

ENCODE

5-7-81
Classified by 3042 PWT-JAL
Declassify on: OADR

RECORDED - 25
SAC, NEW YORK (100-37158)

MORTON SOBELL, WAS., ESPIONAGE - R. REURTEL FIVE FOURTEEN LAST REQUESTING
EX-102 ATTACHE, MEXICO CITY, OBTAIN ANSWERS TO QUESTIONS OF AUSA SD NY.
FOLLOWING CABLE RECEIVED FROM LEGAT, MEXICO CITY, THIS DATE. QUOTE.
REBUCABLE MAY FIFTEEN LAST. REREP SA JOHN W. SPEAKES, MEXICO CITY,
AUGUST TWENTY-FOUR, NINETEEN FIFTY, PAGES SEVEN AND FIFTEEN, WHICH HAVE
INFORMATION RE DEPORTATION

[REDACTED]

b1

b7c
b7d

- Mr. Tolson _____
- Mr. Nichols _____
- Mr. Boardman _____
- Mr. Belmont _____
- Mr. Mason _____
- Mr. Mohr _____
- Mr. Parsons _____
- Mr. Rosen _____
- Mr. Tamm _____
- Mr. Nease _____
- Mr. Winterrowd _____
- Tela. Room _____
- Mr. Holloman _____
- Miss Gandy _____

[REDACTED]

MAY 17 1956

101-2483 FEDERAL BUREAU OF INVESTIGATION
JPL:ums U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION
(3) 10:53 PM

~~SECRET~~

Classified by 2355 WAB/DVN
Exempt from GDS, Category 1, 2, 3
Date of Declassification Indefinite

101-2483-1273
R/S to NY to classify
2-17-77 AH/H

SECRET

TEL TO NEW YORK

[REDACTED]

b7c
b7D

b7c, D

[REDACTED] UNQUOTE. FURNISH b1
ABOVE INFORMATION PROMPTLY TO AUSA SD NY. PROTECT IDENTITY OF [REDACTED]

[REDACTED] IN FURNISHING INFORMATION TO AUSA.

HOOVER

b7c, D

NR. 180007
ENC. 0007-0032 BY mg
CK. 0050-0117 BY mech
APPROVED BY [Signature]
TYPED BY _____
FILED BY _____

SECRET
- 2 -

Tlc Mr - Mr. Lee
Mr. Belmont

SECRET

Assistant Attorney General (orig & 1)
William F. Tompkins

May 23, 1956

EX-108

Director, FBI

101-2483-1273

RECORDED - 25

MORTON SOBELL, with aliases
ESPIONAGE - R

Classified by 3042 PWR/JAN
Declassify on OADR

Reference is made to our memorandum of May 18, 1956, concerning the motion for new trial filed by the subject in the District Court in the Southern District of New York on May 8, 1956.

In response to a request of Assistant United States Attorney Robert Kirtland of the Southern District of New York, [redacted]

[redacted] He also asked if there are any provisions in Mexican law to rid the country of undesirables other than by extradition; if the Department of Gobernacion (Interior) has regulations cancelling the validity of tourist cards on receipt of information that a person, such as Sobell, is wanted for violation of law of a friendly power and would a regulation cover the ejection of Sobell from Mexico. **SECRET**

RECEIVED - BOARDMAN

COMM - FBI
MAY 23 1956
MAILED 20

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

RECEIVED - DIRECTOR

101-2483

See note page 2

JPL:etm (5)
1956

SECRET

1
HWIR 8011
b7D
SECRET
Exempt from GDS, Category 1, 2, 3
Date of Declassification Indefinite
10-17-75

~~SECRET~~
SECRET

**Letter to Assistant Attorney General
William F. Tompkins**

[REDACTED]

SECRET

[REDACTED]

SECRET

The above information was furnished to Mr. Kevin ^{b7D} Maroney of your Department telephonically on May 18, 1956, by Special Agent James P. Lee. Our New York Office has been instructed to furnish this information to Mr. Kirtland.

NOTE:

[REDACTED] This information was furnished to the New York ^{b7C} Office by teletype dated May 16, 1956, and it was instructed to furnish the information to NUSA, SDNY. New York was instructed to protect the identity of [REDACTED] ^{b7D}

SECRET

SECRET

TELETYPE

MAY 24, 1956

ENCODE

Classified by 2335/WAB/DVN
Exempt from GDS, Category 1, 3
Date of Declassification Indefinite

SECRET

SAC, NEW YORK

5-287
Classified by 3042 PWT/SAL
Declassify on: OADR

**MORTON SOBELL, ESPIONAGE - R. YOUR FILE ONE HUNDRED - THREE SEVEN
ONE FIVE EIGHT. CABLE RECEIVED FROM LEGAT, MEXICO CITY,
FIVE TWENTY-THREE LAST.**

[REDACTED]

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

RECORDED - 61/01-24324-1274

101-586
MAY 29 1956
MAY 24 1956
SEE NOTE PAGE 2)
FEDERAL BUREAU OF INVESTIGATION
U. S. DEPARTMENT OF JUSTICE
COMMUNICATIONS SECTION

SECRET
10:40 PM per me
WAB
61

TELETYPE TO SAC, NEW YORK

SECRET

[REDACTED]

PROTECT IDENTITY OF [REDACTED]

(S)

HOOVER

670
670

b1

Note: Morton Sobell, convicted espionage agent was arrested by Mexican Federal Security Police 8-16-50 and deported from that country [REDACTED]

Subject filed a motion for new trial 5-8-56 and [REDACTED]

[REDACTED] SAUSA, SDNY, also requested investigation to locate this order.

b1

COMMUNICATIONS SECTION

EFT

NR. 24-2319

ENC. 2019-2339 BY lyt

CK. 1015-0105 BY CSA

APPROVED BY Mar

TITLED BY _____

FILED BY _____

SECRET

Office Memorandum • UNITED STATES GOVERNMENT

TO : A. H. Belmont *ah*

DATE: 5-18-56

FROM : W. A. Branigan

TICKLERS: Belmont
Branigan
Lee

SUBJECT: MORTON SOBELL, was.
ESPIONAGE - R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-7-87 BY 3042 PWT-JAR

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

Branigan

The above-captioned individual filed a notice of motion for a new trial on 5-8-56 and the petition accompanying this motion was analyzed in a memo from Mr. Belmont to Mr. Boardman dated 5-11-56. A footnote on page seventeen of this petition refers to a statement of the Secretary of Foreign Relations (Mexico) dated 11-22-51 made in response to Mexican protests of FBI activity in that country. The above memo stated an effort would be made to locate this statement.

Bufiles reflect the only Mexican protests of FBI activity in that country were communist propaganda claiming there were 2,000 FBI agents operating in Mexico. This propaganda was disseminated following the arrest of Gus Hall, communist fugitive in Mexico in October, 1951. No protests have ever been made to the State Department relating to FBI activities in Mexico. Of course, the statement that 2,000 FBI agents were operating in Mexico is completely false.

On 5-17-56, O. H. Bartlett obtained from State Department the following statement given by Tello* at a press conference on 11-22-51:

"In view of the fact that on difference occasions there have appeared in the press of this capitol reports of alleged activities of agents of foreign countries, the Minister of Foreign Relations deems it pertinent to issue the following clarification:

"No arrangements exists between our government and other governments under which foreign investigators, or police agents, may engage in activities within the republic.

"According to information furnished by other branches of the Executive, it is known that no tacit agreements exist between them and similar offices of other nations which would permit or provide for collaboration between such foreign agents and Mexican officials.

"Lastly, it should be pointed out that activities of this nature within our national territory, would imply an intervention in matters which are within exclusive jurisdiction of the Government of Mexico. Therefore, such activities would be contrary to the rules of international law and would constitute a violation of our sovereignty which the Government of Mexico could in no way tolerate or consent to. In view of the foregoing, the appropriate authorities of our Government are making an investigation of this matter."

50 JUN 5 1956
JPL:rmp
(4)
ENCLOSURE
2522-26

RECORDED - 73

101-2483-1275

Manuel Tello, Minister of Mexico

AA

Memorandum for Mr. Belmont

By letter dated 12-19-51, Legal Attache, Mexico City, furnished copies of letters written by American Consul General W. K. Ailshie to two of the American consuls in which he made reference to Tello's statements and described them as entirely correct and proper and stated they were what any foreign minister in any country would say.

It appears the notation set forth on page seventeen of the petition is based upon statements which were actually made by Foreign Minister Tello in response to procommunist propaganda. The statements appear to be general statements of policy made on behalf of the Mexican Government.

ACTION:

There is attached for your approval a letter to Mr. Tompkins furnishing the above information concerning a statement of Foreign Minister Tello of Mexico. ~~to him.~~

[Handwritten signatures and initials]

[Handwritten initials]
WAB
[Handwritten initials]

Office Memorandum • UNITED STATES GOVERNMENT

TO : SAC, NEW YORK (Your file 100-37158) DATE: 5/22/56

FROM : Director, FBI (Bufile & serial 101-2483) Bulet to NY 4/18/56.

SUBJECT: MORTON SOBELL, ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED DATE 5-7-87 BY 3042 PWT/JAR

Office of Origin: New York

*CO 1/6
6/12/56
7/7/56
7/22/56*

1. () The deadline in this case has passed and the Bureau has not received a report. You are instructed to submit a report immediately. In the event a report has been submitted, you should make a notation of the date on which it was submitted on this letter and return it to the Bureau, Room 1736

DR. PAUL ZIMMERING GRADUATED UNIV. OF BRISTOL, ENGLAND, 1937.
~~Report submitted~~ HE WAS BORN IN POLAND, 4/12/09. MOTHER IS ROSE ZIMMERING. FATHER BELIEVED TO BE THEO ZIMMERING. IF ROSE ZIMMERING + FLORENCE PASTERNAK ARE SISTERS, HELEN SOBELL IS COUSIN OF DR. PAUL ZIMMERING THROUGH MARRIAGE AS MORRIS PASTERNAK IS SUBJECTS UNCLE.

Report will be submitted JUNE 15.

Reason for delay _____

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 24 1956	
FBI - NEW YORK	

file

2. () Advise Bureau re status of this case. *7 Dr 101-2483*
3. ~~XX~~ Advise Bureau when report may be expected, and status of case. *5/4*
4. () Surep immediately.

(Place your reply on this form and return to the Bureau. Note on the top serial in the case file the receipt and acknowledgment of this com-

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

MAY 28 1956

TELETYPE

Mr. Tolson	<input checked="" type="checkbox"/>
Mr. Nichols	<input checked="" type="checkbox"/>
Mr. Boardman	<input checked="" type="checkbox"/>
Mr. Belmont	<input checked="" type="checkbox"/>
Mr. Mason	<input type="checkbox"/>
Mr. Mohr	<input type="checkbox"/>
Mr. Parsons	<input type="checkbox"/>
Mr. Rosen	<input type="checkbox"/>
Mr. Tamm	<input type="checkbox"/>
Mr. Nease	<input type="checkbox"/>
Mr. Winterrowd	<input type="checkbox"/>
Tele. Room	<input type="checkbox"/>
Mr. Holloman	<input type="checkbox"/>
Miss Gandy	<input type="checkbox"/>

WASH 7 FROM NEW YORK

28

6-05 PM

DIRECTOR ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED

DATE 4-21-87 BY 3042 PWT-JPC

MR. BRANGAN

MORTON SOBELL, WAS, ESP DASH R. RE NYTEL MAY TWENTYFIVE, FIFTYSIX, PHOTOSTATS OF SUBJECT-S REPLY AFFIDAVIT AND AUGMENTED PETITION DATED MAY TWENTYFIVE, FIFTYSIX OBTAINED AND FORWARDED TO BUREAU INSTANT DATE. PETITION ATTACKS THE JURISDICTION OF THE COURT TO IMPOSE SENTENCE ALLEGING THE CRIMINAL PROCEEDINGS AGAINST HIM WERE IN VIOLATION OF THE CONSTITUTION AND LAWS OF THE US IN THAT THE POWER OF THE US EXECUTIVE AND JUDICIAL BRANCHES TO CONDUCT CRIMINAL PROCEEDINGS INVOLVING PERSONS LOCATED WITHIN THE TERRITORY OF MEXICO ARE LIMITED BY THE EXTRADITION TREATY BETWEEN THE US AND MEXICO, THAT PROCEEDINGS MUST BE PURSUANT TO SUCH TREATIES OR CRIMINAL PROCEEDING IS NULL AND VOID. THE REPLY AFFIDAVIT ALLEGES THAT THE GOVERNMENT HAS RAISED ISSUES OF FACT AS TO THE MATTER OF SUBJECT-S DEPORTATION FROM MEXICO AND HIS TOURIST CARD WHICH ARE NOT SUPPORTED BY THE RECORDS OF THE CASE AND WHICH THEREFORE MAKE A HEARING NECESSARY, THAT SUBJECT-S PETITION SPECIFIED BY NAME THE EMPLOYEES OF THE DEPARTMENT OF JUSTICE INVOLVED IN THE UNLAWFUL SEIZURE AND THE CIRCUMSTANCES OF THE ABDUCTION BUT THAT NEITHER JAMES HUGGINS OF INS, PROSECUTOR SAIBYPO66 OR COHN OR AGENTS OF THE FBI HAVE SUBMITTED AFFIDAVITS CONTRAVERTING THESE FACTS. AUSA STATED NEW PETITION DIFFERS FROM PETITION OF MAY EIGHT FIFTYSIX

"Callie My City
J.P.H. 4/20/56 5-28-56"
"Memo Brangan
J.P.H. 5-29-56"

RECORDED - 5 101-2483-1276

END PAGE ONE

50 JUN 8 1956

COPIES DESTROYED

R2 1 MAR 9 1961

PAGE TWO....

IN THAT ATTACKS THE JURISDICTION OF THE COURT WHEREAS THE MAY EIGHT PETITION ALLEGED LACK OF PERSONAL JURISDICTION, AUSA STATED SUBJECT-S ATTORNEY, MARSHALL PERLIN INDICATED DEFENSE WOULD MOVE TO FORCE JUDGE IRVING KAUFMAN TO DISQUALIFY HIMSELF BUT THAT NO PAPERS HAVE BEEN FILED AS YET REQUESTING THAT KAUFMAN DO SO. AUSA IN SPECULATIVE THOUGHT INSTANT CASE, STATED THAT IN EVENT SUBJECT-S ATTORNEYS SHOULD SUCCEED IN OBTAINING A HEARING FOR DETERMINATION OF ISSUE OF FACT, AN OFFICIAL OF MEXICO MIGHT BE NECESSARY TO ADVISE THAT MEXICAN POLICE HAD LEGAL RIGHT TO EXPEL SUBJECT UNDER CIRCUMSTANCES AND THAT MEXICAN OFFICIAL SYMPATHETIC TO COMMUNISM COULD DAMAGE GOVERNMENT-S CASE. RETURN DATE HAS BEEN SET FOR MAY THIRTYONE. BUREAU WILL BE KEPT ADVISED.

KELLY

END

WA NY R 7 WA SH

TU DISC PLS

MR. ELLIOTT
AND SUPERVISOR
DOM. INTEL. DIVISION

m. h. c.

MAY 29 2 11 PM '28

RECEIVED

Office Memorandum • UNITED STATES GOVERNMENT

TO : A. H. Belmont *AWB*

SECRET

DATE: May 29, 1956

FROM : W. A. Branigan

t/c - Belmont
Branigan
Nichols
Lee

SUBJECT: **MORTON SOBELL, was.**
ESPIONAGE - R

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

DECLASSIFIED ON 5-7-87
BY 3042 PWT-JM

On 5-28-56 at 11:10 a.m., Mr. Kevin Maroney of the Department telephonically advised Supervisor J. P. Lee that he received information from Assistant United States Attorney Kirtland, Southern District of New York, that hearing on subject's motion for new trial was postponed until May 31, 1956. He also stated Kirtland said there was indication Sobell's attorneys were going to file a motion for a new trial under Section 2255 challenging the jurisdiction of the court on the basis that Sobell was "kidnapped" from Mexico. Further, Kirtland said Sobell's attorneys might file an Affidavit of Bias and Prejudice with Judge Kaufman asking that Kaufman disqualify himself from hearing the motion.

Maroney called again at 5:35 p.m. on 5-28-56 to advise that AUSA Kirtland told him the argument of the motion had been postponed until June 4, 1956, due to a heart attack suffered by Thomas McBride, attorney who was to argue the motion for Sobell. Also the defendant had filed a motion for a new trial under Section 2255 challenging the jurisdiction of the court on the basis that Sobell had been "kidnapped." Kirtland also said no Affidavit of Bias and Prejudice had been filed.

By attached teletype dated 5-28-56, NYO advised subject's attorneys filed in United States District Court, Southern District of New York, an augmented petition to the original petition for a new trial filed 5-8-56 and also filed a reply affidavit to the Government's affidavit. Photostats of these documents were obtained and have been forwarded to the Bureau. This petition attacks the jurisdiction of the court to impose sentence alleging the trial was a violation of the United States Constitution and United States laws since the power to conduct such criminal proceedings involving persons located in Mexico is limited by extradition treaty between U.S. and Mexico and if not conducted pursuant to such treaty then such proceedings are null and void. The reply affidavit claims Government has raised issues of fact as to the matter of subject's deportation and his tourist card not supported by the records of the case, therefore, making a hearing necessary. Further, the subject's original petition named employees of the Justice Department involved in the unlawful seizure and abduction of Sobell and yet, none of these employees have submitted affidavits denying these facts. This refers to INS Inspector Huggins, former USA Saypol, former AUSA Cohn and Special Agents J. W. Lewis and R. I. Snyder, currently assigned SOG.

101-2483
Enclosure
JPL:nlh

RECORDED - 5

MAY 31 1956

SECRET

Date of Declassification Indefinite

10-17-75

ESTAB

277
AWB
AWB

May 29, 1956

M/c - Belmont
Branigan
Nichols

CABLE Lee

Via Lease

~~SECRET~~
URGENT ENCODE
de [unclear] maymihan

DECLASSIFIED ON 5-7-87
BY 3042 PWT-JAL

LEGAL ATTACHE, MEXICO CITY

MORTON SOBELL, WAS., ESPIONAGE - R. MEXICO CITY FILE SIXTY-FIVE

DATE TWO SIX EIGHT, REVERSIBLE MAY SEVENTEEN LAST ADVISING OF
TERMS OF GENERAL LAW OF IMMIGRATION OF MEXICO. SUBJECT FILED

ADMITTED PETITION TO MOTION FOR NEW TRIAL CHALLENGING JURISDICTION
OF COURT CLAIMING HE WAS KIDNAPPED FROM MEXICO. ARGUMENT OF MOTION

POSTPONED TO JUNE FOUR NEXT. ANNA KIRTLAND, NEWY, SPECULATING IF
SUBJECT OBTAINS HEARING ON ISSUES OF FACT IT MIGHT BE NECESSARY

TO HAVE MEXICAN OFFICIAL ADVISE (PRESUMABLY BY TESTIMONY OR AFFIDAVIT)
THAT MEXICAN POLICE HAD LEGAL RIGHT TO EXPEL SUBJECT AND THAT

MEXICAN OFFICIAL SYMPATHETIC TO COMMUNISM COULD DAMAGE GOVERNMENT'S
CASE. ADVISE OF IDENTITY OF MEXICAN OFFICIAL WHO, IN YOUR OPINION,

COULD SO ADVISE THE COURT, BEARING IN MIND THIS OFFICIAL MIGHT BE
FROM MEXICAN EMBASSY, WASHINGTON, D. C., OR MEXICAN CONSULATE

NEW YORK CITY. ALSO FURNISH YOUR COMMENTS CONCERNING ABOVE
SPECULATION OF [unclear] SECRET.

101-2483

RECORDED - 22
EX-125

MOORE

MAY 31 1956

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

NOTE: I have memo Branigan to Belmont prepared by J. Plinth on
5/29/56 in connection with this case outgoing teletype cable.

RECEIVED JUN - 7 1956
L-R I-6
15 25 64 28

Classified by 355 WAB/DAB
Exempt from GDS, Category 2, 3
Date of Declassification Indefinite

Sent via Cable 5/29/56 7:50 PM per [unclear]

~~SECRET~~

F B I

Date: 5-24-56

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

any

Transmit the following message via AIRTEL

AIRMAIL

(Priority or Method of Mailing)

From SAC, OKLA. CITY (65-936)

PHB
gn

DIRECTOR, FBI

Bratigan

MORTON SOBELL, was.
ESPIONAGE - R

10-1

Mr. G. E. TERHOST, American Airlines, Tulsa, Okla., telephonically advised 5-22-56, that he had received a teletype from his NY Office requesting the check numbers of documents requested by New York Office.

He advised that he does not have this information as it would have been destroyed after four years. He said he is of the opinion that the check numbers to identify the information in the files of Mr. T. P. SMITH, Cashier, American Airlines, 100 Park Ave., N.Y., is in files of FBI at NYC and can be furnished to Mr. SMITH for handling, and he is instructing Mr. SMITH or NY Office accordingly.

NY contact SMITH and furnish numbers of checks desired.

RUC.

aw

BCG:mb
(6)

- 3-Bureau
- 2-New York (AM)
- 1-Okla. City (65-936)

RECORDED-100

101-2483-1279

MAY 31 1956

Mr. Belmont

cc: Mr. [Signature]

5-25

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ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
5-7-87 BY 2042 PWT-JAC

55 JUN 6 1956

F B I
REC'D-TELETYPE UNIT

Special Agent in Charge

Sent _____ M Per _____

[Handwritten signature]
1736

OHB - from McDonald at State

Statement by Foreign Minister of Mexico, Sr. Manuel Tello
given at press conference 11-21-51

"In view of the fact that on different occasions there have appeared in the press of this capital reports of alleged activities of agents of foreign countries, the Minister of Foreign Relations deems it pertinent to issue the following clarification:

"No arrangements exists between our government and other governments under which foreign investigators, or police agents, may engage in activities within the republic.

"According to information furnished by other branches of the Executive, it is known that no tacit agreements exist between them and similar offices of other nations which would permit or provide for collaboration between such foreign agents and Mexican officials.

"Lastly, it should be pointed out that activities of this nature, within our national territory, would imply an intervention in matters which are within exclusive jurisdiction of the Government of Mexico. Therefore, such activities would be contrary to the rules of international law and would constitute a violation of our sovereignty which the Government of Mexico could in no way tolerate or consent to. In view of the foregoing, the appropriate authorities of our Government are making an investigation of this matter."

Comments - This came up from Embassy of Mexico City 11-23-51 and some comments on quotation by officer who wrote report are: This statement is obviously linked with the recent arrest in Mexico by the Mexican police of Gus Hall, the American Communist who was delivered to FBI agents at the American-Mexican border. Communist press made big thing over this to embarrass Government, that is why the Foreign Minister made the statement.

Morton Sobell

McDonald has some info. on Sobell case -- call him.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5-7-87 BY 3042/duw-JAC

59 JUN 4 1956

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101-2483 - ✓
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FEDERAL BUREAU OF INVESTIGATION FOIPA DELETED PAGE INFORMATION SHEET

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

- Deleted under exemption(s) _____ 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).

1 Page(s) withheld for the following reason(s):
Disposition handled in Rosenberg 65-58236-2257

For your information: _____

The following number is to be used for reference regarding these pages:
101-2483 - NR 5-25-56

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XXXXXXXXXXXXXXXXXXXXX
X DELETED PAGE(S) X
X NO DUPLICATION FEE X
X FOR THIS PAGE X
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United States District Court
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

MORTON SOBELL,
Defendant.

No. C 134-245

Petition Pursuant to
Title 28, U. S. C.,
Section 2255

To the Honorable Judges of Said Court:

The petition of Morton Sobell respectfully represents:

FIRST: The petitioner is unlawfully, unjustly and illegally detained and imprisoned by Paul J. Madigan, Warden of Alcatraz Penitentiary, a federal penal institution, acting as the agent and under the direction of the Attorney General of the United States and his authorized representatives, to whose custody he was commended, under and by virtue of a judgment entered and commitment issued by the United States District Court for the Southern District of New York dated and filed April 5, 1951.

SECOND: The indictment against petitioner, returned on January 31, 1951, charged 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" in violation of Section 34 of Title 50 of the United States Code.

THIRD: Petitioner was tried, together with co-defendants Julius and Ethel Rosenberg before judge and jury from March 6 to 29, 1951, when the jury returned a verdict of guilty against the petitioner.

FOURTH: On April 5, 1951, petitioner was sentenced and committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of thirty years.

FIFTH: On November 26, 1952, after petitioner had been incarcerated in the Federal House of Detention and Atlanta Penitentiary, the Attorney General, through his authorized representative, caused and ordered the transfer of petitioner to Alcatraz Penitentiary, where the petitioner has remained and is now detained.

SIXTH: Petitioner duly appealed to the United States Court of Appeals for the Second Circuit from the aforesaid judgment of conviction. On February 25, 1952, that Court affirmed the judgment of conviction, Judge Frank dissenting. The court's opinion is reported at 195 F. 2d 583. On April 8, 1952, the Court denied a petition for rehearing, 195 F. 2d 609-611.

SEVENTH: Petitioner duly petitioned the Supreme Court of the United States for a writ of certiorari to review the decision of the United States Court of Appeals for the Second Circuit. On October

101-2483-✓

13, 1952, the United States Supreme Court entered an order denying said petition. 344 U. S. 838. On November 17, 1952, the United States Supreme Court entered an order denying petitioner's petition for rehearing. 344 U. S. 889.

Grounds for Relief

EIGHTH: Petitioner makes this application praying that his sentence be vacated and set aside and that he be discharged from detention and imprisonment pursuant to the provisions of Section 2255 of Title 28 of the United States Code on the ground that his conviction was unjustly, unlawfully and illegally procured in violation of the Constitution and laws of the United States, and that the sentencing court was without jurisdiction to impose the sentence, the said judgment being subject to collateral attack.*

NINTH: Petitioner makes this application on the grounds that the prosecuting authorities knowingly, willfully and intentionally used false and perjurious testimony and evidence, made false representations to the Court, and suppressed evidence which would have impeached and refuted testimony given against petitioner, all to cause and sustain his conviction, thereby rendering the judgment and sentence null and void and making it subject to collateral attack.

TENTH: The prosecution in the course of the trial introduced evidence to prove that petitioner was deported by the Government of Mexico. The testimony in support of this contention was perjurious; the documentary evidence tendered in support thereof was false. This false evidence was essential to the prosecution's entire case against petitioner. The prosecution, knowing this evidence to be false and perjurious, willfully and intentionally used it to the prejudice of petitioner, thereby denying him his constitutional right to a fair trial.

ELEVENTH: No previous application for relief on the grounds set forth herein has been made.**

* TITLE 28, UNITED STATES CODE, SECTION 2255:

Federal custody; remedies on motion attacking sentence.

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

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

Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the United States attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

** Petitioner has made prior application to the Court for relief pursuant to Title 28, U. S. C., Section 2255, but not on the grounds or facts set forth herein.

The False Evidence

TWELFTH: The prosecution, through the direct testimony of Government witness James S. Huggins and through Government Exhibit 25A (Exhibit 2), presented evidence that petitioner had been deported from Mexico by the Mexican Government. This evidence was known by the prosecution to be false.

THIRTEENTH: During the direct examination of Government witness Manuel Giner de los Rios by Assistant Prosecutor Roy Cohn, the following question was asked (R. 926):

"Q. Do you know approximately what date Sobell was deported to the United States by the authorities?"

Counsel for petitioner objected, and the following colloquy ensued (R. 926):

"Mr. Cohn: Of course, your Honor, I am asking a question. I think we have other proof coming.

"The Court: You have other proof coming of deportation?

"Mr. Cohn: Yes, your Honor."

FOURTEENTH: Subsequently, the prosecution sought to introduce Government Exhibit 25, purportedly a copy of a manifest made in the regular course of business by the Laredo, Texas, office of the Immigration and Naturalization Service of the Department of Justice of the United States (R. 938).*

The sole purpose of the prosecution in offering this document was to establish that petitioner had been validly deported pursuant to authorized action by the Government of Mexico.** The rest of the entries had no significance. Mr. Cohn, in tendering the exhibit, stated (R. 938):

"Your Honor, the Government now offers in evidence a record from the Immigration and Naturalization Service of the Department of Justice of the United States, duly and properly authenticated concerning the circumstances of the departure of Sobell from Mexico to the United States."

Upon petitioner's insistence and over the prosecution's vigorous opposition, the Court ruled that Huggins be produced (R. 941-942).

FIFTEENTH: The following day, March 21, 1951, the prosecution tendered James S. Huggins, immigration inspector of the Immigration and Naturalization Service of the Department of Justice, stationed in Laredo, Texas. He produced Government Exhibit 25A and identified it as the manifest of petitioner, a contemporaneous document made and kept by him in the regular course of his duties as an Immigration and Naturalization Service inspector (R. 1024). The exhibit pur-

* In fact, Government Exhibit 25 was not an exact duplicate of the manifest. Compare Government Exhibits 25 and 25A (a photostatic copy substituted for the original). Exhibits 1 and 2 attached hereto.

** See brief of prosecution to Court of Appeals, pp. 65-67.

ported to carry the signature of petitioner (R. 1025), with the notation "Deported from Mexico." The notation was not on the manifest at the time petitioner signed it.

The witness, on voir dire, testified that the information on the front portion of the record was furnished by petitioner, save for the notation "Deported from Mexico." This notation, according to the witness, was based on information and observation (R. 1027-1028).

The Prosecutor's Summation to the Jury

SIXTEENTH: The prosecution knowingly, willfully and intentionally utilized the false evidence of deportation by Mexico to establish that petitioner was caught in flight and returned to the United States by the Government of Mexico against his will. On the basis of this "deportation" the prosecution stated to the jury that petitioner's trip to Mexico, from its very inception, constituted flight from the Federal authorities. This evidence was related to Greenglass' purported flight plans to establish joint membership in the charged conspiracy.* Mr. Saypol stated:

"When Rosenberg gave Greenglass the money, he told him to flee to safety by going from this country to Mexico, from where he would eventually embark for Europe, from the Mexican seaport of Vera Cruz" (R. 1525).

"The testimony is that in the same month that Greenglass was paid by the Russians through Rosenberg to flee the country to Mexico, and in the same month that the Rosenberg family got its passport photograph, in that very month Sobell and his family did in fact flee to Mexico where Sobell went to the airport of Vera Cruz, just as Greenglass had been instructed to do, and to the second airport at Tampico, and he went there under not one but under a string of aliases, using people in New York and in New Mexico [sic] as mail drops, exhibiting the conduct that fits in the pattern of only one thing—membership in this conspiracy to commit espionage for the Soviet Union and flight from an American jury when the day of reckoning had come" (R. 1529).

In his final remarks to the jury, Mr. Saypol again stressed that petitioner was returned against his will to the jurisdiction of the United States, saying (R. 1534):

"The FBI caught up with him and brought him back, and you have him here."

The False Representations to the Court

SIXTEENTH: On March 29, 1951, the jury returned a verdict of guilty against petitioner. On the day of sentencing, petitioner submitted an affidavit in support of a motion in arrest of judgment, chal-

* David Greenglass, a witness for the prosecution, testified that he was a member of the conspiracy and that there was a preconceived plan to flee the United States through Mexico to Europe to avoid prosecution by the authorities.

lenging the personal jurisdiction of the Court. In the course of the argument on the motion, Mr. Saypol declared the motion should be denied because petitioner's affidavit contained falsehoods and therefore should be totally disregarded. Mr. Saypol, alluding to petitioner's claim that he had lawfully entered Mexico and had been improperly returned to the United States, stated (R. 1598-1599):

"This very affidavit contains a falsehood in the statement that there was exhibited amongst other things to the Mexican authorities visas. Counsel ought to know that his client never went into Mexico with a visa. It is evident in the failure to disclose that when this defendant arrived in Laredo, and was taken into custody by American agents, that arrest was effected pursuant to a lawful warrant.* It is evident in the fact that throughout this trial there sat in this courtroom the wife of the defendant, as to whom the affidavit states that she was present and we know that she was present from the time of the arrest until the time the final act of deportation was effected at Laredo, and yet not a word of testimony was heard from Mrs. Sobell.

"The Court: I think I have enough.

"Mr. Saypol: The whole affidavit portrays certainly that this defendant was not honorably escorted from Mexico, but that literally he was kicked out as a deportee." (Emphasis supplied.)

The representations that petitioner had entered Mexico without a visa (tourist card) and was subsequently deported by the Government of Mexico were both false, as the prosecutor then and there well knew.

The Significance of the False Evidence

EIGHTEENTH: The false evidence of petitioner's deportation from Mexico was essential to the prosecution's case. Its materiality and relevancy were recognized by both the trial and appellate courts.

Petitioner has consistently maintained his absolute innocence of the crime charged. Only one witness at the trial, Max Elitcher, attempted to associate petitioner with the alleged conspiracy. He was an admitted perjurer and, if believed, a co-conspirator with obvious motive and interest in testifying so as to satisfy the prosecution's needs. The false evidence was used as additional proof of petitioner's participation in the conspiracy. If the false evidence had not been offered as corroboration of Elitcher's testimony, the trial court should have directed a judgment of acquittal. Absent this evidence, the jury might well have returned a verdict of not guilty.

The evidence was used to represent falsely that petitioner would not have returned voluntarily to the United States. Moreover, the prosecution suppressed the fact that they had denied him the opportunity to return on his own accord.

NINETEENTH: Petitioner did not leave the United States to avoid prosecution or apprehension by the authorities, nor was his departure in any way related to the arrest of Greenglass or a purported involve-

* But see footnote on p. 10, *infra*.

ment in criminal activities. He had committed no crime and had no consciousness of guilt. The criminal authorities had not evidenced any desire to interview or apprehend him, nor was he aware of any reason why they should. His departure was lawful and not surreptitious and his identity was not hidden. (See paragraphs 28, 29, 32, 37, *infra*.)

TWENTIETH: The prosecution used the false evidence of a deportation from Mexico to distort petitioner's innocent and lawful departure from the United States. It falsely pictured a desire to visit Mexico as a plan to avoid apprehension because of a consciousness of guilt. As a result of the false testimony, petitioner's stay in that country was represented as evidence of his involvement in a criminal conspiracy.

The prosecution utilized the testimony of the claimed deportation by the Government of Mexico to negative any inference that petitioner would have voluntarily returned to the United States. It sought to establish that his delivery to the American authorities was the result of judicial process and official action of the Government of Mexico. The prosecution knew that its own actions had denied petitioner the opportunity to return voluntarily to the United States. Nevertheless, it sought to establish that petitioner would not willingly return and therefore had to be deported, suppressing the circumstances of his removal.

TWENTY-FIRST: The Court in its charge to the jury recognized the importance of this evidence. It related the prosecution's testimony of Sobell's involuntary deportation by the Mexican Government to the evidence of the conspiracy, stating (R. 1559-1560):

"Finally, the prosecution says that when the conspiracy was uncovered by the arrest of Dr. Klaus Fuchs and later of Harry Gold in February and May of 1950 respectively, the defendants, fearful of being apprehended, attempted to flee and that their attempts to flee followed a pattern which also indicates a pre-conceived plan—that Morton Sobell did reach Mexico and assumed many aliases there while seeking means of exiting from the country, and that he was apprehended only after being delivered to the United States by the Mexican authorities; that Julius Rosenberg intended to flee the country and that he and Ethel Rosenberg and their children obtained passport photos from Mr. Schneider for that purpose, and that he also asked the Greenglasses to flee, and to further that purpose he gave David Greenglass \$5000 and elaborate instructions whereby he could reach Czechoslovakia from Mexico, and that he also asked Dr. Bernhardt as to the required inoculations in order to go to Mexico.

"I charge you that no inference is to be drawn against the defendants Julius and Ethel Rosenberg because of the incidents relating to Morton Sobell's journey to and trips in Mexico except that *you may consider whether such journey or trips show a pre-conceived plan as part of the conspiracy to be followed by the conspirators in attempting to escape the country.*" [Emphasis supplied.]

* The complaint against petitioner was not issued until August 3, 1950, a month and a half after his departure. It charged five overt acts, none of which were proved in the trial.

The Court then charged the jury as to the significance of the "flight" testimony in other respects, namely, as evidence of consciousness of guilt and corroboration of the other testimony (R. 1559-1560):

"As to any evidence of flight adduced by the Government in this case, I charge you: Evidence of flight does not create any presumption of guilt, although it is a legitimate ground for an inference of a guilty mind, if the jurors conclude that such inference is justified. Flight is a circumstance which the jury may consider as having a tendency to prove the guilt of a defendant, as an indication of a consciousness of guilt. It should not be considered alone and by itself. It must be weighed with all of the surrounding circumstances, and of course, it should be considered together with all the other evidence in the case in determining the guilt or innocence of these defendants."

TWENTY-SECOND: The United States Court of Appeals, in finding Government Exhibit 25A admissible, held that the evidence of deportation was an essential part of the prosecution's case (195 F. 2d at 602):

"The prosecution introduced as an entry 'in the regular course of business' a card made by an immigration inspector at the time Sobell re-entered the United States, stating that he had been 'Deported from Mexico.' This evidence is attacked as both irrelevant and hearsay. But Sobell's forced return to the United States was certainly relevant to the government's theory that he had fled to Mexico to escape prosecution, for otherwise the jury might have inferred that he had returned voluntarily to stand trial."

TWENTY-THIRD: The prosecution itself, in its brief to the United States Court of Appeals, *United States v. Rosenberg, supra*, pp. 65-66, acknowledged that the claim that petitioner was deported from Mexico was essential to its case:

"Evidence of Sobell's deportation was plainly relevant on the question of flight. Had it not been for that evidence the jury might have inferred that Sobell returned to the United States voluntarily (perhaps from a vacation in Mexico), and that he had always intended to do so. Thus, proof that his return was involuntary, in conjunction with proof of his activities in Mexico, tended strongly to show that his trip to Mexico was prompted by a desire to escape prosecution. As such it was persuasive evidence of his consciousness of guilt."

The prosecution used the proof of deportation to establish that petitioner's trip, *ab initio*, was to avoid the prosecuting authorities, and that hence his mere presence in Mexico was evidence of guilty flight.

TWENTY-FOURTH: The false evidence necessarily must have imported to the jury that petitioner was engaged in a conspiracy and fled with the intention of permanently removing himself from the United States. Such evidence inferred he had entered Mexico illegally, there had continued his illicit activities, and consequently was deported by the Government of Mexico.

TWENTY-FIFTH: The phrase, "Deported from Mexico," imported to the jury that petitioner's removal was a result of official action by

the Government of Mexico, taken over his opposition. The false evidence gave the appearance that petitioner had been subjected to a deportation proceeding in which the evidence presented established a *prima facie* case of petitioner's guilt and caused the Mexican Government to take such drastic action.

TWENTY-SIXTH: The prosecution's claim that petitioner was deported from Mexico came as a surprise to the defense. Petitioner's lack of familiarity with the procedures and laws of Mexico placed him at a severe disadvantage. He was confronted with a certified document of the United States Government and the sworn testimony of an official in the employ of the Department of Justice as well as statements by the prosecution. He conjectured that the evidence might be unassailable. It served to confuse and impede the petitioner's defense. Much time has been required to uncover the proof establishing the prosecution's knowledge of the falsity of the evidence.

The Abduction From Mexico

TWENTY-SEVENTH: The false and perjured evidence was essential to the prosecution's case. The prosecution knew that its agents of the Department of Justice were parties to the illegal seizure and removal of petitioner to the United States. It knew that he was prevented from returning voluntarily to the United States. The prosecution was aware that his abduction violated international law and treaties, as well as the laws of the United States and Mexico.

TWENTY-EIGHTH: On June 22, 1950, petitioner and his family left on a trip for Mexico. Prior to departure they obtained tourist cards in their own names from the Mexican Consulate. Petitioner purchased tickets to Mexico City in his own name from American Airlines, for himself and his family (Exhibit 3). The manifest of the air flight bore the names of petitioner and his family (Exhibit 4). Upon landing in Dallas, Texas, on his way to Mexico, petitioner, to avoid custom duties on his planned return, registered, in his own name, certain camera equipment with United States customs officials (Exhibit 5). Prior to boarding the plane for the flight from Dallas to Mexico City, petitioner was required to show his tourist card (Appendix B, article 75).*

TWENTY-NINTH: Petitioner arrived in Mexico on June 23, 1950. He and his family were required to show their tourist cards (visas) to the Mexican immigration officials (Appendix B, article 59). The records of the Department of Immigration of Mexico reveal that Morton Sobell bearing tourist card number 70538 entered that day by air from New York (Exhibit 6).** Petitioner, in his own name, rented

* Appendices A, B, C, and D to this petition contain respectively the Constitution of the United States of Mexico, the General Law of Population with Regulations of the same, the Law on Extradition of Mexico, and the Regulations of the Preventive Police of the Federal District of Mexico. Pertinent provisions of these Mexican laws have been translated into English for the Court's convenience.

** Exhibits 4 and 6 also show that his wife and children entered Mexico at the same time in the company of petitioner.

living quarters for himself and his family (Exhibit 7, petitioner's rent receipts). On his person, petitioner carried his birth certificate, social security card, membership card in a scientific organization, driver's license, and other documents accurately reflecting his identity (Exhibits 8, 9, 10, 11).

THIRTIETH: Petitioner would have voluntarily returned to the United States, had it not been for his unlawful abduction on August 16, 1950.

THIRTY-FIRST: On the afternoon of August 16, 1950, petitioner and his family had gone on a picnic. They returned to their apartment and were completing their supper when there was a knock on the door. Three Mexicans in civilian clothes, who identified themselves as officers of the Secret Police of the Federal District of Mexico,* entered the apartment and seized the petitioner. They said that petitioner was "Johnny Jones" and was wanted for robbing a bank in Acapulco. Petitioner stated that he was Morton Sobell. He fruitlessly demanded that he have an opportunity to call the United States Embassy to prove his identity and obtain protection. The officers seized and refused to return the credentials he tendered to establish his identity. Additional police came to his apartment.

Petitioner was physically assaulted, rendered unconscious, and placed into an automobile. He was taken to the offices of the *Direccion Federal de Seguridad* of the Federal District of Mexico. There he was assaulted again when he inquired as to the purpose of his detention.

Petitioner was kept in a room under guard until four o'clock of the morning of August 17, 1950. Throughout this time, no legal proceedings were held, no hearing was conducted, nor was petitioner presented with any charges or warrant of arrest or written authority for the action taken. He was not seen by any representative of the Mexican immigration or diplomatic services.

THIRTY-SECOND: After removing petitioner from his apartment, the police seized Helen Sobell, his wife, and took her to their offices. Petitioner's two children were tended by a neighbor until they, too, were brought to the police headquarters some time later that evening.

THIRTY-THIRD: At four o'clock in the morning, petitioner was placed under guard in an automobile. His wife and children were put into a separate automobile in custody of police officers. Both cars then drove north towards the United States. At periodic stops en route, a guard made a telephone call.

THIRTY-FOURTH: At approximately 3:00 A. M. on August 18, after almost a complete day of continuous driving, petitioner arrived in Nuevo Laredo. The car stopped near a public square, several blocks from the international bridge which connects Mexico and the United States. Following another telephone call, a guard informed petitioner that they had received further instructions. After waiting ten

*The Secret Service Police of the Federal District of Mexico are local police limited to the Federal District of Mexico and have no authority to act in immigration matters (Appendix D).

minutes, the car drove on to the bridge. Prior to crossing over to the American side, an agent of the Federal Bureau of Investigation entered the automobile and instructed the driver to continue to the United States immigration office in Laredo, Texas. The agent stated he had been waiting for petitioner for many hours (R. 1031).

THIRTY-FIFTH: At the United States immigration office, petitioner was removed from the car by the FBI agent and taken before the witness Huggins and was told to sign a card. He was then immediately placed in custody by John W. Lewis, an FBI agent (R. 1031). The baggage of petitioner and his wife was examined and various objects removed. In petitioner's presence, one of the Mexican Secret Police turned over to the FBI the personal documents that had been unlawfully taken from him in Mexico City.

Petitioner informed both agent Lewis and Huggins of his unlawful abduction by the Mexican secret police.

THIRTY-SIXTH: Petitioner was then removed to the Webb County Jail in Laredo, Texas, where he was subsequently brought before United States Commissioner Frank Y. Hill. There the FBI agents showed him personal effects which had been stolen from his person and apartment in Mexico and questioned him in respect thereto.

The Evidence of Deportation Was in Fact False

THIRTY-SEVENTH: Petitioner was not deported from Mexico. The power to institute and execute deportation proceedings is vested solely in the Department of Immigration of the Secretariat of *Gobernacion* (Appendices A and B). Records reflecting the entry, status and conditions of departure of all aliens are kept by the Department of Immigration in Mexico City. Local immigration offices are required to maintain similar records (Appendix B).

THIRTY-EIGHTH: The records of the Department of Immigration at Nuevo Laredo reveal that petitioner was never deported (Exhibits 12, 13).

THIRTY-NINTH: Further, records of the Department of Immigration affirmatively establish that the abduction of petitioner and his removal to the United States were executed without the knowledge or approval of the immigration authorities of the Government of Mexico.

FOURTH: When the chief of immigration at Nuevo Laredo first learned of the unlawful transfer of petitioner, he at once communicated with the Department of Immigration in Mexico City, stating that secret service agents of Mexico City had evaded the Department of Immigration in taking petitioner to the United States at 3:45 A. M. on August 18, 1950.

FORTY-FIRST: Pursuant to the request of the chief of immigration at Nuevo Laredo, an immediate investigation was made by Hector Rangel Obregon, chancellor of the Mexican consulate in Laredo, Texas.

The consulate acquired some information from American newspapers and further found it necessary to go to the United States

Petitioner was arrested without a warrant

immigration officers at Laredo, Texas, to obtain any details of the matter since the Mexican Government was totally unaware of the facts.

Forty-second: In September 1950, the Department of Immigration advised its office in Nuevo Laredo that steps had been taken to prevent such violations of the laws of Mexico in the future.

Forty-third: The constitution and laws of Mexico afford further proof that petitioner was not deported by its authorities. These enactments establish the rights of aliens, the manner in which a deportation may be effected, as well as the grounds therefor.

Deportation proceedings must be instituted by formal written charges and must be reviewed and approved by the Secretary or Undersecretary of the Secretariat of *Gobernacion*. His decision in turn is reviewable by the courts (Appendices A and B).

No arrest or detention may be carried out without a warrant based on a written charge (Appendix A, article 16). The police of the Federal District of Mexico have no authority to act in immigration matters (Appendix D). The immigration authorities maintain special places of detention for aliens subject to action by that department (Appendix B, article 74). In the event of deportation, documents are prepared, entries are made in the records of the Immigration Department, and circulars announcing the fact are transmitted to all ports and frontier stations of Mexico (Appendix B; Exhibit 14).

Forty-fourth: The deportee is brought to the frontier, accompanied by immigration officers, and turned over to the local immigration authorities. Docket entries are there made and documents filed. Thence the deportee is taken to the international boundary by the Mexican immigration officials (Appendix B; Exhibit 14). All such procedures are carried out during regular working hours, i.e., between 8:00 A. M. and 6:00 P. M. (Appendix B, article 32). Prior to crossing the border, the immigration authorities of Mexico present a mimeographed form to the alien advising him he may not return, and of the penalty if he attempts to do so (Appendix B; Exhibit 14).

Forty-fifth: The seizure of petitioner in Mexico was carried out by Mexican police having no jurisdiction over the matter. His removal was carried out at a time not authorized by law. No warrant was issued nor written charges made. There were no deportation proceedings. The immigration authorities of Mexico were not parties to the abduction. The records of *Gobernacion* and its Department of Immigration affirmatively show that petitioner was not deported.

The Prosecution Knowingly, Willfully and Intentionally Used False and Perjured Evidence

Forty-sixth: The prosecution knew, long prior to petitioner's trial, that he had not been deported from Mexico. The prosecution knew, at the very time Huggins testified, that his testimony concerning petitioner's deportation from Mexico was perjurious. The prosecution and Huggins knew, at the very time Government Exhibit 25 and 25A were tendered, that the statement therein, "Deported from Mexico," was false.

Forty-seventh: The prosecution, through its agents in the United States and Mexico, planned and participated in the unlawful seizure of petitioner in Mexico and his removal to Laredo, Texas. The prosecution knew that its unlawful actions had deprived petitioner of the opportunity to return voluntarily to the United States. No other conclusion was open to the jury but that petitioner returned to the United States contrary to his will.

Forty-eighth: Government witness Huggins, an employee of the Department of Justice, was advised and knew that petitioner had not been deported from Mexico, and that the entry to that effect on Government Exhibit 25A was false.

Within a day of petitioner's arrival in Laredo, Texas, Huggins and other employees of the United States immigration office at Laredo, Texas, were informed by Hector Rangel Obregon, chancellor of the Mexican consulate at Laredo that petitioner had not been deported. Sr. Obregon expressed concern and alarm that this matter had been handled without the knowledge or approval of the Mexican Government or its duly constituted authorities.

Forty-ninth: The prosecution and the witness Huggins wilfully, knowingly and intentionally suppressed the fact that they had information directly contradicting the claim that petitioner was deported.

Fiftieth: This information was transmitted to the prosecution. At the very time Huggins was informed by the Mexican consulate that there was no deportation, FBI agents John W. Lewis, Rex T. Shroder and Leo H. Frutkin were in Laredo, Texas, and in touch with Huggins and the United States immigration office. They had been sent to Laredo, Texas, at the direction of the prosecution.

FBI agent Lewis, who aided the prosecution in its pretrial preparation, sat at the prosecution's table throughout the trial.

Fifty-first: Mr. Saypol was fully informed of the circumstances of petitioner's seizure, from the abduction in Mexico to the time he arrived in Laredo. This is indicated in his statement:

"... we know that she [Mrs. Sobell] was present from the time of the arrest until the time the final act of deportation was effected in Laredo." (R. 1598-1599).

Fifty-second: The prosecution further knew of the facts leading to petitioner's removal to the United States as a result of personal investigations in Mexico by Messrs. Cohn and Saypol, on at least one occasion (R. 1598).

Fifty-third: The prosecution, through its agents and representatives in the United States and Mexico, planned and participated in petitioner's abduction. The seizure was carried out pursuant to its plans and directions. Both agents of the FBI and of the United States Embassy in Mexico City participated in the action.

Fifty-fourth: At approximately 3:00 P. M. on August 16, 1950, the day of the abduction, a United States agent arrived at petitioner's residence (153 Calle de Cordova, Mexico, D.F.), and there interviewed

a woman. The agent showed her a picture of petitioner and asked her for his apartment number. He informed her that petitioner was a criminal, sought by the authorities of the United States for kidnapping a child. She suggested to the agent that he return in three hours to obtain this information from the superintendent of the building.

FIFTY-FIFTH: At approximately 6:00 P. M. that day, a young woman arrived in a taxi, approached the same woman and identified herself as a cashier in a supermarket. She described petitioner and his family and asked in what apartment they lived, explaining that she sought the return of money given them by mistake. Upon receiving the information, she did not enter the house but immediately departed. A few hours later, a Mexican in civilian clothes approached one of the residents of the apartment house, displayed a Secret Police badge, and told her that petitioner was a criminal. He requested that no one be informed of petitioner's anticipated seizure.

FIFTY-SIXTH: Later that same evening, Senora Elizabeth Avila De Soto, who was employed as a domestic worker by the Sobells, was informed upon arriving at the apartment that petitioner and his wife had been taken away by the police and that the children were in the care of Senora Rios (wife of Government witness Rios). At approximately 10:00 P. M. on August 16, 1950, Mexican Secret Service Police again came to petitioner's apartment. They advised Senora De Soto that they were the ones who had seized petitioner and his wife, and were going to search the premises. They stated that they were acting as agents and representatives of the United States Government.

They searched the apartment, opening a wall safe, and removed money, papers of petitioner and his wife, and all their personal effects. Over Senora De Soto's objections the police also took her clothing and belongings.

FIFTY-SEVENTH: Senora De Soto was again visited by the same Mexican Secret Service men several days after the kidnapping and interrogated at length. In reply to their questions she informed them that petitioner and his family had not acted in a suspicious manner and had not sought to hide their identity.

At this interview Senora De Soto requested that the police return her property they had taken on the night of the abduction. The officers told her that the United States Embassy was holding her belongings and that she should go there to request their return.

FIFTY-EIGHTH: On the night of the kidnapping, Senora Rios was visited by several of the Mexican police officers who had seized petitioner. Two days later they returned, accompanied by an agent of the FBI, who interviewed both Sr. Rios and his wife. The agent exhibited a photostatic copy of an envelope which he stated was taken from petitioner's apartment, and made inquiries relating thereto.

FIFTY-NINTH: Within a period of ten days after the kidnapping, Rios was seen by the FBI on three occasions and at least in one instance was taken to the United States Embassy for interrogation. Approximately a month after the kidnapping, he was visited at his place of business by prosecutors Roy Cohn and Irving Saypol and an FBI agent.

SIXTYTH: The prosecution, acting in Mexico through the United States Embassy, the FBI and the Secret Police of Mexico City, engaged in a coordinated scheme to seize petitioner, prevent his voluntary return to this country, and circumvent the protection afforded him by the Constitution and laws of Mexico and the Treaty on Extradition.* The United States Embassy and the FBI in Mexico worked with the Mexican Secret Police on the day of the abduction and thereafter. The United States Embassy in Mexico City served not only as a place of interrogation, but took custody of some of the property and documents seized from petitioner's apartment by the Mexican Secret Police.

SIXTY-FIRST: The circumstances surrounding the delivery of petitioner to the FBI in Laredo, Texas, provide further proof that the prosecution had knowledge of the time and manner of his seizure and coordinated its actions with the Secret Police in Mexico City from the very beginning.

SIXTY-SECOND: After the Mexican Secret Police had brought petitioner to the offices of the *Direccion Federal de Seguridad*, the American authorities were notified that he had been seized. Agents Lewis, Frutkin and Shroder thereupon proceeded to Laredo, Texas, to take petitioner into custody.

SIXTY-THIRD: While carrying petitioner to Laredo, Texas, the Mexican Secret Police made periodic phone calls, indicating their progress and expected time of arrival. Huggins and L. C. Taylor, agent of the FBI stationed in Laredo, Texas, working with the New York agents, made the necessary arrangements to receive petitioner. Aware of the fact that Helen Sobell and the children were also arriving, the FBI obtained the assistance of a doctor, as well as of a matron to tend to the children. All of these persons were present at the time of petitioner's arrival at approximately 3:45 A. M. on August 18, 1950.

SIXTY-FOURTH: Petitioner's arrival in Laredo, Texas, was fully anticipated by the prosecution. Huggins acknowledged that he had been waiting for petitioner (R. 1034). The Mexican Secret Police advised the FBI when they were about to cross over to the United States. An FBI agent then left the United States, walked over to the Mexican side of the bridge and entered petitioner's car. The agent acknowledged they had been expecting him for several hours.

After petitioner was brought into the United States immigration office, one of the agents said, "I hated to do it this way, but it was the only way we could."

SIXTY-FIFTH: After being temporarily detained by the United States immigration officers, Helen Sobell asked Huggins whether, if she so desired, she could reenter Mexico. Huggins, knowing that neither petitioner nor his wife had been deported, was unable to make a responsive answer. Neither he nor any of the FBI agents ever claimed Mrs. Sobell had been deported. Ignoring the Mexican police who were present at the time, Huggins discussed the matter with the FBI and then told Mrs. Sobell that she should not return to Mexico, because the American authorities did not wish her to do so.**

* Seizure of petitioner in Mexico, not authorized by warrant, violated its Constitution and laws (see Article 16 of the Constitution of Mexico).

** Contrary to the notation found on Government Exhibit 25-A Mrs. Sobell was not deported.

SIXTY-SIXTH: Pursuant to the directions of the prosecution, the Mexican Secret Police delivered the documents and belongings of petitioner which they had seized in Mexico City to agents of the Federal Bureau of Investigation in Laredo, Texas.* These documents were in turn transmitted to the prosecution along with information on how they were obtained.

SIXTY-SEVENTH: The prosecution used the unlawful search and seizure as a means of suppressing evidence which would have been helpful to petitioner in establishing his innocence. Among the documents seized were petitioner's tourist card (visa), which evidenced his lawful entry into Mexico, and his vaccination certificate, which was obtained in preparation for his return to the United States. To this day these documents have not been returned.**

SIXTY-EIGHTH: The prosecution and the FBI were fully cognizant of the fact that extradition was the lawful procedure to obtain custody of petitioner.***

SIXTY-NINTH: The United States and Mexico are bound by a treaty on extradition which specifies the grounds for extradition and the procedures to be followed by the signatories.§

* A number of these items bear the notation "R.I.S. 8/18/50" indicating their delivery to Rex L. Shroder, FBI agent from New York, who was present in Laredo at the time petitioner was brought there by the Mexican police.

** In addition to the items mentioned above, there are other documents and personal property which have never been returned. Petitioner was never given a receipt for the property taken.

It was not until September 17, 1954, that the FBI returned to petitioner some of the items which were stolen from him, including his wallet, a round trip airline ticket, and a receipt from the Bureau of Customs dated June 23, 1950, at Dallas, Texas. The latter item establishes that petitioner did not enter Mexico surreptitiously, but proclaimed his identity and destination, and indicated an intention of returning to the United States. (See Exhibit 5.)

It was not until December 22, 1954, that a further partial return of petitioner's personal effects took place. Among these items were his birth certificate, operator's license, social security card and rent receipts. (See Exhibits 7, 8, 9 and 11.) Subsequently, in 1955, the FBI sought to return a pair of glasses purportedly belonging to petitioner. It was at this time that request was made in his behalf that the authorities return the rest of the personal effects unlawfully taken and held by the Department of Justice.

*** See 82nd Cong., 1st Sess., House Committee on Appropriations, Hearings, *Department of Justice Appropriations for 1952*, testimony of J. Edgar Hoover, Director, Federal Bureau of Investigation, February 15, 1951, p. 312. Mr. Hoover revealed not only his knowledge of extradition proceedings as the means of lawfully obtaining custody of a United States fugitive, but further his close cooperation with the police officials of Mexico City. He stated:

"There are many fugitives in this country who would never have been located had it not been for the service rendered to law enforcement by the Identification Division. This service extends not only through the identification of persons who have become fugitives from justice within the United States, but also outside of the United States.

"Recently we received the fingerprint record of a man arrested by the Mexican police in Mexico City for fraud. A check of our files revealed that he was wanted in California as a parole violator. As a result of this identification, this man would be extradited and sent back to the penitentiary in California."

§ Treaty on Extradition between the United States and Mexico, signed on February 22, 1899, at Mexico City, 31 Stat. 1818. This treaty was supplemented in 1902, 1925, and 1939.

SIXTY-EIGHTH: The prosecution knew that petitioner could not be extradited. The crime with which he was charged, conspiring to commit espionage, is not a ground for extradition under the aforesaid treaty (Article II). The treaty specifically excludes extraditions for crimes of a political nature (Article III, paragraph 2).^{*} Yet the prosecution adduced evidence of petitioner's purported political association and activities as an aggravating and motivating element of the offense.^{**}

SEVENTY-FIRST: Moreover, the prosecution would have been required to present proof at a hearing before a Mexican court, to prove the *corpus delicti* and to adduce evidence to establish the probable guilt of petitioner. The court's judgment would have been subject to examination by the President and review by another court.^{***}

SEVENTY-SECOND: Had the prosecution complied with the requirements of the extradition treaty, petitioner would have expressed his desire and intention of returning voluntarily to the United States. Thus the prosecution would have been unable to claim that petitioner's trip to Mexico constituted evidence of guilty flight, and that petitioner did not voluntarily return.

SEVENTY-THIRD: The prosecution and the agents of the FBI avoided the problems posed by the treaty on extradition by arranging for the seizure of petitioner by the Mexico City Secret Police without the knowledge or approval of the Mexican Government.

SEVENTY-FOURTH: In the execution of this plan, the FBI utilized its close relationships with the local police officials.[§] The FBI over the years had agents in Mexico who conducted investigations on behalf of the United States in coordination with Mexican police authorities.^{§§}

* The Treaty on Extradition must be read in light of the Extradition Law of the United States of Mexico which provides that an alien may not be extradited from Mexico if the offense is connected with matters of a political nature (Appendix C, article 4).

** See testimony of Elizabeth Bentley (R. 961-1024); charge of the Court to the jury (R. 1558); comments on sentencing (R. 1601-1603; 1612-1615).

*** Law of Extradition of the Republic of Mexico, May 19, 1897, Appendix C, Article 8, Convention between the United States of America and Other American Republics, signed at Montevideo, December 26, 1933, U. S. Treaty Series No. 882.

§ See footnote 3, p. 15, *supra*.

§§ See statement of J. Edgar Hoover, Director of the Federal Bureau of Investigation, at the 52d Annual Meeting of the International Association of Chiefs of Police, Miami Beach, Florida, December 10, 1945:

"It was our happy privilege to be closely associated with the security and intelligence authorities in the British Isles * * * and with similar agencies in all of the countries in the South from Mexico to Chile.

" * * * FBI liaison agents, stationed from Canada to the tip of South America, received the highest degree of aggressive cooperation."

See also, *The Story of the Federal Bureau of Investigation*, Department of Justice, 1945, p. 12, stating that "FBI liaison agents" were stationed in and cooperated with police officials in all the countries of Latin America.

These activities were known to be unlawful and in violation of the sovereignty of Mexico.

SEVENTY-FIFTH: In addition, the events of the morning of August 18, 1950, the circumstances surrounding petitioner's delivery, the information subsequently obtained from Mexico, and the later investigations, all clearly revealed to the prosecutors as well as to the agents and employees of the Department of Justice involved the facts of petitioner's seizure.

SEVENTY-SIXTH: Upon arriving in Laredo, Texas, petitioner immediately informed the FBI and United States immigration officials that he had been kidnapped, physically assaulted, accused of robbing a bank in Acapulco, presented with no written charges or warrant of arrest, and that no proceedings had been held in Mexico.

SEVENTY-SEVENTH: Huggins and FBI agent Taylor, both employees of the Department of Justice, were fully cognizant of the procedures followed in deportation and extradition cases. They knew which agencies of the Mexican Government had jurisdiction over such matters.

The FBI regularly assigns one of its agents to work with the immigration offices at each United States port of entry. In August, 1950, agent L. C. Taylor, was stationed at Laredo, Texas, for these purposes. In the course of their duties, both he and Huggins were in contact with the local Mexican immigration officials. Both Huggins and the FBI well knew that it was the secret police of Mexico City who seized and delivered petitioner (Government Exhibit 25A, R. 1030).

SEVENTY-EIGHTH: The FBI and Huggins noted that petitioner arrived at 3:45 o'clock in the morning. His appearance clearly indicated that he had been physically assaulted. They were aware that the required deportation procedures had not been complied with. Petitioner's exit has not been processed by Mexican immigration authorities in Nuevo Laredo. He had not received or signed the necessary documents, requisite for all deportees, prior to leaving Mexico.** The FBI and Huggins knew that no Mexican authorities, not even the secret police, claimed that petitioner was deported (R. 1026-1027, 1035-1036).

SEVENTY-NINTH: In the event of a deportation, the Mexican Government advises the United States Embassy in Mexico City of the

* See the statement of the Secretary of Foreign Relations, November 22, 1951, in response to Mexican protests of FBI activity in that country:

"There exists no agreement between our government and any other by virtue of which foreign investigation agents and police may carry out activities in the Republic.

* * * * *

"It is proper to make it clear that activities of this nature, on national territory, would imply an intervention in affairs that are the exclusive jurisdiction of the Government of Mexico and, as such, would be repugnant to the standards of international law and would constitute a violation of our sovereignty which the Government of Mexico cannot in any way tolerate, much less consent to * * *"

** Prior to deportation the immigration office of Mexico at the point of exit requires a deportee to sign a statement that he will not return without the express permission of the Secretariat of Gobernacion (Exhibit 14).

pending action. The Embassy thereupon notifies the United States immigration authorities at the point of entry. In the present case, the Embassy was not so informed, nor did it so advise the immigration offices at Laredo, Texas.

EIGHTIETH: The report on the investigation conducted by Chancellor Hector Rangel Obregon of the Mexican Consulate in Laredo (see paragraph 41, *supra*) was sent to the Mexican Embassy in Washington, D. C. That Embassy, upon information and belief, made representations in the matter to the United States Government.

EIGHTY-FIRST: For a period of months after petitioner's abduction, the prosecution conducted an investigation in Mexico to obtain evidence for the trial.* This investigation was carried out by agents of the FBI in close cooperation with local police officials as well as the United States Embassy in Mexico. On behalf of the prosecution, Edwin L. Swift visited and interviewed Government witnesses Espinosa and Broccado in Vera Cruz and Bautista in Tampico.

EIGHTY-SECOND: The prosecution was acquainted with the facts set forth above (paragraphs Seventy-fifth through Eighty-first) through reports and information received from the FBI and the United States immigration authorities.

EIGHTY-THIRD: Mr. Saypol, in opposition to petitioner's motion for arrest of judgment, knowingly represented to the Court that the affidavit submitted in support thereof was false, stating that petitioner was deported and that his very entry into Mexico was illegal (see Paragraph 17, *supra*; R. 1598-1599). He sought thereby to discredit the affidavit in the eyes of the Court.

EIGHTY-FOURTH: As set forth in the present petition, the prosecutor well knew that petitioner had lawfully entered Mexico with a tourist card (visa) and had not been deported from Mexico (see Exhibits 6 and 12).

EIGHTY-FIFTH: Petitioner was denied a fair trial and deprived of his constitutional rights. The prosecution's knowing use of perjured evidence and its suppression of the facts destroyed the validity of the proceedings and the sentence based thereon.

Petitioner has been wrongfully caused to suffer a thirty-year sentence. He has been incarcerated in Alcatraz Penitentiary. The punishment of petitioner and his family has been cruel and extreme. But beyond such humanitarian considerations, the law demands rectification of this miscarriage of justice.

* "In all cases in which a national of one of the high contracting parties is to be deported or expelled from the territory of the other, and in the cases in which a national of either country subject to deportation is allowed voluntarily to depart for the country of his nationality in lieu of deportation, due notice will be given the proper consular representative of the country of such national."

Article VIII, Convention between the United States and Mexico to Prevent Smuggling and for Other Purposes, signed at Washington, December 23, 1925, U. S. Treaty Series No. 732.

** Prosecutors Cohn and Saypol traveled to Mexico on at least one occasion to participate in the investigation (paragraph 52, *supra*).

As Mr. Justice Frankfurter recently stated:

"The untainted administration of justice is certainly one of the most cherished aspects of our institutions. Its observance is one of our proudest boasts."

To restore the integrity of the administration of justice the relief sought herein should be granted.

WHEREFORE, petitioner asks that upon this petition, the Court

(1) Grant a hearing to determine the issues and make findings of fact and conclusions of law with respect thereto; and upon such findings of fact and conclusions of law vacate and set aside the sentence and judgment of conviction and discharge petitioner forthwith from detention and imprisonment or in the alternative grant him a new trial;

(2) Order that petitioner be present at the hearing aforesaid; and for such other and further relief as to the Court may seem just and proper in the premises.

Dated, May, 1956.

MORTON SOBELL,
By His Attorneys,

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