

**FILE DESCRIPTION**

**NEW YORK FILE**

**SUBJECT MORTON SOBELL**

**FILE NO. 100-37158**

**VOLUME NO. 36**

**SERIALS 2098**

**THRU**

**2215**

## NOTICE

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File No:

100-37158

Re:

Morton Sobell

Date:

11/77

(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2098	1/4/63	Newspaper Clipping	1	1		
2099	1/8/63	NY letter to HQ	2	0	YES	
2100	1/18/63	NY Memo to file	1	-	-	See Bufile 101-2483
2101	1/18/63	NY Airtel to HQ	1	-	YES	See Bufile 101-2483
2102	1/2/63	SA memo to SA CNY re: China Daily News	1	1		
2103	1/22/63	Third Party letter	1	1		
2104	1/5/63	Third Party Letter	1	1		
2105	1/25/63	SAC Memo to file	1	1		
2106	2/7/63	Newspaper Clipping	1	1		
2107	2/8/63	NY letter to HQ	1	-	YES	See Bufile 101-2483
2108	1/31/63	Third Party letter	1	1		
2109	2/11/63	SAC Memo to file	1	1		

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

File No: 100-37158Re: Morton SobellDate: 11/77  
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2110	2/13/63	NY letter to CG re: Morning Freight, Inc.	1	1		
2111	2/15/63	AT letter to HQ	10	-	YES	See Bufile 101-2483
2112	2/15/63	AT letter to HQ	11	-	YES	See Bufile 101-2483
2113	2/18/63	NY airtel to HQ	1	-	YES	See Bufile 101-2483
2114	2/27/63	SA memo to SAC NY	1	1		
2115	3/4/63	Memo to file	2	-	YES	See Bufile 101-2483
2116	3/4/63	NY airtel to HQ	1	-	YES	See Bufile 101-2483
2117	3/18/63	NY letter to AT re: CSJMS	2	2		
2118	4/2/63	SA memo to SAC NY	2	0		
2119	4/15/63	SA memo to SAC NY	1	1		
2120	4/15/63	NY airtel to HQ	1	-	YES	See Bufile 101-2483
2121	4/15/63	Petition for writ of Habeas Corpus	55	55		

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File No:

100-37158

Re:

Morton Sobell

Date:

11/77  
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2122	4/17/63	WFO airtel to HQ E NY	2	—	YES	See Bufile 101-2483
2122	4/17/63	WFO airtel to HQ E NY	2	—	YES	same as above
2123	4/25/63	Newspaper clipping	1	1		
2124	5/20/63	NY letter to HQ	1	—	YES	See Bufile 101-2483
2125	5/27/63	WFO letter to HQ	1	—	YES	See Bufile 101-2483
2126	6/6/63	NY airtel to HQ re: CSJMS	1	0	YES	
2127	6/7/63	Cover sheet for Informant Report FD-306	1	0		
2128	6/10/63	SA Memo to SAC NY re: CSJMS	4	4		
2129	6/14/63	NY letter to HQ	1	—	YES	See Bufile 101-2483
2130	6/17/63	WFO airtel to HQ, E NY	1	—	YES	See Bufile 101-2483
2131	6/28/63	NY letter to LA re: CSJMS	1	1		
2132	7/3/63	NY letter to WFO re: CSJMS	4	0		

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

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2133	7/5/63	NY letter to DE re: CSJMS	3	3		
2134	7/23/63	KC Letter to HQ	1	—	YES	See Bufile 101-2483
2134	7/23/63	KC Letter to HQ	1	—	YES	same as above.
2135	7/26/63	WFO Letter to HQ	1	—	YES	See Bufile 101-2483
2135	7/26/63	WFO Letter to HQ	1	—	YES	same as above
2136	7/30/63	NY letter to HQ	1	—	YES	See Bufile 101-2483
2137	7/30/63	NY letter to HQ	1	—	YES	See Bufile 101-2483
2138	11/18/63	Cover Sheet for Informant Report FO-306	1	0		
2139	8/23/63	KC letter to HQ	1	—	YES	See Bufile 101-2483
2139	7/23/63	KC letter to HQ	1	—	YES	same as above.
2140	9/5/63	Indices Search SLIP FO-160	1	1		
2141	9/27/63	WFO letter to HQ	1	—	YES	See Bufile 101-2483

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2141	9/27/63	WFO letter to HQ	1	-	YES	same as preceding serial.
2142	10/7/63	KC letter to HQ	1	-	YES	see Bufile 101-2483
2142	10/7/63	KC letter to HQ	1	-	YES	same as above
2143	8/9/63	WFO letter to HQ	1	-	YES	see Bufile 101-2483
2143	8/9/63	WFO letter to HQ	1	-	YES	same as above.
2144	11/18/63	Cover Sheet for Informant Cover FD-306	1	0		
2145	12/9/63	SA memo to SAC NY	1	1		
2146	11/27/63	KC letter to HQ	3	-	YES	see Bufile 101-2483
2146	11/27/63	KC letter to HQ	3	-	YES	same as above
2147	12/9/63	HQ letter to KC	1	-	YES	see Bufile 101-2483
2148	12/16/63	NY Report	10	-	YES	see Bufile 101-2483
2149	2/10/	Cover Sheet for Informant Report FD-306	2	2		

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2150	4/22/64	N <sup>Y</sup> SAC memo to file	1	1		
2151	5/14/64	KC airtel to HQ	2	—	YES	See Bufile 101-2483
2151	5/14/64	KC airtel to HQ	2	—	YES	same as above
2152	5/5/64	Memo to file	2	—	YES	See Bufile 101-2483
2153	6/26/64	SA memo to SAC NY	1	1		
2154	8/24/64	KC airtel to HQ	2	—	YES	See Bufile 101-2483
2154	8/24/64	KC airtel to HQ	2	—	YES	same as above
2155	9/25/64	SA memo to SAC NY	1	1		
2156	10/5/64	Cover sheet for Informant Report FD 306	1	0		
2157	10/21/64	KC letter to SE	2	2		
2157	10/21/64	KC letter to SE	2	2		dup of above.
2158	10/27/64	Indices search slip FD-160	1	1		



Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2159	11/3/64	NY letter to SE	1	1		
2160	11/6/64	Memo to file	1	1		
2161	12/3/64	Newspaper Clippings HQ	3	—	Yes	See Bufile 101-2483
2162	12/3/64	Newspaper Clippings HQ	3	—	Yes	See Bufile 101-2483
2163	12/11/64	KC letter to HQ	1	—	Yes	See Bufile 101-2483
2163	12/1/64	KC letter to HQ	1	—	Yes	see above
2164	12/1/64	SA Memo to SAC LA re: Moranda Smith section SC DCP	2	0		
2165	12/1/64	SA Memo to SAC LA re: LA Sobell Committee	5	5		
2166	12/3/64	SE letter to NY	2	2		
2166	12/23/64	SE letter to NY	2	2		
2167	12/31/64	NY letter to SE	1	1		
2168	12/1/64	Cover sheet for Informant Report FD-306	1	0		

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

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2169	12/24/64	SA Memo to SAC SF re: Emma Lazarus Club	3	3		
2170	12/30/64	SA Memo to SAC LA re: LA Sobell Committee	4	2		
2171	12/31/64	SA Memo to SAC LA re: LA Sobell Committee	5	5		
2172	1/15/65	SA Memo to SAC NY	1	1		
2172	1/30/65	KC Antel to HQ	2	-	YES	See Bufile 101-2483
2172	1/30/65	KC Antel to HQ	2	-	YES	same as above
2173	2/15/65	NY Antel to HQ	2	-	YES	See Bufile 101-2483
2174	3/17/65	NY Report	17	-	YES	See Bufile 101-2483
2175	2/25/65	SE letter to NY	2	2		
2175	2/25/65	SE letter to NY	2	2		
2176	3/5/65	NY letter to HQ	1	-	YES	See Bufile 101-2483
2177	3/5/65	Memo to file HQ	1	-	YES	See Bufile 101-2483

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File No: 100-37158

Re: Morton Sobell

Date: 11/77  
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2178	3/5/65	NY letter to HQ	1	-	YES	See Bufile 101-2483
2179	3/22/65	Newspaper Clipping	1	1	-	
2180	3/26/65	SA Memo to SAC NY re: Morning Freiheit Inc	1	1		
2181	3/1/65	Memo to file HQ	1	1	YES	Being Processed See Bufile 101-2483
2182	3/2/65	PH letter to HQ	1	-	YES	See Bufile 101-2483
2182	3/2/65	PH letter to HQ	1	-	YES	SAME AS ABOVE
2183	4/13/65	SF letter to SE	2	2		
2183	4/13/65	SF letter to SE	2	2		
2184	4/28/65	SE letter to NY	1	1		
2184	4/28/65	SE letter to NY	1	1		
2185	4/30/65	PD letter to NY	1	1		
2185	4/30/65	PD letter to NY	1	1		

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

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2186	5/12/65	Memo to file HQ	1	-	Yes	See Bufile 101-2483
2186	5/12/65	Memo to file HQ	1	-	Yes	Same as above
2187	5/12/65	NH letter to HQ	2	-	Yes	See Bufile 101-2483
2187	5/12/65	NH letter to HQ	2	-	Yes	Same as above.
2188	5/13/65	SA memo to SAC LA re: LA Committee for protection of Foreign Born	6	6		
2189	5/24/65	Indices search slip re: Third Party	2	2		
2190	6/3/65	NY letter to HQ	3	-	Yes	See Bufile 101-2483
2191	6/15/65	HQ letter to PH	1	-	Yes	See Bufile 101-2483
2192	5/27/65	NY letter to BS	7	0		
2193	6/16/65	NH letter to HQ	1	-	Yes	See Bufile 101-2483
2194	6/30/65	PH letter to HQ	3	-	Yes	See Bufile 101-2483
2194	6/30/65	PH letter to HQ	3	-	Yes	See Bufile 101-2483

File No: 100-37158Re: Morton SobellDate: 11/77  
(month/year)

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2195	7/13/65	HQ letter to NH	1	-	YES	See Bufile 101-2483-1549
2196	7/27/65	SA Memo to SAC NY	1	1		
2197	8/3/65	Newspaper Clippings	4	4		
UNRECORDED <del>2198</del>	9/10/65	Letter from director to Kuntzler	1	-	YES	See Bufile 101-2483-1551
2199	8/31/65	Third party letter	1	1	YES	Process
2200	9/10/65	HQ letter to AAG	1	-	YES	See Bufile 101-2483
2201	8/24/65	SAC Memo to file re: Third party	2	0		
2202	8/24/65	SAC Memo to file re: Third party	3	0		
2203	9/29/65	Memo to file HQ	1	1	YES	being processed See Bufile 101-2483
2204	10/4/65	Memo to file HQ	3	-	YES	1555 FI-108 See Bufile 101-2483
2205	10/4/65	WFO letter to HQ	2	-	YES	1555 FI-108 See Bufile 101-2483
2206	10/7/65	Cover sheet for Informant Report FD-306	1	1		

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

Serial	Date	Description (Type of communication, to, from)	No. of Pages		*	Exemptions used or, to whom referred (Identify statute if (b)(3) cited)
			Actual	Released		
2207	10/7/65	Cover Sheet for Informant Report FD-306	1	1		
2208	10/7/65	Cover Sheet for Informant Report FD-306	1	1		
2209	10/18/65	PH letter to HQ	1	-	Yes	See Bufile 101-2483
2209	10/18/65	PH letter to HQ	1	-	Yes	Same as above
2210	10/27/65	NK letter to NY re: Friday Night Forum	1	1		
2211	11/2/65	LHM to file	1	1		
2212	11/3/65	Cover Sheet for Informant Report FD-306	3	3		
2213	11/2/65	Cover Sheet for Informant Report FD-306	2	2		
2214	11/5/65	SA memo to SAC NY re: Julius Rosenberg	13	0		
2215	12/1/65	AQ Teletype to HQ	1	-	Yes	See Bufile 101-2483

U. S. Department of Justice

PROPERTY MUST NOT BE REMOVED FROM OR ADDED TO THIS FILE

# FEDERAL BUREAU

of

# INVESTIGATION

Bureau File Number 101-2383

at furnished info from this file to any outside  
agency without the authorization of 433

*ST*

See Nos. Sub A

*was a clipping*

*PKC*  
*PKC*  
*133-5/1*  
*100-111-111*

*[Handwritten signature]*

*11-21-51*

101-2383

Volume Number

30

Serials

1-2-198

2215

KENNEDY URGED TO GRANT RELEASE

A new appeal for Sobell

A PROSECUTION statement in recent court proceedings that Ethel Rosenberg would probably be entitled to a new trial today has been cited as basis for an appeal to President Kennedy to grant a new year release to imprisoned Morton Sobell. The appeal was filed by Helen Sobell in behalf of her husband, serving the 11th year of a 30-year sentence and still trying to prove his innocence of the conspiracy to commit espionage of which he was convicted in the 1951 trial with Julius and Ethel Rosenberg.

On Dec. 7, during argument before the U.S. Court of Appeals on Sobell's motions for a new trial or freedom (GUARDIAN, Dec. 12); Judge Thurgood Marshall posed a question. It was asked in light of the U.S. Supreme Court ruling in the Grindwald-Halperin tax case condemning as illegal prosecution cross-examination at-

lacking a witness for having asserted Constitutional rights under the Fifth Amendment before the Grand Jury, as was the case with Ethel Rosenberg.

"If Ethel Rosenberg were tried, say last spring," Marshall asked, "and we had her conviction before the court today, wouldn't we have to reverse?"

U.S. Attorney Robert J. Conliffe responded, "Yes, it would probably have to reverse."

While Sobell was not accused of acts related to atomic espionage, his case was influenced by any unfair cross-examination of Ethel Rosenberg because it was a conspiracy trial, Sobell's attorneys have pointed out.

The U.S. Parole Board is weighing possible release in view of Sobell's parole eligibility. The U.S. Court of Appeals has the legal motions under advisement.

National Guardian  
issue of 11/3/63 - page 7

100-37158-2098

FBI - NEW YORK

FILED  
*[Handwritten signature]*



FILE # 100-37158

SUBJECT MORTON SOBELL

SERIAL 2099 DATE 1.8.63

CONSISTING OF 2 PAGES

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

SAC, NEW YORK (100-63825)

1/2/63

SA [REDACTED] (431) B7C

CHINA DAILY NEWS  
IS - CH

B7D

On [REDACTED], who is in a position to furnish reliable information furnished trash to [REDACTED] from the China Daily News (CDN). Included in the trash was a pamphlet describing and promoting the film premiere of "MORTON SODELL - A Plea For Justice." According to the pamphlet, the running time was 29 minutes, 10 seconds and could be purchased for \$75.00 per print, or sent out on loan by contacting The SODELL Committee, 940 Broadway, NY 10, NY.

- 1 - New York { B7D } (SODELL COMMITTEE)
- 1 - New York { [REDACTED] } (MORTON SODELL)
- 1 - New York { [REDACTED] } (NY)
- 1 - New York (100-63825)

JEH:hjr  
(4)

100-37156-102

SEARCHED	INDEXED
SERIALIZED	FILED
JAN 2 1963	
FBI - NEW YORK	

b7c [REDACTED] [Signature]

January 22, 1963

Mrs. Morton Sobell  
38 Charlton Street  
New York 14, N.Y.

Dear Mrs. Sobell:

This is in reply to your letter of January 5th, relating to Mr. Morton Sobell, formerly employed by this Company.

We have made a very careful search of our records, but we do not find any indication of Mr. Sobell having applied for or being granted a leave of absence. Our records show that Mr. Sobell's employment was terminated by his resignation.

Mr. Belock and Mr. Garrett have not been associated with this Company for many years. We have discussed this matter with Mr. McCoy, who informs us that he has no recollection of a leave of absence.

Yours very truly,

JFL:dm

Jack F. Lepro  
Vice President

Searched  
Serialized  
Indexed  
Filed

100-37158-2103

January 5, 1963

Reeves Instrument Company  
East Gate Boulevard  
Roosevelt Field  
Garden City, Long Island

Dear Sirs:

In June 1950 Mr. Morton Sobell who was then employed at the Reeves Instrument Company took a leave of absence. I would greatly appreciate a copy of that letter at this time. If by some chance it is not available a statement from Mr. Harry Belock or Mr. Rowley McCoy or Mr. Edward Garrett that there was in fact such a letter would be most helpful.

Since this information has substantial importance in securing the release of an engineer who has now been imprisoned for 13 years, innocently, as I know, I ask your serious attention.

I hope for the courtesy of an early reply.

Very sincerely yours,

*Helen L. Sobell*

(Mrs. Morton Sobell)

Searched	_____
Serialized	_____
Indexed	_____
Filed	_____

16 37158-2104

# Memorandum

TO : SAC

DATE: 1/25/68

FROM : FRANCIS J. SANDIN

SUBJECT: MORTON SOBELL  
IS - C

On 1/22/63 [REDACTED]  
Reeves Instrument Corporation, East Gate Boulevard,  
Roosevelt Field, NY furnished the attached copy  
of a letter from Mrs. MORTON SOBELL and the company's  
reply to that letter. The attached are self-explanatory.

B-20

b7C

100-37158-2105

SEARCHED	INDEXED
SERIALIZED	FILED

33

*[Handwritten signature]*

(Mount Clipping in Space Below)

## Sobell's Appeal Rejected Again

The U. S. Court of Appeals rejected Wednesday atomic spy Morton Sobell's fifth appeal to have his conviction vacated or his 30-year sentence vacated. Sobell, who was convicted in 1951 with Julius and Ethel Rosenberg for wartime espionage on behalf of the Soviet Union, is Atlanta federal prison. He was the brother of Ethel Rosenberg, who was executed with her husband.

NO

(Indicate page, name of newspaper, city and state.)

NEW YORK STANDARD

Date: 2/7/63  
Edition:  
Author: Page 3  
Editor:  
Title:

Character:  
or  
Classification:  
Submitting Office:

100-37158-2106

SEARCHED \_\_\_\_\_ INDEXED \_\_\_\_\_  
SERIALIZED \_\_\_\_\_ FILED \_\_\_\_\_  
FEB 7 1963  
FBI - NEW YORK  
Cum

January 31, 1953

Mr. Jack F. Lepra  
Lepra Instrument Corporation  
Garden City, L. I. New York

Dear Mr. Lepra:

I thank you for your letter of January 22. Would it be possible for you to tell me the nature of your records indicating Mr. Sobell's resignation, whether it is a letter, notation, form, or other method of information. The date of the record would be of importance also. A photostatic reproduction of the record you refer to would be perhaps the best way to encompass all of these answers, and would be greatly appreciated.

You understand, of course, that my purpose is not to suggest in any way any sort of continuing relationship between my husband and Lepra, but only to make the facts as clear as possible in the effort to end my husband's long continuing imprisonment.

Very truly yours,

*Melen L. Sobell*

(Mrs. Morton Sobell)

Serialized \_\_\_\_\_  
Indexed \_\_\_\_\_  
Filed \_\_\_\_\_

100-37158-2108

UNITED STATES GOVERNMENT

## Memorandum

TO : SAC

DATE: 2/11/63

FROM : FRANCIS J. SANDIN

SUBJECT: MORTON SOBELL  
Esp - R

On 2/8/63 [REDACTED] b7D  
Reeves Instrument Co., Garden City, NY furnished the  
attached copy of a letter to the company from Mrs.  
HELEN E. SOBELL. The letter is self-explanatory.

[REDACTED] stated that the company does not  
intend to answer the attached letter. b7D

100-37158-2109

FBI - NEW YORK  
[REDACTED]

b7C



SAC, CHICAGO (100-16219)

2/13/63

SAC, NEW YORK (100-21)

MORNING FREIHEIT, INC.  
IS - C; ISA - 1950

The following article appeared in the "Morning Freiheit" of January 18, 1963, on page 5, columns 2-4:

Appeal To Pardon Morton Sobell by JACK KLING (Chicago)

The Chicago edition of the "Jewish Post And Opinion" has come out with an appeal for Morton Sobell, one of the victims of the McCarthy hysteria, to be pardoned. This appeal is embodied in an editorial which appeared in the above-mentioned newspaper of January 4th. The editorial points out that it is high time that Jewish leaders took a stand and stopped being afraid that by coming out in favor of a pardon for Morton Sobell they will be called "communist". The request to pardon Sobell, the editorial states, should be made not because he is a Jew, but because he is a human being and he deserves sympathy.

The editorial also states that Edmund Cohen, a famous Professor at New York University, wrote to Mrs. Sobell, that he wrote to the "Parole Commission" to pardon Morton Sobell. Keeping him in jail at this time, Professor Cohen said, is simple persecution, in his opinion.

The above was translated from Yiddish and is being submitted for your information.

- 3 - Chicago (100-16219) (RM)
- (1 - [redacted] B7c)
- (1) - New York (100-3,153) (MORTON SOBELL)
- 1 - New York (100-21) (41)

MJP:jae  
(5)

100-37156-2110

FBI - NEW YORK

UNITED STATES GOVERNMENT

# Memorandum

TO : SAC, NY (100-37158)

DATE: 2/27/63

FROM : SA [REDACTED] 332 B7C

SUBJECT: MORTON SOBELL  
ESP - R

Attached for inclusion in the exhibit section of this file is a copy of the decision of the United States Court of Appeals, for the Second Circuit, of 2/6/63, in which the court affirmed the conviction and sentence of MORTON SOBELL. This copy of the decision was furnished to SA [REDACTED] by AUSA ROBERT J. GENIESSE, SDNY, NYC, on 2/15/63. A copy of this decision has been furnished to the Bureau.

B7C

① 100-37158

CWM  
(1)

100-37158-2114  
[Handwritten signature]

SAC, ATLANTA

3/18/63

SAC, NEW YORK (100-107111)

COMMITTEE TO SECURE JUSTICE  
FOR MORTON SOBELL  
IS-C

Identity of Source

[REDACTED] B7D

Description of info

Committee to Secure  
Justice for MORTON  
SOBELL meeting.  
2/21/63

Date Received

[REDACTED] B7D

Original where located

[REDACTED] B7D

A copy of informant's report follows:

- 1 - Atlanta [REDACTED] (RM)
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - 100-107111 (MORTON SOBELL) (424) B7C
- 1 - 160 (MORTON SOBELL)
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - [REDACTED]
- 1 - 100-107111 (41)

JJ:kmk  
(10)

100 37158-2117

SEARCHED  
SERIALIZED  
INDEXED  
FILED

MAR 21 1963

FBI - NEW YORK

[Handwritten signature]

February 28, 1963

A group met on February 27, 1963, at the Community Church, 37th Street and Park Avenue, New York, New York, to listen to speakers protesting the imprisonment of MORTON SOBELL.

MURRAY BRANCH from Atlanta, Georgia introduced the speakers.

ANOUS CAMERON, a publisher discussed the Sobell case from its beginning to the present. He said that human perfectibility was impossible but that progress could and should be made.

ROSE SOBELL the mother of MORTON SOBELL, made a plea for his release.

The film MORTON SOBELL -- A Plea for Justice" was shown.

HELEN SOBELL, protested ROY COHEN's comments on HARRY GOLDY's program. She wrote a letter asking that she be allowed to confront ROY COHEN on radio. She conducted the fund raising campaign [REDACTED] b7D

ROLAND WATTS said that an appeal would be made on SOBELL's behalf to the Supreme Court. He discussed the Greenwald case and its application to ETHEL ROSENBERG.

DEAN MC NAMARA of the New York Institute of Criminology said that SOBELL had met all the requirements that normally determine parole. He said that SOBELL's imprisonment was an injustice.

Rabbi BRUCKNER made a plea for his release on the grounds that he was not a number but a human being.

A rally will be held on the 10th anniversary of the execution of the ROSENBERGS at Carnegie Hall.

Approximately 500 people were present at Community Church on February 27, 1963.

100-37158-2117

FILE # 100-37158

SUBJECT MORTON SOBELL

SERIAL 2118 DATE 4.2.63

CONSISTING OF 2 PAGES

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

UNITED STATES GOVERNMENT

# Memorandum

TO : SAC, NY (100-37158)

DATE: 4/15/63

FROM : SA [REDACTED] 332  
B7C

SUBJECT: MORTON SOBELL  
ESP - R

Re NY airtel, this date, advising that according to AVSA Robert J. Geniese, SDNY, NYC, petition for certiorari to the Supreme Court was filed by subject's attorneys on or about 4/6/63 together with application to proceed in forma pauperis.

It is recommended that this case be reopened for the purpose of following the Supreme Court's determination of this matter.

① 100-37158  
CAM  
① 4/17/63  
ORIGIN NY DATE 4-15-63  
SUPV [initials] SGT 332

100-37158-2119  
SEARCHED INDEXED  
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B7C #332

U.S. SUPREME COURT  
FILED

APR 5 1953

JULY 1953

IN THE  
SUPREME COURT OF THE UNITED STATES  
October Term, 1952

No. **1333** MISC.

MORTON SOBELL,

Petitioner,

v.

THE UNITED STATES OF AMERICA.

PETITION FOR WRIT OF CERTIORARI

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OF COUNSEL:

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IN 1951

SUPREME COURT OF THE UNITED STATES

October Term, 1951

No.

MORTON SOBELL,

Petitioner,

v.

THE UNITED STATES OF AMERICA.

PETITION FOR WRIT OF CERTIORARI

Petitioner, Morton Sobell, prays that a writ of certiorari issue to review the decision of the United States Court of Appeals for the Second Circuit affirming an order of the District Court for the Southern District of New York, denying petitioner's motion to vacate his conviction and sentence pursuant to Title 23 U.S.C. § 2035, and, in the alternative, to reduce his sentence pursuant to Rule 35 of the Federal Rules of Criminal Procedure.

WRITING BY

The opinion of the Court of Appeals is not reported

and appears in the record at 18-30912

#### JURISDICTION

The judgment of the Court of Appeals was entered on February 6, 1963 (31a). On March 4, 1963, by order of Mr. Justice Harlan, the time for filing this petition for writ of certiorari was extended to and including April 6, 1963. The jurisdiction of this Court is invoked pursuant to the provisions of 28 U.S.C. 1254(1).

#### GROUND'S FOR RELIEF

##### A. The Improper Cross-Examination of Petitioner's Co-Defendant and Witness Ethel Rosenberg.

Petitioner's defense rested upon the testimony of his charged co-conspirators, Julius and Ethel Rosenberg. In the cross-examination of Ethel Rosenberg, whose testimony corroborated and supported that of her husband, Julius Rosenberg, both the trial court and the prosecution repeatedly questioned her with reference to her prior invocation of the Fifth Amendment privilege before the grand jury as to those very same questions which she had answered in the course of the trial. The trial court and the prosecution sought to

\* References followed by "a" are to the proceedings in the United States Court of Appeals. References prefixed by "App." are to the petitions as appended in the United States Court of Appeals. References prefixed by "R." are to the transcript of records filed in this Court in *Joseph v. United States* and *Sobell v. United States*, 377 U.S. 11 and 112, October Term, 1964.

established by this questioning that her testimony had value and that the prior assertion of the privilege constituted evidence of her ultimate guilt. By so doing the value of her testimony and that of her husband was destroyed. In these circumstances the constitutionally impermissible cross-examination destroyed petitioner's defense and deprived him of a fair trial and due process of law.

B. The "In Time of War" Ground

The indictment under which petitioner was convicted charged that he had joined the conspiracy "in time of war." The sentence imposed upon petitioner was pursuant to the wartime sentencing provision of the Espionage Act of 1917. However, the trial court failed to charge the jury that it had to find that petitioner joined the conspiracy in "time of war". This essential element of the offense was neither charged nor explained to the jury. Hence, the conviction and sentence are constitutionally deficient and subject to collateral attack.

"Time of War" as applied to the Espionage Act of 1917 refers solely to a period of actual hostilities. The nature of the evidence adduced against petitioner as to alleged wartime membership in the conspiracy was such as to raise a substantial question of fact which was required to be resolved by the jury. Absent such finding by the jury, petitioner was without power to receive a wartime sentence.

Therefore, assuming arguendo that the conviction was valid, petitioner is entitled to be resentenced under the present provisions of the Espionage Act of 1917, pursuant to Rule 34 of the Federal Rules of Criminal Procedure.

QUESTIONS PRESENTED

I. Whether relief is available under Title 28 U.S.C. §2255 to a petitioner under the following circumstances:

A. There were three charged co-conspirator-defendants in this case; the defense of all three of them rested on the interrelated testimony of two of them, Julius and Ethel Rosenberg. Their testimony was corroborative of each other and established, if believed, the innocence of all three. Petitioner, the third charged conspirator, did not testify in his own defense, but relied on the testimony of his co-defendants to establish his innocence. The direct testimony of Ethel Rosenberg was attacked in an intensive cross-examination, in excess of 125 questions, over half of her cross-examination conducted by court and prosecutor concerning her invocation of the privilege against self-incrimination before the grand jury. These questions were calculated to demonstrate:

(a) Her prior plea of the fifth Amendment before the grand jury was inconsistent with her responses to the same questions at the trial and that her responses were therefore untruthful.

(b) The reason for her plea was her consciousness of guilt and her desire to avoid confessing it with a minimum of risk.

II. Whether relief is available under Title 28 U.S.C. §2255 to a petitioner under the above-described circumstances because:

A. The impermissible interrogation and comment on the constitutional privilege by court and prosecutor deprived petitioner of due process of law.

B. The impermissible interrogation and comment on the constitutional privilege by court and prosecutor, while error not of constitutional magnitude, is subject to collateral attack by virtue of exceptional circumstances in that petitioner did not seek review of the misconduct of court and prosecutor because:

(a) The Court's decision in Raffel v. United States, 271 U.S. 494 (1926), and the decision in the court below in United States v. Gottfried, 165 F. 2d 360, 367, cert. denied 333 U.S. 860 (1948) were legal barriers to review of such misconduct in procedure of the trial.

(b) Petitioner did seek review on appeal of the unfairness of the trial.

III. Whether relief is available under Title 28 U.S.C. §2255 to a petitioner under the above described circumstances

where he relied on his own constitutional right of silence in the face of the destructive cross-examination of Ethel Rosenberg as to her own silence before the grand jury, thereby permitting the jury to draw an adverse inference as to petitioner's guilt and depriving him of a fair trial.

IV. Whether, in petitioner's trial under a statute which permitted a maximum sentence of 30 years imprisonment only if the offense were committed in time of war (otherwise the maximum sentence was 20 years imprisonment) and the court failed to define "time of war" or submit the issue of when petitioner joined the conspiracy to the jury, such failure on the part of the trial judge entitles petitioner to relief under Title 28 U.S.C. §2255.

V. Is "time of war" such an essential element of the crime as to deprive petitioner of due process of law by reason of the trial court's failure to mention, define or explain such essential element in its charge to the jury?

VI. If it was not of constitutional proportions and it nevertheless serious and excusable as to petitioner in view of this Court's later ruling in *Wainwright v. Mitty*, 358 U.S. 229 (1959) so as to warrant setting aside the judgment of conviction on collateral attack?

VII. Whether the error of the trial court is sufficient to

charge the jury on an essential element of the crime which was the sine qua non of the 30 year sentence imposed, petitioner is now entitled to be returned to the sentencing court and be resentenced under Rule 35 of the Federal Rules of Criminal Procedure.

VIII. Whether, as a result of the failure to charge the jury on the subject of the "time of war" issue, the court was without power to impose sentence and therefore the sentence was illegal and hence correctible under Rule 35 of the Federal Rules of Criminal Procedure.

#### STATUTES INVOLVED

The constitutional and statutory provisions involved herein are the Fifth and Sixth Amendments to the Constitution; Title 28, U.S.C. §2255; Rule 35 of the Federal Rules of Criminal Procedure; the Espionage Act of 1917 §32 (a); and are hereinafter set forth:

#### Fifth Amendment

"No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation."



Sixth Amendment

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the Assistance of Counsel for his defence."

Title 28, United States Code

"§ 2255. Federal custody; remedies on motion attacking sentence

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

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

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

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

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

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

"An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this section, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced him, or that such court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention."

### Federal Rules of Criminal Procedure.

#### "Rule 35. Correction or Reduction of Sentence

"The court may correct an illegal sentence at any time. The court may reduce a sentence within 60 days after the sentence is imposed, or within 60 days after receipt by the court of a mandate issued upon affirmance of the judgment or dismissal of the appeal, or within 60 days after receipt of an order of the Supreme Court denying an application for a writ of certiorari."

### The Espionage Act of 1917, § 32 (a) provided in relevant part:

"Whoever, with intent or reason to believe that it is to be used to the injury of the United States or to the advantage of a foreign nation, communicates, delivers, or transmits, or attempts to, or aids or induces another to, communicate, deliver, or transmit, to any foreign government, or to any faction or party or officer or naval force within a foreign country, whether recognized or unrecognized, or to the United States, or to any representative, officer,

agent, employee, subject, or citizen thereof, either directly or indirectly, any document, writing, code book, signal book, sketch, photograph, photographic negative, blue print, plan, map, model, note, instrument, appliance, or information relating to the national defense, shall be punished by imprisonment for not more than twenty years: Provided, That whoever shall violate the provisions of subsection (a) of this section in time of war shall be punished by death or by imprisonment for not more than thirty years.

STATEMENT OF CASE

Prior Proceedings

On March 29, 1951, petitioner along with his co-defendants Julius and Ethel Rosenberg, after a trial by jury, was found guilty of conspiring to transmit information relating to the national defense of the United States in violation of 50 U.S.C., §32(a). On April 5, 1951, petitioner was sentenced to 30 years imprisonment under the wartime provisions of the statute and the death penalty was imposed upon his co-defendants. The Court of Appeals for the Second Circuit affirmed petitioner's conviction, Judge Frank dissenting, 1951, 80 F.2d 1001.

Petitioner is presently detained in the United States Penitentiary at Atlanta, Georgia, and has been in Federal custody since August, 1950.

In 1957, after the decision of the Supreme Court in United States v. Grunewald, 351 U.S. 391, petitioner filed a petition to vacate the orders of the Supreme Court denying petitioner's writs of certiorari and rehearing, and for leave to

file a belated petition based upon the decision of the Supreme Court in Grunewald. This was an out-of-time and out-of-order application, made approximately five years after the consideration of the original petition, and was opposed by the government primarily on the grounds that it was belatedly filed, and the issue there raised had not been raised in the original petition for certiorari or in a timely petition for rehearing. On October 28, 1957, the motion was denied, 355 U.S. 865.\*

The Improper Cross-Examination of Petitioner's Co-Defendant and Witness, Ethel Rosenberg.

The Interdependent Aspect of the Government's Case

Julius Rosenberg was arrested on July 17, 1950. On August 7 and 11, 1950, Ethel Rosenberg, wife of Julius Rosenberg, was subpoenaed by the grand jury and after consultation with her counsel appeared and testified. At the time of her appearance both her husband and her brother, David Greenglass, were already in custody, charged with conspiracy to commit

\* Of course, as stated by the court below, the denial of a petition for writ of certiorari, certainly an out-of-time motion to file a belated second petition for rehearing, cannot be considered a determination by this Court of the merits or validity of the issues there raised. See State of Maryland v. Baltimore Radio Show, 338 U.S. 912; Beidger v. California, 314 U.S. 252; Tomasko v. Florida, 328 U.S. 341; Craig v. Harney, 331 U.S. 367; Shawcross v. State of Ohio, 332 U.S. 912; cf. Saith v. U.S., 240 F. 2d 981 (C.A.D.C.).

espionage. On August 11, 1950, following her second appearance before the grand jury, Ethel Rosenberg was arrested. Morton Sobell, petitioner, was arrested on August 16, 1950.

The major portion of the evidence related to the Rosenbergs. The principal witnesses against the Rosenbergs were Ruth and David Greenglass, sister-in-law and brother of Ethel Rosenberg, and Max Elitcher. As stated by the lower court, (5a):

"The Government's case against Sobell rested almost wholly on the testimony of Max Elitcher, who in addition to testifying to some independent attempts at espionage by Sobell linked him closely with Julius Rosenberg. The latter contradicted the testimony of Elitcher with respect to Sobell, as did also the testimony of David and Ruth Greenglass and Harry Gold with respect to the disclosure of atomic secrets by him and his wife."

While Elitcher's testimony was the only evidence introduced to implicate petitioner in the charged espionage, testimony was also presented for the purpose of establishing "consciousness of guilt" that Sobell and his family had gone to Mexico and during a portion of his stay there were spotted under assumed names. This evidence was further bolstered by the prosecution on the grounds that part of the conspiracy was a plan to flee the country through Mexico in the event there was danger of apprehension. Testimony was presented that the Rosenbergs had made inquiry in connection with a trip to Mexico and that they had obtained passport photos in anticipation of leaving the country.

As stated by the court below, all of Elitcher's testimony against petitioner was inextricably bound and related to the alleged relationship between petitioner and Julius Rosenberg. Indeed, in summarizing the testimony of Elitcher as it related to petitioner, the government in the District Court demonstrated that it was dependent upon the joint involvement of Julius Rosenberg with petitioner (Government's Brief on Appeal, p. 11):

"According to Elitcher, Sobell had suggested that Elitcher visit Rosenberg, implying that the visit would have to do with espionage. Elitcher did visit Rosenberg and told him that Sobell had suggested it.

\* \* \* \* \*

"Elitcher also testified that in 1948, when he was contemplating leaving Naval Ordnance for a job in private industry, Sobell and Rosenberg tried to dissuade him from leaving because someone was needed at Naval Ordnance for espionage purposes.

\* \* \* \* \*

"Elitcher also described an automobile trip with Sobell in 1948 into lower Manhattan for the purpose of delivering to Julius Rosenberg a 35 millimeter film can (R. 353-5). On that occasion Sobell described the information he was delivering to Rosenberg as 'too valuable to be destroyed and yet too dangerous to keep around.' (R. 354). On the way home Sobell stated that Elitcher did not have to worry about being under surveillance because Julius Rosenberg had said that he had once 'talked to' Elizabeth Bentley (who was then revealing to the authorities her prior espionage activities) on the telephone but was 'pretty sure' she did not know who he was (R. 354-6).

"Elizabeth Bentley also testified to the effect that she had been involved in transmitting in-

formation to Russian agents. Specifically, she mentioned accompanying a Russian agent named Golos to lower Manhattan in 1942 where the agent received an envelope from 'an engineer' in the vicinity of Knickerbocker Village (R. 1454-60). She then described receiving intermittent telephone calls from one 'Julius' up to late 1943 (R. 1463-4). 'Julius' lived in Knickerbocker Village (R. 1469). Julius Rosenberg was in fact an engineer and in 1942 had at that time lived in Knickerbocker Village (R. 1561-2). Bentley's role was to relay the telephone messages to Golos. She was in effect a 'go-between' (R. 1467-72)."

Petitioner's entire defense was based on the testimony of Julius and Ethel Rosenberg.

Julius Rosenberg, the first witness for the defense, denied point by point the government's testimony seeking to implicate him in the conspiracy. He not only denied the testimony of Ruth and David Greenglass, but he asserted his complete innocence as well as that of his wife and relatives. He was interrogated both by his counsel and the prosecution specifically with reference to the testimony of Elitcher, his relationship with Elitcher and the specific testimony of Elitcher relating to Sobell and Julius Rosenberg. Julius Rosenberg's responses were uniformly directly in conflict with that of Elitcher.

Both on direct examination, examination by petitioner's counsel and in the course of cross-examination by the government, Julius Rosenberg was asked to and did testify concerning his relationship with petitioner and Elitcher. The testimony, it is believed, would have established that neither the Rosenbergs

nor petitioner were involved in any conspiracy or illegal activity and further demonstrated the falsity of Elitcher's testimony.

The record is replete with testimony of the Greenglasses that Ethel Rosenberg and Julius Rosenberg were jointly involved in the alleged espionage ring; that they were involved with the Greenglasses in obtaining information about the atomic bomb; that Ethel Rosenberg had helped prepare typed material delivered to her husband. The government contended that there was dual complicity on the part of Ethel and Julius Rosenberg.

#### The Cross-Examination of Ethel Rosenberg

Upon the completion of the testimony of Julius Rosenberg, petitioner's co-defendant and second chief witness, Ethel Rosenberg, took the stand. In addition to presenting evidence to establish her innocence, she corroborated point by point the testimony of her husband. Since the testimony of Julius and Ethel Rosenberg was mutually consistent and interdependent, the acceptance of her testimony would have resulted in the rejection of Elitcher's testimony.

As stated by the trial court in its charge to the jury, the crucial issue was one of credibility. Who would be believed -- the prosecution witnesses, the Greenglasses and Elitcher, or the defendants, Julius and Ethel Rosenberg?



The main thrust of the prosecution's examination of Ethel Rosenberg was to elicit the fact that she had asserted her Fifth Amendment privilege before the grand jury to many questions which she answered in the course of the trial in support of her innocence. Indeed, more than one-half of her entire cross-examination, in excess of 125 questions, was directed solely to her assertion of the privilege before the grand jury and the adverse inferences which were to be drawn therefrom. This cross-examination was utilized as a means of impeaching her credibility and as independent evidence of her guilt. The trial jury was made to believe that if Ethel Rosenberg asserted the privilege there was a contradiction between her trial testimony affirming her innocence and the prior assertions.

The impact on the jury of this cross-examination was magnified by the trial court's promiscuous indulgence in the interrogation of the witness along the same lines. The trial court in effect told the jury that there was an inconsistency between an innocent answer and a prior assertion of the privilege. The court went further; it made it clear to the jury that if she honestly asserted the privilege before the grand jury, she had something to hide and that the assertion was therefore evidence of her guilt.

Illustrative of the foregoing techniques of both the court and prosecution are the following extracts from the record:

The prosecution, after bringing out the fact that Ethel Rosenberg asserted the privilege before the grand jury to a question which she answered at the trial consistently with innocence, asked the following question (R. 1373):

"Q. Was that the truth?"

Counsel for the defense objected on the ground that there was no inconsistency between the assertion of the privilege and her subsequent response to the same question. In reply and in the presence of the trial jury, the court made the following comment (R. 1373):

"Do you also contend that that would not be something for the jury to consider on the question of credibility?"

And further (R. 1373):

"Supposing a question is asked today which the witness answers, the same question asked previously which the witness refused to answer on the ground that it may tend to incriminate her; now, my query is, might not that be something which the jury would consider on the question of credibility?"

Mrs. Rosenberg responded (R. 1374):

"A. Was what the truth? That I answered the question that way?"

Q. That you answered that to disclose whether you had consulted with your lawyers about this matter would incriminate you?"

The court, pursuing this line, went on to ask her

(R. 1374, R. 1375):

"Q. The fact of the matter is that you have no objection today to giving the answer to that?"

A. That's right.

Q. And what was your answer today as to if you consulted your lawyer?

A. Sometime after my husband had seen him the day, the evening of the day he was interrogated by the FBI.

Q. And today you feel there is nothing incriminating about that answer?

A. No.

Q. But at that time, before the grand jury, you did?

A. I must have had some reason for feeling that way.

Q. Now, what was the reason?

A. I couldn't say at this time.

The Court: In your own interest, I think you ought to think about it and see if you can give us some reason.

The Witness: I really couldn't say."

In response to a question by the prosecution, Ethel Rosenberg denied that she had discussed the case with her brother, David Greenglass. Thereupon, the prosecution elicited the fact that she invoked her Fifth Amendment privilege to the same question before the grand jury. She was then asked whether the assertion of the privilege was honest (R. 1375):

"Will you please tell me whether the answer when you gave it to the grand jury as to whether or not you had spoken to your brother, David Greenglass, to the effect that the answer might tend to incriminate you, was true then or false?"

A. It was true because my brother, David, was under arrest."

The prosecutor then asked:

"Q. How would that incriminate you, if you are innocent?"

Over her counsel's objection the trial court presented the question and she responded:

"A. - and as long as I had any idea that there might be some chance for me to be incriminated, I had the right to use that privilege."

The court then commented (R. 1376):

"At any rate, you don't feel that way about that question today, do you? You have answered when you talked to your brother, Dave, right here in this Courtroom, haven't you?"

After referring to an alleged contradiction created by her assertion of the privilege before the grand jury and a response in the trial court, the court put the following question to Mrs. Rosenberg (R. 1377):

"Now let me ask a question. If you had answered at that time that you had never spoken to David, for reasons best known to you, you felt that that would incriminate you?"

The Witness: Well, if I used the privilege of self-incrimination at that time, I must have felt that perhaps there might be something that might incriminate me in answering.

The Court: All right, proceed."

Then the prosecutor asked (R. 1378):

"Q: As a matter of fact, at that time you didn't know how much the FBI knew about you and so you weren't taking any chances; is that it?"

Presenting this question again, the prosecutor declared (R. 1377):

"Of course, you didn't know, so you weren't taking any chances in implicating yourself or your husband?"

At this stage, counsel for Mrs. Rosenberg moved for a mistrial (R. 1378). The motion was denied (R. 1379). The prosecutor then returned to the attack (R. 1379):

"Would you explain, please, how the fact of whether or not you had talked with David Greenglass regarding this matter applied to possible incrimination, if you had had nothing to do with his activities?"

In the face of an objection by the defense to this whole line of inquiry, the prosecutor stated, still in the presence of the jury (R. 1381):

"I think on the general pattern of the case I have a right to proceed in continuity without interruption, to show the contrast between the witness's position before the grand jury and her position here, and the jury can best judge on the panorama that I paint as I go along."

Before the grand jury Mrs. Rosenberg was asked whether she recollected a furlough visit of her brother to New York (R. 1381). She asserted the privilege as to that question (R. 1381). On direct examination she had answered the question (R. 1312, 1315). The court then brought out that she had changed her position. The following ensued:

By the Court:

"Q. You did answer that question here in Court, didn't you? You did remember the furlough visit?"

A. Yes.

Q. So that you had no objection here upon any grounds, whether it is incrimination or anything else, to answering that question [R. 1381, 1382]?

A. That's right.

Q. However, before the grand jury, you did assert your privilege, did you not?

A. Yes.

Q. He wants to know what the reason for it was at that time?

A. The only reason was that my brother was under arrest.

Q. You mean you didn't feel it would incriminate you?

A. Well, if I answered that I didn't want to answer the question on the grounds that it might incriminate me, I must have had a reason to think it might incriminate me."

The prosecution then through the following questions sought to establish that Ethel Rosenberg was fearful that her answers might involve her personally in a criminal prosecution (R. 1383):

"All right, then your concern solely was as to whether or not you might be incriminated, isn't that so?"

Whereupon the court questioned her again (R. 1383):

"Has something transpired between the time you were questioned before the grand jury and the date of this trial which makes you feel that your answers at this time, at the trial, to those particular questions are not incriminating, and if so, what is it?"

The prosecution then returned to the same theme and asked the following series of questions (R. 1383):

"Q. Do you remember this question and this answer: 'Did you invite your brother David and his wife to your home for dinner? I mean during the period while he was on furlough in January of 1945?' A. I decline to answer on the ground that this might incriminate me.' Do you remember giving that testimony?"

A. Yes, I remember.

Q. Was it true at the time you gave it? Yes or no?

A. It is not a question of it being true."

The court commented in such a manner as to destroy Mrs. Rosenberg's credibility, stating (R. 1384):

"The Court: However, when a witness freely answers questions at a trial, the answers to which, the answers to the very same questions to which the witness had refused to answer previously upon a ground assigned by that witness, I ask you, is that not a question then for the jury to consider on the question of credibility?"

Thereupon the court instructed the witness to answer the previous question, whether she had honestly asserted the privilege (R. 1385)..

The prosecutor then gave deadly reality to the purpose of the joint interrogation by asking (R. 1386):

"What you are saying is that you were under no compulsion to confess your guilt in respect to this conspiracy?"

The questioning pursued the theme that her invocation of the privilege before the grand jury constituted, according to the court and prosecution, a contradiction of

her testimony. After pointing up the "contradiction" the prosecutor in each instance would pose the question, "Was it truthful?" (R. 1388-1394)

The prosecutor asked (R. 1394):

"In spite of the fact that you have denied these things here in Court, does this testimony perhaps refresh your recollection that perhaps you did talk with Greenglass in 1944 and 1945 about the atom bomb and nuclear fission, and things like that?"

After quoting from the grand jury minutes wherein she had declined to answer a question concerning knowledge of the alleged Soviet courier Yakovlev, the following questions were asked and answers given (R. 1394):

"Q. And yet you had never met Yakovlev in your life?"

A. That is right.

Q. Would you care to explain how you might be incriminated on the basis of that question and answer?"

Then the omnibus question was asked (R. 1395, 1396):

"Q. Is it not a fact that after consultation with your lawyer, in the course of your two appearances before the grand jury you refused to answer any questions asserting your privilege against self-incrimination insofar as you were asked questions relating to the employment, the activities of your brother David at Los Alamos in 1944 and 1945, insofar as concerned his wife, insofar as concerned Harry Gold and insofar as concerned Yakovlev, and insofar as concerned your association and your husband's association in connection with these people whom I have mentioned relating to the theft from Los Alamos of material relating to the development and production of the atomic bomb and the objective of delivery to the Soviet Union?"



"A. It is a fact that I exercised my privilege against self-incrimination whenever I felt the need to do so."

By the Court (R. 1396):

"Q. But you did not exercise that privilege here in court with respect to that same subject matter?

A. No."

By Mr. Saypol (R. 1396, 1397):

"Q. That need you felt was necessary for assertion by you so that you would not incriminate yourself, is that right?

A. I said that I used the right against self-incrimination.

Q. Is it not a fact that at the conclusion of the grand jury proceeding at which you were present as a witness this was said to you:

"Q. Is there anything else you want to tell us about this entire matter? A. No.

Q. Any statement you want to make to the jury? A. No."

Q. Did that occur?

A. Yes.

Q. Did you make any statement?

A. No.

Q. Did you make any answer?

A. No.

Q. You knew by that time that your husband was under arrest in connection with this crime?

A. Yes, he was under arrest.

Q. You knew at that time, too, that you were suspect, did you not?

A. I really didn't know if I knew it.

Q. Didn't you think it appropriate at that time to make a complete statement such as you have made here denying any possible connection or complicity in this matter?

A. I had gone to the grand jury to answer any questions they might put to me and that I did. It didn't occur to me that it was something I was supposed to do, to make any kind of statement.

Q. Without exception you have refused to answer these questions because of the privilege which you had been advised you enjoyed?

A. Not without exception.

Q. You mean you told the name of your lawyer --

On redirect, counsel for Mrs. Rosenberg asked her whether she believed herself guilty of espionage at the time of her assertion of her privilege before the grand jury at the time of her testimony in the course of the trial (R. 1396). Her answer was "no".

The court thereupon asked (R. 1398):

"So there was no difference in your position then than there is today?"

In the face of an avowal of innocence made by Mrs. Rosenberg in response to that question, the court asserted (R. 1398):

"The point is, you answered these questions at the trial and refused to on the ground that it would tend to incriminate you before the grand jury."

The re-cross examination was again limited to her assertion of the privilege before the grand jury (R. 1400).

as was the second re-cross examination (R. 1401, 1402).

After the testimony of Mrs. Rosenberg, the defense rested (R. 1402).

The Use of This Line of Cross-Examination in the Government's Summation

The prosecution, attacking the credibility of the defense witnesses and insisting upon their guilt, opened the summation by declaring (R. 1509):

"If there has been any fooling, you will remember that one of the defendants made blanket negatives, blanket answers, in denial as to whether she knew Harry Gold, as to whether she had ever talked to David Greenglass about his work at Los Alamos, as to whether she or her husband ever talked about atomic bombs, and yet I showed you that in the grand jury, on the advice of her counsel, she refused to answer those questions on the ground that to answer them would be self-incriminating.

"In the grand jury:

'Did you ever know Harry Gold? A. I refuse to answer on the ground that it tends to incriminate me.

'Q. Did you consult your counsel, Mr. Bloch, before you made that answer? A. Yes.'

"I leave it to you as to who may have been fooled."

The Use of This Line of Cross-Examination in the Court's Charge

The court in its charge to the jury concluded by referring to the invocation of the privilege by Ethel Rosenberg, stating (R. 1566):

"The defendant Ethel Rosenberg was cross-examined concerning her refusal to answer certain questions when she appeared before the grand jury on the ground that the answers might tend to incriminate her. Her failure to answer such questions is not to be taken as establishing the answers to any questions she was asked before the grand jury, but may be considered by you in determining the credibility of her answers to those same questions at this trial."

Counsel for the defense excepted to the court's charge in this respect (R. 1567, 1568).

#### The Original Appeal

On direct appeal to the Court of Appeals from the judgment of conviction and in an unsuccessful petition for certiorari, petitioner did not specifically seek review of the right of the prosecution and court to exploit a witness' resort to the Fifth Amendment privilege to impeach credibility.

This is understandable enough in the light of this Court's opinion in Raffel v. United States, 271 U.S. 494 and the Second Circuit's decision in United States v. Gottfried, 165 F. 2d 360, cert. denied 333 U.S. 860. However, petitioner along with the Rosenbergs did, in a general attack on the fairness of the trial, protest the reiterative stress in the questioning of Mrs. Rosenberg.\*

\* When, in 1957, petitioner moved to vacate the orders of this Court denying his petition for rehearing and for a writ of certiorari and for an order granting certiorari based on the Grainwald decision, the government, in opposing this motion,

Facts Relating to the Issue of  
"Time of War"

The Indictment

The superseding indictment under which the petitioner was tried and convicted stated in part (R. 2)

"On or about June 6th, 1955, up to and including June 16, 1950, at the Southern District of New York, and elsewhere, Julius Rosenberg, Ethel Rosenberg, Anatoli A. Yakovlev, also known as 'John', David Greenglass and Morton Sobell, the defendants herein; did; the United States of America then and there being at war, conspire . . . to violate subsection (a) of Section 32, Title 50, United States Code . . . "

The Evidence

The only testimony relating to petitioner and the charged conspiracy prior to September 2, 1945, the date of cessation of actual hostilities, is as follows:

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contended that petitioner did not raise the Grunewald question in his petition for a writ of certiorari (Memorandum for the United States in Opposition p. 4, n. 5).

In this 2255 proceeding the government took the position in the District Court that the Grunewald question was not raised by petitioner on his original appeal (Memorandum of the United States in Opposition, p. 68). Nevertheless, the District Court concluded that the "precise point" was raised on the original appeal and in Sobell's petition for a writ of certiorari (App. 227, 228).

The government changed its position in the court below, contending that petitioner did raise the Grunewald issue on his original appeal and his petition for a writ of certiorari (Brief for the United States in Opposition, p. 20). However, the court below concluded that this issue had not been previously raised by Sobell either on his original appeal or in his petition for a writ of certiorari (3a, 14a).

There was testimony by Eitcher of a conversation with Julius Rosenberg in the absence of Sobell in June of 1944. At that conversation Eitcher said that Rosenberg had told him that Sobell was also helping in getting information to the Soviet Union (R. 235-237).

During the week preceding Labor Day 1944, Eitcher testified, he and his wife went on a camping expedition with Sobell and his wife, and further testified as follows concerning a conversation with Sobell (R. 239):

"A. I told him [Sobell] \* \* \* that Julius Rosenberg had visited me \* \* \* at my home, and had asked me whether I would contribute military information to Russia, and in the course of that he said you, Sobell, were also helping in this. At this point he became very angry and said 'he should not have mentioned my name. He should not have told you that.' I tried to explain that Rosenberg knew that he had seen me. So he probably felt safe about it. He said - he was still angry and said, 'it makes no difference, he shouldn't have done it.'"

The only other testimony concerning petitioner related to 1946 and later (R. 245-248, 251-263).\*

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\* The court below, in denying petitioner relief, stated (17a): "But whereas the evidence as to the disclosure of atomic secrets by the Rosenbergs, in which Sobell was not proved to have participated, related principally to the period prior to the surrender of Japan on September 2, 1945, the greater portion of the evidence against Sobell concerned 1946, 1947 and 1948."

The Charge

After characterizing the offense charged, the court then set forth in synoptic fashion the essential elements of the offense, once again omitting any reference or mention of "time of war". At no time did the court ask the jury to determine when the petitioner had joined the conspiracy. Thus, the jury was not permitted to assess whether, upon the facts in the record, the petitioner joined the conspiracy "in time of war".

On sentencing the defendants, the trial court made the following comments (R. 1613):

"The incongruent penal provisions of the statute are spotlighted by the 20-year maximum imprisonment provision for commission of the offense of espionage during peacetime. I ask that some thought be given to that for a moment, for it most likely means that even spys (sic) are successful in the year 1951 in delivery to Russia or any foreign power our secrets concerning the newer type atom bombs, or even the H-bomb, the maximum punishment that any Court could impose in that situation would be 20 years. I, therefore, say that it is time for Congress to re-examine the penal provisions of the espionage statute.

"In the case before me the conspiracy as alleged and proven commenced on or about June 6, 1944 at which time the country was at war. Overt acts were committed during the period of actual hostilities. Therefore, the maximum penalty is death or imprisonment for not more than 30 years."

In sentencing petitioner, the trial court stated

(R. 1620):

"I do not for a moment doubt that you were engaged in espionage activities; however, the evidence in the case did not point to any activity on your part in connection with the atomic bomb project."

### The Decision of the Court of Appeals

The court below, in an opinion by Judge Friendly, affirmed the trial court's order denying petitioner's motion under §2255. The court recognized at the outset that the areas covered by §2255 are vaguely bounded and that the circumstances under which relief is available are not clearly defined.

The court below acknowledged that the questioning of Ethel Rosenberg probably fell within the proscription of the Grunewald case. It further conceded that in a direct -- as opposed to a collateral -- review of Mrs. Rosenberg's conviction, the improper use of her claim of the Fifth Amendment privilege before the grand jury to impeach her at the trial would constitute a ground for reversal of petitioner's conviction. However, it held that relief was not available under §2255. The court, guided largely by Sumi v. Laska, 332 U.S. 174, ruled that relief is available by collateral attack under the first clause of §2255 only when there has been (a) a significant denial of a constitutional right even where the failure to appeal was not justifiable or (b) a serious defect in the trial itself or constitutional dimension, which was either not correctable at all on appeal or, if



correctible, was not appealed because of "exceptional circumstances".

The court held that prejudice resulting from the improper use of the claim of the Fifth Amendment was not ruled in the Grunewald case to be of constitutional dimensions and that even if Grunewald could be construed to be constitutionally grounded, such constitutional injury must be confined (because of the personal nature of the constitutional privilege) to the person whose claim of privilege was later used to impeach him.

The court, proceeding to the second ground of possible relief under the first clause of §2255 found no greater justification for petitioner's failure to appeal than in Sunal v. Large. The court found that the policy favoring finality of litigation was not subordinated to petitioner's claim to the right of a new trial under the circumstances present here, especially since a new trial might now result in the release of petitioner from further punishment. In contrast, the court concluded, had a direct appeal reversed the conviction a new trial would probably not have resulted in an acquittal.

The court below conceded that "a defendant being tried under §32(a) was entitled on proper request, to have the jury determine whether any violation of the statute on his part occurred. In this respect as they then would be directed for the jury by the judge". The court recognized,

moreover, that some of the testimony of Stitzel linking Sobell to the conspiracy covered a period when the "war" could be said to have ended as a matter of law. The court ruled, further, that a jury could properly have been asked to determine whether petitioner had joined the conspiracy "in time of war" (as judicially determined) or at some later date.

The court ruled, however, that the silence of the jury as to the date, if any, when petitioner joined the conspiracy was of no constitutional significance since the court had not been requested to submit an instruction to the jury on this issue.

The court further ruled that the failure to obtain from the jury a finding on the subject of the date of petitioner's joining the conspiracy did not warrant reversal under §2255 because this omission did not seriously affect petitioner's trial nor did exceptional circumstances excuse his failure to raise the point at trial or on appeal.

The court further held that Rule 35 of the Federal Rules of Criminal Procedure afforded no basis for relief since that rule was confined to correcting a sentence illegal on its face.

REASONS FOR GRANTING THE WRIT

The Cross-Examination of Ethel Rosenberg

1. Petitioner's entire defense depended upon the testimony of his two co-defendants, Julius and Ethel Rosenberg. The conduct of the trial court and the prosecution in the cross-examination of Ethel Rosenberg was so grossly unfair and improper that it destroyed her testimony, and made a guilty verdict as to all defendants inevitable.

Mrs. Rosenberg had appeared before the grand jury a few days after the arrest of her husband and brother, both charged with conspiring to commit espionage. The nature of her examination before the grand jury related to her alleged involvement in the charged conspiracy and under the advice of counsel she asserted her constitutional privilege. Her fear of incrimination was confirmed by the fact that she was arrested immediately upon leaving the grand jury room.

More than half of the cross-examination of Ethel Rosenberg by both the court and prosecution, over 125 questions, was directed to her assertion of her Fifth Amendment privilege before the grand jury as to questions which she answered in the course of her testimony before the trial jury.

A reading of her cross-examination, portions of which are set forth in the Statement of Case, pp. 17-27 supra, demonstrates that her prior assertion of the privilege was made

(1) to impeach her testimony and attack her credibility, and (2) as independent evidence of her ultimate guilt.

These dual objectives are made all too clear by the number and nature of the questions posed and by the comments made, in the presence of the trial jury, by both trial court and prosecution over the strenuous objection of defense counsel. At one point a motion for a mistrial was made, to no avail.

Both the court and prosecution projected the theme into the courtroom that there was an inconsistency between a prior assertion of the privilege and a subsequent answer to the same question in a manner consistent with innocence. The jury was thus advised that an innocent person suspected of committing a crime would not honestly assert the privilege before a grand jury. Mrs. Rosenberg was thus pressed by the court to account for her assertion of the privilege and asked to explain why she now answered the questions in the light of her prior invocation of the privilege before the grand jury. The prosecutor's questions sought to establish that when she appeared before the grand jury knowing her guilt she was unaware of the extent of evidence the federal authorities had against her and accordingly invoked the privilege. The prosecution could not have painted this picture more clearly for the jury: Having heard the evidence presented against her in the course of the trial she was prepared to commit perjury in an attempt to hide her guilt which she had poorly concealed

before the grand jury by asserting the privilege.

The lower court summarized the cross-examination only partially and made no reference to the trial court's role.

The importance of the cross-examination of Ethel Rosenberg in the prosecution's total strategy is demonstrated by its use in the summation to the jury, to establish her guilt and that of petitioner (p. 26 supra).

2. The trial court charged the jury over exception that the prior assertion of the privilege could be used to attack the credibility of Ethel Rosenberg, but failed to instruct that such conduct did not constitute evidence of guilt.

The court below acknowledged that in light of Grunewald v. United States, 353 U.S. 391,\* on direct appeal now, in all probability the conviction of petitioner and his co-defendants would be reversed. A comparison of the trial record in Grunewald with that in the instant case clearly establishes that the "grave constitutional overtones" noted in Grunewald here reach such intensity as to violate the constitutional norms of a fair trial.

\* This case, as decided by this Court, is heretofore and will be hereinafter referred to only as Grunewald in this petition.

In contrast to where in Grunewald only eight questions were asked in the proscribed area, here the major theme of the cross-examination was projected through more than 125 such questions. Unlike Grunewald where the improper questioning was merely incidental to the cross-examination, here it was a deliberate conscious strategy which dominated the attack on the defense. Here, unlike Grunewald, the judge was a major participant and brought his authority to the support of this maneuver.

In the Grunewald charge to the jury the trial court limited the significance of these questions to the sole purpose of ascertaining the weight the jury should give the witness' testimony. There, the trial court specifically charged the jury that it could draw no inference of guilt or innocence of the defendant-witness or of his confidence.

The conduct of the trial court and prosecution here was vastly more improper and prejudicial. The court in substance advised the jury that the prior association of the privilege had probative significance in establishing the falsity of the testimony and the guilt of the witness.

\* This fact makes it more difficult to support the statement in the opinion below denying petitioner relief wherein the court says (6):

"Both during the trial and in his charge the Judge made it crystal-clear that Mrs. Rosenberg's failure to answer such questions

(continued on next page)

3. Petitioner did not take the stand, but relied upon his constitutional privilege. By his silence he was particularly prejudiced by the comments of the court and government with reference to the Fifth Amendment privilege. The jury could only conclude that petitioner remained silent because he had something to hide. Thus, his refusal to take the stand could well have been considered evidence of guilt.

4. The case against the Rosenbergs depended principally upon the Greenglasses. According to the testimony of the Greenglasses, the Rosenbergs had participated jointly in the conspiracy. The jury was advised by the trial court that it must accept the testimony of the Greenglasses to convict the Rosenbergs.

In this context, if the jury was led to believe by the cross-examination of Ethel Rosenberg that her testimony was false and that she was guilty, it would inevitably come to the same conclusion as to Julius Rosenberg's testimony and guilt.

Ethel Rosenberg's testimony not only supported her own innocence, but that of her husband. It denied any illegal

before the Grand Jury is not to be taken as establishing the answers to any questions she was asked before the Grand Jury, but may be considered by you in determining the credibility of her answers to those same questions at this trial."

conduct on the part of either of them. If her testimony were believed, that of her husband would have been believed and, therefore, the testimony of the one witness against petitioner, Elitcher, would have necessarily been rejected by the jury. Thus the record establishes the complete dependence upon the Rosenbergs of petitioner's defense.

5. The prosecution's tactic was admirably suited to the times. We cannot ignore, in evaluating the prejudicial error committed in the course of the trial, the climate of opinion in which it took place. This was a period in our nation's history when hysteria about loyalty and security permeated American life. The privilege was equated with guilt. As stated by this Court in Ullmann v. United States, 350 U.S. 422, the public "too readily assume[d] that those who invoke it [the Fifth Amendment] are either guilty of crime or commit perjury in claiming the privilege." This prejudicial impact was even greater upon petitioner and his co-defendants in view of the government's claim of their prior Communist affiliation or sympathies.

6. The court below measured petitioner's right to relief by the following standards: (1) a significant denial of a constitutional right or (2) an error not of constitutional magnitude which was not correctible on appeal or where exceptional circumstances excused the failure to



appeal (12a).

The gravity of the injury suffered by petitioner which we have already discussed did not lose constitutional magnitude because, as the court below seemed to think, the injury derived from the invasion of constitutional right of a co-defendant. The impact of the error committed by the prosecution and the trial court in a conspiracy trial such as this, must be considered in the context of the concurring opinion of Mr. Justice Jackson in Krulewitch v. United States, 336 U.S. 440, 445, 454:

"A co-defendant in a conspiracy trial occupies an uneasy seat. There generally will be evidence of wrongdoing by somebody. It is difficult for the individual to make his own case stand on its own merits in the minds of jurors who are ready to believe that birds of a feather are flocked together."

See also, United States v. Tomaiolo, 249 F. 2d 683 (C.A. 2); Anderson et al. v. United States, 318 U.S. 350; McDonald v. United States, 335 U.S. 451, 456; United States v. Thomson, 113 F. 2d 643 (C.A. 7); Feder v. United States, 257 Fed. 294 (C.A. 2); Smith v. United States, 230 F. 2d 935 (C.A. 6); Nelson v. United States, 208 F. 2d 505 (C.A.D.C.); Duncan v. United States, 23 F. 2d 3 (C.A. 7).

Nor can petitioner's right to relief be made to turn on the kind of constitutional right which was invaded at the trial. To be sure, the Fifth Amendment privilege is a right personal to the witness, but in this case the Fifth Amendment

was used not merely to invade the constitutional right of the defendant-witness; it was exploited as an instrument to destroy the entire defense, thereby depriving all the defendants of a fair trial.

The trial judge and the prosecution acted in concert in the cross-examination of Ethel Rosenberg so as to establish her guilt and that of her co-defendants thereby destroying the entire defense. By such questioning the defendants were denied a fair trial and the conviction is subject to collateral attack.

The lower court did not rule upon the question of the fairness of petitioner's trial. It limited its comments to the impairment of Ethel Rosenberg's constitutional rights under the Fifth Amendment.

7. Quite apart from the other constitutional aspects of petitioner's injury it can hardly be disputed that his right to a fair trial was seriously impaired and that there were exceptional circumstances which excused petitioner's failure to raise the issue involved here on direct appeal. Both petitioner and his co-defendants in the original appeal from the judgment of conviction, challenged the fairness of the trial, relating it to errors committed both by the trial judge and the prosecution. The same issue was raised by petitioner in his petition for writ of habeas corpus after the affixance of the conviction.

At the time of the appeal in 1951 and applicable to this Court in 1952, this Court's decision in Raffel v. United States, 271 U.S. 494, seemed to foreclose this issue. See also United States v. Gottfried, 165 F. 2d 360 (C.A. 2) cert. denied 333 U.S. 860.

The court below denied that there were any exceptional circumstances, on the grounds that petitioner and his then counsel should have realized that "the definite ruling on the question of law had not crystallized" (14a, 15a).

The court suggested that petitioner's reliance on Raffel, supra, was misplaced because that case involved the failure of a defendant to take the stand at a previous trial rather than the prior claim of privilege before a grand jury. This is a most tenuous distinction as the court below suggests (15a); cf. Stewart v. United States, 366 U.S. 1. Yet the court below itself relied upon Raffel, supra, when it decided the Grunewald case (233 F. 2d 556). Nor did petitioner on his direct appeal have the benefit, as did defendant's counsel in Grunewald, of this Court's opinions in Easpak v. United States, 349 U.S. 190; Ullman v. United States, 350 U.S. 422; Slochower v. Board of Higher Education of the City of New York, 351 U.S. 551.

Immediately after the decision of this Court in Grunewald, petitioner filed a motion in this Court to vacate

the Court's 1952 denial of certiorari and for leave to file a new petition for certiorari. The government in opposing petitioner's motion maintained that the specific issue had not been previously raised by him on appeal and, in any event, the correct procedure was by motion pursuant to §2255, if the error could be said to reach constitutional proportions. Thus, diligence on the part of petitioner in seeking judicial relief in light of the law as it then prevailed cannot be denied.

We cannot ignore the fact that petitioner's request for review by this Court in 1952 did challenge the fairness of the trial and, in general terms, the conduct of the trial court and prosecution. In spite of the fact that this was a capital case, this Court denied certiorari. As stated by Mr. Justice Black in Rosenberg v. United States, 345 U.S. 275, 301,

"It is not amiss to point out that this Court has never reviewed this record and has never affirmed the fairness of the trial below. Without an affirmance of the fairness of the trial by the highest court of the land there may always be questions as to whether these executions were legally and rightfully carried out. I would still grant certiorari and let this Court approve or disapprove the fairness of the trial."

In this context, it is respectfully submitted that exceptional circumstances were present warranting relief now under §2255.

The "Time of War" Issue

8. The indictment under which petitioner was convicted charged that "On or about June 6, 1944, up to and including June 16, 1950 \* \* \* the defendants herein, did, the United States of America then and there being at war, conspire" to communicate national defense information to the Soviet Union in violation of Title 50 U.S.C. §32(a). This section of the Espionage Act then provided as follows:

"Whoever shall violate the provisions of sub-section (a) of this section in time of war shall be punished by death or by imprisonment for not more than thirty years."

The maximum sentence which could have been imposed at that time for such offense committed in peace time was twenty years.

The trial court at no time charged the jury on the issue of "time of war"; it did not define "time of war" in legal terms for the jury nor did it ask the jury to determine when petitioner joined the conspiracy or, if when he did so, it was in "time of war".\*

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\* The only reference to "time of war" came when the court interrupted its charge, and requested the clerk to read the indictment to the jury. The indictment reads "on or about June 6, 1944, up to and including June 6, 1950, . . . the United States of America then and there being at war . . ."

9. In the absence of a finding on the part of the jury on this crucial issue -- whether or not petitioner joined the criminal conspiracy in "time of war" -- the court was without authority to sentence petitioner either to the ultimate penalty of death or to 30 years imprisonment, or at all. This omission deprived petitioner of the right to a jury trial on a vital element of the offense. Moreover, the jury could only have concluded that it was barred from considering this issue in view of the court's detailed instructions on every other element of the offense. The court then proceeded to sentence petitioner on the assumption that petitioner had, in fact, committed the crime in time of war and gave him the maximum prison sentence.

10. It is axiomatic that a trial court in a criminal case is required to specify, define and explain each and every essential element of the offense in its charge to the jury. Screws v. United States, 325 U.S. 91 (1945); Kreiner v. United States, 11 F. 2d 722 (C.A. 2); United States v. Levy, 153 F. 2d 995 (C.A. 3).

The court below conceded that  
 "defendant being tried under §32(a) was entitled upon proper request to have the jury determine whether any violation of the statute on his part occurred in 'time of war' as that term would be defined for the jury by the judge." (18a)

Underlying this rule is the fundamental principle

of our criminal jurisprudence that to convict in a criminal case a jury must find that each and every essential element of the offense has been proved beyond a reasonable doubt. Christoffel v. United States, 338 U.S. 84; Schwachter v. United States, 237 F. 2d 640, 644 (C.A. 6).

It is clear, following the principles established above, that the trial court's failure to charge the jury as to an essential element of the offense which made the crime a capital offense, invalidated the conviction. Therefore collateral attack is available to petitioner.

11. It is conceded that there were no requests to charge concerning the element of "time of war" offered the court at the trial.\* This was an issue, however, which involved the nature and scope of the judicial authority to sentence. The administration thereof was peculiarly within the responsibility and stewardship of the trial court itself. It could not be delegated as a responsibility of petitioner; nor could the failure of petitioner to request a charge on this issue relieve the court of its responsibility. Cf. Screws v. United States, supra.

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\* As to the co-defendants Rosenberg the court below said: "It was hardly conceivable that any such claim [concerning 'time of war'] would be made by the Rosenbergs so far as this statute was concerned, since the portion of the conspiracy relating to disclosure of atomic secrets which dwarfed the other charges against them was largely consummated before the fighting stopped." (17a)

12. The court below itself rejected the government's contention that "time of war" under §32(a) continued until the presidential proclamation of 1952 (21a). It invoked the teaching of Lee v. Madigan, 358 U.S. 228, and picked two dates which it deemed appropriate (25a):

"We find it unnecessary to make such a determination here more precisely than to say that, for purposes of §32(a) the 'war' had ended before the summer and fall of 1948, . . . ."

And again,

"In the light of the purpose of the proviso to §32(a), a good date might be the President's proclamation of the end of hostilities on December 31, 1946 . . . ."

In rejecting the government's contention below, the court below pointed out (23a):

"On the other hand, we cannot believe that the Congress of 1917 would have thought the Statute it was enacting would have the result that the death penalty . . . should apply . . . for six and one half years more [after August 14, 1945], during which our wartime enemies had become our friends."

The court's recognition of the impropriety of the government's proposed termination date could only lead to the conclusion that the end of actual hostilities marked the termination of "time of war" for purposes of this provision of the Espionage Act. While the court below ostensibly applied the rule of lenity (21a), it chose two dates falling between the government's proposed date and the cessation of actual hostilities -- each plainly inconsistent with the



application of that rule. As the court below itself observed (23a):

"Here the purpose was to place the ultimate discouragement on communicating defense information when the nation was fighting for its own life, and to exact the ultimate penalty from those who did."

13. It seems clear that the most appropriate date for the termination of "time of war" was September 2, 1945, the date of Japan's surrender to the Allied Powers, but the entire testimony concerning Sobell prior to this date was not only equivocal but even if believed, could hardly be competent to establish his membership in the charged conspiracy. It consisted of two incidents testified to by Elitcher: The first, a conversation with Julius Rosenberg in the absence of petitioner in June of 1944; and a conversation with Sobell in September of 1944 wherein petitioner was said to have protested the use of his name in connection with any illegal activities.

The Rosenberg-Elitcher conversation could not be used to establish petitioner's membership in the conspiracy. Glasser v. United States, 315 U.S. 60, 74. The other conversation is susceptible to an interpretation of innocence, and in any event equivocal as to guilt. On this state of the record there was little or no evidence of petitioner's participation in the conspiracy "in time of war". Thus, had the issue been properly submitted to the jury they might have

found that petitioner had joined the conspiracy at some time other than in "time of war".

14. The court below was apparently of the view that had the jury been properly instructed, the outcome of the trial would not have been different. Speculating as to the outcome of the result cannot be a determinative factor where there has been a denial of due process. This view, of course, was predicated on the court's assumption that the war did not terminate in 1945. As we have seen, there was little or no evidence of petitioner's involvement in the conspiracy prior to 1945.

15. It is suggested by the court below that petitioner is barred from relief under §2255 because new counsel for petitioner in 1953 in arguing for reduction of sentence appeared to be aware of the "time of war" issue (29a). If relief under §2255 is available to petitioner the motion is timely whenever made; neither statute of limitations, nor res judicata, nor the doctrine of laches is applicable. See Hefflin v. United States, 358 U.S. 415, 420.

The error claimed here went to the very jurisdiction of the court and deprived it of the power to sentence petitioner to thirty years in prison or death. Absent a jury finding on the subject, petitioner was tried and convicted without due process of law and the conviction should be set aside.

16. Assuming arguendo that petitioner is not entitled to relief under §2255, he is entitled to have his illegal sentence corrected under Rule 35 of the Federal Rules of Criminal Procedure.

As we have elsewhere pointed out (see p.44-46, supra) there was no determination and in view of the trial court's failure to explain or charge the jury with respect to the element of "time of war", there could not have been any jury determination that petitioner joined the conspiracy "in time of war". Absent such a finding the trial court was without any authority to impose the wartime penalty of thirty years on petitioner.

The restrictive application given by the court below to the scope of review available under Rule 35 cannot be reconciled with this Court's approach in Heflin v. United States, 358 U.S. 415 and Prince v. United States, 352 U.S. 322. In both of these cases, this Court examined the sentences imposed in light of the trial record and the particular statutes involved, with particular scrutiny being given to their pertinent legislative history.

While the court below concluded that it did not believe that the Congress of 1917, when it enacted the Espionage Act, intended that the severer wartime penalty would be applicable to peace time (23a), and found that the legislative purpose "was to place the ultimate discouragement on communicating

defense information when the nation was fighting for its own life," (id.) it nevertheless concluded that for the purposes of §32(a) the "war" ended subsequent to the cessation of actual hostilities (25a). In this the court below was in error.

• It is precisely because of the trial court's failure to charge with respect to this crucial element of the offense and the utter paucity of the evidence linking petitioner to the conspiracy "in time of war" that the sentence imposed was illegal.

Thus, neither the statute, in the light of its legislative history; nor the evidence, nor the charge to the jury, can rationalize or justify the sentence imposed.

17. At the time of its decision the court below did not have the benefit of this Court's decision in Fay v. Noia, \_\_\_\_\_ U.S. \_\_\_\_\_ No. 84, decided March 18, 1963. That court's excessive concern with considerations of finality -- with a possibility of the government's inability to prosecute the case to a successful conclusion by reason of the passage of time, with questions of waiver and speculations as to the prejudice to petitioner as the result of the errors complained of -- all ignore the true nature and scope of the writ as set forth in the Noia case. As Mr. Justice Brennan reminded us:

"Today as always few indeed is the number of . . . prisoners who eventually win their

freedom by means of habeas corpus. Those few who are ultimately successful are persons whom society has grievously wronged and for whom belated liberation is little enough compensation. Surely no fair-minded person will contend that those who have been deprived of their liberty without due process of law ought nevertheless to languish in prison . . . For such anomalies, such affronts to the conscience of a civilized society, habeas corpus is predestined by its historical role in the struggle for personal liberty to be the ultimate remedy . . . "

#### CONCLUSION

For all the above reasons, the writ of certiorari should be granted, the decision below reversed and petitioner granted a new trial; or, in the alternative, the case remanded to the District Court for resentencing under Rule 35.

Respectfully submitted,

ELEANOR JACKSON PIRL

Attorney for Petitioner

OF COUNSEL:

MARSHALL PERLIN  
FRANK J. DONNER  
SANFORD M. KATZ

**Sobell asks high court  
to review case first time**

**T**HE UNITED STATES Supreme Court has been asked by Morton Sobell, still battling to prove his innocence in his 13th year of imprisonment on a charge of conspiracy to commit espionage, to break with its past refusal to hear his case and review it for the first time.

The latest appeal, filed April 6 by counsel for Sobell, is from a Feb. 6 decision of the U.S. Second Circuit Court of Appeals. Admitting that Ethel Rosenberg, if she had not been executed, might have been able to have her trial voided as unfair under Supreme Court rulings since the execution, the Appeals Court denied Sobell the right to a new trial. The court said the legal point in question was raised too late.

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N.Y. *National Guardian*

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DATED *4-25-63*

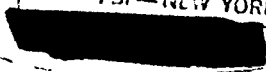
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FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2126 DATE 6.6.63

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FILE #           L00-37158          

SUBJECT           MORTON SOBELL          

SERIAL           2127           DATE           6-7-63          

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SAC, NEW YORK (100-107111)

6/10/63

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COMMITTEE TO SECURE JUSTICE  
FOR MORTON SOBELL  
IS - C; ISA - 1950

The following article appeared in the "Morning Freiheit" of 5/15/63, on page 3, columns 2-5:

A Birthday Gift For Morton Sobell

by SARAH FEL-YELLIN

On April 11th Morton Sobell was 46 years old.

13 years, his best years, have been torn out of his life by injustice, by charging him with an act of espionage which he never committed, and which has, therefore, never been proven. But we must add that one of the factors in the Sobell-tragedy was the passiveness of the liberal elements. Sobell's wife, Helen, his aged mother, Rose, together with the national Sobell Committee, ask but one thing - a new trial. A period of waiting and hoping that President Kennedy and Attorney General Kennedy would do something in this case, lulled the awareness and the activity of the Committee to a certain extent.

In the meantime something has happened: the United States Court of Appeals has given a new interpretation of the law in the case of a person by the name of Greenwald. According to the Supreme Court decision, it appears that if the Rosenberg-Sobell trial were to take place now, they would have been entitled to a new trial, which might have saved the Rosenbergs from death, and perhaps freed Sobell entirely.

So the question rises: why should Morton Sobell languish in jail? Sobell is still living, so why not take up the charges against him, when he has been insisting for

- ① - (100-37158) (MORTON SOBELL)
- 1 - (100-109849) (HELEN SOBELL)
- 1 - (100-128869) (ROSE SOBELL)
- 1 - (100-21) (MORNING FREIHEIT)

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all of 13 years that he is innocent, and when the whole world is convinced that the 30-year-jail sentence, that the whole gruesomeness of the sentence, is, from all indications, a political one, and is justified neither according to criminology nor politically?

The answer by the Court of Appeals is simple and clear: the request for a new trial (for Morton Sobell) comes too late; it should have been made directly after the first trial. The Court admits that, under the present interpretation of law, Sobell is entitled to a new trial (February 6th ruling in the Greenwald case).

Listen, listen! Too late! It would sound ironic, if it were not so gruesome - so unjust!! A person has had 13 years of life torn out of him, and a court admits that it is just to keep him in jail because the injustice was revealed too late! Such logic cries to the skies!

So there is another excuse: it is an uncorrectable error. It could, supposedly, hurt the prestige of the Court and its duty of protecting the citizens! From this they conclude that an innocent person should languish in jail or be sentenced to death because of the "prestige of the court". Such a "triviality", 30 years in jail should be tolerated in order to protect the honor of justice...

Donald McCarran, Dean of the Institute of Criminology of New York, declared: "Very few criminologists, or others who are conversant with legal problems, can read the transcript of the Sobell trial and not see that a "reasonable doubt" exists about Sobell's guilt, or his relationship to the so-called Rosenberg conspiracy. (It is interesting that in an F.B.I. exhibition of the Rosenberg case, in the Justice Department, in Washington, Sobell's name is never mentioned).

Rabbi Bricker, one of the fifteen hundred ministers who demand Sobell's liberation, believes that "continuing to keep him in jail appears to me to be more an act of revenge, than an act of justice, and I appeal passionately for his parole". Rabbi Bricker offered himself as Sobell's parole advisor after his is freed.

From the above statements by authorities on justice and court matters, we can see that now is the time for every honest citizen to help the apparatus of justice in correcting the "uncorrectable error", to save its own prestige and ballance the scale of justice.

Morton Sobell has given 13 years of his life - this is more than sufficient payment for the error of justice. This legal error must be wiped out by the conscience of the land!

Morton Sobell, an innocent person, should get a new trial - he must be freed.

A new investigative committee of 100 important personalities is prepared to submit a request for a final solution to the Sobell case.

The Sobell-tragedy gives every person with a conscience a feeling of guilt. His lost years are an indictment of the indifference of society.

A special drive is necessary to achieve drastic results.

June 19th is the tenth anniversary of the legal murder of the Rosenbergs. A tremendous demonstration is being arranged in Carnegie Hall. Other cities will follow. Los Angeles, the next largest city after New York, with its active local committee (includes all of California), will not refrain from action. On June 23rd there will be a Pilgrim March to Long Island Cemetery, where the Rosenbergs are at rest.

Surely there will be delegations from the country, and there will be increased propaganda about the Sobell case; there will be resolutions; and everything possible will be done for a new trial and for the immediate liberation of Morton Sobell.

Let us inscribe on our minds: Morton Sobell, the father of a son, who he hardly knows, the husband of a young, living-widow, the son of suffering parents, a person who is young and who is still capable of serving his country, to love his family, dare not be neglected. Morton Sobell needs friends who are ready to help - everyone as he can.

100-107111

The best gift we can give Morton Sobell on his 46th birthday is - justice and freedom.

The address to secure justice for Morton Sobell is: 940 Broadway, New York; or 132 Northwestern, Los Angeles.

The above was translated from Yiddish and is being submitted for your information. [REDACTED] B7c  
Translator (Interpreter).

SAC, LOS ANGELES (100-41648)

6/28/63

SAC, NEW YORK (100-107111)

COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL  
IS - C; ISA - 1950

OO:NEW YORK

The following editorial appeared in the "Morning Freiheit" of 6/23/63, on page 8, columns 1-2:

"The Demand To Free Sobell

At a big mass meeting in Carnegie Hall, in New York, last Wednesday, June 19th, there found expression not only the demand by the two and a half thousand people assembled there, but there found expression thousands upon thousands of other people at similar meetings in other parts of the country, that martyr Morton Sobell be freed!

"This demand was dictated by the conscience of all those to whom justice is dear. Included are famous scientists, such as Dr. Harold Urey, who was chairman of the meeting at Carnegie Hall; famous jurists, educators, ministers and many more. Included were the voices of famous personalities in various countries of the world. During the past few days there was added the appeal by the Chief Rabbi of Israel, Isaac Nissim, from philosopher and humanitarian in Israel, Dr. Morton Euber, and from three other Israeli professors: Shmuel Hugo Bergman, Ephraim Auerbach and Ernst Simon.

"Morton Sobell is a victim of the black night of McCarthyism. In that black atmosphere Ethel and Julius Rosenberg were sentenced to death and were burned in the electric-chair. Morton Sobell was sentenced to 30 years in jail. The demand for his liberation must be heard! His liberation will be an indication that McCarthyism is disappearing completely!"

- 3 - Los Angeles (100-41648)(RM)
- 1 - (100- ) (Dr. Harold Urey)
- ① - New York (100-37158)(Morton Sobell)(332)
- 1 - New York (100-21)(Morning Freiheit)(41)
- 1 - New York (100-107111)(CSJMS)(41)

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FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2132 DATE 7.3.63

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UNITED STATES GOVERNMENT

MEMORANDUM

TO: SAC, DETROIT (100-20938)      DATE: JUL 5 1963

FROM: SAC, NEW YORK (100-107111)

SUBJECT: COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL  
IS - C; ISA - 1950

OO: New York

The following report appeared in the "Morning Freiheit" of June 21, 1963, on page 1, columns 1-2-3, continued on page 2, columns 1-2:

"2,500 At Rosenberg Meeting In Carnegie Hall  
Demand The Liberation Of Morton Sobell"

Special report by P. HONOR

"On Wednesday evening 2,500 people filled Carnegie Hall, in New York, for a memorial meeting, which the "Sobell Committee" called to mark the tenth anniversary of the execution of martyrs Ethel and Julius Rosenberg.

"At the impressive meeting there were firm demands for the liberation of scientist Morton Sobell, who was sentenced in the Rosenberg Case to 30 years jail on the charge of "atomic espionage". Sobell has been in a Federal jail for 13 years. He is now terribly sick.

- 2 - Detroit (100-20938) (PM)
- 1 - [REDACTED]
- 2 - Los Angeles [REDACTED]
- 1 - (100- ) (Harold Urey)
- 1 - Washington Field Office (100-25474)
- 1 - New York (100-37158) (Morton Sobell) (332)
- 1 - New York (100-109849) (Helen Sobell) (332)
- 1 - New York (100-128869) (Rose Sobell) (424)
- 1 - New York (100-114565) (Sidney Sobell) (421)
- 1 - New York [REDACTED] (424)
- 1 - New York [REDACTED] (41)
- 1 - New York [REDACTED] (422)
- 1 - New York [REDACTED] (421)
- 1 - New York [REDACTED] (423)
- 1 - New York [REDACTED] (Morton Sobell)
- 1 - New York (100-107111) (CSJMS) (41)

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"The key speech at the meeting was delivered by the internationally-famous atomic scientist and Nobel Prize winner, Dr. Harold Urey, who is now affiliated with the University of California, in La Jolla. The chairman of the meeting was the outstanding Protestant Minister, Reverend Erwin Gaede, of Ann Arbor, Michigan.

"Dr. Urey voiced his conviction that the Rosenbergs were innocent and that Morton Sobell is not guilty of atomic espionage either. In his review of their trial, he pointed out that they were victims of the hysteria which McCarthy reaction and the Korean War caused at that time. If the trial were to take place now, it would not be possible to bring in such a gruesome sentence against the Rosenbergs and Sobell, Dr. Urey declared.

#### Dr. Urey's Press Conference

"Before the start of the meeting Dr. Urey held a well-attended press conference, at the Essex House, at which he firmly emphasized the innocence of the Rosenbergs and of Sobell, and the injustice of their sentences. At the press conference he said that he, and a number of other prominent people, will go to Washington to submit an appeal to the Federal Parole Board, to grant Sobell a parole.

"The assemblage was deeply moved when the chairman introduced the Sobell family. The audience gave a warm reception to Sobell's mother, Mrs. Rose Sobell; his wife, Helen Sobell, their daughter Sidney, and their 14 year old son Mark. In a few moving words, Mrs. Rose Sobell thanked the meeting for their efforts to free her son.

#### The Statement By Herbert Brownell

"In her appearance before the meeting Helen Sobell read a statement by Herbert Brownell, who was the Attorney General of the United States at the time of the Rosenberg and Sobell trial. In his statement Brownell underscored

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that he knew of absolutely no so-called secret proof about the guilt of the Rosenbergs. This gives the lie to the rumors about such imagined proof which certain people are still trying to spread, Mrs. Helen Rosenberg said.

"A deep impression was made by a narrative which included excerpts from letters and from the oath of the Haymarket martyr Tom Mooney, Sacco and Vanzetti, Ethel and Julius Rosenberg and Morton Sobell, in which they spoke of their innocence and martyrdom. The famous singers Ben Plotkin and Beatrice Rippe, performed two songs: "If we Die" and "Thirty Years", words and music by Edith Segal.

"The meeting concluded with a film about the Sobell trial, in which a number of world-famous people, among them British philosopher, Bertrand Russell, and socialist leader, Norman Thomas, declared that they do not believe in Sobell's guilt and called for his liberation.

"Seated on the platform were prominent ministers, lawyers, doctors, educators and outstanding public figures. Among them were: historian Morris Schappes; American-Jewish poet and author, Yuri Suhl; Dr. Annitte Rubinstein and Edith Segal. Telegrams marking the 10th anniversary of the execution of the Rosenbergs were received from: Nobel Prize winner, Dr. Linus Pauling; civil rights fighter, Dr. Willard Uphaus, and Rabbi Jacob Weinstein.

#### Israeli Rabbis Appeal For Sobell Pardon

"In a statement to the press, the Sobell Committee advised that the Chief Rabbi of Israel, Isaac Nissim, and four other leading people in Israel, have appealed to President Kennedy to pardon Morton Sobell. The appeal was signed, in addition to the chief Rabbi of Israel, by philosopher and humanist, Dr. Martin Buber, Shmuel Hugo Berghan, Professor emeritus of Hebrew University in Jerusalem; Ephrim Auerbach, Professor of Talmudic Literature at Hebrew University, and the famous educator and Professor of Education, Ernst Simon."

The above was translated from Yiddish and is being submitted for your information.

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FILE #           L00-37158          

SUBJECT           MORTON SOBELL          

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9/5/63

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Date ~~8/29/63~~

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TO: CHIEF CLERK

Subject ANNA BAYEVSKY

Aliases ANNA BAYEVSKY

Address 901 Washington Ave., Bklyn

Birth Date Birthplace Race Sex  
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 Female

- Exact Spelling
- All References
- Main Subversive Case Files Only
- Subversive References Only
- Main Criminal Case Files Only
- Criminal References Only
- Main Subversive (If no Main, list all Subversive References)
- Main Criminal (If no Main, list all Criminal References)
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Searched by \_\_\_\_\_ (date) 9/5/63  
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FBI - NEW YORK

File Review Symbols  
I - Identical ? - Not identifiable  
NI - Not identical U - Unavailable reference

FILE #           L00-37158          

SUBJECT           MORTON SOBELL          

SERIAL   2144   DATE   11.18.63  

CONSISTING OF   1   PAGES

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

# Office Memorandum • UNITED STATES GOVERNMENT

TO : SAC, New York

DATE: 12/9/63

FROM : SA [REDACTED]

b7C

SUBJECT: MORTON SOBELL  
ESP - R

NY file 100-37158

Subject is on S.I. and last investigative report was dated 12/11/62. An annual investigative report will be due.

Case is PK and assigned to SA [REDACTED]

b7C

[REDACTED] b7C

100-37158-2145

SEARCHED.....	INDEXED.....
SERIALIZED.....	FILED.....
FBI - NEW YORK	

[Signature]

Chief Clerk  
Post

[Signature]

[Signature]

B7C

TO: SAC, WFO (100-25474)

FROM: SA [REDACTED] B7C

SUBJECT: CSJMS  
IS C

Date received 2/10/64	Received from (name or symbol number) [REDACTED] B7D	Received by [REDACTED] B7C
--------------------------	---	-------------------------------

Method of delivery (check appropriate blocks)

in person     by telephone     by mail     orally     recording device     written by informant

If orally furnished and reduced to writing by Agent:		Date of Report
Dictated	Date <u>2/10/64</u> to [REDACTED] B7C	2/10/64
Transcribed	<u>2/10/64</u>	Date(s) of activity
Authenticated by Informant	<u>2/14/64</u>	2/8/64
Brief description of activity or material		File where original is located if not attached
<u>REPORT re CSJMS</u>		[REDACTED]

Remarks: This informant has furnished reliable information in the past.

21- WFO

[REDACTED]

(3- NEW YORK (RM))

B7D  
b7C  
100- Helen Sobell  
100- Morton Sobell  
100- CSJMS

100-37158-2149  
Block Stamp

[REDACTED] C  
[REDACTED] C

FBG:mag  
(24)

B7C

"February 10, 1964

"On Saturday, February 8, 1964, there was a fund-raising meeting at the home of Dr. Irving and Mrs. Helen Winik. Helen Sobell was the speaker at this meeting and made a plea for funds to help secure a full release for her husband, Morton Sobell, because of his innocence.

"In her speech, Helen Sobell talked about the changing political climate in the world and pointed out that her husband is innocent and does not wish to settle for anything less than a full pardon. She stated new facts have come out which show that he and the Rosenbergs are innocent. She said they were setting up citizens committees in different cities and that such a committee would be worked up in Washington, D.C., because this is the Nation's capital. No definite plans have been made yet, but it is hoped that a mass meeting will be held in June, 1964, in Washington, D.C. with people from all over the United States and the rest of the world attending. She stated a new generation has grown up since Morton Sobell went to prison and they must work on new plans to get other people interested in a pardon for Sobell. In line with this, Doubleday Doran is to publish a book with the facts therein, indicating Sobell and the Rosenbergs are innocent.

"Helen Sobell also talked about her visit to foreign countries and the interest there is abroad in getting Morton Sobell freed.

"During the plea for funds, they started their request for \$50 and [REDACTED]

Among the forty to fifty people present were the following:

[REDACTED]

B7D

This memorandum has been compared with the original statement and it is correct in substance.

All necessary action which should be taken in connection with this information has been taken.

100-37158-2149

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

TO : SAC, NEW YORK

DATE: 4/22/64

FROM : SUP. [REDACTED] #33 b7C

SUBJECT : MORTON SOBELL  
ESP-R

Bureau teletype dated 4/13/64 instructed that a letterhead memorandum be disseminated to Secret Service on all Security Index cases. Captioned subject is listed on the Security Index by virtue of previous Espionage or Internal Security-R connections. Accordingly, a letterhead memorandum must be prepared on this subject.

The Agent to whom this matter is assigned will review the instructions of Supervisor [REDACTED] dated 4/20/64, which is available on the Section 33 Supervisor's desk, and will thereafter conduct such file review and investigation as may be necessary and rough draft an appropriate letterhead memorandum. b7C

Since this entire project must be completed within 30 days, each Agent should complete his assignment within 10 working days of the date of this memorandum.

5/7/64  
OPEN (OR REOPEN) CASE  
ORIGIN NY DATE 5-4-64  
SUPV [signature] SECT 332

100-37158-2150  
Searched        Indexed         
Serialized   ✓   Filed   ✓  

APR 22 1964  
FBI - NEW YORK

B7C

[Handwritten initials]

b7C

AEB:HC



UNITED STATES GOVERNMENT

# Memorandum

TO : SAC, NY (100-37158)

DATE: 6/26/64

FROM : SA [REDACTED] 332 (P\*)  
b7C

SUBJECT: HORTON SOBELL  
ESP - R

Re Kansas City airtel, 5/4/64.

Referenced airtel advised that subject remained confined to the Medical Center for Federal Prisoners, Springfield, Mo., that there had been no change in his condition, and that there were no plans to transfer him to another institution.

The airtel further advised that on or about 8/1/64 a recheck of the Medical Center records would be made for current status of subject.

An annual investigative report was submitted in this case on 1/15/64, and there is no investigation to be conducted by the NYO at this time.

It is suggested that this case be placed in a pending inactive status until further information is received from KC re subject's status.

1 - 100-37158

C.M.H.

(1)

B7C

Chief Clerk  
Post *[Signature]*

100-37158-2153

SEARCHED .....	INDEXED .....
SERIALIZED .....	FILED .....
JUN 26 1964	
FBI - NEW YORK	

*[Signature]*

UNITED STATES GOVERNMENT

# Memorandum

TO : SAC, NY (100-37158) *b7c*

FROM : SA [REDACTED], 332

SUBJECT: MOPTON SOBELL  
ESP-R

DATE: 9/25/64

Re my memo 6/26/64, (Serial 2153).

This case was placed in a Pending Inactive status to await review of records at the Medical Center for Federal Prisoners, Springfield, Mo., by the Kansas City Office. This investigation has been conducted, and the results set forth in Kansas City airtel of 8/24/65.

The subject is on the Security Index of the NYO, and an annual investigative report will be due 1/15/65.

Since no further investigation remains to be conducted at the present time, it is suggested that this case be closed.

1 - 100-37158

CWM  
(1)

*B7C*

*2#332 9/25/64*

*100-37158-2155*

SEARCHED	INDEXED
SERIALIZED	FILED
FBI - NEW YORK	

*[Signature]*



FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2156 DATE 10.5.64

CONSISTING OF 1 PAGES

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

SAC, SEATTLE

10-21-64

SAC, KANSAS CITY (65-1311) RUC

MORTON SOBELL, aka;  
ESPIONAGE - R

(oo New York)

On October 5, 1964, [redacted] Medical Center for Federal Prisoners, Springfield, Missouri, advised SA [redacted] that they had received a letter from a man named W. R. ENGELS, Claridge Hotel, 1004 Locust Street, Kansas City, Missouri. In the letter, ENGELS informed the Medical Center that he would like to see SOBELL, if possible, commenting that he did not know him, but since he was in this vicinity, he would like to visit with him.

[redacted] stated that ENGELS is being informed that this visit would not be approved.

On October 14, 1964, [redacted] Claridge Hotel, 1004 Locust Street, Kansas City, Missouri, advised SA [redacted] that WILBUR R. ENGELS, who gave his address as Unity Village (Lee's Summit, Mo.) Kansas City, Missouri, and his occupation as representative of Howard S. Wright Company, no location shown, was a guest at the hotel from September 16, until October 10, 1964. b7D, b7C

On October 16, 1964, [redacted] contacted the Kansas City FBI office and advised that [redacted] had subsequently discovered that ENGELS had left a forwarding address with the hotel, of 1015 East Aloha Street, Seattle, Washington, zip code number 98102. [redacted] also stated that subject had informed one of the hotel employees that he was staying at the hotel while his wife was taking a course of instructions at the Unity Village to become some sort of a minister with the Unity Church. b7D

The indices of the Kansas City Division contain no information identifiable with ENGELS.

- 2 Seattle (RM)
  - 2 New York (100-37158) (RM)
  - 1 Kansas City
- GAA:epc  
 (5) OPEN (C) COPIED CASE  
 ORIGIN N.Y. DATE 10/23/64  
 SUPV [redacted] / SECT # 332

100-37158-2157  
 SEARCHED INDEXED  
 SERIALIZED FILED  
 OCT 22 1964  
 FBI - NEW YORK

1015 East Aloha St.  
Seattle, Washington

B7D

10/26/64 [redacted]

b7C

155  
10/27

[Handwritten initials]

KC 65-1311

The above is being furnished office of origin,  
New York, and the Seattle Office for their information in  
the event New York desires to conduct further investigation  
of this matter.

100-37158-2157

SAC, SEATTLE

10-21-64

SAC, KANSAS CITY (65-1311) RUC

MORTON SOBELL, aka;  
ESPIONAGE - R

(oo New York)

On October 5, 1964, [REDACTED] Medical Center for Federal Prisoners, Springfield, Missouri, advised SA [REDACTED] that they had received a letter from a man named W. R. ENGELS, Claridge Hotel, 1004 Locust Street, Kansas City, Missouri. In the letter, ENGELS informed the Medical Center that he would like to see SOBELL, if possible, commenting that he did not know him, but since he was in this vicinity, he would like to visit with him.

[REDACTED] stated that ENGELS is being informed that this visit would not be approved.

On October 14, 1964, [REDACTED] Claridge Hotel, 1004 Locust Street, Kansas City, Missouri, advised SA [REDACTED] that WILBUR R. ENGELS, who gave his address as Unity Village (Lee's Summit, Mo.) Kansas City, Missouri, and his occupation as representative of Howard S. Wright Company, no location shown, was a guest at the hotel from September 16, until October 10, 1964.

On October 16, 1964, [REDACTED] contacted the Kansas City FBI office and advised that [REDACTED] had subsequently discovered that ENGELS had left a forwarding address with the hotel, of 1015 East Aloha Street, Seattle, Washington, zip code number 98102. [REDACTED] also stated that (subject) had informed one of the hotel employees that he was staying at the hotel while his wife was taking a course of instructions at the Unity Village to become some sort of a minister with the Unity Church.

The indices of the Kansas City Division contain no information identifiable with ENGELS.

2 Seattle (RM)  
2 New York (100-37158) (RM)  
1 Kansas City  
GAA:epc  
(5)

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 22 1964	
FBI - NEW YORK	

*Gm 2*

B7D

100-37158-2157

MC 65-1311

The above is being furnished office of origin, New York, and the Seattle Office for their information in the event New York desires to conduct further investigation of this matter.

100-37158-2157

Not Subject

10

TO: CHIEF CLERK

Date 10/27/64

Subject WILBUR R. ENGELS

Aliases

Address 1015 East Aloha St., Seattle, Wash. Birth Date Birthplace Race Sex  Male  Female

- Exact Spelling
- All References
- Main Subversive Case Files Only
- Subversive References Only
- Main Criminal Case Files Only
- Criminal References Only
- Main Subversive (If no Main, list all Subversive References)
- Main Criminal (If no Main, list all Criminal References)
- Restrict to Locality of

File & Serial Number	Remarks	File & Serial Number	Remarks
<u>Wilbur Engels</u>		[REDACTED]	
[REDACTED]	b7C	[REDACTED]	b7C
<u>W. Engels</u>		[REDACTED]	
[REDACTED]		[REDACTED]	b7C
<u>W.R. Engels</u>			
<u>Wilbur R. Engels</u>			
<u>Wilbur</u>			
[REDACTED]			
[REDACTED]			

[REDACTED] b7C Squad 332 Extension 469 File No. 100-37158-158

Searched by [REDACTED] (date) 10/25/64  
Consolidated by [REDACTED] (date) 11-20-64  
[REDACTED] (date) 10/30/64

100-37158-2158  
SEARCHED INDEXED  
SERIALIZED FILED  
OCT 29 1964  
FBI - NEW YORK  
CUM

I - Identical      ? - Not identifiable  
NI - Not identical      U - Unavailable reference  
B7C



SAC, SEATTLE

11/3/64

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

HORTON SOBELL  
ESP-R  
(OO: New York)

Re Kansas City let to Seattle of 10/21/64, captioned as above, advising that W. R. ENGLER attempted to obtain permission to visit subject at the Medical Center for Federal Prisoners, Springfield, Missouri. It is noted that ENGLER was subsequently identified by [redacted] of the Claridge Hotel, Kansas City, Missouri, as WILBUR R. ENGLER who left as his forwarding address 1015 East Aloha Street, Seattle, Washington. B7D

Indices of the NYO have been reviewed and no information identifiable with ENGLER was located.

Seattle is requested to identify WILBUR R. ENGLER through established sources and to review indices concerning him.

*R/S to  
Seattle  
12/14/64*

2-Seattle (RM)  
1-New York

CWJ:eds  
(3)

*W/S m?*

Chief Clerk  
Post

*100-37158-11/11/64*

Searched \_\_\_\_\_  
Serialized \_\_\_\_\_  
Indexed \_\_\_\_\_  
Filed \_\_\_\_\_

*100 37158 - 2159*

UNITED STATES GOVERNMENT  
MEMORANDUM

~~TO~~ : SUPERVISOR ~~[Signature]~~

DATE 11/6/64

~~FROM~~ : BULKY EXHIBITS SECTION (FILE 100-37158)

SUBJECT: EXHIBITS MAINTAINED IN RED ROPE  
FOLDERS IN BULKY EXHIBIT VAULT

The Bulky Exhibit Section has instituted a project to have above captioned exhibits thoroughly reviewed for disposal or retention.

Attached are first and last sections of file referring to exhibits in question. The first section contains the green sheets listing the exhibits.

Each supervisor receiving a copy of this memorandum is requested to have the pertinent exhibits reviewed and fill in the spaces listed below. This memorandum is to be returned to the Bulky Exhibit Section by 11-13-64

EXHIBITS TO BE DESTROYED:

\_\_\_\_\_ none \_\_\_\_\_

EXHIBITS TO BE RETAINED:

\_\_\_\_\_ all \_\_\_\_\_

REASON FOR RETENTION:

Subject's conviction may be subject to further legal attack.

EMPLOYEE REVIEWING EXHIBIT

100-37158-216C

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 10 1964	
FBI - NEW YORK	

B7C

Completed  
11/9/64  
H.F.C.

FILE # 100-37158

SUBJECT MORTON SOBELL

SERIAL 2164 DATE 12.2.64

CONSISTING OF 2 PAGES

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

OFFICE MEMORANDUM UNITED STATES GOVERNMENT

TO: SAC, LOS ANGELES (100-41648)

DATE: 12/21/64

FROM: SA [REDACTED] B7C

SUBJECT: LOS ANGELES SOBELL COMMITTEE (LASC)  
IS-C

SOURCE	ACTIVITY	RECEIVED	AGENT	LOCATION
[REDACTED] b7D	Sobell Committee luncheon on 12/5/64.	[REDACTED] b7D	Writer	[REDACTED] (WR) b7D

Informant's report is quoted as follows:

CC: 2 - New York (REGISTERED)  
100-109849 (HELEN SOBELL)  
100- (MORTON SOBELL)

[REDACTED]  
[REDACTED] (SI)  
[REDACTED] (SI)

B7D  
b7C

100-41016 (CCPAF)  
62-1664 (HUAC)  
100-31229 (UUFST)

[REDACTED]  
100-31730 (HUNGARIAN HALL)  
65-5082 (MORTON SOBELL)  
100-45973 (HELEN SOBELL)

JPM:LAL  
(19) [Signature]

Read by [Signature]

100-37158-2165

SEARCHED	INDEXED
SERIALIZED	FILED
DEC 30 1964	
FBI - NEW YORK	

[Signature]

B7C

392

LA 100-41648

"December 6, 1964

"Date: Dec. 5, 1964

"Place: 1251 So. St. Andrews Pl., Los Angeles,  
Calif.

"Activity: Luncheon, sponsored by the Sobel Committee.

"About eighty-five people were present, among whom  
were:

A large rectangular area of the document is completely redacted with black ink. The name "ROSE SOBEL" is visible in white text within the redacted area.

ROSE SOBEL

B7D

"NAT TURNER, about 5'10", 160 lbs, caucasian, prominent white hair, wearing glasses acted as chairman. He has just returned from 8 to 10 months travel abroad - France, Spain, Italy, etc. He stated that an appeal in behalf of MORTON SOBEL was being prepared to present to President KENNEDY, and since his death it has taken almost a year to formulate the current appeal. Many volums of filled petitions are prepared, and their presentation to President JOHNSON by MORTON SOBEL's wife and/or mother and other members of the Committee is planned to be timed just before Christmas. Prominent appeals to the general public are scheduled to be released at the same time, i.e. an ad in the New York Times, the St. Louis Post Dispatch, the San Francisco Chronicle, and Los Angeles Times, and other papers across the country are scheduled to carry the Morton Sobel story at this time. The Los Angeles Times wants one thousand dollars to carry the short publicity release, and an effort was made to raise that much money at the luncheon, or it was suggested the committee might

LA 100-41648

"try to borrow enough for the ad from some member, and pay it back later. [REDACTED]

[REDACTED] b7D  
"The chairman said a book will be published in January by Doubleday, and many more people need to know about and care about the Sobel\_ case.

"In her talk ROSE reported that the committee has hired new and more expensive attorneys. The case is known the world over, and supported by prominent men in other countries. In fact, according to the chairman, representatives from every other major country would be happy to form an international conference of jurists to act on the Sobel\_ case, but they cannot get a prominent representative from United States to support the story of MORTON SOBELL.

"The Committee plans a rummage sale January 16, 1965, somewhere in Burbank. Save stuff, Phone SOPHIE DAVIDSON at NO 3-7889 or IDA PASTERNAK at NO 4-3722 to have it picked up. ROSE SOBELL\_ expects to be here about 10 more days.

"The Citizen's Committee to Preserve American Freedoms is preparing a 36000 mailing, hoping the new Congress will deny funds to the House Un-American Activities Committee. They now have a paid lobby, and men in Congress not afraid to stand up and be counted against H.U.A.C. They need help with the mailing."

ACTION:

Informant orally advised [REDACTED] that letters to the President requesting peace and a return of the boys from South Vietnam were passed out at the meeting. These letters were prepared by the Peace Committee of the Unitarian Universalist Fellowship for Social Justice, Los Angeles Chapter, 2936 West 8th Street, Los Angeles. [REDACTED]

B7D

100-37158-2165

LA 100-41648

All necessary action in connection with this memo  
has been taken by the writer.

INDEX:

ROSE SOBELL

[REDACTED]

B7D

[REDACTED]

100-37158-2165

APPENDIX

COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL

A source advised on May 12, 1964, that the Los Angeles Sobell Committee is the Los Angeles, California affiliate of captioned organization.

Following the execution of atomic spies ETHEL and JULIUS ROSENBERG in June, 1953, the "Communist campaign assumed a different emphasis. Its major effort centered upon MORTON SOBELL," the ROSENBERGS' codefendant. The National Committee to Secure Justice in the Rosenberg case - a Communist front which had been conducting the campaign in the United States - was reconstituted as the National Rosenberg-Sobell Committee at a conference in Chicago in October, 1953 and "then as the National Committee to Secure Justice for Morton Sobell in the Rosenberg Case."

("Guide to Subversive Organizations and Publications" dated December 1, 1961, issued by the House Committee on Un-American Activities, page 116.)

In September, 1954, the name "National Committee to Secure Justice for Morton Sobell" appeared on literature issued by the Committee. In March, 1955, the current name, "Committee to Secure Justice for Morton Sobell," first appeared on literature issued by the Committee.

The Address Telephone Directory for the Borough of Manhattan, New York City, as published by the New York Telephone Company on April 16, 1963, lists the "Committee to Secure Justice for Morton Sobell" as being located at 940 Broadway, New York, New York.

SOURCES: [REDACTED]

B7D

"Guide to Subversive Organizations"

100-37158-2165

APPENDIX



UNITED STATES GOVERNMENT

# Memorandum

TO : SAC, NEW YORK (100-37158)

DATE: 12/23/64

FROM: *gsm* SAC, SEATTLE (65-3111) (P)

SUBJECT: MORTON SOBELL  
ESP - R  
OO: NEW YORK

Re New York letter to Seattle, 11/3/64.

Seattle indices are negative concerning WILBUR R. ENGLS also under spelling of ENGELS.

On November 9, 1964 [redacted]

[redacted] furnished a record pertaining to one W. R. ENGLS, wife WINNIFRED, nee JOSEPHSON. They have been on file since 1943. In August, 1959 they resided at 1903 Queen Anne Avenue and she was listed as being with the Olympic Hotel laundry. In May, 1944 he was employed at Seattle-Tacoma Ship Yards and they resided at 6617 Schaeffer South. In May, 1945 he was with Todd Ship Yard and in March, 1954 as a laborer with the Austin Construction Company. In September, 1960 he was a laborer with General Construction Company. In August, 1957 she was with Troy Laundry and in October, 1963 was employed by WILLIAM G. SHEPARD as a practical nurse. b7D

The ENGLS have resided at 13 different addresses since 1943. It was indicated they married on February 20, 1943 and his age was given as 35 and hers as 38, date not shown. A news article in the Seattle Times, December 2, 1960, indicated ENGLS had been arrested and found guilty of driving while under influence of liquor and was fined \$200.

No record was found in the files of the Seattle Police Department or the King County Sheriff's Office on November 27, 1964 other than that mentioned above.

On December 17, 1964 [redacted]

Voters Office, Seattle, produced a card dated October, 1962 b7D

**B7D**

2 - New York (REG)  
2 - Seattle  
RHC:cmh  
(4)

100-37158-2166

SEARCHED _____	INDEXED _____
SERIALIZED _____	FILED _____
332 DEC 28 1964	
FBI - NEW YORK	

[redacted]

B7C #332

SE 65-3111

indicating WILBUR R. ENGLES was born February. 23, 1910 at Seattle, residing at 1015 East Aloha Street as of October, 1962 and his occupation was a laborer. A registration for his wife in 1948 gave her age as 43, indicating she was born in Iowa and was a practical nurse.

LEAD

SEATTLE DIVISION  
At Seattle, Washington

Will attempt to obtain further information concerning the background and activities of WILBUR R. ENGLES, unless advised to the contrary by New York.

SAC, NEW YORK (100-37158)

12/23/64

SAC, SEATTLE (65-3111) (P)

MORTON SOBELL  
ESP - R  
OO: NEW YORK

Re New York letter to Seattle, 11/3/64.

Seattle indices are negative concerning WILBUR R. ENGLS also under spelling of ENGELS.

On November 9, 1964 [redacted] furnished a record pertaining to one W. R. ENGLS, wife WINNEFRED, nee JOSEPHSON. They have been on file since 1943. In August, 1959 they resided at 1903 Queen Anne Avenue and she was listed as being with the Olympic Hotel laundry. In May, 1944 he was employed at Seattle-Tacoma Ship Yards and they resided at 6617 Schaeffer South. In May, 1945 he was with Todd Ship Yard and in March, 1954 as a laborer with the Austin Construction Company. In September, 1960 he was a laborer with General Construction Company. In August, 1957 she was with Troy Laundry and in October, 1963 was employed by WILLIAM G. SHEPARD as a practical nurse. b7D

The ENGLS have resided at 18 different addresses since 1943. It was indicated they married on February 20, 1943 and his age was given as 35 and hers as 38, date not shown. A news article in the Seattle Times, December 2, 1960, indicated ENGLS had been arrested and found guilty of driving while under influence of liquor and was fined \$200.

No record was found in the files of the Seattle Police Department or the King County Sheriff's Office on November 27, 1964 other than that mentioned above.

On December 17, 1964 [redacted] Voters Office, Seattle, produced a card dated October, 1962 b7D

2 - New York (REG)  
2 - Seattle  
RHC:cmh  
(4) b7D

100 37158-2166

SEARCHED	INDEXED
SERIALIZED	FILED
DEC 28 1964	
FBI - NEW YORK	

123

SE 65-3111

indicating WILBUR R. ENGLES was born February 23, 1910 at Seattle, residing at 1015 East Aloha Street as of October, 1962 and his occupation was a laborer. A registration for his wife in 1948 gave her age as 43, indicating she was born in Iowa and was a practical nurse.

LEAD

SEATTLE DIVISION  
At Seattle, Washington

Will attempt to obtain further information concerning the background and activities of WILBUR R. ENGLES, unless advised to the contrary by New York.

100-37158-2166

SAC, SEATTLE (65-3111)

12/31/64

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

MORTON SOBELL  
ESP - R  
(OO- NY)

Re Seattle letter, 12/23/64.

Inasmuch as the subject is a convicted espionage subject, it is requested that additional investigation concerning MIUBUP ENIGES be conducted by the Seattle Office to determine if he is known to security informants of that office, to verify his birth in the United States, and to attempt to ascertain the reason for his attempted visit to subject at the Medical Center for Federal Prisoners, Springfield, Missouri.

2 - Seattle (RM)  
1 - New York

*CCM*  
CMB: jas  
(3) *1/1*

*GM 2*  
Chief Clerk  
Post *MS* 12/31/64  
*J*

100-37158-2167

FILE # 100-37158

SUBJECT MORTON SOBELL

SERIAL 2168 DATE 12.24.64

CONSISTING OF 1 PAGES

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

UNITED STATES GOVERNMENT

MEMORANDUM

TO: SAC, SAN FRANCISCO (100-49691)

DATE: 12/24/64

FROM: SA [REDACTED] B7C

SUBJECT: EMA LAZARUS CLUB  
IS - C

DOCUMENTATION:

[REDACTED] Luncheon and Meeting  
of EMA LAZARUS Club,  
1028 Balboa Street,  
San Francisco,  
California, 11/28/64  
B7D

[REDACTED] SA [REDACTED] [REDACTED]  
b7D B7C b7D

Set forth verbatim on subsequent pages is a report by

[REDACTED] has been thoroughly questioned concerning the  
above, but could furnish no additional pertinent information.

RECOMMENDATION: All necessary action has been taken.

21 - San Francisco (100-49691)  
cc: [REDACTED]

1 - Los Angeles (RM)

2 - New York (RM)  
(2) - (MORTON SOBELL)  
(1) - (ROSE SOBELL)

JD: sms #9  
(24)

Read by...  
Reviewed by...

Searched.....Indexed.....  
Serialized...Filed.....

DECEMBER 24, 1964  
FBI - SAN FRANCISCO

100-42374 (ROSE SOBELL)

65-4228 (MORTON SOBELL)

100-27158-2169

B7D  
b7C

B7C

B7C

[Handwritten signature]

dm

San Francisco, California  
December 2, 1964

11/23/64, Home of MAY ZORBAS,  
1028 Balboa Street, San  
Francisco, California

Purpose: Luncheon and meeting of <sup>M</sup>EMA LAZARUS Club,  
\$1.50, advertised by mail

Guest of Honor: "Mother" ROSE SOBELL who talked  
about the SOBELL case. Pitch for SOBELL  
by ESTHER SCLAR.

Chairman: SARA BRODY

Persons present: 33

[REDACTED]

b7D

[REDACTED]

[REDACTED]

[REDACTED]

ROSE SOBELL

[REDACTED]

RUTH ORLOFF read a report from a national committee member which in part condemned racism, discrimination, the United States interference in the Congo, and South Vietnam.

ROSE SOBELL said MORTON has engaged lawyer KUNSTLER to represent him in his case for full pardon. She spoke in a soft tone of a mother whose son has been unjustly accused but using that tone to work up sympathy.

100-37158-269

[REDACTED]

B7D



Luncheon and Meeting of ETA  
LAZARUS Club, 11/26/64

ESTHER SCLAR:

"Lawyer KUNSTLER is of the firm Kunstler and Kunstler of New York City and is connected with the Civil Liberties Union.

Random House is to publish a book by a man (whose name I did not get) on the SOBELL case which I hope will be greatly publicized and read, particularly by the youth to form a different opinion of the case.

SOBELL must be pardoned now."

Remarks:

Writer read in the "San Francisco Chronicle," December 2, 1964, "Dixie Clash - Negroes vs. FBI" that WILLIAM N. KUNSTLER is counsel to MARTIN LUTHER KING.

[REDACTED]

b7D

[REDACTED]

<sup>B7D</sup>  
Leaflets re this meeting attached  
to original report *jd*

100-37158-2169

FILE # 100-37158

SUBJECT MORTON SOBELL

SERIAL 2170 DATE 12.30.64

CONSISTING OF 4 PAGES OF WHICH  
PAGES 2 + 3

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

OFFICE MEMORANDUM UNITED STATES GOVERNMENT

TO: SAC, LOS ANGELES (100-41648) DATE: 12/30/64  
FROM: SA [REDACTED] B7C  
SUBJECT: LOS ANGELES SOBELL COMMITTEE (LASC)  
IS-C

SOURCE	ACTIVITY	RECEIVED	AGENT	LOCATION
[REDACTED] b1	[REDACTED] b1	12/15/64	Writer	[REDACTED] b1

Informant's report is quoted as follows:

CC: 2 - New York (REGISTERED)  
100- (MORTON SOBELL)  
100- (ROSE SOBELL)

[REDACTED]

[REDACTED]

b1

65-5082 (MORTON SOBELL)

DVG:LAL  
(27) *lal* Read by         

100-37158-2170

*Copy*  
[REDACTED]  
33 B7C

APPENDIXCOMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL

A source advised on May 12, 1964, that the Los Angeles Sobell Committee is the Los Angeles, California affiliate of captioned organization.

Following the execution of atomic spies ETHEL and JULIUS ROSENBERG in June, 1953, the "Communist campaign assumed a different emphasis. Its major effort centered upon MORTON SOBELL," the ROSENBERGS' codefendant. The National Committee to Secure Justice in the Rosenberg case - a Communist front which had been conducting the campaign in the United States - was reconstituted as the National Rosenberg-Sobell Committee at a conference in Chicago in October, 1953 and "then as the National Committee to Secure Justice for Morton Sobell in the Rosenberg Case."

("Guide to Subversive Organizations and Publications" dated December 1, 1961, issued by the House Committee on Un-American Activities, page 116.)

In September, 1954, the name "National Committee to Secure Justice for Morton Sobell" appeared on literature issued by the Committee. In March, 1955, the current name, "Committee to Secure Justice for Morton Sobell," first appeared on literature issued by the Committee.

The Address Telephone Directory for the Borough of Manhattan, New York City, as published by the New York Telephone Company on April 16, 1963, lists the "Committee to Secure Justice for Morton Sobell" as being located at 940 Broadway, New York, New York.

## SOURCES:

 - b1  
"Guide to Subversive Organizations"

100-37158-2170

OFFICE MEMORANDUM UNITED STATES GOVERNMENT

TO: SAC, LOS ANGELES (100-41648) DATE: 12/31/64  
FROM: SA [REDACTED] B7C  
SUBJECT: LOS ANGELES SOBELL COMMITTEE (LASC)  
IS-C

SOURCE	ACTIVITY	RECEIVED	AGENT	LOCATION
[REDACTED] b7D	Meeting of the LASC 12/5/64.	[REDACTED] b7D	Writer	[REDACTED] b7D

Informant's report is quoted as follows:

CC: 2 - New York (REGISTERED)  
100- (MORTON SOBELL)  
100- (RCSE SOBELL)

[REDACTED]

B7D

100-46699 (ROSE SOBELL)

[REDACTED]

65-5062 (MORTON SOBELL)  
100-34730 (HUNGARIAN HALL)

JPA:LAL  
(21)

Read by

*[Handwritten signature]*

*[Handwritten initials]*  
100-37158-2171  
*[Handwritten signature]*  
B7C 332

LA 100-41648

"12/7/64

"On Saturday, December 5th 1964 I attended a luncheon at 1251 South St. Andrews Place, Los Angeles, Calif.

"The following persons were present:

[REDACTED]

ROSE SOBELL

B7D

[REDACTED]

"The luncheon was sponsored by the Los Angeles Morton Sobell Committee to honor his mother ROSE SOBELL and to hear a latest report on MORTON's case. A donation of \$1.50 for the luncheon was asked. They served from 12:30 P.M. until 2:P.M..

"Mr. NAT CORNER introduced himself and said he would be chairman for the affair. He told of traveling to European countries trying to arouse people to the injustice the United States has imposed on MORTON SOBELL the fact that he was framed from the begining. He said we are not going to speak too long. He then introduced a young man a guitarist by the name of STANLEY HUGHS to entertain with songs.

"CORNER came on again to introduce a very courageous person by the name of ROSE SOBELL.

LA 100-41648

"ROSE SOBELL thanked everyone for the luncheon and other people from the committee who have been helping her in her struggle and effort to free her son MORTON SOBELL from prison. She said she had some good news from the lawyers the fact that they will take the case and an estimate fee of twenty five hundred dollars. She told of how JULIUS and ETHEL ROSENBERG had paid with their lives for a crime they had not committed, and how her son a brave man has stood ground by not div (allegedly) the names of other persons. She said MORTON had said no more injustice will be done on my account. Had the ROSENBERGS lived they would have told the truth. ROSE SOBELL told of how she and HELEN SOBELL separately had gone to Europe and talked at meetings telling the people of her son and how the United States has framed him. ROSE SOBELL said these people are shocked they had not heard the truth before. ROSE SOBELL read a letter she said was from MORTY. The letter contained criticism of the United States on all the racial news and killing and bombing of churches and Negro children. MORTON felt the United States had reached a very weak point and was a country composed of all kinds of hatred. He found himself very much depressed to hear about all those tragic news. ROSE SOBELL went on to say that a book would be published by Doubleday publishers and it will be interesting reading for those who don't know the truth about MORTON. She said it will take some time as the book is very bold and the lawyers are going through the manuscript for approval. ROSE SOBELL told a story about a scientist named GADY and his interest in MORTON how GADY had circulated a petition with names of professional people to free MORTON SOBELL in his care but this claim had been denied. ROSE SOBELL said that adds were being placed in newspapers in many towns asking President JOHNSON (Mr. President don't you care). She said the add in Los Angeles would run costly about one thousand dollars. She said a petition would be circulated for signatures to be taken to Washington to be presented to President JOHNSON as a Christmas amnesty. This they planned to do just before Christmas. ROSE SOBELL said all these activities cost money so I felt that if everyone can donate ten dollars its not too much to ask, or call a friend to call another friend if you feel its too much on your part. ROSE SOBELL was appealing for funds and started off by asking if anyone could donate one thousand dollars in support of MORTON SOBELL. In between the appeal ROSE SOBELL

LA 100-41648

"called for volunteers to help in the office at 555 Western Ave. She also told of a rumage sale to be held January 16th 1965 in the Burbank area. BETTY ROTTGER interrupted the appeal to ask for help at the office. At ten minutes after three the appeal for funds in motion but persons had began to leave."

ACTION:

Informant was thoroughly interviewed concerning the above and could add nothing further.

All necessary action in connection with this memo has been taken by the writer.

4 100-37158-2171



APPENDIX

COMMITTEE TO SECURE JUSTICE FOR MORTON SOBELL

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The Address Telephone Directory for the Borough of Manhattan, New York City, as published by the New York Telephone Company on April 16, 1963, lists the "Committee to Secure Justice for Morton Sobell" as being located at 940 Broadway, New York, New York.

SOURCES:

 B7D  
"Guide to Subversive Organizations"

100-37158-2171

UNITED STATES GOVERNMENT

# Memorandum

TO : SAC, New York (100-37158)

DATE: 1/13/65

FROM : SA [REDACTED]

SUBJECT: MORTON SOBELL  
ESP-R

Subject is on SI and an annual report is due.

Case is Pending and assigned to SA [REDACTED] 100-37158-2172

[REDACTED]

SA  
[REDACTED] [REDACTED] [REDACTED]  
[REDACTED]

B7C

[REDACTED]

b7C

SAC, NEW YORK (100-37158)

2/25/65

SAC, SEATTLE (65-3111) (P)

MORTON SOBELL  
ESP - R  
OO: NEW YORK

Re New York letter to Seattle, 11/3/64; Seattle letter to New York, 12/23/64; and New York letter to Seattle, 12/31/64, all IO.

Attached herewith for San Francisco and Portland are single xerox copies of the above referenced letters for information and assistance.

It is noted one WILBUR R. ENGLES of Seattle attempted to contact the captioned subject at the Medical Center for Federal Prisoners, Springfield, Missouri. Seattle is attempting to ascertain the possible reason for such contact.

The following additional information has been conducted at Seattle. During February, 1965, confidential security informants, familiar with certain activities of the Communist Party, were contacted and advised they are not acquainted with WILBUR R. ENGLES or his wife WINNIFRED, nee JOSEPHSON.

A check of Seattle City Directories for the years 1960 through 1964 indicate the 1960 City Directory lists WILBUR R. ENGLES as a laborer residing 1903 Queen Anne Avenue. The 1961 and 1962 Directory as well as the 1963 Directory lists ENGLES as a laborer for the Hoffman Construction Company and residing at 212 11th Avenue East, Apartment 303. The 1965 City Directory is negative. The January, 1965 reverse telephone directory discloses WILBUR R. ENGLES as residing at 1015 East Aloha, telephone East 2-0518.

[REDACTED]  
[REDACTED] Local 242, General Laborers Union, 2800 First

B7D

- 2 - New York
  - 2 - San Francisco (Encl. 3)
  - 2 - Portland (Encl. 3)
  - 2 - Seattle
- RHC:cmh  
(8)

100-37158-2175

SEARCHED	INDEXED
SERIALIZED	FILED
FEB 26 1965	
FBI - NEW YORK	

*[Signature]*

SE 65-3111

Avenue, Seattle, advised that WILBUR R. ENGLES has been a member of this union since 1948. [REDACTED]

and said ENGLES has attempted to run for offices in the Labor Union on several occasions but has never come close to winning. B7D

He said ENGLES is presently employed as a maintenance man at the University of Washington and formerly was employed by the Hoffman Construction Company, whose offices he believe are in Portland, Oregon.

He stated it is rumored that ENGLES has a brother who occupies a rather high position in HARRY BRIDGE's long shoremen's union in San Francisco. He did not know the name of this brother.

[REDACTED]

On February 23, 1965 [REDACTED] advised that WILBUR R. ENGLES, born March 23, 1910, social security number 536-07-4274 was hired as a janitor in the Physical Plant of the University of Washington on December 9, 1964 and is still so employed. B7D

LEADS

PORTLAND DIVISION  
At Portland, Oregon

Will check the records of the Hoffman Construction Company for any pertinent data concerning ENGLES.

SAN FRANCISCO DIVISION  
At San Francisco, California

Will advise whether there is any known official named ENGLES who is associates with HARRY BRIDGES and his union at San Francisco.

SEATTLE DIVISION  
At Seattle, Washington

Will check the records of the Registrar's Office, University of Washington and other sources for further background information on ENGLES.

100-37158-2175

UNITED STATES GOVERNMENT

# Memorandum

TO : SAC, NEW YORK (100-37158)

DATE: 2/25/65

FROM : *JSM* SAC, SEATTLE (65-3111) 'F'

SUBJECT: MORTON SOBELL  
ESP - R  
OO: NEW YORK

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**[REDACTED]** Local 242, General Laborers Union, 2800 First

*B7D*

- 2 - New York
- 2 - San Francisco (Encl. 3)
- 2 - Portland (Encl. 3)
- 2 - Seattle

RHC:cmh  
(8)

*B7C*

SEARCHED	INDEXED
SERIALIZED	FILED
FEB 25 1965	
FBI - NEW YORK	

*[Handwritten initials]*

*100-37158-2175*



SE 65-3111

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and said ENGLES has attempted to run for offices in the Labor Union on several occasions but has never come close to winning.

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[REDACTED]

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At Seattle, Washington

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100-37158-2175

# WIFE STILL SEEKS SOBELL FREEDOM

**She Puts Cost of 15-Year Fight at a Million**

By PETER KIHSS

One of the most massive efforts ever made to free any prisoner has been going on for nearly 15 years on behalf of Morton Sobell, convicted of conspiracy to commit espionage. His wife, Helen, says it has cost probably \$1 million thus far.

The most recent Government statement has been a Department of Justice reply to an appeal by Mrs. Sobell to Mrs. Lyndon B. Johnson.

In this, Reed Cozart, pardon attorney, wrote that if Sobell filed a clemency petition "based on his belief that his sentence was excessive, based on his institutional adjustment, etc., we would be glad to give it consideration."

But Mr. Cozart's letter, dated Feb. 5, said "there would be no basis for acting favorably upon a petition predicated upon his plea of innocence primarily," and the Government was "bound by the local adjudication of his guilt in this case."

### Sentenced in 1951

Sobell, who will be 48 April 11, has been in custody since Aug. 18, 1950. He was sentenced to 30 years imprisonment April 5, 1951, in the same case in which Julius and Ethel Rosenberg were executed June 19, 1953.

Since January, he has been in Lewisburg, Pa., penitentiary, after five and a half years in Alcatraz and the rest of his term in Atlanta and Springfield, Mo., Prison Medical Center.

Mrs. Sobell, a petite, black-haired former physicist, is chairman, with her mother-in-law, Mrs. Rose Sobell, of a Committee to Secure Justice for Morton Sobell, successor to a similar group named for the Rosenbergs.

For the last decade, she says this has worked on a budget of about \$50,000 a year, with offices currently here at 150 Fifth Avenue, at 20th Street, and in other cities.

In the last year, she has been teaching in a private school "to find something to me perspective" after dedicating herself completely to the cause since 1950. The Sobells have a son, Mark, 15.



**FREEDOM SOUGHT: Morton Sobell, who was convicted in atom spying case.**

### Petition for Pardon

The committee is currently circulating a petition to President Johnson urging a pardon for Sobell. Mrs. Sobell says this has amassed 8,000 signatures in a year from Americans calling her husband innocent, and is to be submitted when 10,000 are gathered.

Also under way is a plan for a new habeas corpus suit in Federal Court, offering what Mrs. Sobell says is still-unrevealed but "important new evidence of the innocence of the Rosenbergs and my husband," to be filed probably about June.

William M. Kunstler, who with Arthur Kinoy has been Sobell's counsel since September, says the Supreme Court has had the case before it six times from 1952 to 1963, but never yet allowed arguments.

Mrs. Sobell says the late President Kennedy, between his 1960 election and 1961 inauguration, told her he would free her husband. Two aides, she says, told her he would set up a committee of law professors on the case, but she thinks right-wing pressures caused delay.

### Parole Denied

The Federal Parole Board has annually denied Sobell parole since he first became eligible in July, 1962, although without explanation, Mrs. Sobell says.

She contends he could fulfill needed requirements—a family awaiting him, an offer of full-time employment, and agreement by Rabbi Balfour Brickner, of the Union of American Hebrew Congregations, to be his parole adviser.

The Sobell committee has distributed 8,000 copies of an eight-volume, 1,715-page transcript, selling this now-days at \$6 a set, to provide what Mrs. Sobell calls a "complete presentation." She estimates it has distributed 10,000 copies of a 672-page book by John Wexley and 5,000 of a volume by Malcolm Sharp on the Rosenberg-Sobell case.

Mrs. Sobell says she has herself addressed probably 1,000 meetings, at which many of the funds have been raised, including trips in 1962 and 1963 to Western Europe.

Maintaining her husband's innocence, she insists there never was any testimony that he "transmitted or received any secret material."

### Testimony of Engineer

Sobell's conviction depended on testimony of a former fellow Navy engineer, Max Elitcher, which Mrs. Sobell contends was uncorroborated. She holds Mr. Elitcher was himself liable to a perjury prosecution.

Persons who have declared faith in her husband's innocence, Mrs. Sobell says, include Dr. Harold C. Urey, Dr. Linus Pauling and Bertrand Russell, Nobel, prize winners, and the Rev. Peter McCormack, who lost his post as Protestant chaplain at Alcatraz after taking this stand.

Among persons who consider the case merits review or the sentence excessive, Mrs. Sobell cites Senator Lee Metcalf, Democrat of Montana, as having written Attorney General Robert F. Kennedy in 1961 that the conviction was on "very dubious evidence." The Rev. Dr. Martin Luther King Jr., she says, has called the sentence "cruel and unusual," regardless of guilt or innocence.

At Lewisburg, Sobell is earning 35 cents an hour for a 30-hour week working in a metal cabinet-making factory. Mrs. Sobell says. At Springfield, she says he designed a simulator for training X-ray technicians. In Atlanta, she says he had

CLIPPING FROM THE

NY

*Times*

EDITION

*Late City*

DATE

*7-1-65*

PAGE

*50*

FORWARDED BY NY DIVISION

NOT FORWARDED BY NY DIVISION

Mr. Elitcher's testimony basically was that (1) Sobell had charge of making mail sacks and redesigned equipment to cut down a fire hazard from two or three fires a month to perhaps one a year.

Mr. Elitcher told him to join the Communist League in 1939, (2) Rosenberg in 1944 told him Sobell was helping get military information for the Soviet Union, and Sobell became angry at hearing this later, (3) Sobell in 1947 asked if he knew anyone who could be approached for spying, (4) Sobell supported Rosenberg in trying to induce him to stay in the Navy in 1948 for spying, and (5) Sobell in 1948 took a film can from Flushing to Manhattan, saying he had information for Rosenberg.

Sobell did not testify in his own defense. He said this was on advice of his lawyers, who were convinced the prosecution case was weak. But his wife says he has consistently asserted his innocence and has insisted he was never a member

*330 100-57158-217*  
*1005*  
*Curm*  
*B7C*

SAC, NEW YORK (100-21)

3/26/65

SA [REDACTED] (41)

MORNING FREIHEIT, INC.  
IS-C; ISA-1950

The following editorial appeared in the "Morning Freiheit" of March 16, 1965, on page 4, columns 1-2:

A Pardon For Sobell

A big, paid advertisement, in "The New York Times" of Friday, March 12th, contained the text of an appeal by a number of prominent Americans to President Johnson for a full pardon for Morton Sobell, who has been languishing in jail for 14 years.

It brings to mind the gruesome history of the trial, which was conducted in 1951 against Julius and Ethel Rosenberg, and against Morton Sobell. It mentions that this was during the period of the poisoned atmosphere of McCarthyism and at the time of the Korean War. The Rosenbergs fell victim to this atmosphere. They were hurled in the electric chair. World-famous jurists maintained that this was an act of judicial lynching. Sobell received a sentence of 30 years in jail. He wasn't even charged with "atomic conspiracy". In the appeal to pardon Sobell - the sentence against him is called "cruel".

Among the signatories are shining pearls in various fields of social life, among them 8 Nobel Prize winners. Their appeal dare not fall on deaf ears, as has happened in all the years till now.

The above was translated from the Yiddish by  
[REDACTED] INTERPRETER.

b7c

1-NY-100-37158 (MORTON SOBELL)  
1-New York

NJP: rgh  
(2)

B7C

100-37158-2180

SEARCHED \_\_\_\_\_ INDEXED \_\_\_\_\_  
SERIALIZED \_\_\_\_\_ FILED \_\_\_\_\_

MAR 26 1965  
FBI - NEW YORK

b7c

#332



FEDERAL BUREAU OF INVESTIGATION

Date March 1, 1965

**[REDACTED]** U. S. Public Health Service, advised MORTON SOBELL, U. S. Penitentiary Registry Number 31408-NE, was received U. S. Penitentiary, Lewisburg, Pa., on transfer January 30, 1965, and he is currently incarcerated this Institution.

He stated SOBELL has not been hospitalized during this period of time. He stated the Medical History indicates SOBELL has had a liver removed and he has a mild case of Psycho-Physiological gastro intestinal reaction, caused by nervous tension, and he is apparently doing well at this time.

**[REDACTED]** Psychiatric evaluation of SOBELL is as follows:

SOBELL is a very intelligent individual, with an obsessive compulsive personality. He is not in dire need of psychiatric care but psycho-therapy is indicated.

b7D

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
EXCEPT WHERE SHOWN  
OTHERWISE.

On 2/19/65 at U. S. Penitentiary Lewisburg, Pa. File # Philadelphia 65-4372  
by SA **[REDACTED]** /djs Date dictated 2/23/65

SEARCHED \_\_\_\_\_ INDEXED \_\_\_\_\_  
SERIALIZED \_\_\_\_\_ FILED \_\_\_\_\_  
FEB 23 1965  
FBI - PHILADELPHIA

b7C

3747 2181

SAC, SEATTLE (65-3111)

4/13/65

SAC, SAN FRANCISCO (65-4228) (RUC)

MORTON SOBELL  
ESP - R

OO:NY

Re Seattle letter dated 2/25/65.

The current membership list of all locals of the International Longshoremen's and Warehousemen's Union (ILWU) in the San Francisco Bay area were checked and no ENGLES, ENGLE, ENGELS or ENGEL were noted. Further, San Francisco agents familiar with ILWU past and present activities in the San Francisco Bay area do not recall an ILWU official named ENGLES or the variations listed above.

Current San Francisco city directories do not list an ENGLE under the various spellings identified as being an ILWU official.

San Francisco files contain a copy of Seattle report of SA ELMER M. ROTH dated 5/14/41 at Seattle in the investigation captioned "HARRY RENTON BRIDGES, with aliases - Communist Activities (Immigration Matters)." Page 12 of this report in part relates that on 6/1/40, [REDACTED]

[REDACTED] Seattle, called at the Seattle Office and advised that she had become interested in Democratic Party politics in the 34th Legislative District, Seattle, Washington, and had attended precinct and district caucuses held during the past few days, at which time she had the opportunity to observe that a group of residents in that district had organized as a communist bloc to control the political machinery of the Democratic Party in that district. [REDACTED] at the time of her visit furnished the names of various individuals who attended the 34th District caucus and are known to be communists in their principles even if they are not actually members of the CP." Among those mentioned was a WILBUR ENGLE, 94 Main Street, not further identified. B-7C  
b7D

2 - Seattle (AM-RM)  
2 - New York (100-3715)  
1 - San Francisco  
JTK/cmp  
(5)

SEARCHED	INDEXED
SERIALIZED	FILED
APR 19 1965	
FBI - NEW YORK	

Jmz

SEARCHED	INDEXED
SERIALIZED	FILED
APR 19 1965	
FBI - SEATTLE	

SF 65-4228

JTK/cmp

GEORGE ZAMLICH, INS, San Francisco, reviewed the San Francisco INS indices relating to the HARRY BRIDGES denaturalization proceedings and advised that he found no reference to an ENGLES under the various spellings.

For the information of the offices receiving copies of this communication, it is to be noted that San Francisco report of SA W. J. DEVEREUX dated 11/29/40 in the HARRY BRIDGES case on page 91 reflects that CARL STOFFREGEN, publisher of "The Crockett Signal", furnished a sworn affidavit on 3/4/36 to INS that "HARRY BRIDGES, TOM CORRA, a member of the Sugar Refinery Union No. 20337, and an unknown person who had accompanied Mr. BRIDGES from San Francisco, appeared in the Signal newspaper office; that Mr. BRIDGES made a statement to the effect that he did not think the Signal would publish an address he had delivered the previous evening, which was an address made by him at a mass meeting called by TOM CORRA to protest the discharge of one ALLEN ENGELS, a member of the Sugar Refinery employees' union, who had been discharged for alleged fighting within the plant of the C & H Sugar Company."

An inquiry conducted by the Contra Costa County Sheriff's Office in 1942 concerning ALLEN ENGELS, wa ALLEN ENGELSTEIN, determined that ENGELS has been employed by the California and Hawaiian Sugar Company, Crockett, California, since 1930. ENGELS was a member of the CIO Warehousemen's Union, Local 16 of the International Longshoremen's and Warehousemen's Union. He was born 12/8/03 at New York City. His father's name was MARTIN ENGELS; his mother's name was listed as Mrs. C. ENGELSTEIN.

It is to be noted that the CIO expelled the ILWU in 1949.

Seattle letter to New York dated 12/23/64 in captioned matter lists WILBUR R. ENGLES birth as 2/23/10 in Seattle, Washington.

The spelling of the surname and places of birth tend to indicate WILBUR R. ENGLES and ALLEN ENGELS are not brothers.

SAC, SEATTLE (65-3111)

4/13/65

SAC, SAN FRANCISCO (65-4228) (RUC)

MORTON SOBELL  
ESP - R

OO:NY

Re Seattle letter dated 2/25/65.

The current membership lists of all locals of the International Longshoremen's and Warehousemen's Union (ILWU) in the San Francisco Bay area were checked and no ENGLES, ENGLE, ENGELS or ENGEL were noted. Further, San Francisco agents familiar with ILWU past and present activities in the San Francisco Bay area do not recall an ILWU official named ENGLES or the variations listed above.

Current San Francisco city directories do not list an ENGLE under the various spellings identified as being an ILWU official.

San Francisco files contain a copy of Seattle report of SA ELMER M. ROTH dated 5/14/41 at Seattle in the investigation captioned "HARRY RENTON BRIDGES, with aliases- Communist Activities (Immigration Matters)." Page 12 of this report in part relates that on 6/1/40,

[redacted] Seattle, called at the Seattle office and advised that she had become interested in Democratic Party politics in the 34th Legislative District, Seattle, Washington, and had attended precinct and district caucuses held during the past few days, at which time she had the opportunity to observe that a group of residents in that district had organized as a communist bloc to control the political machinery of the Democratic Party in that district. [redacted] at the time of her visit furnished the names of various individuals who attended the 34th District caucus and are known to be communists in their principles even if they are not actually members of the CP." Among those mentioned was a WILBUR ENGLE, 94 Main Street, not further identified.

b7c  
b7D

2 - Seattle (AM-RM)

1 - New York (100-37158-2183)

1 - San Francisco

JTK/cmp

(5)

100-37158-2183

SEARCHED	INDEXED
SERIALIZED	FILED
APR 19 1965	
FBI - NEW YORK	

SEARCHED	INDEXED
SERIALIZED	FILED
APR 19 1965	
FBI - SEATTLE	

b7c

SF 65-4228

JTK/cmp

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# Memorandum

TO : SAC, NEW YORK (100-37158)

DATE: 4/28/65


FROM : *JSAM* SAC, SEATTLE (65-3111) (RUC)

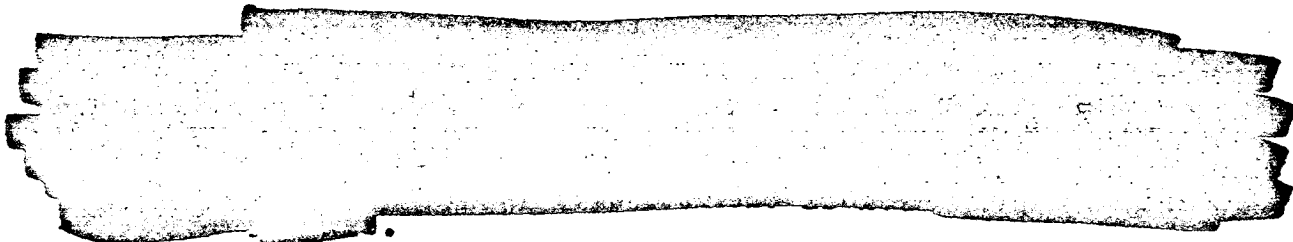
SUBJECT: MORTON SOBELL  
ESP - R  
OO: NY

Re New York letter to Seattle, 11/3/64; Seattle letters to New York, 12/23/64 and 2/25/65; San Francisco letter to Seattle, 4/13/65 and New York report, 3/17/65.

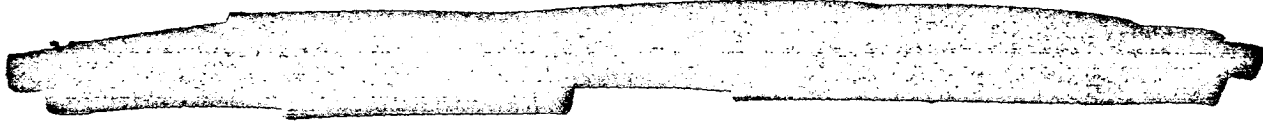
A check of Seattle indices has failed to disclose an individual named ENGLES who may be a brother to WILBUR R. ENGLES who may be an official in the Longshoremen's Union either in Seattle or San Francisco, as mentioned in referenced Seattle letter, February 25, 1965.

The following additional information was obtained at Seattle on April 20, 1965. The records of the Registrar's Office, University of Washington, Seattle, Washington, contained no data concerning ENGLES.

 *B-7D*  
University of Washington, furnished an application of WILBUR R. ENGLES for his employment at the University of Washington beginning December 9, 1964 as a maintenance man.



b7C



b7C

In view of the limited education and his background as a construction laborer, it is not felt that one attempted contact with SOBELL during a trip, would warrant further inquiry.

- ② - New York (REG)
  - 1 - Portland (Info.) (REG)
  - 2 - Seattle
- RHC:cmh  
(5)

*100-37158-2184*

SEARCHED	INDEXED
SERIALIZED	FILED
APR 1 1965	
NEW YORK	

*b7C*

*323*

SAC, NEW YORK (100-37158)

4/28/65


SAC, SEATTLE (65-3111) (RUC)

MORTON SOBELL  
ESP - R  
OO: NY

Re New York letter to Seattle, 11/3/64; Seattle letters to New York, 12/23/64 and 2/25/65; San Francisco letter to Seattle, 4/13/65 and New York report, 3/17/65.

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- 2 - New York (REG)
  - 1 - Portland (Info.) (REG)
  - 2 - Seattle
- RHC:cmh  
(5)

SEARCHED	INDEXED
SERIALIZED	FILED
APR 29 1965	
FBI - SEATTLE	

SMA  
100-37158-2181

SAC, NEW YORK (100-37158)

4/30/65

SAC, PORTLAND (65-2004)(RUC)

MORTON SOBELL  
ESP - R  
OO: New York

Re Seattle letter to New York, 2/25/65.

On 4/26/65 [REDACTED]

[REDACTED] Hoffman Construction Company, 715 S. Columbia, Portland, Oregon, advised that records of that concern indicate that WILBUR R. ENGELS was employed by that company in 1961 but that the information pertaining thereto was very meager. b7D

[REDACTED] said the records showed only that ENGELS had gone to work on 7/24/61 and was employed until 12/5/61. He had been employed "out of Seattle." His residence address was listed as 616 East Thomas, Seattle, Washington. b7D

[REDACTED] said that the record did not indicate the type of work done by ENGELS but that he probably was engaged as a laborer since his wage rate was \$120 per week. His Social Security Number was listed as [REDACTED]

[REDACTED] added that no other information whatever was available. b7D, b7C

- 2 - New York (RM)
- 1 - Seattle (65-3111)(Info.)(RM)
- 1 - Portland

WSB/nwt  
(4)

100 - 37158 - 2185

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 1 1965	
FBI - NEW YORK	

*gml*



UNITED STATES GOVERNMENT

# Memorandum

TO : SAC, NEW YORK (100-37158)

FROM : *WSP* SAC, PORTLAND (65-2004)(RUC)

SUBJECT: MORTON SOBELL  
ESP - R  
OO: New York

DATE: 4/30/65

Re Seattle letter to New York, 2/25/65.

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[redacted], Hoffman Construction Company, 715 SW Columbia,  
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residence address was listed as 616 East Thomas, Seattle,  
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engaged as a laborer since his wage rate was \$120 per week.  
His Social Security Number was listed as [redacted]  
[redacted] added that no other information whatever was  
available. B7D, b7C

- ② - New York (RM)
- 1 - Seattle (65-3111)(Info.)(RM)
- 1 - Portland

WSB/nwt  
(4)

100-37158-2185

SEARCHED INDEXED  
SERIALIZED FILED  
APR 30 1965  
FBI - NEW YORK

b7C

OFFICE MEMORANDUM UNITED STATES GOVERNMENT

TO: SAC, LOS ANGELES (100-1783) DATE: 5/3/65

FROM: SA [REDACTED] B7C

SUBJECT: LOS ANGELES COMMITTEE FOR PROTECTION OF FOREIGN BORN (LACPFB) IS-C

SOURCE	ACTIVITY	RECEIVED	AGENT	LOCATION
[REDACTED] who has furnished reliable information in the past and whose identity should be concealed.	15th Annual Conference of LACPFB held at 118 N. Larchmont Blvd., L.A., 3/27/65.	[REDACTED]	Writer	[REDACTED]

B7D

Informant's report is quoted as follows:

[REDACTED] b7D  
"15th Annual Conference of the Los Angeles Committee For Protection of Foreign Born, March 27, 1965.

"The 15th Annual Conference of the Los Angeles Committee for the Protection of the Foreign Born was held on March 27, 1965, at Larchmont Hall, 118 North Larchmont Blvd., Los Angeles, California, and started at approximately 10:00 a.m.

CC: 1 - New York (REGISTERED) ✓  
100- (MORTON SOBELL)

[REDACTED]

[REDACTED] (SI)  
[REDACTED] (SI)  
[REDACTED] (SI)  
[REDACTED] (SI) B7C

65-5082 (MORTON SOBELL)

WLH:LAL (10) Read by WMA

B7D  
B7C  
100-37158-2188  
SEARCHED [initials] INDEXED [initials]  
SERIALIZED [initials] FILED [initials]  
1965  
FBI - NEW YORK  
332 619 100-37158

LA 100-1783

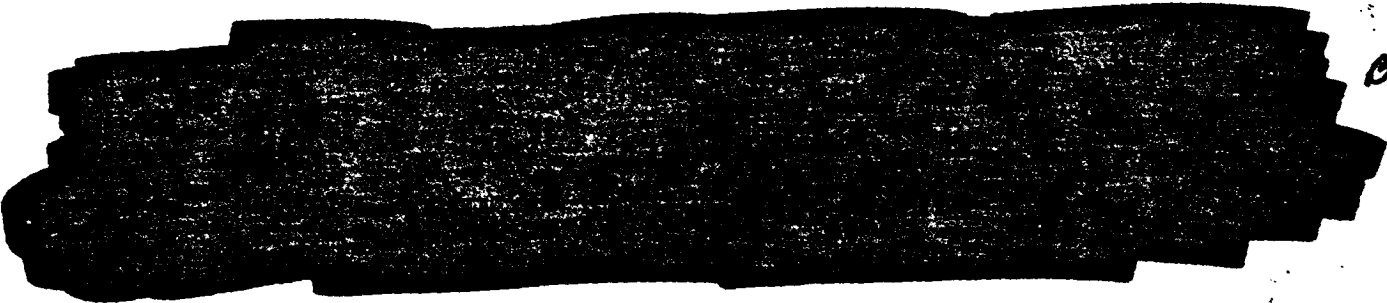


b7D

"A series of speakers appeared before the conference during the 1st or morning session. Included were NATHAN GARFIELD and Dr. EASON MONROE. Both of these individuals spoke briefly on the topic of civil rights.

"ROSE CHERNIN KUSNITZ spoke about the accomplishments of the LACFPB over the years and gave details of some of the more popular cases handled during this 15 year period.

"Approximately 200 individuals attended this 1st session and it was noted that only approximately 12 Negroes and very few people of Mexican extraction were in attendance. KUSNITZ stated that the LACFPB is fighting the Mc Carran Act and the objective is to have the Act repealed but if this is not possible it must be amended. KUSNITZ was the last speaker of the morning session and when she terminated at approximately 12:30 p.m. it was announced that lunch was being served and that the conference would start again at after 1:00 p.m.



b-7D

"A printed resolution was handed out which apparently was given to all three panels. This called for a statute of limitations to be placed on the Walter Mc Carran Act.

100-37158-2188

LA 100-1783

"This resolution was to be rewritten as MAURICIO TERRAZAS wanted a statement included which would honor the Treaty of Guadalupe which would give Mexicans equal rights in language and customs.

"The next resolution dealt with the MORTON SOBELL matter and called for a pardon.

"The next resolution dealt with the Viet Nam war and called for the United States to withdraw from Viet Nam.

"Another resolution called for a speed up of the granting of citizenship for individuals after deportation cases had been dropped against the individual.

"Another resolution called for the continuation of the Nazi war criminal case. This is, however, to be worked to include criminal and murders in human rights.

"The next resolution called for the conference to go on record for equal jobs, housing and educational rights.

"All of these resolutions were adopted without opposition.

"HUGH DE LACY called for a buildup of the assistance for the older people. He pointed out that in California not enough assistance is given to the elderly and it was stated that in this state only 5% goes to welfare and that this should be increased.

"During a discussion of candidates for the municipal election it was mentioned that MARION MILLER was a stool pigeon and that she should not be supported. A letter writing campaign was suggested for supporting the U.S. Supreme Court's concept of the one man one vote decision. They also called for support of the reapportionment of the upper house of the California legislature.

"Approximately 75 persons attended the panel relative to Defense of Civil Rights.

LA 100-1783

"The panels completed their work at approximately 4:00 p.m. at which time the persons attending the conference again assembled and the report pertaining to the work of the panels was presented. At this time a song 'We Shall Overcome' was sung."

ACTION:

Informant was thoroughly interviewed concerning the above and could add nothing further.

All necessary action in connection with this memo has been taken by the writer.

INDEX: 

b7D

APPENDIX

LCS ANGELES COMMITTEE FOR PROTECTION OF FOREIGN BORN

The "Guide to Subversive Organizations", revised, December 1, 1961, pp. 103-104 describes this committee as follows:

"A 'branch' of the American Committee for Protection of Foreign Born found to be under the 'actual management, direction and supervision' of Communist Party members. The Los Angeles Committee was reorganized in October, 1950 and reported that it 'shall be affiliated to the national organization known as the American Committee for Protection of Foreign Born \*\*\*' The American Committee and the 'various area or local committees \* \* \* constitute \* \* \* one organization within the meaning of the \* \* \* statute (Internal Security Act)' under which the Subversive Activities Control Board found the American Committee for Protection of Foreign Born to be a 'Communist-front organization' and ordered it to register as such with the Attorney General".

(Subversive Activities Control Board, Docket No. 109-53, Report and Order with respect to the American Committee for Protection of Foreign Born, June 27, 1960, pp. 41, 8, 12 and 51.)

"Cited as a 'regional' organization of the American Committee for Protection of Foreign Born and one of its 'most complex affiliates.' 'The Committee on Un-American Activities found that in early publications the local affiliates frankly identified themselves as chapters of the American Committee for Protection of Foreign Born; their representation of themselves as independent groups came only after enactment of the Internal Security Act which would have required them, as affiliates, to register as Communist-front organizations.'

"Control of the local organizations \* \* \* was made possible primarily by virtue of the fact that the leaders of the local groups were Communist Party members and therefore subject to the discipline of the Party. \* \* \* The local affiliates \* \* \* were actually little more than administrative staffs, whose purpose it was to implement the program of the Communist Party in their respective areas.

APPENDIX CONTINUED

LOS ANGELES COMMITTEE FOR PROTECTION OF FOREIGN BORN

"The Lamp of January, 1950, reported that the Los Angeles Committee for Protection of Foreign Born had been established on November 29, 1949.' Publicly identified Communist ROSE CHERNIN served as 'the operating head' since the time of its organization.

(Committee on Un-American Activities, House Report 1182 on Communist Political Subversion, August 16, 1957, pp. 86, 87, 55, 33, 54, 58, and 59; also cited in Annual Report for 1956, House Report #53, February 11, 1957, p. 5.)"

100-37158-2188

Noted ✓  
Date

TO: CHIEF CLERK

Date 5/24/65

Subject

JERRY CARMEL

Aliases

Address

Birth Date

Birthplace

Race

Sex

Male  
 Female

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> Exact Spelling                  | <input type="checkbox"/> Main Criminal Case Files Only                                | <input type="checkbox"/> Restrict to Locality of _____ |
| <input checked="" type="checkbox"/> All References       | <input type="checkbox"/> Criminal References Only                                     |  |
| <input type="checkbox"/> Main Subversive Case Files Only | <input type="checkbox"/> Main Subversive (If no Main, list all Subversive References) |  |
| <input type="checkbox"/> Subversive References Only      | <input type="checkbox"/> Main Criminal (If no Main, list all Criminal References)     |  |

File & Serial Number	Remarks	File & Serial Number	Remarks

Re: [Redacted] Squad: B7C 332 Extension: 469 File No.: 100-37158-216

Searched by [Signature] (date) 5-24-65  
 Consolidated by [Signature] (date) 5-24-65  
 Reviewed by [Signature] (date) 5-24-65

Stamp: MAY 24 1965  
 Signature: [Handwritten]

File Review Symbols  
 I - Identical          ? - Not identifiable  
 NI - Not identical      U - Unavailable reference



CARMEL, JERRY

9/60

[REDACTED]

CARMEL, JERRY

3/60

[REDACTED]

CARMEL, "JERRY"

1/60

[REDACTED]

aka Jerald Carmel

*Robert aka*

4/60

[REDACTED]

CARMEL, JERRY

7/58

[REDACTED]

[REDACTED]

[REDACTED]

CARMEL, JERRY

5/60

[REDACTED]

AKA OF JERALD CARMEL

CARMEL, "JERRY"

2/60

[REDACTED]

aka of Jesse Carmel

B7C

100-37158-2189

11

FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2192 DATE 5.27.65

CONSISTING OF 7 PAGES

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

UNITED STATES GOVERNMENT

# Memorandum

TO : SAC, NEW YORK (100-37158)

DATE: 7/27/65

FROM : SA [REDACTED] 332 (P\*)

B7C

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

Re Philadelphia letter 6/30/65.

The subject is on the security index of the NYO, and an annual investigative report was submitted 3/17/65. He is currently incarcerated at the United States Penitentiary, Lewisburg, Pennsylvania.

In accordance with Bureau instructions regarding this case, the Philadelphia Office by relet set out a lead to review health records concerning subject at the Penitentiary within 90 days.

It is suggested that this case be placed in pending inactive status pending receipt of the above information.

1 - 100-37158

CWM  
(1)

*Reletting \**  
*100-37158 # 332 7/27*

100-37158-2196

*W* *W*  
*W*



# NEW BID PLANNED FOR SOBELL TRIAL

Move in Spy Case Based on  
Forthcoming Book

By PETER KIHSS

A new effort in Federal Court to upset the conviction of Morton Sobell on spy conspiracy charges is being planned, based on material gathered in a forthcoming book. The case led ultimately to the electrocution of Julius and Ethel Rosenberg as spies in 1953.

In a book being published Aug. 20 by Doubleday & Company, Inc., a husband-and-wife team of New York free-lance writers, Walter and Miriam Schneir, contend that the Rosenbergs and Sobell were "punished for a crime that never occurred."

They assert that "there is not the slightest reason to believe" the key prosecution witnesses, David Greenglass and Harry Gold, "ever met each other prior to their arrests." Both men had testified that Greenglass gave Gold atomic bomb sketches in a crucial act of the Rosenberg spy plot in Albuquerque, N. M., on June 3, 1945.

### Motion Being Drafted

The motion for a new trial is being drafted by William M. Kunstler, Arthur Kinoy and Marshall Perlin, co-counsel for Sobell, who will complete half of his 30-year sentence on Aug. 18. Mr. Kunstler said the motion would claim perjury, forgery and suppression of evidence in asserting Sobell's innocence, and would append the book, "Invitation to an Inquest," as partial documentation.

In Washington, the Department of Justice reserved comment on the proposed new move on the ground that its officials had not yet seen the Schneirs' book. Other legal experts, however, noted that the courts set rigorous standards for reopening such cases, and expressed doubt about the defense's chances.

Sobell's wife, Helen, declares Sobell's case has never had an actual hearing on evidence since the original trial in 1951, although petitions have gone as high as the Supreme Court 11 times.

Mrs. Sobell, small statured and increasingly drawn, heads a committee on her husband's case, which has sent out 10,000 letters seeking orders for the new \$5.95, 476-page book. She reports 500 return bids in a fortnight. Her group is also helping set up a nationwide lecture tour for the two authors.

CLIPPING FROM THE

N. Y. Times  
EDITION Late City  
DATED 8/1/65  
PAGE 66

FORWARDED BY NY DIVISION \_\_\_\_\_

NOT FORWARDED BY NY DIVISION

RE MORTON SOBELL  
Esp. - R

100-37158-2197

SEARCHED _____	INDEXED _____
SERIALIZED _____	FILED _____
AUG 3 1965	
FBI - NEW YORK	

B7C

### Credibility Is Target

Mr. Schneir, who is 38 years old, has written in particular for *The Nation* and *The Reporter* magazines. He was news editor of *MD*, a cultural news magazine for physicians; and his wife, who is 32, was a former kindergarten and nursery teacher when they started on their book six years ago.

In an interview, Mr. Schneir said he originally thought it "unlikely" that the Rosenbergs were innocent, although he had been "shocked by the sentence" of death in the electric chair.

Basically, the new book centers fire on the credibility of Greenglass and Gold. Greenglass, brother of Ethel Rosenberg, was released in November, 1960, after serving nine and a half years of his 15-year term in the Rosenberg case. Gold is serving a 30-year sentence for a separate atomic spy plot with Klaus Fuchs, the British physicist.

The Schneirs were allowed by Gold and his court-appointed lawyers, John D. M. Hamilton, a former Republican national chairman, and Augustus S. Ballard, to go through what they call "14 hours of recordings" of Gold's pre-trial interviews with his counsel, along with "hundreds of pages of correspondence."

### Statements Contrasted

The author says that Gold's pre-trial statements show:

¶He first told his lawyers that the critical trip to Albuquerque had been set up by Soviet Vice Consul Anatoli A. Yakovlev to see Fuchs as the "paramount" reason but that Yakovlev had added that Gold should try also to meet another man "if it were possible." At the trial, Gold testified he had a Yakovlev "order" to visit Greenglass because an unidentified woman was "unable to make the trip."

¶He made no mention to his lawyers of staying at the Albuquerque Hilton Hotel in June, 1945. At the trial, a hotel registration card with Gold's signature was introduced as documentary support for such a stay. The Schneirs declare their investigation of the card, its printing, inscriptions and time stamp, point to its being "a probable forgery"—and they emphasize that, according to hotel personnel, Federal Bureau of Investigation agents spent days in the hotel files.

¶Gold reported to his lawyers that he had at once told F.B.I. agents "the full story of my relationship with Klaus Fuchs," but "the David Greenglass incident I had actually completely forgotten about." He told him he had his memory gradually refreshed.

¶He related to his lawyers that he had introduced himself to the man in Albuquerque as "Mr. Frank, possibly Raymond Frank." At the trial, Gold testified he introduced himself as "Dave from Pittsburgh," causing Greenglass' wife Ruth to observe that this was also Greenglass first name.

¶He told his lawyers he had a "recognition sign" for the Albuquerque meeting that involved his saying something like "Bob" or "Benny" or "John sent me." At the trial, Gold testified Yakovlev gave him a paper with Greenglass name and a note, "recognition signal. I come from Julius" — the same first name as Rosenberg's.

¶He never recounted to his lawyers the dramatic trial testimony about how Yakovlev gave him a torn piece of card-board to match a similar piece

100-37158-2197

to be produced by Greenglass for ensuring mutual identification.

Reached in Philadelphia, Mr. Ballard said Gold had consented to let the Schneirs see the pre-trial material three to four years ago. This, he said, was after the Schneirs said they planned "an objective book on atomic espionage, with no ax to grind." He said he believed this consent to their access had been "cleared with the F. B. I."

Mr. Ballard added that Gold remained, in his opinion, "a thoroughly repentant man with nothing to hide," and "I am reasonably certain he was telling the truth" in the trial testimony eventually given.

#### 'I Am Shocked'

"If they are trying to make a liar out of Harry, I'm shocked," Mr. Ballard said. He added that he had been "trying to get Harry out of jail a long while" on the parole for which he has been eligible for five years and on a 1963 petition for commuting sentence.

Gold is in Lewisburg (Pa.) Penitentiary, where Sobell has also been imprisoned since last January.

As to Greenglass, the Schneirs quote Benjamin F. Pollack, a Department of Justice attorney who had been assigned in December, 1956, to draw up a still-confidential 95-page report on the Rosenberg-Sobell case for the then Attorney General, Herbert Brownell.

They say they had a two-hour interview with Mr. Pollack on departmental authorization. They assert he told them Greenglass had "no conscience at all," and "if I were a judge, I wouldn't take his testimony too seriously."

Mr. Pollack, through the Justice Department, reserved comment.

#### Woman Interviewed

In one part of his testimony, Greenglass said he had met a Mrs. Ann Sidorovich in January, 1945, after which Rosenberg told him she was the person likely to go to Albuquerque to get atomic bomb information from him.

The Schneirs report an interview with Mrs. Sidorovich, whom the prosecution had called an "espionage courier," but had never brought in as a witness at the trial.

Mrs. Sidorovich, they write, told them she did not ever remember meeting Greenglass, and had denied his story of her supposed courier trip plan "under oath" before the 1950 Federal grand jury here. She was quoted as saying she and her husband "were under 24-hour surveillance for over a year" by the F. B. I. thereafter.

The Schneirs write that they tried to interview Greenglass

and his wife through the couple's attorney, O. John Rogge, but had been rebuffed. They assert Mr. Rogge "characterized David as the sort who could be easily led."

Asked for comment, Mr. Rogge replied, "I never said that he could be 'easily led' with the implication that he could be made to say things as a witness." Mr. Rogge added he had "no doubt in my mind as to what the facts are," but would not go into the issues again unless a court proceeding arose.

He said the Greenglasses had changed their name with court approval, and were unavailable for interviews.

The Schneirs believe they are the first press representatives ever to see any of the four sketches drawn by Greenglass in 1950 and 1951 while he was in custody. These were introduced at the trial as "replicas" of originals he transmitted to Rosenberg and Gold in 1945.

The book reproduces three of these Greenglass sketches, which the authors say they were permitted to photostat from padlocked Federal Court files of the spy trial exhibits.

One had been described by Greenglass as showing a lens mold into which high explosives were poured. The two others, he testified, were replicas of sketches further developing the molds.

The fourth sketch was reputedly of the atom bomb itself, which Greenglass testified he gave Rosenberg in September, 1945. The Schneirs say

Judge Irving R. Kaufman, who presided at the trial and is now a member of the United States Court of Appeals, denied their 1962 request to release this sketch.

The Schneirs assert "Greenglass' three crudely drawn sketches" and "meager explanations" did not appear to them to reveal "matters of earth-shaking importance."

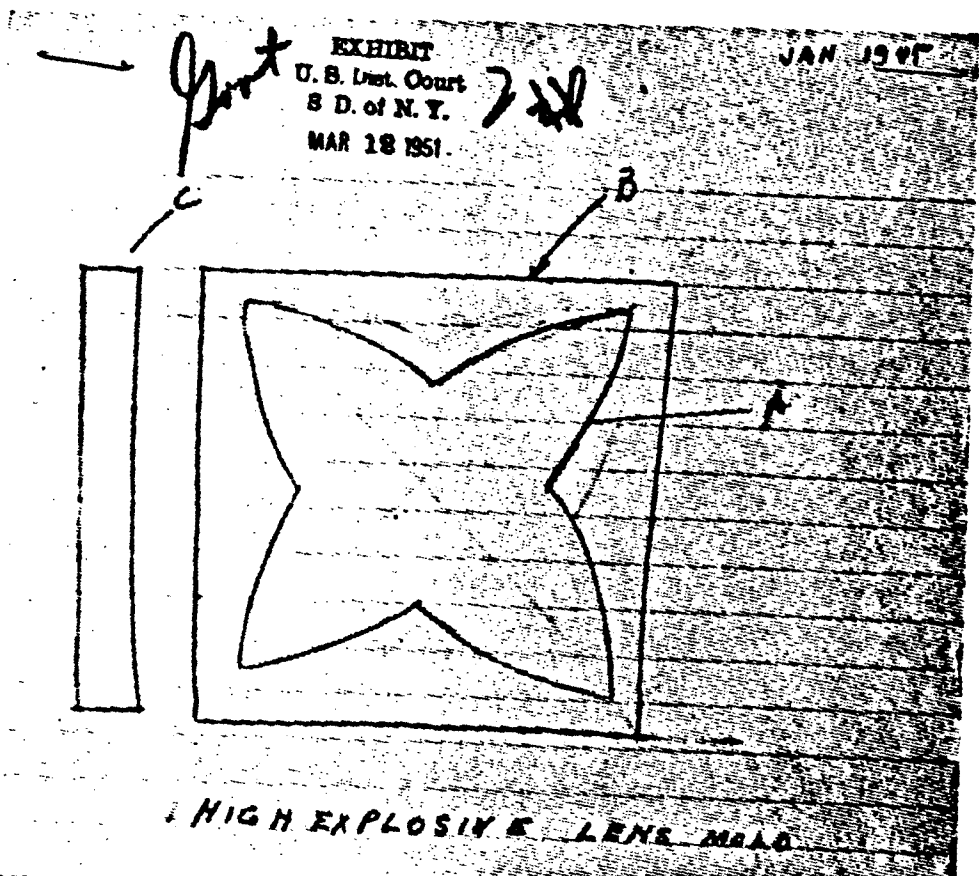
His data, they say, appear "extremely rudimentary, an impression strengthened by his testimony that none of the lens sketches is drawn to scale, that he was incapable of telling which of the many types of lens molds constructed in his shop was an improvement over any other one, and that he did not know the kind, quantity or combination of high explosives from which the lenses were made."

At the trial, Dr. Walter S. Koski, who had been a Los Alamos (N.M.) atomic bomb engineer on implosion research, testified the lens sketches "illustrate the important principle involved."

He described this as "the use of a combination of high explosives of appropriate shape to produce a symmetrical converging detonation wave." In essence, the technique surrounded plutonium with a layer of explosives, and these were exploded inward to compress the fissionable material into a critical mass, touching off a chain reaction and the nuclear blast.

Dr. Koski testified there had been "no information in textbooks or technical journals on this particular subject" as of 1945, and the work had remained secret information until made public at the 1951 trial.

100-37158-2197



**AN EXHIBIT AT THE SOBELL TRIAL:** This is a photocopy of a Government exhibit at the trial of Morton Sobell. It was described as a duplicate of a drawing showing a principle involved in detonation of a bomb, and transmitted to two other defendants in the atom spy case. In their book, Walter and Miriam Scheir query its value.

100-37158-2197

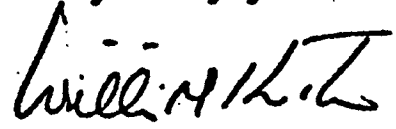
Hon. J. Edgar Hoover

-2-

August 31, 1965

We are in the process of preparing a petition under Title 28 U.S.C. § 2255 and would appreciate an early reply to this letter.

Very truly yours



William M. Kunstler

WMK SKT

100-37158-2198

SEARCHED	INDEXED
SERIALIZED	FILED
SEP 1 1965	
NEW YORK	



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

MURRAY HILL 2-8317

WILLIAM H. KUNSTLER  
MICHAEL J. KUNSTLER  
ARTHUR KINOY

CABLE ADDRESS  
"KUNSTLER"

August 31, 1965

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

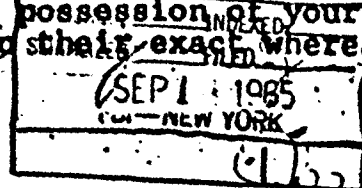
Re: United States v. Morton Sobell

Dear Mr. Hoover:

At the trial of the above-named client of this office which began on March 6, 1951, in the United States District Court for the Southern District of New York, the government introduced into evidence as its Exhibit 16 a photo-static copy of what purported to be a registration card of the Albuquerque Hilton Hotel for June 3, 1945, in the name of guest Harry Gold. This card bore on its reverse side, in addition to the hotel's date-time stamp, only the initials "F.L.B."

It is the understanding of this office that agents acting under your supervision visited the Albuquerque Hilton in May of 1950 and procured this card, as well as another, dated September 19, 1945, for the same guest. The latter card bears, in addition to the date-time stamp, the handwritten date "5-23-50", an FBI identification number "65-6" and three sets of initials, "F.I.P.", "A.L." and one that is undecipherable by this office.

Since a serious question has arisen as to the authenticity of the June 3rd card, it is imperative that a handwriting expert for Mr. Sobell examine the original cards. Only photo-static copies were, as has been indicated, introduced in evidence at the trial and the originals are not on file with the court. We respectfully request that our expert be permitted to examine the original cards if they are in the possession of your agency, and, if not, that we be informed as to their exact whereabouts.



100-37158-2199

FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2201 DATE 8.24.65

CONSISTING OF 2 PAGES

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

FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2202 DATE 8.24.65

CONSISTING OF 3 PAGES

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

SUPERVISORS CONFERENCE #35-65  
(9/29/65)

"Invitation to an Inquisition"  
by WALTER and MIRIAM SCHNEIR

Captioned book was published during August, 1965. This book, in substance, sets forth implications and conclusions designed to discredit HARRY GOLD, a

Government witness and implies that the Government's case against JULIUS and ETHEL ROSENBERG, executed spies, and MORTON SOBELL was false. Information has been received by the Bureau that the authors will begin a national tour, which will include major cities in the United States and Canada, in an effort to publicize and sell this book. The tour was recently announced in a letter from the Committee to Secure Justice for MORTON SOBELL.

All investigative personnel should be alert for meetings in our territory, and any inquiries directed to you concerning the authors or the publication should be referred to the Bureau, attention Crime Records Division.

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
EXCEPT WHERE SHOWN  
OTHERWISE.

100-37158-200  
SEARCHED \_\_\_\_\_ INDEXED \_\_\_\_\_  
SERIALIZED  FILED   
OCT 5 1965  
FBI - NEW YORK  
b7c

TO: SAC, WFO (65-8187)

FROM: [REDACTED] B7c

SUBJECT: WALTER SCHNEIR  
SM-C

10/7/65

Date received 10/5/65	Received from (name or symbol number) [REDACTED] B7D	Received by SA [REDACTED] B7c
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Method of delivery (check appropriate blocks)

in person     by telephone     by mail     orally     recording device     written by informant

If orally furnished and reduced to writing by Agents:

Date \_\_\_\_\_

Dictated \_\_\_\_\_ to \_\_\_\_\_

Transcribed \_\_\_\_\_

Authenticated by Informant \_\_\_\_\_

Date of Report  
10/5/65

Date(s) of activity

Brief description of activity or material

Reprint of NY Times article 8/1/65  
captioned "New Bid Planned for Sobell  
Trial" circulated with announcement of

File where original is located if not attached  
65-8187-1A-3

Remarks: meet the author for Walter Schneir 10/3/65

This informant has furnished reliable information in the past.

4-WFO

INDEX

100-25474 CSJMS  
101-2315 Morton Sobell

Miriam Schneir

[REDACTED] B7D

4-New York (RM) (INFO.) (copy on request)

CSJMS  
Walter Schneir  
Miriam Schneir  
✓Morton Sobell

CEG:evp  
(3)

B7c

Block Stamp

100-37158-2200

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 1965	
FBI - NEW YORK	

[REDACTED]

oib

File # (42-100)

TO: SAC, WFO (65-8187)

FROM: SA [REDACTED] B7C

SUBJECT: WALTER SCHNEIR  
SM-C

10/7/65

Date Received 10/5/65	Received from (name or symbol number) [REDACTED] B7D	Received by [REDACTED] B7C
--------------------------	---	-------------------------------

Method of delivery (check appropriate blocks)

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

If orally furnished and reduced to writing by Agents: <u>Date</u> dictated _____ to _____ Transcribed _____ Authenticated by Informant _____	Date of Report 10/5/65
	Date(s) of activity
	File where original is located if not attached 65-8187-1A-1

Brief description of activity or material

Announcement of Meet-The-Author Party  
featuring Walter Schneir 10/3/65 at  
10905 Montrose Ave, Garrett Park, Md.

Remarks: This informant has furnished reliable information in the past.

6-WFO  
[REDACTED] b7C [REDACTED] B7D  
[REDACTED] b7D

100-25474 CSJMS  
101-2316 Morton Sobell

(3 New York (RM) (copies of announcement will be furnished on request)

Committee to Secure Justice for Morton Sobell  
Walter Schneir  
Morton Sobell

CEG:evp  
(9)

Block Stamp

100-37158-2209

SEARCHED	INDEXED
SERIALIZED	FILED
331	105
FBI-NEW YORK	

11/2

B7C

TO: SAC, [redacted] (65-8137)

FROM: [redacted] B7C

SUBJECT: WALTER SCHNEIR  
SM-C

10/7/65

Date received 10/5/65	Received from (name or symbol number) [redacted] B7D	Received by SA [redacted] B7C
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Method of delivery (check appropriate blocks)

in person  
  by telephone  
  by mail  
  orally  
  recording device  
  written by informant

If orally furnished and reduced to writing by Agents:

Date

Discussed \_\_\_\_\_ to \_\_\_\_\_

Transcribed \_\_\_\_\_

Authenticity by informant \_\_\_\_\_

Date of Report

10/5/65

Date(s) of activity

Enter description of activity or material

Reprint of Book review of Walter  
Schneir's book in "The Evening Star"

File where original is located if not attc

65-8187-1A-2

8/19/65, circulated with announcement

Remarks: of meet the author meeting for Walter Schneir 10/3/65.

This informant has furnished reliable information in the past.

4-WFO

INDEX

100-35474 CSJMS  
 101-1516 Morton Sobell  
 [redacted] B7D

Miriam Schneir

4-New York (RM) (INFO) (copy on request)

CSJMS  
 Walter Schneir  
 Miriam Schneir  
 Morton Sobell

CEG:evp  
(8)

Block Stamp

100-37158-2208

SEARCHED <input checked="" type="checkbox"/>	INDEXED <input checked="" type="checkbox"/>
SERIALIZED <input checked="" type="checkbox"/>	FILED <input checked="" type="checkbox"/>
331 1 1965	
FBI - NEW YORK	

B7C

UNITED STATES GOVERNMENT

# Memorandum

TO :

DATE:

SAC, NEW YORK

10/27/65

FROM :

SAC, NEWARK (100-45633)

SUBJECT:

FRIDAY NIGHT FORUM  
IS - C

On 10/19/65, [redacted] who has furnished reliable information in the past, furnished a leaflet issued by the FRIDAY NIGHT FORUM reflecting that the first meeting of the current season would be held on Friday, 10/15/65, at the Continental Ballroom, 982 Broad Street, Newark, N.J., and that the featured speaker would be MIRIAM SCHNEIR, described as the co-author of "Invitation to an Inquest" which is described as the basis for a new appeal for freedom for MORTON SOBELL.

b7D

The leaflet and envelope in which it was received are being exhibited in Newark file 100-45633-1A.

3 - New York (RM)

(1 - 100-

) MORTON SOBELL

3 - Newark

(1 - [redacted])

GPH:amd

(6)

B7D

100-37158-2210

SEARCHED INDEXED  
SERIALIZED FILED  
OCT 28 1965  
FBI - NEW YORK

B7C

[redacted] [handwritten initials]





PERSONAL ATTENTION  
SAC LETTER 65-60

**UNITED STATES DEPARTMENT OF JUSTICE**  
**FEDERAL BUREAU OF INVESTIGATION**

November 2, 1965

WASHINGTON, D.C. 20535

In Reply, Please Refer to

File No.

(A) ROSENBERG - SOBELL CASE - BOOK BY WALTER AND MIRIAM SCHNEIR -- A letter to all Offices dated September 20, 1965, advised of the publication of a book entitled "Invitation to an Inquest" by Walter and Miriam Schneir which implied that the Government's case against Julius and Ethel Rosenberg and Morton Sobell was false. In addition, you were informed that the Committee to Secure Justice for Morton Sobell announced a "national tour" by the Schneirs of major cities in the United States and Canada to publicize and sell the book.

Additional information has been received that in connection with this tour attempts will be made to get the Schneirs on television programs throughout the country. Their main aim is to get on a nationwide television program, thus obtaining major publicity for this book.

All Offices should be alert to any indication of such action and immediately notify the Bureau in the event information is received indicating such an attempt on the part of the authors.

66-04-3378

B7C

100-37158-2211  
INDEXED  
SERIALIZED FILED  
NOV 3 1965  
NEW YORK  
[Redacted]

TO: SAC, NEW YORK (100-144364) DATE: 11/3/65  
FROM: SAC, NEWARK (100-45633)  
SUBJECT: FRIDAY NIGHT FORUM  
IS - C

Date received <b>10/19/65</b> <i>B7D</i>	Received from (name or symbol number) [Redacted] who has furnished reliable information in past	Received by SA [Redacted] <i>B7C</i>
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Method of delivery (check appropriate blocks)  
 in person   
 by telephone   
 by mail   
 orally   
 recording device   
 written by Informant

If orally furnished and reduced to writing by Agent:

Date \_\_\_\_\_

Dictated \_\_\_\_\_ to \_\_\_\_\_

Transcribed \_\_\_\_\_

Authenticated by Informant \_\_\_\_\_

Date of Report  
**10/16/65**

Date(s) of activity  
**10/15/65**

File where original is located if not attached  
*B7D* [Redacted]

Brief description of activity or material  
**Meeting of FRIDAY NIGHT FORUM**

Remarks:  
**12-New York (RM)**  
 [Redacted]  
 1-100-37158 (MORTON SOBELL)  
 1-100-107111 (SOBELL COMMITTEE)  
 1-65-15324 (HARRY GOLD)  
 1-65-15136 (KLAUS FUCHS)  
 1-65- (HARRY LOEB) *Harry Gold*  
 1-65-15348 (JULIUS ROSENBERG)  
 1-65-15336 (DAVID GREENGLASS)  
 1- [Redacted]  
 1- [Redacted]  
 1- [Redacted]  
 1 - Philadelphia (RM) (Info)  
 12-Newark *B7C*  
 1- [Redacted]  
 1- [Redacted]  
 1- [Redacted]  
 1- [Redacted]  
 1- [Redacted]  
 1- [Redacted]  
 1- [Redacted]  
 1- [Redacted]  
 1- [Redacted]  
 1- [Redacted]

OAC/jtm  
(25)

*B7D*

*100 37151-2212*

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 8 1965	
FBI - NEW YORK	

*[Handwritten signature]*

*B7C*

NK 100-45633

October 16, 1965

A meeting of the FRIDAY NIGHT FORUM was held at the Continental Ballroom, 982 Broad St., Newark, N.J., on Oct. 15, 1965.

LOTTIE GORDON introduced the guest speaker, Mrs. MIRIAM SCHNEIR, co-author of a book entitled "Invitation to an Inquest". "The facts" as presented in it are being used as a basis for a new appeal for MORTON SOBELL, the convicted spy. Renewed public interest has been given the case by a lengthy review of the book by the N.Y. Times. Other papers, too, have recently expressed doubt of SOBELL's guilt, said Mrs. SCHNEIR.

She reviewed the evidence presented at his trial and pointed out how originally vague statements made by witnesses before the trial were eventually offered as clear, pointed facts in court. Twisting or undue influence was obviously used here, she felt.

The circumstance of HARRY GOLD, too, was mentioned. After having been assigned an attorney, a Mr. HAMILTON, a corporation lawyer of Philadelphia, Pennsylvania, he made statements prejudicial to SOBELL. This, however, was only after he had spent 400 hours with the Federal Bureau of Investigation. Undoubtedly he had been brain-washed, she said.

Referring to KLAUS FUCHS, the ex-German scientist who had worked for the British Government; HARRY HOESB, the Russian spy; JULIUS ROSENBERG; DAVID GREENGLASS - she said because one of them had spoken to one of the others, who in turn had spoken to another, and so on, forming a chain, and because one of them was guilty of a crime, all were held guilty. This was guilt by association, and was typical of the era which was "Mc Carthyism".

During the questions and answers period, in reply to the question of what other evidence would be presented when asking for a new trial for SOBELL, Mrs. SCHNEIR said that the FBI had presented false witnesses, and had suppressed evidence favorable to the defendant. Add to this the fact that, as much more truth is being hidden by the Government, in order to avoid the risk of any such disclosures and a scandal of world-wide importance, it is quite possible, she said, that a parole might be given SOBELL. In that case, the Government would probably use delaying tactics to give him time to serve two-thirds of his

2 100-37158-3212

NK 100-45633

sentence and thus become eligible with "time off" for good conduct, as a matter of course.

On the platform, too, was AARON SCHNEIDER, who was asked to make a "sales pitch" for the book. In introducing him, LOTTIE GORDON said that he had debated this subject many times on radio, once with ROY COHEN, formerly a legal assistant to Senator JOE MC CARTHY.

LOTTIE announced there would be buses leaving Newark for Trenton the next morning, carrying passengers to the State Capitol to demonstrate against our military policy in Vietnam. She urged all present to make the trip and join the parade.

The next meeting of the forum will be November 19, 1965, when the Rev. Dr. WILLIAM HOWARD MELLISH will be the featured speaker. Then comes ABRAHAM ISSERMAN, de-barred lawyer, but now re-admitted.

About 45 people attended. The general admission was 99 cents. Refreshments were served.

Among those present were:

[REDACTED]

B7D

100-37158-2212

TO SAC, NEWARK (100-45633)  
FROM SA GERHARD P. HUNDT  
SUBJECT FRIDAY NIGHT FORUM  
IS - C

DATE 11/2/65

Date received **B7D** 10/19/65  
Received from (name or symbol number) [redacted] who has furnished reliable info in the past  
Received by SA [redacted] **B7c**

Method of delivery (check appropriate blocks)

in person  by telephone  by mail  orally  recording device  written by informant

If orally furnished and reduced to writing by Agent:

Date \_\_\_\_\_  
Dictated \_\_\_\_\_ to \_\_\_\_\_  
Transcribed \_\_\_\_\_  
Authenticated by Informant \_\_\_\_\_

Date of Report

10/16/65

Date(s) of activity

10/15/65

Brief description of activity or material

REPORT RE FRIDAY NIGHT FORUM MEETING

HELD 10/15/65 AT NEWARK, N.J.

File where original is located if not attach

[redacted] **B7D**

Remarks:

- 2 - New York (RM) [redacted] **b7c, b7D**
- (1 - 65- ) (MORTON SOBELL)
- 5 - Newark [redacted]
- (1- [redacted] **b7c**)
- (1- [redacted] **b7D**)
- (1- [redacted] **B7D**)

GPH: amd  
(7)

100-37158-2213

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 5 1965	
FBI - NEW YORK	

**B7c**

NK 100-45633

October 16, 1965

A meeting of the FRIDAY NIGHT FORUM was held on October 15, 1965 at the Continental Ballroom, 982 Broad St., Newark, N.J.

About 50 persons were present.

Chairman of the evening was LOTTIE GORDON.

The speaker was MIRIAM SCHNEIR, author of the book, "Invitation to an Inquest".

She spoke on her interest in the ROSENBERG case and freedom for MORTON SOBELL. She gave a review of her book and how she uncovered new evidence that tends to prove SOBELL innocent. SOBELL's lawyers are seeking a retrial and her book will be part of the exhibit for the new trial. She believes that rather than have a retrial SOBELL will be pardoned so that the government and the FBI will not lose face at this miscarriage of justice. Because of the fact the FBI had suppressed evidence in the SOBELL trial that could have freed him.

The next meeting of the Forum will be held on the third Friday in November. Among the speakers for the future will be HERBERT APTEKER and TRUMAN NELSON. The speaker at the next meeting will be Rev. MINISCH.

Announcement that buses for the anti-Vietnamese demonstration will leave from Clinton Ave. and Hunterdon St. Saturday for Trenton. The committee's headquarters are located at this place.

Also at the meeting were [REDACTED]

B7D

100-37158-2213

FILE # L00-37158

SUBJECT MORTON SOBELL

SERIAL 2214 DATE 11.5.65

CONSISTING OF 13 PAGES

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