



Office of the Attorney General
Washington, D.C.

IN THE MATTER OF THE CONSIDERATION OF SENTENCE OF
JULIUS ROSENBERG AND ETHEL ROSENBERG

The President

Sir:

These petitioners were convicted in the United States District Court for the Southern District of New York on an indictment charging them with conspiring with David Greenglass, Anatoli Yakovlev, and Morton Sobell to communicate to the Union of Soviet Socialist Republics documents, writings, sketches, notes and information relating to the national defense of the United States, with intent and reason to believe that it would be used to the advantage of the Soviet Union. Ruth Greenglass, wife of David, and one Harry Gold were named in the indictment as conspirators but not as defendants.*

The petitioners on April 5, 1951, were sentenced to death. The execution of sentence has been deferred from time to time pending appellate proceedings, and the order of the District Court now

* Gold pleaded guilty on July 20, 1950, to an indictment in substantially the same terms and was sentenced by the United States District Court for the Eastern District of Pennsylvania, at Philadelphia, to a term of thirty years, the maximum term of imprisonment imposed under the statute. Yakovlev, an official employee of the Soviet Consulate General in New York, left the United States and was not placed on trial. David Greenglass testified for the Government and was sentenced for fifteen years. Ruth Greenglass has not been prosecuted. Sobell was sentenced to thirty years.

is that the date for execution will not be fixed prior to five days following the action of the President on the petitions for clemency.

The conviction was appealed to the United States Court of Appeals for the Second Circuit, where the judgment was affirmed on February 25, 1952. A petition for certiorari was denied by the Supreme Court of the United States on October 12, 1952. Thereafter the petitioners brought a proceeding in the District Court to have the conviction set aside, based on the general ground that the trial was null and void because of gross violation of the petitioners' rights. Honorable Irving R. Kaufman, the District Judge who presided at the trial, disassociated himself with the subsequent proceeding, which was heard by the Honorable Sylvester J. Ryan, who after hearing denied the relief prayed for. Judge Ryan's judgment was affirmed by the Court of Appeals for the Second Circuit on December 21, 1952. The time for applying for a writ of certiorari on the second judgment of the Court of Appeals has not yet expired. If application for such a writ is made, the Department will oppose it.

Following the conclusion of the several appellate proceedings, the petitioners presented to Judge Kaufman a motion for reduction of sentence in accordance with the applicable judicial rule. After hearing, Judge Kaufman denied the motion on January 2, 1953, rendering an extended opinion, a copy of which is attached to the accompanying file.

The applicants have presented petitions for Executive clemency in which they protest their innocence, attack the government's evidence and attempt to rebut it by their own story. At the conclusion of the recitation of evidence, each petitioner makes the following significant statement:

Under the circumstances of our case, the jury's verdict of guilty could not, as a matter of law, have been upset by any court. A question of fact was presented to the jury for its determination. That determination, under the Federal law, is final and binding upon the appellate courts, even though these courts might upon the same evidence have arrived at a contrary conclusion.

Following the foregoing recital, the petitioners proceed with an argument which could be interpreted as a representation that had the appellate courts been able to make a different finding upon the facts, they might have done so. Their representations in that respect are not convincing. The evidence presented at the trial is fairly set forth in the opinion of the United States Court of Appeals, which is in the attached files*, and set forth in more detail in the brief of the United States, which is also submitted herewith. In view of the petitioners' admission that the evidence justified the conviction, I deem it unnecessary to encumber this communication with a repetition or condensation of the record. Suffice it to say that it was amply and credibly shown that Julius Rosenberg had, at

* The statement of facts is appended hereto.

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the instance of Yelovlev and other agents of the Soviet Union, induced David Greenglass, a machinist employed by the United States at the Los Alamos Project of the Atomic Energy Commission, in New Mexico, to procure and give to him evidence about the location and construction of the Project, the names of the scientists employed, and descriptions of devices made there, all of which was accepted by Julius Rosenberg and by him transmitted to his Russian employers. Harry Gold, the man who was sentenced to thirty years in Philadelphia for his part in the espionage, was associated with Rosenberg and acted in an effective capacity as an agent for the transmission of the information. Greenglass and Gold both testified at the trial, exposing the entire scheme. They were, it is true, co-conspirators with the Rosenbergs, but a reading of the record indicates that their testimony was credible and was sufficiently supported by circumstantial evidence. At any rate, the jury believed them, and there is no reason why you should not.

Judge Kaufman, when he imposed sentence upon these petitioners, said:

The evidence indicated quite clearly that Julius Rosenberg was the prime mover in this conspiracy. However, let no mistake be made about the role which his wife, Ethel Rosenberg, played in this conspiracy. Instead of deterring him from pursuing his ignoble cause, she encouraged and assisted the cause. She was a nature woman,—almost three years older than

... and almost seven years older than her
younger brother (David Greenglass). She was a full-
blooded partner in same crime.

In his opinion filed in connection with the motion for re-
duction of sentence, Judge Kaufman says:

Julius and Ethel Rosenberg were the prime
movers in this conspiracy; into it they sucked
David and Ruth Greenglass.

Both these statements of Judge Kaufman are amply justified
by the evidence. Ethel Rosenberg was the sister of Greenglass and
cooperated fully with her husband in influencing him to do what he
did. That the information procured from Greenglass and transmitted
by Rosenberg was of importance, and tended to help the Soviet Union,
is manifest upon a reading of the evidence. Typical examples of the
testimony on that point are the following—

A government witness, Dr. Walter S. Koski, an expert em-
ployed by the United States on the Atomic Project, was shown, while
on the stand, sketches and descriptions of things worked on at the
Los Alamos Station, which Greenglass made at the trial in representa-
tion of sketches given by him to Rosenberg. Dr. Koski testified in
part:

Q. And would I be exaggerating if I were to say
colloquially that one expert, interested in finding
out what was going on at Los Alamos, could get enough
from those exhibits in evidence which you have before
you to reveal what was going on at Los Alamos?

A. One could.

Equally significant in the following testimony from another government expert as to one of the sketches are these questions and answers:

Q. Does the knowledge as disclosed in the material read (by the stenographer) in conjunction with the sketch before you (drawn by Greenglass) demonstrate substantially and with substantial accuracy the principle involved in the operation of the 1945 atomic bomb?

A. It does.

* * *

Q. Can a scientist, and can you, perceive what the actual construction of the bomb was?

A. You can.

Q. Was this information classified at the time?

A. It was classified top secret.

Q. Is it still classified?

A. Yes, Sir.

Q. Does this information relate to the national defense of the United States of America?

A. It certainly does.

* * *

Q. Does the information that has been read to you, together with the sketch concern a type of atomic bomb which was actually used by the United States of America.

A. It does. It is the bomb we dropped at Nagasaki, similar to it.