



Office of the Attorney General
Washington, D.C.

IN THE MATTER OF THE COMPUTATION 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 imposable 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.



the instance of Yakovlev 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 mature woman,--almost three years older than

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

In his opinion filed in connection with the motion for reduction 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 employed 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 representation 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.



Q. Do you know whether at the time in question, 1945, any foreign government had the knowledge which our scientists possessed regarding the development and structure of that weapon, outside of the British and Canadians?

A. No, I don't know, outside of the British and Canadians.

I should point out at this juncture that the information imparted by Greenglass as to the identity of persons employed at the Los Alamos Project would be of great value to a foreign power because some of those scientists were so eminent that their very names would indicate the nature of the work they were doing. So important was this that it was the practice to have them known at the Project by names other than their own.

The conspiracy alleged in the indictment and proven by the evidence extended from 1944 to 1950. During part of this time the United States was at war. It is stated by the petitioners and in their behalf that since this country was not at war with Russia, the disclosure of the information to that country would not merit the extreme penalty of death. As a legal proposition this contention was firmly dismissed by the Court of Appeals because the statute makes no distinction between enemies and allies in the circumstances here shown.



To the petition in each case is attached an array of letters from a multitude of persons of actual and purported high standing in various fields of endeavor, all protesting that the death penalty should not be executed. Some of the writers say that the evidence was not sufficiently conclusive to warrant the imposition of a penalty so irrevocable as death. Stress is laid upon the fact that the direct evidence comes from the lips of accomplices deeply dyed with the same criminality as charged against the petitioners. Others say that if this sentence is executed, it will be the first time that anyone has been put to death by other than a military court for espionage. A large group of those protesting assert that the respect of other nations for the United States will be diminished if these sentences are executed and increased if clemency is granted. This position is supported by newspaper citations and in other ways. There are also the expected number of persons opposing execution on the ground of general opposition to the death penalty. The offices of the President and of this Department have been flooded with a multitude of petitions, letters, post cards, and telegrams, so many as to render the reading of each one an impossible task.*

The petitioners in protesting their innocence, say that even if guilty they should not be condemned to death. They conclude their petitions with the following characteristic paragraphs:

*A detailed and classified list of advocates of clemency is attached to the petition of Julius.



We seek relief from sentences that would produce the unutterable tragedy of the destruction of our small family, and set a precedent for the abandonment, in America, of the civilized appreciation of the worth of human life.

We appeal to your mind and conscience, Mr. President, to take counsel with the reason of others and with the deepest human feelings that treasure life and shun its taking. To let us live will serve all and the common good. If we are innocent, as we proclaim, we shall have the opportunity to vindicate ourselves. If we have erred, as others say, then it is in the interests of the United States not to depart from its heritage of openheartedness and its ideals of equality before the law by stooping to a vengeful and savage deed.

The United States Attorney in his communication dated January 14, 1953 to the Department says, in part:

It is my considered judgment and therefore my recommendation, after personally reviewing this case, and personally participating in the pretrial and trial proceedings, as well as the recommendation of my Assistant who also participated at the trial and has handled the appellate and review proceedings, that the President of the United States should not alter or in any way commute the sentence imposed upon these defendants. The defendants, in spite of the overwhelming case which was put in against them, have remained adamant and have refused in any way to cooperate with law enforcement agencies. This position of the defendants is all the more reprehensible when considered against the statements and admissions of the defendants which are related in the statement enclosed herewith. It is my considered judgment that any commutation in the sentences of these defendants would more permanently seal their lips than the execution of the judgments which have been imposed. Furthermore, a commutation of these sentences would act



as an invitation to those who would follow in the footsteps of these defendants and who may be today engaging in these nefarious activities which threaten the safety and existence of all citizens of this country, to continue such activities assured that the most severe penalty which will be meted out upon their apprehension and conviction will be a mere jail sentence for a term of years. One of the purposes, and properly the most important purpose of a death penalty as punishment for crime is that it may act as a deterrent to keep others from committing the same crime. If any case ever warranted the penalty which has been imposed in this case, it is the case of Julius Rosenberg and Ethel Rosenberg. The defendants have been offered and have exhausted all rights which are available to any American citizen in a criminal prosecution. Twice their case has been before the Supreme Court of the United States and three times it has been before the Court of Appeals for the Second Circuit. All avenues having been exhausted, those defendants still adamantly refuse to cooperate. Any change in the sentences which have been imposed would only work a miscarriage of justice.

For the foregoing reasons, it is my considered recommendation that the application for executive clemency should be denied.

Judge Kaufman, in a letter to the United States Attorney dated January 8, 1953, in respect to the petitions for Executive clemency, says:

There is nothing I care to add to my Opinion filed January 2, 1953 on the application of the defendants for reduction of sentence.

The Opinion to which Judge Kaufman refers is a complete and painstaking review of the entire case. From the concluding paragraphs, I am impelled to quote the following:



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

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

CONCLUSION

The evidence of the guilt of these petitioners is credible and convincing; the verdict is justified; the completeness and fairness of the trial cannot be questioned.

The District Court, in an extraordinary proceeding before a member other than the trial judge, reviewed the case and found no invasion of the defendants' rights.



The Court of Appeals accorded the defendants three separate opportunities to demonstrate their contentions, handing down three separate opinions, all of which are confirmatory of the justice of the trial and the legality of the sentence.

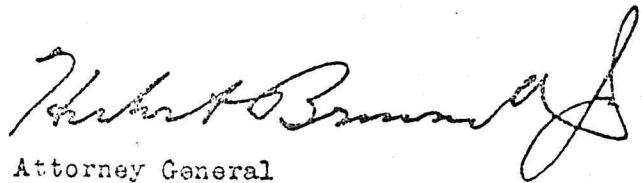
The conviction and sentence remain undisturbed by the Supreme Court of the United States.

When the appellate remedies had been sought without success, the sentencing judge heard a plea for mitigation of punishment, and, after much thought adhered to his original judgment.

There is plenary proof that this couple constituted the head and center of a conspiratorial espionage group bent on betraying this country's interest into the hands of another nation.

No good reason has been shown why the judgment of the Court should be superseded. I, therefore, advise that the petitions be denied.

Respectfully,


Attorney General

