

NYC.gov/records  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 30  
-----x

THE PEOPLE OF THE STATE OF NEW YORK  
:

-v-  
:

Ind. No. 871/65

NYC.gov/records  
MUHAMMAD ABDUL AZIZ (NORMAN 3X BUT-  
LER) and KHALIL ISLAM (THOMAS 15X  
JOHNSON),  
:

Defendants.  
-----x

SIRS: .

PLEASE TAKE NOTICE, that, upon the annexed affidavit  
of MUJAHID ABDUL HALIM (THOMAS HAGAN), MUHAMMAD ABDUL AZIZ (NOR-  
MAN 3X BUTLER), KHALIL ISLAM (THOMAS 15X JOHNSON), MURID DIN FA-  
and WILLIAM M. KUNSTLER, all duly verified as indicated thereon  
and all the proceedings heretofore had herein, defendants, thro  
their undersigned counsel, will move this Court, at a Part 30 t  
of, to be held in and for the County of New York at the Criminal  
Courts Building, 100 Centre Street, New York, N.Y. 10013, on  
2<sup>nd</sup> day of December, 1977, at 10:00 o'clock in the forenoon the  
of or as soon thereafter as counsel can be heard, for orders in  
suant to §440.10(g), Criminal Procedure Law, (1) vacating their  
judgments of conviction upon the ground that new evidence has b  
discovered since the entry thereof which could not have been pr  
duced by them at their trial even with the exercise of due dili  
gence on their parts and which is of such a character as to cre  
a probability that, had such evidence been received at said tri  
the verdicts would have been more favorable to the said defend  
(2) dismissing the within indictment as to them, or, in the al  
native, (3) granting them new trials, and (4) such other and f

relief as may be just and proper in the premises including, but not limited to, an evidentiary hearing to prove the allegations hereinbefore set forth.

PLEASE TAKE FURTHER NOTICE that answering papers, if any, must be served upon the undersigned at least five (5) days before the return date hereof.

Yrs., etc.,

*William M. Kunstler*  
WILLIAM M. KUNSTLER  
853 Broadway  
New York, N.Y. 10003  
(212)674-3303

Attorneys for Defendants

Dated: New York, N.Y.  
December 2 1977.

TO:

Criminal Motion Clerk  
Supreme Court, New York County  
100 Centre Street  
New York, N.Y. 10013

District Attorney  
New York County,  
155 Leonard Street  
New York, N.Y. 10013



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 30  
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THE PEOPLE OF THE STATE OF NEW YORK :

-v-

: Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X :  
BUTLER) and KHALIL ISLAM (THOMAS :  
15X JOHNSON), :

Defendants. :  
----- -x

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

NURIDDIN FAIZ, being duly sworn, deposes and says:-

1. I am a Minister of the World Community of Islam  
and a New York State Area Chaplain, New York State Department of  
Correctional Services, having been issued Identification Card No  
039275 thereby.

2. Since approximately 1973, I have been visiting  
Mujahid Abdul Halim (Thomas Hagan) at the Eastern Correctional  
Facility, Napanoch, N.Y. as his minister. Over the years, he  
has been increasingly concerned with the fact that his co-defen-  
dants in the within indictment were innocent of the crime of which  
they were convicted with him.

3. During the past several months, he has indicate  
that he would like to relate the details of the planning and ex-  
ecution of that crime in order to exonerate his innocent co-de-  
fendants. He also expressed to me that he was now prepared and  
willing to testify on their behalf at any hearing granted in the  
matter and subject himself to direct and cross examination as to  
all the details of his involvement in said crime.

4. On November 29, 1977, he prepared his affidavit which accompanies this notice of motion in his own handwriting in my presence but was unable to obtain a notary public because of the late hour in which it was completed. At the request of William M. Kunstler, I asked Mr. Hagan to call him the next day and certify that he had indeed written and signed the affidavit in question. On November 30, 1977, I delivered the said affidavit to Mr. Kunstler at his office in New York City.

5. I firmly believe that Mr. Hagan is telling the truth and that he is now prepared to furnish every last detail of the case of which defendants were convicted from the witness stand and that his purpose is to exonerate two innocent men.

Nuriddin Faiz  
NURIDDIN FAIZ

Sworn to before me this

5<sup>th</sup> day of December, 1977.

William M. Kunstler  
NOTARY PUBLIC

WILLIAM M. KUNSTLER  
Notary Public, State of New York  
No. 00-139427  
Commission Expires March 31, 1979

State of New York  
County of Rensselaer

I, Thomas Hogan, being duly sworn, depose and say:

1) I am one of the persons indicted for the murder of Malcolm X at the Audubon Ballroom, N. York, N.Y. Feb. 21, 1965.

2) That I have been sentenced to life in prison for my part in this crime.

3) That I am now incarcerated in the Western Correctional Facility.

4) That I am writing this affidavit in the hope that it will clear my co-defendants of the charges brought against them in this case. My co-defendants are Thomas Jackson and William J. Butler.

That sometime in 1964, Malcolm X was said to have gone against the Leader of the Nation of Islam, Mr. Hon. Elijah Muhammed.

By the following year Malcolm X was declared a hypocrite & the victim of Islam.

That in the Summer of 1965 I was contacted by a Brother named Lee and another person named Ben.

the instruction with "read X" I said I thought  
it was very bad for anyone to go against the teachings  
of the Hon. Elijah. Then known as the first Meetings of  
J.O. I was told that members should move on the  
be willing to fight against opposites and I agreed  
with that. There was no money paid to me for my  
part in this. I thought I was fighting for truth &  
right. There was a few meetings held concerning this.  
Sometimes these were held in a car driving around.  
Bro. Lee, for Bro. a Brother James Miller &  
the other Brother's name was well known as a name  
like it. From these meetings it was decided  
that that the only place that that was sure to  
be was the Audubon Ballroom on Feb. 21, 1965.  
Therefore the plan was to hold their person there.  
on Feb. 21st 1965. we met at Bro's house  
Sunday morning. On Feb. 20th 1965 we had  
gone to the Ballroom to check it out.

On Sunday morning we, the above named,  
got in the Bro. well known's car and drove to  
N.Y.C. we parked the car a few blocks away  
and then we a true minister into the Ballroom  
Bro. & Bro. Lee took seats down front in the front



... to them the five come & pretend that he was  
was picking his pocket. I used a 45 weapon.

See he had a luger and miltie & had the  
shot gun. The plan was that when the shooting started  
people would be running all over the place &  
with the we could get out of the Ball Room.

So when the shot gun went off we had time  
for our guns at Mac's. a run for the door.

I was shot in right leg but was able to keep  
moving on just one leg - I was able to get down  
stairs by sliding down railing to the floor. I was  
captured right outside Ballroom by a police officer  
He informed the distance to the back of my  
trunk hotel. Thomas's John and Thomas J. P.  
had no time to do with the crime & stationer.

Sworn to before me  
this 21st day of July, 1977  
at New York, New York  
Notary Public  
Commission Expires March 15, 1978

Notary

Thomas Hogan

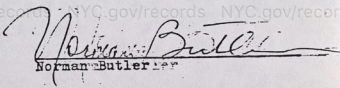
State of New York  
Westchester County

I, Norman Butler, being duly sworn, deposes and says:

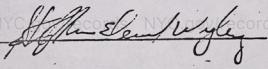
1. I am one of the persons convicted of murdering Malcolm X at the Audubon Ballroom, New York, N. Y. on Sunday the 21st day of February, 1965.

2. I am completely innocent of this crime.

3. Until I met Thomas Hagen in the Tombs after the murder of Malcolm X, I had never met nor heard of him.

  
Norman Butler

Sworn to before me  
this day of November 23, 1977

  
STEPHEN EDWARD WITLEY  
Notary Public, State of New York  
No. 4603405  
Qualified in Westchester County  
Commission Expires Dec. 12, 78

State of New York

County of Ulster

I, Thomas Johnson, being duly sworn, deposes and says:

1. I am one of the persons convicted of murdering Malcolm X  
at the Audubon Ballroom, New York, N.Y. on Sunday the  
21st. day of February, 1965.

2. I am completely innocent of this crime.

3. Until I met Thomas Hagen in the Tombs after the murder of  
Malcolm X, I had never met nor heard of him.

*Thomas Johnson*

~~James~~ Thomas Johnson

Sworn to before me on

this day of November 22, 1977,

*Lois R. Stamatis*

Notary Public

LOIS A. STAMATIDES  
Notary Public, State of New York  
Residing in Ulster County  
Commission Expires March 30, 1979

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 30  
-----x

THE PEOPLE OF THE STATE OF NEW YORK :

-v-

Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUT-  
LER) and KHALIL ISLAM (THOMAS 15X  
JOHNSON),

Defendants.  
-----x

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

WILLIAM M. KUNSTLER, being duly sworn, deposes and  
says:

1. I am the attorney for the above named defendants  
and I am making this affidavit in support of their motion, pursu-  
ant to §440.10(g), Criminal Procedure Law, for orders: (1) vacating  
their judgments of conviction upon the ground that new evidence  
has been discovered since the entry thereof which could not have  
been produced by them at their trial even with due diligence on  
their parts and which is of such a character as to create a prob-  
ability that, had such evidence been received at the said trial,  
the verdicts would have been more favorable to them, (2) dismiss  
the within indictment as to them, or, in the alternative, (3) gr-  
ing them new trials, and (4) such other and further relief as ma-  
be just and proper in the premises including, but not limited to  
an evidentiary hearing to prove the allegations hereinbefore set  
forth.

2. At approximately 3:00 p.m. on Sunday, February 21  
1965, Malcolm X, a/k/a Malcolm Shabazz, a/k/a Malcolm Little, he-  
inafter referred to as Malcolm X, a former minister of New York



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City Mosque Number 7 of the then Nation of Islam, a Muslim religious organization with its headquarters in Chicago, Illinois, was shot to death just prior to addressing an audience in the main ballroom of the Audubon Ballroom, an auditorium located at West 166th Street and Broadway in the County and City of New York.

3. Subsequently, and on or about March 10, 1965, three Black men, namely Thomas Hagan, a/k/a Talmadge Hayer, Norman Butler, a/k/a Norman 3X Butler, and Thomas Johnson, a/k/a Thomas 15X Johnson, hereinafter referred to as Hagan, Butler and Johnson, respectively, were indicted by a New York County grand jury for the murder of the said Malcolm X, a copy of which indictment is attached hereto as Exhibit A.

4. After the said defendants had interposed their plea of not guilty, their trial began in Part 37 of this Court on December 6, 1965, before Hon. Charles Marks, then a Justice thereof and ended with their convictions by a jury on March 11, 1966, and on April 14, 1966, all said defendants were sentenced by Justice Marks to state prison for the terms of their natural lives.

5. On May 22, 1968, the Appellate Division, First Department, affirmed their judgments of conviction, People v. Hagan, 29 A.D.2d 931 (1st Dept. 1968). The Court of Appeals likewise affirmed said judgments on April 16, 1969, People v. Hagan, 24 N.Y.2d 395 (1969), and the United States Supreme Court subsequently denied certiorari, Hayer et al. v. New York, 396 U.S. 886 (1969).

6. Defendants are presently serving their sentences at Walkill Correctional Facility, Walkill, N.Y. (Johnson), Ossining Correctional Facility, Ossining, N.Y. (Butler) and Eastern

rectional Facility, Napanoch, N.Y. (Hagan).

7. On February 28 and March 1, 1966, Hagan, after having testified previously in his own behalf and denied his guilt, TT. 2675-2755, <sup>\*</sup> was then recalled as a witness for Butler and thereupon testified that he had been approached early in the month of February, 1965, and offered money to assassinate Malcolm X, and that with a number of confederates, had planned and executed the crime TT. 3135-3179, 3211-3241. However, even though vigorously pressed to do so by counsel for these movants, TT. 3145, the prosecutor, TT. 3151-2 and the trial judge, TT. 3145, he refused to name his accomplices or give any but the sketchiest of details about the said planning and execution. But he constantly reiterated that neither Butler nor Johnson had been involved in the crime. See eg. TT. 3145-6, -3149 and -3170. As he explained it, "I got up here for one reason and that was to clear the two men of this charge that I know they are not guilty of." TT. 3218. He insisted that he and "four or other people," TT. 3155, had committed the crime, but that the movants were not involved and didn't have anything to do with the crime that was committed at the Audubon Ballroom February 21st, that I did take part in it, and that I know for fact that they wasn't there. . . ." TT. 3145.

8. During his incarceration at Eastern Correctional

<sup>\*</sup> All references to the trial transcript will be indicated by the letters TT, followed by the appropriate pagination.

<sup>\*\*</sup> It should be remembered that there was no physical evidence linking Butler or Johnson to the crime; they were not apprehended at the scene of the crime and that each had an alibi for the afternoon of February 21, 1965, alibis supported by other defense witnesses TT. 177, 3019, 3244, 3417 and 3516, et seq.

Facility, said Hagan has been regularly visited by Department of Correctional Services Chaplain Nuriddin Faiz, a Minister of the World Community of Islām, formerly known as the Nation of Islam, and, after many meetings with said chaplain, he decided to furnish the details of his involvement in the planning and execution of the assassination of Malcolm X on February 21, 1965, including the names of his confederates, which he disclosed to said chaplain on November 29, 1977, during a meeting at the said facility.

9. Prior thereto, and on October 11 and November 5, 1977, the undersigned, accompanied by Chaplain Faiz, met with Hagan at the said facility and participated in lengthy discussions with him, at which time he furnished us with many facts about the crime, including that much of the planning had taken place in Paterson, N.J., the details of the diversionary tactic that preceded the assassination, the types of weapons employed and who used them and the shooting itself. I was and am firmly convinced that he told us the truth and would do so on the witness stand. Should this Court order an evidentiary hearing herein.

10. I have been assured by Chaplain Faiz and Mr. Hagan himself that the latter is now prepared to testify fully as to the truth of said details, including the names and last known addresses of his confederates at any evidentiary hearing held by this Court, most of which information was unavailable to defendants' prior counsel at any time and which, the record clearly reveals, was specifically withheld from them, the prosecutor and the trial judge during all stages of the prior proceedings, TT. 3145, 3146.

3169, 3173, 3176, 3177, 3179, 3216, 3219 and 3230-31, and, in fact, was not fully revealed by Mr. Hagan until November 29, 1971.

11. There can be no doubt that such evidence is newly discovered within the meaning of §440.10(g), Criminal Procedure Law, and that it could not have been produced by these defendant at their trial, even with all due diligence on their parts. It is also undeniable that, had such evidence been received at the said trial, it would create a probability that the verdicts would have been more favorable to them. Moreover, there can be little question that evidence that persons other than these movants committed the crime in question furnished by one who is testifying against his penal interest is admissible in this state. People v. Brown, 26 N.Y. 2d 88 (1970) See also Chambers v. Mississippi, 410 U.S. 284 (1973). Under the circumstances, movants are clearly entitled; as a matter of law, to an evidentiary hearing at which the said new evidence can be presented to this Court for its consideration thereof with reference to the granting or denying of the relief, or any of it, sought therein. 38 N.Y. 2d 407 (1975).

12. Movants have been incarcerated for more than twenty years, a tragic deprivation of liberty if, as they have consistently maintained, they are indeed innocent of the crime in question. Now, their co-defendant, who is in the unique position of knowing the truth thereof, has, after considerable soul searching, come forth and revealed the details of the crime, including the name of his confederates, and is prepared to go to even greater lengths

\* / People v. Crimmins.

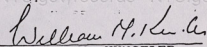


on the witness stand in any evidentiary hearing scheduled herein. Movants are entitled to their day in court, so long delayed, to attempt to prove that they were wrongfully convicted and that they are entitled to their immediate freedom or, at the very least, to a new trial. Nothing short of such a hearing would comport with the standards of due process of law and the equal protection of the law mandated by the Fifth and Fourteenth Amendments to the Constitution of the United States and the decisional law of this state. People v. Crimmins, supra.

13. On November 30, 1977, after talking to Mr. Hagan on the telephone and recognizing his voice, and being assured by him that he had written his affidavit in his own hand and signed it and now swore to the contents thereof, I notarized same.

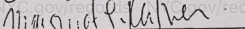
14. No previous application for the relief sought herein, other than as indicated above, has been made to this or any other Court.

WHEREFORE, it is respectfully prayed that (1) defendants' judgments of conviction be vacated and the within indictment dismissed as to them, or, in the alternative; (2) they be granted a new trial, or, in the further alternative, (3) this matter be set down for an immediate evidentiary hearing, and (4) defendants be granted such other and further relief as may be just and proper on the premises.

  
WILLIAM M. KUNSTLER

Sworn to before me this

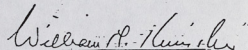
5<sup>th</sup> day of December, 1977.

  
NOTARY PUBLIC

MARGARET L. RATNER  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 31-321470  
Qualified in New York County  
Commission Expires March 30, 1979-79

CERTIFICATE OF SERVICE

Upon the penalties and pains of perjury, the undersigned, an attorney duly licensed to practice as such in the State of New York, hereby certifies that, on the 6th day of December, 1977, he served a conformed copy of the attached Notice of Motion and supporting affidavits upon the District Attorney, New York County, by leaving said copies with a responsible person at the office of said District Attorney, 155 Leonard Street, New York, N.Y. 10013.

  
WILLIAM M. KUNSTLER

Dated: New York, N.Y.

December 6, 1977

7/29  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK, PART 30

THE PEOPLE OF THE STATE OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK

Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUT-  
LER) and KHALIL ISLAM (THOMAS 15X  
JOHNSON),  
Defendants.

SIRS:

PLEASE TAKE NOTICE, That defendants wish to supplement their notice of motion dated December 5, 1977, and served and filed on December 6, 1977, praying for certain relief pursuant to §440.10, 1, subdivision (g), Criminal Procedure Law, to include therein the failure of the People to notify said defendants prior to or during the trial of this indictment that one of the men who appear in Defendants Exhibits V, W, X and Y, formerly marked People's Exhibits 36, 37, 38 and 39 for identification, specifically the man allegedly giving mouth-to-mouth resuscitation to the victim herein, was, in fact, a police officer of the City of New York, namely one Gene Roberts, apparently then a member of what is now referred to as the Intelligence Division of said Police Department, and to include the statutory grounds contained in subdivisions 1(b), 1(f) and 1(h) of the said §440.10, Criminal Procedure Law, as a basis for the relief sought in said notice of motion.

Yours, etc.,  
Eric H. Blackwell.

Dated: New York, N.Y.

December 8, 1977

TO: Criminal Motion Clerk  
District Attorney

after was  
WILLIAM M. KONSTLER  
853 Broadway  
New York, N.Y. 10003  
(212) 674-3303

(17)





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it to a "Brother Jean." TT. 1663. He further testified at the trial that he did not know the identity of "Jean," TT. 1727, and that he had been mistaken in stating that he had handed the Luger to that person. TT. 1743. Instead, he said that he had tried to give "Jean" the weapon but that the latter had told him to give it to someone else and that he had then handed it to Ruben Francis. TT. 1744. He also testified that he had "called Brother Jean" after having picked up the weapon. TT. 1750. Later, he said that he had not been told anything by "Jean," but merely been waved away by the latter. TT. 1756. *"Jan" was the person allegedly giving representation.* TT. 1723-4. At all times, the People must have known and the police certainly did know the identity of "Brother Jean" as well as the fact that he was a police officer and this vital information was never given to the defense but was, instead, deliberately withheld from it.

1842/1/69  
5. This is particularly significant in that one of the defenses asserted during the trial was that the authorities, and particularly the New York City Police Department, might have been involved in the murder. See eg., summation on behalf of defendant Butler on pp. 3725-26, Trial Transcript. To hide from the defendants the identity of an eyewitness who was an undercover police agent violates every principle of fair play as well as all of the decisional law in this area. It was done wilfully and deliberately and undercut one of the thrusts of the defense.

WILLIAM M. KUNSTLER

Sworn to before me this  
8th day of December, 1977

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 30  
-----X

THE PEOPLE OF THE STATE OF NEW YORK :  
-----X

-v-

Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUT-  
LER) and KHALIL ISLAM (THOMAS 15X  
JOHNSON),

Defendants. :  
-----X

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

WILLIAM M. KUNSTLER, being duly sworn, deposes and says:

1. I am the attorney for defendants herein and I am submitting this affidavit in support of their motion, pursuant to §440.10, subdivision 1(b), (f), (g) and (h), Criminal Procedure Law, for or ders vacating their judgments of conviction and dismissing the wi- thin indictment as to them or, in the alternative, granting them new trials and other related relief.

2. In a previous affidavit, submitted herein on or about Decem- ber 8, 1977, in connection with a supplemental notice of motion bearing the same date, I made reference to the fact that a "Brother Jean" who was on the platform of the Audubon Ballroom as a security guard at or about the time that Malcolm X was killed on February 21, 1965, was, in fact, an undercover agent of the Police Depart- ment of the City of New York by the name of Gene Roberts and that his true identity was never revealed to the defense during the wi- thin trial. Since submitting said affidavit, I have obtained the portion of the transcript of People of the State of New York v. Shakur et al., Ind. No. 1848 1/2 - 1969, which refers to the said Roberts' testimony therein in which he admits that he was indeed  
\*/ New York County

present at the time and place when Malcolm X was assassinated and observed a great deal of what happened thereat. Pp. 5724-5736 of said transcript are attached hereto and made a part hereof as Exhibit A.

3. Detective Roberts, who had been a patrolman on February 21, 1965, Exh. A, p. 5732, testified fully at the Shakur trial about what he termed "the truth about the assassination." Ibid. at p. 5726.

Q. You are going to tell us the truth about what happened to Malcolm X?

A. Yes.

Q. And this is the truth that you observed?

A. Yes.

Q. Did you testify at the trial of three people who were charged with the assassination?

A. No.

Q. But you saw it happen?

A. Yes.

Q. But you didn't testify?

A. No.

Q. Didn't you want the truth to come out there?

A. Yes.

Q. Why didn't you testify?

A. I wasn't called.

Q. But you knew what happened?

A. Yes.

Q. And you didn't testify?

A. No.

4. Prior to taking the stand in the Shakur trial, he had been informed by the prosecutor that "Mr. Lefcourt. . .or. . . somebody" was going to ask him about Malcolm X. Exh. A at p. 5728. He had then told him "what really happened there." Ibid. at p. 5729. He then proceeded to testify at great length as to what had happened at the Audubon Ballroom on February 21, 1965. Among other things, he said that he had been a member of the first rostrum security guard which had been relieved after the speech of one Benjamin Goodman. Ibid. at p. 5730. When Goodman finished, he had introduced Malcolm X who then "approached the platform and gave the Muslim greeting." Id. At that time, "two individuals near the front of the auditorium jumped up, one hollering, 'Get your hand out of my pocket,' at which time there was a small commotion." Id. He had "started down the aisle where the commotion was," Id., when he heard shots. He had seen "[T]wo individuals" fire at Malcolm and then run down the middle aisle of the auditorium. Id.

5. Roberts, after seeing Malcolm clutch his chest, went down "one aisle", Id., arriving at the rear of the auditorium simultaneously with the two men he had seen shoot at the victim. Ibid. at pp. 5730-1. As one passed him, Roberts had "grabbed a chair," Ibid. at p. 5731, when "[T]he individual who was subsequently caught, named Hayer. . .", Id., looked in his direction and fired "what looked like a .45. . .", Id., at him. Because Roberts had sidestepped, the bullet had missed his body but hit his jacket. Id. He had then thrown the chair in his hand at Hayer, knocking him to the floor, but the latter had gotten to his feet and hobbled

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"out the front," Id., at which time another security guard had arrived in the vicinity and taken "a shot at the same individual."

Id.

6. Roberts had then gone out the front door where he saw a large crowd "kicking and stomping. . . an individual." Id. He had then returned to the stage of the ballroom where "I proceeded to give Malcolm mouth to mouth resuscitation," Id. "Some twenty minutes later, the police finally got there and took him over to Medical Center." Id.

7. He also testified that he had been a member of "Malcolm's organization," Ibid. at p. 5732, for some time, that he had attended "various meetings", Id., at which the victim had spoken at that same ballroom, and that, on every such occasion "prior to that night there had always been large contingents of uniformed police" present. Id.

Q. But that night there were none, right?

A. This afternoon there was only a few on the outside.

Id.

Moreover, he had not seen any other police officers "around" on the day of the assassination. Ibid. at p. 5726.

8. The standard applying to new evidence is that it must be "discovered since the entry of a judgment. . . [and] could not have been produced by the defendant. . . even with due diligence on his part" and must be "of such a character as to create a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant. . ." \$440.10, subdivision

1(g), Criminal Procedure Law. That the willingness of Thomas Hagan, after years of soul searching, to testify as to the identity of his confederates in the assassination of Malcolm X and the detailed plans relating thereto meets every aspect of this standard hardly requires further discussion on movant's part. If Mr. Hagan had been prepared to so testify at the original trial, it is highly probable that the verdicts as to these defendants would have been more favorable, to say the very least. The prosecutor well understood the potential effect of Hagan's testimony and thoroughly undetermined it at the trial. See TT. 3147-3180 and 3211-3241.

9. The new evidence relating to the identity of Detective Gene Roberts also fully meets the statutory standard for a variety of reasons. The hiding of his identity deprived movants of a potential witness who (a) observed the assassination and the events immediately succeeding it, (b) could have exculpated these defendants, (c) would have added substance to the defense theory that the murder of Malcolm X was brought about or instigated by the New York City Police Department and other law enforcement agencies, and (d) would have discredited many of the prosecution's crucial witnesses by the sharp variances between his testimony at the Shakur trial and that given by the former at this one.

10. Furthermore, it makes very little difference whether it was the police, the prosecutor or both who concealed this vital information. The only relevant consideration is that the state did not disclose it to the defense, even when requested, and the

onus falls on the entire prosecution which was thoroughly tainted by the failure to inform.

11. Just a cursory reading of the trial transcript reveals the enormous extent of the disparity between Roberts' testimony in Shakur and that given by many witnesses at the within trial. For example, Cary Thomas, the People's first significant witness, testified that, just as Malcolm X began to address the audience at the Audubon Ballroom, one man stood up "in the rear" and said, in effect, "Man, what are you doing with your hand in my pocket?" TT: 236, 2386. This is in sharp contrast to Roberts' version that "two individuals near the front of the auditorium jumped up, one hollering, 'Get your hand out of my pocket'..." Shakur TT: 5730. Additionally, although Roberts testified to knocking Hagan down with a chair after being shot at by him, counsel does not recall any other trial witness so stating. Shakur TT: 5731. In this connection, see the testimony of Vernal Temple, Edward De Pina, George Whitney, Jasper Davis, John Davis, Ronald Timberlake, Fred Williams and Charles Blackwell.

12. Moreover, Roberts' testimony that, although there had always been "large contingents of uniformed police" at all of Malcolm X's previous meetings at the ballroom, there were "only a few on the outside" on this occasion, Shakur TT: 5732, would have substantially buttressed the defense contention that the police were somehow involved in the assassination. In this connection, see the startling testimony of Patrolman Gilbert Henry that he had been concealed in the Rose Room at the Audubon Ballroom at the time of the Malcolm X

meeting with another officer, Patrolman John Carroll, at the direction of their superior officer, a Sergeant Devaney, TT. 2443, 2451, who had given them specific instructions "to remain where [they] would not be seen." TT. 2442. At this time, Patrolman Henry had with him a walkie-talkie which was "connected with another walkie-talkie" in the possession of an officer in the Columbia University Presbyterian Medical Center. TT. 2414. After hearing the first shots, Henry had entered the main ballroom where he did not see any other uniformed officers or recognize any detectives. TT. 2438.

13. It must be kept in mind that, at this time, the FBI's COINTELPRO operation was in full swing, beginning in 1956 and continuing, according to the Bureau, until 1971. Book III, Final Report of the Select Committee to Study Governmental Operations with Respect to Intelligence Activities, United States Senate, April 23, 1976, p. 3, hereinafter sometimes referred to as the Church Committee Report. One of the techniques employed in this program was the instigation of enmity or factionalism within rival Black groups. Ibid. at pp. 40-54. Included within this technique was the use of hostile third parties against targeted groups. Ibid. at pp. 49-50. Moreover, the then Nation of Islam was designated as a "primary target. . ." Ibid. at p. 21, fn. 93, as was the Hon. Elijah Muhammed. Id.

14. Instigating or encouraging the murder of Malcolm X would

\* The strange absence of police on February 21, 1965, is doubly puzzling in view of the fact that Malcolm X's home had been bombed the previous week.



have fitted the aforementioned COINTELPRO techniques to a T. As former Assistant to the Director William C. Sullivan testified before the Church Committee, "[N]o holds were barred. . . ." 11/1/75, pp. 97-98. That these techniques created serious risks of physical harm to their targets is fully documented in the Church Committee Report which concluded that "[W]hen the willingness to use techniques which were concededly dangerous or harmful to the targets is combined with the range of purposes and criteria by which these targets were chosen, the result is neither 'within bounds' nor 'justified' in a free society." Church Committee Report, at p. 9; Testimony James B. Adams, 11/19/75, Vol. 6, Hearings, pp. 73, 75. At the very least, defendants were entitled to the testimony of Detective Roberts to buttress this claim and to lead to further witnesses to sustain it.

15. Interestingly enough, the FBI was involved in the investigation of the Malcolm X killing, despite the fact that it was a case ostensibly not within that agency's jurisdiction. At the trial Special Agent JOHN C. Sullivan testified that he had been contacted by another agent shortly after the assassination and that, following that conversation, he and another agent named Joseph T. Quigley had gone to a Brooklyn address where they had been shown one of the murder weapons by a Ronald Timberlake, one of the People's other witnesses. People's Exhibit 12, a .45 cal. revolver, was taken by Agent Sullivan. That evening, after Sullivan had telephoned the New York City Police Department, he was visited an inspector, a deputy inspector and a detective and, after a conversation, had

turned the weapon over to the detective in question. Sullivan had returned to Timberlake's home the next evening and had a further conversation with him which was terminated when New York City police officers arrived. Moreover, the FBI had received some thirty photographs from the Police Department of "people who were in the area when Malcolm was killed." TT. 1773-93.

16. The hiding of the identity of a key witness to a murder is such a denial of due process of law that it is difficult to think of a more heinous one. Fundamental justice would require the granting of a new trial on this ground alone. It is obvious that the defense never knew of the existence of this witness, other than by the designation of "Brother Jean," and that he would have been called if his identity had been made known to it. Even if the People did not know the identity, it can hardly be questioned that the Police Department certainly did and that it had the responsibility and obligation to make it known, particularly when the defense constantly inquired about it. See eg. TT. 1727.

17. For all of the above reasons, as well as those set forth in previously filed and served affidavits, defendants are entitled to the vacation of their judgments of conviction and the dismissal of the indictment as to them or, in the alternative, to a new trial or, in the further alternative, to an evidentiary hearing to prove the allegations set forth in this and the other affidavits heretofore served and filed herein.

WHEREFORE, it is respectfully requested that this Court grant all or some of the relief prayed for herein as well as such other and further relief as may seem just and proper in the premises.

William M. Kunstler  
WILLIAM M. KUNSTLER

Sworn to before me this  
19th day of December, 1977.

Joan L. Washington  
NOTARY PUBLIC

JOAN L. WASHINGTON  
Notary Public, State of New York  
No. 31-4508439  
Qualified in New York County  
Commission Expires March 30, 1979

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Roberts - People - cross

Q The security section?

A Yes.

Q And what was your particular assignment?

A I can't remember, offhand.

Q To protect the speakers or anything like that?

A I can't recall.

Q Who were the speakers?

A Ozzie Davis was one of the speakers. I can't remember any of the others.

Q And it was the job of the security section to be security at that meeting?

A Yes, yes.

Q That was a memorial for Malcolm X?

A Yes, yes.

Q And Malcolm X is a very important figure in relation to the Black Panther Party, is he not?

A Yes.

Q All of these defendants, you've heard talk of Malcolm X, haven't you?

A Yes.

Q Now, after -- now, you've attended lots of rallies and meetings while you were in the Black Panther Party concerning Malcolm X?

(30)



Roberts - People -- cross

A I've attended lots of rallies, yes, not all concerning Malcolm.

Q But there have been many concerning Malcolm?

A Yes.

Q Were you ever asked to speak at one of those memorials for Malcolm?

A Yes.

Q And you didn't, did you?

A I didn't hear you.

Q You didn't speak?

A The one I was asked to speak at was back at -- back at 2026 Seventh Avenue. There I did speak.

Q You did speak at one, but you didn't speak at another, is that your testimony?

A I didn't speak at the one at Cooper Junior High School.

Q Oh, you were asked to speak that day?

A Yes. I didn't speak at that one, mainly because I don't like talking in front of large groups. Arriving back at 2026 Seventh Avenue I was asked by Afeni Shakur to give a brief speech on Malcolm. Over there they had a P system set up, but then the office, they were playing a lot of Malcolm's speeches, recorded speeches, and I gave about a five-minute talk on what happened at the -- what

L13

5725a

Roberts - People - cross

happened there at the assassination of Malcolm. ...

(Continued on the next page.)--

Roberts - People - Cross

BY MR. LEPCOURT:

Q You were there, weren't you?

A At the assassination of Malcolm X?

Q Yes.

A Yes, I was.

Q Did you help do it?

A No, I did not.

Q You were his bodyguard that night, weren't you?

A MMS That afternoon, yes, I was.

Q And there were no other police around but you were there?

A I really don't know.

Q You didn't see any, did you?

A No.

Q Isn't it a fact that you helped murder Malcolm X?

A No, it isn't. But would you like to know the truth about the assassination?

A. SHAKUR: Yes.

Q We all would like to know the truth about the assassination.

THE COURT: Counselor, you behave yourself.

MR. PHILLIPS: I think the admonition -- may the witness answer the question?

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Roberts - People - Cross

THE COURT: Does the counsel wish the question  
to be answered?

A. SHAKUR: Yes.

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MR. PHILLIPS: Yes; he said so.

BY MR. LEPCOURT:

Q You are going to tell us the truth about what  
happened to ~~ME~~ Malcolm X?

A Yes.

Q And this is the truth that you observed?

A Yes.

Q Did you testify at the trial of ~~EMEN~~ three  
people who were charged with the assassination?

A No. No.

Q But you saw it happen?

A Yes.

Q But you didn't testify?

A No.

Q Didn't you want the truth to come out there?

A Yes.

Q Why didn't you testify?

A I wasn't called.

Q But you knew what happened?

A Yes.

Q And you didn't testify?

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Roberts - People - Cross

A No.

Q Isn't it a fact that during that trial two Muslims were put on trial; do you recall that?

A Yes.

MR. PHILLIPS: Your Honor, there were three defendants in that case. Mr. Lefcourt again has everything confused.

MR. LEFCOURT: I don't have --

THE COURT: All right. Proceed.

Q And the third one was not a Muslim, was he?

A I don't know whether he was or not. It was stated that he had been in the Newark mosque. I didn't know whether he was or wasn't.

Q Now, you discussed this whole testimony with

Mr. Phillips about Malcolm X; haven't you?

A Yes.

Q And Mr. Phillips told you that there is a time that Mr. Lefcourt is going to ask you about Malcolm X or that somebody is going to ask you about him; isn't that right?

A Yes.

Q And you are prepared to give us an answer, aren't you?

A Yes.

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Roberts - People - Cross

Q And he is not objecting, he is?

A No.

Q Does it have anything to do with your under-  
cover work in the Black Panther Party?

A No.

Q But you ~~xxx~~ prepared this point, didn't you?

A The question was asked and I gave what I thought  
was a suitable answer.

Q And ~~HEMM~~ didn't Mr. Phillips say, "Tell that  
in court"?

A No.

Q Did you discuss your testimony about this subje  
in court?

A About what subject?

Q About the assassination of Malcolm X.

A I don't quite understand the question.

Q Well, with Mr. Phillips, didn't you plan what  
your testimony was going to be concerning this matter?

A No.

Q But you told him what it was going to be if  
you were asked?

A I only told him what really happened there.

Q Okay. What happened?

A When the meeting started, one of his lieutenants,  
Jb

X5

Roberts - People - Cross

Benjamin Goodman, was the first one to speak.

At the end of Benjamin Goodman's speech, the rostrum security was relieved. I had been on the first rostrum security. So I proceeded to the back where we met the security captain who told us to just sit around and in a half hour we would be on post again.

At that time there was another group that was on security. After Goodman finished his speech, he introduced Malcolm X.

Malcolm approached the platform and gave the Muslim greeting, at which time two individuals near the front of the auditorium jumped up, one hollering, "Get your hand out of my pocket," at which time there was a small commotion.

I started down the aisle where the commotion was and the next thing I knew chairs were being overturned, shots were being fired.

Two individuals were running past the front stage, firing at Malcolm and then proceeding down the middle aisle of the ballroom.

As I turned, I saw Malcolm grasp his chest. I didn't see him fall. And I followed down one aisle, and by the time I got to the back of the auditorium the two individuals that was in the middle aisle, we arrived at

disturbance 11:27 John Davis - sent to hospital - out 1:34

6-7-70  
8:1140  
5730  
Jules

100  
664  
683  
788  
John  
Frank  
12/11  
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85

956  
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Home

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236 H'd  
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603

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1649

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the same time.

One went by and at that particular time I grabbed a chair. The individual who was subsequently caught, ~~XXXX~~ named Hayer, he looked in my direction and pointed his -- what looked like a .45, at which time I made a side step, and as I stepped to the side he fired, the bullet missing but hitting my -- hitting my jacket.

I then threw the chair, knocking him down. After a couple of seconds elapsed, I turned around, I saw the same individual that I knocked down with the chair getting to his feet and hobbling out the front, at which time another member of Malcolm's security group came down the far aisle and took a shot at the same individual.

I then turned, proceeded out the front door. I saw a large group of people and they had an individual, kicking and stomping him.

I came back into the ballroom, went to the stage where I proceeded to give Malcolm mouth to mouth resuscitation.

What appeared to be twenty minutes later that the police finally got there and took him over to Medical MEM Center.

Q Now, you were in Malcolm's organization at the time, were you not?

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Roberts - People - Cross

A Yes.

Q And were you a police officer then?

A Yes.

Q Patrolman or a detective?

A Patrolman.

Q That was in 1965?

A Yes.

Q February 21st?

A Yes.

Q And you had been been at various meetings that Malcolm spoke at, had you not?

A Yes.

Q At the ~~FIVE~~ Audubon Ballroom where that happened?

A Yes.

Q And every time prior to that night that he spoke it was always large contingents of uniformed police there, were there not?

A Yes.

Q But that night there was none, right?

A This afternoon there was only a few on the outside

Q There was no uniformed police in five hundred like there usually was when he spoke?

THE COURT: Counselor, at this time we will

REberts - People - Cross  
recess for lunch, and I suggest--

MR. CRAIN: Your Honor, can the witness be  
please answer the question before we recess?

THE COURT: Mr. Crain, will you please be  
seated.

I suggest to counsel that when we resume we  
do not try the Malcolm X case. This is a case in  
which these defendants are on trial. I have permitted  
this deviation only because you asked the witness  
whether he killed Malcolm X.

MR. LEFCOURT: I think it should be only be-  
cause the witness and Mr. Phillips had agreed--

THE COURT: Your sarcasm again, Mr. Lefcourt,  
will will --

We will declare a luncheon recess.

The jury is cautioned not to discuss the case  
among yourself or with anyone else. You are to  
continue to maintain an open mind as to the guilt  
or innocence of the accused.

Should anyone approach you to discuss this  
case, please avoid conversation. If he persists,  
report the incident to the Court.

You are in no way to discuss this case outside  
of court. You are to refrain from all discussion

Roberts - People - Cross

of the case during the time you serve as jurors.

You are to continue to avoid reading newspaper accounts. You are to continue to avoid listening to radio reports or viewing reports on television.

We will resume at two-fifteen.

[Whereupon, the jurors and the alternate jurors leave the courtroom, and the following proceedings take place:]

THE COURT: All right. The Court is in recess.

[Whereupon, there was a luncheon recess as declared by the Court]

[Continued on next page]

## AFTERNOON SESSION

11H1

TRIAL CONTINUED

(All the defendants, their counsel and the assistant district attorneys were present in the courtroom.)

THE COURT: All right, have the jury out.

(Whereupon the members of the jury enter the courtroom and take their respective seats in the jury box.)

THE COURT: All right, we may resume.

MR. LEPCOURT: May I apologize to those jurors who sometimes only view my back because of inadvertence in walking up front?

DETECTIVE GENE ROBERTS, previously sworn, resumed the stand and testified further as follows:

CROSS-EXAMINATION (continued)

BY MR. LEPCOURT: Now Detective Roberts, did you ever testify before any grand jury or investigating body concerning the testimony you gave this morning about the assassination of Malcolm X?

THE COURT: Counselor, I thought I suggested and now I direct that we not go into the Malcolm X case. That has nothing to do with the case on trial.

MR. LEPCOURT: Your Honor, that was my last

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next point. That's all I just wanted to ask that question and move on to something else.

THE COURT: All right, manifestly there can be good reasons for not using a witness in a trial. Now please get on with something that's relevant to the issues before the Court.

MR. LEFCOURT: Well, your Honor, may we have just that question answered?

THE COURT: No.

Q Now that morning that you went to the Malcolm X memorial at Cooper Jr. High School, do you recall what time you woke up that morning?

A No.

Q Well, do you recall that the meeting, the memorial was about 9.30 a.m. at the school?

A Yes.

Q And after that, later on in the day, you returned to 2026, did you not?

A Yes.

Q And at that time, you saw Massadou from the National office of the Black Panther Party, did you not?

A I think he was there at that time, yes.

Q And others were there?

A Yes.

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Retainer

I hereby retain William M. Kuntler and any other attorney  
he may select to assist him, to represent me in my motion to  
obtain a new trial. ....

Thomas Johnson

~~Thomas Johnson~~

Dated: November 22, 1977

Witnessed by: :

Nurridin Faiz

Chaplain Nurridin Faiz

Sworn to before me this  
22nd day of November 1977

Lois A. Stamatedes

LOIS A. STAMATEDES  
Notary Public, State of New York  
Residing in Ulster County  
Commission Expires March 30, 1979

Retainer

I hereby retain William M. Kunstler and any other attorney he may select to assist him, to represent me in my motion to obtain a new trial.

Norman Butler  
Norman Butler

Dated: November 23, 1977

Witnessed by:

Nuriddin Faiz  
Chaplain Nuriddin Faiz

Sworn to before me this  
23rd day of November, 1977

Stephen Edward Witley

STEPHEN EDWARD WITLEY  
Notary Public, State of New York  
No. 4603405  
Quadrant 10th County  
Commission Expires March 30, 1978

45

THE PEOPLE OF THE STATE OF NEW YORK

-v-

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUTLER) and KHALIL ISLAM (THOMAS 15X JOHNSON),

Defendants.

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

WILLIAM C. CHANCE, Jr., being duly sworn, deposes and says:

1. I was the attorney for, MUHAMMAD ABDUL AZIZ. (NORMAN 3X BUTLER), one of the movants herein, at his trial in 1966 on the within indictment.
2. As such, I am convinced that there would have been a different result insofar as my then client was concerned had THOMAS HAGAN, ONE OF HIS co-defendants thereat, furnished the names of his confederates in the assassination of Malcolm X as well as the full details of the planning and execution of the crime.
3. Moreover; I did not know the identity of the "Brother Jean" who was depicted giving mouth-to-mouth resuscitation to the said Malcolm X, nor, I am sure, did any of my co-counsel in the case, even though we had asked for such information before and during the trial.
4. Furthermore, now that I know that "Brother Jean" was an undercover member of the New York City Police Department named Gene Roberts and that he was an eyewitness to the assassination, I feel that his testimony on my defendant's behalf would have buttressed his case by (1) contradicting many of the People's witnesses; (2) exonerating my defendant; and (c) furnishing significant evidence that



STATE OF NEW YORK  
COUNTY OF NEW YORK: WEST 30

the New York City Police Department and/or other law enforcement agencies were deeply involved in the said assassination.

5. I am firmly convinced that the identity of this police officer was deliberately kept from the defense in order to prevent it from producing highly relevant and material evidence that would in my opinion, have probably changed the verdict against my client to a more favorable one.

6. I believe that, given the existing state of the law, defendants herein are clearly entitled to a new trial for all of the grounds set forth above.

WILLIAM C. CHANCE, Jr., Jr.

Sworn to before me this 1st day of December, 1977.

day of December, 1977, the client was concerned that THOMAS

one of his co-defendants thereat, furnished the material

received in the assassination of Malcolm X as well as the

NOTARY PUBLIC

of the State of New York and a member of the "Brotherhood

following persons were sworn to the same

in the case, and during the trial

and during the trial

of the "Brotherhood

of the New York City Police Department named

Referring to the fact he was an eyewitness to the assassination, I feel

that this testimony on my behalf would have been

case of contradicting the testimony of the People's witness: (1)

my defense and furnishing significant evidence

-----X

THE PEOPLE OF THE STATE OF NEW YORK :

: Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUT- :

Defendants.

85

COUNTY OF NEW YORK)

JOSEPH P. PINCKNEY, being duly sworn, deposes and says:

1. I was one of the attorneys for KHALIL ISLAM (THOMAS 15X JOHNSON) at his trial on the within indictment. Charles Beavers, my co-counsel, died some seven or so years ago.

2. I have been informed by WILLIAM M. KUNSTLER, my ex-client present attorney, that THOMAS HAGAN, one of his co-defendants at the trial, is now prepared to reveal the names of his confederates in the assassination of Malcolm X and furnish the full details of the planning and execution of the crime. I feel that, if Mr. Hagan had been prepared to do this during the trial, it would probably have resulted in a more favorable verdict insofar as Mr. Johnson was concerned.

3. Mr. Kunstler has also informed me that the identity of "Brother Jean," a security guard who gave mouth-to-mouth resuscitation to Malcolm X after the latter was shot, is now known and that he was, in fact, one Gene Roberts, an undercover police officer of the City of New York. I am convinced that, had defense couns

known this man's identity before or during the trial, he might well have been called as a witness for one or more defendants. Among other things, he might have exonerated my client as well as explained the strange absence of police security at the Audubon Ballroom meeting of February 21, 1965. The withholding of his name, clearly known to the authorities, deprived all defendants of an eyewitness who might have been immeasurably helpful to them at the trial.

4. It is my professional belief that, given the present willingness of Mr. Hagan to testify fully about his role and that of his confederate in the assassination of Malcolm X, and the now known identity of "Brother Jean," these defendants are clearly entitled to a new trial under New York law.

JOSEPH P. PINCKNEY

Sworn to before me this  
day of January, 1978

NOTARY PUBLIC

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 30  
----- -x

THE PEOPLE OF THE STATE OF NEW YORK :

-v-

: Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUT- :  
LER) and EHALIL ISLAM (THOMAS 15X :  
JOHNSON), :  
----- -x

Defendants. :  
----- -x

SIRS: " "

PLEASE TAKE NOTICE, that defendants, by their counsel, will move this Court, upon the affidavit of WILLIAM M. KUNSTLER, duly verified the 5th day of January, 1979, and all the proceedings heretofore had herein, at a Part 30 thereof, held in and for the County of New York at the Criminal Courts Building, 100 Centre Street, New York, N.Y. 10013, on the 16th day of January, 1978, at 10:00 o'clock in the forenoon thereof or as soon thereafter as counsel can be heard, for an order producing said defendants into the said Part 30 on the 19th day of January, 1978, in connection with their motion for relief pursuant to §440.10, CPL, which is scheduled to be heard on said date, and retaining said defendants in a penal institution within the City of New York until the final determination of their said motion by this Court, and granting such other and further relief as may be just and proper in the premises

Yrs, etc.,

TO:

District Attorney  
Criminal Motion Clerk

WILLIAM M. KUNSTLER  
853 Broadway  
New York, N.Y. 10003  
(212)674-3303

Dated: New York, N.Y.  
January 5, 1978



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-----X

: Ind. No. 871/65

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LER) and KHALIL ISLAM (THOMAS 15X

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NYC.gov/records

2. Because of the complex nature of this motion, I con-

[nyc.gov/records](http://nyc.gov/records)

NYC.gov/records

sent within reasonable proximity to my office.

5. The defendants are located within 100 miles of this city, Mr. Butler being at the Ossining Correctional Facility and Mr. Johnson at the Walkill Correctional Facility. It is further requested that they be kept within the same penal institution in the City of New York, should this request be granted, and that suitable arrangements be made thereat for their protection.

6. No prior request for the relief sought herein, other than that set forth above, has been made to this or any other court.

WHEREFORE, defendants respectfully request that all of the relief sought herein be granted, as well as such other and further relief as may be deemed just and equitable in the premises.

\_\_\_\_\_  
WILLIAM M. KUNSTLER

Sworn to before me this 5th day of January, 1978.

\_\_\_\_\_  
NOTARY PUBLIC

CERTIFICATE OF SERVICE

The undersigned, an attorney at law duly licensed as a member of the bar by the State of New York, hereby certifies, under the pains and penalties of perjury, that, on the 5th day of January, 1978, he served the foregoing motion and supporting affidavit by prepaid United States first class mail upon the District Attorney, New York County, at the address designated by the latter for the service of legal papers.

WILLIAM M. KUNSTLER, Esq.

Dated: New York, N.Y. 10017  
January 5, 1978

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 30

THE PEOPLE OF THE STATE OF NEW YORK

-v-

Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUTLER)  
and KHALIL ISLAM (THOMAS 15X JOHNSON),

Defendants.

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

WILLIAM M. KUNSTLER, being duly sworn, deposes and says

1. I am the attorney for defendants herein and I am submitting this supplemental affidavit in support of their motion for new trials pursuant to §440.10, Criminal Procedure Law.

2. On December 19, 1977, I served and filed an affidavit supplemental to others previously served and filed by me in this matter. In ¶15 of said affidavit, I supplied information as to involvement of the Federal Bureau of Investigation in the investigation of the assassination of Malcolm X. Since that time, other information has come to light which, in my opinion, requires the drafting of another supplemental affidavit in this case.

3. During the trial of the within indictment, both from eyewitness testimony and ballistics evidence, it was clear that Luger had been used in the slaying of Malcolm X. As pointed out in my affidavit of December 8, 1977, this gun was picked up by Charles H. Blackwell, wrapped in a jacket, and, according to his Grand Jury testimony, then turned over to a "Brother Jean." TT. 1663. "Brother Jean" was later identified, long after the trial, as Gene Roberts, a New York Police Department undercover agent. At the trial



however, Blackwell said that his Grand Jury testimony was wrong and that he had handed the Luger to one Rueben Francis. TT. 1743-44.

4. Despite this fact and the additional one that Rueben Francis had shot and wounded Hagan while the latter was attempting to escape from the Audubon Ballroom after the shooting, he was not called as a witness at the trial. Francis was arrested on the day of the assassination and indicted on March 10, 1965, for assaulting Hagan and related charges. He was freed on bail two days later, bail having been set at \$10,000.00. When he didn't appear in court on May 25, 1965, an order of forfeiture was entered three days later.

5. On or about February 2, 1966, while the trial of this indictment was in progress, Francis voluntarily surrendered himself to the Federal Bureau of Investigation. It might be pointed out that at the time of Francis' surrender, the People were still presenting their case, yet he was not called to testify. On information and belief, no notice was given to the defense that Francis was now available.

6. It should be kept in mind that one witness who was called by the People, namely Ronald Timberlake, was permitted to testify in a closed courtroom from which all spectators and the media were excluded. TT. 1289. It was Timberlake who had removed the .45 caliber pistol attributed to Hagan from the Audubon Ballroom, taken it to his home, "broke the gun down. . . inspected the chamber. . . took the bullets out of the clip." TT. 1318. He had then called on the New York City Police Department, but the FBI. TT. 1323. When the agents arrived at his home, he gave them the weapon and "[Timberlake] marked it, tagged it and slipped it in a bag." TT. 1325.

7. All of the above information is contained in either the trial transcript or in the file of People v. Frances, Ind. No. 873/65, New York County.

WHEREFORE, defendants repeat their prayers as set forth in the Notice of Motion and papers submitted subsequent thereto.

WILLIAM M. KUNSTLER

Sworn to before me this

day of January, 1978

\_\_\_\_\_  
NOTARY PUBLIC

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 35  
-----x-----

THE PEOPLE OF THE STATE OF NEW YORK :

-v- :

Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUTLER) and KHALIL ISLAM (THOMAS 15X JOHNSON),

Defendants. :  
-----x-----

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

WILLIAM M. KUNSTLER, being duly sworn, deposes and

says:

1. I am the attorney for defendants herein and I am submitting this affidavit in opposition to the People's papers served and filed on February 9, 1978 in opposition to defendant's motion herein.

2. In essence, the People claim that:

- a. The affidavit submitted by co-defendant Thomas Hagan is (1) not newly discovered evidence because it is not materially different than his testimony at the trial, or (2) conceding that it is materially different, it would not have probably altered the jury's verdicts; and
- b. The failure to reveal the identity of then Patron Gene Roberts does not warrant the relief sought by defendants.

3. The affidavit of Thomas Hagan

The People's claims with reference to this document

are patently ridiculous on their face. Not only is the affidavit in question considerably more extensive than Hagan's testimony at the trial, furnishing full details as to the planning and execution of the assassination of Malcolm X, but it reveals the first names of said co-defendant's accomplices and states that Hagan is prepared to give their full names and last known addresses at any evidentiary hearing set by this Court. To reveal their full names and residence data in a public affidavit would subject them to harrassment and pre-  
sure as well as possible physical harm. In comparing this affidavit with Hagan's testimony at the trial, the Court will see that, at the latter, he was evasive and answered many questions by refusing to do so. Eg. see TT. 3152, 3154, 3155, 3159, 3176, 3177, 3178, 3219, 3238 and 3239. Even when ordered by the Court under threat of contempt, he refused to elaborate on details. TT. 3155. Not only did the prosecutor emphasize the significance of his failure to answer many questions on cross-examination, but the Court, in its charge, frequently alluded to that fact. Eg. see TT. 4106, 4109, 4111, 4112, 4113 and 4114.

It is patently obvious that the material in his affidavit and his willingness to elaborate on it when called as a witness is considerably different than his testimony at the trial and that any jury might be considerably impressed by the full story. On information and belief, the authorities at the Eastern Correctional Facility, where he is presently incarcerated, thought enough of his affidavit to place him in protective custody at that institution as soon as it was made public last December. Moreover, in considering the potential effect on a jury of his testimony as it is now an



participated, the Court must take into consideration the fact that there is a mass of other new evidence that would be presented to the same panel, some of which has already been discussed in previous affidavits and some which will be set forth, *infra*. There can be no doubt that Hagan will be a powerful and compelling witness for defendants at any future trial and that he is in a position to reveal the complete story about the planning and execution of the plot to murder Malcolm X. To say otherwise is to flout all reason and logic.

4. The hiding of the identity of Gene Roberts

The People take the position that there was no duty whatsoever on the prosecution to reveal that an undercover agent was present on the stage at the time of the assassination, chased one of the murderers (Hagan), was shot at by him and felled him with a chair thus facilitating his capture. When the People have peculiarly relevant information about the identity of a crucial eyewitness, which knowledge is uniquely their own and could not be known to the defense, and this fact is not made known to the defense, it is no different than hiding or concealing physical evidence. This is even more so when the witness, as here, would have substantiated a claim by the defense that the assassination was aided or abetted by the authorities.

To claim that the defense knew all about Gene Roberts because his name appeared on a witness list which was eventually turned over to it, is an example of pure sophistry. The defense at the trial kept asking for this list, TT. 181, but the prosecutor con-

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sistently refused to turn it over. Id. See also TT. 66-66, when the defense moved for the production of the list, which said motion was denied. It was not until long after the trial had begun that this list was finally given to the defense, TT. 1795, at a time when it was valueless, containing as it does some 119 names and addresses. TT. 1797. In fact, the defense counsel pointed out that they had asked for the list from the beginning and that, because of the number of names on it, it was now impossible to do anything with it. TT. 1796.

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But the most ingenuous aspect of the People's use of this list to excuse the failure to call Roberts or inform the defense of his existence is contained in the aforesaid list itself. Introduced as Defense Exhibit AA (formerly People's 39 for identification), it contains not only Gene Roberts' name but that of a Joan Roberts, living at the same address as the one attributed to Detective Roberts. Presumably, Joan Roberts is the wife of Gene Roberts and, if she were not present at the Audubon Ballroom on February 21, 1965 - and it is difficult to imagine that an undercover agent would take his wife to such a function - then her name was added for protective coloration. Under any circumstances, two names, included in many husband-wife pairs, could hardly excite the interest of the defense, even assuming they had any time in which to attempt to interview 119 new potential witnesses.

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Moreover, even if they had, by chance, attempted to interview Roberts, the overwhelming odds are that he would not agree to any such interview (he refused to entertain one with defense counsel). And, if he did, would not have disclosed his undercover status. The simple fact of the matter is that, if there

ever was a case in which disclosure was mandated, it is this one. The entire defense case was prejudiced by the failure to reveal what only the People and the police knew -- namely, that an undercover police officer had been a vital eyewitness to the assassination and its aftermath, a witness who, because of his training and position, would have carried enormous weight with the jury.

Roberts' affidavit does not answer any of the serious issues raised by the defendants herein. All that it contains are representations that he knows nothing about anything and does not even admit that he was an undercover police agent. But some of what it does not contain is of importance here. There is no allegation that he saw either defendant at the scene of the murder; in this connection, when one takes into consideration the shaky backgrounds and conflicting stories of the eyewitnesses who did testify, Roberts' testimony could have been of enormous significance in the outcome of the trial insofar as these defendants are concerned. If nothing else, he would have fleshed out the defense claim that the police were somehow involved in the murder.

For the Court's convenience, a copy of the list referred to above is attached hereto as Exhibit B.

5. There is one more factor in this puzzling case which requires some elaboration. Although Malcolm X was shot with, among others, a Luger, this weapon was never found. It was taken from the scene by one Reuben Francis, TT. 1631, a person who was not called to testify at the trial, even though it was he who had shot Hagan while the latter was fleeing. Francis had been indicted for the latter crime, jumped bond, and finally turned himself in to the FBI on or about February 2, 1966, while the trial was in

progress. It is passing strange, indeed, that Francis' availability was not made known to the defense, in view of the fact that he, like Roberts, was a key witness to all of the events surrounding the crime and had, in fact, taken one of the murder weapons from the scene a weapon that eventually disappeared.

6. Finally, the so-called "abundant" or "overwhelming" evidence against these defendants involved no physical evidence whatsoever, but solely the testimony of seven eyewitnesses, three of whom identified both, three who identified Butler only and one who identified Johnson only. Many of these witnesses contradicted each other and themselves as well and all left much to be desired as to their credibility. A brief summary of each such witness will make this abundantly clear:

- a. Cary Thomas: identified Johnson (TT. 242) and Butler (TT. 237). This witness had numerous narcotics convictions (TT. 267) and was, at the time of the trial, under indictment for arson (TT. 277). He had been a heroin addict (TT. 280) and pushed (TT. 281) and had been committed to Bellevue Hospital as a psychiatric case two years earlier (TT. 277-8) 7-8. Not only was he contradicted by other witnesses as well as Gene Roberts, but he contradicted himself (TT. 304, 333, 470) and admitted making many testimonial errors. (TT. 466). He was paid as a material witness, (TT. 362).
- b. Fred Williams: identified Butler as being involved in the disturbance that preceded the murder (TT. 116) and Johnson as having the shotgun (TT. 1522), but then said could only identify "one for sure," i.e. Butler. (TT. 1568). Told police "couldn't identify anyone" until I see more pictures of them." (TT. 1598).
- c. Edward De Pina: this 70-year-old Portuguese, alien (TT. 805) with a criminal record of assault, police and federal liquor law violation (TT. 828-9) identified Butler whom he had never seen until the day of the murder (TT. 846). In court, he mistakenly id



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tified one of the defendants' lawyers as the man who had taken him to Bellevue Hospital to look at Hagan. (TT.890) He picked Butler out of lineup which contained white men. (TT. 937)

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d. Jasper Davis: identified Butler as the man sitting next to him in the Ball Room (TT. 1095). He was shown only one photograph of the defendant. (TT.1166-7)

e. Ronald Timberlake: this witness would not testify until the courtroom was cleared of spectators and the press (TT.1289). He identified Butler as involved in the shooting. (TT. 1317). He took the .45 pistol home with him (TT. 1318) and later turned it over to the FBI (TT. 1323-25). He was the only witness to testify that Butler was caught and pummeled by the crowd outside the Ballroom. (TT. 1374-5)

f. Charles Blackwell: identified Butler whom he had never seen before. (TT. 1621-22) from a distance of no closer than 25 feet (TT. 1622). He contradicted his grand jury testimony and his statements to the police as to the disposition of the Luger (TT. 1743). First, he said that he had given the weapon to Gene Roberts (grand jury at police) but at the trial changed this to Reuben Francis. (TT. 1662-3, 1743). Admitting as to where two assassins sitting. (TT. 1666) and about their rushing to the stage. (TT. 1745). He contradicted his grand jury testimony on many occasions. (TT. 1693, 1736-40). \*/

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h. Vernal Temple: identified Johnson as a man he had seen in the Ballroom (TT. 663) and he recognized him as a man he had seen before in a Muslim meeting in Chicago four years earlier. (TT. 665, 776)

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In essence, the above is the "abundant" or "overwhelming" evidence against these defendants, both of whom had family alibis and were apprehended at the scene. Taking into consideration the total absence of physical evidence, the pandemonium at the scene and the result of the trial, it is clear that the evidence is insufficient to sustain the conviction. \*/ He said he saw Johnson briefly without a weapon near the ladies room. (TT. 1625)

uncertainty of eyewitness identification under such circumstances, the shaky nature of the testimony itself as well as the lack of credibility of most if not all of the said witnesses, and the external and internal contradictions in their testimony, and one could hardly characterize this evidence as anything but weak and uncertain. In judging the effect of the newly discovered evidence upon a jury the strength or lack of strength of the case against movants must be given considerable weight.

7. From all of the above, as well as the material contained in previously submitted affidavits, and the total unresponsive nature of the People's affidavits and memorandum, the defendants are clearly entitled to a new trial, or, at the very least, to an evidentiary hearing to produce Thomas Hagan and others to testify before this Court. Only by such a hearing, should the Court be reluctant to grant the new trial sought by defendants upon the papers before it, can an intelligent and thoughtful decision be made in this case. Defendants maintain that, under existing law, they are clearly entitled to a new trial on what they have shown herein, but that they are prepared to meet their burden of proof should this Court opt for such an evidentiary hearing.

WHEREFORE, defendants respectfully move for some or all of the relief prayed for in their Notice of Motion, together with such other and further relief as may be just and proper in the premises.

Sworn to before me this  
11th day of February, 1978

NOTARY PUBLIC

*William M. Kunstler*  
WILLIAM M. KUNSTLER

MARGARET L. RATNER  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 31-11470  
Qualified in New York County  
Commission Expires March 30, 1978

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## POLICE DEPARTMENT

NEW YORK N Y 10038

February 1, 1978

William M. Kunstler, Esq.  
853 Broadway  
New York, N.Y. 10003

Dear Mr. Kunstler:

The Police Commissioner has asked me to reply to your letter of January 19, 1978.

I have reviewed your request to interview Detective Eugene Roberts regarding the murder of Malcolm X in 1966, and regret that I cannot be of assistance. We have discussed the matter with Detective Roberts, and it is presently his position that he does not wish to be interviewed. If you need to hear this personally from him, kindly let me know and Detective Roberts will be asked to write you.

Your request for access to our files about Malcolm X, under the Freedom of Information Act, has been referred to the Public Inquiry and Request Section of the Police Department for their attention.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Philip R. Michael", written over a horizontal line.

Philip R. Michael  
Deputy Commissioner  
Legal Matters

JER/fn

EXHIBIT A

(5)

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PERSONS INTERVIEWED IN MALCOLM X INVESTIGATION.

AHMED, OMAR - 416 W. 134 ST. 100 ST.  
 - ALEXANDER, GLADSTONE - 219 W. 144 ST. 100 ST.  
 - ANDERSON, ROBERT - 17 KRESS AVE., NEW ROCHELLE, N.Y.  
 AHMED, ZEBRINI - 416 W. 134 ST. 100 ST.  
 BROWN, LORRAINE - 1489 SO. BLVD., B.K.  
 BAILEY, WILLIAM - 225 W. 137 ST.  
 BOUTELL, PAUL - 1091 PROSPECT AVE., B.K.  
 - BROKBERG, EDWARD - 150 W. 21 ST. 21 ST.  
 BROWN, CLARENCE - 550 CAULDWELL AVE., B.K.  
 - BOULLOFS, JACKIE - 1770 BROADWAY, B.K.  
 BATCHELOR, MARGARET - 161 W. 140 ST. 100 ST.  
 - BIGGAMS, JONNIE MAY - 2430 7th AVE. 100 ST.  
 - BADGER, SUSY - 360 E. 17 ST. 17 ST.  
 ✓ BLACKWELL, CHARLES -  
 - BURNS, CARNEY - 112-50 NORTHERN BLVD. 100 ST.  
 - BALLEAU, JAMES - 41-15 10 ST. 10 ST.  
 BROWN, MARTHA - 212 W. 129 ST. 129 ST.  
 BLANCHETTE, GWEN - 92 ST. NICHOLAS AVE. 92 ST.  
 CATHCART, LINWOOD - 5530 W. 3RD ST. PLAINFIELD, N.J.  
 CRUM, CATHERINE - 142 W. 140 ST. 140 ST.  
 COOPER, RALPH - 730 RIVERDE DR. 100 ST.  
 ✓ DAVIS, JASPER - 70 E. 108 ST. 108 ST.  
 DAVIS, CHARLES - 70 E. 108 ST. 108 ST.  
 ✓ DEFINA, EDWARD -  
 - DAVIS, JOHN - 746 ST. NICHOLAS AVE.  
 DEBERRY, CLIFTON - 116 UNIVERSITY XXX. PLACE.  
 EDWARDS, ROBERT - 1263 GRANT AVE.  
 FALSON, HARRY - 3706 AVALON ST. PHILA., PA.  
 - FRANCIS, RUBEN - 871 E. 179 ST.  
 FRUNTZ, GUENTHER - 310 E. 38 ST.  
 - GRIMES, FRANKLIN - 70 W. 115 ST.  
 - GREY, MURIEL - 706 RIVERSIDE DR.  
 - GRANT, EARL - 3657 BROADWAY.

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EXHIBIT AA-AA  
 N.Y. SUPREME CT. CL.  
 FEB 9 1968  
 MURRAY L. LUTSCH  
 OFFICIAL STENOGRAPHER

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 N.Y. SUPREME CT.  
 FEB 9 1968  
 MURRAY L. LUTSCH  
 OFFICIAL STENOGRAPHER

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PAGE # 2.

|                       |                                |
|-----------------------|--------------------------------|
| GOODMAN, BENJAMIN-    | 1022 LONGFELLOW AVE., BX.      |
| GETHERS, ELIZABETH-   | 159-26 HARLEM RIVER DRIVE.     |
| GREY, JOHN-           | 2300 5 TH AVE.                 |
| HAGGINS, ROBERT SR.-  | 1370 ST. NICHOLAS AVE.         |
| HARRIS, WILLIAM-      | 614 OAK TREE PLACE.            |
| HUFF, HATTIE-         | 602 COURTLAND AVE.             |
| HASSON, ABDULLAH-     | 1020 TRINITY AVE., BX.         |
| HOLMES, CARL-         | 1365 5TH AVE.                  |
| HASSOUN, AHMED-SHEIK- | HOTEL THERESA.                 |
| JACKSON, SHARON-      | 401 E. 102 ST.                 |
| JEFFERSON, OLLIE-     | 841 BROOK ST., BX.             |
| JENNINGS, ALVIN-      | 760 E. 168 ST.                 |
| JONES, FREDERICK-     | 540 W. 159 ST.                 |
| KOCHIYAMA, MARY-      | 545 W. 126 ST.                 |
| KOCHIYAMA, WM.-       | " " " "                        |
| LLOYD, EDWARD-        | 1330 34th Ave. - Bklyn.        |
| LARSON, LEONARD-      | 557 W. 148 ST. - Bklyn.        |
| LEAKS, SYLVESTER-     | 410 W. 110 ST. - Bklyn.        |
| LITTLE, BETTY-        | HOTEL THERESA.                 |
| MITCHELL, SARAH-      | 843 TIFFANY ST., BX.           |
| MORRIS, CHARLES-      | 1851 3RD AVE.                  |
| MOORE, CHARLES-       | XXXXXXXXXXXXXX                 |
| NICHEAUX, LOUIS-      | 220 W. 145 ST.                 |
| MOORE, LOUISE-        | 61 CLINTON AVE., NEW ROCHELLE. |
| MILLS, LAURA-         | 620 COURTLAND AVE.             |
| ODUM, RALPH-          | 225 W. 123 ST.                 |
| PARKER, WILLIAM-      | 2305 30TH AVE., ASTORIA.       |
| PRICE, BENJ.-         | 131-33 W. 143 ST.              |
| PRICE, HELEN-         | " " "                          |
| PENPACH, ALEX.-       | 225 W. 110 ST.                 |
| PORTER, HERMAN-       | 516 E. 11 ST.                  |
| FRANKETT, ANGELA-     |                                |
| PHIFFER, GEORGE-      | 291 PATCHEN AVE., BKLYN.       |
| PLATT, DAVID-         | 240 E. 24 ST.                  |

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PAGE # 8

|                         |   |
|-------------------------|---|
| RYAN, JESSE             | 366 W. 118 ST.                          |
| RYAN, JOAN              | " "                                     |
| ✓ ROBERTS, GENE         | 3983 BARNES PL., EX. <i>West 110</i>    |
| ROBERTS, JOAN           | " "                                     |
| ROWE, EVA               | 61 CLINTON AVE., NEW ROCHELLE, N.Y.     |
| ROME, JIMMY             | " " " "                                 |
| — SAVAGE, LANGSTON      | 140 W. 144 ST.                          |
| — SCOTT, STANLEY        | 1220 CROED AVE., B'KLYN., N.Y.          |
| — SEALEY, SIDNEY        | 995 UNION AVE., B'KLYN., N.Y.           |
| SERRA, IGNACIO          | 1085 BRACH AVE., B'KLYN., N.Y.          |
| ✓ SHEBAZZ, SHARON       | 217 BAINBRIDGE ST., B'KLYN.             |
| ✓ SHEPPARD, ROLAND      | 137 98 ST., B'KLYN.                     |
| SHIFFLET, LYNN          | 706 RIVERLIDE DR., B'KLYN.              |
| SIMPSON, GENE           | 466 W. 146 ST.                          |
| SKINNER, THOMAS         | 880 BOYNTON AVE., B'KLYN.               |
| SNEED, LEONARD          | 226 W. 137 ST.                          |
| — STANBURY, COLLETON    | 1695 MADISON AVE.                       |
| STEPHENSON, DONALD      | 2504 7TH AVE.                           |
| — STEWARD, ROBERT       | 1 PROSPER TERRACE, EAST, GRAND, N. J.   |
| — STUBBS, JAMES         | 10701 THERESA ST.                       |
| — TAYLOR, ABRAHAM       | 97-06 NORTHERN BLVD., B'KLYN.           |
| TICNY, ALBERT           | 3624 AVE F, B'KLYN.                     |
| ✓ TIMBERLAKE, RONALD    | 1764 BEDFORD AVE., B'KLYN.              |
| ✓ THOMAS, CARY          | 233 W. 121 St. (presently CURENS TOMAS) |
| WASHINGTON, DONALD      | 60 W. 69th St.                          |
| WASHINGTON, JOSEPH USEP | 393 DUMONT AVE., B'KLYN.                |
| — WATSON, FLORANCE      | 221 RALPH AVE., B'KLYN.                 |
| WELLS, RAPHAEL          | 354 E. 102nd St.                        |
| WELLS, SAMUEL           | 42 W. 118th St.                         |
| WHEELER, THOMAS         | 242 E. 128th St.                        |
| WHITMORE, IMORY         | 305 W. 113th St.                        |
| — WHITNEY, GEORGE       | 1114 MORRIS AVE. (or) 223 W. 121 ST.    |
| — WILLIAMS, FRED        | 88                                      |

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PAGE # 4.

GEORGE, WILLIAM 6-X-

115 W. 118 St.

WRIGHT, AARON-

3735 LANCASTER AVE., PHILA.

WALLACE, THOMAS-

3450 110 TH ST..

BENTLEY, LEONARD-

215 W. 148 ST.

CULLUM, CHESTER-

MLMIRA. 1-1-1

FERGUSON, DEANLAN-

129-39 157 ST.

GEORGE, MATTHEW-

JOHNSON, ALBERT-

60-62 119 ST. ST.

LENNON, MARILYN-

177-48 120 TH AVE.

MALLORY, PAUL-

MOORE, WILBERT-

90 EDGECOMB AVE. PHIL.

MOORE, CHARLES-

666 RIVERSIDE DRIVE.

MCCLELLAND, ALBERT-

666 RIVERSIDE DRIVE.

ROUSSEAU, CECIL-

48-41 BROADWAY, ASTORIA.

ERNEST, ROUSSEAU-

" " " " " " "

VESTAL, JAMES-

540 E. 171 ST. ST.

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CERTIFICATE OF SERVICE

This is to certify that, on the 11th day of February 1978, the undersigned served the within affidavit upon the District Attorney, New York County, by mailing same in a prepaid first class envelope addressed to said District Attorney at the address designated by him for the receipt of papers.

William M. Kunstler  
WILLIAM M. KUNSTLER

Dated: New York, N.Y.  
February 11, 1978



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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 35  
-----x

PEOPLE OF THE STATE OF NEW YORK :

-v- :

Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X :  
BUTLER) and KHALIL ISLAM (THOMAS 15X :  
JOHNSON), :

Defendants. :  
-----x-----

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss.:  
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WILLIAM M. KUNSTLER, being duly sworn, deposes and says:

1. Following the hearing before this Court on February 15, 1978, I visited Thomas Hagan at the Eastern Correctional Facility, Napanoch, N.Y. on February 22, 1978, and informed him of the Court statement that a more specific affidavit was required from him in connection with the motion for a new trial pending before it. He agreed to furnish one and said that he would give it to Emam Nuriddin Faiz, a World Community of Islam Minister and an official chaplain of the New York State Department of Correctional Services upon the latter's next visit which was scheduled for Saturday, February 25, 1978.

2. On Saturday, February 25, 1978, Mr. Hagan called me at my home in New York, N.Y. and informed me that he had just signed the affidavit in question and that Chaplain Faiz had witnessed it. In view of the shortage of notaries at Eastern Correctional Facility I asked Chaplain Faiz to read the affidavit to me and then to put Mr. Hagan on the line. Mr. Hagan, whose voice I recognized from my prior conversations with him, acknowledged that it was his aff  
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davit and swore to the contents thereof. Accordingly, when the original document was brought to me by Chaplain Faiz on February 27, 1978, I notarized it as of the date that Mr. Hagan spoke to me and swore to the contents thereof.

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3. In view of the fact that names and other identifying data are included in the affidavit, Mr. Hagan insisted that its contents not be made public other than to the Court and, if necessary, the District Attorney. He felt that it might be very dangerous for the individuals named and described in the document if the information therein were publicized. Accordingly, I assured him that I would adhere to his wishes and so informed this Court in a telephone conversation on Monday, February 27, 1978.

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4. In view of the above, I am furnishing the original affidavit to this Court and sending one copy by messenger to Allen B. Alpert, the Assistant District Attorney in charge of this matter for the People. It is my express understanding that the contents of the attached affidavit will be kept confidential by all concerned in view of the dangers inherent in public disclosure of its contents.

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5. I also informed the Court that I would move to clear the courtroom of both public and press in the event of an evidentiary hearing during Mr. Hagan's testimony as the same dangers would be present thereafter.

*William P. Kunstler*  
WILLIAM M. KUNSTLER

Sworn to before me this

28th day of February, 1978

*Joan L. Washington*  
NOTARY PUBLIC

JOAN L. WASHINGTON  
Notary Public, State of New York  
Commission Expires March 30, 1979

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State of New York  
County of Ulster

I, Thomas Hagan, being duly sworn, depose  
and say:

That this affidavit is an addition to my  
first affidavit. And that the statements made  
herein are more in detail and hopefully  
will clear up any doubt as to what took  
place in the killing of Malcolm X and  
the innocents of Norman Butler and  
Thomas Johnson.

It was some time in the summer of  
1964 that I was approached concerning the  
killing of Malcolm X. The time must of been  
a month or so before the Hon. Elijah Muhammad  
spoke in New York City in 1964.

I was walking in downtown Paterson when two  
brothers, both Muslims, was driving by in their car.  
I knew these men well. They asked me to get in  
the car. They wanted to talk to me. Both of these  
men knew that I had a great love, respect and admiration  
for the Hon. Elijah Muhammad.

They started talking about what was going on with

malcolm x and how this man was defaming the  
Hr. Elph Muhammad. This was the feelings of  
most men in the N.O.I. at that time.

The full names of these men are:

- 1) Ben or Benjamin Thomas or Thompson. He lived  
on Hamilton Ave. in Paterson N.J. He was a  
member of Mosque # 25 Newark N.J.
- 2) Bro. Lee also known as Leon Davis. He also lived  
on Hamilton Ave. in Paterson N.J. across the  
street from Ben. He was also a member of  
Mosque # 25 Newark N.J.

I know that it was Ben who spoke to Leon first  
and then they spoke to me. I learned from them  
that word was out that malcolm x should be  
killed. I can't say for I don't know who passed  
that word on. But I thought that Ben knew.

He soon got together with two more men.  
Both lived in Newark N.J. ones name was  
William x. He was staying on Central Ave. or  
So Orange Ave. Right across from the Mosque in Newark.  
I never knew his last name.



The other man was a Bre. named Willbur  
or Kirby. I don't know his full name. But  
we used his car on Feb. 21, 1965

We met a few times to discuss how to carry out  
this killing. Some times we talked while driving  
around. Or at Ben's or Dick's house. Some times we  
drove around for hours.

We tried to get as much information on the  
movements of Mal X. as we could.

We, the people above stated, drove out to Mal X.  
house one night to see what security was there.  
We found it heavily guarded. We soon decided  
that the only place that Mal X. would be was at  
the Ball Room where he was making speeches to  
the people there. In fact we attended one of these  
meetings to see what security was there. We learned  
that no one was searching at the door for weapons.  
This was in the winter of 1964-65.

We talked about this on the way back to Jersey. We drove  
back in Ben's car. We knew that the only place that  
Mal X. was sure to be was at that Ball Room. And  
we decided that with a crowd there we had a good

chance of getting in there and out after the move was made, the shooting that is.

we decided to visit the Ball Room the night before the killing to set this up. it was a dance that night and we came there like everyone else, got a ticket went in and looked the place over. This was Feb. 20, 65

This night we used Bens car and on the way home we discussed what everyone thought. Everyone agreed that we would do this the next day Feb. 21, 1965. The next morning we would meet at Leons house and Bens to go over our plans. we decided after looking at the place that we would get there early. Drift in and take sets: Leon and me up front on left side facing stage. Ben and William right behind us. I had the 45 auto. Leon the Ruger. William had the shotgun. Wilbur or Kirby had the set in the back of the place. His job was to observe someone of picking his pocket and throw the smoke bomb down. This was timed to happen when Mal x stated to greet the people. Almost at the same time William would fire the shotgun and Leon and I would fire our guns at Mal x. and run for the door.

on Feb. 21, 1965 we drove to N.Y.C. in either or  
Kinky's car, a blue Cat, about a 1962 or so. we  
parked a few blocks from the Ball Room on a street  
leading for George Washington Bridge. we figured that  
with all the people there we could make it out in the  
crowd.

As for the weapons I got them from a  
man who had them for sale I bought them from  
him. This person had nothing to do with the  
crime. I made the smoke bomb that was used.

I, Thomas Hogan have written this affidavit  
in the hope that the information would exonerate  
Thomas Johnson and Norman Butler of the crime  
that they did not commit. This affidavit is factual  
to the best of my knowledge. and I am willing to  
state what took place in the matter before any Court  
of law.

Thomas Hogan

Sworn to before me  
this 25th day of February, 1978  
by Thomas Hogan P. Quastler  
Notary Public  
City of New York

Commission expires March 22, 1979

Witness I  
Mureddin Fuzi

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 35

----- -x  
THE PEOPLE OF THE STATE OF NEW YORK :

-v- : Ind. No. 871/65  
MUHAMMAD ABDUL AZIZ (NORMAN 3X BUT- :  
LER) and KHALIL ISLAM (THOMAS 15X) :  
JOHNSON, :

Defendants.  
----- -x

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

WILLIAM M. KUNSTLER, being duly sworn, deposes and says:

1. I am submitting this affidavit in support of defendant application for an evidentiary hearing in connection with their assertion that the murder of Malcolm X was procured, instigated or arranged by the Federal Bureau of Investigation and/or the New York City Police Department.

2. During oral argument before this Court in January, defense counsel was requested to submit any information they may have gained from an examination of those documents which the Federal Bureau of Investigation would permit them to see. This affidavit is in partial response to that request.

3. Attached hereto, in its entirety, is a memorandum from the Special Agent in Charge of the Chicago Division to the Director dated January 22, 1969, concerning the Nation of Islam. The Court's attention is called to the first page in which the addressor states that one technique employed against the Nation of Islam was the development of "factional disputes . . . the most notable being MALCOLM X LITTLE." P. 1.



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4. The Final Report of the Select Committee to Study Governmental Operations With Respect to Intelligence Activities, United States Senate, 94th Congress, 2d Session, popularly referred to as the Church Committee, Book III thereof, is replete with documentation of the concerted effort of the FBI to promote violence between what it classified as Black extremist groups, among which it included the Nation of Islam. See eg. pp. 189-198, Book III, supra. According to the Church Committee Report, "Approximately 28% of the Bureau's COINTELPRO efforts" were expended in this area. Ibid. at 40. In many instances, the Bureau took full credit for causing violence among such groups. Ibid. at pp. 42-3.

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5. It does not take a great deal of imagination to come to the conclusion that the publicized rift between Elijah Muahammad and Malcolm X was ideal for the promotion of violence between members of the Nation of Islam and Malcolm's Organization of Afro-American Unity. The existence of COINTELPRO as an official program of the FBI and the circumstances of the feud between Malcolm X and Elijah Muhammad was ripe with possibilities for the encouragement of violence between their two organizations and what could have been more perfect for this purpose than the procuring of the murder of the most accessible target, namely Malcolm X.

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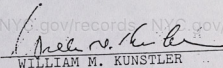
6. This explains the total lack of police protection at the Audubon Ballroom on February 21, 1965, one week after the bombing of Malcolm's home in Queens, the stationing of a police officer in the emergency room of an adjoining hospital before the shooting with walkie talkie contact with two officers hidden from public view at the Ballroom, the contact of certain eyewitnesses with the FBI and

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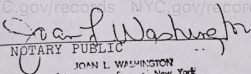
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their nonavailability as witnesses at the trial, the disappearance of one murder weapon and the turning over of another, after it had been broken down, to FBI agents.

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7. There is at least enough here to call for an evidentiary hearing. It is submitted that District Judge John Sirica had less at his disposal in the way of incriminating material than does this Court. If the truth is ever to be determined, it remains for courageous judges, when confronted with strong possibilities to grant the hearings necessary to develop it. Otherwise the dark areas of our society, so graphically illustrated in the Church Committee Report, among others, will be hidden forever, with the resultant danger to our institutions and the lives and welfare of many of our citizens.

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WHEREFORE, defendants reiterate their request for an evidentiary hearing on all aspects of their motion, so that this Court will be able to make an intelligent disposition of this matter.

  
WILLIAM M. KUNSTLER

Sworn to before me this 3rd  
day of April, 1978

  
NOTARY PUBLIC

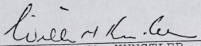
JOAN L. WASHINGTON  
New York

Qualified in New York County  
Commission Expires March 30, 1979

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/ See United States v. Liddy et als., D.D.C. (1972)

CERTIFICATE OF SERVICE

This is to certify that a copy of the within affidavit was forwarded to the District Attorney, New York County, 155 Leonard Street, New York, N.Y. 10013, this date by prepaid first class United States Mail.

  
WILLIAM M. KUNSTLER

Dated: New York, N.Y.  
April 3, 1978

UNITED STATES GOVERNMENT

## Memorandum

TO : DIRECTOR, FBI (100-448005)

FROM : SAC, CHICAGO (157-2209) (P)

DATE: 1/22/69

SUBJECT: COUNTERINTELLIGENCE PROGRAM  
BLACK NATIONALIST - HATE GROUPS  
RACIAL INTELLIGENCE  
(NATION OF ISLAM)

Reurlet, 1/7/69; Chicago letters 12/24/68 and  
1/14/69.

ReBulet has been thoroughly studied and discussed by the SAC, the Supervisor, and Agents familiar with facets of the NOI which might indicate trends and possible future direction of the organization. The Bureau's concern is most understandable and suggestions appreciated.

Over the years considerable thought has been given, and action taken with Bureau approval, relating to methods through which the NOI could be discredited in the eyes of the general black populace or through which factionalism among the leadership could be created. Serious consideration has also been given towards developing ways and means of changing NOI philosophy to one whereby the members could be developed into useful citizens and the organization developed into one emphasizing religion - the brotherhood of mankind - and self improvement. Factional disputes have been developed - the most notable being MALCOLM X LITTLE. Prominent black personages have publicly and nationally spoken out against the group - U.S. District Court Judge JAMES BENTON PARSONS being one example. The media of the press has played down the NOI. This appears to be a most effective tool as individuals such as MUHAMMAD assuredly seek any and all publicity be it good or bad; however, if the press is utilized it would appear it should not concentrate on such aspects as the alleged strength of the NOI, immoral activities of the leadership, misuse of funds by these officials, etc. It is the opinion of this office that such exposure is ineffective, possibly creates interest and maybe envy among the lesser educated black man causing them out of curiosity to attend meetings and maybe join, and encourage the opportunist to seek personal gain - physical or monetary - through alignment with the group. At any rate it is felt such publicity in the case of the NOI is not overly effective.

2 - Bureau (RM)

1 - Chicago

(3)



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As the Bureau is aware the NOI several years ago organized Progressive Land Developers, Inc., and more recently United Dynamics Corporation, both incorporated in the State of Illinois. Both have well known NOI officials as officers - ELIJAH MUHAMMAD is not shown as involved in either. The professed purpose of these groups is economic in nature and gives no appearance of being religious in nature.

Activity by these groups was most limited until the past year to year and one half ago. Since that time the NOI has invested heavily in business properties in the Chicago area and in land in Michigan and Georgia. It was noted publicly regarding formation of these two corporations by the NOI was limited throughout the United States - only two articles have appeared and both dealt briefly with Progressive Land Developers, Inc. buying land in Michigan. Both articles were published in cities other than Chicago.

[REDACTED] contacted this office and volunteered data to the effect he had been surveying NOI business ventures and wanted to write an article about same but needed assistance. Bearing the above facts in mind re the two corporations, the Bureau was requested to give permission to furnish [REDACTED] with pertinent public record material relating to ownership of these non-religious ventures with emphasis on the fact it appeared membership monies were possibly being misused. The Bureau granted permission and [REDACTED] was given all possible assistance. At this time he is working on his article and assures this office he will advise us of the article and its publication. Re Chicago letters set forth full details. It is hoped that publicity emphasizing NOI non-religious ventures will cause factionalism among the leaders and discredit them among the black community and the organization's membership.

ELIJAH MUHAMMAD is sole leader of the NOI claiming to have been so appointed by ALLAH. He further claims to be the only divinely appointed leader of all black people in America. His "gimmick" in creating an aura of mysticism

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has been proclaiming the black man to be God and the future ruler of Earth; branding the white man as the Devil whose future lies in his destruction by ALLAH through the forces of nature; and a call for a separate state or territory of their own or equal justice and equal opportunities in the United States if they cannot have separate territory. These "gimmicks" would be most attractive to many black people in the lower economic strata who would want to hear the white man condemned and castigated because of their own plight. Of course, the development of a seemingly large following would also attract the opportunist - a black man who would profess to believe MUHAMMAD's teachings but is really out solely for personal gain. As is apparent, MUHAMMAD has created through the above an almost fanatical devotion to him on the part of his following; however, this devotion and subservience is purely voluntary as members are specifically instructed to leave if they cannot follow all of the "Laws of Islam". The turnover is constant and while many have left because of the NOI's demands they still believe in his teachings.

ELIJAH MUHAMMAD, as far as is known, has not designated, or even shown a preference for, an heir apparent. With two exceptions the national leadership is composed of members of his family. All are dependent on MUHAMMAD and the group for their livelihood. Over the years various members of the "Royal Family" have been in the favor of MUHAMMAD only to fall by the wayside because they dared question MUHAMMAD's edicts. A prime example of this would be WALLACE MUHAMMAD who was until about 1964 considered most likely to be the heir apparent and MUHAMMAD himself indicated ALLAH might be communicating with WALLACE. Of course, WALLACE subsequently was suspended by his father because he refused to believe W. D. FARD was ALLAH. It is still believed WALLACE MUHAMMAD is the only member of the "Royal Family" who could give proper spiritual guidance to the organization. No one has emerged as a successor to WALLACE insofar as this sphere of activity is concerned.

Recent indications are that HERBERT MUHAMMAD is closest to MUHAMMAD. He is self-stated to be MUHAMMAD's personal aide. He has illusions of running the NOI from "behind the scenes" when MUHAMMAD passes on.

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There is no indication HERBERT himself will be able to guide the flock spiritually nor is there any indication as to how he plans to accomplish same. He is interested only in such financial gain as the membership will make available to him.

In our opinion there is no one presently in the NOI who will be able to replace MUHAMMAD and the mystical spell he is able to cast on some members of the black race. This must be done to insure survival of the group.

Further, there is no means at present to determine who will succeed MUHAMMAD. Past experience has shown he does not particularly trust any of his sons or daughters and they could be in favor one day but completely in disfavor the next. HERBERT MUHAMMAD is as susceptible to this as any.

It appears the NOI is headed on a collision course for a factional split after the death of MUHAMMAD. The power struggle could well develop among members of the "Royal Family" and could well involve some of the more prominent NOI ministers who could well align themselves with a certain member of the "Royal Family" or could entertain illusions of "ruling" a segment of the NOI. It is not beyond the realm of possibility that any of MUHAMMAD's more prominent ministers could make a power play on MUHAMMAD's death. At present, however, MUHAMMAD seemingly has all of them totally subservient to him.

As mentioned earlier, the spiritual aspects of the NOI must be maintained to keep the group going. It is recalled that when MALCOLM X LITTLE defected and later was murdered, many dissenting NOI members sought out WALLACE MUHAMMAD for spiritual leadership. When WALLACE MUHAMMAD returned to his father on another occasion and was presented to NOI members gathered at an Annual Muslim Convention in Chicago he was wildly acclaimed. It is felt WALLACE MUHAMMAD is still warmly thought of by his father as he is the only son or daughter who is not monetarily motivated. It is known MUHAMMAD still asks about WALLACE.

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It is further known WALLACE is adamant in his belief W. D. FARD is not ALLAH. WALLACE is acknowledged clandestinely by members of the "Royal Family" and is friendly with many of them. He is thought to be held in esteem by NOI members despite his suspension. It is not beyond expectations that he could be sought out for support in a power play by a member or members of the "Royal Family" or by various NOI ministers to be a figurehead or the leader. His beliefs are the brotherhood of mankind and self improvement with no hate for other men.

WALLACE MUHAMMAD is well aware of this and maintains his contacts.

The above is pure speculation but factual data can only be obtained as time passes and events occur. At this time proper courses of action can be planned and implemented.

ReBulet refers to legal action against the NOI on the death of its leader and asks such questions as

- 1) Does MUHAMMAD have a will? 2) Is the NOI incorporated?
- 3) In whose name and where are NOI bank accounts? 4) In whose name are NOI assets such as mosque buildings, MUHAMMAD's home, etc.?

There is no information available as to whether or not ELIJAH MUHAMMAD has a will. This would be information available only to MUHAMMAD and, possibly, an attorney.

MUHAMMAD's Temple No. 2 of the Holy Temples of Islam is shown as being an Illinois corporation at the Cook County Recorder's Office, Chicago; however, there is no evidence of same on file with the Secretary of State, Corporate Section, Springfield, Illinois.

Bank accounts maintained by MUHAMMAD's Temple No. 2 in Chicago are in a state of complete flux at present. Accounts both savings and checking have been maintained for several years in the name of MUHAMMAD's Temple No. 2 at the South-East National Bank (all having balances of under \$1,000.00); at Continental Illinois National Bank and Trust Company of Chicago (all now closed); at the American National Bank and Trust Company of Chicago (unavailable due to bank policy). ELIJAH MUHAMMAD was not shown as being authorized to draw on any of the above accounts. Rather those



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authorized to draw included officers of the Temple - any 2 of 4. Only one bank account was located for ELIJAH MUHAMMAD. It was a savings account containing less than \$5,000.00 and was in the name of ELIJAH and CLARA (his wife) MUHAMMAD.

NOI properties have been closely followed by this office insofar as title holder, evaluation, etc., are concerned. MUHAMMAD's Temple No. 2, including the University of Islam No. 2; is in the name of MUHAMMAD's Temple No. 2; various business ventures purchased by the NOI are in the name of Progressive Land Developers, Inc., or United Dynamics Corporation (both described above) as are land purchases in Michigan and Georgia. So far as can be determined NOI properties are in one of the above names. The exception to this are MUHAMMAD's residence at 4847 South Woodlawn; his residence at 2118 East Violet Drive, Phoenix, Arizona; and a residence at 1122 Staples Street, N.E., Washington, D.C., which are in the name of ELIJAH and/or CLARA MUHAMMAD at present.

Chicago's experience insofar as MUHAMMAD's legal advice is concerned dates back to 1959 at which time ELIJAH MUHAMMAD on legal advice tempered his teachings against the white man and the government, both synonymous in NOI teachings, to avoid prosecution. At that time he emphasized religious aspects in the NOI and commenced emphasizing economic benefits to be derived by the black man who joined the organization. It appears, based on NOI land and business ventures in the past two years, MUHAMMAD is implementing monies accrued over the from the membership and from appreciation from properties sold. His success or failure in these business and farming ventures remains to be determined as they have only been in effect for a year or so.

Over the years MUHAMMAD's legal involvements have been closely followed. He has been represented by numerous attorneys and evidently seeks out advice on new endeavors. IRS has reviewed the NOI and some of its officials but results were negative. Income Tax Returns filed by such individuals as HERBERT MUHAMMAD, who made substantial money as manager of CASSIUS CLAY, were reviewed and no discrepancies were noted. It was noted attorneys executed these returns. Perhaps the most significant factor is recognition of the NOI as a religion by USDC and subsequent court, both Federal and State, approval for NOI services in Federal and State prisons.

Chicago has no source in Probate Court, Cook County, Chicago, and has not considered the development of same due

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to the many scandalous allegations relating to political appointees and their associates in this area. It is not deemed advisable to approach such a person as the Bureau would be in an extremely embarrassing position if there were the slightest leak that the Bureau was involved in probate of any estate.

Chicago, as the Bureau is aware, has always been on the alert for methods by which the NOI could be directed or disrupted. As is evidenced by the present cooperation with [ ] this policy continues.

Chicago continues its contacts with its sources whose identities are known to the Bureau and feels these sources will be of possible extreme value at the time of the demise of MUHAMMAD. At this time appropriate recommendations will be made.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 35

THE PEOPLE OF THE STATE OF NEW YORK :

-against-

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUT-  
LER) and KHALIL ISLAM (THOMAS 15X  
JOHNSON)

Defendants. -X

Ind. No. 871/65

STATE OF NEW YORK }  
COUNTY OF NEW YORK } ss.:

WILLIAM M. KUNSTLER, being duly sworn, deposes and says

1. Attached hereto are documents recently received by

me from the Federal Bureau of Investigation. I have numbered them  
consecutively for the purpose of bringing certain matter contained  
therein to the Court's attention.

2. Many of these documents relate to other suspects in  
this case, while some give descriptions or designations that confor  
to those contained in the most recent affidavit of Thomas Hagan.  
In this connection, the Court's attention is respectfully called  
to the following pages thereof:

7, 8, 9, 19, 20, 21, 22, 23, 27, 28, 30, 32,  
35, 38, 39, 40, 41, 43, 44, 47, 48, 50, 51

3. Much of the information contained in the above mat-  
erial was, by its terms, was furnished to the New York City Police  
Department.

4. Moreover, the man referred to on Page 40 is undoubte  
ly Reuben Francis, the eyewitness who turned himself into the FBI  
during the trial and was never revealed to the defense as being  
available to testify although it was he who had shot Hagan. Mr.  
Francis is, in counsel's opinion, the Malcolm X bodyguard refer-  
red to on Page 7, beginning at 10 lines from the bottom, who, at  
both Page 7 and 40, is described as being seen with a large amount  
of money on the day after Malcolm's assassination.

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Membership in the MMI

[redacted] furnished a list of all persons known to have affiliated with the MMI at that time. This list included 73 names, which names were obtained [redacted]

[redacted] advised that a large number of MMI members were former NOI members in the New York City area who chose to follow MALCOLM X.

On August 18, 1964, [redacted]

[redacted] furnished a list of all persons known to [redacted] that at that time were affiliated with the MMI. The list was obtained from [redacted]. The list included 132 names, 20 of which had arrest records [redacted]

✓ The exact membership of the MMI is unknown. It is known that a large number of NOI members, possibly in excess of one hundred, left the NOI in New York City, ostensibly to join with MALCOLM X and the MMI, however, probably due to the inactivity of the MMI because of MALCOLM's absence, very few members actively participated in MMI affairs. At the three Islamic religious meetings, which are held weekly, the average attendance is only twelve to fourteen persons [redacted]

On September 17, 1964, [redacted] made available an MMI business card, which read as follows:



Malcolm K. Little

in his hand while Malcolm X was on the stage speaking. They said Malcolm X suddenly called out "Hold it" and after this, [redacted] dropped to the floor and did not actually see Malcolm X shot, but stated before they dropped to the floor, they saw Hayer with a gun in his hand pointing it towards Malcolm X. The next thing they saw was Hayer trying to run out of the Ballroom with a gun in his hand. According to [redacted] as Hayer ran out, one of Malcolm's group shot three times at Hayer with an automatic pistol. Hayer did not have the pistol on him when he was arrested outside the Ballroom.

[redacted] also stated that [redacted] who was sitting in the front row in the Audubon Ballroom was shot in the foot during the shooting spree in which Malcolm X was shot. He also stated that [redacted] was also hit during the shooting spree in the Ballroom and both [redacted] and [redacted] were treated at Columbia Presbyterian Hospital, New York City.

[redacted] later advised that the Police found a 12 gauge sawed off double-barrell shotgun manufactured by J.C. Higgins, model 1017, also bearing the number 5100. The Police advised, upon examination, that the shotgun had been fired and left at the scene.

At approximately 7:45 p.m., on February 21, 1965,

[redacted] advised that Hayer was being detained in the prison ward at Bellevue Hospital, under guard. He stated that Hayer had one bullet in him which entered his left thigh and shattered the thigh bone. He stated the hospital plans to put Hayer's left leg in traction and that the bullet would stay in the leg for about two weeks until such time as the bone would be healed enough to permit an operation.

On February 21, 1965, [redacted] New York, contacted the office of the Federal Bureau of Investigation (FBI) at New York City and stated that he had one of the pistols used to kill Malcolm X. [redacted] was at that time in [redacted]

Malcolm K. Little

[redacted] and asked that Bureau Agent meet him at the [redacted] address as soon as possible. [redacted] then contacted the same date by Agents of the FBI, [redacted] was in the back of the Audubon Ballroom, the same date, to hear Malcolm X speak. He stated that he is a member of the OAAU. He said Malcolm X was just introduced and began to speak when some people began to scream somewhere about eight rows from the front of the auditorium. He said people in that area began to move away and Malcolm X put up his hands as though to quiet the people down and was heard to say "Keep your seats." Just then, [redacted] shots rang out, but [redacted] could not see who was doing the shooting. After the shots were fired [redacted] the persons shooting headed for the exit. Some of the people in the audience tried to stop them by throwing chairs at them or in their way. At this time, two of Malcolm X's men were shooting at the assailants as they were trying to leave the Ballroom. [redacted] said the two men involved in the shooting passed him, but as the other two men involved were running towards the exit, one turned to fire back at Malcolm X's men. As this man then turned to run through the exit, [redacted] threw a "body block" into him knocking him down the stairs, at which time this person dropped a .45 caliber pistol. [redacted] picked up the gun and attempted to shoot the man he knocked down as he was running down the stairs, but the gun jammed and he ran out of the building. [redacted] said he checked the gun and noticed that three rounds were still in the clip. [redacted] then turned over to Special Agents of the FBI a .45 caliber automatic pistol, serial number 335055, containing a clip with three rounds of ammunition.

At 10:15 p.m. February 21, 1965, [redacted]

[redacted] came to the office of the FBI, at which time, they were furnished a .45 caliber automatic pistol, which was obtained by Agents of the FBI from [redacted]



Malcolm K. Little

[redacted] stated that Hayer, who was arrested immediately after shooting Malcolm X, has been charged with homicide and that [redacted] member of Malcolm X's group, was charged with felonious assault and possession of a deadly weapon.

[redacted] also stated that the Police Department has a witness who identified [redacted] as the person firing back at assailants of Malcolm X. He said [redacted] was believed to have fired a shot which struck Hayer in the leg. He said [redacted] is suspected of being the person who fired a .32 caliber pistol, which has never been recovered by the Police Department. [redacted] stated that it is estimated that up to four persons may be involved in the killing of Malcolm X.

[redacted] further advised that an autopsy performed on Malcolm X reflected that he had ten bullet wounds in his chest, thigh and ankle plus four bullet creases in the chest and thigh. The autopsy located one nine millimeter slug and one .45 caliber slug, and several shotgun pellets in the body of Malcolm X.

[redacted] said that when the Police Department examined the Audubon Ballroom after the shooting, they found a sawed off double-barrel shotgun wrapped in a green suit coat. In the suit coat pocket was found a key for a Yale lock, a package of camel cigarettes and an empty eye-glass case bearing the optometrist name [redacted]. The shotgun contained two discharged Remington express shells, single 0 buckshot shells and there were indications that the gun was recently fired.

[redacted] also stated that in the Ballroom was found three .45 caliber shells and slugs, six nine millimeter shells and two slugs, and three .32 caliber slugs and 10 pieces of lead, presumably fired from the shotgun.

Malcolm K. Little

THOMAS HAYER

The FBI Identification Division, on February 22, 1965, identified prints of the person arrested in the shooting of Malcolm X as Talmage Hayer, who up until then, was known to the Police Department only as Thomas Hagen. Identification records reflect that Hayer, FBI #1424967, is a male, Negro, born March 16, 1942, at Hackensack, New Jersey, last known residing at 347 Marshall Street, Paterson, New Jersey.

Malcolm X arrived at the Audubon Ballroom, February 21, 1965, in a white 1965 Cadillac. Malcolm X was surrounded by his bodyguards and was then escorted into the front corridor of the Audubon Ballroom and then to the stage. When Malcolm X began to speak, a disturbance occurred between two men. Up in the front near the stage, Malcolm X's bodyguards started to move towards the two men causing a disturbance when Malcolm X said "hold it." Without hesitation, two men occupying the front seats, left side, middle aisle, looking towards the stage, got into a crouched position and fired several shots in the direction of Malcolm X. The fire "spitting" from the guns "crashed" into the chest of Malcolm X and he fell backwards as if knocked down by a sudden powerful force. Still in the crouched position, the gunmen hastily moved toward the exit in the back of the hall, stepping over persons who were laying on the floor. It is believed that approximately 20 shots in all were fired during the shooting.

[redacted] reviewed a photograph of Talmage Hayer and identified him as one of the persons who shot and killed Malcolm X on February 21, 1965, at the Audubon Ballroom.

[redacted] advised on that date Hayer's fingerprints were found on the clip of the .45 caliber pistol that was picked up by [redacted]



Malcolm K. Little

[redacted] identified Norman Butler from photographs as the man who was sitting [redacted] and said "Get your hands out of my pocket" in the Audubon Ballroom, just before Malcolm X was killed. [redacted] cannot recognize [redacted] from photographs as being in the Audubon Ballroom on February 21, 1965.

On March 4, 1965, [redacted] stated that as of this date, Hayer, Butler and Johnson, all arrested for the killing of Malcolm X, have refused to furnish any information other than their name and age.

On March 8, 1965, [redacted] advised that [redacted] was interviewed by the New York City Police Department on the same date. According to [redacted] stated that he saw Hayer shoot Malcolm X and also observed Butler and Johnson in the Audubon Ballroom the day Malcolm X was killed. [redacted] saw Johnson run out the side exit after the shooting.

[redacted] stated that Johnson, when arrested, denied being in the Audubon Ballroom on February 21, 1965. [redacted] stated that [redacted] after the shooting, he picked up the shotgun used to kill Malcolm X and gave it to [redacted]. He said he also picked up a German Luger pistol and gave it to another person to hold until the Police arrived.

[redacted] stated that the German Luger was never turned over to the Police Department and this gun could probably account for the nine millimeter slug in Malcolm's body. [redacted]

Malcolm K. Little

On March 10, 1965, [redacted] advised that [redacted] in conducting interviews of persons, particularly MMI members who were present in the Audubon Ballroom when Malcolm X was shot, seem to have the same "clear cut" story that they were in the Ballroom when Malcolm X was shot and when the shots rang out they fell to the floor and never got a look at the assassins. [redacted] stated that the Police Department learned that [redacted] of the MMI in New York City, has instructed members of the MMI and the OAAU to cooperate with the Police Department but only say that they fell on the floor when the shooting started and cannot identify the person who shot Malcolm X. *Muhammad Ali*

[redacted] said the [redacted] is now shifting their investigation towards officials of the MMI.

[redacted] In reference to [redacted] stated that information has been received that [redacted] also was one of Malcolm X's bodyguards the day he was shot, [redacted] has been seen in the Harlem area "dressed to kill," wearing one hundred dollar suits" and a "pocket full of hundred dollar bills" since the death of Malcolm X. [redacted] said that [redacted] has no visible means of support at this time.

[redacted] also stated that on March 10, 1965 New York County Grand Jury handed down first-degree murder indictments in the killing of Malcolm X on February 21, 1965, against Talmage Hayer, Norman X Butler and Thomas 15X Johns.

Mr. W. C. Sullivan

March 3, 1965

F. J. Baumgardner

NATION OF ISLAM  
INTERNAL SECURITY - NOI

1 -  
1 -  
1 -  
1 -  
1 -  
1 -

The following additional developments have taken place relating to the [redacted] investigation of the murder of Malcolm X Little. Little was shot and killed on 2/21/65 as he was about to address a meeting of the Organization of Afro-American Unity, which group he headed.

[redacted] has advised our New York Office that a conference was held of all personnel connected with the investigation of this murder. As a result of a thorough discussion of all evidence and information obtained from witness [redacted] has developed two "suspects at large" whom they decline to identify. Our New York Office, however, was asked for information regarding [redacted] and [redacted]. The [redacted] is attempting to fully identify these individuals. Photographs and descriptions of these two individuals were made available to the NYCPD. [redacted] expressed deep appreciation for this assistance.

[redacted] is currently under investigation and is included on the Security Index. No active investigation has been conducted regarding [redacted] however, [redacted] has been identified as a member of the Nation of Islam (NOI) but [redacted] has not occupied any leadership position which would warrant an active investigation. Our New York Office has since advised that the [redacted] has eliminated [redacted] as a suspect.



NYC.gov records  
Memo Baumgardner to Sullivan  
RE: NATION OF ISLAM

[REDACTED]  
In addition to the above, our Newark Office has advised detectives of the [REDACTED] have been in Paterson, New Jersey, questioning individuals regarding the associates of Talmage Mayer. They hope through this investigation to develop additional suspects in the killing of Little.

[REDACTED] was interviewed under a suitable pretext by our Newark Office. [REDACTED] had attended two NOI meetings in Paterson, New Jersey, one in [REDACTED] and the [REDACTED]. [REDACTED] indicated, however, that [REDACTED] did not believe in NOI teachings and, therefore, has had no further association with the NOI. Photographs of [REDACTED] and [REDACTED] another individual arrested [REDACTED] have been furnished our New York Office for display.

[REDACTED] discussion was held by members of the Muslim Mosque, Inc. (MMI), founded by Little in March, 1964, concerning the continued existence of the organization. According to [REDACTED] executive secretary, MMI, an official of the NOI who was not identified, asked that he return to the NOI on 2/25/65. He declined and remarked that the MMI would continue with "seven figure heads" taking over the movement until such time as someone appears with "super human ability" to lead the organization.

ACTION:

NYC.gov records  
For information.



U.S. DEPARTMENT OF JUSTICE  
COMMUNICATIONS SECTION

FEB 26 1965

TELETYPE

F B I NEW YORK

5-30 PM URGENT 2-26-65 DAE

TO DIRECTOR 212-

FROM NEW YORK

MALCOLM K. LITTLE, AKA

Muskin Masque Inc

ON FEB. TWENTY SIX SIXTY FIVE,

[REDACTED] ADVISED THAT NORMAN THOMAS X, BUTLER, SIX SIX ONE ROSEDALE AVE., BRONX, NY, WAS ARRESTED AT THREE AM THIS DATE BY NYCPD AS ONE OF THE ASSASSINS IN THE MURDER OF MALCOLM X, ON FEB. TWENTY ONE, SIXTY FIVE. [REDACTED] STATED THAT BUTLER WAS SEEN IN THE AUDUBON BALLROOM AT THE TIME MALCOLM X WAS KILLED [REDACTED] INCLUDING [REDACTED] WHO FURNISHED THE NYC ONE OF THE GUNS /FORTY FIVE CALIBRE AUTOMATIC PISTOL/ USED IN THE KILLING IDENTIFIED BUTLER AS ONE OF THE PERSONS WHO SHOT AT MALCOLM X.

[REDACTED] STATED THAT THE [REDACTED] WAS NO OTHER SUSPECTS AT THIS TIME. [REDACTED] ALSO STATED THAT [REDACTED] NY LOCAL [REDACTED] 463

[REDACTED] INTERVIEWED THIS DATE WHEN INFO WAS RECEIVED THAT [REDACTED] HE WAS AT THE AUDUBON BALLROOM WHERE MALCOLM X WAS KILLED. [REDACTED] REFUSED TO BE INTERVIEWED UNLESS [REDACTED] THE YOUNG SOCIAL ALLIANCE WAS PRESENT DURING THE INTERVIEW. [REDACTED] REFUSED TO INTERVIEW [REDACTED] IN THE PRESENCE [REDACTED] SUGGESTED THAT [REDACTED] RETURN WITH HIS ATTORNEY.

58 MAR 12 1965

MR. DELMONT FOR THE DIRECTOR

99

FEB 27 1965

TELETYPE

FBI NEW YORK

2-15 PM URGENT 2-27-65 RCF

TO DIRECTOR 7-

FROM NEW YORK 2P

MALCOLM X. LITTLE, AKA

RE NEW YORK TELETYPE TO BUREAU FEBRUARY TWENTY SIX LAST  
CAPTIONED AS ABOVE, WHICH REPORTED THAT

WAS ADVISED THAT WITNESS HAS NOW  
IDENTIFIED BOTH TALMADGE HAYER AND NORMAN BUTLER AS ASSAILANTS OF  
MALCOLM X AT THE TIME OF HIS KILLING. AS BUREAU HAS BEEN  
PREVIOUSLY ADVISED,

WAS FIRST CONTACTED BY  
NEW YORK OFFICE AGENTS WHEN HE TURNED OVER FORTY  
FIVE CALIBER AUTOMATIC RECOVERED AT SCENE OF KILLING.

WAS AT FIRST RELUCTANT TO SERVE AS WITNESS BUT IS NOW  
COOPERATING FULLY WITH POLICE.

ON FEBRUARY TWENTY SIX,

ALL EXPRESSED

THEIR DEEP APPRECIATION TO NEW YORK OFFICE AGENTS FOR THE  
EXCELLENT COOPERATION IN TURNING OVER WITNESS AND THE

END PAGE ONE

EX-103

64 MAR 11 1965

|              |  |
|--------------|--|
| Mr. Tolson   |  |
| Mr. Belmont  |  |
| Mr. Mohr     |  |
| Mr. DeLoach  |  |
| Mr. Casper   |  |
| Mr. Callahan |  |
| Mr. Conrad   |  |
| Mr. Felt     |  |
| Mr. Gale     |  |
| Mr. Rosen    |  |
| Mr. Tavel    |  |
| Mr. Trotter  |  |
| Tele. Room   |  |
| Miss Holmes  |  |
| Miss Gandy   |  |

5 MAR 3 1965

PAGE 870

ONE POLICE OFFICER SAID THAT AS OF FEBRUARY  
TWENTY-SIX, [REDACTED] WAS THE MOST IMPORTANT WITNESS THEY HAD.  
FOR BUREAU'S INFORMATION.

END

UU

SXC

FBI WASH DC





☐ AIRGRAM ☐ CABLEGRAM ☐ RADIO ☒ TELETYPE

9:30 PM URGENT 2-25-65 TML

TO DIRECTOR CHICAGO NEWARK AND NEW YORK  
NEW YORK VIA WASHINGTON  
FROM PHILADELPHIA

MALCOLM K. LITTLE, AKA, MI

RE PHILADELPHIA CALL TO NEW YORK TODAY.

[REDACTED] RECOGNIZED  
NEWSPAPER PHOTO OF TALMADGE HAYER, AKA THOMAS HAGAN, AS PERSON  
HE KNEW AS NOI AND FOI MEMBER IN 1963 AND 1964. [REDACTED] CANNOT RECALL  
X NUMBER, BUT BELIEVES FIRST NAME WAS TALMADGE OR THOMAS.  
ATTENDED NOI MEETINGS WITH HAYER [REDACTED]  
ALWAYS ASSUMED HAYER MEMBER IM NUMBER 25, NEWARK; HOWEVER,  
NOW FEELS MAY HAVE BEEN MEMBER OF TEMPLE [REDACTED] AT  
MEETINGS, [REDACTED] HAYER WAS SECURITY GUARD  
AND SEARCHED [REDACTED] MOST THOROUGHLY ON SEVERAL OCCASIONS.  
[REDACTED] ALSO OBSERVED HAYER AT MEETING [REDACTED]  
[REDACTED] AT WHICH ELIJAH  
MUHAMMAD WAS PRINCIPAL SPEAKER. HAYER WAS ON SEARCH DETAIL  
INSIDE ARENA ON NORTH CORRIDOR [REDACTED]  
LAST SAW HAYER IN CHICAGO [REDACTED] AT SAYVOLT'S  
DAY CONVENTION. HAYER SAT ON EITHER FIRST OR SECOND ROW WHEN  
ELIJAH MUHAMMAD SPOKE AS A GUARD FOR MUHAMMAD IN EVENT OF  
TROUBLE.

*Handwritten:* Not mentioned in other teletype and report.  
67 MAR 19 1965

*Handwritten:* Pres  
MAR 4 1965



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

FEB 22 1965

SENT BY CABLE TELETYPE

TELETYPE

9

FBI NEW YORK

5-58 AM URGENT 2/22/65 RDB

TO DIRECTOR [REDACTED] AND SACS, CHICAGO AND

PHILADELPHIA

FROM NEW YORK [REDACTED] 12 PAGES

MALCOLM K. LITTLE AKA., [REDACTED]

RE NEW YORK TELEPHONE CALLS TO AND FROM THE BUREAU AND  
TO CHICAGO, FEBRUARY TWENTY ONE AND TWENTY TWO, NINETEEN  
SIXTY FIVE.

[REDACTED]  
[REDACTED] MALCOLM X WAS JUST SHOT AT THE AUDUBON BALLROOM, NEW  
YORK CITY, WHILE ADDRESSING AN ORGANIZATION OF AFRO DASH  
AMERICAN UNITY RALLY. AT THE TIME MALCOLM WAS SHOT AN  
EXCHANGE OF GUNFIRE FROM THE SPEAKING PLATFORM WAS  
OBSERVED. [REDACTED] FIRED SEVERAL SHOTS AT THE ASSASSINS.

END PAGE ONE

Plaintiff's  
Counsel in  
Memphis  
4-22-65

EX-103

67 MAR 10 1965

MR. DIRECTOR FOR THE DIRECTOR

MAR 1 1965

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

BLIND

*[Handwritten signatures and initials]*

1740

NYCAPTURED ONE FERS C OUTSIDE OF AUDUBON BALLROOM WAS  
WAS LATER IDENTIFIED AS ~~JOHN~~ HANAN NEGRO MALE, AGE  
THIRTY TWO. HANAN HAD IN HIS POSSESSION AT THIS TIME A  
FIVE AUTOMATIC CLIP CONTAINING FOUR ROUNDS OF  
AMMUNITION. HANAN WAS SHOT IN THE LEFT THIGH AND WAS  
SENT TO JEWISH MEMORIAL HOSPITAL FOR TREATMENT, AND AT  
THIRTY PM, FEBRUARY TWENTY ONE, NINETEEN SIXTY FIVE,  
HANAN TRANSFERRED TO BELLEVUE HOSPITAL, NYC. [REDACTED] ADVISED  
HANAN SAVED OFF, DOUBLE BARREL SHOTGUN WAS FOUND ON THE  
FLOOR OF THE BALLROOM WRAPPED IN A GREEN SUIT COAT,  
CONTAINING A KEY FROM YALE LOCK, PACK OF CAMEL CIGARETTES,  
A GLASS CASE BEARING OPTOMETRIST-S NAME, [REDACTED]  
[REDACTED] SHOTGUN CONTAINED TWO DISCHARGED  
REM-UMC EXPRESS SHELLS, SINGLE 0 BUCKSHOT SHELLS AND  
AMMUNITION THAT GUN WAS RECENTLY USED. ALSO LOCATED  
IN THE HALL WERE THREE FORTY FIVE CALIBER SHELLS AND SLUGS,  
SEVEN NINE MILEMETER SHELLS AND TWO SLUGS AND THREE THIRTY  
CALIBER SLUGS AND TEN PIECES OF LEAD, PRESUMABLY FIRED  
FROM SHOTGUN.

PAGE 2, LINE FOUR WD6-SHD-BE FOUR

PAGE TWO

PAGE THREE

[REDACTED]

[REDACTED] MALCOLM WAS PRESENTED TO THE [REDACTED]

AUDIENCE AT APPROXIMATELY THREE TWO PM AND HAD MOVED TO A POSITION BEHIND THE PODIUM. AS HE ROSE FROM BEHIND THE PODIUM AND WALKED TO THE SPEAKER-S POSITION TO GREET THE AUDIENCE SOMEONE FROM THE LEFT SIDE OF THE HALL, APPROXIMATELY FOUR ROWS FROM THE FRONT, DESCRIBED AS A NEGRO MALE, YELLED QUOTE GET YOUR HANDS OUT OF MY POCKET UNQUOTE. AS THIS WAS DONE, MALCOLM-S BODY GUARDS MOVED IN THE DIRECTION OF THIS INDIVIDUAL AND ATTEMPTED TO SUBDUE HIM, WHEREUPON MALCOLM X SAID QUOTE HOLD IT UNQUOTE. [REDACTED]

[REDACTED] WALKING TOWARD THIS MAN IN FRONT OF THE AUDIENCE [REDACTED] AS A RESULT OF MALCOLM-S COMMAND TO QUOTE HOLD IT UNQUOTE. WITHOUT HESITATION, TWO MEN, OCCUPYING THE FRONT SEATS, LEFT SIDE OF MIDDLE AISLE, APPROXIMATELY EIGHTEEN FEET FROM MALCOLM X GOT INTO A CROUCHED POSITION AND FIRED SEVERAL SHOTS IN THE DIRECTION OF MALCOLM X. THESE MEN WERE DRESSED IN DARK CLOTHES.

END PAGE THREE

105

PAGE FOUR

STILL IN A CROUCHED POSITION THE GUNMEN HASTILY MOVED TOWARD THE EXIT AND SEEMED TO BE STILL FIRING. [REDACTED]

[REDACTED] MEMBER OF MALCOLM-X GROUP, HAD SHOT ONE OF THE QUOTE LEGGYS UNQUOTE AND THAT ONE OF THE GUNMEN WAS CAUGHT BY SEVERAL OF THE KKK MEMBERS.

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] IN ADDITION TO MALCOLM AND HAGAN, THE SUSPECT, BEING SHOT, TWO PEOPLE IN THE AUDIENCE WERE STRUCK BY FLYING BULLETS. ONE [REDACTED] A MEMBER OF MALCOLM-X ORGANIZATION, WAS SHOT IN THE RIGHT SIDE AND [REDACTED] WAS WOUNDED IN THE LEFT FOOT. BOTH WERE TAKEN  
END PAGE FOUR  
[REDACTED]



PAGE FIVE

TO COLUMBIA PRESBYTERIAN HOSPITAL AND THEIR CONDITIONS ARE  
CONSIDERED GOOD. [REDACTED] CONSIDER BOTH [REDACTED] AND [REDACTED] TO  
BE MERELY ONLOOKERS AND NOT TO <sup>HAVE</sup> BEEN INVOLVED IN THE  
SHOOTING. AUTOPSY ON MALCOLM X REFLECTED THAT HE HAD TEN  
BULLET WOUNDS IN HIS CHEST, THIGH AND ANKLE, PLUS FOUR  
BULLET CREASES IN THE CHEST AND THIGH. THIS AUTOPSY  
LOCATED ONE NINE MILEMETER SLUG, ONE FORTY FIVE <sup>A</sup> GLIBER  
SLUG AND SEVERAL SHOTGUN PELLETS IN HIS BODY. THE POLICE  
HAVE CHARGED HAGAN WITH HOMICIDE ON MALCOLM X AND HAVE  
CHARGED [REDACTED] WITH FELONIOUS ASSAULT AND <sup>NY</sup>  
POSSESSION OF A DEADLY WEAPON. [REDACTED] SAY THAT IN  
VIEW OF THE NATURE OF HAGAN-S INJURY HE BE HOSPITALIZED  
FOR UP TO SIX WEEKS. [REDACTED] HAVE A WITNESS WHO HAS  
IDENTIFIED [REDACTED] AS FIRING BACK AT ASSAILANTS OF MALCOLM X.  
[REDACTED] IS PRESUMED TO HAVE FIRED SHOT WHICH STRUCK HAGAN.  
POLICE ALSO SUSPECT [REDACTED] SHOT THE THIRTY TWO CALIBER  
REVOLVER USED IN THESE SHOOTINGS, THOUGH THE GUN HAS NOT  
BEEN LOCATED. [REDACTED] NOW ESTIMATE THAT THE NUMBER OF

PAGE SIX

WALCOLM'S ASSAILANTS NUMBER TWO TO FOUR INCLUDING THE

CAPTURED HAGAN. FBI IDENTIFICATION DIVISION IDENTIFIED  
FINGERPRINTS OF HAGAN AS IDENTICAL TO TALMADGE HAYER, ALSO

KNOWN AS THOMAS HAYER, FBI NUMBER ONE FOUR TWO FOUR NINE SIX

F. NEGRO MALE, BORN MARCH SIXTEEN, NINETEEN FORTY TWO AT *Thomas Hayer*  
HACKENSACK, NEW JERSEY, RESIDES THREE FOUR SEVEN MARSHALL

STREET, PATTERSON, NEW JERSEY, *NY*

[REDACTED] NYO  
[REDACTED]  
AND NEWARK INDICIES NEGATIVE ON HAYER. DESCRIPTION OF ONLY ONE  
OTHER ASSAILANT HAS BEEN DETERMINED. HE IS A NEGRO MALE,  
AGE TWENTY EIGHT, SIX FEET TWO INCHES, TWO HUNDRED POUNDS

HEAVY BUILD, DARK COMPLEXION, WEARING GRAY COAT AND  
BELIEVED TO BE ASSAILANT WHO USED SHOTGUN. HAGAN HAS  
REFUSED TO FURNISH ANY INFORMATION OTHER THAN HIS NAME  
AND AGE, WHICH IS TWENTY TWO YEARS. NYO INDICIES ON  
HAGAN NEGATIVE.

[REDACTED] SELF-ADMITTED OAAU MEMBER,  
[REDACTED]

END PAGE SIX

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PAGE SEVEN

TELEPHONICALLY CONTACTED NYC AND ADVISED HE WAS ONE OF THE GUNS USED TO KILL MALCOLM X. CONTACTED BY BUREAU AGENTS, [REDACTED] TURNED OVER TO THEM A UNITED STATES ARMY COLT FORTY FIVE, MODEL ONE NINE ONE ONE, SERIAL NUMBER THREE THREE FIVE ZERO FIVE FIVE, WITH CLIP CONTAINING THREE ROUNDS OF AMMUNITION. DURING INTERVIEW, [REDACTED]

HE WITNESSED THE SHOOTING FROM THE REAR OF THE ANDERSON BALLROOM AND BELIEVED FOUR TO FIVE NEGRO MALES PARTICIPATED IN THE SHOOTING. [REDACTED] STATED THAT TWO MEN PASSED HIM WHEN LEAVING THE BALLROOM. TWO OTHERS WERE RUNNING OUT

OF THE BALLROOM, ONE TURNED TO RETURN THE FIRE AT MALCOLM X. AS THIS MAN TURNED TO RUN OUT THE DOOR, HE

[REDACTED] THREW A BODY BLOCK AT HIM, AND THIS PERSON FELL ON THE STEPS DROPPING THE GUN. THE LAST MAN RUNNING OUT OF THE BUILDING JUMPED OVER THE PERSON HE STRUCK AND WAS

APPARENTLY ARRESTED WHEN HE LEFT THE BUILDING. THE PERSON WHO WAS STRUCK DOWN FELL DOWN THE STAIRS, SCRAMLED TO HIS FEET, AND BEGAN RUNNING OUT OF THE BUILDING. [REDACTED]

STATED HE PICKED UP THE GUN AND TRIED TO SHOOT HIM BUT

END PAGE SEVEN

(10)

PAGE EIGHT  
THE GUN JAMMED. ABOUT THIS TIME, SOME OF MALCOLM-S MEN  
PUSHED HIM BACK INSIDE THE BUILDING WHERE HE THEN PUT THE GUN  
IN HIS POCKET AND WAITED UNTIL MALCOLM WAS TAKEN

AWAY, AND  
LEFT THE BALLROOM. [REDACTED] THE MAN WITH THE GUN [REDACTED]  
AS BEING MALE NEGRO, AGE TWENTY, FIVE FEET SEVEN INCHES,  
MEDIUM BUILD, SHORT BLACK HAIR, BROWN SKIN, WEARING A DARK  
BROWN, DIRTY SUEDE JACKET. THE LAST MAN LEAVING THE BUILDING  
WAS DESCRIBED AS MALE, NEGRO, THIRTY YEARS OF AGE, SIX FEET  
TALL, ONE HUNDRED AND SIXTY POUNDS, SHORT BLACK HAIR,  
MAY HAVE HAD A SMALL MUSTACHE, WORE DARK TROUSERS, MEDIUM  
GRAY TOP COAT AND NO HAT.

[REDACTED]  
[REDACTED]  
CAME TO THE NYO AND PICKED UP THE FORTY FIVE CALIBER  
GUN MADE AVAILABLE BY [REDACTED] AND WERE ADVISED THAT THE [REDACTED]  
INDIVIDUAL WHO GAVE AGENTS THIS GUN DESIRED HIS IDENTITY  
BE KEPT CONFIDENTIAL AT THIS TIME, AND THAT THE FBI WOULD  
ATTEMPT TO PREVAIL UPON THIS SOURCE TO COOPERATE AND  
IDENTIFY HIMSELF TO THE POLICE. [REDACTED]  
END PAGE EIGHT

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ADVISED THAT HE DID NOT DESIRE THAT WE ATTEMPT TO APPROACH  
[REDACTED] AT THIS TIME AND PREFERRED THAT WE WAIT UNTIL  
THE FBI IS CONTACTED BY HIM AT A LATER DATE AS AN APPROACH  
AT THIS TIME MAY FRIGHTEN THIS POTENTIAL WITNESS,  
CAUSING HIM TO LEAVE THE NY AREA. NY WILL NOT RECONTACT,

POLICE INDICATE THEY HAVE THE FOLLOWING WITNESSES  
 HIS SHOOTING.. [REDACTED]

END PAGE NINE

11

E ELEVEN

NOSE, COFFEE BEAN COMPLEXION, VERY NERVOUS, EXCITABLE  
MANNER.

WEARS PAKISTANIAN TYPE GINNAHA CAP. [REDACTED] WAS  
DESCRIBED BY [REDACTED] AS FOLLOWS.. [REDACTED]  
NEGRO, MALE, AMERICAN, THIRTY ONE YEARS OF AGE, SIX FEET  
TWO OR THREE INCHES TALL ONE SEVENTY FIVE TO ONE EIGHTY  
POUNDS, WELL KNIT BUILD, SHAVED HEAD, THIN MUSTACHE,  
VERY DARK COMPLEXION, DARK EYES, FALSE TEETH IN FRONT OF  
MOUTH, WEARS GINNAHA TYPE CAP AND A BLACK COAT.

[REDACTED] OVERHEARD [REDACTED]  
[REDACTED] REPORTER "LIFE" MAGAZINE, IN CONVERSATION WITH  
A [REDACTED] WASHINGTON, D.C., APPROXIMATELY ELEVEN  
THIRTY PM FEBRUARY TWENTY ONE SIXTY FIVE DURING WHICH  
CONVERSATION [REDACTED] STATED THAT THE KILLERS OF MALCOLM X [REDACTED]  
WERE POSSIBLY IMPORTED TO NYC. [REDACTED]

BELIEVED THE FOLLOWING STATEMENTS BY [REDACTED] TO BE ACCURATE,  
THAT [REDACTED] ADVISED [REDACTED] TO CHECK OUT WASHINGTON AND CIA  
BECAUSE THEY WANTED WANTED MALCOLM OUT OF THE WAY BECAUSE HE  
"SNAFUED" AFRICAN RELATIONS FOR THE U.S. [REDACTED]

ALSO

✓  
OVERHEARD [REDACTED] ALL [REDACTED] IN CHICAGO AT TELEPHONE  
AS FOUR EIGHT SIX TWO THREE DURING WHICH CONVERSATION [REDACTED]  
ADVISED [REDACTED] THAT TWO OF MALCOLM-S MEN WERE THEN IN CHICAGO  
END PAGE ELEVEN

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PAGE TWELVE

CHICAGO HAVING FLOWN THERE TO HIT EITHER ELIJAH OR THE UNIVERSITY  
/PRESUMABLY UNIVERSITY OF ISLAM./ [REDACTED] TO  
STAY OUT OF THE WAY WHEN BULLETS START FLYING.

[REDACTED] FEBRUARY TWENTY ONE SIXTY FIVE AT  
ELEVEN PM THAT THE [REDACTED] HAD CONTACTED THEM TO  
ADVISE THAT THEY HAD PICKED UP ONE [REDACTED] /BELIEVED TO  
BE A MMI MEMBER IN PHILADELPHIA/ WHO CAME TO ST. LUKE-S  
HOSPITAL IN PHILADELPHIA WITH A BROKEN ARM AND ADMITTED  
BEING AT THE AUDUBON BALLROOM WHEN THE SHOOTING TOOK PLACE  
INVOLVING MALCOLM LITTLE. NO FURTHER DETAILS WERE FURNISHED  
AT THIS TIME IN THIS REGARD [REDACTED] THIS BEING  
SUBMITTED FOR PHILADELPHIA-S INFORMATION.

BUREAU WILL BE KEPT ADVISED.

AM COPIES BEING FORWARDED TO BOSTON, CLEVELAND, LOS  
ANGELES, SAN FRANCISCO, NEWARK AND WASHINGTON FIELD OFFICE.

ALL INFORMATION CONTAINED HEREIN PERTAINING TO  
CHICAGO HAS BEEN PREVIOUSLY FURNISHED TO THEM BY TELEPHONE.

END

OMS FBI WASH DC

cc - Mr. Sullivan

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

*78th Street  
 7th Ave*

*[Redacted]*

UPI ASEN

*OLITTLE*

INSERT 1ST NIGHTLEAD MALCOLM X NEW YORK (A54N) AFTER 6TH  
 FGM X X X BALLROOM SUNDAY.  
 CHICAGO POLICE SAID MALCOLM X HAD BEEN CLOSELY GUARDED ON HIS LAST  
 VISIT TO CHICAGO LAST MONTH.

THEY SAID THE SLAIN NEGRO HAD TOLD THEM THAT BLACK MUSLIM ENEMIES  
 WERE TRAILING HIM "FOR THE PURPOSE OF KILLING ME."

SAYING ONE OF THE POLICE INTELLIGENCE DIVISION SAID.  
 A 24-HOUR GUARD HAD BEEN ASSIGNED TO MALCOLM X WHILE HE WAS IN  
 THE CITY.

LOS ANGELES POLICE REPORTED THAT MALCOLM X HAD  
 BEEN TRAILED ON THE WEST COAST BEFORE LEAVING FOR CHICAGO AND THAT  
 THE PLANE ON WHICH HE TRAVELED HAD BEEN SEARCHED FOR A BOMB.  
 (PICKUP 7TH FGM: THE MILITANT NEGRO LEADER)

YK940FES

*Security*

*[Redacted]*

NOT RECORDED  
 176 FEB 26 1955

58 MAR 1 1955

WASHINGTON CAPITAL NEWS SERVICE

*114*



UNITED STATES GOVERNMENT

# Memorandum

TO : Mr. W. C. Sullivan

FROM : Mr. W. R. Wannall

SUBJECT: MALCOLM K. LITTLE, AKA MALCOLM X

DATE: 2-22-65

~~Outlook~~

- 1 - Sullivan
- 1 - Baumgardner
- 1 - Bland
- 1 - Wannall
- 1 - Floyd

At 5:30pm, 2/22/65 [redacted] NYO telephonically advised [redacted] Intelligence Division that [redacted] had advised [redacted] observed one [redacted] in possession of a .45 caliber automatic shortly after subject was shot. [redacted] inquired whether Bureau had any objection to interview of [redacted] New York Office recommends Bureau interpose no objection to [redacted] interview.

## BACKGROUND:

Subject was assassinated 2/21/65 while addressing a meeting of Organization of Afro-American Unity, New York City. Subsequently an anonymous telephone call to New York Office advised caller was in possession of gun used to kill subject. Caller agreed to furnish gun to Bureau but not to [redacted]. Subsequently agents met with caller who was identified as [redacted]. [redacted] furnished agents .45 caliber automatic, Model 1911, US Army Service Number 335055 which he claimed he forcibly obtained from one of subject's assassins. New York Office furnished this weapon to [redacted].

## OBSERVATIONS:

Although [redacted] requested Bureau clearance to interview [redacted] is free to conduct interview regardless of whether Bureau grants clearance. [redacted] 6:30pm, 2/22/65, New York Office was instructed to advise [redacted] Bureau interposed no objection to [redacted] interview.

## RECOMMENDATION:

For information.

VER:jcf  
(9)

EX - 105

18 MAR 2 1965

70 MAR 10 1965

70 MAR 11 1965

FEDERAL BUREAU OF INVESTIGATION

Date February 24, 1965

[redacted] was at the rally in New York City on February 21, 1965 at the Audubon Ballroom, where MALCOLM X was killed. This meeting was sponsored by the Organization of Afro-American Unity (OAAU).

[redacted] arrived at the ballroom [redacted] BENJAMIN X was speaking. MALCOLM X was not in sight. About 3 p.m., MALCOLM X appeared on stage right and walked to the podium. BENJAMIN X then left the stage.

MALCOLM X gave the Muslim greeting, "As Salaam Alaikum," and then said "Brothers and Sisters." At this time a Negro male, wearing a three-quarter length black leather coat, pushed his chair back, stood up, and said to the Negro male sitting on his left "Get your hand out of my pocket."

The Negro male who stood up was very dark complexioned, slender build, about 5'10" tall, weighing 160 pounds, age in the late 20's, lean face, with medium length straight hair.

This man then pushed his coat back and produced an object which looked to be metallic and raised his arm. At this point, people from the audience, which consisted of about 400 individuals, began jumping to their feet. MALCOLM X told everyone to "take it easy."

The next thing [redacted] was that [redacted] heard about four gun shots, which were fired in rapid order, and which sounded like they came from a semi-automatic pistol.

[redacted] then fell to the floor and [redacted] believed [redacted] blood on MALCOLM X's face. While lying on the floor about five minutes later [redacted] heard at least ten or 11 more gun shots, which sounded like they came from the same type gun mentioned above and from the same location.

While still lying on the floor and immediately after the last burst of gun fire, [redacted] a man [redacted]

On [redacted] Philadelphia, Pa. File # Philadelphia [redacted]

by [redacted] Date dictated 2/24/65

from the waist down walk[redacted] loading a gun clip. [redacted] believed this clip to be smaller than a .45 caliber clip but could not be more specific. [redacted] did not believe this man to be the one wearing the black leather jacket, as his hands appeared to be those of a light-skinned Negro. [redacted]

This man wore brown or Cordovan-colored shoes and had medium-sized feet. [redacted] he could furnish no further information regarding the leader of MALCOLM X, as the scene was, by this time, "utter confusion." [redacted]

[redacted] possessed no information concerning any plans of retaliation by the followers of MALCOLM X or any other individuals. [redacted]

[redacted] did not know who shot MALCOLM nor did [redacted] see any firearms. [redacted] it appeared to [redacted] that there was a definite lack of security at this rally. In addition, [redacted] there did not appear to be enough guards in the front of the hall nor any guards near the exits. [redacted]

[redacted] the Audubon Ballroom is rectangular shaped, with exits at the left center side and left rear side. [redacted] said that chairs were set up in rows for the audience to sit in, with aisles on either side and an aisle down the middle. [redacted] the podium behind which MALCOLM X stood was directly in front of the center aisle. [redacted]

[redacted] the man who stood up, mentioned above, sat about in the middle of the left row of chairs, about three rows [redacted] and about four rows from the front row of chairs. [redacted]

[redacted] that MALCOLM X was the leader of the OAAU and Muslim Mosque, Inc., (MMI). [redacted]



## FEDERAL BUREAU OF INVESTIGATION

Date February 24, 1968

NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records

[redacted] was at the rally in New York City on February 21, 1968, when MALCOLM X was killed. The rally was held at the Audubon Ballroom, 185th Street, at Broadway.

NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records

[redacted] at the Ballroom about 2:45 p.m., at which time BENJAMIN X was speaking and he was alone on the stage. About 3 p.m., MALCOLM X appeared on stage right and walked to the podium. BENJAMIN X then left the stage to the right wing, through the door MALCOLM X had just entered.

NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records

MALCOLM stood on the podium and said something to the effect "Good afternoon Brothers and Sisters." At this time a Negro male, wearing a suitcoat length black leather coat, stood up and loudly told a Negro male on his left, "Get your hand out of my pocket." The man standing up wore khaki pants, white shirt, open at the collar. He was about 5'11" tall, weighed about 165 pounds, slender build, age about 29, slight beard and moustache which was trimmed in a circle around mouth and chin, looked "African" with short-cut wooly hair, with medium-dark complexion.

NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records

MALCOLM then stepped to the right side of the podium (MALCOLM's left) and said "We will have none of that." The man standing put his left hand in the left pocket of his jacket and removed something. He then extended his arm toward MALCOLM. MALCOLM said, excitedly, "Don't do it," and stepped further to his left.

NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records

[redacted] four or five rapid gun shots and saw what appeared to be gun flashes from the standing man's extended left arm. Red stains appeared on MALCOLM's shirt front and he slumped and fell to the floor.

On [redacted] at Philadelphia, Pa.

File # Philadelphia

by [redacted]

Date dictated 7/24/68

(118)



8 8

[REDACTED]

This man then ran to the left aisle and was last seen turning into the middle exit. [REDACTED] was then pulled to the floor by the person sitting next to him and he saw no more. [REDACTED]

[REDACTED] that when the shooting started people in the audience began falling to the floor, yelling and screaming. [REDACTED]

[REDACTED] heard a lot more gun shots. They sounded as if people were shooting at each other from opposite sides of the room. [REDACTED]

[REDACTED] did not get a good look at the man on the left who was accused of putting his hand into the standing man's pocket but believes this person may be identical with THOMAS HAGAN, whose photograph he saw in the AP Wire Photograph of February 22, 1965. [REDACTED] this man wore a dark suit and white shirt. [REDACTED]

[REDACTED] that before MALCOLM came on the stage the man whom [REDACTED] said shot MALCOLM appeared to be acquainted with the man on his left and the man on his right, as the three were engaged in conversation. [REDACTED]

The man on the right was a light-skinned Negro, with close-cut hair and wore a beige or light-brown silk-looking suit. [REDACTED] could furnish no further description of these men and possessed no information concerning them. [REDACTED]

[REDACTED] there were aisles on either side of the Ballroom but there was no center aisle. [REDACTED] sat about middle of the sixth row and the three above-mentioned men sat just to the right of center in the third row from the front. [REDACTED]

[REDACTED] possessed no information concerning any plans of retaliation by the followers of MALCOLM X or any other individuals or groups. [REDACTED]

# Memorandum

TO : Mr. W. C. Sullivan

DATE: February 22, 1965

FROM : Mr. F. J. Baumgardner

- 1 - Belmont
- 1 - Mohr
- 1 - DeLoach

- 1 - Sullivan
- 1 - Baumgardner
- 1 - Bland
- 1 - Floyd

SUBJECT: MALCOLM K. LITTLE, also known as  
Malcolm X

Malcolm K. Little, leader of the Muslim Mosque, Incorporated (MMI), and the Organization of Afro-American Unity (OAAU), was shot and killed on the afternoon of February 21, 1965, at approximately 3:10 p.m. while speaking at a meeting of the OAAU being held in the Audubon Ballroom, 166th Street and Broadway, New York City. The New York Office was immediately advised of the incident by [redacted] who was present at the meeting.

[redacted] was at the back of the hall when someone called out indicating that his pocket had been picked. [redacted] observed two men standing near the front of the hall in about the third or fourth row, apparently firing some sort of weapons. He also recalls seeing two other men standing at the time, one several feet behind the first two, and the other several feet to the side. He presumed that they were also involved in the shooting. [redacted] two shots and saw Malcolm X fall backward to the floor. He then heard a volley of shots, probably twenty. [redacted] believes the assailants were also shooting at Malcolm's pursuers. At this point [redacted] ran to the foyer of the hall. [redacted] which commanded a view of the entrance to the hall. [redacted] observed a man, later identified as John Hagen, running down the aisle crouching and weaving with a .45 caliber pistol in his hand. [redacted] one of Malcolm's followers who was behind the man fired three shots, one of which evidently hit Hagen. [redacted] learned that Hagen was caught outside by Malcolm's

cc: 33

[redacted] one John [redacted] Negro male, age 22, was arrested when leaving the Audubon Ballroom by an officer stationed outside. During the arrest, a warning shot was fired in the air. A .45 caliber clip with four bullets was found in Hagen's pocket and it was discovered he was wounded in the left thigh. He is presently in the Jewish Memorial Hospital under police detention. Hagen subsequently identified by Identification Division through fingerprints submitted by New York Police Department, as Talmage Hayer, also known as Thomas Hayer, FBI Number 142496F, a Negro, born March 16, 1942, New Jersey.

Memorandum Baumgardner to Sullivan  
Re: MALCOLM K. LITTLE, also known as  
Malcolm X

Office was instructed to not furnish the New York Police Department with any information developed without prior Bureau clearance. New York Office has alerted pertinent offices where NYI and NOI are active, to alert their sources for any information bearing on the situation. Information concerning the assassination of Little was telephonically furnished to the Duty Officer, [redacted] Secret Service. Pertinent information was also furnished to Acting Assistant Attorney General John Doar of the Civil Rights Division, and Assistant Attorney General J. Walter Yeagley of the Internal Security Division, and to [redacted]

You will be kept advised of pertinent developments.

Up to now, this appears to be a murder case, basically a problem of the New York Police Department, and the FBI should not become involved. We are maintaining contact with New York Police Department for any information of Bureau interest. As indicated above, [redacted]

FILE

Wag

Q



U.S. DEPARTMENT OF JUSTICE  
COMMUNICATIONS SECTION

FEB 23 1965

TELETYPE

|              |       |
|--------------|-------|
| Mr. Tolson   | _____ |
| Mr. Belmont  | _____ |
| Mr. Mohr     | _____ |
| Mr. DeLoach  | _____ |
| Mr. Casper   | _____ |
| Mr. Callahan | _____ |
| Mr. Conrad   | _____ |
| Mr. Felt     | _____ |
| Mr. Gale     | _____ |
| Mr. Rosen    | _____ |
| Mr. Sullivan | _____ |
| Mr. Tavel    | _____ |
| Mr. Trotter  | _____ |
| Tele. Room   | _____ |
| Miss Holmes  | _____ |
| Miss Gandy   | _____ |

SECRET TELETYPE

FBI NEW YORK

1222 PM URGENT 2-23-65 JLV

TO DIRECTOR

FROM NEW YORK

MALCOLM X. LITTLE, AKA.

RENYTELETYPE TO BUREAU DATED FEBRUARY, TWENTY TWO, SIXTY FIVE.

[REDACTED] CONTACTED [REDACTED] EVENING OF  
FEBRUARY TWENTY TWO, SIXTY FIVE. HE STATED [REDACTED] WAS  
BELLIGERENT AND REFUSED TO GIVE A STATEMENT EVEN AFTER [REDACTED] OFFERED  
HIM PROTECTION. [REDACTED] SAID HE DIDNT WANT TO GET INVOLVED IN  
ANYWAY WITH THE INVESTIGATION OF MALCOLM/S DEATH. [REDACTED] WAS  
TAKEN TO BELLEVUE HOSPITAL, NEW YORK CITY [REDACTED] WHERE ACCORDING  
TO [REDACTED] EITHER COULD NOT OR WOULD NOT IDENTIFY  
TALMADGE HAYER AS ONE OF THE ASSASSINS. [REDACTED] STATED HAYER/S  
FINGERPRINT WAS FOUND ON THE CLIP OF THE FORTY FIVE CAL. PISTOL TURNED  
OVER TO THE NEW YORK OFFICE BY [REDACTED] PLANS TO  
RECONTACT [REDACTED] IN ABOUT TWO DAYS. [REDACTED]

CORR NY FILE

END

56 MAR 3 1965

VANXXXXX VA:...

16 FEB 26 1965



FBI NEW YORK

8-34 PM

COMMUNICATIONS SECTION

FEB 23 1965

URGENT 2-23-65 TELETYPE DAE

TO DIRECTOR -12-

FROM NEW YORK

MALCOLM X. LITTLE AXA

I

NYO THAT  
ATTENDED OAAU RALLY AT AUDUSON BALLROOM, NYC, TWO TWENTY ONE, SIXTY FIVE

WHEN MALCOLM X WAS KILLED. ACCORDING TO [REDACTED] WAS SITTING IN THE SEVENTH OR EIGHTH ROW FROM THE FRONT ON THE RIGHT SIDE WHEN FACING THE

AUDIENCE. [REDACTED] SAID MALCOLM X HAD JUST GREETED THE AUDIENCE WHEN A NEARLY MALE SEATED NEXT TO HIM SAID "GET YOUR HANDS OUT OF MY POCKET" THEN STOOD

UP AND PUSHED BACK HIS CHAIR. SEVERAL OTHER PERSONS IN THE SAME ROW GOT UP CAUSING SOME CONFUSION WHICH IN TURN CAUSED OTHERS TO LOOK IN THAT

DIRECTION. [REDACTED] HEARD A LOUD SHOT RING OUT COMING FROM THE FRONT OF THE HALL NEAR THE STAGE. HE SAID HE GOT A LOOK AT THE BACK

OF THE HEAD OF THE PERSON HE BELIEVES FIRED THE FIRST SHOT BUT WOULD NOT BE ABLE TO IDENTIFY HIM. [REDACTED] SAID EVERYTHING HAPPENED SO FAST AND THE

FACT THAT HE "HIT" THE FLOOR TO SAVE HIMSELF FROM BEING SHOT, PREVENTED HIM FROM BEING ABLE TO IDENTIFY ANY OF THE GUNMEN. [REDACTED]

THE MAN WHO SAID "GET YOUR HANDS OUT OF MY POCKETS" AS MALE, NEEDED ABOUT THIRTY FIVE TO FORTY YEARS, FIVE FEET [REDACTED]

BROWN SKIN, WHO WORE A RATHER DARK GRAY OR PLAIN GRAY JACKET. AFTER THE SHOOTING HE WENT UP TO SEE MALCOLM X AND SAID HE WAS ALL

BLOODY AND NO SIGN OF LIFE. [REDACTED] SAID HE WAS INTERVIEWED BY THE [REDACTED] AND FURNISHED THE SAME INFO TO THEM ON TWO TWENTY ONE SIXTY FIVE.

END  
FEB 23 1965  
FBI NEW YORK  
FEB 23 1965  
FBI NEW YORK

UNITED STATES GOVERNMENT

# Memorandum

1 - Belmont  
1 - Mohr.  
1 - DeLoach

TO : Mr. W. C. Sullivan

DATE: February 22, 1965

FROM : Mr. J. F. Bland

1 - Sullivan  
1 - Baumgardner  
1 - Bland  
1 - Floyd

SUBJECT: MALCOLM K. LITTLE, also known as  
Malcolm X

[redacted] also witnessed the killing of Malcolm X on 2-21-65, advised the New York Office on the night of 2-21-65 that he had been given [redacted] eye-witness account of the incident.

Upon discussing this assignment with [redacted] on the night of [redacted] [redacted] also told him he expected something to happen to Nation of Islam (NOI) Temple #7, 102 W. 116th Street, New York City, and the nearby NOI Shabazz Restaurant before 3 a.m., 2-22-65, and requested [redacted] to cover the situation. [redacted] did not disclose the basis for his belief and possibly it was only conjecture on his part, based on his knowledge of the violent feud existing between the NOI and Malcolm's group, the Muslim Mosque, Incorporated (MMI).

[redacted] also advised that [redacted] called one [redacted] in Chicago, Illinois, at about 11:30 p.m., 2-21-65, and told him that two of Malcolm's men flew out of New York for Chicago and should then be in Chicago. [redacted] said they will "hit" either Elijah Muhammad (NOI leader) or the University of Islam (NOI school in Chicago). Again [redacted] did not indicate the source of his information.

This is one of numerous reports received that Malcolm's followers may attempt to kill Elijah Muhammad to avenge the death of Malcolm X. The Chicago Office reported on 2-21-65 that [redacted] had advised that the [redacted] a Chicago NOI member had received a long-distance telephone call from one [redacted] informing her that six of Malcolm's followers were proceeding to Chicago to take the life of the Messenger (Elijah Muhammad). [redacted] also advised that one [redacted] (not further identified) had informed one [redacted] that cars were loading up with unknown individuals who were going to the "Temple" (presumably the Chicago NOI Temple) to blow it up. [redacted] was appropriately advised of these reports.

JCT:etc:jal

RECORDED

(8)

MAR 3 1965

CONTINUED - OVER

70 MAR 2 1965

FEB 23 1965

Malcolm K. Little

[REDACTED]  
[REDACTED]  
[REDACTED] the NOI and the OAAU held a joint meeting at 6:00 P.M. [REDACTED] at MMI and OAAU Headquarters, [REDACTED] suite 128, Hotel Theresa, New York City.

At this meeting, attended by approximately 40 persons, the discussion centered around the burning of Malcolm X's home. The consensus was that the NOI was responsible, although no one had any real facts to substantiate this claim. It was decided that no reprisals would be made against the NOI.

Information  
to Chief



UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to  
File No.

Boston, Massachusetts  
March 25, 1965

[redacted], who is registered at the Sherry Biltmore Hotel, Boston, Massachusetts, [redacted] was interviewed at the Sherry Biltmore Hotel by an FBI Agent.

[redacted] stated that [redacted] had attended the funeral of Malcolm X Little in New York City. [redacted] claims that on [redacted] arrival in New York City, [redacted] was taken into protective custody by the [redacted] and was allowed to attend the funeral. Subsequent to the funeral, he went to a friend's home for the evening and then returned to Boston, Massachusetts.

While at the funeral, [redacted] chattered with former members of the Newark Nation of Islam (NOI) Temple [redacted] recognized from having had contact with them while visiting that temple. [redacted] stated, however, that [redacted] does not know them by name.

One of these, to the best of [redacted] was present when Malcolm X was shot. This man described [redacted] the person who handled the shotgun as a tall, dark skinned Negro whom [redacted] recognized as a member of the Newark Temple, but whom [redacted] did not know by name. [redacted] believes that this former Muslim, who told him this, identified the Negro who handled the shotgun as a lieutenant in the Newark Temple. The man handling the shotgun shot from the hip and appeared to be an expert in the handling of this type of gun.

[redacted]  
ENCLOSURE



8 3

[REDACTED]

On guard at the rostrum at which Malcolm X was speaking were Robert 35X, formerly of the New York Temple, and Charles 26X, formerly of the Newark Temple.

When the distraction was created just before Malcolm X was shot, both of these guards left the immediate area of the rostrum which [REDACTED] is in violation of all the rules of "standing post" both in the Muslim Temples and in Malcolm Little's organization.

[REDACTED]

This fact made the persons participating in the discussion [REDACTED] convinced that the shooting was a conspiracy in which the two guards participated. [REDACTED] has no factual knowledge about such a conspiracy, now the shooting occurred or who participated in it. The man who started the distraction by claiming someone's hand was in his pocket was described as a short, dark skinned Negro with bushy hair and a mustache, who was believed to be a member of the Newark Temple. [REDACTED]

[REDACTED] that one night during the current week, [REDACTED] in the telephone. [REDACTED] is not known to [REDACTED] and he does not know any [REDACTED] selected [REDACTED] to call [REDACTED] identified himself as a representative to the Progressive Labor Movement in the greater Boston area and claimed he had the responsibility of the distribution of the Progressive Labor Movement publication "Challenge" in this area.

[REDACTED] that he would like [REDACTED] to join the Progressive Labor Movement and help organize it in the greater Boston area. [REDACTED] listed that from his conversation with [REDACTED] understood that [REDACTED]

MAR 30 1965

FBI NEW YORK

7-52PM EST URGENT 3-30-65 MFR

TO DIRECTOR, FBI ---3---

FROM NEW YORK

MALCOLM K. LITTLE, AKA

RE NY-TEL THREE TWENTYNINE SIXTYFIVE.

[REDACTED] ADVISED THREE

THIRTY SIXTYFIVE THAT [REDACTED] SUFFICE

[REDACTED], FAILED TO APPEAR IN COURT, NY THREE

TWENTYNINE SIXTYFIVE ON CHARGES OF POSSESSION OF A GUN.

FORFEITED ONE THOUSAND DOLLARS BAIL. [REDACTED] WAS ONE OF MALCOLM X-S

BODYGUARDS ON TWO TWENTYONE SIXTYFIVE WHEN MALCOLM X WAS KILLED.

[REDACTED] WAS SEEN WITH LARGE AMOUNT OF MONEY DAY AFTER MALCOLM X-S DEATH.

[REDACTED] WAS WARRANT FOR [REDACTED] ARREST FOR FAILING TO APPEAR IN COURT ALSO

WANTED BY [REDACTED] FOR QUESTIONING IN DEATH OF MALCOLM X.

[REDACTED] KNOWN MEMBER KKKI SUBORNED TO APPEAR BEFORE GRAND JURY THIS DATE.

[REDACTED] MAY BE HELD IN CONFINEMENT FOR REFUSING TO

ANSWER QUESTIONS BEFORE GRAND JURY. CURRENT INVESTIGATION BEING

CONDUCTED BY [REDACTED] FOR CONSIDERATION ON THE SECURITY

INDEX. 21 APR 6 1965

8 APR 15 1965

NY-TEL

FBI WASH DC

[REDACTED] and [REDACTED] of the [REDACTED] admitted membership in the [REDACTED] and OAAU and told [REDACTED] where he was sitting when MALCOLM LITTLE was killed. [REDACTED] showed [REDACTED] a photo of an individual they identified as a member from NYC and asked [REDACTED] if this person was on the door when he entered the Madison Ballroom. [REDACTED] told the police he thought he observed this person on the door on 2/21/65 either when he was entering or leaving.

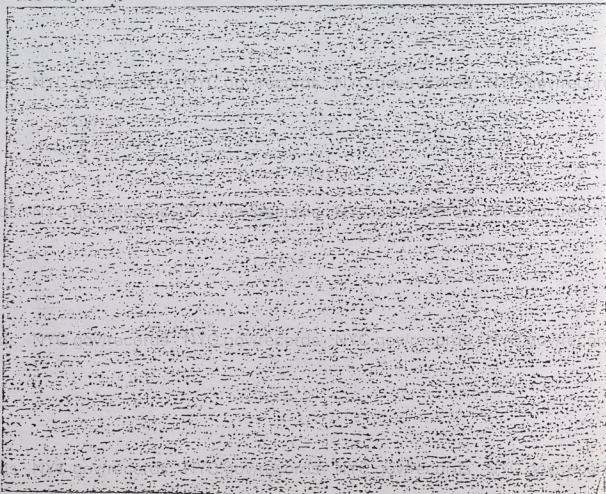
[REDACTED] was then shown a photo of TALMADGE HAYER. [REDACTED] identified HAYER was a person who stood up and told an individual to his left to "get your hand out of my pocket." HAYER, according to [REDACTED] then took something from his clothes, either from a pocket or from his belt, and pointed it toward MALCOLM LITTLE.

[REDACTED] was shown a photo (full length) of NORMAN BUTLER. [REDACTED] seeing the full length photo of BUTLER [REDACTED] identified BUTLER as being present at [REDACTED] [REDACTED] had previously been shown a mug shot of BUTLER which he said looked familiar but he could not make a positive identification from the mug shot.

[REDACTED] was also shown a full length photo of THOMAS JOHNSON and identified JOHNSON as an individual who was present at the 1965 OAAU meeting. At the time he could not state whether he was definitely present at the meeting [REDACTED] was previously shown a mug shot of JOHNSON. [REDACTED] JOHNSON looked familiar but could not make a positive identification.

[REDACTED] also told police that as soon as the first shot was fired he fell to the floor. While on the floor he observed a man running out of the ballroom loading a clip for an automatic gun. He only saw this man as high as his hands. He could not identify this individual.

[REDACTED] was also present in New York City when [REDACTED] was killed. While the [REDACTED] were interviewing her, one of them left the interview room to talk with [REDACTED]. [REDACTED] told [REDACTED] that he felt the killing was an "inside job" because on [REDACTED] night before the killing someone asked a high official about extra guards for the meeting on 2/21/65. A person in authority said no extra guards would be needed. [REDACTED] did not identify anyone. [REDACTED] so advised the [REDACTED] that the [REDACTED] had offered [REDACTED] if it would admit shooting [REDACTED]; however, [REDACTED] would only tell the [REDACTED] that he was not present at the meeting.





4/2/65

Airtel

1 - Mr. Floyd  
1 - Mr. Rosack

REC 100  
To: SACs, New York  
Philadelphia

From: Director, FBI

MALCOLM F. LITTLE

Re: Airtels 4/1/65 and 3/8/65, both captioned as above.

Airtel of 3/8/65 contained information that [redacted] who had viewed a photograph of [redacted] and had been unable to identify [redacted] as being in attendance. [redacted] Reairtel of 4/1/65 reported that [redacted] had stated after reviewing a photograph that a person resembling [redacted] had been observed at the above-mentioned meeting. [redacted] could not make a positive identification.

Prior to granting authority for the New York Office to furnish the tentative identification [redacted] as having been present at the meeting held 2/21/65, at which Little was killed, to the New York City Police Department; New York should advise by return airtel whether [redacted] photograph had been reviewed by all [redacted]

In addition, Philadelphia should advise by return airtel whether [redacted] were able to identify [redacted]

NOTE:

New York has been having [redacted] review photographs of Nation of Islam members who have in the past engaged in some form of violence for the purpose of determining if such individuals may be connected with the murder of Little. [redacted] is described as a strong armed man from Newark. New York requested authority to furnish the tentative identification to the New York City Police Department. In view of the above, it is felt that the information requested above should be received before further action is taken.

PR:ltr (7)

APR 2 1965

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

44-121365

TELETYPE UNIT ☐

B.

13

F B I

Date: 4/1/65

Transmit the following in \_\_\_\_\_

Via \_\_\_\_\_

TO: DIRECTOR, FBI [REDACTED]

FROM: SAC, NEW YORK [REDACTED]

SUBJECT: MALCOLM K. LITTLE aka [REDACTED]

ReNYteletype, 3/5/65, captioned "NORMAN HOWARD MORTIMER, aka; [REDACTED]"

[REDACTED] viewed numerous photographs, including [REDACTED] of THOMAS HAYER, THOMAS JOHNSON, [REDACTED] HAYER and JOHNSON have been indicted for the homicide of MALCOLM X on 2/21/65, at New York City. [REDACTED] is a suspect of the [REDACTED] in the homicide of MALCOLM X. [REDACTED] is considered one of the Nation of Islam (NOI) "strong armed men" from Newark.

(6) - Bureau (RM)

3

2

5

(17)

Approved: [REDACTED] Sent  
SPECIAL AGENT IN CHARGE

M Per

16 APR 2 1965

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8 8

[redacted] upon reviewing a photograph of HAYER, stated that he observed an individual resembling HAYER in the front section of the Audubon Ballroom on 2/21/65, when MALCOLM X was shot and killed. He said this individual was one of two men who were standing to the right of the rostrum, one of whom was observed shooting a pistol in the direction of MALCOLM X. [redacted] however, [redacted] could not make a positive identification of the photograph.

Upon reviewing photographs of [redacted] JOHNSON, [redacted] that these photographs resembled two individuals who sat in about the middle of the audience at the Audubon Ballroom on 2/21/65 and who jumped up at about the time MALCOLM X appeared at the rostrum. One of the two individuals [redacted] shouted that someone "got into his pocket". This caused a disturbance and drew the attention of the audience and MALCOLM X's bodyguards to themselves. The guards approached them and left MALCOLM X unguarded, at which time some shooting occurred down in front near the rostrum. [redacted] could not make a positive identification of the photographs.

[redacted] upon reviewing a photograph of [redacted] remarked that he saw a person resembling [redacted] at the Audubon Ballroom when MALCOLM X was shot, but did not believe that this person took an active part in the killing of MALCOLM X. [redacted] could not make a positive identification of the photograph.

advised on 3/31/65, that at the present time HAYER, JOHNSON and NORMAN BX BUTLER are the only persons known to them to have had anything to do with the death of MALCOLM X.

Bureau authority is requested to furnish information made available [redacted] to the NYCPD on a confidential basis. If Bureau approves, this information will be furnished to NYCPD through [redacted]

NYCPD.

Philadelphia office is requested to exhibit attached photograph of [redacted] to determine if they could identify [redacted] as taking part in the assassination of [redacted] A.C. were observed in the audience at the Audubon Ballroom on 2/21/65 in New York City.



FBI

Date: 4/9/65

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)

Via AIRTEL

REGISTERED MAIL

(Priority)

TO: DIRECTOR, FBI

FROM: SAC, PHILADELPHIA

MALCOLM K. LITTLE

RePHairtel to Director, 3/30/65, cc New York; NYairtel to Director, 4/1/65, cc Philadelphia; Buairtel to New York and Philadelphia, 4/2/65.

A photograph of EDWARD OLIVER, furnished by the New York Office, was exhibited to \_\_\_\_\_ could identify OLIVER. They stated that to their knowledge they had never seen him before.

In rePHairtel 4/4/65 is noted that \_\_\_\_\_ resembled two individuals who sat in the middle of the audience at the Audubon Ballroom, New York City, on 2/21/65 and jumped up at about the time MALCOLM X appeared at the rostrum. One of these individuals shouted that someone "got into his pocket."

\_\_\_\_\_

- (3) - Bureau (RM)
- 2 - New York (RM)
- 2 - Philadelphia
- 1 - \_\_\_\_\_
- 1 - \_\_\_\_\_

REC-47

ENCilac  
(7)

APR 10 1965

Approved: \_\_\_\_\_

Special Agent in Charge

Sent \_\_\_\_\_

M

Per \_\_\_\_\_

SAC, New York

4/13/65

Director, FBI

MARCOLM X. LITTLE

1 - Mr. Warner  
1 - Mr. Floyd  
1 - Mr. Rosack

FBIlet 3/25/65 captioned "MURDER OF MARCOLM X. LITTLE" a copy of which is attached for the Newark Office which has not previously received copies.

New York should carefully review the information contained in referenced letter has furnished by the late [redacted] After this review, New York should determine whether [redacted] had been interviewed by the [redacted] during his visit there after the murder of Little. An attempt should be made to determine whether the information contained in referenced letter is already in the possession of the [redacted] particularly the information alleging that the individual who fired the shotgun at Little was supposedly a lieutenant of the Newark Temple of the Nation of Islam (NOI). In the event this information is not already in the possession of the [redacted] such information should not be furnished to the NYO without first receiving Bureau authority.

Newark should review its files for the purpose of identifying the lieutenant in the Newark Temple of the NOI. If Newark has not already done so, a photograph of this lieutenant should be furnished to the New York Office for the purpose of having [redacted]

This matter should be handled promptly.

Boston should in the future insure that copies of all communications are furnished to every interested office so that it will not be necessary for the Bureau to furnish copies of such communications to additional interested offices.

2 - Newark (Enclosure) (REC-5)  
1 - Boston

APR 12 1965

COMM-FBI

19 APR 13 1965

(SEE NOTE PAGE TWO)

TPB:rah  
(9)

56 APR 20 1965

MAIL ROOM TELETYPE UNIT

Letter to New York  
Re: MALCOLM K. LITTLE

NOTE: [redacted] was found dead [redacted] of natural causes. He had been previously interviewed by our Boston Office on [redacted] at which time he appeared to be in good health. [redacted] furnished information allegedly received from other unnamed individuals regarding the individual firing the shot as mentioned above. It is known that [redacted] was given a police guard during his stay in New York City immediately after the death of Little and undoubtedly was interviewed extensively by the [redacted]. Nevertheless we should determine if such information is available to the [redacted] and, if not, we will obtain approval to furnish such information to the police along with a photograph of the individual involved.

## Memorandum

TO :

DIRECTOR, FBI

DATE: 4/21/65

FROM :

SAC, NEWARK

(P)

SUBJECT:

MALCOLM K. LITTLE, aka

Re Bureau letter to New York, 4/13/65.

Referenced Bureau letter concerns information furnished to the Boston Office alleging that the individual who fired the shotgun at LITTLE was supposedly a lieutenant from the Newark Temple of the NATION OF ISLAM (NOI).

At the time subject was killed, there were only two lieutenants at MUHAMMAD'S MOSQUE (MM) #25, Newark, N.J. They are [redacted] Newark files on both of these individuals have been opened and assigned and investigation to date has failed to positively identify either. [redacted] has described these individuals as follows:

2 - Bureau (RM)

1 - New York

4 - Newark

(1)

(1)

GRB:mam

(7)

REC-19

3 APR 22 1965

(5)(7)9

(13)



UNITED STATES GOVERNMENT

# Memorandum

DIRECTOR, FBI

DATE: 6/24/65

SAC, NEW YORK

SUBJECT:

MALCOLM K. LITTLE aka

On 6/24/65, [redacted] 24th Precinct, NYCPD, 151 West 100th Street, NYC, advised that he just received a communication from [redacted] Boston, Massachusetts, which stated that [redacted] was believed to have been involved in the killing of Malcolm X" on 2/21/65, at NYC. Communication continued by stating that [redacted] is believed to have been wounded when Malcolm X was killed and could not be located in the Boston area and is believed to be in Florida, recuperating from his wounds."

NYO indices contain numerous references in the name [redacted] but is unable to locate pertinent information identifiable with [redacted]

Bureau and Boston Office are requested to check their indices on [redacted] for pertinent information to determine his whereabouts.

Boston Office is requested to contact [redacted] for photo and information that connects with the killing of MALCOLM X.

1-808 RB

(2-Bureau (RM)  
2-Boston (RM)  
1-New York

JCS:pam  
(5)

REC-42

1 JUN 25 1965

FILE  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 35

----- x  
THE PEOPLE OF THE STATE OF NEW YORK :

-against- :

Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUTLER) :  
and KHALIL ISLAM (THOMAS 15X JOHNSON), :

Defendants. :

----- x  
STATE OF NEW YORK )  
                          ) ss:--  
COUNTY OF NEW YORK)

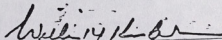
WILLIAM M. KUNSTLER, an attorney-at-law, duly licensed  
as such in the State of New York; hereby affirms under the pain  
and penalties of perjury as follows:

1. I am attaching herewith several more documents just  
received from the Federal Bureau of Investigation which go to prove  
that (1) COINTELPRO was being used against the Nation of Islam,  
and (2) there was a great deal of exculpatory information in the  
hands of the FBI and the New York City Police Department which  
was never turned over to the defense. As the Court can see, one  
of the documents refers to the identification of a person "as  
the man who . . . said 'Get your hands out of my pocket,' in the  
Audubon Ballroom, just before Malcolm X was killed." During  
trial, this remark was attributed by some of the witnesses to  
endant Hagan (Hayer). TT. 235-6, 669-70. In addition, the documents  
mention several other suspects as well as the possible whereabouts  
of the mysterious Reuben Francis.

2. There is another FBI document which is not yet in  
possession which indicates that there was a meeting between Ha

and one John Ali at the Americana Hotel in New York City just before the murder of Malcolm X. This document is from the Special Agent in Charge of the New York Division to Director J. Edgar Hoover and is dated March 3, 1966, and will be forwarded to both Court and opposing counsel as soon as received. This information was turned over to the prosecutor before or during the trial but was not used in the cross-examination of Hagan by him. Instead, it was apparently used in the cross-examination of defendant Butler. TT3379-8

3. From the material submitted with this affirmation and my previous affidavit, it is obvious that much crucial exculpatory evidence in the hands of the FBI and the New York City Police Department was never revealed to the defense and thus affords another ground for the relief sought in this motion, namely that set forth in §40.10(f) and (h), and defendants now urge same upon this Court.

  
WILLIAM M. KUNSTLER

Dated: New York, N.Y.,  
April 29, 1978

FBI

Date: 8/29/69

Transmit the following in \_\_\_\_\_

(Type in plaintext or code)

Via AIRTEL \_\_\_\_\_

(Priority)

TO : DIRECTOR, FBI (100-448006)

FROM : SAC, CHICAGO (157-2209)

SUBJECT: COUNTERINTELLIGENCE PROGRAM  
BLACK NATIONALIST "HATE" GROUPS  
RACIAL INTELLIGENCE  
(NATION OF ISLAM)

Re Miami airtels to the Director (copy to Chicago), 8/22/69, and 8/25/69.

Referenced airtel dated 8/22/69, reflects Miami has the authority to assist [redacted] WCKT-TV, a local Miami station, in preparation of a documentary-type expose of the NOI in the south Florida area, the objective being to show how the NOI takes money from the black people of the Miami area and gives nothing in return. Miami requested the Bureau and Chicago to furnish photographs or films of NOI meetings, conventions, or other affairs.

[redacted] objectives are not clear in that it cannot be determined whether his expose is to be confined to the Miami area or is to be national in scope. However, the following is set forth for consideration:

It would appear that [redacted] would desire to present a current picture of the actual inner workings of the NOI. He mentions exposing misuse of donations and receipts from the sale of "Muhammad Speaks" (MS). This is most difficult to do from interviews of the membership.

- 2 - Bureau (RM)  
2 - Miami (157-2414) (Encl. 1) (RM)  
1 - Chicago

REC-6

100-448006-1240

(5) 100-606911-1057  
EX-113

SEP 1 1969

Approved: [Signature]  
Special Agent in Charge

Sent \_\_\_\_\_

REC'D  
T. SECT.  
M Per



as they consider donations they make much as would regular church goers. It is recognized ELIJAH MUHAMMAD and other NOI leaders live lavishly. This has been exposed and is well known. It had no discernible effect on the NOI membership. It is known, and has been reported in semi-annual NOI reports available to Miami, that the NOI, for the past several years, has been using cash accrued from land appreciation, donations, and receipts from the sale of MS to buy farms in both Georgia and Michigan, to buy buildings in Chicago, and converting same into restaurants, stores, etc.

Investigation has determined these are registered in the names of Progressive Land Developers, Incorporated, and/or United Dynamic Corporation, both incorporated in the State of Illinois and both having prominent NOI leaders as members of the Board of Directors.

Enclosed for Miami is a Xerox copy of an article entitled, "Black Muslims Set Their Sights on the Supremacy of Capitalism" by WILLIAM JONES, which article appeared in the "Chicago Sunday Tribune," 1/26/69, page 1. This article sets forth full details regarding the NOI's use of monies received. It is felt the pertinent development is the NOI using non-religious corporations to invest the monetary receipts - the investments not being titled under the name NOI, Muhammad's Temple Number 2, etc. When ELIJAH MUHAMMAD becomes incapacitated or passes on, what happens to these holdings insofar as the membership is concerned?

[redacted] may desire to contact the "Chicago Tribune" as to whether he can use the above article.

Chicago has not for several years conducted any photographic surveillances of NOI conventions, etc., due to racial tensions. It would appear [redacted] could obtain such photographs from issues of MS which are available to Miami. It would further appear [redacted] could purchase ELIJAH MUHAMMAD's LP records, which are advertised in MS

NYC.gov/records  
C 157-2209

weekly or could contact Radio Station WFAB, Miami-Ft. Lauderdale, for taped speeches by MUHAMMAD as his tapes are advertised as played thereon at 5:30 a.m. each Sunday. It is also noted MUHAMMAD's books, "Message to the Black Man" and "How to Eat to Live," are both advertised in MS. Of course, MS is the best source of NOI activity.

It would appear [redacted] might consider direct contact with various NOI ministers in the Miami area as past experience has shown they welcome chances to be interviewed. If former members who are willing to discuss the situation could be located, this should be considered.

At the present time, Chicago does not desire to rehash some of the exposes that occurred around the time of the defection of MALCOLM X LITTLE as top level sources could be endangered and future activities thereof curtailed.

Referenced Miami airtel dated 8/25/69, reflected [redacted] is attempting to locate statements of prominent government and police officials regarding dangers created by the NOI. Again, Chicago agrees that the constant hate teachings against the white race is most undesirable. This is especially true as it relates to the children of the membership who are indoctrinated from birth on to hate the white man.

In an effort to keep [redacted] proposed documentary current, the following observations are set forth:

Report of [redacted] dated 6/20/69, pages 49 - 53, copy available to Miami, sets forth full details regarding ELIJAH MUHAMMAD's statements concerning his version of law and order; sets forth data regarding a meeting of the minds between the NOI and the Chicago Police Department; and relates details concerning plans by the National Society of Afro-American Policemen, New York City, to honor MUHAMMAD and the NOI in June, 1969. While this is in no way meant to infer the NOI is a useful, integral

CG 157-2209

part of our society, it does infer a step forward may be occurring insofar as the NOI and police cooperation are concerned.

Several years ago, Chicago utilized a local Federal Judge to speak out against the NOI. He has not been utilized in this regard since the murder of MALCOLM X LITTLE, as it was not the Bureau's desire to involve him in a name-calling contest. It is felt this trend should continue.

As you are aware, the NOI has carefully avoided any and all contact with other Black Nationalist groups and their involvements other than to call on them to join MUHAMMAD, the only divinely inspired leader of the black man.

Chicago is not in possession of information as to whether the NOI Temple in Miami is operating a University of Islam for children of its membership, but whether it does or not, [redacted] may desire to consider interviews of NOI leaders in Miami regarding the indoctrination of the children, specifically, as it relates to their feelings towards the white man, the United States Government, etc.

[redacted] may also desire to consider interviews of various local southern Florida police chiefs for their comments in this regard and also interviews of local prison officials relating to NOI activities therein.

8-25-65

1 - Mr. Belmont  
1 - Mr. Mohr  
1 - Mr. DeLoach  
1 - Mr. Sullivan  
1 - Mr. Gale  
1 - Mr. Bland  
1 - Mr. Baumgardner  
1 - Mr. Phillips  
1 - Mr. Rosack

airtel

To: SAC, New York [REDACTED]

From: Director, FBI [REDACTED]

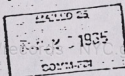
MALCOLM X LITTLE [REDACTED]

[REDACTED]  
[REDACTED]  
Since information has now been received indicating [REDACTED] you should, utilizing this information, fully explore with appropriate officials of the [REDACTED] the possibility of obtaining a Federal unlawful flight variant concerning him.

In the event there is a continuing reluctance on the part of [REDACTED] to request FBI assistance under the Unlawful Flight Statute in this matter, you should furnish the Bureau full details.

This should be promptly handled and the Bureau advised of results.

NOTE: See memo Baumgardner to Sullivan dated 8-25-65, same caption, prepared by TPR:JBE:dln:lam.



5 SEP 2 1965

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

1 - New York [REDACTED]

1 - [REDACTED]

TPR:JBE:dln:lam

(14)

50 SEP 17 1965

MAIL ROOM ☒ TELETYPE UNIT ☐



## Memorandum

TO : Mr. W. C. Sullivan

FROM : F. J. Baumgardner

SUBJECT: MALCOLM X LITTLE

DATE: August 25, 1965

The New York Office has advised that [redacted] who  
being sought by the [redacted] after failure to  
appear in court, is possibly residing in [redacted] New York  
requests authority to advise the [redacted] of  
address at which [redacted] could possibly be located.

[redacted] Malcolm X Little, leader of the Muslim Mosque, Incorporated  
Black Nationalist organization, was murdered on February 21, 1965.  
[redacted] arrested three individuals suspected  
of being the assassins. In addition, the police arrested [redacted]  
[redacted] who was with Little at the time of his murder and  
rounded one of the assassins. [redacted] was scheduled to appear in  
court in connection with this charge. He did not appear  
and the [redacted] has been attempting to determine  
his whereabouts ever since.

The charge for which [redacted] being sought comes within  
scope of the Unlawful Flight Statute and the New York Office previously  
has discussed with police officers handling this matter the possibility  
of seeking Bureau assistance under the Unlawful Flight Statute. When  
the New York Office is receiving a continuing flow of unlawful flight  
cases [redacted] there has been a hesitation  
in asking our assistance in this particular case. The New York Office

## Enclosure

- 1 - [redacted]
- 1 - Mr. Belmont
- 1 - Mr. Mohr
- 1 - Mr. DeLoach
- 1 - Mr. Sullivan

- 1 - Mr. Gale
- 1 - Mr. Bland
- 1 - Mr. Baumgardner
- 1 - Mr. Phillips
- 1 - Mr. Rosack

TPR:JBE:dln

(11)

50 SEP 17 1965

5-SEP-2-1965

van [redacted]

advises that officers responsible for the [redacted] case have been convinced that [redacted] has been hiding out in the New York City area. We have received similar reports; however, the current information clearly indicates [redacted] has fled to Mexico. The New York Office on August 24, 1965, advised that with the current information indicating [redacted] subject is out of the country, [redacted] in all likelihood would request Bureau assistance under the Unlawful Flight Statute. [redacted]

If a Federal unlawful flight warrant is obtained, [redacted] would very likely be able to have [redacted] where he could be taken into custody by Bureau Agents. [redacted]

With this in mind the New York Office is being instructed to contact [redacted] and, utilizing the current information indicating subject has fled the country, fully explore the possibility of obtaining a Federal unlawful flight warrant.

*[Handwritten signature]*



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to  
File No.

Miami, Florida

OCT 21 1965

RE: MALCOLM X MURDER;  
MURDER OF MALCOLM X, 1965.

[redacted] Department  
received the following anonymous communication dated  
June 13, 1965, which had been addressed to the Suffolk  
County Superior Court, Probation Department:

[redacted], Black Muslim, said to be  
hiding in another state with gunshot  
wounds due to the fact that he was in-  
volved in the killing of Malcolm X. Try  
questioning [redacted] Florida is a likely  
place.

[redacted] error referred to  
in this communication was believed to be [redacted]  
[redacted] [redacted] [redacted]

ENCLOSURE

149



80

82

[REDACTED]

[REDACTED] photographs as the man who was  
[REDACTED] and said, "Get your hands out of  
my pocket", in the Audubon Ballroom. Just before  
MALCOLM X was killed. [REDACTED]  
[REDACTED] cannot recognize [REDACTED] from photographs  
as being in the Audubon Ballroom on February 21, 1965.

On March 4, 1965, [REDACTED] stated  
[REDACTED] 23 of this date, [REDACTED] DOUGLAS ANN JOHNSON, al-  
[REDACTED] arrested for the killing of MALCOLM X, have refused to  
furnish any information other than their name and [REDACTED]

On March 8, 1965, [REDACTED]  
[REDACTED] OAAU member [REDACTED] was interviewed by [REDACTED]  
[REDACTED] the same date, according to [REDACTED]  
[REDACTED] saw [REDACTED] shoot  
MALCOLM X and also observed [REDACTED] in the  
Audubon Ballroom the day MALCOLM X was killed. [REDACTED]  
[REDACTED] run out the side exit after the  
shooting.

[REDACTED]  
when arrested, denied being in the Audubon Ballroom  
on February 21, 1965. [REDACTED]

[REDACTED] said after the shooting he picked up the  
[REDACTED] used to kill MALCOLM X and gave it to [REDACTED]  
[REDACTED] He said he also picked up a German Jager pistol  
and gave it to another unknown person to hold until  
the police arrived.

[REDACTED] German  
luger was never turned over to the Police Department  
and this gun could probably account for the nine  
millimeter slug in MALCOLM X's body. [REDACTED]  
[REDACTED]

150



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 30

THE PEOPLE OF THE STATE OF NEW YORK :

-v- :

Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUTLER) and KHALIL ISLAM (THOMAS 15X JOHNSON), :

Defendants. :

STATE OF NEW YORK )

) ss.:ss

COUNTY OF NEW YORK )

WILLIAM M. KUNSTLER, being duly sworn, deposes and says:

1. I am attaching hereto Page 2 of an FBI Report made by Special Agent in Charge of the New York Division to the Director on March 3, 1966.

2. It contains in the first full paragraph information apparently received by the prosecutor from the FBI relating to an alleged meeting between John Ali, then the National Secretary of the Nation of Islam, and Thomas Hagan at the Americana Hotel on the evening of February 20th, 1965, the eve of the murder of Malcolm X. Although the FBI indicated that it was indeed Hagan who had met with Ali, the prosecutor did not question the former about the meeting but did interrogate defendant Butler about it. TT.

3379-82.

*William M. Kunstler*  
WILLIAM M. KUNSTLER

Sworn to before me this 12th

day of May, 1978.

*Margaret J. Ratner*  
Notary Public

MARGARET J. RATNER  
NOTARY PUBLIC, STATE OF NEW YORK  
No. 31-3211470

151

Made 3, 1966

From Sh. NY  
To Director

was killed. During the cross examination by Assistant District Attorney VINCENT J. DERMODY, the doctor admitted that he treated BUTLER, but four days after the killing of MALCOLM X and that the injury could have been caused by a person falling down a flight of stairs. It is noted that when [redacted] testified at the trial, he stated that one of the assassins jumped over TAIMAGE HAYER while running down the stairs to get out of the Audubon Ballroom after MALCOLM X was killed. The defense attorneys according to [redacted] were disturbed by the doctor's testimony and said they would impeach the doctor. Judge CHARLES MARKS reminded the defense attorneys that the doctor was their witness.

[redacted] stated that District Attorney DERMODY requested [redacted] about meeting with JOHN ALI, NOI National Secretary, at the Americana Hotel, NYC, the night before MALCOLM X was killed. BUTLER stated he [redacted] JOHN ALI but never met him. [redacted] said information was received that JOHN ALI met with HAYER the night before MALCOLM X was killed, but that the witness to this meeting was later arrested for theft and was now considered undesirable as a state witness.

[redacted] stated that CHARLES 37A MORRIS was this date again called to the witness stand, this time on behalf of the defense. During cross examination MORRIS admitted that he was once a member of the NOI in NY and at that time knew BUTLER and JOHN SON as members of the NOI "Enforcement Squad" whose duty it was to talk to and sometimes "shake up people."

According to [redacted] while BUTLER was on the witness stand Judge MARKS stated that if BUTLER's manners on the stand did not change, he would charge the jury to take into consideration BUTLER's mannerism and demeanor in determining if he was telling the truth on the witness stand. [redacted] stated

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK: PART THIRTY FIVE

THE PEOPLE OF THE STATE OF NEW YORK, )

VS. )

MUHAMMED ABDUL AZIZ (NORMAN 3X BUTLER)  
and KHALIL ISLAM (THOMAS 15 X JOHNSON) ; )

Defendants )

IND. NO. 871-65

STATE OF ILLINOIS )  
COUNTY OF COOK )ss

BENJAMIN GOODMAN, FIRST DULY SWORN, DEPOSES AND SAYS:

1. I am presently a resident of the city of Chicago, am employed as an assistant engineer at Evanston Hospital, and a member of the World Community of Islam.

2. I was a member of the Fruit of Islam from 1957 until May of 1964.

3. During this time period, I was Assistant Minister to Malcolm X, at Mosque # 7 in Harlem, New York City.

4. Among my functions as Assistant Minister was to give lectures and speeches throughout the Northeast, and to provide security for Malcolm, from time to time, as one of his chief aides.

5. During the late 1950's and early 1960's, I became acquainted and closely associated with Norman 3X Butler and Thomas 15X Johnson, who were also members of Mosque #7 during this time period.

6. Among the duties that Johnson and Butler performed as members of Mosque #7 was bodyguard to Malcolm X.

7. In early 1964, when Malcolm left the Fruit of Islam and formed the Organization of Afro-American Unity, I left with him as his Assistant Minister.

8. Butler and Johnson remained in the Fruit of Islam as members of Mosque #7.

9. On February 21, 1965, in the early afternoon, I was at the Audubon Ballroom on West 166th Street in New York City, where Malcolm X was to give a speech.

10. As Assistant Minister, I gave an introductory speech, approximately twenty minutes in length, to the four to five hundred people in the Ballroom.

15

11. While giving the speech I was able to and did observe the faces of all the people in the crowd, as one of my functions was to provide security for Malcolm's person.

12. At no time did I see the faces of Butler or Johnson, whom I knew well, and would have been sure to notice since they were still Muslims from Mosque #7, and there was a high degree of animosity between the Fruit of Islam and the Organization for Afro-American Unity.

13. Additionally, no Muslims would have been admitted to the ballroom without Malcolm's notification and permission, and no such notification or permission was sought from Malcolm or from me on February 21st.

14. After I finished my speech, I introduced Malcolm as a man "who would give his life for the people", then went directly to a dressing room to deliver a message at Malcolm's instruction.

15. While in the dressing room (behind a closed door) for a very short time, I heard noises which I later learned were the shots which killed Malcolm.

16. I therefore did not witness Malcolm's assassination.

During the years

17. After Malcolm's assassination, I had conversations with many of the people in the Ballroom on February 21st, including many OAAU members.

18. All of these people said that four or five people were involved in the assassination, and those OAAU members who knew Butler and Johnson from Mosque #7 said that they were not present.

19. During 1965, I was summoned to the New York Police Precinct at or near 51st Street and Amsterdam in New York City.

20. Detectives questioned me about Malcolm's assassination, and showed me pictures, among which appeared to be pictures of Butler and Johnson.

21. I told these detectives that Butler and Johnson were not present at the Audubon Ballroom on February 21st.

22. Later in 1965 I was summoned to the New York Police Precinct



at or near 100th Street in New York City, and again questioned about Malcolm's assassination.

23. One of the detectives was a sergeant dressed in plains clothes, with an Italian name which was Galante, or something similar.

24. I told these detectives that Butler and Johnson were not present in the ballroom on February 21st, and that I had not witnessed the actual shooting.

25. Despite what I told them, these detectives continued to try to persuade me to say that I had witnessed the shooting, and that Butler and Johnson had been present. When I refused to make such a statement, they became angry.

26. Later in 1965, I was summoned to an interview with an assistant District Attorney named Stern, who had another assistant present when we talked. I told them that I knew Butler and Johnson, that they had not been present at the ballroom that day, and that I had not seen the actual shooting.

27. When I said this, Mr. Stern became angry and said that he knew I had previously said that I had seen the shooting through an open dressing room door. This was not true and I had never said this to anyone. In his anger, Mr. Stern threatened me, saying, "Have you ever been to jail? How would you like to go to jail?"

FBI

28. Also in 1965, I was interviewed by an agent several times. On each occasion, I told them that Butler and Johnson had not been present at the Audubon Ballroom on February 21, 1965.

29. I was never called to testify at the criminal trial of Butler, Johnson and Hagan.

SUBSCRIBED AND SWORN-BEFORE ME  
THIS 17 DAY OF MAY, 1978

*Quido Turner*  
NOTARY PUBLIC

*Benjamin Goodman*  
Benjamin Goodman

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK

AFFIDAVIT

Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (Norman 3X Butler  
and KHALIL ISLAM (Thomas' 15X Johnson),:

Defendants.

STATE OF NEW YORK)

ss:

COUNTY OF NEW YORK)

BENJAMIN KARIM, being duly sworn, deposes and says:

1. I have previously executed an affidavit in this matter on or about May 15, 1978, under the name of Benjamin Goodman. Since that time, I have adopted the last name of Karim in place of Goodman.

2. I have read the Supplementary Affirmation submitted in opposition to the within motion and the exhibits thereto and I wish to answer or explain some elements thereof and enlarge upon my earlier affidavit.

3. During my first interview with the police, I was shown some photographs of black men but could recognize no one. Later on, I was shown photographs again, which included those of Butler and Johnson, and I told the police that Butler and Johnson were not present in the ballroom on February 21, 1965. They attempted to force me to say that these men were present by stating, in one way or another, that they had participated in the murder and I must have seen them there. One officer in plainclothes, whom I now know was named Cilento, became very angry when I would not say that B

ler and Johnson were present or that I had witnessed the shooting. I never told any police officer that I had looked over the heads of the crowd that day; what I did say was that I had scanned the crowd.

4. Shortly after my second interview by the police, I was asked to sit down with an assistant district attorney by the name of Stern. He said that a police officer had told him that I had said that I saw the shooting through an open door and I told him that that was a lie. At that moment, he became visibly angry and asked me if I had ever been to jail, which I regarded as a distasteful threat. I asked him whether he was going to put me in jail, because I wouldn't let him put words into my mouth. He then stormed out of the room leaving with another man. I asked this man, who had a copy of Louis Lomax's book, When the word is Given, whether they were out to destroy the Nation of Islam because most of Mr. Stern's questions dealt with the activities within the Nation. He said "Yes," and I replied that he would have a hard job.

5. After that interview, I was taken to the Grand Jury. Mr. Stern questioned me. During my questioning, Mr. Stern became angry at some of my answers about looking at the audience and indicated that I had told him in his office that I hadn't looked directly at the audience when I spoke. I did not tell him this and couldn't remember having done so. When he asked me if I knew whether Butler or Johnson were in the audience, I answered that I did not because, if they had been in the far rear or off to one side or the other sides, I might not have seen them. When I tried to explain that it was difficult for me to believe that they were there or could have gotten in without being seen, he interrupted.

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rupted me and would not let me complete the answer.

6. I had told him in his office before I went to the grand jury that we had brothers who had been members of Mosque No. 7 who knew Butler and Johnson well and who would either have stopped them or reported their presence unless they had been wearing masks or had their heads under their overcoats, which would have prevented their entrance under any circumstances. Malcolm had given instructions that people from Mosque No. 7 could be admitted but that he had to be informed and they had to be watched. This was absolutely necessary because we were not searching people for weapons. They were also instructed to inform me as well. I told all of this to Mr. Stern in his office.

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7. Before the trial, I was informed by Sharon Shabazz, who had been seated near the front when the shooting took place, that she had been informed by a Brother George that District Attorney Hogan wanted her to testify against Butler and Johnson but that she had seen the men who did the shooting and knew that the defendants, whom she had known for a long time, were not among them.

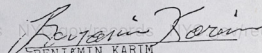
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8. I was in total shock after Malcolm's death, playing tapes of his speeches over and over again, and I could not believe that he was gone. I would have testified if someone had called me but I would never have volunteered it on my own as I simply did not want to live that horrible day over again unless I was forced to do so. Even working with the lawyer on this affidavit is terribly painful for me, as it brings back memories of one of the most horrible days of my life.

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9. I am prepared to testify in any court now because I real-

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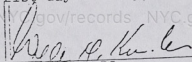


that two innocent men have been in jail for many years. While I didn't think so then, I understand now that my testimony might have been of some help to them, and I want to do something about it.

  
BENJAMIN KARIM

Sworn to before me this

21st day of July, 1978



NOTARY PUBLIC

WILLIAM M. KUNSTLER  
Notary Public, State of New York  
No. 6-75-0350  
Commission Expires March 30, 1979

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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK: PART 35

----- x  
THE PEOPLE OF THE STATE OF NEW YORK, :

Respondent, :

REPLY AFFIRMATION IN  
SUPPORT OF MOTION TO  
VACATE JUDGMENTS

NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records  
-against- :

MUHAMMAD ABDUL AZIZ, (Norman 3X Butler), :

Indictment Number  
871/65

and :

KHALIL ISLAM (Thomas 15X Johnson), :

Defendants-Movants, :

----- x

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

WILLIAM M. KUNSTLER, an attorney duly admitted to practice  
law before the courts of this State, hereby affirms under penalty  
of perjury that:

1, I am submitting this reply affirmation to the People's  
Supplementary Affirmation in Opposition to Motion to Vacate Judgments,  
a copy of which was received by me at approximately 1:45  
on July 18, 1978.

2, With reference to that portion of the material dealt  
with the affidavit of Benjamin Goodman submitted to this Court  
May, I contacted Mr. Goodman today and he reiterates that, had  
either defendant been present in the audience at the Audubon Ball  
room on February 21, 1965, he would have seen them. Not only do  
he know them well but they had served as Malcolm X's bodyguards  
before the latter's defection from the Nation of Islam.

3, Moreover, there was only one entrance to the room 1

which the meeting of the Organization of Afro-American Unity (OAAU) took place and the security guards thereat also would have recognized defendants and alerted everyone concerned.

4. It is obvious from reading Mr. Goodman's grand jury testimony, which covers some 39 pages, that only three pertain to his observations of the audience. Mr. Goodman was asked on page 20 whether he looked "at the audience or . . . above the audience" when he spoke. He replied that "you take in the whole audience." Id. He added that "[Y]ou more or less weigh the whole audience," Ibid. at p. 21.

5. The last answer apparently did not satisfy Mr. Stern, who proceeded to cross-examine Mr. Goodman by reminding him that, on March 30, 1965, in the former's office, the witness had allegedly said that, when he spoke, he looked "over the head of the crowd." Id. But Mr. Goodman did not recall making that statement.

6. The tone of the interrogation then changed to an obvious attempt by Mr. Stern to put words in Mr. Goodman's mouth. Ibid. at pp. 22-23. Mr. Stern was intent on forcing the witness to state that he didn't know whether either defendant was present that day.

Q: So you do not know whether or not either man was there, is that correct?

A: No, sir, I can't say that they weren't nor could I say they were, because I didn't see them.

Ibid. at p. 23

7. Mr. Goodman assured me today that if the defendants had been in the audience, he would have recognized them as would the security guards at the entrance to the room. He did not see the shoot-

\*/ Although Mr. Stern's notes, Appendix C, state that he was informed by the police that Goodman told them that he "doesn't look at an audience, but looks over their heads," no mention of this fact appears in the two police reports. Appendix B.

ing and could not know what the People's evidence would be. If the defendants had been hiding behind chairs or in a closet, he would not have seen them, which explains why he answered Mr. Stern's question, supra, as he did. Mr. Stern failed to question Mr. Goodman adequately on the points raised by the latter in his affidavit or to explore the fact that, if either defendant was seated in the audience, the witness would have recognized him.

8. It is inexplicable why Mr. Goodman wasn't called as an introductory witness to set the stage for the murder. One explanation, of course, is that he would have provided exculpatory evidence about defendants. The eagerness of the People to accept the concept that Goodman always looked over the heads of the crowd without specifically questioning him about this particular day is quite revealing.

9. Mr. Goodman is prepared to take the witness stand and recount under oath his experiences with Mr. Stern and state the threats made to him thereby. If anything Mr. Stern's affidavit, the grand jury minutes and Mr. Goodman's affidavit point up the need for an evidentiary hearing on this point.

10. The People in no way answer Mr. Hagan's affidavit, other than indicating that there is nothing in their files indicating that "any of the persons identified by Hagan in his affidavits as having been his accomplices in the murder of Malcolm X," Mr. Alpert's affirmation at p. 2.

11. As for the unredacted copies furnished Mr. Alpert by Special Agent Steven Edwards, they do not include the key documents furnished with my affidavit of April 29, 1978. The following



omissions will make this point clear:

- a. Document 38, which states that an informant "described the person who handled the shotgun as a tall Negro whom he recognized as a member of the Newark Temple. . . . a lieutenant in the Newark Temple." (emphasis added)
- b. Document 39 (p. 2 of Document 38), states that "[T]he man who started the distraction by claiming that someone's hand was in his pocket was described as a short, dark skinned Negro with bushy hair and a mustache, who was believed to be a member of the Newark Temple." (emphasis added.)

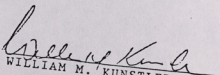
12. The fact that some of the unredacted FBI documents indicate other names than Mr. Hagan has included in his affidavits is of no significance whatsoever. In the first place, the agents' informants might have been mistaken about or not known the real or adopted names of the murderers. Secondly, we have seen only a handful of the more than a million pages of documentation on the Nation of Islam in the possession of the FBI. Lastly, there can be little doubt, whatever the identity of the killers, that the information in the FBI documents is exculpatory and, if known to the police or the prosecution, should have been turned over to the defense. In the last analysis, it is obvious that the FBI and its informants knew that the assassins had come from or been associated with the Newark Mosque, a temple with which neither Butler nor Johnson had any relationship.

13. Counsel was in error in stating that the trial lawyers for defendants did not know of the whereabouts of Reuben Francis or that he was kept from their knowledge by the prosecution. All of the transcript was not available at the time earlier affidavits were prepared and the exchange about Francis was not picked up and

an apology is in order. However, it must be pointed out that Francis' location only came out in cross-examination late in the trial and that the prosecutor refused to give the defense any copies of statements taken from him. TT. 2604. Moreover, it was obvious that, because the People had charged Francis with felonies after the assassination, that to call him with the assurance that he would plead the Fifth Amendment would make him truly unavailable, as a practical matter, as a witness. The entire Reuben Francis episode, including his surrender to the FBI in the middle of this trial and his disposition of one of the murder weapons, is puzzling, to say the least.

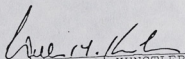
14. In conclusion, the People's opposing papers do not, in the slightest, meet the issues raised in Mr. Hagan's second affidavit or alter the effect of that of Mr. Goodman. If anything, they point up the necessity for an evidentiary hearing so that this Court can judge the credibility of Messrs. Hagan and Goodman as well as other witnesses. There is certainly more than enough raised in the moving papers to indicate that, only by virtue of an evidentiary hearing, will there be any hope of a just and fair resolution of this motion.

Dated: New York, N.Y.  
July 18, 1978

  
WILLIAM M. KUNSTLER

CERTIFICATE OF SERVICE

The undersigned, an attorney duly admitted to practice as such in the courts of the State of New York, hereby certified that copies of the within affidavits were forwarded this date by prepaid United States first class mail to the District Attorney, New York County.

  
WILLIAM M. KUNSTLER

Dated: New York, N.Y.  
July 24, 1978

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK : PART 35  
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THE PEOPLE OF THE STATE OF NEW YORK :

-v- :

Ind. No. 871/65

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUTLER) :  
and KHALIL ISLAM (THOMAS 15X JOHNSON), :

Defendants. :  
----- -x

STATE OF NEW YORK )

) ss.:

COUNTY OF NEW YORK)

WILLIAM M. KUNSTLER, an attorney duly licensed to practice as

such in the State of New York, under the pain and penalties of perjury, hereby affirms as follows:

1. I am submitting this affidavit pursuant to the understanding reached in open court of September 6, 1978.

2. Counsel has furnished to the Court and the People the name of three of the four men who participated with Thomas Hagan in the assassination of Malcolm X at the Audubon Ballroom on February 21, 1965. I have received what I consider to be accurate information that two of these men, Benjamin or Ben Thomas or Thompson and Lee a/k/a Leon Davis, reside in Paterson, N.J. and attend the World Community of Islam Mosque in that city. I have also been informed that following the publicity generated by the hearing of July 26, 1978, these two men left the area but have now returned thereto. The third man, identified as William X in Hagan's affidavit of February 25, 1978, is apparently one William Bradley, who is serving a long sentence at the Caldwell State Prison in Bergen County, N.J. According to my information, his sentence is 7 1/2 to 15 years.

3. From our experience with Mr. Bradley who first denied any



participation in the murder and then stated that he was not going to jeopardize himself for anyone when interviewed by an Islamic minister, it is highly unlikely that any importuning on defendants' part, through counsel or Islamic ministers, is going to have any significant effect. In this light, it is our suggestion that, under the supervision of the Court, the People be directed to interview all three men and to conduct the same type of investigation that would be customary when information by one accomplice is furnished which implicates others in his crime.

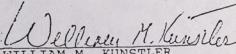
4. Mr. Hagan has given the names, as he knows them, of his accomplices and described in full all the particulars of the crime and its preparation. He is in a position to identify these men and they should be presented to him for such purpose, whether through a lineup or showup or photographs. It should not be difficult to locate the two who are on the street and Mr. Bradley is readily available for interrogation.

5. In other words, Mr. Hagan has given a great deal of information which can only be realistically followed up by the authorities. Defendants are in no position, either financially or logistically, to do much more than they have done to date. They both feel that there is enough before the Court at this point to grant them the new trial they seek, but they cannot afford to gamble on that premise when there is available the best proof of all of their innocence - - the three men who, along with Hagan and one other, murdered Malcolm X.

6. Under an order from this Court, the People, with their im-

mense resources and manpower, could easily follow up on the leads furnished by Hagan and be in a position to report to the Court as to the results thereof. From any point of view, it is simply too dangerous and unrealistic to expect defendants to do the police work required to ascertain the involvement of the three men referred to above.

7. Concededly, this is an unusual case with ramifications that go well beyond the New York City scene. But courts are not powerless simply because we are dealing with unique situations and it would seem, in the interest of justice, that this Court should consider seriously the suggestion put forth above. If the defendants have spent almost fourteen years of their lives in prison for a crime they did not commit, then we are confronted with a monstrous miscarriage of justice. It would seem that they have presented enough to raise a strong possibility, even probability, that they might be innocent men. Under those circumstances, this Court cannot afford to leave any stones unturned that might conclusively prove that innocence.

  
WILLIAM M. KUNSTLER

Dated: New York, N.Y.  
September 12, 1978

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SUPREME COURTS : NEW YORK COUNTY

GENERAL TRIAL TERM: PART 35

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THE PEOPLE OF THE STATE OF NEW YORK

-against-

Indictment No. 0871/65

MUHAMMED ABDUL AMIM (NORMAN 3X BUTLER)  
and  
KHALIL ISLAM (THOMAS 15X JOHNSON),

Defendants.

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APPEARANCES

For the People: Robert Morgenthau, Esq.  
District Attorney, New York County  
By Allen Alpert, Esq., of counsel

For the defendants: William Kuntzler, Esq.  
New York, N. Y.

ROTHWAX, J.:

On Sunday, February 21, 1965, at the Audobon Ballroom in Manhattan, Malcolm X, leader of the Organization of Afro-American Unity and Muslem Mosque, Inc., was gunned down as he addressed a meeting of his followers. An extensive police investigation ensued, with the cooperation of the FBI. One Thomas Hagan was wounded in the altercation and was arrested by police outside the Audobon Ballroom. Subsequently, on March 10, 1965, Hagan and the petitioners here were indicted for the murder of Malcolm X. They were tried before a jury and convicted on March 11, 1966. The convictions were upheld on appeal, first by the Appellate Division First Department (29 AD2d 931) and finally

Appendix B

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by the State Court of Appeals (24 NY2d 395). The United States Supreme Court denied certiorari sub. nom. (Hayer v New York, 396 US 886).

The petitioners, presently serving their sentence, now move to vacate the judgments of conviction on the basis of exculpatory evidence newly discovered and for reasons of prosecutorial misconduct (CPL 440.10 [1] [f] [g]). In the alternative, petitioners request a hearing to determine whether, in fact, their convictions should be set aside and a new trial ordered.

This court has had these motions under consideration since February 1978. During that period, petitioners have submitted numerous documents including affidavits and FBI memoranda pertaining to the investigation and prosecution of this case. The question to be resolved by the court at this time is whether these exhibits create a probability that the original verdict in this case would have been otherwise had the jury considered any evidence therein contained, or whether the documents disclose prosecutorial misconduct which may have deprived petitioners of a fair trial (People v Crimmins, 38 NY2d 407).

Two affidavits are in issue. The first, an original and a supplementary affidavit, is that of Thomas Hagan. Mr. Hagan affirms that it was he and four others, not the petitioners here, who murdered Malcolm X in February 1965. The information contained in Mr. Hagan's affidavit is a recapitulation, although somewhat more specific, of his testimony at the original trial. Petitioners argue that by virtue of the specifics which affiant Hagan now relates, his testimony would be much more credible in



its present form so as to affect the outcome of a second trial. The court notes that the information Mr. Hagan now proffers is uncorroborated by the testimony of any other witness either at present or at the time of the original trial. The court also finds that it is unlikely that the persons whom affiant Hagan names would corroborate his allegations of their own accord. The petitioners suggest that the district attorney be directed by this court to conduct an investigation in corroboration of affiant Hagan's allegations, including lineups, fingerprint comparisons and other techniques. The court must question the reliability of any identification which comes thirteen years after the events in question to inculcate persons who apparently were never the object of suspicion despite the thorough efforts of local, state and federal law enforcement officials. The rights of those at whom affiant Hagan points the finger of suspicion must also be considered. The facts adduced by petitioners do not rise to the level of probable cause to believe that those named were in any way connected with this crime. Accordingly, this court cannot order the district attorney to interrogate these persons, nor subject them to court ordered identification procedures. The district attorney has an obligation to the fair administration of public justice independent of the authority of this court. His is the prosecutorial discretion. The court notes that the prosecutor has been forthcoming with government documents and has in no way obstructed the reevaluation of this case. Were there reliable evidence which tended to support the conclusions that petitioners suggest, this court is confident that the district attorney would undertake to

ensure that no miscarriage of justice had occurred. However, the burden on a motion to vacate judgment is the petitioners'.

The second affidavit upon which petitioners rely is that of Benjamin Goodman. Mr. Goodman was present in the Audobon Ballroom when the murderous acts occurred. He now affirms that from his vantage on the dais he would have necessarily seen the petitioners whom he knew, and that he can therefore testify that petitioners were not present at the time of the crime. Mr. Goodman's affidavit contradicts his verbatim testimony before the grand jury that indicted the petitioners. Mr. Goodman testified before the grand jury that he did not know and could not say whether or not the petitioners were present in the Audobon Ballroom at the time in question. Mr. Goodman's offer of proof is consequently subject to impeachment from his own contemporaneous testimony. There is no likelihood that his present testimony would affect the original verdict upon a new trial (People v Crimmins, supra at 417).

These affidavits, complete on their face, conclusively demonstrate that the offer of proof they contain is neither new nor so reliable as to create a probability of a more favorable verdict. Accordingly no hearing is required (People v Crimmins, supra at 417).

The coram nobis portion of petitioners' motion relates that one Gene Roberts, who was listed among those witnesses available to the defense at trial, was, unknown to the defense, an undercover officer. Mr. Roberts' status was revealed in 1971

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petitioners argue that when he testified in an unrelated case, the jury would in all probability have given more credence to the claim of law enforcement involvement and less credence to the prosecution's case had the presence of an undercover officer at the crime scene been disclosed. The court notes that there is no evidence which in any way connects Mr. Roberts or the police or the FBI generally to the murder of Malcolm X. Mr. Roberts' status as an undercover officer has no direct relation to the issue of guilt or innocence. See, *People v Goggins*, 34 NY2d 163, 170. Nor is there any indication that the prosecution purposefully deceived the defense counsel as to the presence of undercover police officers at the time of the murder.

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The probability of a different verdict upon a new trial must necessarily depend, in part, upon the nature and strength of the evidence of guilt at the original proceeding. The Appellate Division characterized the proof of petitioners' guilt, based upon numerous eyewitness identifications, as "overwhelming." (29 AD2d at 931.) The court's review of the submitted documents corroborates the existence of numerous witnesses who identified Mr. Hagan and the petitioners as the murderers.

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Other points raised by the petitioners have been considered, including the disappearance and return, before trial of Ruben Frances and the disappearance of the Luger pistol; the existence of other suspects during the investigation; and the questionable actions of the FBI toward the organization of Afro-American Unity disclosed in the submitted documents. None of these factors, however, has a direct bearing on the issue of

petitioners' guilt or innocence or on the quality of the prosecutor's case in the original trial.

Despite the best efforts of courts, prosecutors, and the most able defense counsel, the spectre of justice denied cannot ever be laid entirely to rest. No criminal case is ever proved beyond all doubt. We may approximate, but may never duplicate, the ideal of perfect justice.

Nonetheless, this court being mindful of the responsibility which the discretionary nature of these motions places upon it, is convinced to a high degree of certainty that the facts which petitioners present do not suggest a miscarriage of justice in their case.

The motion to vacate judgment or alternatively for a hearing on these motions is accordingly denied.

Dated: November 1, 1978

J. J.



Malcolm K. Little

visit him for the sole purpose of giving him a message and the Police Department believes it would be better to delay her visit as long as possible.

also advised that no attempt had been made by the Police Department to interview Malcolm X's wife, Betty, until after the funeral which was held on February 27, 1965. He stated that Malcolm X's wife has let it be known to the Police Department that she refuses to be interviewed unless her Attorney, Percy Sutton, is with her.

on March 3, 1965, stated that on this date, the NYU and the OAAU members met at St. Theresa Hotel, New York City. At this meeting, it was remarked that one a follower of Malcolm X, and one of Malcolm's bodyguards, was facing the audience, and was approximately ten feet from Malcolm's killers when Malcolm was shot. It was stated that was last seen pursuing the assassins of Malcolm X.

stated that it was remarked at the above meeting that a member of the NYU from Paterson, New Jersey, was observed in the Audubon Ballroom, on February 21, 1965, sitting in the last seat on the right side, facing the stage and is believed by NYU and OAAU members to be one of the assassins.

advised on March 3, 1965, that identified Thomas 15X Johnson, as one of the assassins of Malcolm X. He said is being held as a material witness with bail at \$50,000. said other witnesses previously failed to identify Johnson as even being in the ballroom when Malcolm X was killed.

also stated that Johnson was arrested between three and four p.m., on March 3, 1965, by the New York City Police Department. He also stated that Johnson was previously arrested with Norman 3X Butler in January, 1965,

APPELLATE DIVISION  
FIRST DEPARTMENT

THE PEOPLE OF THE STATE OF NEW YORK

-v-

MUHAMMAD ABDUL AZIZ (NORMAN 3X BUTLER)  
and KHALIL ISLAM (THOMAS 15X JOHNSON),

Defendants

No. \_\_\_\_\_

NOTICE OF MOTION

SIRS:

PLEASE TAKE NOTICE, that defendants herein, by their undersigned counsel, will move this Court, upon the annexed affidavit of WILLIAM M. KUNSTLER, duly verified the 29th day of November, 1978, and all the proceedings heretofore had herein, pursuant to §450.15, subdivision 1, Criminal Procedure Law, at the Courthouse, Madison Avenue and 25th Street, New York, N.Y. on the 12th day of December, 1978, at 9:30 o'clock in the forenoon thereof or as soon thereafter as counsel can be heard, for a certificate granting them leave to appeal thereto from an order of the Supreme Court of the State of New York, County of New York, General Trial Term, Part 35, Rothwax, J., denying their motion for the vacation of judgments of conviction duly entered against them on the 14th day of April, 1966, sentencing them to imprisonment for the term of their natural lives, which said order was duly made and entered on the 1st day of November, 1978.

Yours, etc.,

WILLIAM M. KUNSTLER  
853 Broadway  
New York, N.Y. 10003  
(212) 674-3303

Attorney for Petitioners

Dated: New York, N.Y.  
November 29, 1978

Appendix D

(176)

THE PEOPLE OF THE STATE OF NEW YORK

-v-

No.

AFFIDAVIT

Defendants.

WILLIAM M. KUNSTLER, being duly sworn, deposes and says:

1. I am the attorney for defendants herein and I am making this affidavit in support of their motion for a certificate granting them leave to appeal to this Court from an order of the Supreme Court of the State of New York, County of New York, General Trial Term, Part 35, Rothwax, J., duly made and entered the 1st day of November, 1978, denying their motion, pursuant to §440.10, Criminal Procedure Law, for the vacations of their judgments of conviction duly entered against them the 14th day of April, 1966, and appropriate alternative relief. Said order is attached hereto as Exhibit A.

2. Defendants were convicted by a jury on March 11, 1966, of the murder, on February 21, 1965, of Malcolm X, who was shot to death on the latter date while addressing the members of the Organization of Afro-American Unity, a break away group from the Nation of Islam, at the Audubon Ballroom in Manhattan.

3. During their trial, Thomas Hagan, a co-defendant, took the stand on behalf of defendant AZIZ and testified that neither the latter nor defendant ISLAM had had anything to do with the said murder. However, he refused to name his accomplices and the jury

subsequently convicted both defendants.

4. In October of 1977, said Hagan informed Imam Nuriddin Faiz, a New York State Chaplain, that he wished to elaborate on his aforesaid testimony so that two innocent men could be freed. Accordingly, on November 30, 1977, and on February 25, 1978, he executed two affidavits in which he gave the names, descriptions and last known locations of his confederates, as well as all pertinent details of the crime's planning and execution. These affidavits can be found on pp. 5 and 73<sup>\*</sup> of Exhibit B, attached hereto, the material submitted to the court below in conjunction with defendant's motion pursuant to \$440.10, CPL.

5. In addition, one Benjamin Goodman, who introduced Malcolm X to the audience on the day of the latter's death, furnished 2 affidavits stating that neither defendant was present in the Ballroom on the fatal day. Mr. Goodman's affidavit can be found at pp. 153 and 156 of Exhibit B.

6. Moreover, a great deal of information has come to light following defendants' convictions indicating that the Federal Bureau of Information and the New York City Police Department might have been implicated in the murder of Malcolm X. Among other things the following has been learned:

- a. When Malcolm X was shot, an undercover officer of the New York City Police Department was present on the ballroom stage but was never called to testify or had his identity made known to the defense. Ex. B, pp. 20-43.
- b. Although Malcolm X's house had been almost totally destroyed by a bomb a week before his death, there was no police presence at the ballroom on February 21, 1965, except for two who were hidden in an adjoining room and one in the Emergency Room of the Presbyterian Hospital (to which Malcolm X's body was eventually taken) and the three were in contact by walkie-talkie radios. This tiny number of hidden officers is in direct contrast to the hundreds who had been

<sup>\*</sup>/ For the Court's convenience, Ex. B has been numbered consecutively on the bottom right hand portion of each page.



in regular attendance at all of Malcolm X's previous public appearances. Pp. 23 et seq. Ex. B.

- c. The FBI had a wealth of information indicating that Hagan's version of the identity of the other assassins was correct. See pp. 89-150, Ex. B.
- d. One alleged murder weapon was removed from the scene by a Reuben Francis and never recovered although Mr. Francis was in FBI custody during defendants' trial. P. 61, Ex. B.
- e. Several months ago, counsel learned that one of the assassins named by Mr. Hagan was in state custody at a New Jersey penitentiary and furnished this information to the People. Pp. 166 et seq., Ex. B.
- f. At much the same time, counsel discovered the addresses of two other assassins named by Hagan and also turned over this information to the People. In both instances, the People refused to do any investigating of any of the men involved. Id.
- g. The FBI had been engaged in a deliberate campaign since the defection of Malcolm X to create hostility between him and the Nation of Islam, all of which is fully documented in the Final Report of the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (Church Committee) Report No. 94-755, 94th Congress, 2d Session, Friction between Malcolm X and his Organization of Afro-American Unity and the Nation of Islam was created by the FBI in a number of ways, including the sending of anonymous letters and the planting of informants. Pp. 78 et seq., Ex. B.

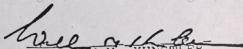
7. As the Court can see from the 168 pages of material submitted to the Court below, there is a wealth of information which, in the event of a new trial for these defendants, might, and, indeed, probably would, result in a different verdict. While an attempt has been made above to summarize some of this material, only by a reading of the various documents is it possible to appreciate the enormity of the information presently available. An evidentiary hearing, which was denied below, is the only way by

which it would be possible to complete the picture. It is defendants' belief that they have submitted more than enough to merit such a hearing. As the Court must realize, they are working against a backdrop of some thirteen years and from jail cells, and it has been difficult to assemble the material which is here attached. It is felt that simple and elemental justice requires at least the granting of an evidentiary hearing. As the Court knows, the House Assassinations Committee, which is not considering the death of Malcolm X, has opened up two other assassinations of the '60s but only defendants have been the moving force behind the third assassination of the era.

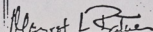
8. It is hoped that, in view of the seriousness of the charges against both defendants and the punishments imposed upon them that this Court will issue the certificate prayed for in the notice of motion. Only by the issuance of such a certificate will the serious and significant issues posed hereby be heard and determined by the Court.

9. No previous application for the relief sought herein, other than as indicated above, been made to this or any other Court.

WHEREFORE, defendants pray that the appropriate certificate granting them leave to appeal to this Court be issued.

  
WILLIAM M. KUNSTLER

Sworn to before me this 29th  
day of November, 1978

  
NOTARY PUBLIC

## APPELLATE DIVISION .. FIRST DEPARTMENT

BEFORE: HON. ARNOLD L. FEIN

Justice

-----x  
 The People of the State of New York,  
 Respondent,  
 -against-

MUHAMMAD ABDUL AZIA (NORMAN 3X BUTLER)  
 AND KHALIL ISLAM (THOMAS 15X JOHNSON),  
 Defendants  
 -----x

M-4293

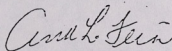
CERTIFICATE  
 DENYING  
 LEAVE

Indictment No.  
 871/65

I, Arnold L. Fein, a Justice of the  
 Appellate Division, First Department, do hereby certify that, upon  
 application timely made by the above-named defendant (by notice of  
 appeal) for a certificate pursuant to Section 450.15 of the  
 Criminal Procedure Law, and upon the record and proceedings herein,  
 there is no question of law or fact presented which ought to be  
 reviewed by the Appellate Division, First Department and permission  
 to appeal from the order of the Supreme Court, New York County,  
 entered on November 1, 1978 is hereby denied.

Dated at New York, New York

December 19, , 1978



Arnold L. Fein, Assoc. Justice, App. Div.  
 1st Dept.

Appendix E

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