

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, :

Respondent, :

-against- :

SUPPLEMENTARY  
AFFIRMATION IN  
OPPOSITION TO  
MOTION TO VACATE  
JUDGMENTS

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)

ALLEN ALPERT, an attorney duly admitted to practice law before the courts of this State, hereby affirms under penalty of perjury that:

1. This affirmation, and the accompanying affidavit of Judge Herbert Stern and the memorandum of law which are attached hereto and made a part hereof, are submitted in opposition to defendants' motion to vacate their judgments of conviction pursuant to Criminal Procedure Law §440.10. These papers are submitted in conjunction with respondent's original response, filed on February 9, 1978, and with respondent's first supplemental response, filed in April, 1978.

2. I have personally examined the District Attorney's Office case file in the above-captioned matter.

3. I have obtained from the District Attorney's Office case file the testimony in the above-captioned matter given by Benjamin Goodman in the Grand Jury on April 5, 1965. A copy of Mr. Goodman's testimony in the Grand Jury is attached hereto as Appendix "1" and made a part hereof.

4. The District Attorney's Office case file contains nothing which supports any of the defendant's allegations or contentions. Specifically, there is no mention or indication of, or reference to, any of the persons identified by Hagan in his affidavits as having been his accomplices in the murder of Malcolm X. There is also nothing which indicates that Reuben Francis possessed any information exculpatory of Butler or Johnson, or that the People kept Francis' availability to testify hidden from the defense. Nor is there anything in the file which in any way corroborates the allegations made by Benjamin Goodman in his affidavit of May 14, 1978; indeed, as evidenced by the accompanying affidavit of Judge Herbert Stern and by Benjamin Goodman's Grand Jury testimony, the information in the file refutes Goodman's allegations. Likewise, nothing in the file gives any support to the contention that any law enforcement or governmental agency was involved in the murder of Malcolm X.

5. The District Attorney's Office case file contains no papers of any kind from the Federal Bureau of Investigation.

6. The only indication I found in the District Attorney's Office case file of any contact between the FBI and the New York City Police Department or New York County District Attorney's Office is contained in a New York City Police Department Supplementary Complaint Report dated March 15, 1965. This report refers to a list of Organization of Afro-American Unity members which the police received from the FBI and which the police showed to a potential witness in order to have the witness indicate which persons were present in the Audubon Ballroom when Malcolm X was murdered. Upon request, this report will be made available to the Court.

7. In order to obtain unredacted copies of the FBI documents submitted by Mr. Kunstler in support of the instant motion, I have spoken with FBI Agent Steven Edwards.

8. Mr. Edwards has provided me with unredacted copies of those FBI documents which, Mr. Edwards informs me, are on file in the New York office of the FBI. These documents correspond to the documents labeled by Mr. Kuntsler as pages 11-24, 34, 35, 40, 43-48, 50, 51 and to the documents dated August 25, 1965 and October 21, 1965, both of which are attached to Mr. Kunstler's affidavit of April 29, 1978.

9. There is nothing in any of these unredacted FBI documents which in any way supports any of the defendants' contentions or allegations. Specifically, there is no mention or indication of the name of, or reference to, any of the persons identified by Hagan in his affidavits as having been

his accomplices in the murder of Malcolm X. These unredacted FBI documents are attached as Appendix "2" to the affidavit being filed with the Court, and are being made available to the Court for its examination.

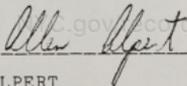
10. I am informed by Mr. Edwards that the FBI documents he has not provided me with in their unredacted form are not on file in the New York office of the FBI. Mr. Edwards informs me that these documents are on file at the FBI's headquarters in Washington, D.C., but that because of the volume of papers on file at FBI headquarters it would take a considerable period of time to obtain them.

11. There appears to be nothing in any of these redacted documents which corroborates the allegations in Hagan's affidavits, or which is otherwise supportive of the instant motion. Many of these redacted documents are, Mr. Edwards informs me, internal FBI memoranda which merely summarize and chronicle the New York City Police Department's investigation into the murder, and which contain no original information developed by the FBI. Others of these documents contain information developed by the FBI which paralleled information obtained by the New York City Police Department.

Still others refer to matters not material to the instant motion. However, if this Court should find unredacted copies of these documents necessary or useful to the determination of this motion, I will attempt to obtain them as soon as possible and make them available to the Court.

WHEREFORE, based on the foregoing responses submitted by the People, and on the accompanying affidavit of Judge Herbert Stern, and for the reasons set forth in the accompanying memorandum, it is respectfully requested that the motion be denied.

Dated: New York, New York  
July 14, 1978

  
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ALLEN ALPERT

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BENJAMIN GOODMAN, called as a witness,  
having first been affirmed, testified as  
follows:

BY MR. STERN:

Q What is your name, sir?

A Benjamin Goodman.

Q And where do you live Mr. Goodman?

A 1022 Longfellow Avenue.

Q And what do you do for a living?

A I work for the Inner State Church Center as a file clerk.

Q And will you try to keep your voice up and your speech distinct so that everybody can hear you?

A Yes, sir.

Q MR. FOREMAN: Mr. Goodman, do you want to take your coat off.

WITNESS: Thanks.

BY MR. STERN:

Q Now, Mr. Goodman, you were formerly a member of Mosque #7; is that correct?

A Yes, sir.

Q Did you join there in about 1958; is that correct?

A Yes, sir.

Q And after you joined, did there come a time that you became an official in the Mosque?

A Yes, sir.

Q And what position did you hold?

A Assistant Minister.

Q And who was the minister at the time that you were assistant?

A Brother Malcolm.

( Continued on next page)

BY MR. STERN:

Q What are the duties of a minister and an assistant minister?

A Well, I think it's mainly the duties of an assistant minister -- well, what my duty was, more or less to expound the religion of Islam, which is all that an assistant minister is supposed to do, because they have departments for everything else. And a minister's duty is actually, as far as I can see, is, you know, the welfare of the particular mosque that he is over.

Q In other words, he is in complete charge of the mosque?

A Yes, sir, he's supposed to be.

Q The mosque is under his control?

A Jurisdiction.

Q Jurisdiction?

A Right.

Q But as the assistant minister you say you are only concerned with religious matters?

A Yes, sir.

Q And you would teach the religion to the

membership; is that right?

A Right.

Q Did you use certain literature to teach the religion?

A We used the Bible and the Koran.

Q Did you use certain lessons?

A Yes, sir.

Q And there are two lessons, is that right, Lesson Number 1 and Lesson Number 2?

A There are two lessons.

Q How many lessons are there?

A I think it's four.

Q Four lessons?

A I think it is. Five.

Q What are they called?

A We have student enrollment, Lesson Number 1, Lesson Number 2, Lesson C-1, and the problem book.

Q Now, was it required of the membership in their religious teaching that they memorize the lessons?

A Yes, sir.

Q Verbatim; is that right?

A Yes, sir.

Q And you were one of the people responsible for teaching those lessons; is that correct?

A No, sir. We had classes set up for the lessons and mostly what we taught from the rostrum was the religion from the Bible, from the Koran, the Prophets and what have you. There are special classes that they have to, you know, to recite the lessons.

Q Who conducts those special classes?

A Well, it rotates. You know, they have different people sometimes conducting them.

Q As an assistant minister you would sometimes conduct them; is that right?

A I have yes.

Q Now, did there also come a time when you yourself became a minister?

A No, sir, an assistant minister.

Q Did there come a time when branch mosques were opened up in Long Island and one in Brooklyn?

A Right.

Q Did you have any special duties in reference

to these branch mosques?

A Oh, yes. I was an assistant minister in Long Island and also in Brooklyn.

Q Who was your superior?

A Minister Malcolm.

Q He was your superior in -- he was a minister --

A He was a minister over all of it.

Q But you were in effect a minister of the mosque in Brooklyn and also the mosque in Long Island?

A Oh, no. No. I was an assistant in Brooklyn and ~~an~~ assistant in Long Island.

Q Who was your superior in Brooklyn or Long Island?

A Minister Malcolm.

If

Q /He wasn't in Long Island and you were, who would be the minister in charge of the mosque?

A Repeat that again?

Q If Brother Minister Malcolm were not present in Brooklyn and somebody had a spiritual problem, whom would they go to?

A Oh, well, you see, there were about, I guess maybe five or six assistant ministers that rotated from mosque to mosque. Number 7 in Long Island and also in Brooklyn. It wasn't just myself.

Q Isn't it a fact that while you were assigned to Brooklyn and Long Island, even though you were under the general authority of Malcolm, still you were responsible for the conduct of those mosques; isn't that correct?

A Spiritual conduct, yes.

Q Were you paid a salary during that time?

A Yes, sir.

Q How much were you paid?

A For about four months. When I was in Brooklyn. I received \$75 a week.

Q As a minister or assistant minister, but operating or practicing in Brooklyn, in addition to spiritual lessons, would you have any other duties?

A Well, I was supposed to more or less keep the Muslims in -- giving them an understanding of as far as selling the papers, as far as, you know, keeping the donations,

you know, up as much as possible.

Q In other words, you were responsible for the complete administration of the mosque?

A Oh, no, no, no. No. I was not responsible for the complete administration.

Q Well, the membership in Brooklyn, when you were there as assistant minister, would sell newspapers; is that right?

A Right.

Q They would also make weekly donations?

A Those that could afford it, yes.

Q How much would they be expected to give?

A I think it was something like thirteen or fifteen dollars.

Q A week?

A Yes, sir.

Q In addition, they were expected to sell 150 newspapers every two weeks?

A I am not sure if it was 150, as I told you about. Somewhere in that neighborhood. I thought it was a hundred.

Q And during Saviors Day they were expected to give \$125; is that right?

A \$100.

Q Excuse me?

A \$100.

Q During that time it was \$100?

A Yes, sir. See, I don't -- like I say, I been out since last year. Maybe some things has happened that I don't know about. But at that time it was \$100.

Q Well, while you were in Brooklyn and while you were in Long Island, acting in the capacity that you have described, whom would they give their donations to?

A To the secretarial department. In other words --

Q Didn't you just state that you were responsible for donations?

A I didn't say I was responsible for donations. I say I was supposed to more or less explain to them the importance of keeping up their donations or selling newspapers. But they had a special department, the secretairal department, that, you know, that take up

the donations, that they give it to.

Q In reference to a run meeting, for instance, after the meeting which you would conduct, you would call for donations; is that right?

A Well, see, this is public donations. This is like in a church where you take up a collection.

Q That is in addition to the dues, I understand that.

A Right.

Q If you would take a collection up in the church, or the temple, rather, and you collect all the money together, is that right, who would collect the money?

A It wasn't any particular people. As far as public donations, you know, is concerned; but as far as personal, you know, weekly donations, it was a special department for that.

Q Take the case of a typical brother. Let us say he gave public donation of one dollar. Let us take that dollar and follow it. Where does it go?

A It goes to the secretarial department.

Q How does it get there?

A Well, whenever the people take -- a public donation, whenever they take the money up it goes to the secretarial department, they count it.

Q Did you have a secretarial department in Brooklyn and Long Island?

A All mosques have secretarial departments.

Q Who was your secretary while you were in Brooklyn?

A Brother Masio (phonetic) was the secretary over that particular -- you know, over all the --

Q How would the money come to Brother Mason?

A Well, we would take it into -- for instance, if I go in the next day, I would take it over, you know, to Manhattan.

Q The same with the proceeds from newspaper sales, they would eventually go to Mason, too?

A Well, all of it goes together.

Q As the minister or the assistant minister in one of these mosques, you would take the money over to Masio, wouldn't you?

A Br leave it at the news office, or whatever.

Q In other words, you would transmit the money to --

A To Manhattan.

Q To Manhattan Mosque Number 7; is that right?

A Yes, sir.

Q Now, did there come a time when you were relieved of your duties as an assistant minister in charge of these mosques?

A No, sir, I quit.

Q You quit?

A Right.

Q When was that?

A Sometime -- I think somewhere around -- around April or May. Of last year.

Q Of 1964?

A Yes, sir. The early part of 1964.

Q That would be approximately four months after Malcolm X had been suspended; is that right?

A Something like that. Something like that.

Q Now, during this period of time were all

the ministers and assistant ministers instructed to speak about Malsolm X at mosque meetings?

A I don't know if they all were. If they receive any special instructions to speak about him. But many of them were doing it.

Q What were they saying?

A Well, I mean, you know, for instance, in the Koran there is chapters on the hypocrite, and more or less like, you know, defamation of character, you know, that Mohammed taught him what he knew and things of that nature.

Q It was taught in every mosque that Malcolm X was a ~~pk~~ hypocrite?

A I didn't go to every mosque.

Q It was taught in Mosque Number 7 that Maleolm X was a ~~pk~~ hypocrite; is that right?

A Yes, sir, it was taught. And also in the newspapers.

Q And were you asked to teach that, too?

A That he was a hypocrite? Not directly. You know. But by not doing it, evidently, I guess, you know, maybe they figured out I sympathized with him.

Q Why did you leave?

A Because I just -- I wasn't going, you know, stand up on the rostrum and ~~talk~~ talk about another brother, you know, anyone.

Q Did somebody suggest to you that you should?

A Not directly.

Q Well who did indirectly?

A Well, just the general atmosphere of everyone else. For instance, if three gentlemen begin to talk about Khrushchev is a communist and the fourth one said nothing, well, automatically they would say he sympathizes with Khrushchev. So I lost my spirit to, you know, to continue like that. I just quit.

Q In other words, everybody that you knew about was speaking against Malcolm X from the podium and because you didn't want to do so --

A Not everybody. Not everybody. But most of them that I heard did.

Q Whom did you hear?

A Well, sir, I prefer not to call ~~these~~ people's names. The ministers -- most of the ministers.

Q Just name their names.

A I don't particularly want to sit here and name, you know, ~~xxxxx~~ people who said this or people who said that. But most of the ministers that -- Minister James.

Q James 3X?

A Yes, sir. You know --

Q Captain --

A Minister Louis.

Q Captain Joseph?

A Joseph would talk. I mean most of them.

Q What would they say?

A Well, you know, that the messenger taught him what he knew and that -- that he was wrong in talking against the messenger. You know, that Mr. Mohammed told him not to say anything, you know, and he continually talked. Or said his -- certain things put in the newspapers. Like his picture. Things like that that they talked about.

Q Did they say he was a ~~pk~~ hypocrite?

A Well, the way they were talking, you know, significance, you know, that he was a hypocrite. For instance, if you

go against Islam or Mr. Mohammed, then you are considered a hypocrite.

Q Were you also considered a ~~xxx~~ devil for that?

A Who, me?

Q If you go against the nation of Islam and Elijah Mohammed, are you considered to be a devil?

A I never heard of anyone being considered to be a devil for that.

Q Have you heard the expression?

A I heard the expression of devil.

Q Who is a devil?

A You mean who we are taught the devil is?

Q Yes.

A The white man.

Q And is there and specific -- withdrawn.

when you heard these men calling Malcolm X a hypocrite, did they also make reference to any part of the Koran?

A I don't exactly quote verses. I think most of the 9th chapter deals with it. I think it's called the immunity. Most of that deals with a hypocrite.

Q And they would refer to that chapter when they talked about it; is that correct?

A Well, sometimes I think they would refer to it. I think that has more in it concerning hypocrites than any other chapter. Except chapter 4 has something in it too.

Q Directing your attention to -- I withdraw that. There came a time after you left that you joined Malcolm X's Moslem Mosque, Incorporated; is that right?

A Yes, sir.

Q And your position there was also assistant minister; is that right?

A Well, I used to help him. I don't know if you would say assistant minister, but I used to teach for him. And along with others. Because he wanted to more or less expound Islam the way it's being taught in the other parts of the world.

Q Now, directing your attention to Sunday, February 21, 1965, did there come a time that day when you went to the Audubon Ballroom?

A Yes, sir.

Q What time did you go there?

A I think I got there about 2:30; somewhere in the neighborhood of 2:30. I think. I think so anyway. I wouldn't say right on the dot of 2:30, but somewhere in that neighborhood.

Q You could be off by about forty-five minutes?

A Oh, no, I couldn't; because I left home was after two o'clock and I caught a cab over.

Q When you got to the ballroom, did you know that you were going to speak?

A No, sir.

Q And when were you informed that you were to speak?

A Well, when I got in someone told me, I think they were from the OAU, one of the members, told me that Brother Minister wanted to see me. So I went directly in the back where he was.

Q He was backstage; is that right?

A Yes, sir. And he was very nervous. And I found out because it was Dr. Galamison was supposed to come and he didn't get there. So, the shiek, this man from Mecca, he came back and Brother Minister became more nervous

and ran all of us out. So we went out and sat down.

Then I think Sister Sarah came and got me.

Q You were designated to speak; is that right?

A Yes, sir. She told me that I was to open up.

Q That was because Dr. Milton Galamison, who was supposed to speak before Malcolm X, had cancelled; is that right?

A Yes, sir, he had learned that he had said he wasn't coming.

Q And then you got up and gave the opening remarks; is that right?

A Well, Sister Sarah, she was going <sup>to</sup> give me her notes and -- but I also carried notes, in case somebody else --

Q In case you had to make a public speech?

A In case I had to open up. As a matter of fact, as assistant ministers we always did that. I asked him, "How long do you want me to talk?" He said about a half hour, which is very unusual for someone, you know, to open up for a half an hour. And he said because he didn't have the charter for the OAU and the people were expecting it. So I told him I would open up in such a way where

when he come on the people would be ready to accept him, telling them that he didn't have time to get this charter together.

Q You did speak; is that right?

A Oh, yes, sir.

Q And there came a time while you were speaking that Malcolm X came on the stage; is that right?

A Yes, sir.

Q And after you saw him on the stage you concluded your remarks; is that right?

A Well, when I saw him sitting behind me and I heard him say, "Make it plain" -- that's what he say when he wanted to come on, "Make it plain." So then I introduced him.

Q What did you do after you introduced him?

A Well, I was going to sit down where he just got up from in the chair and he stopped me. He told me to go in the back and tell them to let him know the minute that Raff (phonetic) Cooper comes in. And so I went in, you know, in the room there, and --

Q You went backstage?

A Yes, sir.

Q Who was backstage when you were there?

A Brother James and Sister Sarah. If there was anybody else, I don't remember.

Q What happened after you were backstage?

A Well, I guess about fifteen seconds we heard this -- you know, some kind of disturbance, a lot of people were, you know, it sound like they were excited about something. And then -- a few seconds later we heard these noises go off. First it sounded like cap pistols or a string of firecrackers shooting off from a distance. And then I guess, I say five, six seconds later, a sound went off in front, which made me know then that they were, you know, was guns shooting. So at that moment I hit the floor. And I guess it was all over in about maybe thirty seconds. There was a lot of shots were fired.

Q You didn't see who was firing because you were backstage; is that right?

A Well, I was on the floor.

Q You were behind the stage; is that right?

You were in a room; is that right?

A Yes.

Q Which was separate from the ballroom?

A Separate from the exposed part of the stage. You know.

Q In other words, you were in an enclosed area from which you could not see out; is that right?

A Right.

Q So you did not see anybody firing; is that right?

A Right.

Q Now, you gave a speech for about half an hour; is that correct?

A I don't know if it was a half hour. Because I didn't time it.

Q It was about a half an hour? Well, you spoke for some time?

A Yes, sir.

Q When you speak, Mr. Goodman, when you speak do you look at the audience or do you look above the audience?

A Well, you know, you take in the whole audience.

Q Do you actually look at the people as they sit there or do you project out?

A Well, when I speak I mostly look, you know, look out, to try to weigh the audience, you know; if they are going to sleep you have to change whatever you are saying. If they, you know, if they in one mood you have to more or less say something else. You more or less weigh the whole audience.

Q Do you recall that on March 30th you came to my office and spoke to me?

A Yes, sir.

Q Does it refresh your recollection if I remind you that at that time you told me that when you speak you look over the heads of the crowd? Did you tell me that?

A I don't remember that.

Q You didn't tell me that?

A I don't know. I say I don't remember if I told you that.

Q When you speak do you look over the heads of the crowd?

A I don't understand what you mean by look over their heads.

Q You knew that Johnson and Butler from Mosque Number 7; is that right?

A Yes, when I was there I knew them.

Q Now, you stood up in front of the audience for a period time speaking; is that right?

A Yes, sir.

Q Do you know whether or not Butler and Johnson were in the audience as you spoke?

A No, sir.

Q You do not know if they were there or if they were not there?

A No, I don't.

Q You didn't see them there; is that correct?

A I didn't see them, no. It's difficult for me to --

I mean, I can't see them being there like that and know --

Q Just a minute.

A Yes.

Q Were you looking at the faces of the audience

as you spoke?

A Not any particular people, sir. I guess -- have you ever spoken to a large audience, you just don't pick out a person, you know, you take in the whole audience because you have a message for the audience, not just a particular person. So I wasn't looking for anyone.

I was more or less there to open up so Brother Minister could tell the people that he didn't have the charter. Not to see who was there.

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 that they were, because I didn't see them.

Q All right. Mr. Goodman, in reference to the lessons that you taught in Mosque Number 7, I specifically direct your attention to Lesson Number 1, Question and Answer Number 10. Do you know that lesson?

A Yes, sir.

Q Would you repeat it?

A I don't know if I can repeat all of it but I will do the best I can. It says, "Why does Mohammed and any

Muslim murder the devil? What is the duty of each Muslim in regard to four devils? What reward does a Muslim receive by bringing and presenting four devils at one time?" That's the question. And the answer is -- gosh. You see, I have been away from this stuff so long it's difficult to remember.

Q Just a minute.

(Mr. Stern steps out of grand jury room and returns.)

Q Okay, you can continue.

A Anyway, it's part of it is because they know -- they know, he is a snake and if he be allowed to live he will sting somebody else.

Q Would this refresh your recollection?

"Answer: Because he is 100% wicked?"

A Wicked, right. Right.

Q And?

A Go ahead, a little more.

Q And the --

A The rules of Islam.

Q The laws of Islam --

A The laws of Islam.

Q His ways and --

A Are like the -- the grass and --

Q What does that portion mean so far?

A In one way when we were taught this particular lesson was that four devils represented four vices. For instance, like smoking, drinking, narcotics, and -- smoking, drinking, narcotics, some other vice. And which mean that these were vices that were -- they were evil vices. And if you stopped all of them, then you supposed to get a free trip to Mecca, which one of us ever really received. Because I stopped smoking, stopped drinking and stopped everything else I was doing that was wrong and I never received any, you know, any trip.

Q Didn't you just testify a few minutes ago that the devil was the white man?

A Oh, yes. But see, this thing -- see, you have, for instance, you have spiritual interpretations of lessons and then you have ~~xx~~ other interpretations of lessons. In Lesson Number 2 it also says that a devil is any -- is any live germ grafted from original is devil. So it

has more than just one meaning.

Q Now, the first portion of the answer says in reference to why you should murder the devil, because he is 100% wicked?

A Right.

Q And will not keep and obey the laws of Islam.

A Right.

Q Who does the "he" refer to there?

A I don't know. I mean, I'm telling you how we were taught the lessons. And plus if I am not mistaken, I think the ~~lessons~~ lessons was written somewhere back in the thirties.

Q These are the lessons that you learned verbatim, aren't they?

A They still were written sometime back in the thirties, if I am not mistaken, around 1934.

Q Then the answer continues, "His ways and actions are like a snake of the grafted type." Who does the "he" refer to there?

A You can refer to an evil as "he". This is the way --

this particular question was interpreted to us. It wasn't interpreted to us any other way except that. If I am not mistaken, I think the other day when this man, this other police officer was telling me, that we had to get four white hairs to go to Mecca. Now, this is what I was told in your office, this is nothing but an outright lie. And --

Q Mr. Goodman, please.

A Yes, sir. Okay.

Q The sentence that is, "His ways and actions are like a snake of the grafted type." Directing your attention to the other lessons in reference to how the white man came into being, how were you taught or how was it taught in the nation of Islam that the white species of the human race came into being?

A Oh, that a scientist, a black scientist by the name of Yacoop (phonetic) gathered together a certain amount of people and that he caused so much disturbances in the east that he was exiled to an island in Baylon (phonetic) where he set up a system of birth control, and through this system of allowing only -- only allowing the lighter

one -- not allowing two coal black people to marry, but allowing a lighter one and darker one or lighter ones to marry, that through this system of birth control that this particular race of people called Caucasians came into being.

Q Aren't you taught or isn't it in the lesson that this method of birth was a graft?

A Yes.

Q Now, once again referring to Question Number 10, "Answer: His ways and actions are like a snake of the grafted type."

A Yes.

Q What does that refer to?

A Sir, I can only tell you what was taught to us. Now I don't know the true meanings of these lessons. As a matter of fact, I don't know anyone who really knows the true meanings of these lessons. Now they were taught that this particular lesson refers to four vices, which we all had to quit.

Q The next sentence, the answer, "So Mohammed learned that he could not reform the devils, so they had

to be murdered." NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records

A Oh, you bring something else to my attention. In learning about this Mohammed we were taught that Mohammed Ben Abdullah 400 years ago when he was trying to convert the people to Islam, and that he was called back into -- he tried to convert whites to Islam, especially -- I think he sent letters to the Roman emperor and some Roman general, and he was told that he could not convert these people, that they would not obey Islam, and from that moment is when the Muslims decide to kill them.

Now, this --

Q In other words, the devils referred to there are the ones to the -- refer to these Caucasians, the whites; is that right?

A The whites, yes.

Q So we are not talking any more about vices, we are talking about a group of people; is that right?

A Yes, sir.

Q So when it says here, "So Mohammed learned that he could not reform the devils, so they had to be murdered," you are talking about a group of people?

You are not talking about vices?

A In the Mohammed that existed 1400 years ago.

Q This is the third sentence in the answer.

It comes after, "Because he is 100% wicked and will not keep and obey the laws of Islam. His ways and actions are like a snake of the grated type. So Mohammed learned that he could not reform the devils, so they had to be murdered." In other words, all this refers to Caucasians?

A I wouldn't say that. Because as far as we were -- it was interpreted to us that the four devils in that lesson meant the four vices. And that particular lesson meant four vices that we all had to stop doing in order to become a Muslim.

(continued on next page)

BY MR. STERN:

Q Now, the next sentence, the fourth sentence in the answer says, "All Moslems will murder the devil because they know he is a snake and also if he be allowed to live, he would sting someone else."

Q What did the devils refer to there?

A I don't know.

Q Then the next sentence is, "Each Moslem is required to bring four devils, and by bringing and presenting four at one time his reward is a button to wear on the lapel of his coat, also a free transportation to the Holy City Mecca to see Brother Mohammed."

A Yes.

Q What do the deviles refer to there?

A The four devils, as I said before, we were taught referred to four vices that you would have to quit in order to be a Muslim.

Q Is it your testimony that within this one question and answer the devil sometimes seems to mean caucasions<sup>s</sup> and sometimes --

A See, in teaching the life of Muhammad -- Mohammed,

this -- this particular phase of Mohammed's life was brought into -- into the teaching, but as far as getting it from the lesson, in saying that this refers to this and this refers to that, I -- I don't -- we -- it wasn't explained to us in that manner. The four devils to us meant the four vices in which we all happened to stop doing to be a Muslim, you can't smoke, you can't drink, you can't gamble, or you can't carry on any vices.

Q Now, are you familiar with question number 10 and its answer in lesson number one, beginning was the meaning of the -- the question begins: "What is the meaning of the F.O.I.?"

A Right, Fruit of Islam.

Q And what is the answer?

A The name given to the Military training of men who belong to Islam and North America. I don't know, there might be something else.

Q And are you familiar with the 13th question which is: "What is the meaning of lieutenant and captain?"

A What is the meaning of lieut and capt?

Q What does that mean?

A Lieutenant and captain.

Q What is the answer?

A God -- sir, you know since I have been in this computer system course, a lot of this stuff you talking about now has left my mind.

Q Is the answer --

A I have been away from it for quite sometime.

Q Is the answer: "Captain and Lieutenant.

The duty of the captain is to give orders to the lieutenant --"

A And the lieutenant to train private soldiers.

Q "-- teach the soldiers and also train them."

A Also train them.

Q In other words, as a member of the Nation of Islam it would be the duty of the members to follow the orders of the officers, is that correct?

A Oh, yes.

Q And they are formed into a military body for military training; is that correct?

A Well ---

Q Into squads.

A You say military training explains it a little bit because whenever trained with guns, we never trained with bayonets, we never trained --

Q Mr. Goodman, you are the assistant minister, the word military training appears in the word military while you were --

A Yes.

Q What does that mean?

A I'll explain to you what it was about, we took exercises, we were taught discipline, we were taught how to fast, three days a month.

Q Is that military training?

A Of course it's discipline. But as far as anything outside of that, when you say military, you know, right away I think about -- you know, guns and you know, knives, knives and all that. We -- it was nothing like that ever took place.

Q What sort of exercises did you take?

A Regular exercises, just like --

Q Karate, judo?

A We practiced judo.

Q I see.

A As a matter of fact they have many schools for judo and karate.

Q Now, you say that the devils in question ten and its answer refers to the vices; is that right?

A The four -- we were taught about the four devils was four vices.

Q Except of course for the third sentence which refers to the caucasians; is that right?

A In the life of Mohammed we were taught that Mohammed was called back to Mecca and told that he could not reform these people.

Q Now, in lesson number two, which deals with how the devil came into being, that lesson is solely and exclusively -- when it mentions devil, concerned with the death, birth and formation of caucasians; is that right?

A Not solely and exclusively.

Q No? We're in that lesson is -- that the devil taught as being just a vice and not a man?

A Well, sir, I don't know how your -- broad your understanding is of those lessons, but if you notice

in the Bible men are spoken of as trees, and so that, you know, this particular version means a tree, it -- I mean it has a spiritual meaning and it has a physical, and you apply the physical to the spiritual. So, in -- if you read further in that lesson you will also see that a devil is any live germ traveling from original. Any time something becomes other than the nature, in which it was created in itself is called devil.

Q You are referring to question 33?

A I don't know exactly.

Q Lesson 2?

A I don't know which question.

Q "Answer, the devil a grafted man which is made weak or weakend or any grafted life germ from level, is devil."

A That's right, any life germ anything that had life in it.

Q Well, does a life have vice in it?

A Vice itself has no life in it, but once -- once -- you are obtained -- that vice, then that vice becomes a part of you therefore it has life. You and the life and the vice is synonemous.

Q Well, lesson -- question number 33 and

lesson 2 defining devil comes after all the other questions; isn't that right?

A Sir, you know, like I said, I have been away from those lessons so long I don't know all those lessons. I haven't studied them in a long time.

Q Question 33 is the 33rd question; is that right?

A Yes.

Q Now, that comes after the question and answer which describes how the devil was made and by whom; isn't that correct? And describing how the caucasians was grafted from the original people; isn't that right?

A Number two?

Q Yes. Question 33 and answer -- answer comes after all that on explanation.

A What is 33?

Q That is what is the devil?

A Is that 33? Yes, yes, I think so, I think so.

Q So that by the time you reached question 33 and its answer there isn't much doubt as to what a devli is, is there?

A No.

Q No, right.

MR. STERN: Are there any questions  
from the grand jury?

Thank you very much, Mr. Goodman.

(Witness excused.)

Appendix "2"

F B I

Date: 2/27/65

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

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TELETYPE

URGENT

Via \_\_\_\_\_

(Priority)

TO: DIRECTOR, FBI (100-399321)  
 FROM: SAC, NEW YORK (105-8999)  
 MALCOLM K. LITTLE, ALSO KNOWN AS, IS DASH MMI

RE NEW YORK TELETYPE TO BUREAU FEBRUARY TWENTY SIX LAST CAPTIONED AS ABOVE, WHICH REPORTED THAT NEW YORK CITY POLICE DEPARTMENT HAS ADVISED THAT WITNESS RONALD TIMBERLAKE 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, RONALD TIMBERLAKE WAS FIRST CONTACTED BY NEW YORK OFFICE AGENTS, AT HIS REQUEST, WHEN HE TURNED OVER FORTY FIVE CALIBER AUTOMATIC HE HAD RECOVERED AT SCENE OF KILLING. TIMBERLAKE WAS AT FIRST RELUCTANT TO SERVE AS WITNESS BUT IS NOW COOPERATING FULLY WITH POLICE.

ON FEBRUARY TWENTY SIX, CHIEF OF DETECTIVES PHILLIP WALSH, INSPECTOR THOMAS C. RENAGHAN, AND DEPUTY INSPECTOR ARTHUR GRUBERT (NA), NEW YORK CITY POLICE DEPARTMENT, ALL EXPRESSED THEIR DEEP APPRECIATION TO NEW YORK OFFICE AGENTS FOR THE EXCELLENT COOPERATION IN TURNING OVER WITNESS TIMBERLAKE AND THE

1-New York  
 1-Supervisor #43

RJR:cds  
 (2)

*SA's name*  
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 FILED  
 MAR 1 1965  
 FBI - NEW YORK  
 [Redacted]

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

Special Agent in Charge

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Via \_\_\_\_\_  
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NY 105-8999

PAGE TWO

GUN HE RECOVERED. ONE POLICE OFFICER SAID THAT AS OF FEBRUARY  
TWENTY SIX TIMBERLAKE WAS THE MOST IMPORTANT WITNESS THEY HAD.

FOR BUREAU'S INFORMATION.

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Special Agent in Charge

FBI WASH DC 2-40 AM 2-26-65 HFL

9-30 PM URGENT 2-25-65 NWL

TO DIRECTOR CHICAGO NEWARK AND NEW YORK  
NEW YORK VIA -----3----- WASHINGTON - ENCODED  
FROM PHILADELPHIA 252025

*10/1/65*

MALCOLM K. LITTLE, AKA, IS-MMI.

RE PHILADELPHIA CALL TO NEW YORK TODAY.

ON FEBRUARY TWENTYFIVE, NINETEEN SIXTYFIVE, GEORGE MITCHELL /PROTECT IDENTITY/, FIVE ONE THREE FOUR HAZEL AVENUE, PHILADELPHIA, WHO IS IN POSITION TO FURNISH RELIABLE INFORMATION, BUT WITH WHOM INSUFFICIENT CONTACT HAS BEEN HAD FOR EVALUATION, ADVISED AS FOLLOWS.... HE RECOGNIZED NEWSPAPER PHOTO OF TALMADGE HAYER, AKA THOMAS HAGAN, AS PERSON HE KNEW AS NOI AND FOI MEMBER IN NINETEEN SIXTYTHREE AND NINETEEN SIXTYFOUR. CANNOT RECALL X NUMBER, BUT BELIEVES FIRST NAME WAS TALMADGE OR THOMAS. ATTENDED NOI MEETINGS WITH HAYER IN NEWARK AND PATERSON, N.J. ALWAYS ASSUMED HAYER MEMBER MM NUMBER TWENTYFIVE, NEWARK, HOWEVER, NOW FEELS MAY HAVE BEEN MEMBER OF TEMPLE IN PATERSON. AT MEETINGS, BOTH NEWARK AND PATERSON, HAYER WAS SUXXX SECURITY GUARD AND SEARCHED MITCHELL MOST THOROUGHLY ON SEVERAL OCCASIONS. MITCHELL ALSO OBSERVED HAYER AT MEETING AT ARENA, FOUR FIVE THREE SEVEN MARKET STREET, PHILADELPHIA, ON SEPTEMBER TWENTYNINE, NINETEEN SIXTYTHREE

END PAGE ONE

*action in*

*10/1/65 Hayer*

105-8999

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*10/1/65*

TO DIRECTOR, CHICAGO NEWARK AND NEW YORK

PAGE TWO VIA WASHDC - ENCLOSED

AT WHICH ELIJAH MUHAMMAD WAS PRINCIPAL SPEAKER. HAYER WAS ON SEARCH  
DETAIL INSIDE ARENA ON NORTH CORRIDOR.

LAST SAW HAYER IN CHICAGO FEBRUARY NINETEEN SIXTY FOUR AT SAVIOR'S

DAY CONVENTION. HAYER SAT ON EITHER FIRST OR SECOND ROW WHEN

ELIJAH MUHAMMAD SPOKE AS A GUARD FOR MUHAMMAD IN EVENT OF

TROUBLE. FEBRUARY TWENTYFIVE, NINETEEN SIXTYFIVE, GEORGE MITCHELL

MITCHELL DESCRIBED HAYER AS HANDSOME AND WITH PHYSICAL ABILITY TO  
TAKE CARE OF HIMSELF.

CHICAGO AND NEWARK CONTACT SOURCES IN ATTEMPT TO VERIFY

AND ENLARGE UPON ABOVE.

NEW YORK SEND PHILADELPHIA PHOTOGRAPHS OF HAYER FOR  
DISPLAY TO MITCHELL AND OTHER SOURCES.

ENDS

NY 55 JAA

FBI NEW YORK

*Photos sent to Phil. 3/2/65 JAA*

F B I

Date: 2/22/65

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(Type in plain text or code)Via TELETYPE URGENT  
(Priority)TO: DIRECTOR, FBI (100-399321)  
SAC, CHICAGO  
SAC, PHILADELPHIA

FROM: SAC, NEW YORK (105-8999)

SUBJECT: MALCOLM K. LITTLE aka  
IS-MMIRE NEW YORK TELEPHONE CALLS TO AND FROM THE  
BUREAU AND TO CHICAGO, FEBRUARY TWENTY ONE AND TWENTY TWO,  
NINETEEN SIXTY FIVE.NY ~~REDACTED~~ <sup>Informant symbol #</sup>, RELIABLE, ADVISEDTHREE TEN P.M., FEBRUARY TWENTY ONE, NINETEEN SIXTY FIVE,  
THAT 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 SPEAKERS PLATFORM WASOBSERVED. <sup>REUBEN</sup> RUBEN X FIRED SEVERAL SHOTS AT THE ASSASSIN.

- 1 - Washington Field (AM) (RM)(INFO)
- 1 - Boston (AM) (RM) (INFO)
- 1 - Cleveland (AM) (RM) (INFO)
- 1 - Los Angeles (AM) (RM) (INFO)
- 1 - Newark (AM) (RM) (INFO)
- 1 - San Francisco (AM) (RM) (INFO)

JCS:rfh  
(7)

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FBI - NEW YORK	

*SA's name*

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Special Agent in ChargeSent WA 5:30 AM M Per [Signature]

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PAGE TWO

NYCPD CAPTURED ONE PERSON OUTSIDE OF AUDUBON BALLROOM WHO WAS LATER IDENTIFIED AS THOMAS HAGAN, NEGRO MALE, AGE TWENTY TWO. HAGAN HAD IN HIS POSSESSION AT THIS TIME A FORTY FIVE AUTOMATIC CLIP CONTAINING FOUR ROUNDS OF AMMUNITION. HAGAN WAS SHOT IN THE LEFT THIGH AND WAS ADMITTED TO JEWISH MEMORIAL HOSPITAL FOR TREATMENT, AND AT FIVE THIRTY P.M., FEBRUARY TWENTY ONE, NINETEEN SIXTY FIVE WAS TRANSFERRED TO BELLEVUE HOSPITAL, NYC. NYCPD ADVISED THAT A SAWED OFF, DOUBLE BARREL SHOTGUN WAS FOUND ON THE STAGE OF THE BALLROOM WRAPPED IN A GREEN SUIT COAT, CONTAINING A KEY FOR YALE LOCK, PACK OF CAMEL CIGARETTES, EMPTY GLASS CASE BEARING OPTOMETRIST'S NAME, M.M. PINE, MAIN STREET, FLUSHING. SHOTGUN CONTAINED TWO DISCHARGED REMINGTON EXPRESS SHELLS, SINGLE O BUCKSHOT SHELLS AND INDICATIONS THAT GUN WAS RECENTLY USED. ALSO LOCATED IN THE HALL WERE THREE FORTY FIVE CALIBER SHELLS AND SLUGS, SIX NINE MILEMETER SHELLS AND TWO SLUGS AND THREE THIRTY TWO CALIBER SLUGS AND TEN PIECES OF LEAD, PRESUMABLY FIRED FROM A SHOTGUN.

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PAGE THREE

ANOTHER SOURCE, WHO IS IN A POSITION TO FURNISH RELIABLE INFORMATION, ADVISED THAT MALCOLM WAS PRESENTED TO THE AUDIENCE AT APPROXIMATELY THREE TWO P.M. AND HAD MOVED TO THE 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 X'S BODY GUARDS MOVED IN THE DIRECTION OF THIS INDIVIDUAL AND ATTEMPTED TO SUBDUE HIM, WHEREUPON MALCOLM X SAID QUOTE HOLD IT UNQUOTE. AT THIS TIME SOURCE WAS WALKING TOWARD THIS MAN IN FRONT OF THE AUDIENCE AND FROZE 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

WENT TO THE REAR

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PAGE FOUR

WERE DRESSED IN DARK CLOTHES, STILL IN A  
CROUCHED POSITION THE GUNMEN HASTILY MOVED TOWARD THE  
EXIT AND SEEMED TO BE STILL FIRING. SOURCE ADVISED THAT  
<sup>REUBEN</sup>  
~~RUBEN~~ FRANCIS, MEMBER OF MALCOLM'S GROUP, HAD SHOT ONE OF  
THE QUOTE DECOYS UNQUOTE AND THAT ONE OF THE GUNMEN WAS  
CAUGHT BY SEVERAL OF THE MMI MEMBERS.

TRUSTED MEMBERS OF THE MMI MET AT THE HOTEL THERESA  
AT WHICH TIME JAMES SIXTY SEVEN IX, WARDEN, EXECUTIVE  
SECRETARY OF THE MMI, STATED THAT HE HAD NEVER HEADED AN  
ORGANIZATION BUT WOULD DO ALL HE COULD TO PRESERVE THE IDEA  
AND KEEP THE PROGRAM ALIVE. HE ALSO STATED THAT A LESSON  
HAD BEEN LEARNED BY THE GROUP IN THAT NOW THEY MUST TIGHTEN  
UP THE SECURITY OF BOTH MEMBERS AND LEADERS AND STATED  
QUOTE WE ARE AT WAR UNQUOTE.

NYCPD ADVISED THAT IN ADDITION TO MALCOLM AND HAGAN,  
THE SUSPECT, BEING SHOT, TWO PEOPLE IN THE AUDIENCE WERE  
( STRUCK BY FLYING BULLETS. ONE WILLIE HARRIS, A MEMBER OF )  
MALCOLM'S ORGANIZATION, WAS SHOT IN THE RIGHT SIDE AND WILLIE  
PARKER WAS WOUNDED IN THE LEFT FOOT. BOTH WERE TAKEN TO

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PAGE FIVE

COLUMBIA PRESBYTERIAN HOSPITAL AND THEIR CONDITIONS ARE CONSIDERED GOOD. POLICE CONSIDER BOTH PARKER AND HARRIS TO BE MERELY ONLOOKERS AND NOT TO HAVE 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 GREASES IN THE CHEST AND THIGH. THIS AUTOPSY LOCATED ONE NINE MILEMETER SLUG, ONE FORTY FIVE CALIBER SLUG AND SEVERAL SHOTGUN PELLETS IN HIS BODY. THE POLICE HAVE CHARGED HAGAN WITH HOMICIDE ON MALCOLM X AND HAVE CHARGED <sup>REUBEN</sup> ~~REUBEN~~ X FRANCIS WITH FELONIOUS ASSAULT AND POSSESSION OF A DEADLY WEAPON. THE POLICE SAY THAT IN VIEW OF THE NATURE OF HAGAN'S INJURY HE MAY BE HOSPITALIZED FOR UP TO SIX WEEKS. THE NYCPD HAVE A WITNESS WHO HAS IDENTIFIED FRANCIS AS FIRING BACK AT ASSAILANTS OF MALCOLM X. FRANCIS IS PRESUMED TO HAVE FIRED THE SHOT WHICH STRUCK HAGAN. POLICE ALSO SUSPECT FRANCIS SHOT THE THIRTY TWO CALIBER REVOLVER USED IN THESE SHOOTINGS, THOUGH THE GUN HAS NOT BEEN LOCATED. THE POLICE NOW ESTIMATE THAT THE NUMBER OF MALCOLM'S ASSAILANTS NUMBER FROM TWO TO FOUR, INCLUDING

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PAGE SIX

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 HACKENSACK, NEW JERSEY, RESIDES THREE FOUR SEVEN MARSHALL STREET, PATTERSON, NEW JERSEY, ARRESTED ELEVEN SEVEN SIXTY THREE FOR RECEIPT OF STOLEN GOODS BY PASSAIC COUNTY BUREAU OF IDENTIFICATION, PATTERSON, NEW JERSEY, ARREST NUMBER THREE TWO NINE SIX ONE, NO DISPOSITION SHOWN. NYO AND NEWARK INDICES 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 INDICES ON HAGAN NEGATIVE.

RONALD TIMBERLAKE, SELF-ADMITTED OAAU MEMBER,  
RESIDING ONE SEVEN SIX FOUR BEDFORD AVENUE, BROOKLYN, NY,

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Special Agent in Charge

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PAGE SEVEN

TELEPHONICALLY CONTACTED NYO AND ADVISED HE HAS ONE OF THE GUNS USED TO KILL MALCOLM X. CONTACTED BY BUREAU AGENTS, TIMBERLAKE 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, TIMBERLAKE STATED HE WITNESSED THE SHOOTING FROM THE REAR OF THE AUDUBON BALLROOM AND BELIEVED FOUR TO FIVE NEGRO MALES PARTICIPATED IN THE SHOOTING. TIMBERLAKE 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'S MEN. AS THIS MAN TURNED TO RUN OUT THE DOOR, HE, TIMBERLAKE, 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, SCRAMBLED TO HIS FEET, AND BEGAN RUNNING OUT OF THE BUILDING. TIMBERLAKE STATED HE PICKED UP THE GUN AND TRIED TO SHOOT HIM BUT

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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. TIMBERLAKE DESCRIBED THE MAN WITH THE GUN 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.

INSPECTOR THOMAS G. RENEHGAN, DEPUTY INSPECTOR ARTHUR GRUBERT, N.A. AND DETECTIVE LOUIS W. JARLY, ALL OF THE NYCPD, CAME TO THE NYO AND PICKED UP THE FORTY FIVE CALIBER GUN MADE AVAILABLE BY TIMBERLAKE AND WERE ADVISED THAT THE 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. INSPECTOR RENEHGAN

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PAGE NINE

ADVISED THAT HE DID NOT DESIRE THAT WE ATTEMPT TO APPROACH THIS SOURCE 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 ~~SO~~ FRIGHTEN THIS POTENTIAL WITNESS, CAUSING HIM TO LEAVE THE NY AREA. NY WILL NOT RECONTACT THIS SOURCE AT THIS TIME PURSUANT TO INSPECTOR RENEGHAN'S REQUEST.

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PAGE 10

NY 105-8999.

POLICE INDICATE THEY HAVE THE FOLLOWING WITNESSES TO THIS SHOOTING: FREE LANCE REPORTERS CHARLES MOORE AND ALBERT MC CLELLAN, BOTH OF SIXTY-SIX RIVERSIDE DRIVE, NYC, WILLIE PARKER, TWO THREE NAUGHT FIVE THIRTIETH AVENUE, ASTORIA, DOB JANUARY TWENTY-SIX TWENTY-NINE, MENTIONED PREVIOUSLY, AND EDWARD PARENTHESIS LNU END PAREN, OF ONE NINE NAUGHT DASH NAUGHT THREE ONE HUNDRED ELEVENTH AVENUE, QUEENS, N.Y., A NEGRO MALE, AGE SIXTY-NINE.

JACK SHANAHAN, CITY DESK, ASSOCIATED PRESS, FIFTY ROCKEFELLER PLAZA, NYC, ADVISED FEBRUARY TWENTY-FIRST SIXTY-FIVE THAT ONE OF THEIR SOURCESTWHOSE RELIABILITY IS UNKNOWN BY THIS OFFICE, HAD STATED THAT SOME MEN, INCLUDING DONALD WASHINGTON AND OMAR (PH) (BELIEVED TO BE OMAR AHMED) (KNOWN OAAU MEMBERS IN NYC), WERE GOING TO CHICAGO EITHER BY PLANE OR CAR FOR THE PURPOSE OF KILLING ELIJAH MUHAMMAD, NOI NATIONAL LEADER. AP SOURCE ALSO ADVISED THAT PLANS HAVE BEEN MADE TO KILL JAMES SIXTY-SEVEN X WARDEN AND MARTIN LUTHER KING. AP SOURCE INDICATED THAT KING WAS TO HAVE BEEN KILLED WHEN THE STATUE OF LIBERTY WAS SUPPOSED TO HAVE BEEN DESTROYED. HE ALSO STATED THAT MALCOLM X WAS NOT DUE TO BE ASSASSINATED UNTIL TWO WEEKS

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Special Agent in Charge

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PAGE II

NY 105-8999

FROM TODAY (FEBRUARY TWENTY-ONE SIXTY-FIVE) BUT THAT THE SCHEDULE HAD BEEN MOVED AHEAD.

IT IS TO BE NOTED IN REFERENCE TO DONALD WASHINGTON THAT NY FOUR SIX NAUGHT FIVE R ADVISED FEBRUARY TWENTY-ONE SIXTY-FIVE THAT DONALD WASHINGTON IS DESCRIBED AS NEGRO, MALE, AMERICAN, LATE TWENTIES, FIVE FOOT NINE INCHES, ONE SEVENTY FIVE POUNDS, MEDIUM BUILD, BROWN EYES, BLACK HAIR, SMALL MUSTACHE, SMALL BEARD, VERY PRONOUNCED HOOK NOSE, COFFEE BEAN COMPLEXION, VERY NERVOUS, EXCITABLE MANNER. WEARS PAKISTINIAN TYPE GINNAHA CAP. OMAR AHMED WAS DESCRIBED BY NY FOUR SIX NAUGHT FIVE R AS FOLLOWS: 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.

NY ~~\_\_\_\_\_~~ <sup>Informant symbol #</sup> ADVISED HE OVERHEARD MARK CRAWFORD, REPORTER "LIFE" MAGAZINE, IN CONVERSATION WITH A GEORGE (LNU), WASHINGTON, D. C., APPROXIMATELY ELEVEN THIRTY P.M. FEBRUARY TWENTY-ONE SIXTY-FIVE DURING WHICH CONVERSATION

Approved: \_\_\_\_\_  
Special Agent in Charge

Sent \_\_\_\_\_ M Per \_\_\_\_\_

F B I

Date:

Transmit the following in \_\_\_\_\_  
(Type in plain text or code)Via \_\_\_\_\_  
(Priority or Method of Mailing)

PAGE 12

NY 105-8999

CRAWFORD STATED THAT THE KILLERS OF MALCOLM X WERE POSSIBLY IMPORTED TO NYC. NY ██████████ BELIEVED THE FOLLOWING STATEMENTS BY CRAWFORD TO BE ACCURATE, THAT CRAWFORD ADVISED GEORGE TO CHECK OUT WASHINGTON AND CIA BECAUSE THEY WANTED MALCOLM OUT OF THE WAY BECAUSE HE SNAFUED AFRICAN RELATIONS FOR THE U. S. INFORMANT ALSO OVERHEARD CRAWFORD CALL DICK DURHAM IN CHICAGO AT TELEPHONE AB FOUR EIGHT SIX TWO THREE DURING WHICH CONVERSATION CRAWFORD ADVISED DURHAM THAT TWO OF MALCOLM'S MEN WERE THEN IN CHICAGO HAVING FLOWN THERE TO HIT EITHER ELIJAH OR THE UNIVERSITY (PRESUMABLY UNIVERSITY OF ISLAM). HE ALSO ADVISED DURHAM TO STAY OUT OF THE WAY WHEN BULLETS START FLYING.

THE NYCPD ADVISED FEBRUARY TWENTY-ONE SIXTY-FIVE AT ELEVEN P. M. THAT THE PHILADELPHIA POLICE HAD CONTACTED THEM TO ADVISE THAT THEY HAD PICKED UP ONE LLOYD WRIGHT (BELIEVED TO BE AN 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

Approved: \_\_\_\_\_ Sent \_\_\_\_\_ M Per \_\_\_\_\_  
Special Agent in Charge

F B I

Date: \_\_\_\_\_

Transmit the following in \_\_\_\_\_  
(Type in plain text or code)Via \_\_\_\_\_  
(Priority or Method of Mailing)

PAGE 13

NY 105-8999

REGARD BY THE NYCPD. 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.

Approved: \_\_\_\_\_  
Special Agent in Charge

Sent \_\_\_\_\_ M Per \_\_\_\_\_

F B I

Date: 2/23/65

Transmit the following in \_\_\_\_\_  
(Type in plain text or code)Via TELETYPE URGENT  
(Priority)

TO: DIRECTOR, FBI (100-399321)

FROM: SAC, NEW YORK (105-8999)

MALCOLM K. LITTLE, AKA; IS DASH MMI

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

LT. FRANK SULLIVAN, HOMICIDE SQUAD, NEW YORK CITY POLICE DEPARTMENT (NYCPD) STATED HE CONTACTED RONALD TIMBERLAKE EVENING OF FEBRUARY TWENTY TWO, SIXTY FIVE. HE STATED TIMBERLAKE WAS BELLIGERENT AND REFUSED TO GIVE A STATEMENT EVEN AFTER NYCPD OFFERED HIM PROTECTION. TIMBERLAKE SAID HE DIDN'T WANT TO GET INVOLVED IN ANYWAY WITH THE INVESTIGATION OF MALCOLM X'S DEATH. TIMBERLAKE WAS TAKEN TO BELLEVUE HOSPITAL, NYC BY NYCPD WHERE ACCORDING TO LT. SULLIVAN TIMBERLAKE EITHER COULD NOT OR WOULD NOT IDENTIFY TALMADGE HAYER AS ONE OF THE ASSASSINS. LT. SULLIVAN STATED HAYER'S FINGERPRINT WAS FOUND ON THE CLIP OF THE FORTY FIVE CAL. PISTOL TURNED OVER TO THE NYO BY TIMBERLAKE. NYCPD PLANS TO RECONTACT TIMBERLAKE IN ABOUT TWO DAYS.

① - New York  
1 - Supv. #43

JCS:mrn  
(2)

Approved: \_\_\_\_\_  
Special Agent in Charge

Sent \_\_\_\_\_ M Per \_\_\_\_\_

101-1997-266

F B I

Date: 2/23/65

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

**PLAIN TEXT**

(Type in plaintext or code)

Via **TELETYPE** \_\_\_\_\_**URGENT**

(Priority)

TO : DIRECTOR, FBI (100-399321)

FROM : SAC, NEW YORK (105-8999) (43)

SUBJECT: MALCOLM K. LITTLE, AKA.  
IS - MMI

105-8999-125

SEARCHED.....	INDEXED.....
SERIALIZED.....	FILED.....
FEB 24 1965	
FBI - NEW YORK	

ON TWO TWENTY THREE, SIXTY FIVE, JASPER DAVIS ADVISED NYO THAT HE ATTENDED OAAU RALLY AT AUDUBON BALLROOM, NYC, TWO TWENTY ONE, SIXTY FIVE, WHEN MALCOLM X WAS KILLED. ACCORDING TO DAVIS HE WAS SITTING IN THE SEVENTH OR EIGHTH ROW FROM THE FRONT ON THE RIGHT SIDE WHEN FACING THE AUDIENCE. DAVIS SAID MALCOLM X HAD JUST GREETED THE AUDIENCE WHEN A NEGRO MALE SEATED NEXT TO HIM SAID "GET YOUR HANDS OUT OF MY POCKET" THEN STOOD UP AND PUSHED HIS CHAIR BACK. SEVERAL OTHER PERSONS IN THE SAME ROW GOT UP CAUSING SOME CONFUSION WHICH IN TURN CAUSED OTHERS TO LOOK IN THAT DIRECTION. DAVIS SAID THEN HE 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. DAVIS SAID EVERYTHING HAPPENED SO FAST AND THE FACT THAT

1 - New York

JCS:msb

(2)

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

1 - SUP. 43

Sent \_\_\_\_\_

M

Per \_\_\_\_\_

Special Agent in Charge

Date:

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via TELETYPE \_\_\_\_\_  
(Priority)NY 105-8999  
PAGE TWO

HE "HIT" THE FLOOR TO SAVE HIMSELF FROM BEING SHOT, PREVENTED HIM FROM BEING ABLE TO IDENTIFY ANY OF THE GUNMEN. DAVIS DESCRIBED THE MAN WHO SAID "GET YOUR HANDS OUT OF MY POCKET" AS MALE, NEGRO, ABOUT THIRTY FIVE TO FORTY YEARS, FIVE FEET NINE INCHES, MEDIUM BUILD, BROWN SKIN, WHO WORE A RATHER DARK GRAY OR PLAIN GRAY JACKET. DAVIS SAID AFTER THE SHOOTING HE WENT UP TO SEE MALCOLM X AND SAID HE WAS ALL BLOODY AND NO SIGN OF LIFE. DAVIS SAID HE WAS INTERVIEWED BY THE NYCPD AND FURNISHED THE SAME INFO TO THEM ON TWO TWENTY ONE, SIXTYFIVE.

A FORMER PSI, *NYO informant's name* (INSUFFICIENT CONTACT TO DETERMINE RELIABILITY) AND NY *Informant's symbol #* (RELIABLE) ADVISED TWO TWENTY THREE, SIXTY FIVE, THAT ALL MEETINGS OF THE MMI AND OAAU HAVE BEEN CANCELLED UNTIL AFTER MALCOLM X'S FUNERAL ON SATURDAY, TWO TWENTY SEVEN, SIXTY FIVE. THE ONLY SCHEDULED AFFAIR IS A MEMORIAL BENEFIT TO RAISE MONEY FOR MALCOLM X'S WIDOW AND FAMILY, SCHEDULED FOR EIGHT P.M., TWO

Approved: \_\_\_\_\_ Sent \_\_\_\_\_ M Per \_\_\_\_\_  
Special Agent in Charge

F B I

Date: \_\_\_\_\_

Transmit the following in \_\_\_\_\_  
(Type in plaintext or code)Via TELETYPE \_\_\_\_\_  
(Priority)NY 105-8999  
PAGE THREE

TWENTY THREE, SIXTY FIVE, IN THE SKYLINE ROOM OF THE HOTEL  
THERESA, NYC, BY THE OAAU.

ON TWO TWENTY THREE, SIXTY FIVE, CSNY ~~REDACTED~~  
*Informant's symbol*  
~~REDACTED~~ (RELIABLE) ADVISED THAT THE HOTEL THERESA HAS  
CANCELLED THE RESERVATION OF THE OAAU FOR THE SKYLINE ROOM ON  
TWO TWENTY THREE, SIXTY FIVE, AND BENEFIT WILL DEFINITELY NOT  
BE HELD THERE. CANCELLATION BY HOTEL WAS ON SUGGESTION OF  
NYC PD CAPTAIN SEALEY (NA), TWENTY EIGHTH PRECINCT, TO AVOID  
FURTHER TROUBLE.

BSS, NYCPD, ADVISED OF SCHEDULED BENEFIT AND THE  
CANCELLATION OF THE HOTEL RESERVATION.

Approved: \_\_\_\_\_ Sent \_\_\_\_\_ M Per \_\_\_\_\_  
Special Agent in Charge

F B I

Date: 3/30/65

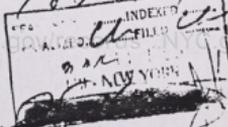
Transmit the following in CODE  
(Type in plaintext or code)Via TELETYPE URGENT  
(Priority)

TO: DIRECTOR, FBI (100-399321)  
 FROM: SAC, NEW YORK (105-8999)  
 SUBJECT: MALCOLM K. LITTLE aka  
 IS - MMI  
 RE NEW YORK TEL THREE TWENTY NINE SIXTY FIVE.

SGT. GEORGE PORETTE, TWENTY FOURTH PRECINCT,  
 NYCPD, ADVISED THREE THIRTY SIXTY FIVE THAT ROBERT THIRTY  
 FIVE X SMITH, BUFILE ONE HUNDRED-FOUR FOUR THREE THREE ONE  
 FOUR, FAILED TO APPEAR IN COURT, NEW YORK THREE TWENTY NINE  
 SIXTY FIVE ON CHARGES OF POSSESSION OF A GUN. ROBERT  
 FORFEITED ONE THOUSAND DOLLARS BAIL. SMITH WAS ONE OF  
 MALCOLM X'S BODYGUARDS ON TWO, TWENTY ONE SIXTY FIVE WHEN  
 MALCOLM X WAS KILLED. SMITH WAS SEEN WITH LARGE AMOUNT  
 OF MONEY DAY AFTER MALCOLM X'S DEATH. POLICE DEPARTMENT HAS  
 WARRANT FOR SMITH'S ARREST FOR FAILING TO APPEAR IN COURT

1-New York 100-1-222 (LANGSTON SAVAGE)  
 1-New York 100-153269 (ROBERT SMITH)  
 1-New York

JCS:pmg  
 (4)  
 1-Supervisor # 43



Approved: \_\_\_\_\_ Sent \_\_\_\_\_ PM Per: \_\_\_\_\_ 40  
 Special Agent in Charge

F B I

Date:

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

Via \_\_\_\_\_  
(Priority)

NY 105-8999

PAGE TWO

ALSO WANTED BY POLICE DEPARTMENT FOR QUESTIONING IN DEATH  
OF MALCOLM X. LANGSTON SAVAGE KNOWN MEMBER MMI SUBPOENAED  
TO APPEAR BEFORE GRAND JURY THIS DATE. ACCORDING TO SGT.  
PORETTE, SAVAGE MAY BE HELD IN CONTEMPT FOR REFUSING TO  
ANSWER QUESTIONS BEFORE GRAND JURY. CURRENT INVESTIGATION  
BEING CONDUCTED BY NYO ON SAVAGE FOR CONSIDERATION ON THE  
SECURITY INDEX.

Approved: \_\_\_\_\_ Sent \_\_\_\_\_ M Per \_\_\_\_\_  
Special Agent in Charge

F B I

Date: 4/2/65

Transmit the following in \_\_\_\_\_  
(Type in plain text or code)

Via Airtel \_\_\_\_\_  
(Priority)

To: SACs, New York (105-8999) 4225  
Philadelphia (100-39918)

✓ From: Director, FBI (100-399321)

MALCOLM K. LITTLE  
INTERNAL SECURITY - MMI

ReNYairtels 4/1/65 and 3/8/65, both captioned as above <sup>symbol #</sup>

NYairtel of 3/8/65 contained information that NY <sup>symbol #</sup> was among informants who had viewed a photograph of Edward Oliver and had been unable to identify Oliver as being in attendance at the meeting at which Little was killed. Reairtel of 4/1/65 reported that NY <sup>symbol #</sup> had stated after reviewing a photograph of Oliver that a person resembling Oliver had been observed at the above-mentioned meeting. The informant could not make a positive identification.

Prior to granting authority for the New York Office to furnish the tentative identification of Oliver 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 Oliver's photograph had been reviewed by all informants in attendance at the meeting.

In addition, Philadelphia should advise by return airtel whether <sup>symbol #</sup> or his wife were able to identify Oliver as attending the meeting.

105-8999-6256

*[Handwritten signature and initials]*

*Agent's name*

67

*[Handwritten mark]*

Sent Via \_\_\_\_\_ M Per \_\_\_\_\_

F B I

Date: 4/1/65

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

Via \_\_\_\_\_

TO: DIRECTOR, FBI (100-399321)

FROM: SAC, NEW YORK (105-8999)

SUBJECT: MALCOLM K. LITTLE aka  
IS - MMI

ReNkteletype, 3/5/65, captioned "NORMAN HOWARD MORTIMORE, aka; SM - NOI"

On 3/8/65, *Informant symbol #* reliable, viewed numerous photographs, including the photographs of TALMAGE HAYER, THOMAS JOHNSON, NORMAN HOWARD MORTIMORE and EDWARD OLIVER. HAYER and JOHNSON have been indicted for the homicide of MALCOLM X on 2/21/65, at New York City. MORTIMORE is a suspect of the NYCPD in the homicide of MALCOLM X. OLIVER is considered one of the Nation of Islam (NOI) "strong armed men" from Newark.

- 6 - Bureau (RM)
  - (1 - 100- ) (TALMAGE HAYER)
  - (1 - 100- ) (THOMAS JOHNSON)
  - (1 - 100- ) (NORMAN HOWARD MORTIMORE)
- 3 - Newark (RM)
  - (1 - 100- ) (TALMAGE HAYER)
  - (1 - 100- ) (NORMAN HOWARD MORTIMORE)
  - (1 - 100- ) (EDWARD OLIVER)
- 2 - Philadelphia (Encs. 2) (RM)
  - (1 - 100-39918 ) (MALCOLM K. LITTLE)
- 5 - New York
  - (1 - 100-154880 ) (NORMAN HOWARD MORTIMORE)
  - (1 - 100-154846 ) (TALMAGE HAYER)
  - (1 - 149-689 )
  - (1 - )

JCS:gfb  
(17)

*Bu Informant*

*Agent's name*

105-8999-62

SEARCHED	INDEXED
SERIALIZED	FILED
FBI - NEW YORK	

Approved: \_\_\_\_\_ Sent \_\_\_\_\_ M Per \_\_\_\_\_  
SPECIAL AGENT IN CHARGE

NY 105-8999

The informant, 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. The informant stated, however, that he could not make a positive identification of the photograph.

Upon reviewing photographs of MORTIMORE and JOHNSON, the informant stated 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 (informant could not be certain which) 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. The informant could not make a positive identification of the photographs.

The informant, upon reviewing a photograph of OLIVER, remarked that he saw a person resembling OLIVER 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. The informant advised he could not make a positive identification of the photograph.

Sergeant GEORGE PORETTE, 24th Precinct, NYCPD, advised on 3/31/65, that at the present time HAYER, JOHNSON and NORMAN 3X 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 by NYCPD to the NYCPD on a confidential basis. If Bureau approves, this information will be furnished to NYCPD through Assistant Chief Inspector JOSEPH L. COYLE, Head of Manhattan North Detectives, NYCPD.

NY 105-8999

Philadelphia Office is requested to exhibit attached photograph of MORTIMORE and OLIVER to ~~\_\_\_\_\_~~ and his wife to determine if they could identify MORTIMORE and OLIVER as taking part in the assassination of MALCOLM X or were observed in the audience at the Audubon Ballroom on 2/21/65 in New York City.

*Philly's  
Informant  
by inbal #*

4/9/65

A I R T E L

REGISTERED MAIL

TO: DIRECTOR, FBI (100-399321)  
FROM: SAC, PHILADELPHIA (100-39918)

MALCOLM K. LITTLE  
IS - MMI

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 PH [redacted] and his wife. Neither PH [redacted] nor his wife could identify OLIVER. They stated that to their knowledge they had never seen him before.

In reNYairtel it is noted that NY [redacted] advised NORMAN HOWARD MONTIMORE and THOMAS JOHNSON 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."

In rePHairtel, PH [redacted] advised that before the Grand Jury in New York City, he identified TALMAGE HAYLER as the individual who stood up and told the person on his left, "Get your hand out of my pocket."

- 3 - Bureau (RM)
- 2 - New York (105-8999)(RM)
- 2 - Philadelphia
- 1 - 100-39918
- 1 - [redacted]

EM:ac  
(7)

*Informant file #*

105-8999-6266

SEARCHED	INDEXED
SERIALIZED	FILED
APR 10 1965	
FBI - NEW YORK	

*Agent's name*

*4/10/65  
KBJ*

PH 100-39918

PH [REDACTED] has identified photographs of HAYER, THOMAS JOHNSON and NORMAN BUTLER as being present at the Organization of Afro-American Unity (OAAU) meeting on 2/21/65 at the Audubon Ballroom in New York City, at which MALCOLM LITTLE was murdered. These photographs are the only photographs of suspects that PH [REDACTED] has identified.

UNITED STATES GOVERNMENT

# Memorandum

TO : SAC, New York (105-8999)

DATE: 4/13/65

✓ FROM : Director, FBI (100-399321)

SUBJECT: MALCOLM K. LITTLE  
INTERNAL SECURITY - MMI

ReBSlet 3/25/65 captioned "Leon Lionel Phillips, Jr., aka, SM - NOI," 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 as furnished by the late Leon Lionel Phillips. After this review, New York should determine whether Phillips had been interviewed by the New York City Police Department (NYCPD) 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 NYCPD, particularly the information alleging that the individual who fired the shotgun at Little was supposedly a lieutenant from the Newark Temple of the Nation of Islam (NOI). In the event this information is not already in the possession of the NYCPD, such information should not be furnished to the NYCPD without first receiving Bureau authority.

*Nitt*

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 informants who were present at the time Little was killed view the photograph for possible identification as one of the murderers. 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)  
1 - Boston (100-27649)

SEARCHED	INDEXED
SERIALIZED	FILED
APR 13 1965	
FBI - NEW YORK	

*Agent's name*

105-8999-63  
49

UNITED STATES GOVERNMENT

# Memorandum

TO : DIRECTOR, FBI (100-399321)

FROM : SAC, NEWARK (100-40295) (P)

SUBJECT: MALCOLM K. LITTLE, aka  
IS-MMI

DATE 4/21/65

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

Referenced Bureau letter concerns information furnished to the Boston Office by LEON LIONEL PHILLIPS, JR. 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 RICHARD 15X (LNU) and EDWARD 15X (LNU). Newark files on both of these individuals have been opened and assigned and investigation to date has failed to positively identify either. NK 2339-S, who has furnished reliable information in the past, has described these individuals as follows:

RICHARD 15X (LNU)

Sex	Male
Race	Negro
Age	28-30
Height	6'2"
Weight	150-160 pounds
Hair	Black
Eyes	Brown
Build	Slender
Complexion	Dark brown
Characteristics	Large eyes; egg-shaped head
Marital Status	Single
Occupation	Floor waxer
Employer	Unknown

- 2 - Bureau (RM)
- 1 - New York (105-8999) (info) (RM)
- 4 - Newark
  - (1 - 100-48001) (RICHARD 15X)
  - (1 - 100-48026) (EDWARD 15X)

GRB:mam  
(7)

Agent's  
name

105-8999-6324  
#12  
[Redacted signature]

NK 100-40295

EDWARD 15X (LNU)

Sex	Male
Race	Negro
Age	28-31
Height	6'2"
Weight	150-165 pounds
Hair	Black
Eyes	Brown
Build	Slender
Complexion	Medium brown
Characteristics	Large eyes; thin mustache
Marital Status	Single
Occupation	Works in a hospital; place unknown

Investigation is continuing to identify RICHARD 15X and EDWARD 15X ~~374~~ photographs will be furnished to New York Office.

Referenced Bureau letter included a copy of Boston letter dated 3/25/65, captioned "LEON LIONEL PHILLIPS, JR., aka; SM-NOI", but did not include a copy of the letterhead memorandum submitted to Bureau with that letter.

The Bureau is requested to furnish Newark with a copy of this letterhead memorandum.

DIRECTOR, FBI (100-370321)

6/24/65

SAC, NEW YORK (105-8999) (P)

MALCOLM K. LITTLE aka  
IS - III

On 6/24/65, Sergeant GEDDON PORTTEE, 24th Precinct, NCPD, 151 West 180th Street, NYC, advised that he just received a communication from Deputy Superintendent EDWARD BLAKE, Boston Police Department, Boston, Massachusetts, which stated that "JAMES W. COOK, DOD 12/21/1935, FBI # 655-210-D was believed to have been involved in the killing of Malcolm X on 2/21/65, at NYC. Communication continued by stating that "Cook 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 JAMES COOK, but is unable to locate pertinent information identifiable with COOK.

Bureau and Boston Office are requested to check their indices on JAMES W. COOK, JR. for pertinent information to determine his whereabouts.

Boston Office is requested to contact Boston Police Department for photo and information that connects COOK with the killing of MALCOLM X.

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

JCS:pan  
(5)

Chief Clerk  
Post

105-8999-211  
Searched \_\_\_\_\_  
Serialized \_\_\_\_\_  
Indexed \_\_\_\_\_  
Filed \_\_\_\_\_

FBI

Date: 8-25-65

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

Via airtel \_\_\_\_\_  
(Priority)

To: SAC, New York (105-8999)  
From: Director, FBI (100-399321)

MALCOLM X LITTLE  
INTERNAL SECURITY - MMI

Reurtel 8-23-65 and telephone call to New York  
Office 8-24-65.

Since information has now been received indicating  
Rueben M. Francis is in Mexico, you should, utilizing this  
information, fully explore with appropriate officials of the  
New York City Police Department the possibility of obtaining  
a Federal unlawful flight warrant concerning him.

In the event there is a continuing reluctance on  
the part of the New York City Police Department 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.

1 - New York (100-146782)

*1 cc  
100-146782*

*105-8999*

SEARCHED	INDEXED
SERIALIZED	FILED
AUG 26 1965	
FBI - NEW YORK	

*Agent's name*



UNITED STATES DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to  
File No.

Miami, Florida

OCT 21 1965

105-8554

RE: MALCOLM K. LITTLE;  
INTERNAL SECURITY -  
MUSLIM MOSQUE, INC.

Deputy Superintendent Edward F. Blake, Boston, Massachusetts, Police Department, advised that Department received the following anonymous communication dated June 13, 1965, which had been addressed to the Suffolk County Superior Court, Probation Department:

"James Cook, Black Moslem, said to be hiding in another state with gunshot wounds due to the fact that he was involved in the killing of Malcolm K. Try questioning his wife. Florida is a likely place.

"He was on probation."

Deputy Blake advised the person referred to in this communication was believed to be James W. Cook, Jr.

The files of the Middlesex County Superior Court, Probation Department, Cambridge, Massachusetts, show that James W. Cook, born December 27, 1933, at Boston, Massachusetts, was on probation there for a "flim-flam" type operation. This file shows that Cook pleaded guilty to a charge

105-8997-1

SEARCHED \_\_\_\_\_  
SERIALIZED \_\_\_\_\_  
OCT 25 1965  
FBI - MIAMI

10/21

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SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK : PART 35

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

Respondent, :

-against-

: Indictment Number  
871/65

MUHAMMAD ABDUL AZIZ (Norman 3X Butler) :

: AFFIDAVIT

and :

KHALIL ISLAM (Thomas 15X Johnson), :

Defendants-Movants :  
-----

STATE OF NEW JERSEY )  
                          ) ss.:  
COUNTY OF ESSEX )

HERBERT STERN, being duly sworn, hereby deposes

and says:

1. I am presently a Judge of the United States District Court for the District of New Jersey.

2. From February 20, 1962 through September 24, 1965, I was an Assistant District Attorney in the New York County District Attorney's Office.

3. On April 6, 1964, I was appointed to the Homicide Bureau of the New York County District Attorney's Office.

4. From February 21, 1965, when Malcolm X was murdered, until September 24, 1965, when I resigned from the District Attorney's Office, I was in charge of the New York County

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District Attorney's investigation of the murder of Malcolm X and of the presentation of the evidence to the Grand Jury.

5. This affidavit is submitted in response to the affidavit of Benjamin Goodman, dated May 14, 1978.

6. On March 30, 1965, I interviewed Benjamin Goodman in my office. As Mr. Goodman spoke to me, I took notes of what he said. Before preparing this affidavit I reviewed a copy of my notes of my March 30, 1965 interview of Benjamin Goodman. A copy of these notes is attached hereto as Appendix "A" and made a part hereof.

7. During our March 30, 1965 conversation, Mr. Goodman told me that he knew Butler and Johnson from the Nation of Islam's Mosque #7 in Manhattan.

8. Mr. Goodman also told me that he did not witness the actual shooting of Malcolm X in the Audubon Ballroom since he, Goodman, had left the Audubon Ballroom and had entered another room by the time the shooting began.

9. I did not tell Mr. Goodman that I knew he had previously said that he had witnessed the shooting. I had, and to the present still have, no knowledge that Mr. Goodman had ever said that he had witnessed the shooting. In fact, as the New York City Police Department Supplementary Complaint Reports dated February 27, 1965 and March 26, 1965 indicate, Mr. Goodman had previously told the police that he had not witnessed the shooting of Malcolm X. These Supplementary Complaint Reports are

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attached hereto as Appendix "B" and made a part hereof.

10. Mr. Goodman did not tell me that he knew that Butler and Johnson were not present in the Audubon Ballroom when Malcolm X was murdered. Nor did Mr. Goodman tell me that he did not notice Butler and Johnson in the ballroom, and that he would have noticed them had they been there.

11. Rather, Mr. Goodman told me that during his introductory speech to the audience, he "look[ed] over [the] heads of [the] crowd." See Appendix "A".

12. The import of Mr. Goodman's statement to me was that he did not know, one way or the other, whether or not Butler or Johnson were present in the ballroom.

13. Mr. Goodman's statement to me was in accord with information I had previously received from Detective Ferdinand Cavallaro of the New York City Police Department. This information was that Goodman had told the police that "when he speaks he doesn't look at audience, but looks over their heads. So he doesn't know who was in the audience." See my memorandum to Files, a copy of which is attached hereto as Appendix "C" and made a part hereof.

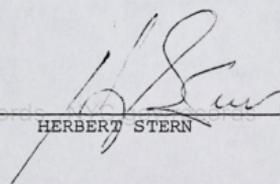
14. Mr. Goodman's March 30, 1965 statements to me indicating that he knew Butler and Johnson, but did not know whether or not they were in the ballroom, and that he did

not witness the shooting, were also in accord with his testimony to the Grand Jury on April 5, 1965.

15. Mr. Goodman's statement to me was neither exculpatory nor inculpatory of Butler or Johnson. Mr. Goodman simply provided no information as to whether or not Butler or Johnson were present in the ballroom or took part in the murder of Malcolm X.

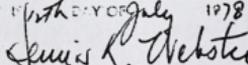
16. There was no reason for me to, and I did not, become angry with Mr. Goodman, threaten him in any manner, or attempt to get him to alter his statement to me in any way.

DENNIS KING WEBSTER  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires 4/15/79

  
HERBERT STERN

WORN AND SUBSCRIBED BEFORE ME

on this 12th day of July, 1978



Sworn to before me  
this 12th day of July, 1978.

Appendix "A"

3/30/65

Benjamin Augustus Goodman  
1022 Longfellow Ave, Bronx  
DA 9-9418

Inter Church Center, 475 Riv. Side Dr  
also Council for Church Training  
Age 32  
used to live at 1058 University Ave, NY

Joined Mosque # 7 in 1958,  
left in Early Summer of 1964.

Feb 21, 1965 -

Goodman asked by  
Sarah Mitchell to open the  
speaking. Told after he got  
to Boardroom. Arrived

Showing in moving to  
front.

knew Butler & Johnson  
from Mosque - Ben Betty  
looked over heads of crowd.

7C was established around  
1963.

7B, L.I. Mosque set up first.

Benjamin became an Asst Minister  
to Malcolm in Mosque # 7 in 1961

Appendix "B"

## SUPPLEMENTARY COMPLAINT REPORT (DO NOT FOLD THIS REPORT)

U.F. 61  
File No.

Complainant's Surname First Name Telephone No.

People

6. Date and Time Reported on U.F. 61 A.M. 14\* 15\* 19. Pct. 22. U.F. 61 No.

Feb. 21, 1965 3:10PM P.M.

A.M.

P.M.

16th 995

11. Day, Date and Time of Occurrence

Sun. Feb. 21, 1965 3:10PM A.M. P.M.

16\*

17\*

27. Pct. 30. C.C.D. No.

Post 26015

36. P.D. Code

39. Amt. Code Larceny Only

40\*

41\*

42. Pct. of Arrest

45. Arrest Nos.

## FOLLOWING QUESTIONS PERTAIN TO THIS COMPLAINT REPORT

Answer Yes No

Was this complaint previously cleared by an arrest?

If yes, is this an additional arrest?

Were identified persons wanted previously reported?

Was any stolen property previously reported?

Was this stolen property previously reported?

Was any property recovered previously reported?

Was this recovered property previously reported?

Was complainant advised of action taken?

## NUMBER OF ARRESTS

## ARRESTS MADE BY:

	Male	Female	Uniformed Force	<input type="checkbox"/>
Adults			Detective Div.	<input type="checkbox"/>
Juveniles			Other Peace Off.	<input type="checkbox"/>
			Civilian	<input type="checkbox"/>

If an alarm is transmitted enter the following information:

Alarm Number	Date and Time Transmitted

## 50. TYPE OF PROPERTY

## 51. Value of Property Stolen

## 57. Value of Stolen Property Recovered

1. Autos Stolen or Recovered Locally

2. Autos Recovered by Other Auth's.

3. Autos Recovered F. O. A.

THIS REPORT CONCERNS: (Check One)

4. Currency

5. Jewelry

6. Furs

7. Clothing

8. Firearms

Last Property Stolen Property 

9. Miscellaneous

Crime or Offense as Classified on U.F. 61

Homicide (GUN)

Det. Sqd. Ser.

1022

Crime or Offense Changed to

Status of Case

Copy of this report forwarded to Corr. Bur. for Communication.

Signature of C.O. of Investigating Officer

YES  NO 

Rank

Name

Command

Report of Investigating Officer:

(LIST ALL LOST OR STOLEN PROPERTY ON REVERSE SIDE)

Date of This Report

2-21-65

Subject: INTERVIEW OF BENJAMIN GOODMAN AT 54TH SQUAD

1. On Feb. 20, 1965, at 6:30PM, one Benjamin Goodman (2M-N-52, of 1022 Longfellow Ave. Bx, NY. Cr. Pl. (D&C-9418) was interviewed and stated that he was the first speaker at the Audubon Ballroom on 2-21-65. The opening speaker was scheduled to be Rev. Galamison, and when he did not appear, Malcolm became very upset. Malcolm entered the stage through the dressing room located on the right side of the stage and sat down behind Goodman, who had taken over the opening address due to Galamison's absence. When Goodman noticed Malcolm, he introduced him and left stage, leaving Malcolm alone on the stage. Goodman went to dressing room along side stage (Rt.) where James (071) and Sister Sarah were. He was only in this room a few moments when the shooting began. He came to the doorway, looking onto the stage after the shooting in time to see Malcolm falling to the floor. Further stated that he did not see who the perpetrators were or where shots came from.

Case Active....

\*Entries by S.R.B. only

Investigating Officer's Name (Typed)

Thomas T. Cusmano

Investigating Officer's Signature

Rank

Ptl.

Shield No.

10245 Command

54th

## SUPPLEMENTARY COMPLAINT REPORT (DO NOT FOLD THIS REPORT)

Complainant's Surname	First Name	Telephone No.	6. Date and Time Reported on U.F. 61	A.M. P.M.	14"	15"	19. Pct.	22. U.F. 61 No.
PEOPLE			February 21, 1965	3:10PM	16"	17"	27. 34 Post	30. 993 No.
Complainant's Address			Sunday 2/21/65	3:10PM				26615

36. P.D. Code	39. Amt. Code Larceny Only	40"	41"	42. Pct. of Arrest	45. Arrest Nos.
---------------	----------------------------	-----	-----	--------------------	-----------------

FOLLOWING QUESTIONS PERTAIN TO THIS COMPLAINT REPORT	Answer		50. TYPE OF PROPERTY	51. Value of Property Stolen	57. Value of Stolen Property Recovered
	Yes	No			
Was this complaint previously cleared by an arrest?			1. Autos Stolen or Recovered Locally 2. Autos Recovered by Other Auth's. 3. Autos Recovered P. O. A.		
If yes, is this an additional arrest?					
Were identified persons wanted previously reported?					
Was any stolen property previously reported?			THIS REPORT CONCERNS: (CHECK ONE) Lost Property <input type="checkbox"/> Stolen Property <input type="checkbox"/>		
Was this stolen property previously reported?					
Was any property recovered previously reported?					
Was this recovered property previously reported?					
Was complainant advised of action taken?					
4. Currency					
5. Jewelry					
6. Furs					
7. Clothing					
8. Firearms					
9. Miscellaneous					

NUMBER OF ARRESTS		ARRESTS MADE BY:	
Male	Female	Uniformed Force	<input type="checkbox"/>
Adults		Detective Div.	<input type="checkbox"/>
Juveniles		Other Peace Off.	<input type="checkbox"/>
		Civilian	<input type="checkbox"/>

If an alarm is transmitted enter the following information:		Crime or Offense as Classified on U.F. 61	Det. Sgd. Ser.
Alarm Number	Date and Time Transmitted	Homicide/Gun	1022
		Crime or Offense Changed to	Standard Case
Copy of this report forwarded to		Signature of C.O. Investigating	Active
Corr. Bur. for Communication.		Sgt. F. Albert	688
YES <input type="checkbox"/> NO <input type="checkbox"/>		Rank	Command

Report of Investigating Officer: (LIST ALL LOST OR STOLEN PROPERTY ON REVERSE SIDE) Date of This Report: March 26, 1965

Subject: REINTERVIEW OF BENJAMIN 2K DEXEY GOODMAN

- Goodman At 11:15PM March 25th 1965 the undersigned reinterviewed one Benjamin 2K DEXEY at Manhattan North Detective Offices regarding the above case. Subject was born in Suffolk, Virginia on July 14, 1932 (32 years) He resides at 1022 Longfellow Avenue, with his wife whom he married earlier this month. He is employed as a file clerk at the Inter Church Center at 475 Riverside Ave., New York City and earns \$66 per week
- Former member of Mosque #7, joined in 1958 and defected in favor of Malcolm X in late 1964. States he was arrested for Policy, Narcotics and earlier this year was arrested in Boston for disturbing the Peace with 7 other brothers.
- Was the first speaker on the rostrum at the Audubon Ballroom the day Malcolm was murdered. While Malcolm spoke he states he was in the dressing room to the right of the stage with Sisiter Sarah Mitchell and James 67X Shabazz Warden. States that during the shooting that the door to the dressing room was closed.
- Investigation proceeding, Case active

CASE

ACTIVE

\*Entries by S.R.B. only

Investigating Officer's Name (Typed)

Investigating Officer's Signature

Patrick J. Twomey  
Rank DET Shield No. 2092

Command 3452D

Appendix "C"

To files ~~from~~  
From # 500

I am informed that  
Rev. Victor Salaminson  
was supposed to speak  
in the Ballroom before  
President X on Feb 21, 1965,  
but cancelled at a late  
moment. Benjamin Goodman  
was a last minute replacement

Police inform me (Det  
Cavalieri) that Goodman was  
interviewed at Stationhouse  
several days after occurrence,  
and he stated that when he  
speaks he doesn't look at  
audience, but looks over their  
heads. So he doesn't know  
who was in the audience.

NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records  
SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK: PART 35

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

Respondent, :

Indictment Number  
871/65

-against- :

MUHAMMAD ABDUL AZIZ (Norman 3X Butler), :

and :

KHALIL ISLAM (Thomas 15X Johnson), :

Defendants-Movants. :

-----X  
SUPPLEMENTARY MEMORANDUM  
IN OPPOSITION TO MOTION  
TO VACATE JUDGMENTS

INTRODUCTION

NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records NYC.gov/records  
Butler and Johnson have moved, through various  
papers submitted on twelve separate dates from approxi-  
mately December 6, 1977 to approximately May 24, 1978, to  
vacate the judgements convicting them of the murder of  
NYC.gov/records Malcolm X. Their motion is made pursuant to Criminal  
NYC.gov/records Procedure Law §440.10 and appears to be based on four  
basic allegations: 1) that Benjamin Goodman provided

information which would have exculpated them, but that this information was suppressed and never made available to the defense; 2) that the People were aware of the availability of Reuben Francis as a possible witness but never informed the defense of his availability; 3) that the People wrongfully withheld from the defense that "Brother Jean" was in fact Detective Gene Roberts, an undercover police officer who, defendant's claim, could have exculpated them and who, they claim, could have testified to the involvement of law enforcement authorities in the murder of Malcolm X; and, 4) that Hagan's actual accomplices in the murder were not Butler and Johnson, but four other men, and that certain Federal Bureau of Investigation documents support this contention.

With the exception of the allegation concerning Benjamin Goodman, which Butler and Johnson raised for the first time on May 24, 1978, aspects of the defendants' allegations were responded to in two affidavits and a memorandum filed on February 9, 1978 and in a supplemental memorandum filed in April, 1978. These documents are incorporated by reference herein. The instant memorandum is in response to the allegations concerning Benjamin

Goodman, in further response to the allegations concerning Reuben Francis, and in further response to Hagan's affidavits and the FBI documents which were submitted in support of Hagan's affidavits.\*

Benjamin Goodman never said that Butler and Johnson were not in the Audubon Ballroom when Malcolm X was murdered. Rather, Goodman said only that he did not know whether or not they were there.

In an affidavit sworn to on May 14, 1978, Benjamin Goodman states that Butler and Johnson, both of whom he knew well for several years, were not in the Audubon Ballroom when Malcolm X was murdered. Goodman was the man who first spoke to the audience and then introduced Malcolm. In his affidavit, Goodman claims that "one of [his] functions was to provide security for Malcolm's person", that he therefore "did observe the faces of all the [four to five hundred] people in the

---

\*Butler and Johnson have not submitted any additional material concerning Detective Gene Roberts. This memorandum will therefore not deal specifically with that aspect of defendants' motion. In response to the allegation concerning Detective Roberts, the People respectfully refer the Court's attention to the papers filed by the People on February 9, 1978 and in April, 1978.

in the crowd", and that, because of the animosity between the Nation of Islam to which Butler and Johnson belonged and the Organization of Afro-American Unity which Malcolm founded and to which Goodman belonged, had Butler or Johnson been in the audience, Goodman "would have been sure to notice [them]".

Goodman further states that on at least four occasions in 1965 he was questioned variously by New York City police officers, FBI agents, and Assistant District Attorney Herbert Stern, and that he told each of them that Butler and Johnson had not been in the Audubon Ballroom on the day of the murder. Goodman said that Stern (the only person whose name Goodman could specifically remember) became angry with him, threatened him, and attempted to get him to change his statement.

However, by the time he wrote his affidavit on behalf of Butler and Johnson some thirteen years after they were charged with the murder of Malcolm X, Goodman had apparently forgotten either that he had testified in the Grand Jury or what his testimony in the Grand Jury had been. Benjamin Goodman's testimony in the Grand Jury on April 5, 1965 emphatically establishes the falsity of his affidavit.

Goodman specifically testified in the Grand Jury that he was not looking for any particular person in

the audience and that he did not know, one way or the other, if Butler or Johnson were present in the ballroom:

Q You knew that Johnson and Butler from Mosque Number 7; is that right?

A Yes, when I was there I knew them.

Q Now, you stood up in front of the audience for a period time speaking; is that right?

A Yes, sir.

Q Do you know whether or not Butler and Johnson were in the audience as you spoke?

A No, sir.

Q You do not know if they were there or if they were not there?

A No, I don't.

Q You didn't see them there; is that correct?

A I didn't see them, no. It's difficult for me to -- I mean, I can't see them being there like that and know --

Q Just a minute.

A Yes.

Q Were you looking at the faces of the audience as you spoke?

A Not any particular people, sir. I guess -- have you ever spoken to a large audience, you just don't pick out a person, you know, you take in the whole audience because you have a message for the audience, not just a particular person. So I wasn't looking for anyone. I was more or less there to open up so Brother Minister could tell the people that he didn't have the charter. Not to see who was there.

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 that they were, because I didn't see them. Goodman's Grand Jury Testimony at 481-2.

In the face of Goodman's testimony in the Grand Jury, and coupled with the affidavit of Judge Stern and the attachments thereto, Goodman's affidavit should be summarily rejected by this court.

Shortly after Reuben Francis surrendered to the FBI, the People informed the defense that Francis was incarcerated in the Tombs, and requested that the court make Francis available to the defense should the defense desire to talk to Francis.

Throughout the course of this motion, Mr. Kunstler has repeatedly referred to Reuben Francis as a "key witness" At no time, however, have movants indicated why they consider Francis a "key witness"; nor have they even alleged that Francis' testimony would have been of any help to them at all.

Mr. Kunstler has also commented that, "it is passing strange, indeed, that Francis' availability was not made known to the defense", and has charged that

"none of the living trial counsel [presumably William C. Chance and Joseph P. Pinckney] for any of these defendants . . . were ever told a thing about this man [Francis] being available, being around to testify" after he surrendered to the FBI on February 2, 1966.\* Mr. Kunstler's affidavit of February 11, 1978, and oral argument on February 15, 1978 at p. 13; see also, Mr. Kunstler's affidavits of January 19, 1978, April 18, 1978 and April 29, 1978.

The allegation that the People kept Francis hidden from and unavailable to the defense after Francis had surrendered to the FBI reveals an unawareness or disregard of the transcript of the trial of Butler and Johnson. On February 9, 1966, one week after Francis surrendered to the FBI, Detective Ferdinand Cavallaro testified on cross-examination that he last saw Francis on February 2, 1966 in the District Attorney's office. Cavallaro testified that two detectives had brought Francis to the office of Assistant District Attorney Vincent Dermody, the prosecutor in the instant case, and that he, Cavallaro, had arrested Francis there (Cavallaro: 1881-2).

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\* Reuben Francis was one of Malcolm X's bodyguards. He shot Hagan in the leg as Hagan fled from the ballroom. Francis was charged with Assault in the First Degree and related crimes. He jumped bail in May, 1965 and surrendered to the FBI on February 2, 1966. On April 19, 1966, Francis pleaded guilty to Possession of a Weapon as a Misdemeanor. See p. 10 of the People's Supplementary Memorandum, filed in April, 1978.

On February, 18, 1966, Cavallaro was re-called for further cross-examination. On re-direct examination, Cavallaro then testified that he had arrested Francis on February 2, 1966 on the warrant which had been issued for Francis' failure to appear in court, and that Francis was currently confined in the Tombs on \$25,000 bail (Cavallaro: 25-96-7).

The prosecutor then told the Court, in the presence of defense counsel, that Francis was in fact presently confined in the Tombs but that because he was under indictment for shooting Hagan, the People had decided not to call him as a witness. Mr. Dermody informed the Court that he had no material or information from Francis which would be favorable or helpful to any of the defendants, and he offered to let the Court examine his file on Reuben Francis. And if, the prosecutor told the court, defense counsel "are desirous of talking to him, I would ask the Court to give them the fullest cooperation, to make him available." The Court replied that if any defense counsel wanted to talk to Francis, "I shall make him available to them at any time they desire" (2602-8).

Clearly, as an examination of the existing record would have revealed, there is no merit to the contention that the People kept Reuben Francis hidden from the defense.

The FBI material submitted in support of the motion does not support Hagan's allegations concerning the identities of the men Hagan claims were his accomplices in the murder of Malcolm X.

Movants have filed a number of redacted FBI memoranda and other FBI documents which they claim support Hagan's assertion that his accomplices in the murder of Malcolm X were four men from Paterson and Newark, New Jersey named "Benjamin Thomas or Thompson", "Lee or Leon Davis", "William X", and "Wilbur or Kinky". Hagan's affidavits of November 30, 1977 and February 25, 1978.

The unredacted FBI documents which the People received from the FBI and which are being made available to the Court show no support for the allegations contained in Hagan's affidavits. None of the persons named in these FBI documents as possible suspects bore the names provided by Hagan in his affidavits.

Nor is there any likelihood that the remaining FBI documents which are in their redacted form would provide any information to corroborate the allegations contained in Hagan's affidavits. These documents are, in the main, internal FBI memoranda which merely summarize the status of the investigation into the murder and, as such, contain no raw data of their own. Certainly, there is nothing in those portions of the documents which are readable that in any way corroborates Hagan's allegations concerning the identities of the men he says

participated with him in the murder of Malcolm X.\*  
Indeed, in some of these documents, Butler and Johnson are identified as having been present at the Audubon Ballroom and Butler is identified as having participated in the murder of Malcolm X.

Similarly, the District Attorney's Office case file contains nothing which supports Hagan's allegations concerning the identities of the men he claims were his accomplices in the murder of Malcolm X.

After the passing of many months and the submission of a great many papers, Hagan's affidavits remain nothing more than what they started out as -- a frivolous attempt, unsupported by anything else, to cast doubt on the accuracy of the jury's determination that the overwhelming evidence against Butler and Johnson proved them guilty of the murder of Malcolm X.

---

\*The FBI document dated March 25, 1965 (page 38 as labeled by Mr. Kunstler) which states that the shotgun-wielder was allegedly a lieutenant in the Newark Temple of the Nation of Islam should be read in conjunction with the unredacted FBI reports dated April 13 and 21, 1965 (pages 48 and 50 by Mr. Kunstler) which established that this person was not any of the ones named by Hagan in his affidavits.

CONCLUSION

THE MOTION SHOULD BE DENIED.

Respectfully submitted,

ROBERT MORGENTHAU  
District Attorney  
New York County  
155 Leonard Street  
New York, New York 10013  
(212) 553-9000

ROBERT M. PITLER  
ALLEN ALPERT  
Assistant District Attorneys,  
Of Counsel

July, 1978

---

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

---

THE PEOPLE OF THE STATE  
OF NEW YORK,  
Respondent,

against

MUHAMMAD ABDUL AZIZ  
(Norman 3X Butler),

and

KHALIL ISLAM  
(Thomas 15X Johnson),  
Defendants-Movants

---

Supplementary Affirmation,  
Affidavit, and  
Supplementary Memorandum  
Ind. No. 871/65

---

DISTRICT ATTORNEY

155 Leonard Street  
Borough of Manhattan  
New York City

Phone .

Kunstler - 9/18/78 Conversation  
District Attorney's Office

COUNTY OF NEW YORK

Ben - 321 Fair Street?  
Patterson, N.J.201  
523-2480

K says he sent an aff.  
several days ago saying we  
should do the police work,  
not him.

Bradley said he had nothing  
to do <sup>with it.</sup> & then he would not  
jeopardize himself. K has  
not spoken to Bradley since  
last ct. appearance. Has  
decided not to

William Bradley - <sup>State Prison</sup> Caldwell - Essex County

7 $\frac{1}{2}$  - 15  
Armed Robbery

Ben Thompson }  
Leon Davis } Patterson

K to file by  
9/13  
10/12 - 2 P.M.

ct. Capt. Henry Ross

DISTRICT ATTORNEY

OF THE  
COUNTY OF NEW YORK  
155 LEONARD STREET  
NEW YORK, N. Y. 10013  
(212) 512-9500

553-9000

October 6, 1978

NEIGHBORHOOD COMPLAINT OFFICES:

HARLEM BRANCH  
55 WEST 125 STREET  
NEW YORK, N. Y. 10027  
(212) 831-8661

WEST SIDE BRANCH  
2112 BROADWAY  
NEW YORK, N. Y. 10023  
(212) 595-0760



ROBERT M. MORGENTHAU  
DISTRICT ATTORNEY

Honorable Harold Rothwax  
Supreme Court of the  
State of New York  
County of New York  
100 Centre Street  
New York, New York 10013

Re: People v. Butler and Johnson  
Ind. No. 871/65

Honorable Sir:

This letter is in response to the affidavit of  
Mr. Kunstler dated September 12, 1978.

When the above-captioned case was last on the calendar  
on September 6, 1978, Mr. Kunstler stated to your Honor that he  
was making progress in his efforts to obtain a statement from one  
of the men he contends murdered Malcolm X. He requested additional  
time to continue talking to this person in order to obtain a state-  
ment from him, as well as to contact and talk to two other individ-  
uals who, he contends, also murdered Malcolm X. Over the People's  
objection, your Honor granted Mr. Kunstler an adjournment to  
October 12, 1978.

Mr. Kunstler's affidavit indicates, however, that he has  
done nothing to attempt to obtain these statements. Indeed, in a  
telephone conversation with me on September 18, 1978 Mr. Kunstler  
told me that he has not spoken with any of these three men since  
our last court appearance on September 6, 1978, and that he does  
not intend to speak to them.

Mr. Kunstler admits in his affidavit that it is "highly  
unlikely" that these men who, he says, are of the Islamic religion,  
will talk to Islamic ministers. He therefore requests that the  
People interrogate them since, as he said to me, we are better at  
getting confessions than he is and he feels uncomfortable asking  
someone to confess to a crime. The suggestion that any of these

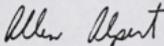
-2-

Honorable Harold Rothwax  
Supreme Court of the  
State of New York

men, after being apprised of their Miranda rights, will confess their "guilt" some thirteen years after the fact to the very persons who would then presumably prosecute them for murder is absurd. Moreover, it improperly shifts to the People the burden on the defendants to set forth sworn allegations of facts in support of their motion.

Mr. Kunstler's affidavit is, in effect, an admission that, despite this Court's repeatedly demonstrated willingness to provide him with whatever time he felt necessary, he cannot produce any independent evidence in support of Hagan's affidavit - an affidavit which this Court has termed "frivolous." The time has now come for this Court to call an end to the submission of additional papers on this motion. The time has finally come for this Court to deny the motion.

Respectfully submitted,



Allen Alpert  
Assistant District Attorney

cc: Mr. William Kunstler  
853 Broadway  
New York, New York 10003

AA:mm

*M. Alpert*

RECEIVED

William A. Kunstler

ATTORNEY AT LAW  
853 BROADWAY

NEW YORK, NEW YORK 10003

78 OCT 31 AM 9:54

DISTRICT ATTORNEY'S OFFICE

DOROTHY THORNE-BUTLER  
LEGAL ASSISTANT

212-674-3304

October 29, 1978

Hon. Harold Rothwax  
Justice of the Supreme Court  
100 Centre Street  
New York, N.Y. 10013

Re: People v. Butler et ano  
Ind. No. 871/65

Dear Justice Rothwax:

I am in receipt of Mr. Alpert's letter of October 6, 1978, to you which, in effect, claims that the District Attorney has no obligation to do any investigation whatsoever of the information obtained by the defense and turned over to him some time ago, particularly that dealing with the full names and locations of at least two of the men named by Mr. Hagan as his accomplices in the assassination of Malcolm X.

My clients are relatively helpless to exploit the information which our investigation has turned up with respect to the names and addresses referred to above. But the District Attorney is in a position to do so. Naturally, I do not expect the suspects in question to confess to any police officers, or anyone else for that matter, but there are many other techniques that can be employed. For example, Mr. Hagan could be brought to a line-up or show-up involving them; interviews as to alibis could be conducted; persons present at the Audubon Ballroom on the day of the murder could view the suspects; their fingerprints could be compared to any that may have been obtained that day; the relationship between any of them and the Blue Cadillac could be explored, and so on.

Concededly, this is an unusual case. It is rare that one participant in a crime names and identifies others than his co-defendants as his sole accomplices and furnishes the wealth of information that appears in Mr. Hagan's second affidavit which, I am certain, the Court has never referred to as "frivolous." Mr. Hagan has maintained from the trial to this date that my clients did not participate in the crime with him and has, after much soul-searching, given every descriptive detail he can recall as to those who did. Surely, there is some responsibility on the part of the People, given the facts of this case, to take some affirmative action so as to rectify to a degree what may have been a horrendous miscarriage of justice which has cost two men the better part of thirteen years of their lives.

Defendants have done the detective work that has resulted

Ltr., Hon. Harold Rothwax

10/29/78 cont'd

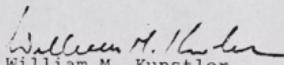
-2-

in a wealth of information concerning the crime. It would seem that, in the interest of justice if nothing else, this Court should direct that the People continue the matter and conduct the same type of investigation that would certainly have taken place if the facts provided the defense had been available thirteen years ago.

I feel most strongly that what has already been presented by defendants mandates, if not a new trial at this juncture, at least an evidentiary hearing so that testimony can be produced from Mr. Hagan. Mr. Goodman and others which would, I am sure, meet the statutory standard for the granting of a new trial under §440.10, Criminal Procedure Law. However, I am certain that, with what the Court has now, that standard has been fully met and that, had Mr. Hagan testified at the original trial as he has in his second affidavit, there might well have been different verdicts insofar as these defendants were concerned.

We are dealing here with a very complex case about which considerable doubt has remained over all the years. There is a deep and solemn responsibility on all concerned - the defense, the state and the Court - to work together toward the end that, only by virtue of joint effort will justice be truly done.

Respectfully yours,

  
William M. Kunstler

wmk.dtb

cc. Mr. Alpert

*Mr. Alpert*  
RECEIVED

William A. Ransler  
ATTORNEY AT LAW  
853 BROADWAY  
NEW YORK, NEW YORK 10003

78 OCT 31 AM 9:54

212-674-3304

October 29, 1978

DOROTHY THORNE BUTLER  
LEGAL ASSISTANT

Hon. Harold Rothwax  
Justice of the Supreme Court  
100 Centre Street  
New York, N.Y. 10013

Re: People v. Butler et ano.  
Ind. No. 871/65

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Defendants have done the detective work that has resulted

Ltr., Hon. Harold Rothwax

10/29/78 cont'd

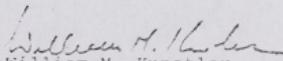
-2-

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Respectfully yours,

  
William M. Kunstler

wmk:dtb  
cc. Mr. Alpert



ROBERT M. MORGENTHAU  
DISTRICT ATTORNEY

DISTRICT ATTORNEY  
OF THE  
COUNTY OF NEW YORK  
155 LEONARD STREET  
NEW YORK, N. Y. 10013  
(212) 732-7300

553-9000

December 6, 1978

Clerk's Office  
New York Supreme Court  
Appellate Division, First Department  
27 Madison Avenue  
New York, New York 10010

NEIGHBORHOOD COMPLAINT OFFICES:

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55 WEST 125 STREET  
NEW YORK, N.Y. 10027  
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WEST SIDE BRANCH  
2112 BROADWAY  
NEW YORK, N.Y. 10023  
(212) 595-0760

Re: People v. Muhammad Abdul Aziz,  
(Norman 3X Butler)  
and  
Khalil Islam (Thomas 15X Johnson)  
Indictment Number 871/65

Application for Certificate  
Granting Leave to Appeal

Dear Sirs:

This Office has been informed of an application for a certificate granting leave to appeal from an order of the Supreme Court, New York County (ROTHWAX, J.), dated November 1, 1978, which denied the motion of the defendants to vacate the judgments convicting them of the murder of Malcolm X and sentencing them to life imprisonment. This response is submitted pursuant to Rule 600.8(d)(4) of the rules of this Court.

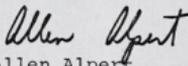
On December 1, 1978, I received from Mr. William Kunstler, attorney for the defendants, copies of his motion requesting leave to appeal and of his affidavit in support of the motion. Included with the instant motion papers were copies of the decision of the court below and of the twenty-one affidavits submitted in support of the motion by eight different persons on fifteen separate dates during the eleven months the motion was pending. Mr. Kunstler did not, however, provide this Court with copies of the People's responses to his motion. I am therefore enclosing with this letter a copy of the People's responses in the court below to Mr. Kunstler's motion to vacate the judgment. (It should be noted that Appendix "2" of

-2-

the People's response dated July, 1978 has not been included. Appendix "2" comprises unredacted copies of certain Federal Bureau of Investigation documents which were submitted only to the court below. If this Court should desire to review these documents, they will, of course, be made available to the Court).

Respondent opposes the application. The papers now before this Court include the response by the District Attorney covering the matters raised in the papers submitted by the applicant in the court below and the opinion of the Justice who denied the motion. The application for a certificate granting leave to appeal contains no new allegations.

Sincerely,



Allen Alpert  
Assistant District Attorney

cc: Mr. William Kunstler  
853 Broadway  
New York, New York 10003

Enc.  
AA/mm



DISTRICT ATTORNEY  
OF THE  
COUNTY OF NEW YORK  
ONE HOGAN PLACE  
NEW YORK, N.Y. 10013  
(212) 553-9000

ROBERT M. MORGENTHAU  
DISTRICT ATTORNEY

October 20, 1988

M. Wasserman and B. Grey, Senior Parole Officers  
New York State Department of Correctional Services  
Fulton Correctional Facility  
1511 Fulton Avenue  
Bronx, New York 10457

Re: Thomas Hagan a/k/a Talmadge Hayer  
Indictment No. 871/65

Dear Sirs:

This is in response to your letter of September 28, 1988 inviting the District Attorney to comment on the parole hearing scheduled for Thomas Hagan, a/k/a Talmadge Hayer. Hagan is currently serving a life term of imprisonment for his conviction, along with two accomplices, of the murder of Malcolm X.

Malcolm X, born Malcolm Little, was, of course, a prominent spokesman and leader of a segment of the black community. He had been an important member of the Nation of Islam, commonly known as the Black Muslims, but in a bitter dispute had left or had been expelled from that group, taking many of its members with him. On the afternoon of February 21, 1965, Malcolm X was to address a meeting of his followers in the Audubon Ballroom in Manhattan.

As Malcolm X greeted his audience from the speaker's podium of the ballroom, Thomas Hagan and Norman "3X" Butler, both members of the Nation of Islam, staged a noisy altercation to attract attention to themselves and signal the beginning of the attack. The ruse worked; the two bodyguards who had stood near the platform, ran toward the scene of the disorder, leaving their charge unprotected. At this point, Thomas "15X" Johnson rose from his front row seat and fired two 12 gauge shotgun shells at Malcolm X. Almost simultaneously, Butler and Hagan raced toward the stage directing a hail of gunfire at the speaker, Hagan firing a .45 calibre automatic pistol, and Butler using a German Luger. After the initial shotgun blast, at least ten shots were fired at Malcolm X. He was hit repeatedly and was pronounced dead shortly after he was taken on a stretcher to

Columbia Presbyterian Medical Center, across the street from the Audubon Ballroom.

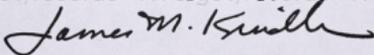
In the resulting confusion, two of the assassins, Butler and Johnson, escaped from the Ballroom. Hagan was captured by the angry spectators on the sidewalk outside and was arrested there by the police. Butler and Johnson were arrested in the ensuing weeks.

Hagan, Butler and Johnson were charged by indictment with Murder in the First Degree. On March 10, 1966, Hagan and his co-defendants were found guilty after trial by jury (Marks, J., presiding) of Murder in the First Degree. On April 14, 1966, they were each sentenced to life imprisonment. These convictions were unanimously affirmed by the Appellate Division, First Department, 29 A.D.2d 931 (1st Dept. 1968), and by the Court of Appeals, 24 N.Y.2d 395 (1969). The United States Supreme Court denied certiorari, 396 U.S. 886 (1969).

The evidence against Hagan and his accomplices was characterized by the appellate courts as "overwhelming" and "abundant." Indeed, Hagan admitted his own participation in the murder in his own testimony at the trial, and later in affidavits filed in post-conviction proceedings brought by his co-defendants, Butler and Johnson.

For his part in the premeditated murder of Malcolm X, Thomas Hagan should receive the full measure of his allotted punishment. The District Attorney strongly urges the Parole Board to deny Hagan parole and to continue his incarceration in accordance with the terms of his sentence.

Yours very truly,



James M. Kindler  
Executive Assistant District Attorney



\* B. Brother Jean - Detective Gene Roberts

1) K, in 1/19/17 aff, para 16, says Δs at trial "constantly inquired" about "Brother Jean's" identity, & refers to p. 1727, only. K's implication is that if only they could have located him, they would have proved their theory of police involvement.

In fact, Δs never inquired about "Jean's" identity in an attempt to link him to police involvement.

At p. 1727, Blackwell is asked questions about exactly when he found the Lyger. These questions to the chronology of events confused Blackwell. In an attempt to establish the chronology, an attorney asked Blackwell, almost as an aside, if he knew "Brother Jean's" last name.

2) No indication that Δs ever tried to locate "Jean", even after they had the list of names & addresses.

Could easily have done so - altho there were 118 names on the list, only 2 people were named "Gene", & by the time the list had been given to Δs, they already knew from the trial testimony that the person in the photo was named "Brother Jean".

List given to Δs on 2/9/66 & Ct. said it would issue "forthwith" subpoenas for anyone on list Δs wanted to talk to (1195, 1826-7)

3) K, in his reply affidavit of 2/11/78, says Roberts, in his affidavit, does not inculpate Butler or Johnson.

But this shifts the burden. Burden is on B & J to show Roberts would have exculpated them. B & J have not shown this, &

there was no duty on P to reveal Robert's ID to B & J. K cites as authority that P should have told B & J Roberts was a YC.

4) Moreover, indicative of fact that Roberts had no knowledge that anything would happen to M on 2/21/65, is that Roberts' wife JOAN was in the audience.

Roberts told me its his name + address on the list.

Roberts told me "Joan" was his wife, & she asked him if she could come to hear M speak.

Roberts told me he said okay.

Roberts would never have let his wife come to the ballroom if he thought there was going to be any trouble.

5) There is no allegation in Q's papers when they discovered that Roberts was a VC. Roberts had testified to this in 1970 in the trial of the "Panther 21".

3  
c. Reuben Francis

1) No showing that Francis' testimony would have been helpful to O or J, so no reason for P to have informed Ds of his whereabouts.

2) No showing that Ds ever tried to locate Francis, altho they knew from day after the shooting, Francis' name & address & that he had been charged w/ shooting Hagen, & was a possible witness.

a) N.Y. Times, on 2/22/65, reported that Reuben Francis, age 33, of 871 East 179<sup>th</sup> St., Bronx, was charged by police with assault & poss. of weapon for shooting Hagen in the leg. Francis was described as a secretary and friend of Malcolm X.

b) N.Y. Times, on 2/23/65, reported that Francis was arraigned on the shooting & held in \$10,000 bail. Times also reported Francis' description & address.

c) Francis indicted on 3/10/65 & arraigned on 3/12/65.

d) List of people interviewed by police given to Ds on 2/9/66 (seven days after Francis surrendered). List included Reuben Francis & gave his address. No indication Ds ever tried to contact Francis or ever asked DA to help them contact Francis.

\*  
\*  
\*  
e) Ds pd. Det. Ferdinand Cavallero re his arrest of Reuben Francis for shooting Hagen, ~~1966~~ & Cavallero testified that he last saw Francis on 2/2/66, (1965 - 66) (LA 2596-7) in Ds office when he re-arrested Francis for bail jumping, that Francis is presently lodged in the Tombs on \$25,000 bail. AOA says Francis is in Tombs - AOA is to help Ds talk to him if Ds want (2-10)

II Hagan

Jury disbelieved details of story Hagan told at trial.  
No reason to believe that the few details Hagan now adds to his trial testimony would have made him more credible to jury.

B. Overwhelming ev. of Old J's guilt:

Four wits IO. Johnson

- 1) Vernal Temple - at Aud. at 11:45 AM saw J in Chicago
- 2) Cary Thomas } w. shotgun at stage (s admits house in Chicago)
- 3) Fred Williams } Thomas had seen J many times in Messrs #7
- 4) Charles Blackwell - J. ran to ladies lounge

~~Seven~~ Seven wits IO. Butler

- 1) Jasper Davis } as men in disturbance Thomas saw B many times thru NE
- 2) Carroll Thomas }
- 3) Charles Blackwell }
- 4) Charles Blackwell }
- 5) Cary Thomas } as man who, w. H., shot M. w. handgun
- 6) Edward De Roe }
- 7) Charles Blackwell }
- 8) Vernal Temple } as man who, w. H., ran from stage after shooting M.
- 9) Edward De Roe }
- 10) Charles Blackwell }
- 11) Reynold Timberlake }
- 11) Charles Blackwell }

# 1686, 1738 (Blackwell)  
1425 (Timberlake)

3

c. K's attempt, in his reply aff. of 2/11/78, para 6, to cast doubt on  
credibility of P's witnesses, does not stand up to scrutiny.  
To rebut, see

K's reply aff., p. 6-7: Cited as Exs:

1) Edward De Pina

2) Jasper Davis

3) Charles Blackwell

## Oral Argument

I FBI Documents - to explain references in redacted documents

K7 - says one of Malcolm's bodyguards was seen in Harlem after the shooting wearing \$100 suits, v. pocket full of \$100 bills.

K40 - says one of Malcolm's bodyguards was seen with large amounts of \$ the day after the shooting; this person was arrested for poss. of a gun, failed to appear in ct., & forfeited \$1,000 bail.

K says this person was Leuben Francis.

Answer: K40 IOs the person as Robert 35X Smith

K8 - Document dated 3/3/65.

As of a meeting held on or shortly before 3/3/65, the NYPO (apparently) developed "two suspects at large" whom the NYPO declined to IO to FBI.

But NYPO did ask FBI to ~~NYPO~~ supply information re. two people (names obliterated) & FBI gave NYPO photos & descriptions of them.

NYPO eliminated one of them as a suspect.

K would argue that this ~~one~~ persons might be a person named by H.  
Answer: No indication these people match H's allegations.

B arrested on 2/2/65; J on 3/3/65. No indication that B+J were not the assassins. The two suspects could have been additional suspects.

(2)

\* K 39 - Hearsay statement that man who started disturbance "was believed to be a member of 'Newark Temple'."

K would argue this person is 'Wilbur' named by H:

Answer: At trial, H said none of his accomplices were Black Muslim. Even in his affidavit, "Wilbur" is the only one H does not <sup>definitely</sup> IO as being a Muslim or belonging to the Newark Temple.

∴, No connection between man in K 39 & H's "Wilbur".

And, in any event:

At trial, H (not B or J) was IO'd as the man who started the disturbance;

At trial, H was IO'd as a member of Newark Temple (Franklin X Durant: 2838-14; P's Ex's 87-88: two photos of H in karate gear taken at Newark Temple); & In his affidavits, H ~~is~~ indicates his membership in NOI.

K 31 - refers to a "John \_\_\_\_\_" who was arrested inside the ballroom by a cop who had been stationed outside.

This could have been the same person arrested by P.O. Hoy.

At trial, D's did not call Hoy

No attempt during this motion to speak to Hoy. No attempt to check police records re this arrest.

3

II FBI Documents - "suspects" named in undated documents

K 24 - Lloyd Wright (2/22/65)

K 40 - Robert 35 x Smith (3/30/65)  
Langston Savage

{ K 44-46 Norman Howard Mortimer (4/1/65)  
Edward Oliver - "NOI's strong armed man from Newark"  
K 43 Edward Oliver (4/2/65)  
K 47 Edward Oliver (4/9/65)  
Norman Howard Mortimer

\* { K 48 - Shotgun welder a LT. in Newark Temple (4/13/65)  
(letter from Leon Lionel Phillips, Jr  
aka Leon Ameer ??)  
K 50 - Richard 15 x (4/21/65)  
Edward 15 x (see K 38)  
\*

{ K 51 - James W. Cook, Jr. (6/24/65)  
James Willis Cook, Jr. 10/21/65

### III Benjamin Goodman

To show Goodman's unreliability, contradictions in his affidavits:

1) May, 1978 aff., # 13:

"... 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 21<sup>st</sup>."

2) July 21, 1978, # 6:

"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... They were also instructed to inform me as well."

Regardless of whether Goodman looked over heads, or scanned the faces, Goodman said in G.J. that he did not know, one way or the other, whether or not B or J were present.

Further, if security was so tight and people were so worried about Malcolm's security, why was Malcolm standing alone at a bus stop at 146<sup>th</sup> St. & Broadway so that Charles Blackwell and Fred Williams, who chanced to be driving by, stopped to give Malcolm a ride to the ballroom? (Williams: 1506-8; Blackwell: 1606-8).

11/2/78 Pt. 35 Judge Rothman Ct. Repr.  
Gloria Brown

## REUBEN FRANCIS

Claim: That Francis possessed exculpatory information, but his availability to testify was never made known to the defense.

Answer: Kunstler has never indicated what Francis would have testified to to help Δs.

In any event, Francis' availability was made known to Δs during trial:

2/9/66 - one week after Francis surrendered to FBI, Det. Cavallaro testified that he last saw Francis in DA's office on 2/2/66, & that he arrested Francis there. (1881-2)

2/18/66 - Cavallaro testified Francis was currently in Tombs on \$25,000 bail (2596-7) in counsel's presence,

Dermody told ct. that Francis was in Tombs but p would not call him since he was under indictment. Dermody said Francis had no helpful info & offered the file to the ct.

Dermody asked ct to make Francis available to Δs if they wanted, & ct. agreed to (2602-8).

## BENJAMIN GOODMAN

Claim: That Goodman told Stern B + J were not in Audubon because he would have seen them if they were.

Answer: Goodman's own G.J. testimony on 4/5/66 in which Goodman says he doesn't know one way or the other if B or J were in the audience. Was not looking at anyone in particular - just trying to weigh mood of audience.

Also, if one of Goodman's functions was to provide security for X, why was he only a last second replacement for Rev. Milton Galamison when he didn't show.

Also, if security was so tight & they were so worried about X's safety, why was X standing alone at a bus stop at 146 St & Broadway, when Charles Blackwell & Fred Williams chanced to drive by & gave X a ride to the ballroom? (Williams: 1506-8; Blackwell: 1606-8).

DET. GENE ROBERTS (Brother Jean)

Claim: That Roberts possessed exculpatory ev.  
+ could have testified to police involvement.

Answer: Roberts' aff. - says he has no exculpatory  
info + doesn't know anything re. police involvement.

Also, if he knew something, would he have  
taken his wife there?

(Roberts told me it was his wife - Joan  
Roberts - on the list).

And, Δs never tried to locate "Jean".  
They knew his name was Jean + there were only  
2 ~~names~~ "Genes" on the list of 118 people  
given to Δs on 2/9/66.

Ct. said it would issue "forthwith" subpoenas for  
anyone on list Δ wanted to talk to (1925 or 1926-7).

## THOMAS HAGAN

§ 440.30 (1) requires "sworn allegations of facts".

Here, Hagan's sworn allegations of facts - the only allegations of facts in support of this aspect of his motion - are almost identical to his testimony at trial.

The only difference is that now he gives the names of his supposed accomplices + adds a few details re the planning of the murder.

This is not evidence of a character which, if H had testified to it, would probably have resulted in a verdict more favorable to Butler or Johnson. Thus, this requirement of 440.10 (1)(g) [newly discovered evidence statute] has not been met + the motion should  $\therefore$  be denied on the merits. (CPL § 440.30 (4)(b)).

Ultimately, K misapprehends the nature & scope of a 440.10 motion. This is not a vehicle to compel the ~~pro~~ District Attorney to conduct a foraging expedition in to the possible guilt of the Ds. That has already been done - at the trial. And the D's guilt was proved BARD to 12 persons who ~~saw~~ the evidence & saw & heard the evidence & the witnesses. (7 IO'd Butler & 4 IO'd J).

Rather, this motion is to enable the Ds to come forward with appreciable, concrete ev. that probably would have made a difference to the jury.

This, K has not done. Instead, he has thrown up his hands & said to the P - "You investigate" & to the ct "Make them investigate"

But the burden is on the  $\Delta$

Trial Attorneys:

H - Peter Sabbatino

B - Joseph Williams  
William Chance, Jr.

J - Joseph Pinckney  
Charles Beavers

27k-5964  
25  
24  
28#

# Response

## K's Allegations

## Our Ev. in Opposition

1) Hagan's "Accomplices"  
+  
Redacted FBI memos re. suspects  
from A.J. (See K's aff's - memo re FBI,  
+ 4/29/78)

P's memo filed 2/9/78  
P's supplementary memo - April 1978  
Unredacted FBI memos \*

2) Det. Gene Roberts -  
that NYPO was "involved" in the murder  
+ that Roberts had exculpatory ev.

Roberts' affidavit - 1/12/78  
P's memo filed 2/1/78  
P's supplementary memo - April, 1978

3) Reuben Francis -  
that Ds not told that Francis had  
surrendered and was available to testify

(See Minutes of 2/15/78, p. 13<sup>419</sup> for K's  
incorrect statement that no one told Ds that  
Francis was available) + Main K aff. filed 4/15/78.  
P's supplementary memo - April, 1978  
Trial Transcript - 1868-82, 2596-7, 2602).

4) Hagan - John Ali meeting -  
K, in 4/25/78 aff, says FBI gave this info  
to N.Y.P.D.

our files don't indicate FBI gave us anything  
re this. \*  
In any event, so what? (see Transcript  
pp 3379-82) \*

5) Benjamin Goodman

Stenn affidavit \* + attached papers  
Goodman's G.J. testimony \*

MEMORANDUM

21 affidavits by 8 people on 15 dates

Δs Affidavits

Rec'd

12/6/77	K - 12/5/77	} Re: Hagan's affidavit
	H - 11/30/77	
	B - 11/23/77	
	J - 11/22/77	
	FAIZ - 12/5/77	

12/12/77 K - 12/8/77 - Re: Roberts

12/21/77 K - 12/19/77 - Re: Mostly Roberts + some Hagan (includes Roberts Panther 21 testimony)

1/31/78 Chance - 12/31/77 } Re: ~~Hagan~~ Hagan + Roberts  
Pinckney - 1/16/78

1/24/78 K - 1/19/78 } Re: Failure to call Reuben Francis

→ Ps' First Response

2/15/78 K - 2/11/78 } Reply affidavit

→ First Oral Argument

3/1/78 H - 2/25/78 } Supplementary Affidavit by Hagan re <sup>names of</sup> accomplices

4/5/78 K - 4/3/78 } Supplementary Affidavit - FOI memo re CONTELPRO

→ P's Second Response  
Second oral Argument

4/18/78 K - Undated - FBI documents re killers from N.J.

5/2/78 K - 4/29/78 - Additional FBI memos

5/15/78 K - 5/12/78 - Additional FBI memo

5/24/78 Goodman - 5/14/78 - Goodman's affidavit

→ P's Third Response

7/25/78 Goodman - 7/24/78 - Goodman's Reply affidavit  
K - 7/16/78 - K's reply affidavit

9/12/78 K's aff. re P to investigate H's claims

10/6/78 → P's answer to K's aff.

10/29/78 K's answer to P's letter.