

District Attorney's Office
COUNTY OF NEW YORK

Movants' Reply Affidavit

Case No.

Norman Butler-

Date:

3/15/77

Description of papers:

Record on Appeal.

Vols 1-6

Sup C. State of NY-

Requisitioned by:

Name of firm:

pro se law clubs

By:

Olya Valentin-

Address:

Foley Square - NY

Papers must not be removed from this room



FROM

William H. Kunstler

ATTORNEY AT LAW

853 BROADWAY
NEW YORK, NEW YORK 10003

To:

ADA ALLEN ALPERT
DISTRICT ATTORNEY
155 LEONARD STREET
NEW YORK, N.Y. 10013

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

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

-v- :

Ind. No. 871/65

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

Defendants. :
----- -x

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

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

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

2. In essence, the People claim that:

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

3. The affidavit of Thomas Hagan

The People's claims with reference to this document

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

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

Not really more detailed - just different details

Wrong - Hagan's affidavit doesn't state this.
Nor does K's - K says only that H will testify to their names & last known addresses.

Why any more so than in a public hearing?

standard is "probably"

What's the source?
What's the significance?
"thought enough of" means nothing.

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

4. The hiding of the identity of Gene Roberts

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

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

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

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

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

*/ Exhibit A

only 2 people on list named Gene

She was present. Indicates Roberts had nothing to do with it. Didn't know he had any involvement. Didn't know anything was going to happen. Considered Roberts' affidavit.

Only 2 named "Gene"

Os did not even try to interview "Brother Joan"

ever was a case in which disclosure was mandated, it is this one.

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

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

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

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

Roberts' aff. does not have to incriminate G or J. It is G & J's burden to show he would have incriminated them, if they haven't done this.

How? Not shown. Roberts' aff. shows the opposite.

Lugar - Francis

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

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

a. Cary Thomas: identified Johnson (TT. 242) and Butler (TT. 237). This witness had numerous narcotics convictions (TT. 267) and was, at the time of the trial, under indictment for arson. (TT. 277) He had been a heroin addict (TT. 280) and pusher (TT. 293) and had been committed to Bellevue Hospital as a psychiatric case two years earlier. (TT. 277-8) Not only was he contradicted by other witnesses as well as Gene Roberts, but he contradicted himself, (TT. 304, 333, 470) and admitted making many testimonial errors. (TT. 466). He was paid as a material witness, (TT. 362)

b. Fred Williams: identified Butler as being involved in the disturbance that preceded the murder (TT. 151-16) and Johnson as having the shotgun (TT. 152), but then said could only identify "one for sure," i.e. Butler. (TT. 1568) Told police couldn't identify anyone "until I see more pictures of them." (TT. 1598)

c. Edward De Pina: this 70-year-old Portuguese alien (TT. 805), with a criminal record of assault, policy and federal liquor law violation (TT. 828-9) identified Butler whom he had never seen until the day of the murder (TT. 846). In court, he mistakenly identified

* but then he immediately says that the lawyer (Charles Benner) was not the man who took him to the hospital.

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

* He was shown photos after he physically ID'd Butler (TT.159-64) ± * they showed him quite a few pictures of B & others (1164-7). Davis was positive of his ID.

identified one of the defendants' lawyers as the man who had taken him to Bellevue Hospital to look at Hagan. (TT.890) He picked Butler out of lineup which contained white men. (TT. 937) — not sure — maybe a few white men — he was positive of B's face (893).

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

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

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

He lied as to whether he saw anyone shoot M. or rush toward stage

* Admitted that he lied to G.J. because, as a security guard, he wasn't supposed to leave his post, & he didn't want people to know that he didn't protect M. & that he tried to protect himself (1946-7)

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

In essence, the above is the "abundant" or "overwhelming" evidence against these defendants, both of whom had family alibis and were not apprehended at the scene. Taking into consideration the total absence of physical evidence, the pandemonium at the scene and the resultant *

* He said he saw Johnson briefly without a weapon near the ladies' room. (TT. 1625)

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

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

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

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

Margaret L. Ratner
NOTARY PUBLIC

William M. Kunstler
WILLIAM M. KUNSTLER



POLICE DEPARTMENT

NEW YORK, N.Y. 10038

T.D. 78/089
C.M. 125

P.D. 100-151

February 1, 1978

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

Dear Mr. Kunstler:

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

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

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

Very truly yours,

A large, stylized signature of Philip R. Michael is written over the "Very truly yours," text.

Philip R. Michael
Deputy Commissioner
Legal Matters

JER/fn

EXHIBIT A

4267

PERSONS INTERVIEWED IN MALCOLM X INVESTIGATION.

AHMED, OMAR- 416 W. 134 ST.
 - ALEXANDER, GLADSTONE- 219 W. 144 ST.
 - ANDERSON, ROBERT- 17 KRESS AVE., NEW ROCHELLE.
 AHMED, ZEBRINI- 416 W. 134 ST.
 BROWN, LORRAINE- 1489 SO. BLVD., BX.
 BAILEY, WILLIAM- 225 W. 137 ST.
 BOUTELL, PAUL- 1091 PROSPECT AVE., BX.
 - BROMBERG, EDWARD- 150 W. 21 ST.
 - BROWN, CLARENCE- 550 CANNLDWELL AVE., BX.
 - BOULLOPS, JACKIE- 1770 BROADWAY.
 - BACHELOR, MARGARET- 161 W. 140 ST.
 - BIGGANS, JONNIE MAY- 2430 7th AVE.
 - BADGER, SUSY- 360 E. 17 ST.
 ✓ BLACKWELL, CHARLES- 112-50 NORTHERN BLVD.
 - BURNS, CARNEY- 41-15 10 ST.
 BALLEAU, JAMES- 212 W. 129 ST.
 BROWN, MARTHA- 92 ST. NICHOLAS AVE.
 BLANCHETTE, GWEN- 5530 W. 3RD ST., PLAINFIELD, N.J.
 CATHCART, LINWOOD- 142 W. 140 ST.
 CRUM, CATHERINE- 730 RIVERLIDE DR.
 COOPER, RALPH- ~~EXE~~
 ✓ DAVIS, JASPER- FEB 9 1966
 DAVIS, CHARLES- 70 E. 108 ST. MURRAY LEITCH
 ✓ DEFINA, EDWARD- OFFICIAL STENOGRAPHER
 - DAVIS, JOHN- 746 ST. NICHOLAS AVE.
 DEBERRY, CLIFTON- 116 UNIVERSITY AVE. PLACE.
 EDWARDS, ROBERT- 1263 GRANT AVE.
 FAISON, HARRY- 3706 AVALON ST. PHILA., PA.
 - FRANCIS, RUBEN- 871 E. 179 ST.
 FRUMTZ, GUENTHER- 310 E. 38 ST.
 - GRIMES, FRANKLIN- 70 W. 116 ST.
 - GREY, MURIEL- 706 RIVERSIDE DR.
 - GRANT, EARL- 3657 BROADWAY.

12431

EXHIBIT AA
N Y SUPREME CT.

FEB 9 1966
MURRAY LEITCH
OFFICIAL STENOGRAPHER

EXHIBIT 39 for II
N Y SUPREME CT.

FEB 9 1966
MURRAY LEITCH
OFFICIAL STENOGRAPHER

EXHIBIT B

4268

PAGE # 2.

GOODMAN, BENJAMIN-	1022 LONGFELLOW AVE., BX.
GETHERS, ELIZABETH-	159-26 HARLEM RIVER DRIVE.
GREY, JOHN-	2300 5 TH AVE.
GAGGINS, ROBERT SR.-	1370 ST. NICHOLAS AVE.
HARRIS, WILLIAM-	614 OAK TREE PLACE.
HUFF, HATTIE-	602 COURTLAND AVE.
HASSON, ABDULLAH-	1020 TRINITY AVE., BX.
HOLMES, CARL-	1365 5TH AVE.
HASSOUN, AHMED SHEIK-	HOTEL THERESA.
JACKSON, SHARON-	401 E. 102 ST.
JEFFERSON, OLLIE-	841 BROCK ST., BX.
JENNINGS, ALVIN-	760 E. 166 ST.
JONES, FREDERICK-	540 W. 159 ST.
KOCHIYAMA, MARY-	545 W. 126 ST.
KOCHIYAMA, WM.-	" " "
LLOYD, EDWARD-	1230 124TH AVE. PHILA Pa.
LARSON, LEONARD-	557 W. 148 ST.
LEAKS, SYLVESTER-	410 W. 110 ST.
LITTLE, BETTY-	HOTEL THERESA.
MITCHELL, ARAH-	843 TIFFANY ST., BX.
MORRIS, CHARLES-	1851 3RD AVE.
MOORE, CHARLES-	XXXXXXXXXXXXXXXXXX
MICHAUX, LOUIS-	220 W. 145 ST.
MOORE, LOUISE-	61 CLINTON AVE., NEW ROCHELLE.
MILLS, LAURA-	620 COURTLAND AVE.
ODON, RALPH-	225 W. 123 ST.
PARKER, WILLIAM-	2305 30TH AVE., ASTORIA.
PRICE, BENJ.-	131-33 W. 143 ST.
PRICE, HELEN-	" " "
PEMPAGH, ALEX.-	225 W. 110 ST.
PORTER, MERVAN-	516 E. 11 ST.
RASKETT, ANGELA-	
PRIPPER, GEORGE-	291 PATCHEN AVE., BKLYN.
PLATT, DAVIS-	240 E. 24 ST.

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PAGE # 8

RYAN, JESSE-	366 W. 118 ST.
RYAN, JOAN-	" "
✓ ROBERTS, GENE-	3983 HARNES PL., BX. <i>Un-Sub-1110</i>
ROBERTS, JOAN-	" "
ROWE, EVA-	61 CLINTON AVE., NEW ROCHELLE.
ROWE, JIMMY-	" " "
— SAVAGE, LANGSTON-	140 W. 144 ST.
— SCOTT, STANLEY-	1220 CROES AVE., BX.
— SEALEY, SIDNEY-	995 UNION AVE., BX.
— SERRA, IGNACIO-	1085 BEACH AVE., BX.
✓ SHEBAZZ, SHARON-	217 RAINBOWIDGE ST., BKLYN.
✓ SHEPPARD, ROLAND-	137 66 ST., BKLYN.
— SHIPPLET, LYNN-	706 RIVERSIDE DR.
— SIMPSON, GENE-	466 W. 146 ST.
— SKINNER, THOMAS-	880 BOYNTON AVE., BX.
— SNEED, LEONARD-	226 W. 137 ST.
— STANBURY, CLIFTON-	1695 MADISON AVE.
— STEPHENSON, D. ALD-	2504 7TH AVE.
— STEWARD, ROBERT-	1 PROSPECT TERRACE, EAST ORANGE, N.J.
— STEWART, JAMES-	10701 THERESA.
— TAYLOR, ABRAHAM	97-06 NORTHERN BLVD.
— TIGBY, ALBERTA	3624 AVE F, BKLYN.
✓ TIMBERLAKE, RONALD	1764 BEDFORD AVE. BKLYN.
✓ THOMAS, CARY	233 W. 121 St. (presently MURENS TOMBS)
— WASHINGTON, DONALD	60 W. 69th St.
— WASHINGTON, JOSEPH USEP	393 DUMONT AVE. BKLYN.
— WATSON, FLORENCE	221 RALPH AVE. BKLYN.
— WELLS, RAFAEL	334 E. 102nd St.
— WELLS, SAMUEL	62 W. 119th St.
— WHEELER, THOMAS	242 E. 128th St.
— WHITMORE, IVORY	305 W. 113th St.
— WHITNEY, GEORGE	1114 MORRIS AVE. (or) 223 W. 121 ST)
— WILLIAMS, FRED	80

GEORGE, WILLIAM 84X-	115 W. 118 St.
WRIGHT, AARON-	3735 LANCASTER AVE., PHILA.
WALLACE, THOMAS-	3450 110 TH ST..
BENTLEY, LEONARD-	215 W. 148 ST.
CULLUM, CHESTER-	ELMIRA.
FERGUSON, DEBRAAN-	129-39 167 ST.
GEORGE, MATTHEW-	
JOHNSON, ALBERT-	60-62 119 ST.
LEWIS, MARILYN-	177-48 120 TH AVF.
MALLORY, WAG-	
MOORE, WILBERT-	90 EDGEBOOM AVE.
✓ MOORE, CHARLES-	666 RIVERSIDE DRIVE.
✓ MCCLELLAND, ALBERT-	666 RIVERSIDE DRIVE.
ROUSSEAU, CECIL-	48-41 BROADWAY, ASTORIA.
ERNEST, ROUS. ON-	" " "
VESTAL, JAMES-	540 E. 171 ST.

CERTIFICATE OF SERVICE

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

William M. Kunstler
WILLIAM M. KUNSTLER

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



FROM

William M. Runstler

ATTORNEY AT LAW

853 BROADWAY

NEW YORK, NEW YORK 10003

To:

ADA Allen Alpert
District Attorney
155 Leonard Street
New York, N.Y. 10013

First Class

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

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

-against-

: Ind. No. 871/65

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

Defendants. :

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

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

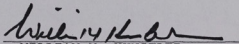
1. I am attaching herewith several more documents just
received from the Federal Bureau of Investigation which go to prove
that (1) COINTELPRO was being used against the Nation of Islam,
and (2) there was a great deal of exculpatory information in the
hands of the FBI and the New York City Police Department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

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

RECEIVED
1979 MAY -2 AM 10:28
DISTRICT ATTORNEY
NEW YORK COUNTY

1 { and one John Ali at the Americana Hotel in New York City just before the murder of Malcolm X. This document is from the Special Agent in Charge of the New York Division to Director J. Edgar Hoover and is dated March 3, 1966, and will be forwarded to both Court and opposing counsel as soon as received. This information was turned over to the prosecutor before or during the trial but was not used in the cross-examination of Hagan by him. Instead, it was apparently used in the cross-examination of defendant Butler. TT3379-82.

3. From the material submitted with this affirmation and my previous affidavit, it is obvious that much crucial exculpatory evidence in the hands of the FBI and the New York City Police Department was never revealed to the defense and thus affords another ground for the relief sought in this motion, namely that set forth in §440.10(f) and (h), and defendants now urge same upon this Court.


WILLIAM M. KUNSTLER

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

FBI

Date: 8/29/69

Transmit the following in _____

(Type in plaintext or code)

Via AIRTEL _____

(Priority)

TO : DIRECTOR, FBI (100-448006)

FROM : SAC, CHICAGO (157-2209)

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

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

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

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

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

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

REC-6

100-448006-1248

EX-113

SEP 1 1969

54 Approved: [Signature] Special Agent in Charge

Sent _____

RECEIVED
FBI
M Per

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8-25-65

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

airtel

To: SAC, New York [redacted]

From: Director, FBI [redacted]

MALCOLM X LITTLE
[redacted]

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

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

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

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

MAILED 25
OCT 1 1965
COMM-FBI

5 SEP 2 1965

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

- 1 - New York [redacted]
- 1 - [redacted]

TPR:JBE:dlm:lam

(14)

50 SEP 17 1965

MAIL ROOM ☒ TELETYPE UNIT ☐

RECORDED COPY FILED IN

Memorandum

TO : Mr. W. C. Sullivan

DATE: August 25, 1965

FROM : F. J. Baumgardner

SUBJECT: MALCOLM X LITTLE

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

[redacted] Malcolm X Little, leader of the Muslim Mosque, Incorporated, a Black Nationalist organization, was murdered on February 21, 1965.

[redacted] arrested three individuals suspected of being the assassins. In addition, the police arrested [redacted] who was with Little at the time of his murder and [redacted] wounded one of the assassins.

[redacted] was scheduled to appear in court [redacted] in connection with this charge. He did not appear and the [redacted] has been attempting to determine his whereabouts ever since.

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

Enclosure

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

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

TPR:JBE:dln
(11)

50 SEP 17 1965

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

Let
Phillips
Baker

INFO COPY FILE

8 8

Memorandum Baumgardner to Sullivan
RE: MALCOLM X LITTLE [redacted]

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

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

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

ACTION: [redacted] *12-10*

[redacted]

sw *0* *to* *12-10* *9/10/65*

[redacted]

[redacted]



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

In Reply, Please Refer to
File No.

Miami, Florida

OCT 21 1965

RE: MALCOLM X. LITTLE;

MURDER OF MARTIN LUTHER KING, JR.

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

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

[REDACTED] person referred to
in this communication was believed to be [REDACTED]
[REDACTED]

ENCLOSURE

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

On March 4, 1965, [redacted] stated that, as of this date, [redacted] [redacted] and JOHNSON, all arrested for the killing of MALCOLM X, have refused to furnish any information other than their names and addresses.

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

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

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

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

May 12, 1978

ENTERED BY
APPEALS CLERK

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

Re: People v. Butler & Johnson

Dear Justice Rothwax:

I am enclosing an affidavit with an attachment thereto which was mentioned in an earlier document. This is done to complete the file in this matter.

I am hoping for an early hearing on the underlying motion, which was filed at the beginning of December. I realize that defendants have augmented their record due to the surfacing of Freedom of Information Act documents relevant to their case, but it would seem that some date ought to be set for a hearing in the premises. Both defendants have been incarcerated for more than twelve years and, if they did not receive a fair trial, they have paid a horrible price.

I have learned from experience that the District Attorney's office in this matter has not been overly energetic in responding to my papers and I am hoping that the matter can be expedited before the summer doldrums set in.

Naturally, I would appreciate anything you can do to move the matter along.

Respectfully yours,

William M. Kunstler

encl. (1)
cc. District Attorney

RECEIVED
MAY 15 1978
DISTRICT ATTORNEY
NEW YORK COUNTY

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

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

-v- :

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

Defendants. :
----- x

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

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

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

2. It contains in the first full paragraph information apparently received by the prosecutor from the FBI relating to an alleged meeting between John Ali, then the National Secretary of the Nation of Islam, and Thomas Hagan at the Americana Hotel on the evening of February 20th, 1965, the eve of the murder of Malcolm X. Although the FBI indicated that it was indeed Hagan who had met with Ali, the prosecutor did not question the former about the meeting but did interrogate defendant Butler about it. TT.
3379-82.

William M. Kunstler
WILLIAM M. KUNSTLER

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

Margaret L. Ratner
Notary Public

MARGARET L. RATNER
NOTARY PUBLIC, STATE OF NEW YORK
No. 31-3211470
Qualified in New York County
Commission Expires March 30, 1979

March 3, 1966

Enom SHC NY

To Director

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

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

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

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

**TELEPHONE MESSAGE DISTRICT ATTORNEY
NEW YORK COUNTY**

Date

6/19/78

Mr.

A. Alpert

You were called by Mr.

Judge Stern

Phone number

Remarks—

201-

645-

6340

Time Taken

9:55

Taken By

To files ~~from~~
from 4/8/78

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

Police inform me (Det
Cavaliero) 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.

Original in
Dr. Martin Salamasen file
L.B. 4/5/78

William M. Kunstler

ATTORNEY AT LAW

853 BROADWAY

NEW YORK, NEW YORK 10003



ADA Allen Alpert
District Attorney's Office
155 Leonard St.
NY, NY 10013

RECEIVED

78 MAY 31 AM 10:41

DISTRICT ATTORNEY'S OFFICE
NEW YORK COUNTY

May 25, 1978

ENTERED BY
APPEALS CLERK

Mr. Albert

Albert

Hon. Harold Rothwax
Justice of the Supreme Court
Criminal Courts Building
100 Center Street
New York, N.Y. 10013

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

Dear Justice Rothwax:

With reference to the affidavit of Benjamin Goodman, which was sent to you on May 19, 1978, please be advised that it contains an error in ¶19 on page 2 thereof. The second line of said paragraph should read "at or near 151st Street and Amsterdam in New York City" rather than as it presently reads. I was informed of this error in the identity of the street in question by Mr. Goodman in a telephone conversation today.

Incidentally, Mr. Goodman will be available for direct and cross-examination in the event of an evidentiary hearing.

Again, I would respectfully urge that this matter be scheduled for an early hearing before you. My clients are understandably eager for an early hearing and it would seem that such is more than justified by the material submitted on their behalf.

Respectfully yours,

William M. Kunstler

wmk/dtb
cc. District Attorney

*Rm 804 506
allen alpert*

William M. Kunstler

ATTORNEY AT LAW

853 BROADWAY

NEW YORK, NEW YORK 10003

212-674-3304

DOROTHY THORNE BUTLER
LEGAL ASSISTANT

May 19, 1978

Honorable Harold Rothwax
Supreme Court Justice
Criminal Courts Building
100 Centre Street
New York, New York 10013

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

Dear Justice Rothwax:

I am enclosing an affidavit just received by me from Benjamin Goodman in Chicago which indicates that crucial exculpatory material was withheld from the defense in the above case.

Naturally, I am distressed that I am forced to submit this and other material on a piecemeal basis but, lacking substantial resources, I am forced to rely on people who read or hear about the case contacting me as Mr. Goodman has just done. I informed Mr. Alpert on Tuesday, May 16, 1978, that the enclosed affidavit would be forthcoming shortly without revealing the affiant's name.

The information contained in this affidavit should be relatively easy to check out as it relates to the New York City Police Department and the District Attorney's office. Accordingly, it is hoped that some date can be set for further argument, if necessary, on defendants' motion.

Respectfully yours,

William M. Kunstler
William M. Kunstler

WMK:dk
encl (1)
cc: Mr. Alpert

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

THE PEOPLE OF THE STATE OF NEW YORK,)

VS.)

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

IND. NO. 871-65

Defendants)

STATE OF ILLINOIS)
COUNTY OF COOK)^{ss}

BENJAMIN GOODMAN, FIRST DULY SWORN, DEPOSES AND SAYS:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16. I therefore did not witness Malcolm's assassination.
During the years
17. After Malcolm's assassination, I had conversations with many of the people in the Ballroom on February 21st, including many OAAU members.

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

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

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

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

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

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

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

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

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

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

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

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

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

SUBSCRIBED AND SWORN BEFORE ME
THIS 13th DAY OF MAY, 1978

Luella Turner
NOTARY PUBLIC

Benjamin Goodman
Benjamin Goodman

District Attorney's Office
COUNTY OF NEW YORK

Benjamin Goodman's
Affidavit

XXXXXX
553-9000

July 10, 1978

Honorable Herbert Stern
Judge, United States District Court
District of New Jersey
United States Courthouse
Newark, New Jersey

Dear Judge Stern:

As we discussed last week, I am enclosing the draft of your proposed affidavit. At your earliest possible convenience, would you kindly review it, make any changes you feel appropriate, and return it to me in its final form.

Thank you once again for your continued assistance in this matter.

Sincerely,

Allen Alpert
Assistant District Attorney

AP/mm
Enc.

June 9, 1978

Honorable Herbert Stern
Judge, United States District Court
District of New Jersey
United States Courthouse
Newark, New Jersey

Dear Judge Stern:

In reference to our telephone conversation of today's date, enclosed please find the affidavit of Benjamin Goodman which I received from Mr. Kunstler on May 24, 1978.

I would appreciate hearing from you at your earliest convenience regarding any recollections and observations you have relative to Mr. Goodman's allegations.

Thank you again for your time and cooperation.

Sincerely,

Allen Alpert
Assistant District Attorney

AA:lb
Enclosure