

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE PETITION OF NATIONAL SECURITY )  
ARCHIVE, AMERICAN HISTORICAL )  
ASSOCIATION, AMERICAN SOCIETY OF LEGAL ) Misc. No. 11-189  
HISTORY, ORGANIZATION OF AMERICAN )  
HISTORIANS, SOCIETY OF AMERICAN )  
ARCHIVISTS, AND SAM ROBERTS )  
FOR ORDER DIRECTING RELEASE OF )  
GRAND JURY MINUTES )  
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**SUPPLEMENTAL DECLARATION OF SAM ROBERTS**

1. This declaration is in response to the Government's Memorandum of Law.
2. I believe that several of the people whom the Government has been unable to locate are, in fact, dead. If the government cannot find them (we're not talking about Osama bin Laden), after more than half a century they should either be presumed dead or living under other names that would not be compromised by the release of the grand jury testimony. Moreover, since David Greenglass, in particular, has been living under an assumed surname since he was released from prison in 1960, as is his family, any concern about personal repercussions or retaliation as a result of the release of his testimony should be completely mitigated.
3. The grand jury testimony of David Greenglass may be the most crucial to the petitioners. That is because that testimony would reveal and elaborate on numerous inconsistencies among his initial statements to the F.B.I., his testimony to the grand jury, information he provided during ongoing interviews with federal agents and prosecutors before the trial, his testimony at the trial itself, and his subsequent recollections during many hours of interviews with me in researching my book, "The Brother."
4. Some of the grand jury testimony was reported in newspapers and other sources in the early 1950s. Some was referred to at trial. Years later, David Greenglass agreed to talk with me under only two conditions: he wanted to be paid, as I explain in the book, for his time and for discussing details of what, after all, is *his* life; and he did not want his current identity to be revealed. I agreed, because I believe no purpose would be served by the latter and because the book, as envisioned, could not be written without his cooperation. (The government, itself, seems to have abrogated any concern for Greenglass's privacy by revealing his pseudonym in its declaration dated June 23, 2008.)
5. During 50 or so hours of otherwise no-holds barred interviews, Greenglass never placed any additional restrictions on our conversations concerning his grand jury testimony, his interviews with federal agents or prosecutors, or anything else. The fact that he agreed to speak for compensation suggests that no other inhibition was

compelling enough to dissuade him from being interviewed by me fully and extensively. Also, in connection with the book, I arranged for him to be interviewed by 60 Minutes II. He agreed, and, again, he answered all questions (I was present during the taping) freely.

6. Further, when I began researching the book I wanted access to him, but had no idea of what he might say. In fact, his revelations to me were largely not in the nature of self-vindication or justification or rationalization. If anything, they incriminated him further in terms of criminality and the moral implications of the case.

7. There is no question, according to Greenglass's own account, that he cooperated with the government from the very beginning for two reasons and two only: to spare his wife, Ruth, prosecution; and to win leniency for himself. Those motivations, he acknowledged, guided him from beginning to end — including the crucial interviews with prosecutors and federal agents just a few weeks before the trial in which he corroborated his wife's belated recollection that Ethel Rosenberg typed David's notes about the atomic bomb — a recollection that, as articulated by David at the trial, would prove to be the most damning evidence against her.

8. David told me, however, he had no recollection then or since that Ethel had typed those notes, but that he was pointedly reminded by prosecutors — Assistant United States Attorney Roy Cohn, in particular — that the government could withdraw at any time its agreement not to indict Ruth and could still recommend a harsher sentence for him. He told me: "Yeah, I don't remember that at all. I frankly think my wife did the typing, but I don't remember." Confronted with his wife's account and fully cognizant of the government's tenuous bargain with him and his wife, David corroborated it. "My wife put her in it," he told me. "So what am I gonna do, call my wife a liar?" Without David's corroboration, the government would probably not have introduced Ruth's testimony — she remembered it, he didn't. Instead, at the trial, David lied. He testified to the typing and Ruth followed on the stand as a corroborating witness.

9. His testimony, which, presumably, neither of them had given to the grand jury, made the government's case, was cited by the chief prosecutor and the judge in justifying the death penalty against Ethel and sealed the bargain not to prosecute Ruth and to grant David a lesser sentence than the other defendants.

10. I was involved, indirectly, in the Biaggi case in 1973. Biaggi insisted he was telling the truth, that he had never invoked the Fifth Amendment before a grand jury. As a reporter, I importuned him to petition the court to release his testimony. I believe he agreed to do so at the time because he figured no federal judge would agree to that release — that he would, get the best of both scenarios, having requested that his testimony be made public because supposedly he had nothing to hide, but then having the details of that testimony remain under wraps. Judge Edmund Palmieri called called Biaggi's bluff — refusing to let him manipulate the process for his own personal ends.

11. In the Rosenberg case, the continuing historical significance and the gnawing unanswered questions trump any half-century old claim of privacy. That is especially true

regarding the testimony of Greenglass, who still lives under an assumed name — unknown to his friends and neighbors — and was willing to speak about the case without reservation for pay. The Brothman and Moskowitz grand jury testimony is intimately relevant because it served as a “rehearsal” for the Rosenberg prosecution and involved some of the same key witnesses.

12. The full release of the grand jury testimony, coupled with the release of the Brothman and Moskowitz minutes, would go a long way toward setting the historical record straight about, among other things, the reasons behind the prosecution’s decision to call only relatively few grand jury witnesses as trial witnesses, the extent of the government’s evidence against Ethel Rosenberg, the degree of inconsistencies in David Greenglass’s grand jury and trial testimony.

In accordance with 28 U.S.C. 1746, I hereby declare under the penalty of perjury that the foregoing is true and correct. Executed this 8<sup>th</sup> day of July 2008.

  
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Sam Roberts