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THE WHITE HOUSE
WASHINGTON

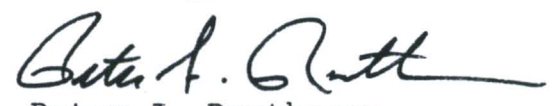
December 20, 1984

Dear Mr. Karavansky:

This will respond to your most recent letter to the President, which Linas Kojelis called to the attention of our office, reiterating your objections to the use of evidence from Soviet Union sources in cases being prosecuted the Office of Special Investigations of the Department of Justice's Criminal Division.

For reasons I trust you can appreciate, the White House cannot comment on particular pending Federal criminal cases. Without violating that policy, I can only respond to your general comments by noting that the Criminal Division is obligated to execute the law in fulfilling its responsibilities in this area, and that it is very aware of and sensitive to the kind of concerns you expressed.

Sincerely,



Peter J. Rusthoven
Associate Counsel to the President

Mr. Sviatoslav Karavansky
Post Office Box 82
Royal Oak, Maryland 21662

cc: Linas J. Kojelis

WHITE HOUSE CORRESPONDENCE TRACKING WORKSHEET

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Name of Correspondent: Sviatoslav Karavansky

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User Codes: (A) _____ (B) _____ (C) _____

Subject: OSI activities

ROUTE TO:

ACTION

DISPOSITION

Office/Agency	(Staff Name)	Action Code	Tracking Date YY/MM/DD	Type of Response	Code	Completion Date YY/MM/DD
	<u>PL KWE</u>	<u>ORIGINATOR</u>	<u>84/12/11</u>		<u>C</u>	<u>84/12/11</u>
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- C - Comment/Recommendation
- D - Draft Response
- F - Furnish Fact Sheet
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October 31, 1984

Linas Kojelis
Liasion Office
White House
Washington, D.C. 20500

Dear Mr. Kojelis:

I received the response on my letter to the President from Mr. M. Richard, Deputy Assistant Attorney General.

Since the answer is fully unsatisfied and even incomplete, I write to the President once more.

Doing so, I ask you to farward my new letter to the President personally.

Sincerely yours, 

Sviatoslav Karavansky
P.O. Box 82
Royal Oak, MD 21662

tel: (301)-745-2876

October 31, 1984

President Ronald Reagan
White House,
Washington, D.C. 20500

Dear President Ronald Reagan:

On May 18th, 1984, I sent a letter to you on the occasion of the fully unjustified use of the Soviet evidence in American courts which was introduced into practice by Justice Department's Office of Special Investigations. My letter was based on the analysis of the finding made by the U.S. District Court for the Southern District of Florida, James C. Paine, J., and affirmed by the U.S. Court of Appeals for the Eleventh Circuit in connection with the persecution of Bohdan Koziy.

In response on my letter, I received the letter from Mr. Mark M. Richard, Deputy Assistant Attorney General, Criminal Division.

Mr. Richard's response is indicative that the use of Soviet evidence, as well as other violation of American judicial procedures, does not disturb the Office of the Deputy Assistant Attorney General.

Mr. Richard writes:

"In a decision upheld by both the Court of Appeals and the United States Supreme Court, the trial judge emphatically rejected arguments that all evidence deriving from Soviet sources should be excluded:

...In the context of this case, the defense witnesses were unable to cite any instance in a Western court in which falsified, forged, or otherwise fraudulent evidence had been supplied by the Soviet Union to a court or other governmental authority."

To say and upheld this means to close eyes on the facts and disinform the public. There were some cases not only in Western, but even in American courts, where judges and experts revealed several forged and false evidence supplied by the Soviet Union.

Let me cite some of them here:

1. The OSI itself possesses the material of false Soviet evidence. Some years ago, the OSI brought an action against the U.S. citizen Hryhoriy Cebrij (17-31 Grove St. Ridge Wood, N.Y. 11385). The Soviet Union supplied evidence (the testimony of witnesses recorded on videotape film) that Hryhoriy Cebrij took part in the annihilation of Jews. When OSI's officers started the investigation, H. Cebrij proved that during the time when Soviet witnesses "saw" him killing Jews, he was a prisoner in the German concentration camp. This was affirmed by witnesses and by

the tattoo mark on his arm. The OSI closed the case against Mr. Cebrij. But the testimony of Soviet witnesses recorded on the videotape remained the real instance of Soviet falsification for which Mr. Richard looks so insistently. Soviet witnesses "recognized" Mr. Cebrij from the photo. Is not this case an instance how the Soviet KGB manufactures their evidence? A number of cases against "war criminals", exposed by the Soviet evidence, were closed by the OSI, because the "evidence" was not true.

2. S. Kowalchuk case. Two Soviet witnesses, Kotsura and Fedchuk, testified on the videotape that S.Kowalchuk have been involved in Ukrainian police force. These witnesses from the USSR were sentenced in 1945 to 10 years in prison. When their old cases were checked on the defense attorney's request, the Soviet sources informed that no record exists in the files of Kotsura and Fedchuk mentioning Mr. Kowalchuk as having anything to do with the Ukrainian police. The judge of the U.S. District Court for the Eastern Pennsylvania, John P. Fullam, J., disregarded the Soviet witnesses' testimony in this case. Is not this instance a proof of forged evidence?

3. J. Demjanjuk case. In this case, two independent documents experts recognized a Soviet supplied document as forgery. I enclose a copy of newspaper's clipping with the information about this fact.

4. Josas Kungys case. The U.S. District Court of New Jersey Judge Dickenson R. Debevoise excluded Soviet depositions testimony when analyzing this case. The reasons for this ruling were:

- a) The Soviet Union has a strong state interest in the occusation of defendant.
- b) The Soviet legal system on occasion distorts and fabricates evidence.
- c) The depositions were conducted in a manner which made it impossible to determine if the testimony had been influenced improperly by Soviet authorities in that a Soviet procurator presided over the depositions, a Soviet employee served as translator, evidencing actual bias in the manner of translation and the procurator limited crossexaminations.
- d) The content of the deposition testimony suggests that the Soviet interrogators distorted the witness's testimony.
- e) The OSI failed to obtain and the Soviet government refused or failed to turn over earlier transcripts and protocols of the witnesses which most likely would have disclosed whether the testimony in this case was the subject of improper influence.

Are not these facts sufficient to have a doubt in Soviet evidence?

So Mr. Richard's insistence about the immaculacy of Soviet evidence contradicts the truth and is a pure disinformation. This wrong approach to the issue tries to transform the U.S. justice into the blind tool of the KGB will.

Farther in his response, Mr. Richard writes:

"...Indeed, in his petition to the United States Supreme Court, Koziy himself does not allege any KGB machinations. Thus, it is surprising that you do."

I spent 30 years of my life in Soviet Gulags. So, it is clear that I know better than anybody else the means and methods which Soviet "justice" uses. And it is not important for me, as well as for the truth, whether Mr. Koziy defends himself or not. I see that Soviet evidence in his case are fraudulent and I write about this. It is more important for the truth, whether my remarks are well-grounded or not.

Mr. Richard states that there was forensic examination of a German document obtained from Soviet Archives which established that Mr. Koziy had been a policeman during the war. This is only a half or one third of the truth. The OSI produced Dr. R. Hilberg who testified that he had seen such documents. But this does not prove anything. The KGB captured along with the genuine documents a lot of blank forms. So, indeed, the form could be authentic, but the records in it, quite possible, might be done in KGB offices. Besides this, Mr. Richard never mentioned that a Soviet official authorized(!) to authenticate such documents attested to them. May it happen in American court? May a Soviet official (read: a KGB officer) be a irrefutable source of information?

In my first letter to you, I indicated a row of facts that showed the partiality of court in Mr. Koziy's case. Mr. Richard did not touch any of them.

I wrote about the disregard of Soviet government's personal interest in the results of this case.

I wrote about the unjustified approval of the long-silenced witnesses testimony.

I wrote about the lack of critical analysis of the Soviet evidence.

I wrote about the misrealization of defendant's right for the crossexamination of witnesses.

I wrote about the refusal of the court to hear out of important defense witnesses.

I wrote about the illogical conclusions of judges.

I wrote about the groundless discrimination of the defense witnesses.

I wrote about the unfair accusation that the OUN (Organization of Ukrainian Nationalists) was hostile to the USA.

I wrote about the willfully one-sided approach to the national-liberation struggle of the Ukrainian people.

I wrote about the Ukraineophobic disposition of the court.

I wrote about the reference to the Soviet official's authority.


I wrote about the indubitable partiality of the court.

No one of these facts was touched in Mr. Richard's response.

So I consider that his response is a beaurocratic answer written for form only. Such an answer compelled me to write once more to you.

I send the copy of my first letter and the copy of Mr. Richard's response. I consider that defending the use of the Soviet evidence in American courts when there are so many facts of their fraudulent nature contradicts American interests, as well as interests of freedom and fairness.

I ask you to take an interest in my letter personally: to check facts, mentioned in my first letter, to analyze Mr. Richard's response and to take the proper measure that Soviet evidence as well as Soviet officials attestations should never be used in American court.

Sincerely yours, 
Former Soviet political prisoner
Sviatoslav Karavansky
P.O. Box 82
Royal Oak, MD 21662

Enclosures:

United States of America, Plaintiff-Appellee, v. Bohdan Koziy, Defendant-Appellant. No. 82-5749. US Court of Appeals, Eleventh Circuit. Feb. 27, 1984. Decision.

S.Karavansky, Letter to the President. May 18, 1984

S. Karavansky How Bohdan Koziy was sentenced?

Demjanjuk I.D. card was altered,...(The Ukrainian Weekly #14, 1984)

The letter of Mr. M. M. Richard, Deputy Assistant Attorney General, to S. Karavansky, Oct. 22, 1984.

May 18, 1984

President Ronald Reagan
White House,
Washington, D.C. 20500

Dear President Ronald Reagan:

During the last 200 years, Americans have carefully constructed the rules of evidence and procedure in their judicial system to determine the truth and protect the innocent. Nevertheless, the practice of the last years is indicative of the trends that try to cancel the gains of centuries and establish some new, absolutely antidemocratic and anti-judicial rules of evidence and procedure.

I enclose the sentence passed on Bohdan Koziy by the U.S. District Court for the Southern District of Florida, James. C. Paine, J., and the Court of Appeals, Hatchett, Circuit Judge. The sentence shows that some Americans are sentenced in American courts by American judges with the guidance from the KGB. The KGB "witnesses" and "documents" "authenticated" by the Soviet officials are accepted by the American judges. The sentence repeats the Soviet official interpretation of the national liberation struggle inside the USSR and condemns freedomfighters.


I enclose my comments to this sentence with the detailed analysis of judicial blunders of the court that look very much like the malicious prosecution. Is this possible that a sentence based on the outright KGB slander can be passed in the American court?

Is America going to be a KGB satellite?

Do you think, Mr. President, that such a practice should go on in American courts?

If you do not think so, then what should be done to stop sentencing the innocent people after the KGB guidance?

If you do not have any answer, who does?

Sincerely yours, 
Former Soviet political prisoner,
Sviatoslav Karavansky,
P.O. Box 82
Royal Oak, MD 21662

P.S.: Enclosed is an excerpt from the article of the Soviet prosecutor Antonenko, published in the Soviet magazine Zhovten #9/1982.

HOW BOHDAN KOZIY WAS SENTENCED

As like as on the most trials where war crimes were considering, there were substantial violations of the due process, seasoned with a great dose of Ukraineophobia, on the trial of Bohdan Koziy. In the first place, this was the merit of the Office of Special Investigations who initiated all the abuses. The media that spread all the unproven KGB accusations should be mentioned here also. And the court that felt the pressure of both permitted a number of judicial blunders. They are as follows:

1. The unconditional faith in the Soviet evidence.
 - a. The disregard of the Soviet government's personal interest in the results of the case.
 - b. The approval of the long-silenced witnesses's testimony.
 - c. The lack of the critical analysis of the Soviet evidence.
 - d. The acceptance of Soviet documents without the forensic examination.
2. The misrealization of defendant's right for the crossexamination of witnesses.
3. The refusal of the court to hear out of important defense witnesses.
4. The illogical conclusions of judges.
5. The groundless discrimination of the defense witnesses.
6. The unfair accusation that the OUN(Organisation of Ukrainian Nationalists) was hostile to the USA.
7. The willfully one-sided approach to the national-liberation struggle of the Ukrainian people.
8. The Ukraineophobic disposition of the court.
9. The reference to the Soviet official's authority.

10. The indubitable partiality of the court.

Let us consider each of these points separately.

1. The unconditional faith in the Soviet evidence. Both the United States District Court for Southern District of Florida, James C. Paine, and the Court of Appeal, Hatchett, Circuit Judge, who tried Koziy, consistently call the Soviet witnesses - the witnesses of the US government. But for the objective approach to the case, the source of evidence must be named precisely. Nevertheless, judges try to conceal what witnesses they use. As for Soviet witnesses, judicial America knows what the trustworthiness of their evidence is. In Kungys case, for instance, US federal Judge, Debevoise, affirmed: "The Soviet authorities are outside of the jurisdiction of the United States judicial system. Consequently it is impossible to provide the usual safeguards of the trustworthiness of the evidence having its source in the Soviet Union. This becomes a matter of grave concern for two reasons. First, the Soviet authorities have a strong motive to ensure that the government succeeds in this case. Second, the Soviet criminal and judicial system is structured to tailor evidence and produce results which will further the important political ends of the Soviet state at the expense, if need be, of justice in a particular case."

But this approach was not observed either by the OSI or by the court that tried Koziy. The Soviet evidence was accepted without any doubt.

a. The disregard of the Soviet government personal interest. He who calls Soviet witnesses the witnesses of the US government forgets that the USSR has a direct personal interest in the accusation and conviction of its opponents abroad. The USSR is not an impartial informer, but a party highly interested in prosecution. On February 26, 1983, the news paper Izviestia wrote that the persecution of traitors (read, freedomfighters) "is for the our state interest." And in accordance to the communist moral,

everything what is useful for the state, is permissible. So, the fabrication of the evidence is absolutely allowed by the Soviet official moral.

b. The acceptance of long-silenced witnesses's testimony, as trustworthy. All the Soviet witnesses against Koziy are long-silenced; they were silent about the events they testify now for 35 and more years. They did not speak about terrible facts shortly after these facts were committed when collaborators were tried in the USSR in 1945-50. Today's witnesses against Koziy did not testify on those trials, and their testimony was not recorded on the post-war trials. Only after 35 years, they "recalled" events when the KGB started to "prepare materials" against Koziy. Just then, witnesses suddenly "recalled" first and last names, age, occupation and family relations of the allegedly Koziy's victims. Their memory reflected everything that the KGB required. And why they were silent until now? There was a special commission in the USSR that collected information about atrocities during the German occupation. But present witnesses never spoke before this commission. They started to speak only when the KGB "reminded" them what to speak. The long silence of Soviet witnesses is, without any doubt, one of the evidence of their perjury.

c. The absence of the critical analysis of the Soviet evidence. The Soviet witness, J. Ilkovsky, testifies: "We saw that policeman Koziy with three other people were leading Bergolt's family, consisting of three people." Why does not the witness tell the names of these three mythical people? They must have been also local dwellers. Why did not the witness remember their names? And where did these threesom disappear? If they were tried and convicted, Ilkovsky must have testified on their trials, too. But there is no mention about this. If this threesom was sentenced before, then Ilkovsky's testimony should have been taken from the old cases. But no, there is no mention about the former cases. As a matter of fact, these

three policemen could give more information about the whole event. Why did not the KGB looked for them? I think, it is because these three unidentified men were invented by the KGB investigators (who created the whole "testimony") for the better story. To lead the family of three person, the story needs more than one policeman. The presence of these three unidentified policemen who fled even from the eyes of the KGB is the direct proof that the whole testimony is concocted. A little earlier, Ilkovsky said, "...My friends and I were near the school..." And who were his friends? They came to be his present wife Maria and another girl, Anna Snigur. It is hard to believe that a country boy was friends with girls. If it was a interval between the lessons, why there were no more boys to accompony Ilkovsky? If it was not a interval, the boy hardly was near the school in the girl's company. Such questions had to ask the defense attorney during the witnesses interrogation in the USSR. Unfortunately, the crossexamination of the Koziy's witnesses did not occur, because Koziy refused to send his lawyer to the USSR. This fact obliged the court to be more particular in regard to the Soviet evidence. But this did not happen. Nobody analyzed critically the Soviet evidence.

d. The absence of the forensic examination of the Soviet document.

The court did not comply with Koziy's request to disregard the Soviet document. Here, judge referred to the testimony of Dr. Hillberg, who testified that he had seen such documents. But this does not prove anything. The KGB captured along with the genuine documents a lot of blank forms. So, indeed, the form could be authentic, but the records in it, quite possible, might be done in the KGB offices. The proof of this is the year of Koziy's birth. The document said he was born in 1920, while Koziy has a birth certificate that he was born in 1923. The court did not recognized this fact as a sufficient ground for the forensic examination. Does not

the confusion in years ~~throw~~ a doubt on the document? Besides this, is not Koziy's statement that he never was a policeman, a sufficient ground for the forensic examination?

2. The misrealization of the defendant's right for the crossexamination of witness. The Soviet witnesses on the mutual American-Soviet interrogation in the USSR were not crossexamined by Koziy's attorney. For the sake of legality, when Koziy refused to send his lawyer to the USSR, the OSI must have sent an attorney from the government. This would be the only correct judicial approach to the issue. Instead of this, the persecution took advantage of Koziy's mistake and deprived him of the right for defense, guaranteed by "The Universal Declaration of Human Rights."

3. The court's refusal to hear out of defense witnesses. The court refused to listen to defense witnesses O'Conner and handwriting expert R.Martin, explaining its refusal by formal beaurocratic statement that Koziy failed to announce his witnesses by the deadline. This is a direct limitation of defendant's rights for defense.

4. Illogical conclusions of judges. Judges explained their refusal to hear out of two defense witnesses by stating that Koziy must have prepared his witnesses by the deadline, established by the court, because he knew about the accusation against him from 1979. But just because Koziy did not feel himself guilty, he did not take seriously the accusation brought against him. Besides this, the case was conducted by his attorney who was overloaded with the circumstances of the case absolutely unknown to him. It is quite naturally that the lawyer could be late. But the judges decided that "Koziy willfully failed to comply with the court order." Behind this decision also stands the lack of impartiality, for the court must consider and listen likewise to both prosecution and defense witnesses.

5. The discrimination against defense witnesses. The court had outright discriminated against defense witnesses, by adding to the testimony of Dr. P. Murchuk such a note: "Murchuk's credibility as a witness must be analyzed in light of two letters he sent to the office of special investigations in the Department of Justice. In those letters, he claimed that the Department of Justice's investigation into Koziy's past was a KGB-Jewish plot to destroy Ukrainian Nationalists." It seems from this note that he who criticizes the OSI activity is not enjoying all civil rights and nobody should believe him. Such an approach to this issue is indicative of the lack of the judicial impartiality and lack of tolerance in judges's decisions. As for the collaboration with the KGB, such a cooperation hardly is lawful from the judicial point of view. It is interesting that judges did not add any note to the Soviet witnesses's testimony.

6. The accusation against the OUN of the hostility to the USA. After disqualifying Dr. P. Murchuk's testimony, the court pronounced that the OUN was hostile to the USA on the ground that the OUN fought against Soviet partisans while the USA and USSR were allies. The fact that the USA and the USSR were allies does not mean that all who fought against Russian imperialism were enemies of the USA. After becoming USSR's ally, the USA did not renounce its devotion to freedom and democracy that obliged and still obliges it to support, at least morally, the freedomfighters. The USA was an ally of the USSR in the struggle against Hitler, but not in the struggle against national-liberation movements inside the USSR. The USA can not support the policy of the enslavement of nations which was pursued by their allies in the war. The best manifestation of this is the fact that in 1952 the OUN was excluded from the list of inimical to the USA organisations. Thus, the accusation of the court was not based on the analysis of US interests and goals, but on the causuistical objection that formally permits to

accuse the OUN and Koziy in the hostility to the USA. The causuistical consideration laid in the base of this accusation is also indicative of the partiality of the court.

7. The one-sided approach to the Ukrainian national-liberation struggle. Accusing the OUN of the hostility to the USA, the court did not say any word about the struggle the OUN led against Hitler who was the direct USA enemy. This unique policy of the OUN reflects the unique situation of the Ukrainian people. The ignoring of the policy for the sake of the conviction of the defendant is also indicative of the partiality of the court.

8. The Ukraineophobic disposition of the court. The disposition of the judges to the events of II World War is outright Ukraineophobic. For instance, the Judge of Appeals, Hatchett, says: "The task of killing millions of Jewish people was so enormous it required the aid of the indigenous population." This is the direct accusation against the Ukrainian people of what the occupational authorities did. The cooperation of some collaborators with the occupants is regarded as the guilt of all the population. This is absolutely an anti-judicial approach to the issue, because all the population could never be responsible for the deeds of some individuals. If the local Ukrainian population really helped occupants to do away with Jews, why then did the Nazis give orders that they will hang those who would hide Jews? And the authorities carried out their orders. The hangings of the local Ukrainians were very numerous. A little further, Judge Hatchett says: "These (Soviet; S.K.) witnesses testified that the OUN committed atrocities against Polish civilians who were U.S. allies." The truth is that the OUN fought against Polish and also Ukrainian civilians who collaborated with the Gestapo. Is it true that the Gestapo was the USA ally? The whole struggle of the OUN for freedom is dis-

torted and defamed by the judges. Is this not a partial attitude?

9. The reference to the Soviet official's authority. Defending the authenticity of the Soviet documents, Judge Hatchett says: "A Russian official authorized to authenticate such documents attested to the anmeldung and the abmeldung. These documents, therefore, were self authenticated under rule 902(3)." As it was mentioned before, the Soviet government is directly interested in the accusations, hence the Soviet official is directly interested in it also. Thus, the KGB can fabricate any document and send its "official" to authorize authenticity. And the judges who tried Koziy would accept such an evidence!

10. The partiality of the court. All the facts stated before: the illogical conclusions, the Ukraineophobia of the judges, the accusation against the OUN of the hostility to the USA and ignoring the double-sided struggle of the OUN, the discrimination of the defense witnesses, the refusal to consider two defense witnesses and the refusal to examine the Soviet document are indicative of partiality of the judges in this case. The District Judge Paine and Appeal Judge Hatchett held the opinion that the defendant must be convicted. It seemed as if the court looked for the blunders in defendant's behavior and took advantage of them. The man who never was under trial might have blunders in his first court experience, while prosecutors and judges studied all the "turns" in judicial proceedings for decades. And the court took advantage of the inexperience of the defendant, instead of ensuring him his rights for defense.

It should be mentioned here that the partiality of the court began long before the trial. The principle of the court's impartiality was violated by the OSI itself. It is known that mostly former residents of Eastern Europe - Poles, Czecks, Rumanians, Lithuanians, Ukrainians, Estonians, Latvians, - were accused in war crimes; as victims at these trials

appeared Jews. So it was necessary for observing the principle of impartiality that no representatives of the listed nationalities took part in the OSI activity. However, in respect of Jews, this principle was not observed. Taking into account the sensitivity of Jews to the issue of war crimes, the KGB managed to convince most OSI lawyers that all the refugees from Eastern Europe are guilty in anti-Jewish actions. The Soviet "information" services have propagated this thought for decades. Millions were spent on it, so there is no wonder that this propaganda bore its fruits. Those who had believed in the KGB formula could not be impartial. And the OSI was not impartial - its partiality was seen at every step.

Why has the OSI the unconditional faith in the Soviet evidence? Why are defendants's rights for defense limited? Why are judicial proceedings violated? Why were not the Soviet documents examined before the trials?

All the violation of the due process listed here took place in Koziy's case. This was the way of stripping him of American citizenship. Can this be called otherwise than malicious prosecution?



U.S. Department of Justice

Criminal Division

Office of the Deputy Assistant Attorney General

Washington, D.C. 20530

OCT 22 1984

Mr. Sviatoslav Karavansky
P.O. Box 82
Royal Oak, Maryland 21662

Dear Mr. Karavansky:

Your letter to President Reagan concerning the denaturalization case against Bohdan Koziy has been referred to me for response. Please accept my apology for the unavoidable lateness of this reply.

For your information, Bohdan Koziy was charged with having violated the immigration and naturalization laws of this country. At every stage of the proceeding the defendant was represented by the attorney of his choice. A trial, which lasted nearly three weeks, was held in the Federal district court. The evidence presented by both sides was carefully considered by the trial judge. After deliberating and evaluating the evidence including the demeanor of the witnesses, the trial judge entered judgment for the government and ordered the defendant stripped of his naturalized citizenship. The trial judge's opinion leaves no doubt that he did not consider the defendant to be a credible person. Indeed, the court found that the defendant personally and single-handedly killed a small child and the members of a Jewish family.

The judgment of the trial court was fully upheld by a three judge panel of the United States Court of Appeals for the Eleventh Circuit. Those judges also carefully evaluated the actions of the trial court and the evidence. Mr. Koziy now has a petition for writ of certiorari pending before the United States Supreme Court.

You state that there was no forensic examination of a German document obtained from Soviet Archives which established that the defendant had been a Ukrainian policeman during the war. In fact, this document was subjected to forensic analysis by document experts, one of whom testified that his examination of the original documents revealed absolutely no evidence to suggest forgery. Thus, your fear that the incriminating document was fabricated by the KGB is completely unsupported by the evidence.

The court evaluated this evidence along with the testimony of witnesses from the United States, from Poland and from the Soviet Union. Witnesses from both the Soviet Union and from Poland identified the defendant as a policeman who had participated in wartime persecutions and killings.

The testimony of witnesses from Poland and the Soviet Union was taken by United States Justice Department attorneys and recorded on videotape. These videotapes were viewed by the judge in open court. The defense counsel had ample opportunity to go to Poland and the Soviet Union, to attend the depositions and to cross-examine the witnesses. The defendant freely decided not to send his attorney to cross-examine these witnesses. Nevertheless, at trial, the court allowed the defendant's lawyer to make objections to the testimony, to present evidence rebutting the testimony, and to present arguments challenging the witnesses' accuracy and credibility.

No credible evidence whatsoever was presented to suggest that any of the documents or witnesses against the defendant had been tampered with by the KGB, as you suggest. Indeed, in his petition to the United States Supreme Court, Koziy himself does not allege any KGB machinations. Thus, it is surprising that you do.

In a decision upheld by both the Court of Appeals and the United States Supreme Court, the trial judge emphatically rejected arguments that all evidence deriving from Soviet sources should be excluded:

We simply note one of the fatal flaws in defendant's broadbush [sic] attack on Soviet source evidence. In the context of this case, the defense witnesses were unable to cite any instance in a Western court in which falsified, forged, or otherwise fraudulent evidence had been supplied by the Soviet Union to a court or other governmental authority.

The defense was unable to come forward with any proof that any of the government's evidence offered at trial, either testimonial or documentary, was incredible or inauthentic in any respect. We find that defendant's defense by innuendo is without any merit. United States v. Linnas, 527 F.Supp. 426, 433-34 (E.D.N.Y. 1981), aff'd, 685 F.2d 427 (2d Cir. 1982), cert. denied, 102 S.C. 179 (1982).

In United States v. Schneiderman, 320 United States 118, 119-120 (1943), the United States Supreme Court wrote that, "our relations with Russia, as well as our views regarding its government and the merits of communism are immaterial to a decision of this case. Our concern is with what Congress meant by certain statutes and whether the government has proved its case under them." We would do well to be mindful of the Court's admonition when analyzing this case. The trial court found that under the laws and procedures applicable at the time of his entry, Bohdan Koziy was ineligible to immigrate to the United States. The trial court's decision was reviewed and upheld by the three judge panel of the Court of Appeals. Those decisions must be accorded the respect which our constitutional system mandates.

We are not unmindful of the fact that there is concern that this and similar cases have been mistakenly seen as casting a negative reflection upon certain ethnic groups. However, while the overwhelming majority of East European Displaced Persons who came to the United States in the years following the Second World War were law-abiding and decent people (and often themselves victims of persecution), Bohdan Koziy and a few others have been exposed as Nazi collaborators who engaged in persecution.

We recognize that your concerns regarding the Soviet Union are important ones and sympathize with the plight of those peoples of Eastern Europe who have long sought to win their independence from alien rule. We would like to stress the fact that OSI's working relationship with Soviet authorities and institutions in no way implies approval of Soviet policy or behavior in Eastern Europe or, for that matter, anywhere else.

Congress expressly directed the Department of Justice to investigate and prosecute these matters and we are carrying out that directive in accordance with sound American prosecutorial practices providing full protection to the accused.

I hope this letter has served to clarify your understanding of the judicial processes followed in this case to date and that because the matter is now in litigation before the Supreme Court, it would be inappropriate at this time for the government to make extrajudicial comments.

Sincerely,



Mark M Richard
Deputy Assistant Attorney General
Criminal Division