

1 BEFORE THE UNITED STATES IMMIGRATION COURT
2 EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
3 IMMIGRATION AND NATURALIZATION SERVICE

3 IN THE MATTER OF:)
)
4 KONRADS KALEJS,) Case No. A-11 655 351
) Honorable Anthony D. Petrone
5)
 Respondent.)

6 REPORT OF PROCEEDINGS

7
8 at the continued hearing of the above-entitled cause
9 before the Honorable Anthony D. Petrone, Judge of
10 the said Court, on the 25th day of April, A.D. 1988,
11 at the United States Courthouse, 219 South Dearborn
12 Street, Room 1310, Chicago, Illinois 60604, at
13 9:00 a.m.

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1 MR. BERZINS: Your Honor, I would just
2 reiterate the grounds I previously stated; namely,
3 we do not have any evidence in the record that it is
4 a complete "A" file or we do not have any chain of
5 custody evidence.

6 THE COURT: You are going to get a
7 certification of that complete file, are you not,
8 Miss Shave?

9 MS. SHAVE: Yes, your Honor.

10 THE COURT: Okay. I will reserve admitting
11 it in until you have it certified.

12 MS. SHAVE: Thank you, your Honor.

13 THE COURT: All right. Number 78 has
14 already been admitted, is that correct?

15 MR. BERZINS: Yes.

16 THE COURT: To the witness: Would you
17 please raise your right hand?

18 (Witness sworn.)

19 THE COURT: Thank you. You may be seated.

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21 JEFFREY N. MAUSNER,
22 called as a witness, having been first duly sworn,
23 was examined and testified as follows:

24

DIRECT EXAMINATION

1 BY MS. EDELMAN:

2 Q. Would you state your name for the record
3 and spell your full name, please?

4 A. Jeffrey, J-e-f-f-r-e-y, N. Mausner,
5 M-a-u-s-n-e-r.

6 Q. Where did you reside, Mr. Mausner?

7 A. In Los Angeles.

8 Q. What is your occupation?

9 A. I am an attorney.

10 Q. Calling your attention to March 1st, 1984,
11 were you employed at that time?

12 A. Yes, I was.

13 Q. By whom were you employed at that time?

14 A. I was employed as a trial attorney for the
15 Department of Justice, Office of Special
16 Investigations.

17 Q. Where was your office at that time?

18 A. In Washington, D.C.

19 Q. Until when were you employed by the Office
20 of Special Investigations?

21 A. Until January, 1986.

22 Q. During your employment with the Office of
23 Special Investigations, did you have occasion to
24 meet Konrad Kalejs?

1 A. Yes, I did.

2 Q. Do you see him in the courtroom today?

3 A. Yes. Konrad Kalejs is seated next to Mr.
4 Berzins (Indicating.)

5 THE COURT: Let the record show the witness
6 has identified the Respondent.

7 BY MS. EDELMAN:

8 Q. When did you meet Mr. Kalejs?

9 A. I first met him in March 1984.

10 Q. Where was that?

11 A. That was in Tampa, Florida.

12 Q. What were the circumstances of your
13 meeting?

14 A. I went to Tampa, Florida to interview Mr.
15 Kalejs in connection with the Immigration and
16 Nationality Act.

17 Q. Did you interview him at that time?

18 A. Yes, I did.

19 Q. Who was present at that interview?

20 A. Mr. Kalejs was present; the Court
21 reporter, Lori Judd, J-u-d-d, was present and Herman
22 Redin, R-e-d-i-n, a translator, was present.

23 Q. And you, yourself, were also present?

24 A. Yes, I was present.

1 Q. Was Mr. Kalejs placed under oath?

2 A. Yes, he was. In fact he was placed under
3 oath twice: Once by the court reporter and then
4 once again by me in my capacity as an Immigration
5 officer.

6 Q. And I take it you asked him questions and
7 you received some answers, is that correct?

8 A. That's correct.

9 Q. Did you receive a transcript of this
10 interview?

11 A. Yes, I did, at a later time. It was
12 mailed to me.

13 Q. Did you review that transcript?

14 A. Yes, I did.

15 Q. Was there any other record of the
16 interview made in addition to the transcript?

17 A. Yes, it was also tape recorded on an audio
18 tape recorder.

19 Q. And who made that audio recording?

20 A. The court reporter did that. The court
21 reporter both stenographically reported it and
22 recorded it on a tape recorder.

23 Q. Do you know what happened to those tapes?

24 A. The tapes were also mailed to me.

1 Q. Do you know what happened to the tapes
2 after they were made at the time of the interview?

3 A. The tapes were taken by the court reporter
4 at the end of the interview. She stated that she
5 wanted the tapes for the purpose of completing the
6 transcript to make sure that it was accurate, if
7 there was any problem.

8 Q. Is the person you interviewed on March
9 1st, 1984, present in court today?

10 A. Yes, Konrads Kalejs, sitting next to Mr.
11 Berzins. (Indicating).

12 THE COURT: Again, the record will reflect
13 the witness has indicated the Respondent.

14 MS. EDELMAN: Your Honor, I am taking now,
15 Exhibit 17 for identification, placing it before Mr.
16 Mausner.

17 BY MS. EDELMAN:

18 Q. Would you examine that, please?

19 What is Exhibit 17 for identification?

20 A. Exhibit 17 is the original of the
21 transcript that was prepared of the interview that I
22 conducted with Mr. Kalejs.

23 Q. On what date, please?

24 A. On March 1, 1984.

1 Q. And have you reviewed Exhibit 17 for
2 identification prior to testifying in court today?

3 A. Yes, I have.

4 Q. And does Exhibit 17 for identification
5 accurately reflect the questions you asked Mr.
6 Kalejs on March 1st, 1984 and the answers he gave at
7 that time?

8 A. Yes, it does, and in fact, I reviewed this
9 tract immediately upon receiving it when I was still
10 with the Justice Department. It was several weeks
11 after the interview had taken place.

12 As soon as I received it in the mail from
13 the court reporter, I reviewed it and I remembered
14 that it accurately reflected the questions that I
15 asked Mr. Kalejs and the answers that he gave.

16 And I also remember that I recalled that
17 the court reporter had done a good job in accurately
18 reflecting the interview that had taken place.

19 MS. EDELMAN: The Government would offer
20 Exhibit 17 into evidence at this time.

21 THE COURT: Cross examination.

22 MS. EDELMAN: Excuse me, your Honor. I do
23 have some additional questions for the witness.

24 THE COURT: All right. I'll reserve the

1 ruling on it until cross examination. Go ahead.

2 MS. EDELMAN: Thank you.

3 BY MS. EDELMAN:

4 Q. Not counting today, Mr. Mausner, did you
5 ever see the Respondent again after you took the
6 sworn statement from him on March 1st, 1984?

7 A. Yes, I did.

8 Q. When did you next see him?

9 A. The next time I saw Mr. Kalejs was in, I
10 believe May, April or May of 1985. Mr. Kalejs had
11 been arrested and was being held at the Krome
12 Detention Center.

13 A bond hearing was going to be held in the
14 case, so I flew from Washington down to Miami. I
15 went to Krome Detention Center for the bond
16 hearing.

17 Prior to the hearing beginning, Mr. Kalejs
18 was being held in a holding cell next to the
19 Immigration Court. I went over to the holding cell
20 and I looked in there. I wanted to see the person
21 who was being held, to make sure it was the same
22 person I had interviewed, and I saw the person who
23 was being held and I saw that it was the same person
24 who I had interviewed on March 1, 1984.

1 Shortly after that, the same day, the bond
2 hearing took place at Krome Detention Center and
3 again, this person was brought into the courtroom
4 and I looked at him and I made sure that it was the
5 same person that I had interviewed on March 1, 1984
6 and I remember--

7 (Brief interruption--Court reporter changed paper
8 tape.)

9 THE COURT: Why don't you repeat the last
10 question for the witness.

11 BY MS. EDELMAN:

12 Q. After you saw Mr. Kalejs in the holding
13 cell, when did you next see him?

14 A. The next time I saw him was at the bond
15 hearing itself and I remember looking at Mr. Kalejs
16 and remembering that that was the same person that I
17 had interviewed on March 1, 1984.

18 And I also saw him another time after
19 that. There was a hearing that was held here in
20 Chicago before Judge Petrone. It was just before I
21 left the Justice Department. I think it was
22 November or December, 1985.

23 And Mr. Kalejs was also present at that
24 hearing and it was the same person.

1 MS. EDELMAN: May I have Exhibit 43,
2 please?

3 (Document tendered to Ms. Edelman by the Clerk.)

4 MS. EDELMAN: Your Honor, I am placing
5 before the witness, Exhibit 43 in evidence.

6 BY MS. EDELMAN:

7 Q. Mr. Mausner, can you tell us what that is,
8 please?

9 A. Yes. Exhibit 43 is a letter that I
10 received while I was at the Justice Department. It
11 contains a stamp which states it was received on
12 June 29, 1984 and I believe that I received it
13 around that time period. I do recall actually
14 receiving the letter. I don't recall the exact date
15 that I did receive it.

16 Q. And who was it received from?

17 A. It was received from Konrads Kalejs.

18 Q. And where were you employed on the date of
19 this letter?

20 A. On the date that I received it, I was
21 employed by the Justice Department, Office of
22 Special Investigation.

23 Q. And their offices were where?

24 A. In Washington, D.C.

1 MS. EDELMAN: Your Honor, I would like to
2 mark as the next exhibit, I believe Exhibit 81.

3 THE COURT: 80.

4 MS. EDELMAN: This is two volumes. Can I
5 just give it one number, your Honor?

6 THE COURT: Two volumes of the same
7 document?

8 MS. EDELMAN: Yes.

9 THE COURT: Of what, a transcript?

10 MS. EDELMAN: A transcript.

11 THE COURT: Taken on the same day.

12 MS. EDELMAN: No. This is an independent
13 matter, your Honor. It is a transcript of another
14 individual that was taken by Mr. Mausner.

15 THE COURT: Do they both relate to the same
16 person?

17 MS. EDELMAN: Yes.

18 THE COURT: Make it 80A and B, then, same
19 number.

20 MS. EDELMAN: 80A and 80B.

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1 (The documents were thereupon marked
2 Government Exhibit 80A and 80B for
3 identification.)

4 MS. EDELMAN: I am placing 80A and 80B in
5 front of Mr. Mausner; copy for the Court, your
6 Honor, and copy for Mr. Berzins.

7 BY MS. EDELMAN:

8 Q. Mr. Mausner, can you tell me what Exhibit
9 80A and 80B for identification is?

10 A. Exhibit 80A and 80B are interviews that
11 were conducted of an individual named Elmars,
12 E-l-m-a-r-s Sprogis, S-p-r-o-g-i-s, by the Office of
13 Special Investigations.

14 Q. And when was this interview?

15 A. The first part of the interview was
16 conducted on November 25, 1981. The second part was
17 on February 24, 1982.

18 Q. And where did these take place?

19 A. These interviews took place in Long
20 Island, New York.

21 MR. BERZINS: Your Honor, before we proceed
22 further, the relevance-- I'm fully familiar with
23 these two documents, but the relevance of them are
24 completely now--

1 THE COURT: Does this have something to do
2 with the Respondent?

3 MS. EDELMAN: The testimony that was taken,
4 your Honor, concerns the same unit and the
5 activities of that unit which it is alleged that Mr.
6 Kalejs was a member of and we intend to offer these
7 under 8 CFR 242.14 as prior testimony signed, adopted
8 and initialed by the witness who gave that
9 testimony.

10 THE COURT: But he's not here to be cross
11 examined in this case.

12 MS. EDELMAN: That's true, your Honor.

13 THE COURT: You want me to accept this as
14 being the gospel truth in this case here today as to
15 the same unit?

16 MS. EDELMAN: We would offer it as
17 evidence.

18 THE COURT: You are asking me to stretch
19 this quite a bit. You can offer it, if that's what
20 you are going to offer it for, but I am not going to
21 admit it.

22 If you can bring these people in, you can
23 bring the same person in, whoever testified here.

24 MS. EDELMAN: Okay.

1 THE COURT: He has the right to cross
2 examine those people.

3 MS. EDELMAN: As long as I've started down
4 this road, your Honor, I'll just complete the
5 foundation, if that's acceptable.

6 THE COURT: Go ahead.

7 BY MS. EDELMAN:

8 Q. Where were you employed at the date of
9 these interviews, Mr. Mausner?

10 A. I was employed at the Justice Department,
11 Office of Special Investigations.

12 Q. And who was present at these interviews?

13 A. At the first interview, Neal Sher, who at
14 that time was the Deputy Director of OSI; myself,
15 Martin, M-a-r-t-i-n, Sachs, S-a-c-h-s, who is
16 another trial attorney at OSI and Herman Redin, the
17 translator, was present, as well as Elmars Sprogis.

18 At the second interview, I was the-- I and
19 Mr. Sprogis with the only people who were present.

20 Q. Were the transcripts, are these
21 transcripts, 80A and 80B, signed?

22 A. Yes, they are. They are signed by Elmars
23 Sprogis. Also, each page of the transcript was
24 initialed by Mr. Sprogis and every change that Mr.

1 Sprogis made in the course of the transcript was
2 also initialed by him.

3 MS. EDELMAN: Your Honor, I have no further
4 questions of Mr. Mausner at this time. I would
5 respectfully offer Exhibits 80A and 80B into
6 evidence.

7 THE COURT: For what purpose?

8 MS. EDELMAN: For the purpose of detailing
9 the event of the Araj's Kommando during the World War
10 II period.

11 THE COURT: Mr. Berzins?

12 MR. BERZINS: Your Honor, I respectfully
13 object to the admissibility of these exhibits. I
14 have not been taught how to cross examine a piece of
15 paper. I don't know how.

16 THE COURT: The copies that you have here,
17 they were purported to be certified by whom?

18 THE WITNESS: They're certified by, the
19 first one is certified by Patrick Rao R-a-o-, a
20 certified shorthand reporter and notary public for
21 the state of New York.

22 The second one is also certified by
23 Patrick Rao and I would note, your Honor--

24 THE COURT: Were these ever introduced in

1 any judicial proceedings?

2 THE WITNESS: I can answer that, your
3 Honor.

4 MS. EDELMAN: With the Court's permission?

5 THE COURT: Yes.

6 THE WITNESS: Yes. They were introduced in
7 a proceeding in the United States District Court for
8 the Eastern District of New York.

9 THE COURT: Do you have a further objection
10 as to their admissibility?

11 MR. BERZINS: Well, your Honor, these
12 statements or transcripts or depositions, whatever
13 you want to call them, that are 80B and 80A, were,
14 in fact, used in a case in a United States Court for
15 the Eastern District of New York, but they were
16 admitted in evidence, as I recall, by way of
17 stipulation, so whether the facts stated here are
18 contested or uncontested in that proceeding, it was
19 irrelevant.

20 Some of the facts that are allegedly
21 recited here were simply not contested in that
22 particular proceeding for any purpose, so to admit
23 to them here for an entirely different purpose is
24 perverting the rule of law, as I know it, at least.

1 THE COURT: Very well.

2 MR. BERZINS: Because in that action, there
3 was no cross examination of those facts for which
4 the Government now is proposing to use them. It is a
5 misuse of testimony from a prior case, is what it
6 is.

7 MS. EDELMAN: Your Honor, may I just
8 respond briefly to that?

9 THE COURT: Yes.

10 MS. EDELMAN: The witness was under oath
11 when he gave this testimony and I believe that a
12 witness under oath must be believed to have told the
13 truth when he gave the testimony.

14 THE COURT: Is this witness still available
15 for cross examination?

16 MS. EDELMAN: I don't know the answer to
17 that question, your Honor.

18 THE COURT: Is he alive or dead?

19 MS. EDELMAN: I don't know the question to
20 that question.

21 THE COURT: Well, is he in the United
22 States. Do you know the answer?

23 MR. BERZINS: Your Honor, I have reason to
24 believe that he's alive. His house was bombed a

1 little while ago, but he survived. Unless it was
2 bombed again over the weekend, he should be alive.

3 THE COURT: I won't admit them. I'll
4 sustain the objection, unless he is presented here
5 for cross examination. They're here as part of the
6 record for identification, up but they're not
7 admitted into evidence.

8 You have those certified copies that will
9 be marked and I have no further question as to that.

10 I have some question about the
11 certification, too. I assume if they are part of a
12 court case, the better certification would have been
13 as certified copies that are exhibits or whatever in
14 a court case from the Clerk of the Court.

15 But be that as it may, aside from that, I
16 won't admit them unless the Respondent is given an
17 opportunity to examine the maker, so they will
18 remain as Exhibits 80A and B for identification.

19 Anything else?

20 MS. EDELMAN: No I have no further
21 questions of Mr. Mausner at this time.

22 THE COURT: Do you have anything on cross,
23 Mr. Berzins?

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CROSS EXAMINATION

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BY MR. BERZINS:

Q. Mr. Mausner, long time no see. How are you?

A. Thank you.

Q. Mr. Mausner, when you conducted this interview on March 1, 1984, how did you notify the interviewee to be there on March 1, 1984?

A. I sent him a letter and a subpoena.

Q. Did you also receive from the interviewee, a request that the interview be adjourned?

A. I don't believe I did.

Q. Well, isn't it a fact that the interviewee called you and asked you to adjourn this interview because he needed some time to secure counsel?

A. No, I don't recall that happening.

Q. Well, do you recall telling the interviewee that you will not grant him an extension and that unless he shows up for the interview, he will be arrested?

A. No, I did not. In fact, I do not believe that I talked to Mr. Kalejs prior to interviewing him.

Q. Did you, before you began the interview,

1 advise the interviewee that he has a right to be
2 represented by counsel at the interview?

3 A. No.

4 Q. Did you advise the interviewee that if he
5 had not succeeded in obtaining counsel that you
6 would give him time to secure counsel so that he
7 could return for the interview?

8 A. No.

9 Q. Did you advise the interviewee that
10 anything he said would be used against him in a
11 subsequent proceeding?

12 A. No, I did not.

13 Q. Did you advise the interviewee that you
14 would furnish him with a copy of the transcript of
15 interview so that he could make any corrections in
16 it?

17 A. I don't think I did.

18 Q. Did you advise the interviewee that it
19 was your intention to commence a deportation
20 proceeding against him?

21 A. At that time?

22 Q. Yes.

23 A. At the time of the interview?

24 Q. Yes.

1 A. I don't think I did.

2 MR. BERZINS: I have no further questions
3 at this time, your Honor, and I move that the
4 exhibit be excluded from evidence on the grounds
5 that there has not been any evidence presented to
6 show that the statements allegedly made were
7 voluntarily made.

8 MS. EDELMAN: May I look at the exhibit for
9 a moment, your Honor?

10 THE COURT: Yes.

11 (Brief pause-Government Counsel conferring
12 sotto voce.)

13 REDIRECT EXAMINATION

14 BY MS. EDELMAN:

15 Q. Mr. Mausner, in Exhibit 17, does that
16 contain any exhibits to the actual interview?

17 A. Yes, it does.

18 Q. Would you look at Exhibit 1 to the
19 interview, please. What is that?

20 A. Exhibit 1 is a letter from me to Konrads
21 Kalejs, dated February 23, 1984.

22 Q. Well, it is a very brief letter. Could
23 you please read the substance of the letter?

24 A. Do you want me to read it verbatim?

1 Q. Yes, please?

2 A. (Witness reading:)

3 " Dear Mr. Kalejs:

4 I called your residence in Winnetka,
5 Illinois and was informed that you are
6 temporarily staying in St. Petersburg,
7 Florida. I have therefore scheduled
8 your interview to take place at the
9 Immigration and Naturalization Service
10 Office in Tampa. If you would prefer
11 that the interview take place in
12 Chicago, or cannot make the interview
13 scheduled for March 1st in Tampa,
14 please call me by February 27th at
15 202-633-2240."

16 BY MS. EDELMAN:

17 Q. In response to that letter which contained
18 an offer to reschedule the interview at a later
19 date--

20 MR. BERZINS: Objection to the
21 characterization in that question.

22 THE COURT: She hasn't finished the
23 question.

24 MS. EDELMAN: That's true.

1 MR. BERZINS: Well, the objection, your
2 Honor, was at the very beginning.

3 THE COURT: Go ahead. Repeat the question.

4 BY MS. EDELMAN:

5 Q. Did you receive any contact from Mr.
6 Kalejs?

7 A. I don't believe that I did. In fact, I'm
8 pretty sure that I did not.

9 Q. I have no further questions for Mr.
10 Mausner.

11 THE COURT: All right.

12 MR. BERZINS: Your Honor?

13 THE COURT: Yes.

14 RE CROSS EXAMINATION

15 BY MR. BERZINS: Mr. Mausner, do you have evidence
16 that the addressee received this letter dated
17 February 23, 1984?

18 A. I believe he did, because this letter was
19 sent along with the subpoena and Mr. Kalejs appeared
20 at the interview.

21 THE COURT: With the subpoena?

22 THE WITNESS: Oh, as a matter of fact,
23 that's correct.

24 Mr. Kalejs brought both the letter and the

1 subpoena to the interview with him. This is the
2 original letter and as a matter of fact, I recall
3 asking him about that as the beginning of the
4 interview.

5 BY MR. BERZINS:

6 Q. But this, what you are telling us now, is
7 not on the record, is it?

8 THE COURT: Not on the record of what,
9 the--

10 MR. BERZINS: Of the interview.

11 BY THE WITNESS:

12 A. I think it may be in the record of the
13 interview.

14 MS. EDELMAN: Yes, your Honor.

15 THE COURT: Do you want to point out the
16 page for Mr. Berzins?

17 THE WITNESS: Yes, your Honor. That's on
18 page 7.

19 MR. BERZINS: Yes. I found it, your Honor.

20 THE COURT: Any other more questions of
21 this witness?

22 MR. BERZINS: None, your Honor.

23 THE COURT: Do you have any other witnesses
24 in connection with this exhibit?

1 THE WITNESS: Excuse me, your Honor. It's
2 also on page 9.

3 THE COURT: All right. Thank you.

4 You are excused.

5 (Witness excused.)

6 MS. EDELMAN: Your Honor, did you want to
7 wait for the other witness before you admit that?

8 MR. MAUSNER: May I stay in the courtroom,
9 your Honor?

10 THE COURT: Yes. You're not going to
11 testify any more. You're free to stay.

12 MS. SHAVE: The Government calls Lori Judd,
13 your Honor.

14 (Ms. Lori M. Judd entered the courtroom.)

15 THE COURT: Would you raise your right
16 hand?

17 (Witness sworn.)

18 THE COURT: Thank you. You may be seated.

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