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INTERAGENCY SECURITY CLASSIFICATION APPEALS PANEL,
E.O. 13526, SECTION 5.3(b)(3)
ISCAP APPEAL NO. 2013-122, document no. 1
DECLASSIFICATION DATE: July 8, 2015

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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UNITED STATES OF AMERICA	:	
	:	
-vs-	:	Case No. 86-207
	:	&
	:	86-208
JONATHAN JAY POLLARD	:	
and	:	
ANNE HENDERSON POLLARD	:	
Defendants.	:	
-----	:	

PARTIAL TRANSCRIPT
(Side Bar Conference)

March 4, 1987

Before: Aubrey Robinson, Chief Judge

APPEARANCES:

Joseph E. diGenova, Charles Leeper and David Geneson,
Counsel for the United States

Richard Hibey and Gordon Coffee,
Counsel for Defendant Jonathan J. Pollard

James Hibey and Elizabeth Liebschutz,
Counsel for Defendant Anne H. Pollard

The Defendants, J.J. Pollard and A.H. Pollard, in person

13-M-0884

1 NOTE: An under seal side-bar discussion, which is
2 noted at page 57 of the sentencing transcript, is had between
3 the Court and counsel as follows:

4 AT SIDE BAR

5 MR. LEEPER: Your Honor, could we pause one moment,
6 please?

7 THE COURT: Let me tell you -- wait a minute. She
8 is classified Top Secret. She has Top Secret clearance. Come
9 on, let me tell you that.

10 MR. LEEPER: He needs to be told, Your Honor.

11 MR. R. HIBEY: He has to be told.

12 THE COURT: Mindi Colchico is cleared Top Secret, is
13 the only court reporter on our staff who is classified Top
14 Secret.

15 MALE SPEAKER: She is cleared Top Secret?

16 THE COURT: She is cleared Top Secret.

17 MALE SPEAKER: That is fine, Your Honor.

18 THE COURT: I forgot to get that message to you, but
19 she is.

20 Now, I cannot recite the page.

21 MR. R. HIBEY: No, of course.

22 THE COURT: But next the SIGINT, as they call it,
23 that means what they get out of NSA, and more particularly
24 with respect to all -- every single -- what do they call
25 those?

1 MR. LEEPER: Communications frequency?

2 THE COURT: No, every single volume of what the
3 scope of the national operation is with every single addendum,
4 was given by this defendant.

5 MR. R. HIBEY: Do you remember that?

6 THE COURT: Yes, sir.

7 MR. diGENOVA: Yes.

8 MR. R. HIBEY: No, no, I wanted to hear, but I think
9 we know it by a different man --

10 MR. LEEPER: The RASIN manual or catalog.

11 THE COURT: That is what I am referring to. Not a
12 part of it, not a piece of it, just that alone. Now, that is
13 what I was focusing on. When you talk about damage, the
14 implications of that are absolutely beyond belief.

15 Now, I don't want to argue with you, but that is
16 what I am referring to.

17 MR. R. HIBEY: Would it be appropriate to say it
18 here?

19 THE COURT: What?

20 MR. R. HIBEY: To the extent that I can?

21 THE COURT: Yes.

22 MR. R. HIBEY: Your Honor, that RASIN manual, first
23 of all, wasn't a complete document as submitted and --

24 THE COURT: As submitted to whom?

25 MR. R. HIBEY: Submitted to the Israelis. As

1 submitted --

2 THE COURT: Then the affidavit isn't truthful, is
3 it?

4 MR. R. HIBEY: Well, I don't know if it is truthful
5 or untruthful, but the fact of the matter is I think the
6 Government will support the proposition that without the
7 addenda that is -- the remainder of the manual, the
8 information contained in that manual isn't, per se, usable for
9 any compromise of SIGINT intelligence.

10 THE COURT: Without what?

11 MR. R. HIBEY: Without the additional --

12 THE COURT: Get me the affidavit. I will just read
13 that this morning.

14 MR. LEEPER: And our position is, Your Honor, it all
15 went to the Israelis.

16 THE COURT: That is exactly what is stated in the
17 affidavit.

18 MR. R. HIBEY: If while you are looking at it, may I
19 go down to the table for one moment, Your Honor? Your Honor,
20 may I do that?

21 THE COURT: Yes, surely.

22 Do you know what I am referring to?

23 MR. LEEPER: Certainly, Your Honor. It is near the
24 top of the page.

25 Here it is, Your Honor. It carries over to the top

~~TOP SECRET FRODO WORD~~

1 of the next page.

2 THE COURT: This is where they talk about the RASIN
3 manual.

4 MR. R. HIBEY: Yes.

5 THE COURT: That is what I am making reference to.

6 MR. R. HIBEY: Yes, that is right.

7 MR. LEEPER: Should we return to our seats?

8 THE COURT: I didn't want to call it by name, but
9 that is what I am referring to. You can argue it without
10 referring to --

11 MR. R. HIBEY: That's right, I said, toss it here
12 because that way I know I am comfortable in saying it. And if
13 somebody feels I should say it out there, I will say it out
14 there. But fundamentally, there is no denying that he
15 provided a portion, a major portion of that RASIN manual to
16 the Israelis. And there is no denying, either, that it was,
17 that portion was specifically withheld.

18 THE COURT: Okay.

19 MR. R. HIBEY: But what I am trying to focus on is
20 that, first of all, the information dealt with signals
21 intelligence, not of the United States.

22 THE COURT: That is irrelevant.

23 MR. R. HIBEY: Well, no.

24 THE COURT: That is irrelevant.

25 MR. R. HIBEY: It may well be in Your Honor's

~~TOP SECRET FRODO WORD~~

1 thinking, but what I am trying to say --

2 THE COURT: You have to understand, it is not just
3 the fact that you can do certain things that is classified.
4 The fact that you can respond, the rapidity with which, you
5 know, all of that is part -- you cannot separate out any one
6 of these things. Sometimes the content of a communication is
7 worthless for intelligence purposes, but the fact that you
8 have it, now you have got it, is the most significant thing.

9 That's all.

10 MR. R. HIBEY: I don't think I am disagreeing with
11 the Court on that. Basically what I am trying to say is that,
12 in terms of even that information, in the hands of the
13 Israelis, there has been no showing of injury. That is the
14 point I am trying to make.

15 THE COURT: Well --

16 MR. R. HIBEY: How can I ignore the fact that he
17 provided that information?

18 THE COURT: I understand.

19 MR. R. HIBEY: What I am trying to do is keep it in
20 the focus of what actually -- what actual harm there was to
21 the United States by the giving of that information to Israel
22 as opposed to Russia, China or somebody.

23 THE COURT: It doesn't make any difference.

24 MR. diGENOVA: Your Honor, may I --

25 THE COURT: No. I am going to hear the rest of the

1 argument in open court.

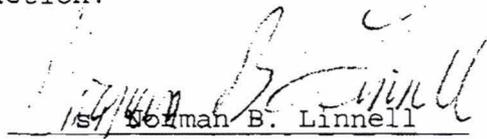
2 NOTE: The side-bar discussion is concluded;
3 whereupon the hearing continues in open court at page 57 of
4 the sentencing transcript.

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6 PARTIAL TRANSCRIPT CONCLUDED

7
8 C E R T I F I C A T E o f T R A N S C R I P T I O N

9
10 I hereby certify that to the best of my ability, the
11 foregoing is an accurate transcription of the steno notes of
12 Mindi Colchico, the official court reporter in the
13 above-styled case. Any errors or omissions are due to the
14 inability of the undersigned to comprehend and accurately
15 translate said steno notes.

16
17 Further, that I am neither counsel for, related to,
18 nor employed by any of the parties to the above-styled action,
19 and that I am not financially or otherwise interested in the
20 outcome of the above-styled action.

21 
22 Norman B. Linnell

23 Norman B. Linnell

24 Court Reporter - USDC/EDVA

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