

06-77-2286
1-11-77

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11 January 1977

MEMORANDUM FOR: Chief, SE Division

ATTENTION : Division Security Officer

FROM : ⁰³ [redacted])
SE/X/LA

SUBJECT : Appearance As Witness In Behalf of the
United States Government

REFERENCE : USA V. Gerald P. Hemming, Et Al. (76-371-CR-CA)

1. During the period of my employment as a Special Agent at the Drug Enforcement Administration (May 1974 - Jan 1977), I conducted an interview of Gerald Patrick Hemming (DPOB 1 March 1937, at Los Angeles, California) on 23 May 1975 at DEA Headquarters in Washington, D.C. My report concerning that interview has become part of the case file in USA v. Gerald P. Hemming, Et Al., Case Number 76-371-CR-CA, Southern District of Florida, Miami, Florida.

2. Upon my entrance on duty in SE Division on 5 January 1977, I orally informed the Division Security Officer, Billy Hix, about the information in paragraph 1 above. Mr. Hix asked me to submit the information in writing as soon as I was settled in the Division. On 7 January 1977, however, Special Agent Robert Fredericks telephonically contacted [redacted] DC/SE/X/LA, and told her that the United States Attorney, Southern District of Florida, had requested that I appear at the U.S. Courthouse, Miami, Florida on 10 January 1977 to confer with the Assistant United States Attorney, Karen L. Atkinson, regarding my appearance as a witness in behalf of the U.S. Government in the trial of Gerald P. Hemming.

3. During the afternoon of 7 January 1977 I conferred with Mr. Hix who advised me to contact the Office of the General Counsel. I talked to Mr. Edmund Cohen who advised me to get in touch with the Office of Security, External Activities Branch (OS/EAB). I completed an Outside Activity Approval Request (Form 879), obtained the concurrence of DC/SE, Mr. John Stein, and submitted the Form 879 to OS/EAB. OS/EAB sent me to Central Cover Staff (Mr. Blandford) and then to the Office of the General Counsel. After discussions with Mr. Cohen, I called

S/A Fredericks in Miami at Mr. Cohen's suggestion. S/A Fredericks was not available. Mr. Cohen then advised me to return to my office and he would contact me with further instructions. Mr. Cohen retained the Form 879. Subsequently, Mr. Cohen advised me that I should travel to Miami as requested and that CIA would reimburse me for expenses connected with my activities in behalf of the U.S. Government. He further advised me that being in an overt cover status I should state, if asked under oath, that I am currently a CIA employee.

4. On 10 January 1977 I traveled to Miami where I met and conferred with AUSA Karen Atkinson and DEA S/A Robert Fredericks. They informed me that Gerald P. Hemming's case had been severed and his trial would not begin on 11 January. AUSA Atkinson told me she wanted me as a rebuttal witness if Gerald P. Hemming presented the defense that he had been working at the direction of DEA. She said they would not call me until and unless that defense was presented. She also said that she felt that any attempt to question me concerning my current place of employment was irrelevant and she would object to any such line of questioning. She said she would only ask me where I was employed at the time I interviewed Hemming. I returned to Washington D.C. the same day.



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SECRET

16 January 1978

MEMORANDUM FOR THE RECORD

FROM: Edmund Cohen
Assistant General Counsel

SUBJECT: U.S. v. Hemming

1. On 22 November 1977 the undersigned accompanied by Messrs. ⁰³ [redacted] Gary Mattocks and Robert Barteaux, travelled to Miami to confer with Judge Hoeverler, and Assistant U.S. Attorney Thomas M. Sherouse, U.S. District Court, Southern District of Florida, about subject case. Messrs. ⁰³ [redacted] and Mattocks had dealt with Mr. Hemming while they were employed by the Drug Enforcement Administration and Mr. Sherouse wanted them available as rebuttal witnesses. Mr. Barteaux also was sought as a possible rebuttal witness to describe the Agency's relationship with Mr. Hemming in the event that Hemming raised a CIA defense.

2. On 23 November Mr. ⁰³ [redacted] Mr. Barteaux and the undersigned met in chambers with Judge Hoeverler, Mr. Sherouse, Mr. Roger Howard, law clerk to Judge Hoeverler, and Mr. Ted Sakowitz, Public Defender for the Southern District of Florida. Mr. Sherouse decided that Mr. Mattocks would not be required to testify and he did not attend the meeting. The Judge initially expressed some reluctance to have an ex parte conference because Mr. Hemming had assumed primary responsibility for his own defense with only limited assistance from the Public Defender. The Judge insisted that a transcript of the meeting be made but he promised that the transcript would be sealed and, in fact, would not be transcribed.

3. The undersigned indicated that the Agency had no interest in the outcome of the case and interposed no objection to the introduction of any relevant information. Our sole concern was to protect Mr. ⁰³ [redacted] and his relationship with CIA both before and after his DEA employment. The Judge was informed that Mr. ⁰³ [redacted] sole connection with Hemming was on 23 May 1975 and that he had no contact with Hemming during any period of Agency employment. The national security consequences of exposure of Mr. ⁰³ [redacted] as well as the career consequences were outlined. In addition, the Judge was informed that Mr. Barteaux was prepared to testify as an overt Agency employee about any relationship between Hemming and CIA.

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4. Judge Hoeverler asked Mr. Sakowitz to cross-examine Mr. [redacted] to determine whether he had any information which might be relevant to Hemming's defense. Mr. Sakowitz stated that although he was aware that Mr. Hemming wished to call Mr. [redacted] as a witness, he was not fully informed of all aspects of the case and, therefore, reluctant to question Mr. [redacted]. Thereupon, Judge Hoeverler, swore in Mr. [redacted] and proceeded to ask him a series of questions to determine whether Mr. [redacted] interaction with Mr. Hemming had been in any way connected with his CIA employment. At the conclusion of this examination the Judge gave Mr. Sakowitz a second opportunity to question Mr. [redacted] and when Mr. Sakowitz again declined, he stated that in light of the national security consequences which had been brought to his attention he was not inclined to permit questions relating to Mr. [redacted] CIA employment.

5. At the conclusion of the conference in chambers, but before the jury was admitted into the courtroom, Mr. Sherouse informed Mr. Hemming that Mr. [redacted] was available as a witness. When the trial proceeded Mr. Hemming concluded his defense without calling Mr. [redacted]. Mr. Sherouse, however, did call Mr. [redacted] as a rebuttal witness. On cross-examination Mr. Hemming asked Mr. [redacted] whether he was with CIA. Mr. Sherouse promptly objected to the question, the Judge sustained the objection and Mr. Hemming went on to the next question. The trial concluded soon afterwards without Mr. Barteaux being called as a witness. It was subsequently learned that Mr. Hemming was found guilty as charged.



Edmund Cohen

EC: jz

Distribution:

Original / LITIGATION-CRIMINAL, Hemming Gerald P.

1 - EC Signer

1 - Chrono

SECRET

CLASSIFY AS APPROPRIATE

OUTSIDE ACTIVITY APPROVAL REQUEST

COMPLETE AND FORWARD ORIGINAL AND 2 COPIES TO EXTERNAL ACTIVITIES BRANCH

TO :	DIRECTOR OF SECURITY; ATTN: EXTERNAL ACTIVITIES BRANCH	DATE	7 Jan 77
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THRU: (Staff, division or office head and security officer, where assigned)

SE Division Security Officer

FROM:	NAME AND GRADE OF EMPLOYEE (Print or type)	COMPONENT	ROOM NO. AND BLDG.	PHONE
	[Redacted] 10/3	[Redacted]	100 5B29	[Redacted]

1. FULL DESCRIPTION OF OUTSIDE ACTIVITY FOR WHICH APPROVAL IS REQUESTED INCLUDING NAMES OF ORGANIZATIONS OR INDIVIDUALS CONCERNED. DATES. LOCALE. ETC. (Refer to HR 10-7 before completing)

On 7 January 1977 at approx. 1130 hrs. [Redacted] advised me by telephone, [Redacted] advised that she had been telephonically contacted by a Mr. Fredericks of FBI in Miami, Florida (Off 305-441-4002, Ext 308-589-3128) who told me that he wants me to travel to Miami to attend a pre-trial conference on January 10 January in order to prepare for possible appearance as a witness for the FBI against a Gerald Patrick [Redacted].

I consulted with the SE Division Security Officer [Redacted] who advised me to contact the OIG. At approx. 1140 hrs. [Redacted] advised me to contact the Office of Security, External Activities Branch.

2. REMARKS BY REQUESTOR

IN ENGAGING IN THE REQUESTED ACTIVITY, I WILL MAKE NO REFERENCE TO OR DISCUSS MY CIA ASSIGNMENTS OR DUTIES. I (WILL, WILL NOT) BE IDENTIFIED AS EMPLOYED BY CIA FOR THE FOLLOWING REASONS:

I was a CIA employee from Jan 69 to May 71 prior to transferring to DIA. I was under cover at that time. I have not put even my under cover since my return (3Jan77).

SIGNATURE OF REQUESTING EMPLOYEE

3. COMMENTS AND CONCURRENCE OF STAFF, DIVISION OR OFFICE HEAD

CONCUR: _____ DATE _____ SIGNATURE OF OPERATING OFFICIAL _____

FOR COMPLETION BY EXTERNAL ACTIVITIES BRANCH AND RETURN OF ORIGINAL TO EMPLOYEE

DATE: _____

SECURITY APPROVAL HAS BEEN (GRANTED, DENIED) FOR THE ACTIVITY CONTEMPLATED BY THIS REQUEST.

2/12 (FOR) CHIEF, SECURITY SUPPORT DIVISION

9/17 Mo Sovereign - discuss Stenrose call re Q Doc
& re DCD contacts of on Doug - let to ck
Bob Borteaux to be ready to testify.
Info Processing section.

MFR on Q Doc

9/16 Spoke w/ Tom Stenrose 305 350 5449
Trial 25 Oct.

10/3 Used w/ Stenrose still is scheduled for
25 Oct - but calendar call set for
20 Oct Thurs Cal Call All call bk on 21 Oct
to see where stand

10/25 Spoke w/ Stenrose - Henry case is
#8 on Judge's calendar
on on case #1

earliest is late next wk at earliest
Henry - will be own lawyer

11/15 spoke w/ Stenrose sch for 16 Nov & needs us
Bartaux, ⁰³ Maddox & I for rebuttal case thinks Fri 10:30 AM
want to call on 16th to check.

11/15 Meet w/ Mo S. ⁰³ Maddox, Bartaux review Stenrose
statements, ck on why left open & why returned, what doing.
Later meet w/ Mo & Bartaux - get 1000 (off) view
re impact of public exposure on ⁰³ Maddox & brief
review of Bartaux all records on Henry.
reserve for Fri EA 195 not leave 9⁰⁰ - 11²⁰

11/17 - Called M - for now

9318

[Redacted]

Rockville Md 20850

[Redacted]

~~1919~~

[Redacted]

08

1. impl & cover

a Jan 69 - May 74 CIA - Army & Air Comm - Army
"messes ops" clandestine
Kearns

b. ⁴ May 74 - ~~1~~ Jan 77 DEA

c. ~~2~~ Jan 77 - no cover, State cover

2. only contact w/ Henry -
23 May 75

3. Henry - to DC to see Green - up to
Green told see Tom -

4. now Sov - target resentments
Why at 2 sov KGM met in his name

from 50 - resigned - law enforcement
& CIA cant - no embad, resentments

US vs Hemming (Gerald P. Hemming) S.D. of Fla.
Case No 76-71-Cr-CA Judge Hoeverler

P.O. Bldg + Ct House 300 NE. First Ave Miami Florida

Mezzanine Floor 350-4136

1st Ave 3rd St

Thomas M. Sherouse Ast US Attorney (305) 350 5449 or 4471

Sec Mary Jones

300 Ainsley Bldg.

hm 856 22PS

1879

521 Florida Ave apt 104
Herndon Va 22070
- 437 8958

Bary Maddox

1. encl - cover

✓ CIA - 69-73 - Any cover Vt them

- DEA ^(Sgt) Aug 73 - 26 Feb 77 (comm cover)

✓ CIA 27 Feb 77 - open 5-6 by them

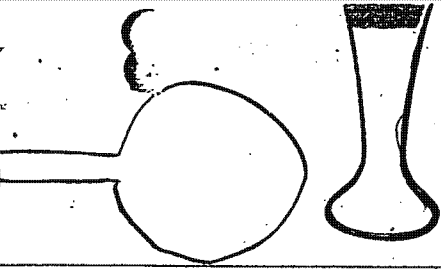
State cover now Urban ps - extra people quarters

2. no later than Dec 76 contact of Maddox
none since bk of CIA -
no contact before DEA
never personal contact only friend DEA contact

3. rel of Hemmy met under cover re purchase of narcotics
in Miami and, heavy agent re cover
a) without riches, old, good b) present re cover envelope
of interest info

4. non - = Cuba ps -

7-9



Army was good fun