

prosecute Nazi war criminals living in America.

The agreement that Kissinger wrangled out of President Ford set a dangerous precedent. For the first time ever, Soviet "evidence" would be used by the Department of Justice and admitted into American courts, with no questions asked. Kissinger promptly passed on the WJC's list of 59 names to Soviet Foreign Minister Andrei Gromyko, and soon, the DOJ and its Immigration and Naturalization Service (INS) were being flooded with Soviet "documentation" of the "Nazi backgrounds" of the targets.

In October 1975, the Soviets provided U.S. Senators Jacob Javits (R-N.Y.) and Abraham Ribicoff (D-Conn.) with a list of 70 Ukrainians allegedly guilty of war crimes. Ribicoff was, at the time, an honorary vice chairman of the ADL, and Javits was a longtime ADL official. The list was conduited to the senators by Michael Hanusiak, editor of the English-language *Ukrainian Daily News* and a well-known Soviet propagandist who had been recruited by the Russians in 1969. John Demjanjuk's name was included on the Hanusiak list.

Within a month of the issue of the Javits-Ribicoff Made-in-Moscow target list, the INS was in contact with "Jewish organizations" in the Cleveland area, as well as in Israel, seeking evidence and potential witnesses against Demjanjuk. In Israel, the government took out advertisements in newspapers soliciting information about Demjanjuk and a second accused war criminal, Fedor Fedorenko. At this point, Demjanjuk was being accused of having worked at the Nazi concentration camp at Sobibor—not at Treblinka.

On Aug. 26, 1976, the Soviet government turned up the heat, publishing an article in a Ukrainian weekly magazine referencing an identity card from the Trawniki SS training camp, in the name Demjanjuk. The article claimed that testimony had been given by a former guard at Sobibor identifying Demjanjuk; however, the accuser had been tried, convicted, and executed for war crimes back in the 1950s, so Demjanjuk would have no opportunity to confront the man. Later, the so-called ID card would be exposed as a Stasi forgery.

Despite the flimsy nature of the charges against him, Demjanjuk was ordered to appear at the INS office in Cleveland on Oct. 19, 1976 to be interrogated by U.S. Attorneys.

A bizarre shift

On Aug. 25, 1977, in the midst of a propaganda barrage against so-called "Nazis in America," fueled by *New York Times* scribbler Howard Blum's recently released book on the subject, Demjanjuk was formally charged by the U.S. government with lying on his immigration application, by failing to report his alleged Nazi concentration camp duties. The charges against Demjanjuk did not tie him to the camp at Sobibor. He was suddenly accused of being "Ivan the Terrible," the Nazi concentration camp motorman at Treblin-

ka charged with the extermination of 800,000 prisoners, mostly Jews. In response to the advertisements published in the Israeli newspapers, several Treblinka survivors had come forward claiming, 35 years later, that they recognized Demjanjuk from his postwar photograph as "Ivan."

The decision to proceed with the Demjanjuk case was pure politics. The prospect of bagging a "big fish" like Ivan the Terrible was too much for the ADL and its corrupt henchmen inside the Justice Department to resist. The flimsiness of the evidence became even more obvious in May 1978, when the DOJ's case against Fedor Fedorenko fell apart because the Israeli "victim-witnesses" failed to provide clear testimony. Later in the year, the Special Litigation Unit (SLU), the precursor to OSI which was responsible for the prosecution of the "Nazi" cases, lost another high-visibility denaturalization case against Frank Wallis on the same grounds.

Following the Fedorenko defeat, panic set in among the DOJ Nazi-hunters. A July 28, 1978 memo from SLU attorney Donald Convillon to INS General Counsel David Crossland warned that a repeat of the Fedorenko fiasco could bring an end to the entire Nazi-hunting effort. He added that the

Fraud by the OSI: the Arthur Rudolph case

In 1982, the U.S. Department of Justice's Office of Special Investigations (OSI) told former rocket engineer Arthur Rudolph that it could prove that he was responsible for crimes against humanity while working on the German V-2 rocket program during World War II. Insisting that he was innocent, but acknowledging that he was 77 years of age, in poor health, and without the financial resources to engage legal counsel for a trial, he accepted an "offer" by the Justice Department to leave the United States and surrender the citizenship he had held here since the mid-1950s, to avoid possibly losing his family's only income—his government pension. Rudolph had worked for the U.S. Army for 15 years after coming here in 1946, and then managed the Saturn V rocket program to take astronauts to the Moon, retiring from NASA in 1969.

He arrived in Germany in March 1984, and after surrendering his U.S. citizenship two months later, Rudolph applied for West German citizenship. The Bonn government requested the evidence against Rudolph from the OSI. Evidence was slow in coming. In January 1985, the Attorney General of the Central Office of State Judicial Administration in Ludwigsburg, in a letter to Prof. F.

SLU-INS needed a “big win” to revive the credibility of the eyewitnesses. A few weeks later, SLU head Martin Mendelsohn traveled to Israel to solicit the help of Israeli authorities in going ahead with the Demjanjuk case. After his return, he wrote a memo to Crosland calling the Demjanjuk prosecution “critical.”

Innocent beyond a doubt

On Oct. 13, 1978, the SLU received copies of 19 interrogations of 11 Soviet citizens that proved in no uncertain terms that Demjanjuk was not “Ivan.” The documents, sent by the Soviet government, had been originally requested for use in the Fedorenko case. For that reason, they came to be known as the “Fedorenko protocols.” Included were interviews with two Treblinka guards, Pavel Leleko and Nicholay Malagon, who were interrogated by the Soviets shortly after World War II. They provided detailed accounts of the internal workings of Treblinka and stated unequivocally that, during the 1942-43 period when the U.S. government claimed Demjanjuk was “Ivan the Terrible,” there were only two motormen at Treblinka, “Marchenko and Nicholay.”

In 1991, following the collapse of the Soviet Union,

investigators for Demjanjuk would get their hands on other Soviet documents that were never transmitted to the United States, including the confession of Nicholay Shalayeve, who admitted that he had been one of the two motormen at Treblinka. Shalayeve identified Ivan Marchenko as the second motorman. The file included photographs and biographical data on Marchenko making it absolutely clear that he was not John Demjanjuk.

Even without the benefit of the complete Soviet file, however, the “Fedorenko protocols” already constituted sufficient evidence to exonerate Demjanjuk—nearly three years before Demjanjuk’s first denaturalization hearing.

It gets worse. On Aug. 31, 1979, the Justice Department received another series of documents, these from the Polish Main Commission, the Polish government’s war archive, including a list of all the known concentration camp guards at Treblinka. Demjanjuk’s name did not appear on the list—but the name “Ivan Marchenko” did. In short, by no later than August 1979, the DOJ had incontrovertible proof that Demjanjuk was the wrong man.

Despite this, plans accelerated to bring Demjanjuk to trial. In March 1979, the SLU had been upgraded to the

Winterberg at Konstanz University, complained that “the documents which I had requested several months ago from the [OSI] have not yet arrived.” But, he stated, “in the central office there is no incriminating evidence against Mr. Rudolph. I may add, that because of the Nazi crimes at Dora-Mittelbau—in particular, because of the hanging of prisoners in the underground factories—intensive investigations have been conducted. The name *Rudolph* never came up.”

In March 1987, Hamburg District Attorney Harald Duhn told the press that after a more than two-year investigation, Rudolph had been cleared of all charges. UPI quoted Duhn that “none of about 100 witnesses brought in from the United States, Australia, and Israel were able to establish Rudolph’s guilt.” A colleague of Rudolph’s revealed in 1988, when Rudolph was finally granted West German citizenship, that all nine of the witnesses whose names were forwarded by the Justice Department to the German authorities were invalid; most of them did not even know Arthur Rudolph.

It should not have been a surprise to anyone that the OSI’s case was a bluff. When the public first learned that Rudolph had been accused of war crimes, an American who was a member of the U.S. legal staff that participated in war crimes trials concerning the V-2 project wrote a letter to the *Baltimore Sun*. Milton Crook states in his letter, published on Nov. 17, 1984, that in 1947 there

were trials held at Dachau to prosecute defendants for war crimes at the SS-run underground rocket factory at Nordhausen. Investigations began in 1945, after the Dora concentration camp, which supplied slave labor for the underground factory, was liberated. Upon completion of the investigations, “some of the scientists so recruited by us and working in the U.S. installations were formally accused for such crimes and returned to Germany for trial at Dachau. Likewise accused were various camp officials, guards and other personnel.”

“After a long, thorough trial,” Crook continued, “the war crimes court considered the evidence and testimony introduced by the parties and adjudged the scientists not guilty of all charges. The other defendants were all found guilty as charged and duly sentenced.” Arthur Rudolph was not accused in the 1947 trial. “In view of the recent developments in the Rudolph incident,” Crook wrote, “and his earlier association with his fellow scientists, long since tried and acquitted, the allegation of similar charges against him almost 40 years after the fact gives rise to certain questions: In the interim where was the evidence of Rudolph’s complicity? And where were the persons knowledgeable of such evidence? Why did they not speak up during the 1947 trial or since then?”

It is past time that Arthur Rudolph be exonerated and allowed to return to his home of 40 years in the United States.—*Marsha Freeman*