

William A. Reuben wrote in 1955, "It is a safe bet that historians will agree that the summer of 1950 was the most hysterical period in the history of the United States. And one of the most shameful."¹

Introduction

Miriam Moskowitz was convicted in 1950 of conspiracy to obstruct justice and sentenced to two years in federal prison. Her autobiography was published in 2010 when she was 94. It is apparent in *Phantom Spies, Phantom Justice: How I Survived McCarthyism* (2010) that she was convicted of a crime she didn't commit. The following is an account based on her book that explains how she was convicted by an FBI informant's lies that remained hidden by the federal government for more than forty years. Book page numbers are enclosed in parenthesis ().

Communist hysteria in the 1940s and 50s

It is difficult today to comprehend the hysteria in the United States during the late 1940s and 1950s caused by the media's reporting of alleged communist infiltration of the government and military, and educational and cultural institutions. Anyone who is not well past middle-age only knows about that era second-hand from books, movies, television programs, or being told about it by a person who lived through it.

Loyalty oaths were instituted in government, academia, and some industries. Those oaths required a person to pledge their allegiance to the U.S. and that they weren't a communist. Careers were derailed or wrecked by the mere suspicion or allegation of a person's communist ties or sympathies, or their refusal to identify friends or co-workers who might. Even attendance at a communist meeting years earlier could have serious consequences without a denunciation of communism. Membership in the Communist Party for even a short time in the 1930s or during WWII when the U.S. and Russia were allies was like a mark of Cain.

Perhaps most well known today was the blacklisting of people from working in the movie industry in the U.S. after they refused to answer questions about either their communist ties or name people who did, when they testified before the House Committee on Un-American Activities. Other people were prosecuted for contempt of Congress when they refused to provide possibly incriminating testimony.

Miriam Moskowitz Convicted By FBI Informant's Lies Concealed By Federal Prosecutors

By Hans Sherrer

Today the events of that era are referred to by some people as the communist witch hunts, and others as McCarthyism -- in recognition of Wisconsin Senator Joseph McCarthy who whipped people across the country into an anti-communist frenzy with his claims that the U.S. government and the military was infiltrated with communists. McCarthy's chief legal counsel was Roy M. Cohn. Before working with McCarthy, Cohn was an Assistant U.S. Attorney involved in several high-profile trials of Americans alleged to have aided the Soviet Union after it ceased to be an ally after WWII ended.

One of the people still alive who experienced first-hand the effects of McCarthyism is Miriam Moskowitz. *Phantom Spies, Phantom Justice: How I Survived McCarthyism* is Ms. Moskowitz's autobiographical account of the circumstances of her prosecution and conviction in 1950 of conspiracy to obstruct justice, and the effect it had on her life.² She was sentenced to the maximum of two years in federal prison and fined \$10,000. Her co-defendant was Abraham Brothman, a chemical engineer who was also convicted of the conspiracy to obstruct justice charge as well as a separate perjury charge, for which he was sentenced to a total of seven years in prison and fined \$15,000.

Their judge was Irving R. Kaufman, their prosecutors were Irving Saypol and Roy Cohn, and the key government witnesses were Harry Gold and Elizabeth Bentley. Those were the same people involved in the trial — four months after Ms. Moskowitz and Brothman's trial — of Julius and Ethel Rosenberg for espionage for allegedly passing atomic bomb secrets to the Russians.³ However, the trials were tied together because as Cohn is quoted as saying after the trials, "... the Brothman-Moscowitz [sic] case was a dry run of the upcoming Rosenberg trial. We were able to see how Gold and Bentley fared on the stand, and we were able to see how we fared, Saypol and I."⁴

Ms. Moskowitz and Brothman had no connection to the Rosenberg's, and their charg-

es were minor compared to the Rosenberg's espionage charges that carried a maximum sentence of death.

In the mid-to-late 1940s Ms. Moskowitz and Brothman were partners in a chemical engineering consulting company in New York City. Harry Gold was a laboratory chemist who worked with Brothman over a period of years. Unbeknownst to Ms. Moskowitz and Brothman, Gold was a Soviet agent who began working as a double-agent for the FBI after they discovered his pro-Soviet activities.

Bentley was a member of the Communist Party and for years beginning in 1938 she was involved in promoting tourism and shipping between the U.S. and Russia while spying for the Soviet Union. She became an informant for the FBI in 1945.

The prosecution's case against Brothman was he allegedly provided Gold with documents about "secret" chemical processes for use by the Soviets, that he provided Bentley with "industrial information material" for transmittal to the Soviet Union, and that he lied about what he did when testifying before a grand jury in 1947. (23)

Ms. Moskowitz didn't testify before a grand jury, so her prosecution was based on the allegation she simply witnessed a single conversation in 1947 between Gold and Brothman during which Gold alleged they discussed presenting false testimony to the grand jury. Bentley didn't provide any testimony against Ms. Moskowitz. Considering the lack of evidence she "did" anything illegal the prosecution's case was actually 'guilt by her association' with Brothman.

Ms. Moskowitz describes the 8-day trial in November 1950 at length in *Phantom Spies, Phantom Justice*. The long and short of it is Judge Kaufman's pro-prosecution bias became more and more evident as the trial progressed. Kaufman even stepped in to ask witnesses questions when the prosecutors weren't eliciting testimony that sufficiently incriminated Brothman — and by association Ms. Moskowitz — and Kaufman even pursued lines of questioning not raised by the prosecutors.

Judge Kaufman also thwarted Ms. Moskowitz and Brothman's lawyer William Kleinman from introducing exculpatory testimony and documents. However, Klein-



Miriam Moskowitz and Abraham Brothman Being Transported in Police Wagon (Leon Hoffman Bettmann-CORBIS)

Moskowitz cont. on p. 4

Moskowitz cont. from p. 3

man was able to establish during his cross-examination of Gold that the documents Brothman allegedly provided Gold were publicly available from sources that included professional journals, books at the New York Public Library, and even the U.S. Patent Office: so no “secret” documents were allegedly involved. Bentley didn’t provide specific details of any “material” Brothman allegedly provided to her.

Neither Brothman nor Ms. Moskowitz testified.

In spite of the skimpy evidence, the conviction of Ms. Moskowitz and Brothman was all but a foregone conclusion given the way Judge Kaufman conducted the trial, and the anti-communist atmosphere at the time that was fueled by the Rosenberg’s upcoming trial for allegedly providing atomic bomb secrets from the Manhattan Project to the Soviets.

After Ms. Moskowitz’s conviction she met Ethel Rosenberg for the first time while they were both jailed at the Women’s House of Detention in New York City. Her portrait of Ethel is she was a warm person who cared about the women she was jailed with. A week after Ethel’s sentencing she was transported to Sing Sing prison where she and her husband were executed in 1953.

Ms. Moskowitz describes in detail the time she spent at the House of Detention until her appeal was denied, and then at the Federal Reformatory for Women in Alderson, West Virginia where she finished serving her sentence. At the time that was the only female federal prison in the United States. One of the women imprisoned at the FRW with Ms. Moskowitz was Iva Toguri — prosecuted for allegedly being the infamous Tokyo Rose and convicted in 1949 of one count of treason.⁵

Brothman’s perjury conviction and five-year sentence was overturned on appeal, so he only served his two-year sentence for conspiracy to obstruct justice.

The latter part of *Phantom Spies, Phantom Justice* has brief biographical sketches of the key people involved in Ms. Moskowitz and Brothman’s prosecution. The passage of six decades since the 1950 trial has not diminished Ms. Moskowitz’s strong feelings about what she believes was the gross injustice committed against her and Brothman. She asserts she wasn’t present when

Gold testified that he and Brothman discussed Brothman’s upcoming grand jury appearance — so she is not only actually innocent of her convicted crime of conspiracy to obstruct justice — but Gold committed perjury during his testimony about her. Supporting Ms. Moskowitz’s claim is Gold’s trial testimony contradicted that he told the FBI in June 1950 that he “discussed nothing in front” of her. (223) He reiterated that in an FBI Report dated July 27, 1950 that states, “Gold recalls telling Brothman practically nothing in Moskowitz’s presence ...” (237) Similarly, since Gold didn’t testify Brothman ever showed him anything other than what were in fact publicly available documents regarding chemical processes, Brothman had no reason to even contemplate, much less discuss lying to the grand jury. So one can conclude Brothman was actually innocent and his conspiracy to obstruct justice conviction was likewise based on perjury by Gold.

Gold was under indictment for espionage and facing a possible death sentence when he testified during Ms. Moskowitz and Brothman’s trial, and the Rosenberg’s trial four months later. Gold’s reward for cooperating and providing testimony essential to support the prosecution in those cases and other cases was to be sentenced in 1951 to 30 years in prison.

Moskowitz answer to those who may ask why she waited until she was 94 to publish a book about her experiences is:

“My book was first proposed by a loyal friend and dear departed old union buddy, Milt Ost, shortly after I was released from prison.

...

The appearance of a number of historically revisionist references to the Brothman/Moskowitz case finally convinced me it needed to be done. It was not only the factual distortions those books presented, it was also that some of them credited me with opinions I never expressed and interviews I never gave. ... Clearly, it was time for me to set straight a small but significant bit of American history.” (282)

Phantom Spies, Phantom Justice is an exceptionally well-written and compelling page-turner. It is a must read for anyone seeking to understand the human carnage that was left in the wake of the prosecutors,

the judges, the witnesses, and the journalists who played a role in fueling the dark period in American history known as McCarthyism. The book is an important first-person addition to the historical record of that era, and for anyone doubting its accuracy the details Ms. Moskowitz provides throughout the book are supported by 16 pages of endnotes. *Phantom Spies, Phantom Justice* is also recommended as a very personal memoir of how Miriam Moskowitz survived the hysteria of McCarthyism and lived for 60 years with the emotional scars indelibly etched on her from those experiences.

Phantom Spies, Phantom Justice is available in softcover from Amazon.com and other online and retail locations.

Phantom Spies, Phantom Justice: How I Survived McCarthyism, By Miriam Moskowitz, Bunim & Bannigan (2010), 310 pages, pb.

Endnotes:

1. William A. Reuben, *The Atom Bomb Hoax*, Action Books, New York, N.Y., 1955.
2. Ms. Moskowitz and Brothman’s trial began 11-8-1950, they were convicted on 11-22-1950, and they were sentenced on 11-28-1950.
3. One key prosecution witness in the Rosenberg’s case who was different was Ethel’s brother David Greenglass.
4. Sidney Zion, *The Autobiography of Roy Cohn*, Lyle Stuart, Inc., Secaucus, NJ, 1986, 66.
5. Hans Sherrer, “Iva Toguri Is Innocent,” *Justice Denied*, Issue 28, Spring 2005, 22.

Other source:

The Judiciary: Guilty, *Time* magazine, December 4, 1950



Innocence Network UK Now Publishing Quarterly Newsletter “Inquiry”

The Innocence Network UK began publishing its quarterly newsletter “Inquiry” with the Summer 2011 issue. The have since published the Fall 2011 issue. The current and back issues of “Inquiry” can be read online and downloaded in PDF format from the INUK’s website, www.innocencenetwork.org.uk

The Fall 2011 issue includes a review of *The Criminal Cases Review Commission: Hope for the Innocent?*, Edited by Dr. Michael Naughton (Palgrave MacMillan (2010). The review is by Hans Sherrer, *Justice Denied*’s Editor and Publisher. The review begins on page 11.

