

# Federal Judge Denies Miriam Moskowitz' Coram Nobis Petition

On December 4, 2014 U.S. District Court Judge Alvin Hellerstein in Manhattan [denied 98-year-old Miriam Moskowitz' coram nobis](#) petition requesting that her 1950 conviction for conspiracy to obstruct justice be vacated.

In November 1950 Ms. Moskowitz was convicted in federal court of conspiring with her business partner Abraham Brothman and their former employee Harry Gold to present false testimony to a 1947 grand jury investigating Soviet espionage. Brothman was likewise convicted of conspiracy, while Gold was an unindicted co-conspirator. Gold testified during Ms. Moskowitz and Brothman's trial that she knew about and actively participated in furthering the conspiracy to mislead the grand jury. Ms. Moskowitz and Brothman both exercised their right not to testify in their defense.

In 1999 Ms. Moskowitz received the last of numerous FBI reports related to her case that were provided to her in response to her Freedom of Information Act requests. Included in those documents were two qualified statements attributed to Gold that suggested he had some discussions with Brothman about the conspiracy when Ms. Moskowitz wasn't present.

A *coram nobis* petition was filed on Ms. Moskowitz' behalf in the U.S. District Court for the Southern District of New York on August 12, 2014. The petition was based on Gold's two qualified statements that it asserted was evidence that if known by the jury would have resulted in her acquittal.

After the petition was filed *Justice Denied's* editor and publisher, Hans Sherrer wrote an almost 6,000 word article that analyzed its assertions. [The article](#) was titled: *Miriam Moskowitz' Coram Nobis Petition Is A Fraud On The Court And A Half-Baked Publicity Stunt*. The article details that almost a year before her petition was filed, Mr. Sherrer informed Ms. Moskowitz' in writing the specific reasons why there was no legitimate legal or factual basis supporting the overturning of her conviction by way of a *coram nobis* petition. The article also explains that Ms. Moskowitz' exploitation by a dishonest lawyer and an unscrupulous filmmaker resulted in the filing of a fraudulent petition that was a gross misuse of the legal system, and amounted to nothing more than an half-baked publicity stunt to provide



Miriam Moskowitz, 98, outside the federal courthouse in Manhattan on December 4, 2014 after her *coram nobis* petition was denied (Daily Mail)

film footage for a documentary being made about her life.

The government's [response to her](#) petition stated: "Moskowitz's petition attempts to manufacture an inconsistency with respect to just one of those conversations [involving Brothman and Gold] while ignoring the rest [that also involved Moskowitz]. Her claims, even if taken at face value, are insufficient to establish an error under today's law, let alone the law when she was convicted in 1950." (Govts. Opposition, filed 10/1/2014, p. 1-2)

After hearing arguments on December 4, 2014, Judge Hellerstein orally [denied the petition](#) for several reasons that included: Ms. Moskowitz had waited too long to file her petition after learning of Gold's alleged statements to the FBI; and if the jury had known of the statements attributed to Gold in the FBI reports it would not have changed the outcome of her trial. Those are the exact reasons Mr. Sherrer stated to Ms. Moskowitz in his letter in October 2013 why a *coram nobis* petition wasn't a legitimate option because it wouldn't be granted.

Judge Hellerstein [issued his](#) 10-page written order on December 9, 2014 that detailed his reasons for denying Ms. Moskowitz' petition. The order stated in part:

"Petitioner has failed to demonstrate that her conviction should be overturned. First, Gold's statements to the FBI are not "irreconcilable" with the testimony he gave at Moskowitz's trial, as Petitioner alleges.

... Even if, *arguendo*, the Government erred in withholding Gold's statements from the defense, it did not make any difference to the outcome of Moskowitz's trial.

Moskowitz has also not provided adequate explanation to excuse her failure to seek an appropriate remedy earlier.

Finally, Petitioner has also failed to satisfy the third prong of the test for *coram nobis* relief: that she "continues to suffer legal consequences from [her] conviction that may be remedied by granting of the writ."

## Conclusion

Moskowitz has failed to show that the Government erred in withholding Gold's statements to the FBI. She has also failed to show that the extraordinary remedy of



Miriam Moskowitz, 34, after her arrest in 1950 in New York City.

a writ of error *coram nobis* would be appropriate even if the Government had so erred. Accordingly, Moskowitz's Petition is denied.

Ms. Moskowitz does have the valid option of filing an application for a presidential pardon based on the compassionate ground of her age, and that she has lived a law abiding life since her release from prison in 1952. It would be an extreme long shot, but it is the sort of pardon the current president might grant in January 2017 on his way out of office – just as President Gerald Ford granted a pardon to Iva Toguri D'Aquino [in January 1977](#).

[Click here to read Judge Hellerstein's Order](#) in *Moskowitz v. USA*, No. 1:14-cv-06389-AKH (USDC SDNY).

- Source:  
[Moskowitz v. USA](#), No. 1:14-cv-06389-AKH (USDC SDNY), Order and Opinion Denying Coram Nobis, Dec. 9, 2014  
[Judge refuses to overturn](#) 98-year-old's espionage conviction, *New York Post*, December 4, 2014  
[Miriam Moskowitz' Coram Nobis Petition Is A Fraud On The Court And A Half-Baked Publicity Stunt](#), By Hans Sherrer, *JusticeDenied.com*, Nov. 27, 2014  
[Moskowitz v. USA](#), No. 1:14-cv-06389-AKH (USDC SDNY), Government's Memorandum Of Law In Opposition To Miriam Moskowitz's Petition For A Writ Of Error *Coram Nobis*, Oct. 1, 2014  
[Iva Toguri Is Innocent!](#), By Hans Sherrer, *Justice Denied* magazine, Issue 28 (Spring 2005)

This is the story of Karlyn Eklof, a young woman delivered into the hands of a psychotic killer. She witnessed him commit a murder and she is currently serving two life sentences in Oregon for that crime. *Improper Submission* by Erma Armstrong documents:

- The way the killer's psychotic bragging was used by the prosecution against Karlyn.
- The way exculpatory and witness impeachment evidence was hidden from the defense.
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