

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

3 UNITED STATES OF AMERICA, Case No. 1:99CV1193
4 Cleveland, Ohio

4 Plaintiff, Tuesday, May 29, 2001
5 10:55 a.m.

5 vs.

6 JOHN DEMJANJUK,
7 a/k/a IWAN DEMJANJUK,

7 Defendant.

8 TRANSCRIPT OF PROCEEDINGS
9 BEFORE THE HONORABLE PAUL R. MATIA
10 UNITED STATES CHIEF DISTRICT JUDGE

10 BENCH TRIAL
11 VOLUME 1

12
13 APPEARANCES:

14 For the Plaintiff: Edward A. Stutman, Esq.
Jonathan Drimmer, Esq.
15 Michelle Heyer, Esq.
Michael Anne Johnson, Esq.

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17 For the Defendant: Michael E. Tigar, Esq.
John H. Broadley, Esq.
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Court Reporter: Bruce A. Matthews, RDR-CRR
United States District Courthouse
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Cleveland, Ohio 44114
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1 MORNING SESSION, TUESDAY, MAY 29, 2001, 10:55 A.M.

2 THE COURT: Good morning, ladies and

3 gentlemen.

4 MR. STUTMAN: Good morning, Your Honor.

5 MR. TIGAR: Good morning.

6 THE COURT: Are you prepared to begin?

7 MR. STUTMAN: The government is ready, Your

8 Honor.

9 THE COURT: Mr. Tigar?

10 MR. TIGAR: We ritually announce ready, Your

11 Honor, because we are supposed to. The Court has denied

12 our motion for continuance. Our papers with respect to
13 that are of record.

14 I would respectfully request the letter that
15 I had sent to Your Honor also be placed in the record. I
16 don't know whether in the normal course of things it would
17 be, but subject to that, of course, Your Honor, we are here
18 and ready.

19 THE COURT: Normally a letter would not be
20 placed in the record, but it can be, and I'll review it and
21 see if I think it is appropriate to put it in the record.

22 MR. TIGAR: Thank you, Your Honor.

23 THE COURT: All right. Thank you.

24 MR. STUTMAN: Your Honor, the government has
25 a short opening.

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1 THE COURT: Fine.

2 MR. STUTMAN: Good morning, Your Honor. My
3 name is Ned Stutman. With me this morning for the
4 government are my co-counsel, Mr. Jonathan Drimmer,

5 Ms. Michael Anne Johnson, and Miss Michelle Heyer.

6 The United States brings this action to
7 revoke John Demjanjuk's citizenship. As Your Honor
8 observed last week in the pretrial conference, the issues
9 in this case are narrow. At the heart of the government's
10 case are seven wartime documents. These documents were
11 created by the Germans for their administrative use during
12 World War II. We will show that these seven documents
13 establish that Iwan Demjanjuk, identification number 1393,
14 served at Trawniki training camp and as an armed guard at
15 the Majdanek concentration camp, the Sobibor extermination
16 camp, and the Flossenburg concentration camp.

17 It is indisputable that terrible atrocities
18 occurred at these camps and that the guards there guarded
19 prisoners. The testimony of survivors of these places will
20 confirm both. The evidence is also indisputable that the
21 Trawniki training camp was a school for concentration camp
22 guards and that it served as the hub in a hub-in-spoke
23 system for the movement of these guards to and from places
24 of persecution as these men implemented Operation Reinhard,
25 the infamous Nazi plan to dispossess and imprison, and then

1 murder of Jews of Poland.

2 The only genuine issues before this Court are
3 whether the seven naming documents are in fact German
4 wartime records and whether the Iwan Demjanjuk named on
5 them is the defendant.

6 The evidence will show that the seven
7 documents were genuine and that they do, indeed, identify
8 this defendant.

9 The authenticity of the seven naming
10 documents will be proven by testimony from three of the
11 country's leading forensic document experts. As will be
12 explained by Gideon Epstein, former head of the INS
13 Forensic Document Laboratory, various signatures and stamps
14 from some of the seven naming documents match other wartime
15 documents.

16 As Larry Stewart, laboratory director for the
17 Secret Service will testify, the inks and papers on some of
18 the seven naming documents are consistent with those used

19 in the 1940s. As Tom Smith, a lead document examiner with
20 the Secret Service, will explain, the typing on some of the
21 seven naming documents was made using machines available in
22 Europe in the 1940s.

23 The authenticity of the seven documents as
24 German war records will also be confirmed by the expert
25 historian Dr. Charles W. Sydnor, Jr., whose knowledge on

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1 this subject was described last year by a Federal Judge as
2 encyclopedic. Dr. Sydnor has spent more than 30 years
3 examining German wartime records and has served as an
4 expert in numerous matters pertaining to World War II.

5 As Judge Lewis Pollack, former dean of the
6 Yale and the University of Pennsylvania law schools,
7 observed in a trial last year, and I quote, "It would seem
8 a fair surmise that there would be only a handful of other
9 scholars who would have a comparable inventory of
10 information and insights as Dr. Sydnor."

11 The evidence will also show that these seven
12 authentic documents name this defendant. All seven naming
13 documents contain a name close to the defendant's. Three
14 identify Iwan Demjanjuk, ID number 1393, by the same date
15 of birth as defendant. Three identify Iwan Demjanjuk, ID
16 number 1393, by the same place of birth in a small Ukraine
17 village. A service pass identity containing Iwan
18 Demjanjuk, and it looks like him. It also has the name of
19 defendant's father and a physical description matching the
20 defendant.

21 The description that includes the highly
22 specific notation that Iwan Demjanjuk, ID number 1393, like
23 the defendant, has a scar on his back.

24 Defendant has yet another important scar on
25 his upper left arm where he admits he once had a blood type

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1 tattoo, a sign of SS affiliation. A fellow guard recalled
2 in 1949 that the Iwan Demjanjuk he observed at Sobibor and
3 Flossenburg had such a tattoo. In 1979, that same guard

4 picked defendant's picture out of three separate photo
5 spreads.

6 And if there were any lingering doubt that
7 the defendant is Iwan Demjanjuk, ID number 1393, it would
8 be removed by defendant's own words. In 1948 and again in
9 1951, he told immigration personnel that during the war he
10 lived and worked in the tiny village of Sobibor, Poland, in
11 the district of Chelm. That is the site of a secret Nazi
12 killing center where Iwan Demjanjuk, ID number 1393, was
13 assigned in March of 1943. We will prove that that Iwan
14 Demjanjuk and the one that will be in this courtroom are
15 one and the same. It is as clear as the scar on
16 defendant's back.

17 What are defendant's responses to this
18 evidence? He says he spent the war in POW camps and the
19 Ukraine and Russian national armies. Defendant's story has
20 been rejected time and time again, and with good reason.
21 The evidence will show that he has put himself in places
22 that he cannot be at times he cannot be there.

23 Defendant also asserts for the first time in
24 20 years of litigation that his cousin Ivan stole his

25 identity and that his cousin Ivan is named on the seven

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1 documents. The evidence will show that the seven naming
2 documents do not refer to cousin Ivan, but the evidence
3 aside, Your Honor, when you think about it, what identity
4 thief would steal his own name? The whole concept of
5 identity theft is based on the idea of stealing someone
6 else's name.

7 We have come here with one purpose, to revoke
8 defendant's citizenship. Our burden in doing so is heavy,
9 as it should be. Your Honor, this is a case of maximum
10 contradiction regarding history. Either the government's
11 history is right or the defendant's is. We believe that
12 the seven naming documents and wartime documents like them
13 are the very foundation of history itself, and that they
14 clearly and unequivocally show that defendant was a Nazi
15 guard during World War II and that his version of events is
16 simply not true.

17 In light of the evidence we will present to

18 this Court, at the end of the case we will ask that this
19 Court enter judgment for the United States and find that
20 the defendant, John Demjanjuk, assisted in the persecution
21 of civilians in collaboration with the Nazis, that he
22 participated in a movement that was hostile to the United
23 States form of government, and that he lied to gain entry
24 to this country.

25 Thank you.

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1 THE COURT: Thank you, Mr. Stutman.

2 Mr. Tigar?

3 MR. TIGAR: May it please the Court, counsel,
4 members of the Demjanjuk family, Your Honor, this is the
5 first of these trials to be conducted since the entry into
6 force of the amendment to Federal Rule of Evidence 702 with
7 respect to expert testimony. This is the first of these
8 trials of which I'm aware to be conducted without an
9 admission by the defendant that he did anything wrong and

10 without the testimony of any live witness whatever who ever
11 saw John Demjanjuk commit any act of cooperation with the
12 Nazis.

13 Thus, it is a new situation. This is, if the
14 Court please, a new effort at trial by archive in the
15 post-Daubert world. When John Demjanjuk was sentenced to
16 death in Israel, he cried out "I was not at Treblinka." It
17 is ironic at best for the government to attack his
18 credibility. The world did at that point, but it turned
19 out that of all the people whose words were spoken in that
20 trial and that place, John Demjanjuk's words were true.

21 Let us look first at what is not at issue.
22 What is not in issue, Your Honor, is the horror of the Nazi
23 Holocaust during which between 5 and 6 million Jews were
24 butchered. 5.1 million, according to Raul Hilberg.

25 What is not at issue is that this was one of

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1 the most vicious Holocausts in the history of the world,
2 the recorded history of the world. What is not at issue is

3 that the conditions in the camps was deplorable and
4 barbaric, and to that end, we have filed an amended answer
5 with the Court based largely upon the indisputable
6 historical record, and because that historical record is
7 indisputable, we do not dispute it.

8 The question is, however, who is Iwan. Who
9 is number 1393, the man who carried a gun, who was paid as
10 a guard, but unlike so many others who were paid, whose
11 signature does not survive for our comparison; who was
12 disciplined by camp leaders at one point, but who unlike
13 all the other pieces of paper in that Lithuanian file about
14 disciplines, that particular one is on a piece of paper
15 that's been trimmed.

16 Of course, the government has a burden of
17 proof. What don't we have? We don't, of course, have live
18 witnesses. When Dr. Sydnor testifies I intend to ask him
19 about the trials, because one other indisputable fact, Your
20 Honor, is that Trawniki was a training center. The Soviets
21 rounded up a lot of people who trained there, and they had
22 these trials all over the Soviet Union, and yet we don't
23 have evidence that was subjected to cross-examination in

24 those trials that points to the man who is on trial here.

25 We don't have fingerprints, we don't have

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1 DNA. And I'm going to ask the document examiners about the
2 absence of evidence of that kind. The Soviet Army records
3 of Mr. Demjanjuk have disappeared, whether mysteriously or
4 not, so we don't have contemporaneous documents with which
5 to compare to the information that's contained on these
6 hearsay records from the Second World War.

7 What we do have is some information about the
8 Iwan to which the government refers. He was 175
9 centimeters in height. Mr. Demjanjuk at that point was 172
10 centimeters in height. The same witness to whom the
11 government refers, and, by the way, died in 1985 so nobody
12 with can talk to him anymore, did know a Demjanjuk who was
13 in one of these killing centers, and he had, quote, white
14 metal teeth. Mr. Demjanjuk has never had dental work of
15 that kind.

16 The signature, the signature that's on that

17 pass, number 1393, Your Honor, expert after expert after
18 expert has poured over, and they all come down to one
19 thing: They can't identify it as the signature of the man
20 now known as John Demjanjuk. I want to pause, Your Honor,
21 for a moment to say that it is not out of a sense of
22 wanting to quarrel that I will challenge the government's
23 evidence at every turn. I will challenge it, Your Honor,
24 on the traditional grounds about documentary evidence
25 because this is trial by archive, but also because I sat in

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1 Nashville for so many weeks, Your Honor, in front of Judge
2 Wiseman and heard the government over and over again
3 criticize John Martin, who tried the case before Judge
4 Battisti, because he didn't make his record, he didn't
5 object enough.

6 Well, I'll try not to object too much. I do
7 not wish to tax Your Honor's patience. If I do so, it will
8 be out of a desire to defend my client, not to waste Your

9 Honor's time. If I get to beyond the taxing of patience to
10 the wasting of time, I know the Court is going to rein me
11 in.

12 THE COURT: I'll let you know.

13 MR. TIGAR: I know you will, Your Honor, and
14 I look for to this. This is a case, that's why we briefed
15 it in the way we did to make these challenges, the
16 photograph on that card -- now to return to my theme --
17 that photograph was removed and reattached. We will be
18 asking Mr. Epstein about that, and the staple holes that
19 are through it were never there at the beginning. They
20 bear traces of ink. What kind of ink? Not ink that
21 contains iron, that would be German ink, but ink that does
22 not contain iron, that would be Soviet ink, and yet that
23 photo therefore somehow for some purpose has been moved,
24 removed in a manner over which the government had no
25 control.

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2 Personalbogen. These Dienstausweises, the cards, had at
3 the time the cards were prepared, they were Personalbogens,
4 some kind of personal document, it had thumbprints. A lot
5 survived that don't have the Personalbogens with them, but
6 without live testimony and a trial by archive, that becomes
7 significant.

8 Then, Your Honor, we look at these protocols,
9 of course the protocols can be considered by Your Honor,
10 but a protocol is like an FBI 302. And I have some
11 experience with those, Your Honor. And we always ask the
12 FBI, did you get them all, and they say yes, and then we
13 find out maybe they didn't. And then in the Jencks Act
14 situation, Your Honor, the FBI always takes the position a
15 302 is not the statement of the witness, it is the
16 statement of the creating agent.

17 We have similar kinds of issues here, Your
18 Honor, to go through. But then we ask ourselves, well, how
19 did this card get made. We've got all these questions
20 about it. Is there some basis on which to credit the
21 typing that some clerk did? How did the clerk get the name
22 to put on there? Well, the evidence of the historians is

23 the Germans had trouble with names, they didn't know
24 Ukrainian, and we will show Your Honor some evidence from
25 how these cards actually got made. How the Ukrainians who

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1 were captured were lined up, how a German SS guard walked
2 the line together with somebody who is a translator,
3 together with a medical doctor, and they started taking
4 names. Then from that basis then the cards were made, and
5 so on.

6 In short, Your Honor, the circumstances under
7 which the entry is made don't bear circumstantial
8 guaranties of trustworthiness, and we are going to show
9 Your Honor instances in which people did for various
10 reasons use different names other than their own. Close
11 enough that they could get by with it, but different names
12 other than their own, because if you are a Ukraine and a
13 Soviet soldier and you've been captured, you are about to
14 be a traitor to the mother land in the words of the
15 protocols that Your Honor is going to see.

16 In short, Your Honor, in this case, different
17 from all others, we will show the Court not simply that the
18 government cannot meet its burden of proof, we will show
19 the Court a scenario that explains how it is that the
20 government once again has got it wrong.

21 A final word. Dr. Sydnor. Dr. Sydnor is a
22 historian. Dr. Sydnor can tell you about the generalities
23 of World War II.

24 Your Honor, Dr. Sydnor's testimony we will
25 contend is not admissible under Daubert. I don't need to

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1 rehearse that now. I will take you on the voir dire and I
2 will go through the multi-footnoted document that he put
3 before us and that the government will seek to place before
4 you. In short, Your Honor, the 24-year odyssey of John
5 Demjanjuk is about to come to an end. It is the odyssey of
6 a man who has for all of these years, with all of the
7 failures of memory, sometimes six months off here about

8 this or that, has, in fact, told a consistent version of
9 where he was. Yes, I do contradict the government on that
10 point, and we'll get to it later.

11 And now at the end of the day, he simply
12 asks, what? He asks that this Court listen, as I know it
13 will, and that perhaps this long travail will come to an
14 end. And I say that not out of disrespect to those who
15 perished in the Holocaust, Your Honor, but I take in mind
16 the words of Voltaire, it is to the living we owe respect.
17 To the dead, we owe only the truth.

18 THE COURT: Thank you, Mr. Tigar. All right.
19 Mr. Stutman, do you want to call your first witness?

20 MR. STUTMAN: I would, Your Honor. Prior to
21 calling the first witness, I would point out that we have
22 not received a copy of defendant's amended answer, which
23 I'm sure he will give us a copy of at some point.

24 MR. TIGAR: Your Honor, that comes as a huge
25 surprise to me. I thought we had served it. I will check

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1 that out.

2 THE COURT: When did you file the amended
3 answer?

4 MR. TIGAR: Your Honor, indulge me for a
5 moment.

6 (Pause.)

7 MR. TIGAR: It was approximately a week ago,
8 Your Honor.

9 THE COURT: I don't believe I've seen it
10 either.

11 MR. TIGAR: Well, Your Honor, we will
12 investigate that at an early moment. What we did was to go
13 through the historical allegations of the complaint, Your
14 Honor, and make these concessions. If the government
15 didn't receive it, I apologize. We will take care of that.

16 THE COURT: All right.

17 MR. STUTMAN: The government calls Gideon
18 Epstein.

19 Gideon Epstein, of lawful age, a witness called
20 by the Government, being first duly sworn, was examined and
21 testified as follows:

22 DIRECT EXAMINATION OF GIDEON EPSTEIN

23 BY MR. STUTMAN:

24 Q. Please state your name.

25 A. Gideon Epstein, E P S T E I N.

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Epstein Direct

1 THE COURT: Mr. Stutman, if you want to pull
2 the microphone, there was a little triangular microphone on
3 the table. If you want to pull that over in front of you,
4 it will be fine at the table.

5 MR. STUTMAN: Thank you, Your Honor.

6 THE COURT: Okay.

7 Q. What is your profession?

8 A. I'm a forensic document examiner.

9 Q. What is a forensic document examiner?

10 A. Forensic document examination involves the scientific
11 examination of disputed documents to determine whether a
12 document is counterfeit or genuine, whether or not
13 handwriting on a particular document can be associated with
14 a particular person. It deals with the authentication of a

15 document to determine if the document is what it purports
16 to be.

17 Q. How long have you been engaged in forensic
18 examination of questioned documents?

19 A. 34 years.

20 Q. Would you describe your professional experience in
21 the field?

22 A. I first started in this profession in 1967 when I
23 trained with the Army crime laboratory from 1967 until
24 1969. I remained with the laboratory system until my
25 retirement as chief document examiner in 1978.

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1 From 1978 until 1980, I was a senior document
2 examiner with the Bureau of Alcohol, Tobacco and Firearms
3 laboratory in Rockville, Maryland.

4 In 1980, the Immigration and Naturalization
5 Service opened their forensic laboratory in Washington,
6 D.C., and I joined that laboratory at that time. I

7 remained with that laboratory and became its chief document
8 examiner in 1985, retiring from that laboratory in December
9 of 2000.

10 Q. So you are no longer in federal service?

11 A. I am now in private practice.

12 Q. Do you still work as a questioned document examiner?

13 A. Yes, I do.

14 Q. How much time do you currently devote to forensic
15 examination of questioned documents?

16 A. All of my working time is devoted to the examination
17 of questioned documents.

18 MR. STUTMAN: May I approach the witness,
19 Your Honor?

20 THE COURT: Yes.

21 Q. I'm showing you what has been marked for
22 identification as Government's Exhibit 10 and ask you, do
23 you recognize that document?

24 A. Yes, I do.

25 Q. Did you prepare it?

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1 A. Yes, I did.

2 MR. TIGAR: That's his resume, Your Honor.

3 We have no objection to its admission.

4 THE COURT: All right.

5 Q. What training did you receive to prepare you for work
6 as a forensic document examiner?

7 A. The forensic document training that I completed was a
8 resident training program that was conducted by the Army
9 Crime Laboratory which was at that time located at Ft.
10 Gordon, Georgia. I trained with them in the Post Office
11 Identification Laboratory in Washington, D.C.

12 Q. You know, I think that microphone is pretty strong.
13 I don't think you have to speak so directly into it.

14 A. Okay.

15 Q. Do you have any other education in the field?

16 A. I have a bachelor of science degree in criminal
17 justice from the University of Nebraska and a master's in
18 forensic science from Antioch School of law.

19 Q. Do you belong to any professional organizations in
20 this field?

21 A. I do. I'm a fellow of the American Academy of
22 Forensic Sciences, the Questioned Documents Section, and a
23 member of the American Society of Questioned Document
24 Examiners.

25 MR. TIGAR: If Your Honor please, I think

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1 he's just reading his resume, Your Honor. We will
2 stipulate that's what it says.

3 MR. STUTMAN: Are you prepared to stipulate
4 to his qualifications?

5 MR. TIGAR: No, we are not. I would like to
6 take him on voir dire.

7 THE COURT: All right. If you don't want to
8 stipulate to his qualifications then I think he's going to
9 have to more or less read his resume into the record.

10 BY MR. STUTMAN:

11 Q. Have you held any official positions in any of these
12 organizations?

13 A. Yes. I'm the past president of the American Society

14 of Questioned Document Examiners, which is the oldest
15 professional organization for document examiners in North
16 America.

17 Q. Are you certified by any formal body to do this work?

18 A. I am. I'm a diplomate of the American Board of
19 Forensic Document Examiners.

20 Q. Have you done any research on the subject of
21 questioned document examination?

22 A. I have over the last 34 years. My primary interest
23 has always been in the area of handwriting, and my work has
24 been in various areas. I conducted research having to do
25 with the handwriting of individuals intoxicated at the time

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Epstein Direct

1 of the writing and the comparison of that writing to their
2 writing under normal conditions to see what characteristic
3 changes occur.

4 I've conducted a great deal of research in
5 the area of comparison of handwriting that's separated by

6 long periods of time -- as an example, 20 years, 30 years,
7 and 40 years -- to determine the changing characteristics
8 in a person's handwriting over periods of time and whether
9 the handwriting can, in fact, be compared.

10 MR. STUTMAN: Your Honor, may I approach the
11 witness just for a moment?

12 THE COURT: Yes.

13 MR. STUTMAN: I just want to see if I can
14 accommodate this. Let's try that.

15 Q. Have you ever taught questioned document examination?

16 A. I have. I've been involved in teaching document
17 examination for most of my career. I first started
18 teaching document examination to U.S. Army criminal
19 investigators. Later when I joined the federal government
20 I taught at the Federal Law Enforcement Training Center to
21 the Bureau of Alcohol, Tobacco and Firearms agents, as well
22 as to special agents of the Immigration and Naturalization
23 Service.

24 For seven years I taught at the George
25 Washington University School of Forensic Sciences teaching

Epstein Direct

1 two classes a year there.

2 Q. Have you published any articles or presented any
3 papers on the subject of questioned document examination?

4 A. I have. Again, over the years I've published and
5 presented papers on the subject of questioned document
6 examination to such publications as the Journal of Forensic
7 Sciences, the International Association for Identification,
8 the Royal Canadian Mounted Police Journals, the Military
9 Police Journal, and publications of that type.

10 Q. Approximately how many cases have you worked on which
11 involved examination of questioned documents?

12 A. In excess of 3,000.

13 Q. Have you ever been qualified as an expert in
14 questioned document examination in any court proceeding?

15 A. Yes, I have.

16 Q. How many times have you been so qualified?

17 A. Over 200 times.

18 Q. In what types of courts?

19 A. Various state and federal courts throughout the

20 United States, including Alaska, Hawaii, Puerto Rico, the
21 Virgin Islands.

22 Q. Has any Court found you unqualified to testify as an
23 expert witness in the field of forensic document
24 examination?

25 A. No, they have not.

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Epstein Direct

1 Q. Did you conduct certain forensic document
2 examinations in this case?

3 A. Yes, I have.

4 Q. What forensic document examinations did you conduct?

5 A. I conducted numerous examinations of Government
6 Exhibit 3, starting back in 1981 when I first examined the
7 document, and again in 1987, and then again in my
8 laboratory in July of 2000.

9 Q. Did you conduct handwriting comparison examination in
10 this case?

11 A. Yes, I did.

12 Q. Did you examine any stamp comparisons?

13 A. Yes, I did.

14 Q. Did you conduct a microscopic review of documents for
15 alteration?

16 A. Yes, I did.

17 Q. Why did you conduct these examinations?

18 A. I was asked to determine from the very beginning
19 whether the document, first of all, was what it purported
20 to be and whether there were any alterations, text
21 substitutions, and other forms of alteration to the
22 document, and I was asked to conduct any comparative
23 examinations of that document against any known available
24 documents at that time in an attempt to either authenticate
25 the document or identify it as not being what it purports

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Epstein Direct

1 to be.

2 Q. Are the types of forensic examinations that you
3 performed in this case regularly performed by professional
4 forensic document examiners?

5 A. They are. They are all very standard examinations.

6 Q. Are there basic principles in your profession for
7 such examinations?

8 A. Yes, there are.

9 Q. Are they stated in basic texts?

10 A. Yes, they are.

11 Q. Could you enumerate some of the basic texts?

12 A. The more leading or the most leading text in this
13 profession are, first of all, going back to the early ones,
14 Alber Osborne's Questioned Documents, Harrison's Suspect
15 Documents, Conway's Disputed Documents, Ordway Hilton,
16 Scientific Examination of Questioned Documents.

17 The most recent text, very informative and
18 very good text, was recently published, which is
19 Handwriting Identification Facts and Fundamentals by Huber
20 and Hedriex, two Canadians, but in all of these texts, the
21 basic principles that I employed are clearly identified.

22 Q. Did you apply those basic principles in this case?

23 A. I certainly did.

24 Mr. STUTMAN: The government offers Gideon
25 Epstein as an expert in forensic document examination.

Epstein Direct

1 THE COURT: All right.

2 MR. STUTMAN: I conducted that inquiry
3 seated, I apologize. Would Your Honor prefer me to stand
4 at the podium?

5 THE COURT: It doesn't make any difference.
6 We are going to be here for quite a while, so it may be
7 easier for you to do it from your seat. That's fine with
8 me. I'll find out later why the microphone is not working.

9 VOIR DIRE EXAMINATION OF GIDEON EPSTEIN

10 BY MR. TIGAR:

11 Q. Mr. Epstein, when you say you are a forensic document
12 examiner, I want to be clear about what we are talking
13 about here. You are not claiming to be an expert in the
14 chemistry of paper, are you?

15 A. I am not.

16 Q. You are not claiming to be an expert in the chemistry
17 of ink, is that right?

18 A. I am not.

19 Q. And you are not an expert in the chain of custody of
20 the documents you examined, is that right?

21 A. Well, I don't quite understand your question.

22 Insofar as what?

23 Q. Well, let us take, for example, the card that you
24 first examined in 1981.

25 A. Right.

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1 Q. The Dienstausweis.

2 A. Right.

3 Q. Now, you don't know of your own personal knowledge
4 all the places that's been since it was first created, do
5 you?

6 A. I do not.

7 Q. And you are not an archivist by profession, is that
8 right?

9 A. I am not.

10 Q. All right. In addition, you don't know the
11 circumstances under which it was created in the sense of

12 who was the clerk that did the typing and how that clerk
13 got the information, do you?

14 A. I do not know that.

15 Q. Now, are you an expert on fingerprints?

16 A. I am not.

17 Q. Do you work with experts on fingerprints in the
18 process of identifying documents?

19 A. I supervised the fingerprint section for many years,
20 yes.

21 Q. And to use as an example, again, this document you
22 first encountered in 1981, you never saw any indication
23 that it had been tested for fingerprints, did you?

24 A. That's correct.

25 Q. And had it been tested for fingerprints at ADEPA

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1 there would be changes in it?

2 MR. STUTMAN: Your Honor, I don't think this
3 is proper voir dire on his qualifications.

4 THE COURT: To the extent that he's
5 testifying on the authenticity of handwriting or
6 signatures, it's not proper questioning.

7 MR. TIGAR: I'm asking, Your Honor, the only
8 reason for my question is I want to make sure there's been
9 no alteration of the document that would impede his ability
10 on the facts of this case to make the determination he is
11 going to testify about.

12 THE COURT: That's not really -- that doesn't
13 really go to his qualifications as an expert. That may go
14 to the validity of his opinion.

15 MR. TIGAR: Yes, Your Honor.

16 THE COURT: But at this point we are trying
17 to establish whether he is or is not an expert.

18 MR. TIGAR: I understand. Well, I am
19 grateful for Your Honor's guidance on this. Sub 3 of new
20 702 speaks to the reliability of application of the
21 methodology to the particular item in question, and I
22 thought that was a threshold finding that --

23 THE COURT: But you are not asking him about
24 handwriting.

25 MR. TIGAR: All right. Thank you. I

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1 understand Your Honor's point.

2 BY MR. TIGAR:

3 Q. May I ask, were there any marks of any source that
4 impeded your ability to look at the handwriting on the
5 document?

6 A. No, there was not.

7 Q. So your expertise relates to handwriting, is that
8 correct?

9 A. That's correct.

10 Q. It relates to looking at the document to see if there
11 are any alterations on it, is that right?

12 A. The examination of the document for alterations.

13 Q. And for instance, you look at it to see if somebody
14 has done any erasing on it, correct?

15 A. That would be one of the types of examinations.

16 Q. And in fact, there are erasures on this one, correct?

17 MR. STUTMAN: Objection, Your Honor. This is

18 not proper voir dire. If he wants to get into what is or
19 is not on the document, I think that's perfectly proper
20 after Mr. Epstein has testified.

21 MR. TIGAR: May I ask one more question, Your
22 Honor? The relevance will become apparent.

23 THE COURT: If it does, go ahead.

24 Q. Is there any reason why the Judge can't look at the
25 document without the aid of an expert and see whether or

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1 not it's been erased? Why does he need an expert?

2 A. Well, some things are more obvious than others and
3 some things require microscopic examination, some things
4 require instrumental examination, and some things can be
5 seen with the naked eye. I think that's probably the
6 reason.

7 Q. I'm not talking about some things, Mr. Epstein. I
8 have your notes of the laboratory of the analysis that you
9 did, and isn't it fair to say, sir, that you used a
10 handheld magnifier for the examination of these documents?

11 Is that right?

12 A. I used an ultraviolet light and a used a handheld
13 magnifier in 1981. In 1986, we did a little bit more than
14 that. And in 2000, as the technology continued to improve,
15 we used the video spectral comparator, as well.

16 Q. So to the extent that what you did was use a handheld
17 magnifier, we don't need expert testimony, correct?

18 A. To that degree, no, you do not.

19 Q. Now, turning then to the question of your handwriting
20 experience, which of the articles that you mentioned have
21 been published in a peer-reviewed journal?

22 A. Well, the articles that were published in a
23 peer-reviewed journal, it would be the articles that
24 appeared in the Journal of Forensic Sciences, the article
25 pertaining to the Josef Mengele case. The articles that

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1 appeared in the International Association for

2 Identification, I'm not sure whether their editorial board

3 has a peer review system or not. But many of the papers
4 that I presented were presented to the organizations I
5 belonged to and were not published.

6 Q. And of the articles that you had in peer-reviewed
7 journals, which if any of them related to validating the
8 methodology of handwriting analysis?

9 A. They dealt with handwriting cases. They didn't deal
10 with the validation of handwriting per se.

11 Q. So is it fair to say that you have never published a
12 peer-reviewed article that deals with the validation of
13 handwriting analysis? Is that fair?

14 A. My papers were not written with that purpose. My
15 papers were written to point out certain areas of document
16 examination to my own people, to the people in my own
17 profession. I didn't have to authenticate questioned
18 document examination or to prove its validity to people in
19 a profession of forensic document examination. They are
20 well aware of it.

21 Q. And is it also fair to say, sir, is it fair to say
22 that -- withdrawn.

23 Are you familiar with the Scientific Working
24 Group for Document Examiners, also known as SWGDOC?

25 A. I am.

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1 Q. And is that a body which is attempting to standardize
2 the hitherto unstandardized terminology of forensic
3 document examination?

4 A. They are.

5 Q. And in fact, that's being worked on by such people as
6 Carl McClary of the BATF. Do you know him?

7 A. I don't believe I know him.

8 Q. Did you read the abstract of his writing in the
9 American Academy of Forensic Sciences of which you are a
10 member?

11 A. I don't recall if I did, but I have kept track of the
12 progress of the working group. I have people from my
13 laboratory who are members of that working group.

14 Q. Mr. Epstein, turning now to this question of
15 handwriting, do you claim to be able by the application of
16 science, technology, to tell whether two different

17 signatures were or were not written by the same person?
18 A. Yes, I can. I do believe that that is within the
19 scope, it's been shown time and time again that the
20 application of the established principles in forensic
21 document examination, forensic handwriting examination, can
22 identify an individual to the exclusion of anyone else.
23 Handwriting is as individual as a fingerprint in the sense
24 that if you have enough to work with and you can establish
25 the writing to be naturally executed, that handwriting

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1 individuality is --

2 Q. Is that a yes answer to my question, sir?

3 A. It is a yes to your question.

4 Q. Thank you very much. Because that is the question I

5 asked. Are you aware of the dispute in the legal

6 literature over whether or not handwriting analysis is, in

7 fact, expert testimony within the meaning of the Daubert

8 decision?

9 MR. STUTMAN: Objection, Your Honor. First

10 of all, whatever the dispute is, the so-called dispute is
11 in this circuit, handwriting evidence is accepted as expert
12 testimony.

13 MR. TIGAR: Excuse me, Your Honor. He made a
14 speech in response to a simple yes or no question.

15 THE COURT: It wasn't much of a speech,
16 Mr. Tigar.

17 MR. TIGAR: I'm trying to explore this issue
18 with him.

19 THE COURT: Don't ask him legal questions,
20 though.

21 MR. TIGAR: Your Honor, given that the Court
22 wishes me to limit my examination in a particular way, I
23 have more questions, but I'll reserve them if the Court
24 finds him qualified.

25 At this time, Your Honor, we move to note the

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1 fact that this gentleman doesn't claim to be an expert on

2 these various chemistry issues, and so on, so he can't
3 authenticate the document in the sense of saying it's
4 completely qualified to be admitted in evidence.

5 We do object to him testifying as an expert,
6 and we cite United States v. Starzecpyzel, which is the
7 case we cited in the memorandum we filed this morning.
8 That found handwriting analysis is not scientific within
9 the meaning of Daubert. It however admitted it because in
10 a pre-Kumho decision the Court held that it would
11 nonetheless qualify because it wasn't really subject to
12 Daubert.

13 I won't tax the Court's patience by going
14 through the Starzecpyzel analysis. We object to any
15 testimony about handwriting because we contend that it is
16 not Daubert.

17 THE COURT: All right.

18 MR. STUTMAN: Your Honor, I would just state
19 that this circuit in U. S. versus Jones establishes that
20 handwriting is a proper subject of expert testimony. I
21 find that this whole approach is particularly peculiar in
22 light of the fact that the defendant is offering the
23 testimony of a handwriting expert on the subject, a person

24 that they propose is a handwriting expert on the subject of
25 handwriting.

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1 MR. TIGAR: If Your Honor, please, I object
2 to the side-bar comments about whether he thinks we are
3 peculiar or not.

4 MR. STUTMAN: I said the idea was peculiar,
5 not you.

6 MR. TIGAR: Well, whether it is or not,
7 object to the side-bar comment. I will point this out with
8 respect to our position. Is it not at all inconsistent,
9 Your Honor. If they can't sustain their burden of proof on
10 handwriting, then we are not going to need our expert.

11 THE COURT: Well, I think you take a much too
12 strict view of Daubert. Very frankly, there are many areas
13 of expertise to which Daubert simply doesn't apply, and
14 whether it does or does not apply to this particular area,
15 the Court finds that he has established himself as an

16 expert on handwriting, and I will allow him to testify as
17 an expert.

18 MR. STUTMAN: Thank you, Your Honor. Your
19 Honor, may I approach the witness?

20 THE COURT: Yes.

21 DIRECT EXAMINATION OF GIDEON EPSTEIN (Resumed)

22 BY MR. STUTMAN:

23 Q. I'd like to hand you a document which hasn't been
24 marked properly but is Government's Exhibit 15. I'm sorry.
25 It's Government's Exhibit 18.

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1 A. Yes, I've seen this document.

2 Q. Is this a list of the documents you forensically
3 examined in this case?

4 A. Yes, it is.

5 Q. On this list, how many did you regard as disputed?

6 A. Out of this list, four documents were considered
7 disputed.

8 Q. I see you have with you a loose-leaf book. Is that

9 Government's Exhibit 18?

10 A. Yes, I do.

11 MR. STUTMAN: I'd like to hand a loose-leaf
12 up to the Court, this is a book of photographs. You don't
13 have that.

14 THE COURT: No, I don't believe I do.

15 MR. STUTMAN: May I just hand it to you?

16 THE COURT: Yes. Thank you.

17 Q. Are these photographs of government exhibits listed
18 that you forensically examined in that case I was asking
19 you about, GX 18?

20 A. Yes, they are. They are photographs that I
21 personally took in this case.

22 MR. STUTMAN: Now, I want to point out, Your
23 Honor, that Mr. Epstein has the actual photographs. Both
24 defendant and the Court and we have color photocopies of
25 the photographs. If for any reason the defendant wants to

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1 see the actual photographs, they can, or the Court.

2 Mr. Epstein has those.

3 Q. I believe you stated you took those photographs?

4 A. Yes, I did.

5 Q. Were those photographs taken of the original
6 documents that they purport to represent?

7 A. They were taken of the originals, yes.

8 Q. Are those photographs fair and accurate
9 representations of the original documents?

10 A. Yes, they are.

11 Q. And did you examine the original documents
12 represented in these photographs?

13 A. Yes, I did.

14 Q. Where did you see them?

15 A. The documents that are in this book were examined and
16 photographed in Moscow in May of 2000, and in Berlin in May
17 of 2000, and some of them were examined and photographed in
18 my laboratory in McLean, Virginia.

19 Q. Are your opinions based on your examination of the
20 originals of these exhibits?

21 A. Yes, they are.

22 Q. Now, starting with Government's Exhibit 3, do you

23 have a blowup of Government's Exhibit 3?

24 A. Yes, I do.

25 Q. Would you like to -- would you please set it up on

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1 the easel?

2 MR. STUTMAN: Your Honor, we actually have
3 the original of this document. This was the document that
4 you requested, so if you'd like it --

5 THE COURT: All right.

6 MR. STUTMAN: Counsel? Let the record show
7 I'm showing counsel the original.

8 Q. Is this the first time for this case, was this the
9 first time you forensically examined Government's Exhibit
10 3, the document titled service pass number 1393 bearing the
11 name Iwan Demjanjuk?

12 A. No, it is not.

13 Q. When did you previously examine this document?

14 A. I examined this document in 1981 at what was then the

15 Soviet embassy in Washington, D.C., and then I examined it
16 again in 1987 in Jerusalem, Israel.

17 Q. In relation to this case, did you examine
18 Government's Exhibit 3 to determine whether it is the same
19 document you examined in 1981 and 1987?

20 A. Yes, I did. In each instance when I was asked to do
21 the examination, I conducted the examination first of the
22 photographs. In each case that the document was examined,
23 it was photographed, and in each subsequent examination I
24 first compared the previously-taken photographs of the
25 document that I had examined before to the document that I

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1 now had in my possession to establish that, in fact, it was
2 the same document.

3 Q. Is Government's Exhibit 3 the same document you
4 examined in 1981?

5 A. Yes, it is.

6 Q. And the same document you examined in 1987?

7 A. Yes, it is.

8 Q. Did you examine Government's Exhibit 3 to determine
9 whether in the years between '81 and now there were any
10 alterations or substitutions?

11 A. I did do that examination.

12 Q. How did you conduct that comparison?

13 A. The examination was conducted of the various elements
14 of the document, the handwriting, the photograph, the
15 stamps, the signatures, to determine whether or not they
16 conformed to the previously-taken photographs of those
17 areas, and the only area that was different in this
18 particular examination was the application of the evidence
19 tags at the bottom of what is identified as chart 12 A on
20 the left-hand side, which was put there by the Israeli
21 court.

22 Q. Did you find any alterations or substitution of text
23 on the exhibit?

24 A. I did not.

25 Q. Mr. Epstein, did you conduct a forensic examination

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1 of the signature that appears to say Streibel?

2 A. Yes, I did.

3 Q. That appears on the outside cover of Government's

4 Exhibit 3?

5 A. Yes.

6 Q. Do you have a photographic chart that would help

7 illustrate your testimony?

8 A. Yes, I do.

9 Q. Is this photographic chart made from exhibits in the

10 binder you have before you, Government Exhibit 18?

11 A. Yes, it is.

12 Q. Utilizing those charts, would you please describe the

13 examination you conducted of the Streibel signature?

14 A. I will.

15 Q. And the conclusions that you reached?

16 A. Yes. First, I'd like to identify to Your Honor and

17 the Court where these signatures came from so that we know

18 what we are talking about. I'm talking about chart number

19 1, which is the Streibel signature. On line 1 in all

20 subsequent charts that I present, the number in red

21 identifies the document as being the disputed document,

22 while the black numbers identify the writings as being
23 known writings.

24 So on line 1, the red number of chart number
25 1, we have the Streibel signature that appears on

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1 Government Exhibit 3. On line 2, the Streibel signature
2 comes from Government's Exhibit 45.33, the Szkurhan
3 signature, and I'm not very good at pronouncing these
4 names, I'm afraid. On line 3 is the known exhibit that
5 comes from Government's Exhibit 45.32, Nahorniak signature,
6 and on line 4 is the known signature that comes from
7 Government Exhibit 45.17, the Bondarenko document. And on
8 line 5 is the Streibel signature that comes from Exhibit
9 45.14, which is the Kabirow signature.

10 So those are the signatures that are on the
11 actual chart.

12 MR. STUTMAN: Just if I could interrupt you,
13 I want to point out to Your Honor we have the Bondarenko

14 card in the original. I would just like to show it to
15 counsel and then to you. Unlike the Israelis, Your Honor,
16 we haven't put labels on the originals, but for your
17 benefit, the Bondarenko card is Government Exhibit 45.17.

18 Q. Now you can continue, please.

19 A. The examination of disputed handwriting is really
20 done in certain phases and certain steps, and so I'd like
21 to first of all point out that handwriting is composed of
22 highly individual, unconscious habitual characteristics
23 that the writer that is doing the writing is unaware of.
24 The relationship of letters to one another, their spacing
25 habits, their height ratios, the base line habits of the

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1 writing, these are all habits that a particular writer has
2 that they are unaware of when they write.

3 So the first thing that must be established
4 in a writing is whether the writing was freely and
5 naturally executed. In the examination that I conducted of
6 Government Exhibit 3, the Streibel signature was

7 determined, first of all whether the signature was freely
8 and naturally executed or is there any characteristics
9 present in that writing that would indicate that this is a
10 traced signature or a drawn signature.

11 The manner in which you do this is you do an
12 examination through magnification of various powers, and
13 you study the line quality of this writing to determine
14 whether you have pressure areas because on upstrokes, we
15 have lighter areas than on downstrokes because of the
16 configuration of the muscles. It is natural that certain
17 pressure areas exist in writing.

18 We also have what we call feathering at the
19 beginning of strokes and at the end of strokes to show that
20 the writing, the pen was already in motion at the time that
21 the writing was done and was in motion when the writing was
22 finished.

23 So the first examination was to determine
24 whether or not the signature, the Streibel signature on
25 Government Exhibit 3, was in fact naturally executed. I

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1 was able to determine that the signature was in fact
2 naturally executed. It had no characteristics of drawing
3 or tracing.

4 The same examination was conducted of the
5 signature appearing on Government Exhibit 45.33, the
6 Streibel signature on Exhibit 45.32 on line 3, the Streibel
7 signature on 45.17 on line 4, and the Streibel signature on
8 Exhibit 45.14. I'd also like to state that I had a great
9 many more Streibel signatures known, but they were simply
10 repetitious of the same thing, and I didn't feel it was
11 necessary to put any more knowns on the chart.

12 The comparative examination then consisted of
13 the study of the handwriting habits of this particular
14 writer insofar as letter construction, height ratio, the
15 distance and spacing within the letters, the basic internal
16 slant characteristics of these letters, one to another; the
17 terminal stroke of the letter, that is, where does the line
18 end and how does it end. These are all habitual habits of
19 the writer.

20 From a study of these habits in a comparative

21 examination of this disputed signature on Exhibit 3 against
22 these known signatures that I've previously identified, I
23 was able to reach the conclusion that the person who made
24 the Streibel signatures on these known exhibits on lines 2,
25 3, 4 and 5 is the same person who made the Streibel

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1 signature on Government Exhibit 3.

2 Q. Now, I believe you stated that you examined other
3 comparison signatures as well?

4 A. That's correct.

5 Q. Are those other examples contained in the book of
6 photographs before you, Government's Exhibit 18?

7 A. Yes, they are.

8 Q. Are the signatures on this chart, chart number 1,
9 representative of the Streibel signatures that you examined
10 in this case?

11 A. Yes, they are.

12 MR. STUTMAN: Now, one moment, Your Honor.

13 THE COURT: Yes.

14 (Pause.)

15 Q. I would like to ask you whether you conducted a
16 forensic examination of the signature that appears to say
17 Teufel that is on the inside right of Government's Exhibit
18 3.

19 A. Yes, I did conduct the examination which appears
20 right here on the inside of the document of Government's
21 Exhibit 3.

22 Q. Do you have a photographic chart that would help you
23 illustrate your testimony?

24 A. I believe it would, yes. Once more, I'd like to
25 identify where these signatures came from for the record

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1 and for the Court. Chart number 2 is of the Teufel
2 signature and again is indicated by the red number 1. This
3 is the disputed signature on line 1 which appears on
4 Government's Exhibit 3. Lines 2, 3, 4 and 5 are known
5 signatures. Line 2, the signature on line 2 comes from

6 Government's Exhibit 45.12. The line 3 signature comes
7 from Exhibit 45.14. The Exhibit 4 signature comes from
8 Exhibit 45.15. And Exhibit 5 comes from Exhibit 45.22.

9 Once again as in the previous handwriting
10 examination, I wanted to establish that the Teufel
11 signature that appears on Government Exhibit 3 is, in fact,
12 a naturally and freely executed signature, that it doesn't
13 have those characteristics that can be seen and can be
14 identified as being a tracing or a drawn signature.

15 That examination was conducted, and it was
16 determined that the Teufel signature appearing on line 1 of
17 the chart which is of Exhibit 3 was in fact freely and
18 naturally executed.

19 The same examination was conducted of all of
20 the known signatures that were available to me, the four
21 that are on this chart as well as others that were
22 available, to determine whether the signatures were
23 consistent and conformed, again, to the natural habits and
24 characteristics of writing so that we could rely on them
25 for comparative examination.

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1 The examination was conducted and completed,
2 and I determined that all of the signatures that I had
3 available to me as knowns were in fact naturally and freely
4 executed.

5 The comparative examination was then done of
6 the disputed signature on line 1 of Government's Exhibit 3
7 against the known signatures that were available, these
8 four and others, and the individual handwriting habits were
9 again identified. The types of habits again that I'm
10 talking about had to do with the basic letter construction,
11 the basic movement of the writing, the level of ability,
12 the speed, the fluency, the rhythm of the writing.

13 It was attempted to identify the spacing
14 habits and the internal letter relationships, one to the
15 other. As an example, the break, the long staff of the F,
16 the upper loop and its size, the relationship of even such
17 things as accent marks and connecting strokes.

18 You can see if we go from the F to the E, the
19 basic construction of the E, its relationship to the F, and

20 so it is consistent throughout to include the length of the
21 initial strokes and the manner in which they are made, the
22 terminal stroke, and then the manner in which the signature
23 ends.

24 A comparison of all of these known writings
25 that I had in conjunction with the disputed writing on

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1 Government Exhibit 3, I felt that the only possible finding
2 here was that the person who made the known Teufel
3 signatures on lines 2, 3, 4 and 5 of chart 2 is the same
4 person who made the disputed Teufel signature on Government
5 Exhibit 3.

6 Q. Did you, aside from the comparisons that are on chart
7 number 2, did you examine other comparisons as well?

8 A. Yes, I did.

9 Q. Are those other comparisons contained in the book of
10 photographs before you?

11 A. Yes, they are.

12 Q. Are the signatures on this chart representative of
13 the known Teufel signatures that you examined in this case?

14 A. Yes, they are.

15 Q. I'd like to, if I could, move to another entry on
16 Government's Exhibit 3, and if you could put up the chart
17 of Government's Exhibit 3, I would like to indicate which
18 entry we will be talking about next. Yes.

19 I'd like to talk about the Sobibor entry. Do
20 you have the chart of the card itself so that we can locate
21 it on the --

22 A. Yes. The entry that's enlarged on chart number 3 is
23 this entry that appears on the inside of the card, and it's
24 the date 27.3.43, and the word Sobibor which appears on
25 Government Exhibit 3.

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1 Q. Now, Mr. Epstein, did you conduct a forensic
2 examination of the numbers and word 27.3.43 Sobibor that
3 appears on the inside left of that Government Exhibit 3?

4 A. Yes, I did.

5 Q. Now, utilizing the chart, please describe the
6 examination you conducted of this entry and the conclusions
7 that you reached.

8 A. The examinations that were conducted -- and again,
9 let me identify where the writings came from. On chart
10 number 3 on line 1, once again indicated by the red number,
11 that entry comes from the one I just pointed out on
12 Government Exhibit 3.

13 On line 2, we have the entry 27.3.43 Sobibor
14 which comes from Exhibit 45.7, which is the Danilchenko
15 document. And on line 3, Exhibit 45.14 is the same entry,
16 27.3.43 from the Kabirow document.

17 The examination, first of all, consisted of a
18 study of the disputed entry to determine again whether or
19 not the writing had those characteristics that can be
20 attributed to natural writing, and it was determined that
21 it was a naturally executed entry.

22 Then the same thing was done with the entries
23 on lines 2 and 3, the known entries. In handwriting, in
24 the examination of handwriting, not only are letters and
25 script very habitual, but also the construction of numbers

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1 and their placement and their relationship one to another
2 are just as unique and just as habitual to a writer, so it
3 was important here to study the entry 27.3.43, the date,
4 and to study the relationship of not only the construction
5 of the 2 and the 7 and the 3 and the 4, but more
6 importantly, their relationship one to another, and to see
7 and identify the habits that existed as far as placement.

8 You can see in the first line of Government's
9 Exhibit 3, you can see the shape and relationship of the
10 number 2 and its relationship to the number 7 and the
11 crossbar of the 7, the placement of the period after the
12 27, and the placement of the period after the 3.

13 And then we have the date 43, and you can see
14 the construction of the 4 which looks almost like a 7, its
15 placement on the base line. And it's quite interesting
16 that there's a slight gradual incline with the number 2
17 starting at the base line and the numbers gradually moving
18 upward. Base line habit in writing is very habitual and

19 it's something that's often very constant. You have the
20 same condition here. There's a slight incline here, and
21 then we have the same thing here.

22 When we go to the word Sobibor, you can see
23 that the relationship and the base line habit continues.
24 We have again started a lower point in the base line and
25 moving upward as the word is written. This is a habit of

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1 this particular writer and it's quite consistent. Not only
2 are the letter formations and letter construction, height
3 ratio, and connecting strokes all consistent throughout the
4 writing between the entry on Exhibit 3 as well as the entry
5 appearing on Government's Exhibit 45.7 and 45.14, but even
6 such things as the length of the terminal stroke, the
7 spacing between the O and the R, the B to the O, this
8 expansion and placement is exactly the same.

9 So once again, in that comparative
10 examination, my conclusion was that whoever wrote 27.3.43

11 on Government's Exhibit 45.7 and 45.14, on Government
12 Exhibit 3 also made the entry 27.3.43 Sobibor on Exhibit 3.

13 Q. Would you please pick up the photographic
14 reproduction of Government's Exhibit 3? I'd like the back
15 part.

16 A. Okay.

17 Q. Now, did you conduct a forensic examination of the
18 purplish -- by the way, how are you doing, are you tired?

19 A. No, I'm fine.

20 Q. Did you conduct a forensic examination of the
21 purplish Cyrillic Russian handwriting appearing under the
22 stamp wird der inhaber on the back of Government Exhibit 3?

23 A. Yes, I did.

24 Q. Do you have a chart that would help illustrate your
25 testimony?

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1 A. Yes, I do.

2 Q. By using the chart, would you please describe the
3 examination you conducted and the conclusions that you

4 reached?

5 A. Chart 8 are photographic enlargements of the entries
6 that were just mentioned which appear on Government Exhibit
7 3. The first line again is from Government's Exhibit 3,
8 and it's the purple Cyrillic writing that appears on that
9 document.

10 On line 2, we have the same entry that
11 appears on Government Exhibit 45.7, which is the
12 Danilchenko document. And on line 3 we have the same entry
13 again appearing on Government Exhibit 45.4, the Juchnowskij
14 document.

15 There were other entries, other similar
16 entries of this translation on other documents, but again,
17 I felt that I could clearly explain my findings using these
18 two knowns instead of having four or five others listed on
19 the chart.

20 Q. If I could just interrupt you for a moment.

21 MR. STUTMAN: We have the Juchnowskij
22 identity card which I'd like to show to counsel, and we
23 have the original of it I'd like to show to counsel, and I
24 can give to the Court. This is Government Exhibit 45.4,

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1 Q. Sorry to interrupt. You can continue.

2 A. In the examination of Cyrillic writing, the first
3 point that I think has to be made is that I'm not
4 identifying the meaning of this writing. I'm identifying
5 the writing itself and the relationship of all of the
6 letters in the way that they are written. It would be the
7 same thing if we were doing a comparative examination of
8 illegible script in Latin.

9 What's necessary in an examination such as
10 this is that you have the exact text duplicated in the
11 known writing, and by exact text, I mean the same word, the
12 same combinations of letters, in order to do the
13 examination. Because in all writing, whether it be in
14 Cyrillic or Latin form, the writing is again controlled by
15 habit, and the habits again relate to not only the letter
16 construction, but also the spacing habits within the
17 writing, the height ratios of the writing, the base lines,

18 the spacing between lines. These are all habits whether we
19 are writing in Russian or whether we are writing in English
20 or Spanish or German.

21 So in this particular situation, what I was
22 comparing was the entry directly below the stamp impression
23 that was identified in Government Exhibit 3, and what I did
24 is, I translated the actual letters into the sounds so that
25 I can point them out to the Court and show the relationship

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1 and the exact similarity of those letters and letter
2 combinations of that writing in each of the known entries
3 that are on this chart.

4 If you were to take, for instance, starting
5 immediately with the first letter, which is the letter VEH
6 in Russian, you can see that the letter formation of this
7 particular letter is exactly and identical to the one
8 appearing on line 2 and line 3, not only in its
9 construction, but in its shape and its relationship within

10 the word, its spacing, and the way in which it ties into
11 the following word.

12 If we were to go to the E sound in the
13 Cyrillic alphabet, which is the last letter of the first
14 word, and you go to the last letter of the first word in
15 line 2 and line 3, you can see that everything is identical
16 to include the manner in which it's terminated, the length
17 of that terminal stroke and how it is on the base line.
18 It's as if it had been written, you know, one right after
19 the other, exactly the same spacing habits, exactly the
20 same height ratios, and so on.

21 If we go to the next word, after we have the
22 letter VEH, which is again the first letter, we then have
23 YEH in Russian which is -- it looks like a small EF. You
24 go to that letter and then go to that letter in line 2 and
25 to that letter on line 3, not only is the letter formation

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1 the same, but the internal stroke into it, the length of
2 that internal stroke and the manner in which it relates to

3 the letter that follows it is identical.

4 The sound DEH, which is the fourth letter of
5 the second word, you can see the manner in which that
6 particular letter is made, and if you go down to line 2 and
7 line 3, you can again see the spacing, the height ratio,
8 spacing habits are entirely the same.

9 Let's go to the last letter of the second
10 word, which looks like a Y, but it's an OO sound in
11 Russian. You can go down to line 2. You can go down to
12 line 3, and not only is the formation of the letter the
13 same, but the length of that terminal stroke and the
14 direction that that terminal stroke is going at the end are
15 again identical.

16 The same thing was done throughout the
17 writing and throughout the letter combinations to the point
18 where there were no differences at all found. As an
19 example, if we take the sound DEH, which is in this portion
20 of the last word on the first line, you can see the basic
21 movement and the basic shape and size of that letter and
22 you can compare it to the same letter, the same size and
23 the same spacing as it is all the way through.

24 So this is the comparative examination that
25 was done of Government's Exhibit 3 of the Cyrillic writing

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1 against exactly the same text on the known documents on
2 this chart, this 45.7 and 45.4, and the other similar
3 writings that were available -- made available to me.

4 Based on my examination of these writings, I
5 determined that the person who made this Cyrillic entry
6 below that stamp impression which is a translation of the
7 stamp impression, did, in fact, also make that same writing
8 in Government's Exhibit 3 on line 1.

9 Q. Now, I think you mentioned that the entries on that
10 chart, the comparison entries are 45.7 and 45.4, is that
11 correct?

12 A. Yes, that's correct.

13 Q. Do you know whose service passes they are?

14 A. Yes, I do. And in line 2, the 45.7 comes from the
15 pass of Danilchenko, and on Exhibit 45.4 on line 3,
16 Juchnowskij.

17 Q. Juchnowskij?

18 A. Yes, as close as I can get.

19 Q. Did you examine other comparisons, as well?

20 A. Yes, I did.

21 Q. Are those other comparisons contained in the book of
22 photographs before you?

23 A. Yes, they are.

24 Q. Are the examples of purplish Cyrillic handwriting on
25 the chart 8 representative of the other comparisons that

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1 you examined in this case?

2 A. They are the same, yes.

3 Q. I'd like to move on to another entry. Would you

4 please put up again for the Court's benefit chart 12, the

5 back side of it, actually it's the cover of the back page

6 of the service pass number 1393. And I would ask you, did

7 you conduct a forensic examination of the purplish Cyrillic

8 writing that appears to be a signature that is under the

9 Russian Cyrillic writing about which you have just
10 testified?

11 A. Yes, I did. I conducted a forensic examination,
12 separate forensic examination of this particular signature
13 which is on chart 4 of my chart 4, and which is on
14 Government's Exhibit 3.

15 Q. Would you like to utilize your chart to illustrate
16 your testimony?

17 A. Chart 4 is the enlarged signatures of the translator
18 who made that original purple writing, and the name of the
19 translator is Bazilevskaya. And in this particular case,
20 on line 1, again indicated by the red number, is Exhibit
21 3 -- the signature that I just pointed out on Exhibit 3.

22 On line 2 we have a known signature from
23 Government's Exhibit 45.33, and that is from Szkurhan, and
24 Exhibit 45.32 is the document of Nahorniak.

25 Q. Nahorniak.

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1 A. Nahorniak. And on the last line, line 4, Exhibit

2 45.7 is the exhibit that comes from the Danilchenko
3 document. In this particular situation, once again, I
4 identified the letter formations in the Cyrillic so that I
5 could point them out to the Court and to Your Honor. The
6 first letter is actually a ZEH sound, even though the name
7 starts with a B.

8 The reason we believe is that this may be the
9 first initial of the translator's last name, the first
10 initial of the first name and then the last name, but this
11 is, in fact, a ZEH in Russian. And if you take note of the
12 manner in which it's written, its size, its space, its
13 relationship to the following letter, which is a BEH, BEH
14 sound, you can see that it is identical in its placement
15 and in its slant and the relationship to the particular
16 writing.

17 As far as the letter BEH, you can see that
18 the initial stroke of that letter, the opening at the base
19 of that particular letter and its slant in relationship are
20 also identical. The same examination was conducted
21 throughout the writing.

22 As an example, the ES sound in this

23 particular letter here, which is this letter here, was
24 found to be identical in not only the placement and the
25 expansion of the writing, that is, how close were the

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1 letters together, how much expansion is there, these are
2 all characteristics of habit and were found to be totally
3 consistent throughout this writing to include the terminal
4 stroke, the manner in which it's made, and so on.

5 So the comparison of these signatures on
6 lines 2, 3, 4 and 5, Government Exhibit 45.33, 45.32 and
7 45.7, as well again as other signatures that were available
8 on other documents I didn't place on the chart, again
9 indicated that the person who made the signatures on
10 Exhibits 2, 3 and 4, on lines 2, 3 and 4 is the same person
11 who made that signature on Government's Exhibit 3 on line
12 1.

13 Q. Now, you said that you examined other signatures that
14 don't appear on the chart. Are those other examples
15 contained in Government's Exhibit 18, the book of

16 photographs before you?

17 A. That's right, they are contained in this book.

18 Q. And are the signatures on this chart representative
19 of those?

20 A. Yes, they are.

21 Q. Now, I'd like to move along to the stamp impression.

22 Would you please identify what the stamp impression would
23 describe, for the benefit of the Court, where he could
24 find that on the card?

25 A. The next forensic examination that I conducted was of

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1 a stamp impression, and this particular stamp impression
2 appears again on the back cover of Government's Exhibit 3,
3 the area that I'm pointing to right here, which is my chart
4 9, and that's the area that I'll be talking about next.

5 Q. This photographic chart, will this help you
6 illustrate your testimony?

7 A. Yes, it will. Chart number 9 is of the stamp

8 impression that is wird der inhaber dieses ausweises. And
9 the reason I'm saying that is that we have other stamps
10 that start in other ways, so just to make it clear for the
11 record which stamp I'm talking about. So chart number 9,
12 on line 1, again, the red number indicating that it comes
13 from Government Exhibit 3, line 2, the stamp, the same
14 stamp impression comes from the Bondarenko document, 45.17;
15 and in line 3, we have the Government Exhibit 45.4 which
16 comes from the Juchnowskij --

17 Q. Juchnowskij.

18 A. That's the one. -- document. There again were other
19 stamp impressions on other documents, but again, I felt it
20 was repetitious, and for the purpose of what I wanted to
21 point out, I felt these two would be sufficient.

22 All of the stamps on these documents are
23 extremely poorly made stamps. At that particular period
24 of time all rubber stamp impressions were made by hand
25 pretty much, and so any time you would do something by

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1 hand, you inject defects into it. It's not like it's
2 stamped out by machine where one stamp is exactly the same
3 as another.

4 And when you do a stamp examination, as I did
5 here, the first thing you do is you attempt to identify the
6 overall appearance of the stamp insofar as its letter
7 design, the spacing habits within the stamp as far as the
8 distance between letters, the distance between words, and
9 so on. So that was done.

10 The next thing you do, and the most
11 important, is you look for individual defects because
12 individual defects in a stamp identify it as an individual
13 stamp separate from others that may be similar.

14 In this particular case, the examination was
15 conducted of the stamps that were made available to me, and
16 the first one I would like to point out is that in the word
17 dieses, which is the fourth word on the first line, the "I"
18 had a defect at the top. Now, it can't be seen on line 2
19 because line 2 didn't ink well, but it can be clearly seen
20 on line 3 as a defect.

21 The next one was on line 2 where we have a

22 break in the G in the word angegebenen, and you can see the
23 G, which is the third letter of the second line, and you
24 see that same break on line 3 where there's a defect in
25 that particular letter formation.

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1 As you move along, you can see in the line 3,
2 where there's a defect in IST, that this should have been
3 an IST, and you can see that the bottom portion of the "I"
4 is missing and broken. That appears in line 2 of the stamp
5 from 45.17 where the bottom portion is missing, and again
6 more clearly it's visible on chart 3, 45.4, which shows
7 that defect.

8 The next defect I'd like to point out is of
9 the T in the same word, IST, and there's a defect and break
10 in the stop staff on the left side of the T. That can be
11 clearly seen here on line 2 and again on line 3 of
12 Government Exhibit 4.4.

13 The next one, the next defect is a longer
14 extender on the leg R in the word ER, and you can see that

15 that leg, the right leg comes down further in the base
16 line. The same thing occurs in the stamp on 45.17 on line
17 2, and again clearly seen on line 3 of Government's Exhibit
18 45.4.

19 The next one which is another defect was on
20 the last word, MELDE, which is on the fourth line, and it
21 appears on Government Exhibit 3. There's a little red
22 arrow pointing to it right here. It's a break in the D in
23 MELDE. We have that same break in line 2 on 45.17, and a
24 break again here on 45.4.

25 These individual defects which are caused by

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1 various things, such as use and whatever, individualize a
2 stamp and separate it from other stamps of a similar kind,
3 so with the examination that I conducted of the overall
4 stamps of the same text on the known documents that are
5 contained in this book, I was able to conclude that the
6 stamp that made the impressions on Government's Exhibit

7 45.17 on the Bondarenko document and 45.4, also the same
8 stamp, was also used to make that same impression on
9 Government Exhibit 3 on line 1.

10 Q. 45.4 is the Juchnowskij document?

11 A. That's correct.

12 Q. I believe you stated you examined other examples of
13 this stamp on other --

14 A. I identified other stamps.

15 Q. I'm talking about the wird der inhaber stamp.

16 A. Yes.

17 Q. Did you examine other --

18 A. Yes, I did have other stamps on other known documents
19 that are used in the examination.

20 Q. And were the stamp impressions on the chart that you
21 just utilized representative of the comparisons you
22 examined?

23 A. They were.

24 Q. And are those other comparisons contained in
25 Government's Exhibit 18, the book of photographs?

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1 A. Yes, they are.

2 Q. How are you doing? Are you doing all right?

3 A. Fine.

4 THE COURT: Mr. Stutman, whenever you find an
5 appropriate time, we can take a lunch break.

6 MR. STUTMAN: Why don't we do it now.

7 MR. TIGAR: May I inquire of the court
8 reporter, Your Honor, if a particular piece of testimony is
9 something that I may wish to inquire about, may I ask the
10 court reporter to mark it or do you have that practice?

11 THE COURT: You may. Yes, you may ask them
12 to mark it, if it's possible.

13 MR. TIGAR: Yes. Would you please mark the
14 last question and answer?

15 THE COURT: How long do you want for lunch?

16 MR. STUTMAN: Well, what's your normal
17 practice?

18 THE COURT: It varies. I mean, lots of times
19 I don't take lunch, so how long would you like to have?

20 MR. STUTMAN: How about an hour, Your Honor?

21 THE COURT: An hour? Okay. We will adjourn
22 then until 1:30.

23 (Whereupon, at 12:30 p.m., the luncheon
24 recess was had, to reconvene at 1:30 p.m. the same day.)
25

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1 AFTERNOON SESSION, TUESDAY, MAY 29, 2001 1:35 P.M.

2 THE COURT: Okay. Mr. Stutman, do you want
3 to resume?

4 MR. STUTMAN: Thank you, Your Honor.

5 BY MR. STUTMAN:

6 Q. Mr. Epstein, would you please put up the photo chart
7 of the front cover and back page of service pass number
8 1393?

9 A. (Witness complied.)

10 Q. Now, I want to draw your attention to a stamp that is
11 on the front cover of the service pass, the words
12 Dienstsitz Lublin. I want to ask you, did you examine the
13 stamp words that read Dienstsitz Lublin on the front of GX

14 3?

15 A. Yes, I did.

16 Q. Do you have a chart that will help illustrate your

17 testimony in this regard?

18 A. I believe it would, yes.

19 Q. Utilizing the chart, would you please tell us the

20 examination you conducted on that stamp and the conclusions

21 that you reached?

22 A. This chart again represents photographic enlargements

23 of the stamp impressions appearing on the following

24 exhibits. On line 1, again, designated by the red number

25 indicating a disputed stamp impression, we have Exhibit,

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1 Government's Exhibit 3. On line 2, a known impression,

2 Government's Exhibit 45.15, from the Odartschenko document.

3 On line 3, we have the stamp impression from Government

4 Exhibit 45.17, and that's from the Bondarenko document.

5 And on line 4, the same stamp impression from Government's

6 Exhibit 45.4 from the Juchnowskij, whatever, that one that
7 you always have to repeat for me.

8 But anyway, the examination of these stamp
9 impressions consisted of the same principle that was
10 employed in the examination of the previous stamps, and
11 that is, first of all, the identification of the design of
12 the letters, their spacing and relationship within the
13 stamp, and then most importantly, again, the attempt to
14 identify and see if there are any defects within the
15 disputed stamp impression in Government Exhibit 3, and if
16 there are, to see if those same defects appear in any of
17 the known stamp impressions of the same text.

18 In this particular case, there were several
19 defects, again, found in the stamp, and if I could remind
20 the Court again, these stamps are very poorly made stamps.
21 Most of them are made by hand, and so therefore, the
22 alignment, the spacing, and the actual letter design is
23 often faulty, especially after some use.

24 In the first word, Dienstsitz, there is a
25 defect at the Z of the first word at the very top on the

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1 right-hand side, which can be seen here on line 2, and
2 again here. What it is, it's sort of a line that runs down
3 the staff of this Z. It can be seen on line 4,
4 Government's Exhibit 45.4. It can be seen on Government's
5 Exhibit 45.17, and again even in this one, 45.15 and the
6 questioned Exhibit 3.

7 The next defect is located in the letter L in
8 the word Lublin. On the bottom leg at the bottom, there's
9 a defect where there's a thinning area which can be seen
10 again on 45.15, and again on 45.17, and once again on 45.4.
11 What it is is -- it can be best seen under magnification.
12 It's more obvious than it is perhaps on some of these, but
13 it can be clearly seen what that defect is in Government's
14 Exhibit 45.4 where you can see it's almost like a break and
15 a very thin area at the bottom of that particular leg of
16 the L.

17 We move on to the next line, the word
18 ausbildungslager, the L in ausbildungslager, the first L, the
19 very tip of this portion of the L, the bottom leg, the

20 upper portion of the bottom leg, we have a defect. And
21 that defect appears again here on Government's Exhibit
22 45.15 and again here at 45.17, and then once again right
23 here at 45.4.

24 The next defect that was identified is in the
25 Trawniki, the word Trawniki, in the first A or in the A in

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1 Trawniki, or excuse me, yeah, the portion of the A which is
2 the right side of this particular leg, there's an
3 additional material here sticking out that was probably
4 done when this particular letter was cast or made. That
5 same thing appears here in line 2 on 45.15, and again on
6 Exhibit 45.17 on line 3 of the exhibit, and the same thing
7 again on 45.4, which is on line 4.

8 The next defect is in the letter I, the last
9 I in Trawniki. There's a broken portion on the right side
10 of the I which can be clearly seen in Government's Exhibit
11 3. It's also visible in Exhibit 45.15; again in 45.17; and
12 again in 45.4.

13 These are defects that oftentimes are
14 attributed to wear and sometimes use of the stamp or the
15 way in which the stamp was used. But the point is these
16 are individual markings that identify a particular stamp
17 and separate it from other stamps of a similar kind.

18 After the examination of the stamp
19 impressions on lines 2, 3 and 4, in addition to some other
20 stamp impressions that were available in the other known
21 documents, the conclusion in this particular examination is
22 that the stamp that was used to produce the word Dienstsitz
23 Lublin Ausbildungslager Trawniki on Government Exhibit
24 45.15, 45.17 and 45.4 of chart number 10 is the same stamp
25 that was used to produce Dienstsitz Lublin Ausbildungslager

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1 Trawniki on Government Exhibit 3.

2 Q. Now, do you have your report with you on the stand?

3 A. I do.

4 Q. Could you make reference to -- by making reference to

5 your report, can you identify the other exhibits in the
6 book of photos that you used to compare this stamp that
7 appears on Government Exhibit 3?

8 A. Yes. Let me turn to my notes on my charts.

9 Q. I believe you testified that the chart was composed
10 of --

11 A. Right. It was -- I have my exhibit markings on that.

12 Q. If you can translate them according to the list that
13 is in the front of the photo book.

14 A. All right. My exhibit designations were that that
15 stamp appeared on my exhibit designation 17, 20, 25, 60 and
16 61.

17 Q. So 17 corresponds to Government Exhibit 45.12; 25, I
18 believe you said --

19 A. 20.

20 Q. 20 corresponds to Government's Exhibit 45.15. What
21 was the next one?

22 A. 25.

23 Q. 25 corresponds to Government's Exhibit 45.23.

24 A. 60 and 61.

25 Q. 60 corresponds to --

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1 A. 45.17.

2 Q. Yes.

3 A. And 61 is Government's Exhibit 45.4.

4 Q. Thank you. Now, with reference to those comparisons

5 that you just read into the record, are the stamp

6 impressions on the chart that you have just been utilizing

7 representative of the comparisons of those exhibits that

8 you just identified?

9 A. Yes, they are.

10 Q. Now, I would like to turn if we could to another

11 exhibit. I would like to turn to Government's Exhibit 4,

12 which is titled, which is a disciplinary report regarding

13 four Wachmanner, Government's Exhibit 4, and I'm going to

14 ask you, did you -- I want to direct your attention -- do

15 you have a photograph? No, I think we are going to stick

16 with the stamp.

17 A. No, I don't.

18 Q. Oh, I'm sorry. You're right. Before we leave

19 Government's Exhibit 3, I'm going to ask you to see two
20 stamps over the photograph. Could you please put back up
21 your photograph enlargement of Government's Exhibit 3,
22 which is -- yes.

23 A. (Witness complied.)

24 Q. I'm going to direct your attention to the two stamps
25 over the photograph. Do you see them?

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1 A. (Indicating.)

2 Q. Do you see where it says at the bottom of the stamp
3 Zweigstelle Trawniki?

4 A. Yes, I do.

5 Q. Now, I'd like you to take a look at in your book
6 Government Exhibit 45.12 which corresponds to your Exhibit
7 Number 17.

8 A. All right. I have that.

9 Q. And that is the service identity pass for Pawlo
10 Sidorschuk, am I correct?

11 A. That's correct.

12 Q. In looking at that document, do you see a stamp that
13 reads Zweigstelle Trawniki anywhere on that document?

14 A. Yes, I do.

15 Q. And where do you see it?

16 A. It appears directly to the left of the Streibel
17 signature on the front, and it also appears on the
18 photograph or over the photograph on the inside of the
19 document.

20 Q. Now, just for a moment, if I could interrupt you and
21 have you place on the easel -- I'll do it for you to save
22 you the trouble. Do you have with you Government Exhibit
23 45.17, the service identity pass of Mykola Bondarenko?

24 A. The photograph of 45.17?

25 MR. STUTMAN: Judge, I think you have the

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1 original of that one.

2 THE COURT: I do.

3 MR. STUTMAN: That's Government Exhibit 45.17

4 which corresponds to your Exhibit Number 60.

5 A. I have that, yes.

6 Q. Now, I'm going to ask you, do you see a stamp that
7 reads Zweigstelle Trawniki anywhere on this document?

8 A. Yes. That stamp impression appears again in two
9 places. It appears to the left of the Streibel signature
10 on the front, where the name Bondarenko, Mykola appears.

11 Also it appears over the area where their photograph
12 appeared and is now missing on the inside of the passport.

13 Q. Now, I'd like to direct your attention to Government
14 Exhibit 45.24 which corresponds to your number 26, which is
15 the service identity pass for an Alexandr Solontschukow.

16 Do you see a Zweigstelle Trawniki stamp anywhere on this
17 document?

18 A. Yes. Again, that stamp impression appears to the
19 left of the Streibel signature on the front and it also
20 appears on the inside, over the photograph on the inside.

21 MR. STUTMAN: May I have a moment, Your
22 Honor?

23 THE COURT: Yes.

24 (Pause.)

25 Q. Thank you very much. Now, I would like to turn to a

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1 different exhibit, Government's Exhibit 4.

2 MR. STUTMAN: Your Honor, this is one of the
3 exhibits we do have the original, it is in town, it's not
4 physically present in the courtroom at this moment. We'll
5 try to get it as soon as we can.

6 THE COURT: All right.

7 Q. Now, with reference to Government's Exhibit 4, did
8 you conduct a forensic examination of the signature that
9 appears to read Erlinger that appears in the lower right
10 side of Government's Exhibit 4?

11 A. Yes, I did.

12 Q. You obviously have a photographic chart, you put it
13 up there already. Would this help you illustrate your
14 testimony?

15 A. I believe it would, yes.

16 Q. Okay. Would you utilize the chart and please
17 describe the examination you conducted of the Erlinger

18 signature and the conclusions that you reached?
19 A. Chart number 5 once again are photographic
20 enlargements of the signatures that were used in this
21 particular examination. On line 1, Exhibit 4, which is the
22 disputed document, Government's Exhibit 4, on line 2 is the
23 signature from Government's Exhibit 55; on line 3 is the
24 signature from Government's Exhibit 63; on line 4 is the
25 signature from Government's Exhibit 44.10; and on line 5 is

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1 the signature from Exhibit 44.9.
2 The comparative examination, and first of all
3 the handwriting examination that was done of this
4 signature, we go back to what I've previously stated in
5 that the examination first consists of an examination of
6 the disputed signature to see whether that signature,
7 again, was naturally executed, whether or not there's any
8 indication in that signature whether that signature was
9 somehow traced or drawn and whether it contains those
10 characteristics attributed to natural and free-flowing

11 handwriting. That examination was conducted, and it was
12 determined that that is a freely executed and natural
13 signature.

14 The same examination was conducted of the
15 known signatures on lines 2, 3, 4 and 5, and again, it was
16 determined that all of the signatures appearing on this
17 chart, number 5, were in fact freely and naturally
18 executed, and that there is no attempt here to draw or
19 trace any of these signatures. All of these signatures
20 were examined in their natural or original condition.

21 The comparative examination then consists of
22 a study of the handwriting habits and characteristics that
23 are within this particular signature. As you can see, this
24 is a very rapidly, very rapidly executed signature, highly
25 individualized in its movement impulses. This is the type

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1 of signature where you really aren't working with
2 recognizable letter forms. It's the same thing as if you

3 were working with an illegible signature written in
4 English.

5 What we are working with here and what I'm
6 working with here are what we call movement impulses.
7 Movement impulses in handwriting are the movement impulse
8 that is substitute oftentimes for letter forms. What they
9 are are the habitual unconscious habits of the writer when
10 they want to form a letter or combination of letters. It's
11 the movements they have incorporated into their handwriting
12 that is a substitute for letters or letter formations.

13 Some of these letters obviously you can make
14 out, but in the primary or in the overall condition of the
15 signatures, you can see that it's a very rapidly, very
16 spaced signature. The way it's compressed and its
17 placement at the beginning of the letter is consistent
18 throughout as to where it starts and the way it finishes,
19 its length, and so on.

20 So the handwriting comparative examination of
21 these signatures of Erlinger revealed that we have total
22 consistency in the handwriting habits and in the speed and
23 the fluency of the writing, so that I was able to conclude
24 that the person who made the known signatures on Government

25 Exhibit 55, Government's Exhibit 63 on line 3, Government's

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1 Exhibit 44.10 on line 4, and Government's Exhibit 44.9 on 5

2 is the same person who executed the Erlinger signature on

3 Government's Exhibit 4.

4 Q. Now, did you examine other comparisons as well?

5 A. I believe in this case we used all of the Erlinger

6 signatures that were available to us.

7 Q. On your chart you identified four that are for the

8 purpose of your chart and one questioned. Were they all

9 the Erlinger signatures? Would you like to make reference

10 to your report?

11 A. Yes, I could do that.

12 Q. Please.

13 A. Yes. We did have additional signatures. We had one,

14 two, three, four, five, six, seven, we actually had nine, I

15 believe, known signatures of Erlinger from various

16 documents, so the five are representative samples from

17 those nine. Rather than add the total nine to the chart, I
18 simply took a representative sample of the nine that I had
19 and used those.

20 Q. Those comparisons are contained in your book of
21 photographs, Government's Exhibit 18?

22 A. Yes, they are.

23 Q. Now, I would like to stick with Government's Exhibit
24 4, if I could, and ask you, did you forensically examine
25 the stamp which is located at the upper left-hand corner of

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1 this document?

2 A. Yes, I did.

3 Q. Do you have a chart that would help you illustrate
4 your testimony?

5 A. I do, yes.

6 Q. Utilizing that chart, would you please describe the
7 examination you performed?

8 A. Chart 11, which represents two photographic
9 enlargements, the one on line 1 indicated by the red number

10 is from Government's Exhibit 4, and on line 2, the black
11 number, is the same stamp impression from Government
12 Exhibit 55. The comparative examination that was conducted
13 here was to determine whether or not the same stamp could
14 have made the impression appearing on Government's Exhibit
15 4, that is, could the stamp that made the impression on
16 Government's Exhibit 55 also have made the stamp impression
17 on Government's Exhibit 4.

18 In the examination of this stamp, a number of
19 defects were found, and they were very unusual and highly
20 unique defects, and I'd like to point out, first of all,
21 the most obvious ones. In the construction and the design
22 of the number 2 in the date 21 January 1943, I have small
23 red arrows pointing to various numbers and various parts of
24 numbers, but the spacing and the relationship of the 2 to
25 the 1 is totally consistent with the spacing and the

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1 relationship of those two numbers on Government's Exhibit

2 55.

3 When we go to the date, January, and we have
4 the same date exactly, there's a slight defect in the
5 bottom leg of the J in January that appears also right
6 here. The N, we have a break in the leg in the first staff
7 of the leg of the N. It's short and a portion of it is
8 missing. The same thing is present here in the stamp.

9 In the 1943 date, in the 1 you can see a
10 balding effect and sort of a damaged 1 at the top here of
11 the 1943. We have that same exact formation and damage to
12 the 1 in 1943 on Government's Exhibit 55. When we go to
13 the 9, you can see that almost the entire portion of the
14 bottom of the 9 has been either worn away or broken off,
15 and we have sort of a ball with a slight portion of the 9.
16 That's exactly the condition of the stamp in Government's
17 Exhibit 55.

18 When we go to the 4, we see that the bottom
19 leg of the 4, the bottom portion of the 4 is damaged and
20 almost missing. The same condition appears here, just a
21 very slight dot which appears here, the slight dot instead
22 of the leg.

23 If we go to the 3 in 1943, again, we have a

24 broken 3, and you can see the design of the 3 as it appears
25 in Government's Exhibit 4 as compared to Government's

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1 Exhibit 55, it's exactly the same.

2 As I examined the border of the stamp, there
3 were other defects, and I didn't -- I'll point out a couple
4 of them. In the margin, in the right-hand margin of this
5 stamp there are two defects. There's doctored dots and
6 doctored areas. One is right here and one is right here.
7 These are the same areas right here, exactly the same
8 defects. The size, the measurement, the placement and the
9 defects of these two stamp impressions when compared
10 revealed that the stamp that made the impression on
11 Government's Exhibit 55 was the same stamp that made the
12 impression on Government's Exhibit 4.

13 MR. STUTMAN: Can I have a moment, Your
14 Honor?

15 THE COURT: Yes.

16 (Pause.)

17 Q. I'd like to turn your attention, if I could,

18 Mr. Epstein, to Government's Exhibit 8, which is the

19 Flossenburg duty roster for October, 1944 dated October

20 3rd, 1944.

21 A. You said that was what exhibit?

22 Q. According to your numbers, it's 44, and according to

23 our numbers, it's Exhibit Number 8.

24 MR. STUTMAN: This document is also in town,

25 Your Honor.

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1 THE COURT: All right.

2 Q. Did you conduct a forensic examination of the

3 signature that appears to read Skierka that appears at the

4 bottom right of that exhibit?

5 A. Yes, I did.

6 Q. Do you have a photographic chart that would help

7 illustrate your testimony?

8 A. Yes, I do.

9 Q. Utilizing that chart, could you please describe the
10 examination that you conducted of the Skierka signature and
11 the conclusions that you reached?

12 A. Chart number 7 again, photographic enlargements of
13 two signatures. The one on line 1 is from Government's
14 Exhibit 8 and it's of the Skierka signature. Line 2 is
15 from Government's Exhibit 71, a known document with the
16 Skierka signature.

17 The comparative examination of these two
18 signatures was basically the same as the other handwriting,
19 first to determine whether or not the signatures were
20 freely and naturally executed, and whether there were any
21 indications of tracing or drawing. This was done in both
22 cases in both signatures.

23 Then the comparative examination was done to
24 determine whether or not one and the same writer executed
25 the signatures. The overall construction of the signature

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1 and the unique qualities of the signature and the manner in
2 which the letter formations are made and their relationship
3 one to another, as well as the speed and the fluency with
4 no variation insofar as any of the habits in the
5 construction of the writing, resulted in my finding that
6 the person that made the Skierka signature on Government's
7 Exhibit 71 also made the Skierka signature on Government's
8 Exhibit 8.

9 Q. Now, with reference to this particular examination,
10 how many comparison signatures did you have?

11 A. In this particular examination, I had only this one
12 known.

13 Q. Was that enough to make a comparison here?

14 A. I felt that because of the unique features within the
15 signature and the manner in which it was signed and the
16 relationship of these letters one to another, that I did
17 feel that there was enough for me to reach that conclusion.

18 Q. Now, staying with Government's Exhibit 8 but on a
19 different side of the paper, did you conduct a forensic
20 examination of the signature that appears to read Zettl on
21 the lower right-hand corner of the reverse of Government's
22 Exhibit 8?

23 A. Yes, I did.

24 Q. By utilizing your chart would you describe the

25 examination you conducted of that signature and the

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1 conclusions that you reached?

2 A. The Zettl signature which appears on this chart which

3 is chart number 6, first of all, on line 1, which is the

4 reverse of Exhibit 8, is where that signature appears, is

5 the enlargement of that signature, and then on line 2, the

6 Zettl signature from Government Exhibit 67, which is a

7 known document, once again, a comparative examination was

8 done in the same manner as the other signature comparisons,

9 determination of whether or not the writing was fluently

10 executed and naturally done. And it was found that they

11 were, in fact, naturally executed and fluently done.

12 The signature in this particular case

13 consists of a limited number of letters. It does have a

14 good embellishment, and the embellishment is even very

15 consistent in its movement and size, and so on, but in this
16 particular case, I felt that I was limited in the amount of
17 writing that I had mainly because of the fact that the
18 signature is short and consists of a limited number of
19 letters.

20 So my conclusion after doing this examination
21 is that the person who wrote the Zettl signature on Exhibit
22 67 probably also wrote the signature on the reverse of
23 Government's Exhibit 8.

24 Q. And your opinion is that it's probable that --

25 A. Yes, I felt that if I had had a few more known Zettl

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1 signatures so that I had a little wider range of variation
2 to work with, I would have been more comfortable with it,
3 but since I was limited with the one, I qualified my
4 conclusion.

5 Q. Now, Mr. Epstein, earlier Mr. Tigar asked you a
6 question that had to do with chain of custody. Do you
7 recall that question?

8 A. Yes, I do.

9 Q. In reaching your conclusions, how important is it to
10 know the exact chain of custody of a questioned document?

11 A. It's not as important as it would be if I was
12 examining trace evidence, such as hairs, fibers, blood,
13 body fluids, because the possibility of contamination in a
14 document case is -- can easily be detected, there's little
15 chance of loss of any portion of the evidence as it would
16 be with trace evidence, and so I would say that the chain
17 of custody is less important than it would be if I was
18 dealing with other types of forensic evidence, such as
19 trace evidence or blood evidence or drug evidence.

20 Q. Did the condition of the documents you forensically
21 examined in this case limit you in conducting any of the
22 examinations that you conducted?

23 A. No, it did not.

24 Q. Did your examination of Government's Exhibit 3 reveal
25 any evidence of photo or text substitution?

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1 A. It did not.

2 Q. Did you conduct a microscopic and instrumental
3 examination of Government's Exhibit 3?

4 A. I did.

5 Q. Did that examination reveal any evidence of text
6 substitution?

7 A. It did not, no.

8 Q. From the various forensic examinations that you have
9 conducted over Government's Exhibit 3 over the years, have
10 you found any evidence that the document is other than what
11 it purports to be?

12 A. No, I have not.

13 Q. At the time you were reviewing documents in Berlin
14 and Moscow, was any representative of the defendant
15 present?

16 A. Yes, there was a representative present.

17 Q. Did this representative -- was it Miss Wilk?

18 A. Yes, it was.

19 Q. Did Miss Wilk ask you to examine any documents on
20 behalf of the defendant?

21 A. They did not.

22 Q. Did she ask you to photograph any documents on behalf
23 of the defendant?

24 A. She did not.

25 Q. Mr. Epstein, did you know Julius Grant while he was

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1 alive?

2 A. I did, yes.

3 Q. What was his area of expertise?

4 A. Dr. Grant and I met a number of times at professional
5 meetings. He was an ink and paper chemist by profession.

6 Any papers that he presented over the years that I was able
7 to attend and hear were always on the subject of ink and
8 paper examination.

9 Q. Aside from the testimony he offered in the Israeli
10 proceeding regarding Mr. Demjanjuk, are you aware of a
11 single instance in which he testified as a handwriting
12 expert?

13 A. I am not. I was very surprised when I learned that

14 he testified as a handwriting expert. He has never, to my
15 knowledge, worked any other handwriting cases that I was
16 aware of, and certainly he never spoke or wrote about any
17 handwriting cases.

18 Q. Did you review the testimony he gave in Israel?

19 A. I did.

20 Q. In your view, did he follow standard principles of
21 handwriting examination accepted by professionals in
22 reaching his stated conclusions regarding the Demjanjuk
23 signature on Government's Exhibit 3?

24 A. No, he did not.

25 Q. Please explain the basis for your conclusion.

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1 A. There are certain basic principles in the examination
2 of any handwriting, and one of the most important basic
3 principles is that you must have like comparable material.
4 To what I was able to see from his testimony, Dr. Grant did
5 not use any Cyrillic handwriting to compare against
6 Cyrillic signature. To compare Latin letter forms or Latin

7 handwriting against Cyrillic, the results of such
8 examinations are meaningless because they are not based on
9 anything. You can't compare, it's as if you were trying to
10 compare handwriting to hand printing or the name Smith to
11 the name Jones. You are not comparing similar habits, and
12 so therefore there's no basis for an examination.

13 Q. How important is it to have contemporaneous samples?

14 A. It's very important to have contemporaneous samples
15 if they are available. It's not always necessary that you
16 have them, but certainly contemporaneous samples are the
17 best samples in any kind of comparative handwriting
18 examination.

19 Q. If Dr. Grant used a 1977 letter written in Ukrainian
20 by defendant would you consider that to have been within
21 the principles and procedures of your profession?

22 A. No, because extended writing compared to signatures,
23 signatures are highly stylized writings. Oftentimes you
24 can't use extended writing to compare against signatures
25 because the way a person signs their name, the type of

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1 letter formations or whatever that they use may be
2 different from the extended writing of those same letters
3 and letter combinations.

4 The fact that the Cyrillic writing was
5 separated by many years is one thing, but then it was not
6 even comparable in the type of writing that it was.

7 Signatures should be compared to signatures. Extended
8 writing should be compared to extended writing.

9 Q. Based on your forensic examinations of the documents
10 that you have examined in this case as set forth in your
11 binder and your report, what conclusions do you reach about
12 the authenticity of the documents that you have seen?

13 MR. TIGAR: Object to the question, Your
14 Honor. He can't talk about authenticity as that term is
15 used in law. He can only talk about handwriting.

16 Q. Fine. The authenticity of the handwriting you have
17 examined?

18 A. In the examinations I conducted of the documents made
19 available to me, I found that the disputed signatures on
20 the four disputed documents that were presented to me were,

21 in fact -- that the signatures were, in fact, written by
22 the people who wrote the knowns and whose names actually
23 were on those documents. I didn't find an instance where
24 the known writings did not compare in any way with the
25 disputed writing.

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Epstein - Cross

1 Q. And the stamps?

2 A. The stamp impressions, because there were so many
3 stamp impressions available for comparison and because the
4 stamp impressions were of the exact same text, the
5 comparative examinations were -- were the way that you
6 would want it to be, and in those examinations, sufficient
7 defects within those stamps could be found, so that I felt
8 that the stamp impressions on the disputed documents were,
9 in fact, made by the same stamps that made the known.

10 MR. STUTMAN: Your witness.

11 CROSS-EXAMINATION OF GIDEON EPSTEIN

12 BY MR. TIGAR:

13 Q. Hello again.

14 A. Hello.

15 Q. Mr. Epstein, you've had a long history with some of

16 the documents that you talked about today; is that right,

17 sir?

18 A. That's correct.

19 Q. Now, I want to get a terminology term cleared up here

20 to start with. When you say that you have a questioned

21 signature and a known signature, you don't mean by that

22 that you know that a man named Streibel wrote the word

23 Streibel, is that right?

24 A. No. If I could explain what I mean by that.

25 Q. Please do.

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Epstein - Cross

1 A. When we are asked to conduct an examination, there

2 are documents presented to us that are said to be disputed

3 or in question, and those are the questioned or disputed

4 documents.

5 Other documents are presented to us within

6 the examination, and those documents are listed as knowns,
7 or documents that are given to the document examiner as
8 knowns. I cannot confirm that, you know, they are what
9 they are. I accept the fact that they have been given to
10 me as knowns.

11 Q. So you've never talked to anybody named Streibel to
12 ask him whether he signed that, right?

13 A. Actually, he died many years ago.

14 Q. Do you know of anybody who talked to the man named
15 Streibel and asked him?

16 A. I do not, no.

17 Q. Now, your first encounter, I wonder -- may I
18 approach, Your Honor?

19 Let's put this up on the board. This is
20 Government's Exhibit 3, the first page; is that right, sir?

21 A. The inside page.

22 Q. The inside page. And then --

23 A. That's the outside.

24 Q. Is this correct here, the other page?

25 A. Yes.

Epstein - Cross

1 Q. Let's put that up first, and you notice that there's
2 some Russian writing on here; is that right?

3 A. That's correct.

4 Q. Now, that says -- well, can you read that? Is that
5 a date on there?

6 A. It would be a date, but I can't read it, no.

7 Q. Does it look like it's 12/14/48, now that I show it
8 to you?

9 A. Yes, that's what it looks like.

10 Q. Now, did you happen to notice the dates on the other
11 documents, the other set of documents, the other parts of
12 that set of service passes that were a part of your report?

13 A. I did not.

14 Q. All right. Well, would you take a look, please, at
15 the date on the Danilchenko service pass?

16 A. And that is what exhibit?

17 Q. I'll get that for you. Oh, here are my notes.

18 Danilchenko, that would be Epstein's 58, Government 45.7.

19 A. Okay. All right.

20 Q. And what does that date appear to be, sir?

21 A. 9-14 possibly, 48.

22 Q. Could that be a Roman Numeral III? 9, Roman Numeral

23 III, 48?

24 A. I don't know. I don't think they would use Roman

25 numerals in that date, but that was never a part of my

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Epstein - Cross

1 examination.

2 Q. Well, I'm asking you now, sir. Would you tell me

3 whether you think that the 12, whatever that is in there,

4 48 and the 9, whatever that is in there, and 48, refer to

5 the same thing or were written by the same person? Can you

6 tell that?

7 A. No, I couldn't, not without an examination.

8 Q. Did the same person sign these two things?

9 MR. STUTMAN: I beg your pardon? What are

10 you pointing to?

11 MR. TIGAR: I'm asking the witness whether

12 the Russian person who looked at Bondarenko also looked at
13 Government's Exhibit 3, whether the same person signed
14 those two documents.

15 THE COURT: Why are you assuming it's a
16 Russian person?

17 MR. TIGAR: I'm sorry.

18 Q. It's written in Russian, isn't it, sir?

19 A. It is written in Russian.

20 THE COURT: Okay.

21 MR. TIGAR: It's written in the Cyrillic
22 alphabet.

23 THE COURT: But Russians aren't the only ones
24 who use the Cyrillic alphabet.

25 MR. TIGAR: That is true, Your Honor. Thank

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Epstein - Cross

1 you for correcting that.

2 Q. Did the same person sign that, whatever nationality
3 they were?

4 MR. STUTMAN: I don't understand the

5 question. Are you talking about Bazilevskaya?

6 THE WITNESS: Yes.

7 Q. I don't know who that is.

8 A. Bazilevskaya is a translator.

9 Q. That is the person, according to your understanding
10 of these documents, someone named Bazilevskaya was the
11 translator of all of the service passes about which you've
12 testified; is that correct?

13 A. Those that are mentioned in my paragraph 8 of my
14 report.

15 Q. And therefore, your answer would be that Bazilevskaya
16 signed the Bondarenko and signed Government's Exhibit 3, is
17 that correct?

18 A. By "signed Bondarenko," you mean signed their own
19 name?

20 Q. Signed his or her name?

21 A. That's correct, yes.

22 MR. STUTMAN: You were talking about
23 Danilchenko.

24 MR. TIGAR: I'm sorry, I meant Danilchenko,
25 also signed Danilchenko.

Epstein - Cross

1 MR. STUTMAN: Why don't you take a second to

2 look just to make sure we are talking about the same one.

3 Danilchenko was your 58.

4 A. Are we talking about the Bazilevskaya signature?

5 Q. Yes.

6 A. That signature that I identified as being common

7 authorship, my Exhibit 58 is a part of that finding.

8 Q. Now, sir, going back now to Government's Exhibit 3,

9 when did you first see that?

10 A. I first saw that in 1981.

11 Q. And that was on February the 27, 1981; is that

12 correct, sir?

13 A. That's correct.

14 Q. And where did you see it, Soviet embassy?

15 A. That's correct.

16 Q. And you traveled there, and your purpose was to look

17 at the original copy, is that right?

18 A. To conduct an examination of Government's Exhibit 3.

19 Q. And at that time you noticed, did you not, sir, that
20 the document bears the careless inattention often very much
21 part of a genuine document?

22 A. That's correct.

23 Q. What did you mean by careless inattention?

24 A. In the way that the document was prepared, in the way
25 that the certain corrections were made to it. They were

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Epstein - Cross

1 not done with any intention to hide the fact that certain
2 corrections were made. The existence of the extension of
3 the line for the identity number at the top, the extension
4 by typewriter of the line for the name, the erasure in the
5 name on the document was done very sloppily.

6 Q. What erasure is that, sir?

7 A. There's an erasure right here in the I. There's
8 fiber disturbance right in this area where this particular
9 letter was retyped, and then this is the extension of the
10 typewritten line. It's these types of things that I was

11 referring to.

12 MR. STUTMAN: Are you referring to his notes?

13 MR. TIGAR: Excuse me, Your Honor. I don't

14 see any reason for the interruption.

15 THE COURT: Well, I thought he was just

16 inquiring as to the foundation of the question.

17 Q. I'm showing you now, sir, what we have marked as

18 Defendant's Exhibit D 17. Now, a moment ago you told His

19 Honor that you observed a 1981 -- a fiber disturbance.

20 A. I beg your pardon, your question was?

21 Q. A moment ago you said there was a fiber disturbance,

22 is that right?

23 A. Yes, I did, right.

24 Q. And that's true, isn't it?

25 A. Yes, it is.

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1 Q. Now, is D 17 your report that you prepared in 1981?

2 Would you please look at it?

3 A. The laboratory notes?

4 Q. Yes.

5 A. Yes. I prepared those.

6 Q. All right.

7 MR. TIGAR: And may I approach, Your Honor?

8 THE COURT: Yes.

9 Q. Would you please read the sentence beginning with

10 "The fibers"?

11 A. "The fibers and background over the entire document,

12 both face and reverse, revealed no fiber disturbance."

13 Q. So in 1981, you didn't see any fiber disturbance, did

14 you, sir?

15 A. Well, even in 1986 --

16 Q. Sir, please.

17 A. Well, I have to --

18 Q. I would like to have an answer to the question. I

19 asked you a question. Did you observe a fiber disturbance

20 in 1981?

21 A. I did observe it. I didn't put it in my notes.

22 Q. In fact, sir, you wrote "no fiber disturbance"?

23 MR. STUTMAN: Please allow him to finish the

24 answer.

25 A. Let me answer the question.

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1 THE COURT: Let him finish.

2 A. In 1986, in my report, I also did not mention that
3 because I felt that that was such an obvious correction
4 that it did not in any way indicate any attempt to defraud
5 or to be fraudulent.

6 It was later in a letter that I believe you
7 have from the Israeli prosecutors where they asked me to
8 state everything, and in that particular response, I told
9 them that that particular entry I had noted, so it's not
10 that I never saw that entry. That's a very obvious entry,
11 and any examination of that document would reveal that. It
12 was simply that I didn't feel that this was what I was
13 looking for. I wasn't looking for, like the -- the types
14 of things I was looking for was something that would
15 indicate an attempt to fraudulently produce or change that
16 document.

17 Q. And you expressed that by using the words "no fiber

18 disturbance," is that your testimony, sir?

19 A. I did use that word, and it was perhaps a poor
20 choice, but that was not something I did not see. It was
21 something that I did see both in '81 and in '87.

22 Q. I'm going to place before you now, sir --

23 MR. TIGAR: I offer D 17, Your Honor.

24 THE COURT: How is D 17 -- do I have copies
25 of your exhibits?

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Epstein - Cross

1 MR. TIGAR: We have them here, Your Honor.

2 We have not handed them up.

3 THE COURT: Well, if I don't have them, I
4 can't very well make rulings on them.

5 MR. TIGAR: Yes, Your Honor. If we may take
6 them back overnight, we will punch them and put them in.
7 D 17 is his 1981 report, Your Honor.

8 THE WITNESS: Actually it's my laboratory
9 notes.

10 MR. STUTMAN: It's actually not his report,
11 it's his lab notes.

12 MR. TIGAR: Excuse me, his 1981 lab notes.

13 THE COURT: Okay.

14 MR. TIGAR: We offer that, Your Honor.

15 THE COURT: All right.

16 Q. I now place in front of you, sir, what we have marked
17 as D 19, and these are your laboratory notes from 1986, are
18 they not?

19 MR. STUTMAN: Excuse me. Before you answer
20 that, we would like to fish this document out of the box
21 that Mr. Tigar gave to us.

22 THE COURT: All right. Go ahead.

23 MR. TIGAR: I object to side-bar comments,
24 Your Honor.

25 MR. STUTMAN: Thank you, Your Honor.

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1 Q. Sir, when you testified a moment ago you examined in
2 1987, were you mistaken, sir?

3 A. I conducted my examinations in 1986 and 1987.

4 Q. And that 1986 report says that you did find fiber

5 disturbance, correct, sir?

6 A. Yes. I was asked in this particular case by the

7 Israeli prosecutors to list and cite everything that I

8 found.

9 Q. Now, how is it, sir, that you found yourself in

10 Israel at this time? Were you subpoenaed?

11 A. At the time the original document was difficult to

12 obtain, and at the time I was one of the only forensic

13 people to have examined the original document. The Israeli

14 government at the time was having some difficulty in

15 obtaining the original. Since I had conducted examinations

16 of the document and photographed it and was one of the few

17 people to have seen the original, I was asked by the

18 Israeli government to do the examination.

19 Q. Now, you did that examination in May, 1986, is that

20 right, sir?

21 A. Yes.

22 Q. Now, do you know, you said the document was difficult

23 to obtain. In fact, it was brought back by Armand Hammer,

24 is that right, sir?

25 A. I believe he intervened and made it possible to

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Epstein - Cross

1 retrieve it, yes.

2 Q. Have you ever seen the letter from the Deputy Head of
3 the USA and Canada Department of the USSR that accompanied
4 the document in 1986?

5 A. I did not.

6 Q. That has formed no part of your analysis, correct?

7 A. It has not.

8 Q. Now, a moment ago, sir, and towards the end of your
9 direct examination, you said in your view chain of custody
10 is not so important in a document case as it is in a drug
11 case or some other kind; is that correct, sir?

12 A. I said that, yes.

13 Q. However, in a document -- you've done a number of
14 document cases in your career, have you not, sir?

15 A. I have.

16 Q. Context is important in a document case, is it not,

17 sir?

18 A. Context?

19 Q. Yes. That is to say where a document is located in

20 relationship to other documents that bear on the same

21 subject, correct?

22 A. It could be, yes.

23 Q. Well, to take an example within your experience, you

24 know that according to a publication, the American Academy

25 of Forensic Sciences, you were scheduled to give a paper in

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Epstein - Cross

1 Seattle in February?

2 A. That's correct.

3 Q. So if I were to go to the archives of the American

4 Academy, that would lead to the conclusion that Gideon

5 Epstein was in Seattle in February, correct?

6 A. It would depend on what records you went to. The

7 academy definitely has attendance records, and if you went

8 to the attendance records you would find that I was not

9 there because --

10 Q. I understand that, sir.

11 MR. STUTMAN: Let him finish. Please, Your

12 Honor, I'd like to --

13 THE COURT: He finished, Mr. Stutman. Let

14 Mr. Tigar conduct his interrogation.

15 Q. In the proceedings of the academy you are listed as

16 scheduled to give a paper, correct?

17 A. Yes.

18 Q. So if all I looked at was the proceedings I would

19 know that Gideon Epstein was in Seattle in February,

20 correct?

21 A. Correct. Yes.

22 Q. And if a crime had been committed in Seattle in

23 February you would need a live witness or some other piece

24 of paper to show that you were not, in fact, there in

25 Seattle when the crime was committed, correct?

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1 A. If that situation were to have happened, yes.

2 Q. In short, you would want the archivist to go and see
3 not only the proceedings book but such correspondence as
4 you might have addressed to the academy saying that you
5 regret you were unable to appear, and so on, correct?

6 A. Yes.

7 Q. So in a document case, to come back, context in the
8 sense of how the documents were kept in relationship to
9 documents that relate to the same subject matter is
10 important, would you agree with that?

11 A. If you're asking me if it's important to the overall
12 case, yes. It may not be that important to me as a
13 forensic examiner in the work that I'm doing.

14 Q. I understand that. Thank you for the qualification,
15 sir. Now, when you looked at the document on light blue
16 paper that related to the disciplinary action, do you
17 remember which one that was, sir? Was that Plaintiff's
18 Exhibit Number 4, your Exhibit Number 2?

19 A. Okay.

20 Q. What kind of paper was the original on?

21 A. It was on -- I have a photograph of it here.

22 Q. Yellow paper?

23 A. It was a yellow paper which is sort of an aged paper.

24 It comes from aging, and had blue writing.

25 Q. And what kind of paper was your Exhibit Number 3,

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Epstein - Cross

1 Plaintiff's Exhibit 55? What kind of paper was that on?

2 MR. STUTMAN: Excuse me. Mr. Epstein was not
3 qualified as a paper expert.

4 A. My examinations on the documents was for handwriting.

5 THE COURT: That's correct. He's not a paper
6 expert.

7 MR. TIGAR: I'm not asking him about his
8 expertise, Your Honor. I'm trying to get him to help me
9 get through some of these documents.

10 THE COURT: What was the question again?

11 MR. TIGAR: Just what kind of paper it was
12 on.

13 A. I can only from the photograph show you that it
14 was --

15 Q. When you examined these two documents about which

16 I've just asked you, were they in a book?

17 A. Were they in a book? I don't believe they were in a

18 book. I really can't recall whether they were bound in

19 some way, but I think there was some binding to it.

20 MR. STUTMAN: Your Honor, we have a --

21 MR. TIGAR: Excuse me, Your Honor, may I have

22 this to refresh his recollection, and may I not be

23 interrupted in my examination?

24 MR. STUTMAN: I was going to tell you the

25 original document has arrived and we want to make it

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1 available, that's all.

2 Q. I want to place in front of you a document I've just

3 been handed by the government, and I want to ask you if

4 that refreshes your recollection as to what condition the

5 documents were in when you first saw them.

6 MR. STUTMAN: Excuse me, Your Honor. I don't

7 believe he testified as to the condition the documents were

8 in.

9 THE COURT: Well, he can testify to it now.

10 MR. STUTMAN: Yeah.

11 A. By "condition," what exactly are you referring to?

12 Q. Do you remember ever seeing that book before, sir?

13 A. Yes, I have.

14 Q. And did you get some documents out of it that you

15 examined that you've told us about today?

16 A. I did, yes.

17 MR. TIGAR: Thank you. At an appropriate

18 time we would like to copy the contents and place them in

19 evidence. I don't mean to tax the Court's patience.

20 MR. STUTMAN: I believe we already copied it

21 for Mr. Tigar.

22 Q. Now, Mr. Epstein, I want now to turn to this question

23 of signatures. You did not today give us an opinion about

24 the word or the name that appears in the lower right-hand

25 corner of your chart 12 B, Government's Exhibit 3; is that

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1 right, sir?

2 A. That's correct.

3 Q. And what is that word?

4 A. That word is Demjanjuk.

5 Q. And that word Demjanjuk is written in?

6 A. Cyrillic.

7 Q. Cyrillic?

8 A. Yes.

9 Q. With a pen?

10 A. Yes.

11 Q. In 1981, you were unable to conclude whether or not
12 that was Mr. Demjanjuk's signature; is that correct, sir?

13 A. That's correct.

14 Q. In Israel, you were unable to conclude whether or not
15 that is Mr. Demjanjuk's signature; is that correct, sir?

16 A. Not completely correct, no.

17 Q. Well, based on your forensic analysis, did you opine
18 that that was his signature?

19 A. I did not.

20 Q. I'm not going to ask you about any other basis. Were
21 you thinking of talking about something Mr. Demjanjuk said?

22 A. No.

23 Q. Okay. All right. I don't want to go any further

24 with that, sir.

25 A. All right.

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Epstein - Cross

1 Q. Because that may be another issue that we will have

2 to argue about some other time, but not with you. Now,

3 sir, did you know that the Israeli authorities obtained

4 Cyrillic signature samples from Mr. Demjanjuk?

5 A. I was aware of it and I saw them.

6 Q. Do you have them today?

7 A. I do not have them.

8 Q. So you are not prepared today to say that that is

9 Mr. Demjanjuk's signature, are you, sir?

10 A. Not completely.

11 Q. Well, you didn't testify to it on direct at all, did

12 you, sir?

13 A. I did not.

14 Q. You weren't asked to?

15 A. No, I wasn't.

16 Q. Now I would like to ask you about, just so I'm not
17 confused here, the Danilchenko service pass, and that would
18 be your Exhibit 58, number 45.7.

19 Now, would you look, please, at the outside
20 of it? Do you have that, by the way, in one of your charts
21 here, the outside of the Danilchenko?

22 A. No, I do not. I have it here.

23 MR. TIGAR: May I stand here then, Your
24 Honor, with the witness?

25 THE COURT: Certainly.

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Epstein - Cross

1 Q. I have now in my hand your Exhibit 58, and I put up
2 on the board your chart 12 A. Are we together now, sir?

3 A. Yes.

4 Q. All right. Now, let's look at these documents.

5 These two service passes were printed by -- at a different
6 time or by different printers, or at any rate, they are

7 different, are they not, sir?

8 MR. STUTMAN: I object to the question. He
9 did not testify as to printing.

10 MR. TIGAR: I'll lay a foundation, Your
11 Honor.

12 THE COURT: All right.

13 Q. Would you please turn to D 17, sir.

14 A. My 58, did you say?

15 Q. No. I'm asking you now -- I have to lay a
16 foundation. Please turn to D 17, the exhibit that I placed
17 in front of you earlier, your 1981 lab report. Do you
18 still have it, sir?

19 A. I do.

20 Q. Now, will you please, sir, turn to page 3 of that
21 document which is now in evidence. Now, in 1981 when you
22 conducted your examination -- is that page 3 -- on page 3,
23 you did make observations concerning the type font. Do you
24 remember that, sir?

25 A. I did, yes.

Epstein - Cross

1 Q. And you said some of the type font did not conform to
2 the linguistic requirements and were probably missing from
3 the type font such as the SS runes, R U N E S; is that
4 right?

5 A. Yes, the double lightning bolts.

6 Q. Yes. Edgar Allan Poe. Now, the SS runes are the
7 lightning bolts, two lightning bolts instead of two S's,
8 correct?

9 A. Yes.

10 Q. And you say they were missing from the type font used
11 to prepare Dienstausweis 1393, correct?

12 A. Yes.

13 Q. That's what you said in 1981?

14 A. Yes.

15 Q. I want you to look at Dienstausweis, the one you
16 brought today. It's got the SS runes on it, doesn't it,
17 sir, right there? Do you see them? Here?

18 A. Yes, but --

19 Q. I'm not asking you, but --

20 MR. STUTMAN: Let him finish, please.

21 Q. Are the SS runes there or are we not --
22 A. We are not comparing the same areas. We were
23 comparing the areas where -- the printed area of the
24 document. And in that particular -- in this particular
25 area down here, I think this is hand drawn, as well as

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Epstein - Cross

1 this. I don't believe that that's printed at all.

2 MR. STUTMAN: Indicating the SS runes.

3 A. I think those were put in by hand, as were these,
4 because they were not part of the font.

5 Q. Do you have the original with you, sir?

6 MS. JOHNSON: The original is with the Court.

7 MR. TIGAR: May I take a look at it, Your
8 Honor?

9 THE COURT: Sure.

10 A. I have a magnifier if you want to look at it. I'm
11 certain you will find it's hand drawn.

12 Q. I want you -- again, this is one of these areas where
13 we can all take a magnifying glass. I want you to do it

14 today, and we don't necessarily need to agree with you, I
15 want you to look at the ones I pointed out, the next down
16 to Hauptsturmfuhrer.

17 A. Those appear to be put in at the time the title is
18 put in.

19 Q. Is it your testimony, sir, based on examination of
20 those documents that those two runes were hand drawn?

21 A. No. They appear not to be.

22 Q. They appear to be printed?

23 A. Printed, while the others --

24 MR. STUTMAN: Let him finish.

25 A. While the others on top are, in fact, hand drawn.

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Epstein - Cross

1 Q. Now, in 1981 when you were giving your opinion, what
2 were the issues in the Demjanjuk case?

3 A. The issues were the same as they are today.

4 Q. The issue was whether --

5 A. Whether the document --

6 Q. What was the government's allegation?

7 A. Pardon me?

8 Q. What was the government's allegation, that he was a
9 mass murderer, correct?

10 MR. STUTMAN: Objection.

11 THE COURT: Objection sustained.

12 MR. STUTMAN: Thank you.

13 A. My --

14 MR. STUTMAN: Objection.

15 A. --examination --

16 Q. No question is pending, sir. You knew when you went
17 to the Soviet embassy that you were engaged in an important
18 work, did you not, sir?

19 A. I knew that I was involved in a case involving World
20 War II documents. This was my first case with the OSI.

21 Q. Were you trying to be as complete and accurate as
22 possible, sir?

23 A. I always try to be as complete and accurate as I can,
24 whether it's this case or any other case.

25 Q. Isn't it a fact, sir, that your lab notes were wrong

Epstein - Cross

1 in saying that the SS runes don't appear in the printed
2 document? Yes or no?

3 MR. STUTMAN: Objection. The lab notes say
4 that they are missing from the type font.

5 A. And they are missing from the type font. The type
6 font, when I was talking about type font, I was talking
7 about this area up here.

8 Q. In other words, you differentiate the type font in
9 which this printing appears from the type font in which the
10 lower printing appears? Is that your testimony?

11 A. My notes referred to the printing that appears at the
12 top.

13 Q. What part of your notes was that?

14 A. The part that you read.

15 Q. Does it say what's at the top or just say type font?

16 A. It says type font.

17 Q. All right. Now, sir, we started here looking at the
18 Danilchenko one.

19 MR. STUTMAN: What number is that?

20 MR. TIGAR: Mr. Danilchenko is --

21 MR. STUTMAN: I have it.

22 MR. TIGAR: -- Epstein 58, Government 45.7.

23 MR. STUTMAN: Thank you.

24 Q. Now, when we look at the front page of the

25 Danilchenko one, we see that the words SS are printed not

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Epstein - Cross

1 as runes, but as printed SS's, correct?

2 A. Yes.

3 Q. We also see a number of differences in the format of

4 these two cards, is that correct?

5 A. There were different formats in the cards. All the

6 cards were not in the same format.

7 Q. And when we look on the back here, the part that

8 begins, wird der inhaber, we see that there's a different

9 stamp that's used on the Government 3 than there is on the

10 Danilchenko card, is that right?

11 A. The --

12 Q. I'll hand you the Danilchenko card. It's a different

13 stamp.

14 MR. STUTMAN: There's no evidence, I don't

15 believe there's any evidence that that is a stamp.

16 A. I don't know that that stamp was included in as one

17 of those that was identified as the same.

18 Q. In response to Mr. Stutman's side-bar observation,

19 could you find for me the stamp comparison? Let's put that

20 up there so we know what we are talking about.

21 Now, that is your chart number 9, is that

22 correct, sir?

23 A. Yes, it is.

24 Q. Now --

25 MR. STUTMAN: I'm sorry --

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Epstein - Cross

1 Q. That's three rubber stamps, correct?

2 A. Yes, that's correct.

3 Q. And one of the rubber stamps is a stamp impression

4 that's red number 1 that you say, that is a blowup --

5 A. Of that one.

6 Q. Or an enlargement, excuse me. After the last case I

7 tried I don't say blow up anymore. It's an enlargement of

8 this stamp, correct?

9 A. Yes.

10 Q. So it's a stamp?

11 A. That's correct.

12 Q. Now, is the Danilchenko one also a stamp?

13 MR. STUTMAN: You can make reference to your

14 book.

15 A. In my findings on that stamp, which is paragraph 9,

16 you will not find Exhibit 58 listed.

17 Q. That's correct.

18 A. Because I did not identify that stamp or that printed

19 area as being the same. As I said, there were different

20 versions of the identity document, and some versions were

21 different. What my purpose was is to find within the

22 knowns those that were the same, and I did that in the ones

23 listed in my paragraph 9.

24 Q. Yes. So it's your testimony, sir, that even though

25 these cards were signed by the same person, some of them,

Epstein - Cross

1 the printed form could be different?

2 A. Was different.

3 Q. Was different.

4 A. Yes.

5 Q. And that since they all appear, they are signed by

6 the same person, we can ask the next witnesses whether they

7 were generated at the same time or the same place, and so

8 on, but the forms were different, correct?

9 A. There were different versions of the same form.

10 Q. And one of the differences was that we've just seen

11 that the stamp with that language was a different stamp

12 between some and the others, is that right?

13 MR. STUTMAN: Objection. There's no evidence

14 yet that the printed words "wird der inhaber" of

15 Mr. Danilchenko's was done by a stamp.

16 MR. TIGAR: I'm sorry.

17 Q. Mr. Epstein, do you think it was done by a stamp?

18 A. I believe it was --

19 MR. STUTMAN: You are looking in Mr. -- you
20 are looking at 1393.
21 A. I'm looking at the one --
22 Q. I'm asking about Mr. Danilchenko.
23 A. Yes, I believe that was a stamp.
24 Q. The Danilchenko?
25 A. No, this one right here.

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Epstein - Cross

1 Q. All right. Now I want to ask you, looking at your
2 Danilchenko copy, do you believe that was a stamp?
3 A. From this copy -- I would like to see the original.
4 I mean, most all of my examinations where I reached
5 conclusions like this are done from the original documents.
6 Certainly it's a much more even, much more evenly-inked
7 impression, but until I see it, until I see the original
8 and am able to determine under some magnification whether
9 or not it was a stamp or whether it was printed, I really
10 wouldn't be able to say. I know it was not the same as
11 that.

12 Q. Is the original in court?

13 MR. STUTMAN: We don't have that one. Sorry.

14 However, I think you viewed the original in your travels,

15 or a representative of the defendant did.

16 Q. Now, sir, you also examined some personnel files,

17 correct?

18 A. Yes.

19 Q. And did you examine -- and you examined a -- and you

20 have here in your list a service pass for a man named

21 Bondarenko, and he is -- that's your number 60, Government

22 Exhibit 45.17. Do you remember that? Would you place that

23 in front of you, sir?

24 A. All right. I have those.

25 Q. Now, that Bondarenko is 45.17, is that right?

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Epstein - Cross

1 A. Bondarenko is 45.17, yes.

2 Q. Now, did you look at a Personalbogen for Bondarenko?

3 A. You mean the entire document? I did examine that

4 document, yes.

5 Q. Personalbogen?

6 A. This one.

7 Q. No. Sir, do you understand that there's a difference

8 between a service pass and a personnel file?

9 A. Yes, but what I examined for Bondarenko is this. I

10 don't recall examining anything else for Bondarenko.

11 Q. The government didn't ask you to examine anything

12 else?

13 A. Not to my knowledge.

14 Q. Now, looking at Bondarenko, do you see a signature

15 that looks like something like the name Bondarenko on that

16 one?

17 A. I see it, but I did not do an examination of the

18 Bondarenko signature.

19 Q. And do you notice that there is also a name Demjanjuk

20 on your chart 12 A, Government's Exhibit 3, that's the one

21 we talked about, correct?

22 A. We can bring it up.

23 Q. Right there?

24 A. Yes.

25 Q. And now I want you to take a look, please, at the

Epstein - Cross

1 Danilchenko service pass, which is your number 58, number
2 45.7.

3 A. All right.

4 Q. I'm going to ask your indulgence, sir, did I leave my
5 copy up with you?

6 MR. STUTMAN: I think I left mine up there.

7 A. I'm starting to collect a lot of documents. I
8 suspect I have everybody's up there.

9 MR. TIGAR: May we all go up, Your Honor.

10 THE COURT: Yes, everybody go up and take
11 back your documents.

12 THE WITNESS: This is the one that's yours.

13 MR. TIGAR: Yes, thank you.

14 MR. STUTMAN: Is mine up here?

15 Q. Now, would you look, please, on the inside of the
16 Danilchenko, which as we see is Government Exhibit 45.7.

17 A. Again, that was what?

18 Q. That is your number 58.
19 A. All right. You would like me to look at what?
20 Q. I'd like you to look on the inside, over in that
21 lower right-hand corner where there's a line that says
22 Richtig empfangen. It's blank, isn't it?
23 A. The area where normally the signature of the person
24 whose photograph it is would go.
25 Q. And now, did you find that to be the case with

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Epstein - Cross

1 respect to a number of these documents, that there was no
2 signature in the place set aside for the signature of the
3 person to whom this was being issued?

4 THE COURT: Which one are you talking about?

5 MR. TIGAR: I'm sorry, Your Honor. I'm
6 talking about the Danilchenko. That's Government
7 Exhibit --

8 THE COURT: All right.

9 MR. TIGAR: The reason I chose that is that's
10 a very important name in this case, Your Honor. I'm just

11 choosing that as an example.

12 Q. There's no signature on his, is there?

13 A. There is not, no.

14 Q. There's also no signature on your number 61, which is
15 Government's Exhibit 45.4 for Juchnowskij, correct? No
16 signature on his?

17 A. No signature on it.

18 Q. So based on your review of the documents, sir, it
19 would be fair to say that there is, however these things
20 are produced, we find that there are differences in the
21 printed form, correct?

22 A. Yes.

23 Q. There are differences in the name of the person who
24 signs on the front. In some places it's Streibel and in
25 some places it's others, correct?

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Epstein - Cross

1 A. The camp commander, that's right.

2 Q. And there are differences in whether or not the

3 person to whom it's issued signs it, is that correct?

4 A. There's some variation to that, yes.

5 Q. And you did not come here today prepared to testify
6 as to the comparison of any of the signatures on any of the
7 lower right-hand corners, that is to say, in that place
8 that is set aside supposedly for the person who was
9 supposed to sign, correct?

10 A. That's correct.

11 Q. Now I want to take us back to this number,
12 Government's Number 3 that we have up here. I'll put it
13 up, and if you need to come across and look at it --

14 A. Okay.

15 Q. That's fine. All right. Now, sir, when you first
16 looked at it there in the Soviet embassy in 1981, you
17 didn't have any other cards to compare it with, did you?

18 A. That's correct, I did not.

19 Q. When is the first time that you ever had other cards
20 to compare it with?

21 A. After I completed my testimony in Israel in 1987.

22 Q. Now, we didn't complete this part of my discussion
23 with you earlier. Were you subpoenaed as a witness in
24 Israel?

25 A. I was asked by the Israeli government to take the

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1 case. The request went to the Immigration and
2 Naturalization Service, and it was approved. I was never
3 officially subpoenaed. I was requested to participate.

4 Q. How were you compensated at that time, sir, if at
5 all?

6 A. I was receiving a salary from the Department of
7 Justice, and that was my compensation.

8 Q. And do you know who paid the expenses you incurred
9 while traveling to and remaining in Israel for the purpose
10 of the case?

11 A. To the best of my recollection, it was the
12 Immigration and Naturalization Service.

13 Q. You got to travel at that government level?

14 A. Yes, I did.

15 Q. Had to take the bus in Tel Aviv?

16 A. No, I flew right into Jerusalem, fortunately.

17 Q. You've never been on the Tel Aviv bus?
18 A. No, I haven't.
19 Q. Then I won't ask you. The card has, as we can see
20 there, has a picture on it, right?
21 A. Yes, it does.
22 Q. Now, that picture at some point had been taken off
23 the card; is that right?
24 A. I don't know whether it had been completely taken
25 off, but at one time that picture was loose, and at another

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1 time it was reattached more tightly.
2 Q. Well --
3 A. Whether it actually physically came off or not, I
4 don't know.
5 Q. You've expressed an opinion based on the way the
6 stamps line up, it wasn't some other picture that was
7 substituted, correct, that's your opinion?
8 A. Yes, that's based on what --
9 Q. Now, the stamp impression that goes around here where

10 I'm pointing in the upper left-hand corner of this
11 document, there's an irregularity or a lack of --
12 A. There's some defects to it.
13 Q. There's a defect. I understand defect, sir. How
14 would you describe the way in which the outer circle of the
15 stamp either does or does not continue from the actual
16 paper onto the picture? Is there a discontinuity, is that
17 what you call it?
18 A. No. There is actually -- there is a continuation of
19 that stamp impression, and the actual alignment is there.
20 The problem is that when the photograph was loose and
21 reattached, it was not really reattached with the point of
22 trying to make those stamps match.
23 Q. That was my question, sir. Today as we look at it
24 there's a discontinuity, is that correct?
25 A. There is a slight misalignment, as I would call it.

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Epstein - Cross

1 Q. And in the original, sir, are there staple holes?

2 MR. STUTMAN: Objection, Your Honor. Well,
3 he can answer that, I'm sorry.

4 A. There are staple holes.

5 Q. In the picture?

6 A. Yes.

7 Q. Is there purple ink around the staple holes?

8 MR. STUTMAN: Objection, Your Honor. He's
9 not an ink expert.

10 Q. Withdrawn. Is there purple stuff around the staple
11 holes?

12 A. This is a matter that has come up before, and yes,
13 there is purple stuff inside the holes.

14 Q. And you are not an ink expert, right?

15 A. I am not.

16 Q. We have got to wait until tomorrow?

17 A. Yes, you do.

18 Q. We'll wait. Now, were there staple holes in any of
19 the other pictures on any of the other documents, service
20 passes, that you've told us about today?

21 A. I honestly can't say because I wasn't looking for
22 that, and I don't remember seeing any other -- you know, I
23 can't remember whether there were or not. I would have to

24 go back and look at them again.

25 Q. A staple hole issue --

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Epstein - Cross

1 A. Those documents were presented to me as knowns.

2 Q. The staple hole issue has been around for a long
3 time, hasn't it?

4 A. It's been around a long time.

5 Q. Nobody asked you to look for staple holes?

6 A. No.

7 Q. Okay.

8 MR. TIGAR: Your Honor, may I take a brief
9 recess at this point?

10 THE COURT: You certainly may. We will take
11 a ten-minute recess.

12 MR. TIGAR: Thank you, Your Honor.

13 (Recess had.)

14 THE COURT: Go ahead.

15 MR. TIGAR: Thank you, Your Honor.

16 BY MR. TIGAR:

17 Q. Before we broke for your recess, Mr. Epstein, I was
18 asking you about personnel files, and maybe I should be
19 more precise. Do you know what a Personalbogen is?

20 A. Yes, I've seen them, but I don't know that I've
21 examined them here.

22 Q. I did not see any in your documents, but I'm just
23 asking you.

24 A. Yes.

25 Q. A Personalbogen sometimes when you see them comes

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Epstein - Cross

1 along with the service pass, correct?

2 MR. STUTMAN: Objection, Your Honor.

3 A. I'm really not that familiar with the process.

4 THE COURT: Overruled.

5 Q. Have you seen Personalbogens for some of the same
6 people whose service passes you have examined?

7 A. Not to my knowledge.

8 Q. Were you asked by the government to look at a

9 Personalbogen for Mr. Bondarenko?

10 A. Not to my knowledge.

11 Q. Do you know whether or not there is one?

12 A. I do not.

13 Q. From your memory, having worked on these cases with

14 OSI all these years, you know, sir, that the Personalbogens

15 contain a thumbprint, correct?

16 A. Yes.

17 Q. Have you ever seen a Personalbogen associated with

18 number 1393?

19 A. Not to my knowledge.

20 Q. The presence of a fingerprint is important evidence

21 to a document examiner, is it not, sir?

22 A. It's important evidence to the fingerprint examiner.

23 Q. And you, for a time, were head of the fingerprint

24 section or something, were you not, sir?

25 A. Our laboratory had a fingerprint unit, and I was

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1 supervising that as well, yes.

2 Q. And when you say "our laboratory," what agency was
3 that?

4 A. That was the Immigration and Naturalization Service
5 Forensic Document Laboratory.

6 Q. So in the job from which you retired in December,
7 2000, for a time you supervised the fingerprint operation,
8 correct?

9 A. I did, yes.

10 Q. So it's fair to say that you know a little bit about
11 that at least, correct?

12 A. A little bit.

13 Q. I'm not asking your expert opinion, sir. I'm drawing
14 upon the knowledge that you've told us.

15 A. I understand.

16 Q. Do you know of any effort to obtain a fingerprint
17 from the 1393 document, Government's Exhibit 3?

18 A. Not to my knowledge, I'm not aware of it, no.

19 Q. You do know from your experience that it is possible
20 to obtain fingerprints from old documents, correct?

21 A. Sometimes.

22 Q. Did you work on the case of Mr. Treifa?

23 A. I did.

24 Q. Now, Mr. Treifa made the mistake of sending a

25 postcard to Mr. Himmler, didn't he?

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Epstein - Cross

1 A. He did.

2 Q. He sent the postcard to Mr. Himmler in 1942, is that

3 correct?

4 A. It is.

5 Q. Was it a friendly card?

6 A. It was a friendly card.

7 Q. And years later, Mr. Treifa had another job, right?

8 What was he?

9 A. Arch Bishop in Romania.

10 Q. He was an Arch Bishop in Romania. And you all had

11 this card, and you wanted to see if this was the guy who

12 was sending good wishes to Himmler, correct?

13 A. Yes.

14 Q. You lifted a fingerprint, correct?

15 A. Yes.

16 Q. Where does Mr. Treifa live today?

17 A. I think he passed.

18 Q. Where did he live before the time of his passing? Did

19 he manage to keep his Arch Bishop in Romania?

20 A. No.

21 Q. He lived in Portugal, correct?

22 A. I think that's correct.

23 Q. You don't know of any similar history with respect to

24 1393, correct?

25 A. I do not.

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Epstein - Cross

1 Q. You are aware in the years since 1981, fingerprint

2 detection technology has taken great steps, correct?

3 A. There have been some major improvements, yes.

4 Q. That is back at the time when you started out, you

5 had to use a solution of ninhydrin to lift fingerprints

6 from paper, correct?

7 A. That was the normal procedure, and actually is today.

8 Q. And the ninhydrin would be dissolved in alcohol or
9 water and the document dipped in it or sprayed on the
10 document, correct?

11 A. Correct.

12 Q. And that, of course, would deface the document if you
13 did that, right?

14 A. Not if you mixed the chemicals correctly.

15 Q. But there's a risk to the document, right?

16 A. There is some risk, yes.

17 Q. Today if I read -- do you know that there was a paper
18 at the AAFS in Seattle about laser technology for lifting
19 prints with no risk to the document?

20 A. Well, that technology has been around for a long time
21 actually.

22 Q. It has. How long has it been around?

23 A. Well, that was the technology that we used in Treifa.

24 Q. Oh. Well, how long has the technology been around?

25 A. '82, '83, something like that. I think Treifa was

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1 in 1982. I'm not too sure when it was, but it was just
2 coming out at the time, and the reason that it was
3 subjected to that was because it was a new technology.

4 Q. Now then, sir, I want to go back, I want to keep on
5 this 1393. You testified before Judge Battisti, correct?

6 A. That's correct.

7 Q. As of that time, you were talking about whether or
8 not the base line had been disturbed on the typing. Do you
9 remember that? Am I showing you the wrong piece of paper?

10 Please feel free to help me here.

11 A. I think we were referring to this base line here.

12 Q. That's the base line that says Der Demjanjuk, comma,
13 Iwan, correct?

14 A. Yes.

15 Q. In addition, you said you had never seen a base line,
16 you had never seen a case where the base line has not been
17 disturbed in some way, correct?

18 A. I don't recall that. That was 21 years ago. I don't
19 remember that statement or in what context it was made.

20 Q. Well, did you -- in 1981, did you look at the
21 possibility of substitutions or erasures?

22 A. Absolutely. That was one of the main things I was
23 looking for.

24 Q. And you found there were none with the exception of
25 the N in Nickolai, correct?

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1 A. Again, I don't know what we are referring to.

2 Q. Would it refresh your recollection, sir, if I showed
3 you a transcript of your testimony before Judge Battisti?

4 A. It might.

5 Q. I show you now, sir, page 150 of your testimony
6 before Judge Battisti in this courthouse in 1981, and I ask
7 you, sir, to look at the portion I have marked with the
8 yellow highlighter and tell us whether that refreshes your
9 recollection that you found something, a substitution or
10 erasure with respect to the N in Nickolai refreshes your
11 recollection up there.

12 THE COURT: Do you want to look at the
13 original?

14 THE WITNESS: Yes. I really don't know what
15 this is referring to, Your Honor.

16 MR. TIGAR: Thank you, Your Honor.

17 Q. Yes, please do look at the original, take your time,
18 and we understand why this is important, and let us know if
19 it refreshes your recollection with respect to what you
20 found and to which you testified in 1981.

21 MR. TIGAR: Let the record reflect he's
22 looking with a magnifying glass, Your Honor.

23 (Pause.)

24 A. To my recollection, I realize it states this in the
25 transcript. I'm not sure that the transcript was correct.

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Epstein - Cross

1 My only recollection of any area that I found
2 an erasure in is in the area of the I in Iwan on that base
3 line. I don't remember ever finding any other erasure or
4 alteration on that document.

5 Q. Do you remember, sir, how --

6 A. Was this the first trial?

7 Q. Yes.

8 A. The first testimony or the second testimony?

9 Q. This was February 12th, 1981, sir.

10 A. And then there was another testimony later when the
11 original document became available?

12 Q. Sir, I don't know. The original document you first
13 looked at at the Soviet embassy in May of 1981. I think
14 you have D 17 in front of you. That's a date we can
15 establish.

16 Looking now at -- I'm sorry. I apologize to
17 Your Honor and to everyone. February 27th, you looked at
18 that.

19 A. Yes.

20 Q. So the testimony that I've shown you is from February
21 12th.

22 A. Yes.

23 Q. Let us look here at the transcript.

24 A. Okay. What was --

25 MR. STUTMAN: Please let him finish his

Epstein - Cross

1 answer.

2 A. What you are referring to there is when I had a copy,
3 when I was working -- originally I was working with a copy.
4 After February 27th the original became available, and I
5 testified in this courtroom again based on the original.

6 It's very possible that what I saw in that copy appeared to
7 be some sort of an irregularity which did not appear on the
8 original, and if there in fact was some kind of distortion
9 or some kind of irregularity in the N in Nikolai, it was in
10 that copy. It was not in the original document that I was
11 later able to examine.

12 Q. Now, sir, therefore, what you're telling us is that
13 on February 12th, all you had was a copy, correct?

14 A. Originally, that was what was provided to me.

15 Q. And you also opined at that time on the signatures of
16 Teufel and Streibel. Do you remember that?

17 A. I did.

18 Q. And you said that the Teufel and Streibel signatures
19 are very fluently and graphically written in their national
20 handwriting?

- 21 A. That's correct.
- 22 Q. Now --
- 23 A. You can determine that from copies, as well.
- 24 Q. That was my next question, sir.
- 25 A. I thought it would be.

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Epstein - Cross

- 1 Q. You did at that time determine that from a copy, is
- 2 that your testimony?
- 3 A. Yes, it is.
- 4 Q. Now, then, did you make lab notes with respect to
- 5 your reexamination for purposes of this trial?
- 6 A. I did, yes. You have copies of all of those lab
- 7 notes.
- 8 Q. Can I show you something? I'm going to show him this
- 9 and see if it's his handwriting.
- 10 MR. STUTMAN: Okay.
- 11 Q. To save time, is that your handwriting, sir?
- 12 A. It is not.

13 Q. All right. Do you know whose it is?

14 A. I do not.

15 Q. Now, do you remember hearing back in 1981 of a Vanya

16 letter, V A N Y A, letter?

17 A. Not to my recollection.

18 Q. Do you remember hearing of the availability of a

19 letter signed by Mr. Demjanjuk and dated February 3rd,

20 1941?

21 A. Not to my recollection.

22 Q. Would it have assisted you in evaluating the name

23 written on the lower right-hand corner of the inside there,

24 the name that reads something like Demjanjuk or is

25 Demjanjuk, if you had a copy of a signature on a payroll,

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Epstein - Cross

1 for example, where somebody received pay and receipted for

2 it?

3 A. From 1941?

4 Q. Yes, from 1943, '44, from that period?

5 A. It would have been helpful, yes.

6 Q. But you never saw anything like that, right?

7 A. No, I don't know.

8 Q. Now, in the Mengele case and the other cases, what's

9 the longest period of time that's ever elapsed between the

10 questioned signature and a known signature executed by the

11 person to whom you wish to attribute the signature?

12 A. In the Mengele case I used handwriting that was

13 produced by Mengele in 1938 to compare against handwriting

14 that he made in the '70s prior to his drowning in Sao

15 Paulo.

16 Q. Could you help me with the arithmetic?

17 A. I would say --

18 THE COURT: 35 years?

19 A. -- 35 to 40 years.

20 Q. So in your opinion as an expert, at a gap of 30-some

21 years is not too much for you to be able to operate,

22 correct?

23 A. It depends on the writer. In the case of Mengele,

24 who was a very fluent writer in '38 and who continued

25 writing throughout his life a great deal, his handwriting

Epstein - Cross

1 characteristics changed very little over that 35-year
2 period.

3 Q. Now, I want to clear up one thing about that book,
4 and we will have a copy of that that you were shown
5 earlier. When you do your examinations to see if the
6 signature matches, you don't concern yourself with archival
7 questions such as the order in which the documents appear
8 in the book and how it's bound and where it was kept, and
9 so on; is that correct?

10 A. I do not, no.

11 Q. With respect to that particular item, you did not
12 check to see what its custody had been from the time of its
13 creation down to the present date?

14 A. I did not.

15 Q. I'm going to ask you a question, sir, about potential
16 bias because I must, and I'm not insulting you when I ask
17 you.

18 A. I understand.

19 Q. You knew what was at stake in Israel when you

20 testified, correct, for Mr. Demjanjuk?

21 A. By at stake, you mean what the punishment was?

22 Q. Yes.

23 A. I was aware, yes, I was aware of that.

24 Q. And at that time, were you disappointed by the Israel

25 Supreme Court's decision?

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Epstein - Cross

1 A. Not at all. I have been doing this work too long to
2 take that type of personal interest in a case. I do the
3 best I can with the evidence I have, and the way the case
4 ends and turns out is a different matter. I have no
5 personal feelings about that.

6 Q. In the original case -- no, withdrawn. You have
7 worked consistently with the lawyers in this case over
8 time; is that correct?

9 A. I have been working with them for 21 years.

10 MR. TIGAR: Would Your Honor indulge me for a
11 moment?

12 THE COURT: Sure.

13 (Pause.)

14 Q. I'm going to show you now, sir -- this is your
15 testimony from March 3rd, '81, and I know this is a long
16 time ago. You did conduct an examination on February 27th,
17 correct? You saw that?

18 A. I did, yes.

19 Q. Then didn't you come back to court and say you only
20 confirmed your previously reached conclusions?

21 A. I came back, and I think that statement was a part of
22 my testimony. I think I testified to other things, but I
23 was asked that, and I stated that I did confirm my previous
24 stated conclusion.

25 MR. TIGAR: And Your Honor, I don't know if I

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Epstein - Redirect

1 offered D 19, his notes from March -- May 16, 1986. That's
2 offered? All right.

3 THE COURT: Okay.

4 MR. TIGAR: Thank you, Mr. Epstein. I have

5 no further questions at this time.

6 THE COURT: All right.

7 MR. STUTMAN: One moment, Your Honor.

8 THE COURT: Sure.

9 (Pause.)

10 REDIRECT EXAMINATION OF GIDEON EPSTEIN

11 BY MR. STUTMAN:

12 Q. Mr. Epstein, I just have a few questions. I hope
13 they are just a few. Now, counsel asked you about a small
14 fiber disturbance on the face of service pass 1393 in the
15 area of the I in Iwan. Do you recall that?

16 A. Yes, I do.

17 Q. What caused this fiber disturbance, in your view?

18 A. An erasure by rubbing what we call a mechanical
19 erasure, where a rubber eraser or something was used to
20 remove.

21 Q. Have you seen evidence of similar erasures on other
22 service identity passes?

23 A. I have seen that, yes.

24 Q. Now, counsel made reference --

25 MR. STUTMAN: If I may approach this, Judge.

Epstein - Redirect

1 THE COURT: Yes.

2 Q. -- to the extension of the line on which the name
3 Demjanjuk is typed, and I want to ask you by what process
4 or processes has that line been made, that line that
5 extended?

6 A. Using a typewriter.

7 Q. And the line on top of which the word Demjanjuk, by
8 what process or processes, if you can tell, has that line
9 been made?

10 A. That line is a printed line.

11 Q. Have you observed whether a new base line or base
12 line extension has been typed on any other place on the
13 identity card?

14 A. I did find it to exist on other cards that we have.

15 Q. Do you consider either the small erasure on the
16 service pass or the extended line to be a sign of
17 alteration for a fraudulent purpose?

18 A. I do not.

19 MR. TIGAR: Object.

20 THE COURT: What do you mean by small "E

21 ratio"?

22 MR. STUTMAN: Small erasure.

23 THE COURT: Oh, small erasure. I didn't

24 understand what you said.

25 MR. TIGAR: I object to the question. He's

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Epstein - Redirect

1 not an expert on matters of fraud.

2 MR. STUTMAN: Well, I do think that --

3 THE COURT: Well, in the way the question is

4 formulated, I'll sustain the objection.

5 Q. Do you have an opinion as to whether the erasure was

6 made?

7 A. I believe that it was simply a typographical mistake

8 made at the time the name was typed in and it was corrected

9 at the time.

10 Q. Now, Mr. Tigar made reference to an evaluation or a

11 forensic evaluation of the signature that reads Demjanjuk
12 on Government's Exhibit 3. Do you recall that reference?

13 A. I do.

14 Q. I believe he showed you or asked you questions from
15 lab notes from February 27th, 1981. Do you recall that?

16 THE COURT: Do you have a reference number?

17 MR. STUTMAN: Yes, I do.

18 THE COURT: Defendant's Exhibit, Plaintiff's
19 Exhibit, what?

20 MR. STUTMAN: Defendant Exhibit, Your Honor,
21 17.

22 THE COURT: Thank you.

23 A. Yes, I do recall that.

24 Q. Now, I'd like to show you those lab notes. Do you
25 have them?

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1 A. I have a copy here.

2 Q. I would like it if you would read the paragraph that
3 begins, "A careful study."

4 A. "A careful study was made of the Demjanjuk signature
5 on the inside of the document. This was also photographed.
6 The signature on the document was studied in conjunction
7 with the known handwriting standards that were provided.
8 This study revealed that the questioned signature is
9 written in the different style and that only three letters
10 lent themselves to actual comparison. They were the
11 letters E, M and K. Comparison of these letters to known
12 writing made by Demjanjuk revealed that there was close
13 similarity within that which was comparable. A limited
14 amount of letters and letter combinations prevented the
15 reaching of any type of definitive conclusion."

16 Q. Now, did you also examine the Demjanjuk signature in
17 1986?

18 A. Yes, I did.

19 Q. Now, in 1986, do you recall what signatures of
20 Demjanjuk were available to you to compare to the signature
21 that reads Demjanjuk on Government's Exhibit 3?

22 A. I was given a great many more signatures than I had
23 in 1981. In 1981, the only signatures I had were the ones
24 that came from Mr. Demjanjuk's naturalization file which --

25 Q. Do you have -- I'm sorry.

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Epstein - Redirect

1 A. -- which were all in the Latin form. In 1986, I was
2 given the Cyrillic exemplars -- in '86, '87 I was given the
3 Cyrillic exemplars of Mr. Demjanjuk as well as a signature
4 on a driver's license, as well as some writings from 1971,
5 I believe. But anyway, I was given a great many more
6 writings.

7 Q. Now, in conjunction with the examination that you
8 conducted in 1986, did you prepare photographic charts?

9 A. Yes, I did.

10 Q. Do you have those charts with you?

11 A. I do.

12 Q. Would you -- would they assist you in presenting your
13 testimony on this point?

14 A. Yes, it would.

15 MR. TIGAR: Excuse me. With all due respect,

16 Your Honor, not endorsed as an opinion he was scheduled to
17 give, improper redirect. If they wanted to do the

18 signatures, they should do it on direct examination. It's
19 a sandbag, Your Honor.

20 MR. STUTMAN: Can I respond, Your Honor?

21 THE COURT: Yes.

22 MR. STUTMAN: Mr. Tigar asked questions about
23 the examination he conducted in 1981 on the signature. And
24 he left the impression that Mr. Epstein was -- had not
25 given an opinion in 1981, and Mr. -- the defendant is

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Epstein - Redirect

1 offering Mr. Epstein's notes relating to -- his lab notes
2 relating to his examinations in 1981 and 1986.

3 We believe that the defense opened the door,
4 if you will, to whatever opinion Mr. Epstein was able to
5 form in 1986 regarding the signature that reads Demjanjuk
6 on the card.

7 THE COURT: Well, did you list this as one of
8 your items of evidence on the evidence list that was
9 exchanged?

10 MR. STUTMAN: The --

11 THE COURT: His opinion as to this --

12 MR. STUTMAN: No, as a matter of fact we did
13 not, Your Honor. For that reason we were surprised that
14 Mr. Tigar brought it up, but having brought it up, we
15 thought we could fairly follow up on the subject.

16 THE COURT: If you brought up the 1986
17 opinion.

18 MR. STUTMAN: Yes, I did, Your Honor, but
19 the -- if I may, the 1986 lab notes are part of the
20 evidence that the defendant has offered to the Court.
21 That's the only reason I bring it to you.

22 MR. TIGAR: The 1986 lab notes have nothing
23 to do with signature. That's the first thing. It's the
24 erasure business. That's why we offered him. It's the
25 only thing I asked him to publish with respect to it.

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1 Mr. Epstein's expert report contains no reference to this
2 signature business.

3 One more thing, Judge Battisti made a finding
4 about it also, Your Honor.

5 THE COURT: Was any notice given to the
6 defense with respect to this evidence?

7 MR. STUTMAN: No. We did not ask Mr. --
8 Mr. Epstein in his report states that he did not evaluate
9 the signature in this -- for this proceeding, and we were
10 not going to offer any testimony on that point.

11 THE COURT: All right. Then the objection is
12 sustained.

13 MR. STUTMAN: Forgive me, Your Honor.

14 THE COURT: Sure.

15 (Pause.)

16 MR. STUTMAN: Am I permitted to ask
17 Mr. Epstein whether he had an opinion in 1986 as to whether
18 or not the signature that reads Demjanjuk on Government's
19 Exhibit 3 is, in fact, or could be the signature of the
20 defendant?

21 THE COURT: No.

22 MR. STUTMAN: Okay.

23 BY MR. STUTMAN:

24 Q. Now, Mr. Epstein, I want to return to a subject that
25 we covered briefly and Mr. Tigar covered as well. And it

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Epstein - Redirect

1 relates to the stamp that reads Zweigstelle --

2 MR. TIGAR: May I walk a little closer, Your
3 Honor? These old eyes.

4 THE COURT: Yes.

5 Q. -- Trawniki. Mr. Tigar made reference to the fact
6 that the stamp had some sort of defect, do you recall that?

7 A. Yes, I do.

8 Q. Do you recall in your testimony that you testified
9 about other examples of identity cards where the stamp
10 appears?

11 A. Yes, that's correct.

12 Q. I'd like to return you, if I could, to Government's
13 Exhibit 45.12, which is your Exhibit Number 17, and I have
14 that as the identity pass of Sidortschuk?

15 A. Yes.

16 Q. And I believe in your earlier testimony you

17 identified the Zweigstelle Trawniki stamp as being placed
18 next to the signature of Mr. Streibel. Do you have your
19 photos?

20 A. Yes, I have.

21 Q. I want you to tell me whether or not the Zweigstelle
22 Trawniki stamp that appears to the Streibel signature on
23 the Sidortschuk identity pass and the -- how it compares
24 with the -- strike that. I want you to tell me if the --
25 strike that.

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Epstein - Redirect

1 Could you identify for the Court what the
2 defects are on the stamp that reads Zweigstelle Trawniki
3 that appears over the photo of Mr. -- of the photo of the
4 bearer of that card, 1393.

5 A. Yes, I will. The particular stamp that appears over
6 the photograph here and here has basically two main
7 defects. The first is that it has a bulging area where the
8 stamp is out of circle. In other words, it bulges out in

9 this area here and the same thing in this area here so that
10 it's not a completely round stamp.

11 But the other one and perhaps more
12 significant characteristic of the stamp is that the I in
13 Trawniki right after the N, and it's enlarged a little bit
14 better here on this photograph so it can be more clearly
15 seen, that that is a very defective I, and so that I is a
16 characteristic of this particular stamp.

17 The fact that it bulges out, it's not
18 circular and this particular defect in the I in
19 Government's Exhibit 3 is the area that was identified, and
20 it is also the same defects that I found in the -- in my
21 Exhibit 17, which is the Sidortschuk document.

22 Q. I'd like to direct your attention, if I could,
23 Mr. Epstein, to Government Exhibit 45.24, which is your
24 Exhibit 26, which is the service identity pass of Alexandr
25 Solontschukow, and I would ask you if you can find the

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2 A. Yes. This is the stamp that contains the -- the
3 stamp next to Streibel which is located again next to the
4 signature has the same bulging area and also has that
5 defective I next to Trawniki.

6 MR. STUTMAN: Your Honor, if I could trouble
7 you for the Bondarenko card.

8 THE COURT: Here it is.

9 MR. STUTMAN: Thank you.

10 A. Your Honor, here, that will be a more clearer picture
11 of that defect.

12 THE COURT: All right. Fine.

13 Q. Mr. Epstein, you have the original of Government's
14 Exhibit 45.17, which is the card of -- service identity
15 pass of Bondarenko, and do you see a Zweigstelle Trawniki
16 stamp on that document?

17 A. Yes, I do.

18 Q. Can you tell me whether that stamp resembles the
19 stamp that is over the photograph on card 1393?

20 A. Yes. This is, again, the stamp that has those two
21 defects in it. Those defects were pointed out in my notes
22 in 1981. They do appear in those notes, the same defects.

23 Q. Now, Mr. Epstein, Mr. Tigar asked you a large number
24 of questions about staple holes in photos or on identity
25 passes. Do you recall that line of questioning?

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Epstein - Redirect

1 A. I do.

2 Q. Did the defense ever ask you to look for staple
3 holes?

4 A. They did not.

5 Q. Did the defense ask you to conduct any sort of
6 examination at all on their behalf?

7 A. They did not.

8 MR. STUTMAN: One moment, Your Honor.

9 THE COURT: All right.

10 (Pause.)

11 MR. STUTMAN: Your Honor, would it be
12 possible for us to break at this point?

13 THE COURT: Break?

14 MR. STUTMAN: For the day.

15 THE COURT: For the day?

16 MR. STUTMAN: Yes.

17 THE COURT: Are you finished with this
18 witness?

19 MR. STUTMAN: No, Your Honor. I'm not sure.
20 It's possible that I could be. If Your Honor would like me
21 to finish with this witness --

22 THE COURT: I'd rather you finish with
23 Mr. Epstein so he can go home.

24 (Pause.)

25 MR. STUTMAN: Thank you, Mr. Epstein.

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Epstein Recross

1 MR. TIGAR: Your Honor, I have three
2 questions limited to what he asked about those three
3 documents, if I may.

4 THE COURT: All right.

5 MR. TIGAR: Thank you, Your Honor.

6 RE-CROSS-EXAMINATION OF GIDEON EPSTEIN

7 BY MR. TIGAR:

8 Q. Please, sir, look at your Exhibit Number 17, which is

9 Government's Exhibit 45.12, the Sidortschuk.

10 A. I have that.

11 Q. Now, there, you notice that the Zweigstelle Trawniki

12 stamp appears both over the photograph and next to

13 Streibel's signature, do you see that?

14 A. This one here?

15 Q. You are holding up the enlargement. Let me show you

16 what I have, just a copy. Do you see it here by the

17 picture and then here by the signature?

18 A. Right.

19 Q. The same stamp?

20 A. Right. It appears in two places.

21 Q. The same stamp?

22 A. Right.

23 Q. Now please look at Government's Exhibit 3.

24 A. That's not the same stamp.

25 Q. Not the same stamp.

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1 A. A different stamp appears on the front.

2 Q. On the front. And then finally with respect to the
3 Bondarenko card that we were shown, which is your number
4 60, Government 45.17, I just notice, I don't see a picture
5 on that one.

6 A. There's no picture on that.

7 Q. And that was the way it was when you got it?

8 A. Yes.

9 Q. Do you have, based on your experience, any
10 explanation within the realm of your expertise as to why
11 one pass would have the same stamp in two locations and
12 another pass would have different stamps?

13 A. I believe there was more than one way of issuing
14 them. Sometimes they were stamped twice and sometimes they
15 weren't. There was no uniformity, I don't believe. I mean
16 sometimes the stamp on the front was not necessarily the
17 same stamp that appeared over the photograph, and as far as
18 the photograph being off, a number of exhibits that I've
19 seen in the years show that the glue, after a certain
20 number of years, just gave way and the photographs came
21 off.

22 Q. One last question, and that is, you testified on
23 redirect about erasures. You've seen a lot of erasures,
24 correct?

25 A. I have.

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Epstein Recross

1 Q. And they looked like they were made at the time,
2 correct?

3 A. They looked like they were made at the time that the
4 document was made.

5 Q. Did they seem to predominantly happen when the typist
6 is trying to do the name?

7 A. The name certainly had more of the erasures than
8 other parts.

9 MR. TIGAR: No further questions.

10 THE COURT: You may step down.

11 THE WITNESS: Thank you.

12 (Witness excused.)

13 MR. STUTMAN: Your Honor, Mr. Epstein wants
14 the know whether as part of the record the Court would like

15 the original photographs.

16 THE COURT: Is this his original book?

17 MR. STUTMAN: This is the book of his
18 original photographs. If the Court would like them, he's
19 perfectly willing to leave them. He would just like to
20 take the negatives.

21 THE COURT: Okay. That would be a good idea,
22 and we can make sure they get back to you when we are
23 finished.

24 THE WITNESS: All right. Thank you.

25 MR. STUTMAN: We also have, Your Honor, one

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1 more original service identity pass.

2 MR. TIGAR: Through the Court to counsel,
3 will this be marked then as a Government Exhibit or is this
4 the original something that is already marked as an
5 exhibit.

6 MR. STUTMAN: It's an original something

7 already in.

8 THE COURT: Already marked?

9 MR. STUTMAN: Yes.

10 THE COURT: What is it marked as?

11 MR. STUTMAN: Excuse me, Your Honor. It is
12 Government's Exhibit 45.11.

13 THE COURT: 45.11? All right.

14 MR. TIGAR: In chambers today government
15 counsel said these originals have come and must go back. I
16 would like at least overnight to confer with our team. I
17 don't think we are going to have any objection to that. I
18 mean I've had a chance to talk to Mr. Epstein. Mr. Stewart
19 and Mr. Smith will be here, I think, but --

20 THE COURT: I think Mr. Stutman said they had
21 to go back at the end of the week.

22 MR. STUTMAN: The cards can stay. We have --
23 how shall I put this -- acquired them until this Court
24 decides that we don't need to keep the originals here.

25 THE COURT: Okay. What has to go back?

1 MR. STUTMAN: We have the -- well,
2 Mr. Drimmer, if it's all right with you, Mr. Drimmer will
3 speak.

4 MR. DRIMMER: Your Honor, we have three
5 documents from Germany, from an archive in Germany, and
6 those are the ones that have to go back. And we also have
7 the Lithuanian documents that I believe Mr. Tigar was
8 questioning Mr. Epstein about earlier. Those have to go
9 back, and I think the day is either the 30th or the 31st.
10 I believe it's the 31st, but I will verify that this
11 evening and let Your Honor know tomorrow morning.

12 THE COURT: We have not seen those documents
13 yet, right?

14 MR. DRIMMER: You've seen one of the
15 documents, that is Government's Exhibit 4, which is the
16 Lithuanian document. Mr. Tigar did question Mr. Epstein
17 about it. Your Honor I don't believe has seen that. The
18 three documents from Germany Your Honor has not seen. I
19 don't believe that they have --

20 THE COURT: Has Mr. Tigar seen them?

21 MR. TIGAR: I don't know that I've seen the
22 ones from Germany or not, Your Honor. I can't make a
23 representation. The Lithuanian one that I was talking to
24 Mr. Epstein about, we did see. I met with Mr. Demarcos,
25 the Lithuanian guy, and we would like overnight to take a

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1 position about how long we would like that held.

2 There are some observations I want to have a
3 chance to make about them to the Court. Once I've made
4 them and the Court has seen the document, I think that will
5 be all right.

6 THE COURT: It's not going anywhere
7 overnight.

8 MR. DRIMMER: The defense did see all three
9 of these original documents from the German archive.

10 THE COURT: All right. Do you have another
11 witness you are ready with?

12 MR. STUTMAN: If it would be okay with the
13 Court, we would like to wait until tomorrow morning.

14 THE COURT: Okay. But let's try to arrange
15 it so that we keep going at least until 4:30 so we don't
16 take too long.

17 MR. STUTMAN: Okay. Fine.

18 THE COURT: We will reconvene at 9:00
19 o'clock. Does anybody know where we are going to be yet?
20 Hang on a minute. We may have to change courtrooms.

21 (Pause.)

22 THE COURT: All right. We will reconvene
23 tomorrow morning in the west courtroom on the third floor.

24 MR. DRIMMER: Your Honor, if I may make one
25 request. We were hoping to keep the last of the original

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1 Trawniki cards in the Court's safe with the other cards
2 that you have.

3 THE COURT: That's all right.

4 MR. TIGAR: We would join in that
5 application, Your Honor, that they be --

6 THE COURT: This is one. I don't know where
7 the other one is.

8 MR. DRIMMER: Your Honor, I stand corrected.
9 Your law clerk has advised that we are taking these back.

10 THE COURT: All right. That's fine. I don't
11 know that we even have a court safe here for exhibits.

12 THE CLERK: Ordinarily we leave them in
13 counsel's safekeeping until the case goes for deliberation.

14 MR. DRIMMER: That would be fine, Your Honor.
15 I just wanted to --

16 THE COURT: All right.

17 (Trial adjourned at 4:10 p.m.)

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I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

Bruce A. Matthews, RDR-CRR Date

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