

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA, Case No. 1:99CV1193
 Cleveland, Ohio
 Plaintiff, Tuesday, June 5, 2001
 9:00 a.m.

vs.

JOHN DEMJANJUK,
a/k/a IWAN DEMJANJUK,

Defendant.

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

BENCH TRIAL
VOLUME 5

APPEARANCES:

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

For the Defendant: Michael E. Tigar, Esq.
 John H. Broadley, Esq.

Court Reporter: Bruce A. Matthews, RDR-CRR
 United States District Courthouse
 201 Superior Avenue
 Cleveland, Ohio 44114
 (216) 685-9949

Proceedings recorded by mechanical stenography, transcript
produced by computer-aided transcription.

Sydnor Cross

1 MORNING SESSION, MONDAY, JUNE 5, 2001 9:05 A.M.

2 THE COURT: Mr. Stutman, we are glad to see
3 you with us again.

4 MR. STUTMAN: Thanks, Your Honor.

5 THE COURT: Go ahead.

6 MR. TIGAR: Thank you, Your Honor. Good
7 morning.

8 CROSS-EXAMINATION OF CHARLES W. SYDNOR, JR. (Resumed)

9 BY MR. TIGAR:

10 Q. Dr. Sydnor, when we finished up on Friday, we were
11 talking about some methodological questions. Now, in your
12 direct examination, sir, you told us about wartime
13 documents that contain a name like Demjanjuk, correct?

14 A. Yes, sir.

15 Q. And there are seven of those?

16 A. Yes, sir.

17 Q. And in your opinion, the first in time is
18 Government's Exhibit 3; is that correct?

19 A. If that is the --

20 Q. That's the card, the service pass.

21 A. Yes, sir, I believe that's the first one
22 chronologically.

23 Q. In your opinion, sir, if number 3 does not refer to
24 or describe, is not the card of, the man on trial here,
25 then the other six aren't either; is that right?

Sydnor Cross

1 A. Let me answer by making certain we're talking about
2 the same document. Number 3 would be the --

3 Q. Let me not be other than completely careful. May the
4 witness be shown the exhibit books, please, the first one
5 that has the -- exhibit book one.

6 Doctor, if at any time I ask a question about
7 a document and you want to look at it, please let me know.

8 A. Yes, sir.

9 Q. We won't load you up with all the books until we see
10 if we need them.

11 All right. Turn, please, to Government's
12 Exhibit 3 and tell us whether or not that is the service
13 pass.

14 A. Yes, sir. Government's Exhibit 3 is the service
15 identification pass number 1393.

16 Q. And if 1393, as described on that pass, is not John
17 Demjanjuk, the defendant now on trial, then none of the
18 other government exhibits refer to him either, is that
19 correct? Would you agree with that?

20 A. Yes, sir, I would have to agree to that.

21 Q. Now, in addition to service passes and personalbogens
22 or personnel files, there were things called pay books,
23 weren't there?

24 A. Yes, sir.

25 Q. And those are different from service passes and

Sydnor Cross

1 personnel files?

2 A. Yes, sir. If I may explain, the pay books referred
3 to here are Waffen SS pay books that are issued to men, not
4 all of the men, but a number of men who had served in the
5 Trawniki system after those men were moved from the system
6 at Trawniki into the concentration, the regular
7 concentration camp guard formations.

8 Q. And in fact, sir, in the Flossenburg list,
9 Government's Exhibit 6, there's a reference to pay books,
10 is there not, the 133 pay books?

11 A. Yes, sir.

12 Q. Now, have you ever seen any of those pay books?

13 A. I have seen one pay book, one Waffen SS pay book that
14 is in this collection of SS records from Flossenburg that
15 survived. It's in the German National Archives in Berlin.
16 It's the pay book -- it's in my notes that I made last
17 November when I was in Berlin, but it's just this one from
18 Flossenburg.

19 Q. And is that a pay book for a Ukrainian-sounding
20 person?

21 A. No, sir.

22 Q. Is it a German?

23 A. Yes, sir, he's a German.

24 Q. So you've never seen a pay book for a Ukrainian
25 Trawniki-trained person; is that correct?

Sydnor Cross

1 A. That's correct, sir, I have not.

2 Q. And therefore, you've never seen one for someone
3 named Demjanjuk?

4 A. That's correct.

5 Q. In addition to pay books, there was a card file at
6 Trawniki, was there not?

7 A. Yes, sir.

8 Q. And that was established by a man named Leonhardt,
9 correct?

10 A. That's correct.

11 Q. Leonhardt arrived at Trawniki about when?

12 A. According to his post-war testimony, and I don't
13 recall whether this was in a deposition or in a trial, I
14 believe it was a deposition or an interview --

15 Q. Have you seen that, a transcript of that?

16 A. Yes, sir.

17 Q. Was that in 1973?

18 A. I believe he identified for the state judicial
19 authorities, identified the date of his arrival as the 18th
20 of June, 1942.

21 Q. And when he arrived at Trawniki in June of 1942,
22 according to your best recollection --

23 THE COURT: Who is he?

24 MR. TIGAR: Leonhardt. I'm sorry, Your
25 Honor. I left out a term.

Sydnor Cross

1 Q. Who is Leonhardt? He gets there in 1942. Who is
2 he? This is important. Please tell us.

3 A. Your Honor, Helmut Leonhardt is a police official who
4 had been a reserve precinct captain, and I believe his home
5 city was Cologne in Germany, who had been sent to the
6 Government General of Poland as several thousand other
7 regular German order policemen were in 1940 and '41. And
8 he was posted to the SS training camp at Trawniki, and when
9 interviewed by the commandant, Karl Streibel, the group of
10 men with whom Mr. Leonhardt arrived were asked by Streibel
11 if anybody there would volunteer for office duty and if any
12 of them could type. And since Mr. Leonhardt knew how to
13 type, according to his post-war testimony, he spoke up and
14 he went to work in the camp personnel office. It's part of
15 the Trawniki camp.

16 Q. This is 1942, correct?

17 A. This is June, mid June, 1942. His superior was the
18 director of the camp personnel office, also a policeman
19 whose name was Albert Drechsel, D R E C H S E L. And this
20 office, among other things, was responsible for maintaining
21 the personnel records and the biographical information on
22 the men who were being processed into the Trawniki system.

23 Q. And according to Leonhardt's statement, when he
24 arrived in mid June, he found the Trawniki records in total
25 chaos, quote, total chaos, close quote; is that right?

Sydnor Cross

1 A. Yes, sir, you're right.

2 Q. And you cite that in your report?

3 A. Yes, sir.

4 Q. Now, in this mid 1942 period when this German SS man
5 found these records in total chaos, he either established
6 or started working on a card file; is that correct?

7 A. Yes.

8 Q. The card file was designed to show who arrived and
9 who was posted to various places and other administrative
10 details, correct?

11 A. Yes, sir. It was a way for Mr. Leonhardt and his
12 superior, Drechsel, to keep track of who in the system was
13 where at any given time.

14 Q. And the card file has apparently not survived; is
15 that right?

16 A. I have never seen an example out of a card file, and
17 to the best of my knowledge, the card file did not survive
18 the war.

19 Q. And just to complete, therefore, you have never seen
20 any reference to anyone named Demjanjuk in any such card
21 file, correct?

22 A. That's correct, sir.

23 Q. I want to talk a little bit about peer review.
24 You've testified for OSI in about how many cases?

25 A. I should have counted since you asked me that the

Sydnor Cross

1 first time, but I haven't. I believe this would be maybe
2 the 17th instance.

3 MR. DRIMMER: Excuse me, Your Honor, I think
4 we did this in the voir dire.

5 THE COURT: Well, that may be, but it's not
6 that out of order here.

7 Q. Were any of your reports ever sent out to other
8 nongovernment employee historians for peer review?

9 A. Not to my knowledge, no, sir.

10 Q. After Demjanjuk 1 in which the denaturalization was
11 set aside, do you know whether the OSI reviewed its
12 procedures with respect to historians who were going to
13 present reports in court?

14 A. No, sir, I do not.

15 Q. You were never a part of any such review, is that
16 right?

17 A. No, sir, I was not.

18 Q. In this case, you testified on voir dire that you had
19 spent about 107 days, is that correct?

20 A. Yes, sir.

21 Q. When did you spend your first day?

22 A. The first day? Gosh, it would have been -- this was
23 informally. It would have been sometime in, sometime I
24 believe in the summer of 1999 maybe, summer or early fall
25 of 1999.

Sydnor Cross

1 Formally I started to work reviewing
2 documents in the matter sometime in I guess mid to late
3 January of 2000, about 16, 17 months ago.

4 Q. When did you start counting your 107 days?

5 A. I started counting the 107 days as of January, 2000.

6 Q. So let's start in January of 2000. Your testimony
7 was you've only been paid for 30 of them or will be paid
8 only for 30?

9 A. Well, let me make that complete. My estimate now is
10 that I will be paid for a total of 30 days in this calendar
11 year by the time this is over. I believe I was paid for
12 about 15 days in the year 2000. So the complete estimate
13 would be a total of a maximum of about 45 days.

14 Q. And do you have a written contract that retained you?

15 A. Yes, sir.

16 Q. Did that contract provide procedures or set out
17 procedures you were to use in doing your work?

18 A. Not procedures. The contract has -- the contract, I
19 believe, has three categories that are entered for purposes
20 of compensation: Documents review, trial preparation and
21 court time. But it's an agreement, it's called an expert
22 witness agreement which I believe is a standard form that
23 the Department of Justice uses. There are no procedures
24 spelled out in it.

25 Q. In your first report that was filed in the fall of

Sydnor Cross

1 last year, you have 390 footnotes, is that correct?

2 A. If you say so, yes, sir, I believe that's right.

3 Q. And your footnote cites, in addition to secondary
4 sources, are archival materials, right?

5 A. That's correct.

6 Q. What proportion would you say of those archival
7 materials did you examine in the original archives where
8 they are now kept?

9 A. I'm not sure what proportion, but in this matter --
10 because I'd have to go back and calculate the things that
11 are in there in German documents that I had seen earlier in
12 my career in archives, particularly the materials that are
13 in the first part of the report that deal with the
14 background of the concentration camp system in the period.

15 Now, I didn't see the Trawniki card in an
16 archive, of course, because that came from Israel, but in
17 the FSB Archive in Moscow, I saw the Sobibor roster, the
18 Flossenburg roster, and a pretty substantial body of
19 additional material in both the 20869 and the K 779
20 collections, and in the German National Archives in Berlin,
21 I saw the folder containing all of the materials that were
22 first cited in the original version of the report that was
23 sent to you in September.

24 But other than Moscow and other than Berlin,
25 the other documents that are cited are documents that came

Sydnor Cross

1 out of archives and that I examined in the United States
2 after they had arrived here. So the fairest answer to your
3 question would be a relatively small percentage of the
4 documents that have been examined out the total volume of
5 documents that have been examined in this matter were
6 examined in the archives where they originally were housed.

7 Q. Did you participate in formulating any requests to
8 foreign archival agencies for documents?

9 A. In the broad sense, yes, sir, I did, both from Moscow
10 and Berlin. Before I -- as I was preparing for those two
11 trips, I asked the historians in the office to make certain
12 that there would be no problems with access to things in
13 the collection that we either already had in certified
14 copy, and in the case of the Flossenburg documents, the
15 folder, which I believe is 420, that contained the exhibits
16 that are listed here.

17 So in the case of Moscow and Berlin, yes,
18 sir, I was involved in the --

19 Q. The documents that you examined not in the original
20 archives, where were they, at the Department of Justice?

21 A. By last July, I believe, within a month or so after
22 my return from Moscow, all of the documents that I had up
23 until that time and then all of the documents that I
24 subsequently received came through the OSI office in
25 Washington and came to me at my office in Richmond,

1 Virginia.

2 Q. Now --

3 A. The answer to your question would be I worked on the
4 documents both in my office in Richmond, Virginia, and at
5 OSI in Washington.

6 Q. Now, looking to the standards used by historians, I'd
7 like you to imagine that you are president of a college,
8 which you were, correct?

9 A. Yes, sir.

10 Q. And a researcher came to you and said, "I'm going to
11 do a research project, and there's a party, a corporation
12 that's very interested in the outcome. I'm going to get
13 the majority of the documents I'm going to use for my
14 research from them, the interested party, and I'm only
15 going to do original archival research in maybe two of the
16 dozen archives where relevant documents might be found."

17 What comments would you make to that young
18 scholar about that sort of a research plan?

19 A. I suppose the comments I would make, Mr. Tigar, would
20 be, one, if the scholar felt that the endeavor was
21 important to proceed with it; two, to try to use his or her
22 best judgment to make certain that the materials they were
23 going to review were carefully scrutinized to the best of
24 their ability, and whatever conclusions they drew about
25 them were based on their best knowledge as a scholar, their

Sydnor Cross

1 best judgment, because there is, of course, a potential
2 question involving materials in a matter when the documents
3 come through, as you described it, an interested party.

4 Q. In your conversations about this case with the
5 government lawyers --

6 A. Yes, sir.

7 Q. -- did you ever have any discussion about what led
8 to the mistake the first time?

9 A. The answer is yes in the sense of the problem of
10 relying on post-war eyewitness testimony, particularly
11 survivor testimony.

12 Q. And that's the only kind of discussion you remember
13 having?

14 A. Yes, sir.

15 Q. Now, you said you spent 107 days on this project
16 beginning January, 2000. In addition to that, over the
17 last 18 months, you have been the president of a TV
18 station, correct, or a TV organization?

19 A. Well, it's a TV corporation that owns the group.
20 It's a broadcast group company, yes, sir.

21 Q. And how many employees are under your supervision in
22 that company?

23 A. About 200.

24 Q. And do they regard that as a full-time job, your
25 employers?

Sydnor Cross

1 A. Yes, sir.

2 Q. In addition to that, have you produced any television
3 programs during this time?

4 A. No, sir, I haven't been involved directly in
5 production of any programs since -- I'm trying to think of
6 the last. The last program I served as an executive
7 producer for was the first episode in a series of programs
8 on the history of Virginia.

9 Q. Did you record or host television programs during
10 this time?

11 A. Yes, sir.

12 Q. Did you write any articles during this time?

13 A. Yes, sir.

14 Q. Being head of this station or this PBS outlet is a
15 difficult job, isn't it?

16 A. It's pretty challenging, yes, sir.

17 Q. And I mean you have to be under virtually constant
18 assault from the shrillest of the self-styled proponents of
19 family values, don't you?

20 A. I believe that is something that is in an e-mail that
21 I sent you, yes, sir.

22 Q. Yes, sir, that's what you say. You said the
23 shrillest of the self-styled. Doctor, does everybody who
24 disagrees with you, are they shrill?

25 A. No, sir.

Sydnor Cross

1 Q. All right. Now let's look at this question then of
2 documents. We talk about the sources of documents. If you
3 see something that's an authorized biography, do you want
4 to look more carefully at it to make sure that the author
5 has not been co-opted by the subject?

6 A. Yes, sir.

7 Q. And in this case, you've testified about a number of
8 archives. You went to the one in Moscow, right?

9 A. Yes, sir.

10 Q. Did you go to the trophy document archive in Moscow
11 to do research?

12 A. Yes, sir. It's now called the archive, the Russian
13 State Military Archive I think is the title now.

14 Q. So you've done research in two Moscow archives,
15 right?

16 A. Yes, sir.

17 Q. You did research in the Bundesarchiv in Berlin?

18 A. Yes, sir.

19 Q. Did you go to the Majdanek archive?

20 A. No, sir, I did not.

21 Q. Did you go to the Kyiv archive?

22 A. No, sir.

23 Q. Did you go to the Uzbekh archive?

24 A. No, sir.

25 Q. So the only ones you've been to are Moscow, the two

Sydnor Cross

1 there, and one in Berlin, correct?

2 A. Correct.

3 Q. Now, if I were going to peer review your work, the
4 first thing I would want to do is to find someone who is
5 just as smart as you, correct?

6 A. Yes, sir.

7 Q. And who preferably had a Ph.D., correct?

8 A. Yeah, I suppose so. I mean that's not always a
9 useful yardstick, but generally. I think you would want to
10 find somebody who was conversant with the field and
11 knowledgeable with the context.

12 Q. You want somebody who had experience in archival
13 research, correct?

14 A. Yes, sir.

15 Q. And particularly -- and who spoke German?

16 A. Yes, sir.

17 Q. Preferably who also spoke Russian, correct?

18 A. Yes, sir.

19 Q. Or else who had access to a translator, correct?

20 A. Who had access to a translator or access to authorize
21 translations or certify translations of the documents.

22 Q. And we would want that person to visit the Moscow
23 archives personally, correct?

24 A. I would say -- well, with the advent of microfilm and
25 the use of materials by scholars in modern German history

Sydnor Cross

1 since the 1960s, archival research in an archive is always
2 helpful, is always preferable if you can do it, but it is
3 not the kind of be all and end all I think that it was when
4 the men who trained me in graduate school had done archival
5 research in European history.

6 The best example I can give is --

7 Q. I don't need an example. You've answered the
8 question.

9 A. Okay. Sure.

10 Q. Now, with respect to that Russian state archive, did
11 you actually go into the stacks of the archive and look at
12 documents or did they provide documents that you had asked
13 them for?

14 A. They provided documents that we had requested in
15 advance.

16 Q. And do you know whether or not an archivist who is in
17 private practice, let us say, can walk in the front door
18 and just visit those archives at will?

19 A. Are we talking about the Russian State Military --

20 Q. The Russian state archive.

21 A. The FSB Archive or the Russian State Military
22 Archive?

23 Q. The FSB.

24 A. The FSB Archive. I'm not aware of anyone who can
25 just walk in off the street and either use the records or

Sydnor Cross

1 gain access to what archivists would call the magazine.

2 That's where the records are actually housed.

3 Q. So we would want somebody who had some kind of way to
4 get access to those documents through the Russians,
5 correct, to review your work?

6 A. You would want somebody, if you want the archival
7 research, you have to have somebody who can get access to
8 the archive. In all the years I've done archival research,
9 I have never been able to get access to the magazine, that
10 is, open access to the stacks where the records are
11 actually housed. I have to request them, and then the
12 records are brought to the reading room, where I examine
13 them.

14 Q. So our hypothetical person who is going to grade your
15 paper ideally should travel to Moscow and Berlin, at least,
16 and perhaps Kyiv, correct?

17 A. Yes, sir, if that's possible.

18 Q. Would you recommend that person also travel to Tel
19 Aviv?

20 A. If possible, yes, sir.

21 Q. And do you have any idea --

22 A. Actually not Tel Aviv, Jerusalem, I believe.

23 Q. Do you have any idea what it would cost in travel
24 expenses to have somebody do that, to be able to follow
25 around and grade your paper?

Sydnor Cross

1 A. The bill would be pretty substantial if you went to
2 Berlin, Moscow and Jerusalem.

3 Q. Do you think that it would be -- that that would be
4 the fairest way to grade your paper, is to have that
5 expenditure and have somebody look at your work from a
6 different perspective by visiting those archives?

7 A. Yes, sir, I think that would be fair.

8 Q. Now, when we were here on Friday you were talking
9 about Sobibor, and I just wanted to ask you one question
10 about that. Do you remember a name of someone called
11 Pechersky out of Sobibor, a Soviet?

12 A. It doesn't come to mind immediately, no, sir.

13 Q. Well, you testified, sir, on Friday that there was an
14 inmate uprising at Sobibor, do you remember that?

15 A. Yes, sir, that's correct.

16 Q. And does that refresh your recollection about who
17 Pechersky is?

18 A. I believe he was the Soviet POW who was directly
19 involved in organizing the inmate uprising in Sobibor.

20 Q. I'm pronouncing the name wrong, I think it's
21 Pechersky?

22 A. Pechersky, yes, sir.

23 Q. That uprising took place the afternoon of October 14,
24 1943, did it not?

25 A. Yes, sir.

Sydnor Cross

1 Q. And it was preceded by this Soviet POW carefully
2 studying how the guard system worked at Sobibor, correct?

3 A. Among other things, yes, sir.

4 Q. And he was able to note details such as the passing
5 of rounds of ammunition to guards, correct?

6 A. Yes, sir.

7 Q. And on that day, the inmates rushed to the barbed
8 wire and at the end of that fray, nine SS men and two
9 collaborators lay dead, correct? Do you accept that?

10 A. I believe that's accurate, yes, sir.

11 Q. And I am doing my research in a book called The
12 Destruction of the European Jews by Raul Hilberg.

13 A. Yes, sir.

14 Q. Is he an eminent historian?

15 A. Yes.

16 Q. Would you characterize him as perhaps the most
17 eminent historian of the Holocaust period?

18 A. I'm not sure I would use the absolute superlative.
19 The issue, I think, only being that -- and I believe you
20 are using the three-volume revised edition that was
21 published in 1985, or is that the abridged college edition?

22 Q. No, I have with me the three volume edition.

23 A. The three-volume edition. Without criticizing
24 Professor Hilberg, since the publication of the revised
25 edition of The Destruction of the European Jews in 1985,

Sydnor Cross

1 there has been a good deal of additional research, and the
2 scholarship in some respects I think has gone beyond what
3 he had done.

4 Q. But his account of the Sobibor uprising is accurate,
5 correct?

6 A. I believe it's generally accurate, yes, sir.

7 Q. Looking down to this uprising, a number of -- there
8 were about how many people survived Sobibor?

9 A. Initially?

10 Q. At the end of the war, how many Sobibor people that
11 had been inmates were alive at the end of the war?

12 A. I would say somewhere between 50 and 100.

13 Q. Do you know whether or not the United States
14 Government ever asked those people if they could recognize
15 anybody who looked like the John Demjanjuk who is on trial
16 here?

17 A. I don't believe the United States Government has ever
18 asked anybody that.

19 Q. Do you know whether any document asked those people
20 whether they recognized anybody who looked like John
21 Demjanjuk?

22 A. No, sir, I don't believe any government ever asked
23 anybody that.

24 Q. As you sit there today, that's your best
25 recollection?

Sydnor Cross

1 A. That's my best recollection. I don't recall any -- I
2 don't recall any post-war legal proceedings or any post-war
3 interviews of Holocaust survivors that focused on that
4 subject, no, sir.

5 Q. Just to complete this line, no one from the United
6 States Government ever showed you any evidence that any
7 person had been asked that kind of question, correct?

8 A. No, sir, I don't believe I've ever been shown any
9 evidence like that.

10 Q. Now, do you remember being asked about something to
11 do with this case in 1980?

12 A. In 1980?

13 Q. Did somebody named David Marwell call you about a
14 tattoo?

15 A. I don't believe in 1980, no, sir. I don't remember
16 in 1980. I mean, I've known David Marwell since 1975,
17 since he was a graduate student, and he was one of the
18 first two original staff historians at OSI. And he was the
19 last director of the Berlin Document Center as a state
20 department repository.

21 And sometime in the '80s, I talked to David
22 Marwell about the subject of SS tatoos, but I don't
23 remember exactly specifically when it was.

24 Q. Let me show you Defense Exhibit D 4 and ask you if
25 that refreshes your recollection about a conversation you

Sydnor Cross

1 had with Mr. Marwell in or about March and April, 1980.

2 A. Well, you're right, I did. This is dated April 1,
3 1980.

4 Q. I'm not asking you to accept the truth of the
5 document, sir. I'm asking you if, having looked at that,
6 that refreshes your recollection?

7 A. I did.

8 Q. At that time do you remember now that he asked you
9 about tatoos that were administered?

10 A. Yes, sir, he did.

11 Q. And do you remember telling him that the absence of a
12 blood type tattoo would not be proof that a Ukrainian had
13 not been a member of the SS militia?

14 A. That's true.

15 Q. Do you remember saying to him that it was unlikely
16 that Ukrainian SS militiamen or guards should have received
17 these tatoos as a result of their SS association?

18 A. Yes, sir.

19 Q. Now, sir, I'd like you to turn to Government's
20 Exhibit 5 -- excuse me. Before we do that, you're aware of
21 the risks of making accusations based on archival records,
22 correct?

23 A. Yes, sir.

24 Q. And as a historian, you've studied the misuse of
25 archival records in modern American history, have you?

Sydnor Cross

1 A. I'm not sure I'm following you.

2 Q. Well, are you familiar with Senator McCarthy's speech
3 in Wheeling, West Virginia in 1950?

4 A. No, sir. I'm not.

5 Q. You never studied that when he said he had 54 files
6 of people in the state department?

7 A. I've never studied the speech, no, sir. I think I've
8 seen newsreel film of the speech. Is this the waiving of
9 the piece of paper in front of the camera speech?

10 Q. If it's not something you studied, I won't ask you
11 about it.

12 A. Okay.

13 Q. I want to ask you now to turn to Government's
14 Exhibits 5 and 6 in the book before you. First let's do
15 Number 5. That is a list that relates to Sobibor, correct?

16 A. Yes, sir.

17 Q. As you've testified. And number 6, that relates to
18 Flossenburg, correct?

19 A. That's correct.

20 Q. Now, I want you first to look at Government's Exhibit
21 5, page 3, Iwan Shukow, S H U K O W.

22 A. Yes, sir.

23 Q. His date of birth is dated as 29 June 1915, is that
24 correct?

25 A. Yes, sir, that's correct.

Sydnor Cross

1 Q. Government 6, page 6, Iwan Shukow, look at that.

2 A. Government 6, page 6, which would be the

3 Flossenburg --

4 Q. Number 48. Yes.

5 A. The Flossenburg transfer authorization, number 48.

6 Q. Shukow?

7 A. Yes, sir.

8 Q. And that has his birth date as 29 July, correct?

9 A. Yes, sir. The date of birth listed on Exhibit 6,
10 which is the Flossenburg transfer authorization, is 29 July
11 1916.

12 Q. So that's different, right?

13 A. It is different than Government's Exhibit 5, which
14 lists the date of birth as 29 June 1916.

15 Q. Now, would you look at Government's Exhibit 5, page
16 4, look for number 36, Reschetnikow.

17 MR. DRIMMER: Before you go, could you point
18 out what entry number that is on 6, because I'm not finding
19 it.

20 MR. TIGAR: Entry number on 6?

21 MR. DRIMMER: Yes.

22 MR. TIGAR: I asked him 5.

23 MR. DRIMMER: I also thought you asked him on
24 Government 6 where Shukow was. I'm not finding it on 6.
25 I'm sorry.

Sydnor Cross

1 MR. TIGAR: Well, I might have the wrong
2 page. I'm sorry, Shukow is on page 4 of the translation,
3 number 48.

4 MR. DRIMMER: Thank you.

5 BY MR. TIGAR:

6 Q. Now let's go to Reschetnikow. And they have a date
7 of birth on Government's Exhibit 5, where he's number 36,
8 of 19 August 1922, correct?

9 A. That's correct, yes, sir.

10 Q. Now would you look at Government's Exhibit 6 and
11 number 59, page 5 of the translation, they have got him on
12 10 March 1923, correct?

13 A. That's correct.

14 Q. And I mean here we've got -- that one is a different
15 day, month and year, correct?

16 A. That's correct, yes, sir.

17 Q. Well, now let's look at Government's Exhibit 5,
18 number 74, Maschtschenko.

19 A. Yes, sir, I have it.

20 Q. And his date of birth there on 5 is 27 November 1915,
21 correct?

22 A. That's correct.

23 Q. Now look at Government's Exhibit 6, number 126,
24 Maschtschenko, and they have got his date of birth 22 May
25 1915, correct?

Sydnor Cross

- 1 A. That's correct.
- 2 Q. And on Number 6, they have got him born in Majorowsk,
3 and in Number 5, they have got him born in Tokari, correct?
- 4 A. That's correct.
- 5 Q. Now let's look at Government 5, number 75, Martynow,
6 M A R T Y N O W. That's number 75.
- 7 A. Yes, sir, I have him. He's on page 8 of the
8 translation of Government's Exhibit 5.
- 9 Q. And his date of birth is, there is 22 May 1915,
10 correct?
- 11 A. Yes, sir.
- 12 Q. And they have got him born in a place I can't
13 pronounce. Can you pronounce it?
- 14 A. No, sir.
- 15 Q. Starts with an M?
- 16 A. Yes, sir.
- 17 Q. All right. Now let's look at Government 6, number
18 127, for that same name, Martynow. The date of birth is
19 the same but it's a different birth place, correct?
- 20 A. Yes, sir.
- 21 Q. Well, now, one more, let's look at Government 5,
22 number 72, Mordwinitschew.
- 23 A. Yes, sir. He's on page 8 of the translation.
- 24 Q. Page 8, yes, number 72. And they have got him born
25 on 1 April 1914 there, correct?

Sydnor Cross

1 A. That's correct, yes, sir.

2 Q. And then on Government 6, page 9, they have got
3 him -- they made him into a Capricorn, they have got him on
4 14 January 1914, correct?

5 A. That's correct, yes, sir.

6 Q. Now, do you have service passes or personnel files
7 for any of these people whose names I've just read?

8 A. I don't recall.

9 Q. We've not been able to find them. Do you recall any?

10 A. I don't recall any, no, sir.

11 Q. Well, you testified on Friday about these lists,
12 these transfer lists. Does anything in the body of
13 documents or interviews that you've seen tell you as a
14 historian how the typist who typed them got the information
15 that was supposed to go on them?

16 A. No, sir.

17 Q. You have no idea?

18 A. Again, I could give you an opinion based on studying
19 this in the context of the Trawniki system, and the --

20 Q. Let me ask you, I'm sorry, I don't mean to
21 misunderstand. I thought you said you didn't have any
22 archival or evidentiary basis to tell us how the typist got
23 the information.

24 A. That's correct.

25 Q. Well, how would you reach a conclusion if you didn't

Sydnor Cross

1 have any archival basis for it?

2 A. Based on the post-war testimony, particularly of
3 Mr. Leonhardt, about the record system and then the typing
4 of information, biographical information that was entered
5 onto the Trawniki service identity passes and the
6 information that was entered onto the personnel sheets at
7 the Trawniki camp, someone in the office or the system
8 either interviewed the people or used identity papers that
9 the POWs brought with them into the camp.

10 Q. I'm not going to interrupt, but I want to say, some
11 people came into the camp without identity papers, correct?

12 A. Yes, sir.

13 Q. And the Germans wouldn't have any way of knowing,
14 would they, whether somebody who brought identity papers
15 had his own or somebody else's, correct?

16 A. You'll have to ask Professor Menning that. I'm not
17 conversant with what sort -- I'm not conversant with the
18 kinds of the identity papers that the Red Army used in '42.

19 Q. You are not in a position to answer that question.
20 Go ahead, your next term in these discussions. This
21 Leonhardt you were telling us about, he's the guy that said
22 the files were in total chaos, right?

23 A. Yes, sir.

24 Q. Keep going, please.

25 A. So based on an interview or whatever information, if

Sydnor Cross

1 any, that a recruit had with him, the person typing the
2 record or the person typing the record assisted by a
3 translator or someone who could communicate with the
4 individual entered the information onto the record.

5 Q. So let's go there. First, there were a lot of Soviet
6 POWs, correct?

7 A. Yes, sir.

8 Q. The Germans killed a lot of them, didn't they?

9 A. Yes, sir.

10 Q. And when the POWs that were going to be selected to
11 be Trawniki guards were being selected, there wasn't
12 anybody, in your opinion, who walked up and down with an
13 Olympia typewriter and typed while facing the person,
14 right?

15 A. No, sir.

16 Q. That picture doesn't fit, does it?

17 A. No, sir.

18 Q. So there has to be some gap, doesn't there, as a
19 matter of common sense, between standing these recruits out
20 there and talking to them and somebody doing the typing,
21 correct?

22 A. That's correct, yes, sir.

23 Q. And you don't know even, based on what Mr. Leonhardt
24 said, how many steps there were between the talking with
25 the POW's out in the field and somebody typing, do you?

Sydnor Cross

1 A. No, sir, I don't.

2 Q. I'm sorry, you were wanting to explain to us based on
3 your opinion. I don't want to cut you off. I want to be
4 fair.

5 A. I'm trying to be completely responsive. The
6 conclusions I've drawn, and this is based on what's in the
7 Soviet post-war interrogation protocols, and it has enough
8 of what I call the overlapping cohort of credibility, that
9 is enough people say this in different ways, and based on
10 what I know of how the SS and police officials conducted
11 their, what they call their comb-outs of the Soviet POW
12 compounds, they were looking for people who were
13 potentially dangerous, commissars and Jews, and communists
14 officials, but they were also looking for collaborators or
15 recruits.

16 Q. Let me stop you there. You think that that big
17 interview with everybody standing around there, that's
18 pretty scary, isn't it?

19 A. I'm not really sure that anybody is really
20 interviewed. I mean I think the Germans, particularly in
21 1942, were looking for people who were still in pretty good
22 shape physically or appeared healthy enough to be potential
23 recruits, and simply picked them --

24 Q. I want to stop you. They are looking for people
25 healthy enough?

Sydnor Cross

1 A. Yes, sir.

2 Q. Let's hold that thought a minute. The Ukrainians
3 were untermenschen, weren't they? That's one of only two
4 German words I know. U N T E R M E S C H E N, I think.

5 THE COURT: N S C H E N.

6 Q. There it is. Did the Germans regard the Ukrainians
7 as inferior to them?

8 A. They regarded the Ukrainians as inferior to them, but
9 among the sort of constellation of Eastern European
10 peoples, they were willing to recruit Ukrainians as they
11 were Latvians and Lithuanians.

12 Q. So they were looking for people who were healthy.
13 That's where we cut off.

14 A. Yes, sir.

15 Q. Their primary concern were to get people who were
16 healthy, strong?

17 A. Yes, sir.

18 Q. And willing to follow orders, correct?

19 A. Yes, sir.

20 Q. And the other details were less important?

21 A. Again, in the POW camp, I believe that to have been
22 the case, yes, sir.

23 Q. Now, in the seven documents that we started today
24 talking about, a name like Demjanjuk or Demianiuk is
25 spelled in four or five different ways, correct?

Sydnor Cross

1 A. I believe it's spelled in at least five different
2 ways across those seven exhibits, yes, sir.

3 Q. Does anything in the archival materials tell you how
4 the typist who typed those lists got the spelling of the
5 name?

6 A. No, sir.

7 Q. Because the name differs in these five different
8 formations from the name as it was typed on the service
9 pass, correct?

10 A. Yes, sir, it does.

11 Q. And we don't have the personalbogen, so we can't tell
12 about that, right?

13 A. That's correct.

14 Q. And we don't have a pay book, right?

15 A. That's correct.

16 Q. And we don't have a card file?

17 A. That's correct.

18 Q. So there's some gap, wouldn't you say, between
19 whatever it was that was typed on that service pass and the
20 actual typing of the list or roster, correct?

21 A. Yes, sir.

22 Q. And have you ever played telephone with your kids or
23 somebody says something in somebody's ear, and then it gets
24 repeated and repeated and repeated, and at the end of the
25 line you ask what the person heard?

Sydnor Cross

1 A. Yes, sir.

2 Q. And as a matter of common sense, which is what
3 historians use, in that process of telling from one person
4 to another things get garbled, correct?

5 A. That's true, yes, sir.

6 Q. And again, coming back to Friday, it's easiest, it's
7 easier to garble things if you're doing it in a language
8 that you don't understand, right?

9 A. Yes, sir, that's a fair statement, too.

10 Q. Now, sir, I'd like to place before you, if I may,
11 Government's Exhibit 101.

12 MR. TIGAR: If Your Honor will indulge me for
13 a moment, I have to find a copy.

14 (Pause.)

15 Q. Government counsel has placed their copy in front of
16 you. Thank you very much. And this is a letter of the
17 General Procuracy of Ukraine to the U.S. Embassy, correct,
18 sir?

19 A. Yes, sir.

20 Q. On Friday last you told His Honor that you had no
21 doubts about its authenticity. Do you remember saying
22 that?

23 A. Yes, sir.

24 Q. What do you mean by authenticity in that context?

25 A. Well, this is a letter addressed to the Embassy of

Sydnor Cross

1 the United States of America in Kyiv from the General
2 Procuracy of Ukraine, signed by a gentleman whose name is
3 Kabanets or K A B A N E T S. He is the deputy chief of the
4 Directorate of International Judicial Relations
5 Extradition, and I believe surety, S U R E T Y, part of the
6 last part of the title is obscured by the stamp.

7 Q. Well, when you said authentic, you mean it really did
8 come from a person named Kabanets in the Ukraine, correct?

9 A. Yes, sir, I believe so.

10 Q. Do you have any idea whether it's truthful?

11 A. No, sir, I can't make a definitive conclusion on
12 whether -- do you mean is the information in it accurate?

13 Q. Yes. I mean does anything else you've ever studied
14 or read tell you whether or not the information is
15 accurate?

16 A. No, sir.

17 Q. And you don't know whether Mr. Kabanets is a truthful
18 person or not, correct?

19 A. Correct.

20 Q. Did you write the letter dated 30 March 2001 that's
21 referred to here on page 1?

22 A. No, sir.

23 Q. Did you see that letter before it went out?

24 A. No, sir.

25 Q. Did you ask that it be written?

Sydnor Cross

1 A. No, sir.

2 Q. Well, do you have any idea why the government lawyer
3 would ask you about this document?

4 A. I think I was asked about this document because of
5 the name of the subject that the letter is about, Ivan
6 Andreevich Demjanjuk.

7 Q. That's the only reason you can think of. Did you
8 discuss this document with government counsel before coming
9 to court?

10 A. Yes, sir.

11 Q. With whom did you discuss it?

12 A. With the staff historians -- well, with staff
13 historian Dr. Huebner, and I believe with Mr. Drimmer.

14 Q. And did they tell you anything about it, either of
15 them?

16 A. No, sir. They simply informed me that they had asked
17 for -- they had filed a request in Ukraine for information
18 on a person with this name and they had received this
19 letter, and they gave me the same copy of the letter that's
20 in this folder here.

21 Q. Did they tell you about or show you any other
22 document from the Ukraine that related to the wartime
23 whereabouts of this Ivan Andreevich Demjanjuk?

24 A. The only other piece of information I've seen about
25 this same individual is the piece of information that

Sydnor Cross

1 Mr. Drimmer asked me about, I believe, on Friday.

2 Q. That would be that little card?

3 A. Yes, sir, that little card that has the reference on
4 it to Mr. Litvinenko.

5 Q. Have you ever seen any or been told about any
6 discussion of Ivan Andreevich Demjanjuk by Mr. John
7 Demjanjuk, the defendant on trial here?

8 A. Yes, sir.

9 Q. That was in Mr. Demjanjuk's deposition, Mr. John
10 Demjanjuk's deposition?

11 A. I believe so, yes, sir.

12 Q. Have you ever been shown any statement from a
13 relative of Ivan Andreevich Demjanjuk about his wartime
14 whereabouts other than that deposition of Mr. John
15 Demjanjuk?

16 A. Yes, sir. I was shown another statement again in
17 translation. I do not remember the lady's name, but it was
18 an interview with a lady about a gentleman with the same
19 name as this gentleman here.

20 Q. But the government counsel didn't show you that on
21 direct examination, right?

22 A. I don't believe I was asked about that on direct
23 examination, no, sir.

24 Q. Do you remember what that said, what that lady said?

25 A. I believe the gist of that letter is this lady was

Sydnor Cross

1 interviewed about an individual named Ivan Andreevich
2 Demjanjuk who was from the same village as the Iwan
3 Demjanjuk that we've been talking about here, who was of a
4 different age, who had been away from the village for some
5 time. I believe the individual, Ivan Andreevich Demjanjuk,
6 had been in central Asia after the Second World War, had
7 returned, had been the subject of rumors in the town about
8 his alleged service with the Vlasov Army in the Second
9 World War, had had marital difficulties, and had committed
10 suicide in 1970.

11 Q. Now, do you attach any significance at all to the
12 fact that the Ukrainian Procuracy says they can't find the
13 military records for this fellow Ivan Andreevich Demjanjuk?

14 A. Well, if they can't find military records for him, I
15 would have to conclude that there are no military records
16 within the jurisdictional areas that they are competent to
17 search for the records in.

18 Q. Well, let's examine that.

19 A. If they can't find the records, I guess they can't
20 find the records.

21 Q. Well, do you know what happened to Mr. John
22 Demjanjuk's military records from his service in the Soviet
23 Army?

24 A. No, sir, I don't.

25 Q. Did the government ever tell you what happened to

Sydnor Cross

1 them or whether they could or couldn't be found?

2 A. Let me think back now. I believe I was told some
3 time ago that a request had been made to see if records
4 could be found, but I'm not sure that I had any follow-up
5 to that, and I don't know whether any records ever were
6 found.

7 Q. You've never been shown a document with respect to
8 that?

9 A. I don't believe so, no, sir.

10 Q. And finally, with respect to this Ukrainian
11 Procuracy, does your historical research tell you anything
12 about the reliability of statements that they would make
13 about matters in litigation?

14 A. No, sir.

15 Q. Do you know whether the United States Government was
16 taking an official position in the recent past about the
17 reliability, or lack of, of the Ukrainian Procuracy?

18 A. No, sir, I'm not aware of an official position in
19 that regard.

20 Q. Now, you have Government's Exhibit 3 in front of you,
21 that service pass.

22 A. Yes, sir, I sure do.

23 Q. Now, you are aware that that service pass showed up
24 in the United States sometime in -- is it 1980 it showed up
25 or '81?

Sydnor Cross

- 1 A. I'm not certain, Mr. Tigar. It was either '80 or
2 '81.
- 3 Q. Have you read Allen Ryan's book, Quiet Neighbors?
- 4 A. No, sir.
- 5 Q. Now, before it came -- let's start back. Your
6 opinion is that it was created in 1942, correct?
- 7 A. Yes, sir, I believe it was.
- 8 Q. And that it was created in Trawniki, is that your
9 opinion?
- 10 A. Yes, sir.
- 11 Q. Where was it seized? Do you have any archival record
12 that tells you where it was seized?
- 13 A. No, sir.
- 14 Q. Do you have any archival record that tells you where
15 any of the 39 service passes that you have seen was seized?
- 16 A. Archival record, no, sir.
- 17 Q. You do have statements by people whose service passes
18 you have who admitted service as Trawniki-trained guards,
19 correct?
- 20 A. That's correct, yes, sir.
- 21 Q. That's Mr. Danilchenko is one, correct?
- 22 A. Yes, sir.
- 23 Q. Ignat Danilchenko?
- 24 A. Yes, sir.
- 25 Q. And he's the fellow we talked about Friday who

Sydnor Cross

1 remembers an Iwan Demjanjuk who was already at Sobibor when
2 he got there and who was 187 or so centimeters in height,
3 correct?

4 A. That's correct, yes, sir.

5 Q. We talked about that. But his service pass wasn't
6 seized on him at the end of the war, was it?

7 A. No, sir.

8 Q. Now, these service passes have writing on them in the
9 Russian language, correct?

10 A. That's correct.

11 Q. That's that translator whose name begins with a
12 B-type letter?

13 A. Yes, sir, a junior lieutenant in the MGB, which is
14 the predecessor of the KGB, whose name is Bazilevskaya,
15 B A S I L E V S K A Y A.

16 Q. Now, do you know if the United States ever attempted
17 to contact Bazilevskaya?

18 A. No, sir, I don't.

19 Q. Do you know whether or not the Israelis attempted to
20 contact Bazilevskaya?

21 A. No, sir, I don't.

22 Q. Can you, based on your archival evidence, date the
23 time when Bazilevskaya saw or reviewed these cards?

24 A. Yes, sir, I believe you can.

25 Q. 1948?

Sydnor Cross

1 A. Yes, sir, March of 1948. In the case of the service
2 identity card that bears the identification of 1393, I
3 believe it's a March, 1948 date.

4 Q. So is there any archival record that shows where
5 these passes were between the time they were seized by
6 somebody and 1948?

7 A. No, sir. In the FSB Archive there are only the file
8 memos that summarize the contents of the collection, but I
9 don't recall seeing any information that establishes a
10 chronological pattern of where the documents moved from the
11 time they were seized until the time they ended up in the
12 KGB archive.

13 Q. And these 39 documents that we are talking about,
14 they are all still in that KGB archive that now belongs to
15 Russia, correct?

16 A. That's correct, yes, sir.

17 Q. Now, other documents that you've seen, remember I
18 showed you that book, Government's Exhibit 4 or that
19 Government's Exhibit 4 was in, that big book with the green
20 cover and the red tape on it?

21 A. Yes, sir.

22 Q. That's now housed in Lithuania, correct?

23 A. Yes, sir. I believe that's the Lithuanian Central
24 State Archives in Vilnius.

25 Q. Do you know where the documents in there were seized?

Sydnor Cross

1 Is there any archival evidence that shows you where they
2 were seized?

3 A. No, sir.

4 Q. Is there any archival evidence that shows how a blue
5 folder in the Polish language got put around it?

6 A. No, sir.

7 Q. Is there any archival evidence as to where they were
8 from the time they were seized, in short, to the time they
9 wound up in Vilnius?

10 A. No, sir.

11 Q. Have you ever been to Vilnius?

12 A. No, sir.

13 Q. Did you interview Mr. Domarkos in an attempt to find
14 out where these documents had been all this while?

15 A. If Mr. Domarkos is the gentleman who was here, yes,
16 sir, I talked to him while I was reviewing the document in
17 that folder that you requested me to review on the evening
18 after the first day of the trial.

19 Q. And did he tell you that the document had been in
20 Moscow and then was sent to Vilnius?

21 A. I believe that's what he said, yes, sir.

22 Q. So this is a document that moved from one archive to
23 another, but there's no archival record to show when it was
24 moved and what the motivation was for moving, is that
25 correct?

Sydnor Cross

1 A. That's correct.

2 Q. In addition to the archives that you've talked about
3 to which you have access, are you aware, sir, that a large
4 number of documents or a number of documents with respect
5 to Nazi collaborators are still classified?

6 A. I'm not sure I understand the question. Classified
7 in the United States or classified --

8 Q. Yes, sir, classified in the United States.

9 A. I am aware that there's an enormous volume of
10 material that is in the process of declassification and
11 public release now, yes, sir.

12 Q. And are you familiar with something called the Nazi
13 War Crimes Disclosure Act?

14 A. Generally, yes, sir.

15 Q. And would the purpose of that act be to attempt to
16 get into the public record documents that had remained
17 secret?

18 A. Yes, sir.

19 Q. As a historian interested in this period, do you know
20 or are you aware or not that a number of documents remained
21 secret because the United States did not wish it known the
22 extent to which Nazis had come into this country?

23 A. Yes, sir.

24 Q. And in fact, sir, are you aware that General
25 Eisenhower was told at the end of the war that he had

Sydnor Cross

1 authority to depart from the standards with respect to
2 Nazis and former Nazis coming into the United States?

3 A. I was not aware that General Eisenhower was told
4 that, no, sir.

5 Q. Now, you are not aware then, I just want to make sure
6 of, the May 10, 1945 Joint Chiefs of Staff directive to
7 General Eisenhower on that subject?

8 A. I recall a JCS directive, yes, sir, but I don't
9 recall a paragraph or language in the document to that
10 effect.

11 Q. I'm going to place before you what I represent to be
12 an Internet download of this archive working group, and I'm
13 looking at page 5, and I ask you to read that part I've
14 highlighted and ask you if that refreshes your recollection
15 with respect to that.

16 A. Yes, sir.

17 MR. TIGAR: I'll be happy to make a copy
18 available to the government, Your Honor. I don't think it
19 is required for refreshment of recollection, but I have no
20 problem.

21 MR. DRIMMER: Thanks.

22 A. Reading at the paragraph you have indicated, the
23 next --

24 Q. Sir, it's not in evidence. I just wanted to know if
25 that refreshes your recollection. I'm sorry to do this

Sydnor Cross

1 lawyer stuff to you, but that's what we do.

2 A. That's all right.

3 MR. DRIMMER: What page?

4 MR. TIGAR: I've got page 5 of 21, the
5 paragraph at the bottom. There it is.

6 MR. DRIMMER: 5 of 23.

7 MR. TIGAR: Well, this is a different -- Your
8 Honor, I once again have been foiled by the Internet. I
9 apologize, I apologize. If I may just have a minute to
10 find the document, the place here.

11 MR. DRIMMER: I'll state for the record that
12 I believe that's the reason that Internet evidence is
13 typically inadmissible as hearsay.

14 THE COURT: I don't even believe in the
15 hearsay evidence rule.

16 MR. TIGAR: The problem is we are having --
17 it's the part that says "utilizing Nazis and war
18 criminals." There we go. Different pagination. It's the
19 first paragraph of that part.

20 Q. Does that refresh your recollection about that?

21 A. Yes, sir.

22 Q. All right. So President or General Eisenhower was
23 authorized to let people in for intelligence and other
24 military reasons, correct?

25 A. That would be correct, yes, sir.

Sydnor Cross

1 Q. Now, under that policy that's reflected in that, a
2 lot of Nazis came in, correct?

3 A. I'm not sure how many came in.

4 Q. Some did, correct?

5 A. Some did, yes, sir.

6 Q. And at least one of them, Werner VonBraun, V O N B R
7 A U N, gave us a lot of help, correct?

8 A. Yes, sir.

9 Q. Now, as I say, that part is not what is important,
10 but what is is that a lot of pages of documents got
11 classified in those ensuing years, correct?

12 A. Yes, sir.

13 Q. And do you know how many person years the interagency
14 working group estimated it would take to review the
15 potentially responsive documents and complete the
16 declassification?

17 A. No, sir, I don't.

18 MR. DRIMMER: Excuse me, Your Honor, I think
19 this is beyond the scope of his expertise.

20 THE COURT: Yes, I think it is, too.
21 Objection sustained.

22 MR. TIGAR: May I ask if he's had access to
23 the classified files, Your Honor?

24 THE COURT: Well, frankly, I don't know what
25 relevance it has to this particular case.

Sydnor Cross

1 MR. TIGAR: I'll move on to something else,
2 Your Honor. If Your Honor is sustaining the objection,
3 I'll move on.

4 THE COURT: Sustained.

5 MR. TIGAR: I'll move on to something else.

6 THE COURT: Okay.

7 MR. TIGAR: Thank you. Your Honor, may I
8 take a brief recess now? I'm going to move on to another
9 topic.

10 THE COURT: Sure. We will take a ten-minute
11 recess here.

12 THE WITNESS: Thank you.

13 (Recess had.)

14 BY MR. TIGAR:

15 Q. Doctor, is it fair to say that at least in the later
16 period of the war, these clerks that were filling out these
17 documents were overwhelmed?

18 MR. DRIMMER: Objection. Is the question
19 regarding Trawniki, or clerks where?

20 Q. Clerks that made the documents about which you've
21 testified, the seven documents.

22 A. I'm not sure I would say they were overwhelmed. I
23 would say they were very busy. There were somewhere in the
24 neighborhood of, I would estimate, 3,000 recruits processed
25 into the Trawniki system between the midsummer of 1942, and

Sydnor Cross

1 I think the last dated reference to a recruit processed is
2 in May of 1944. So over a period of less than two years,
3 there's about 3,000 recruits processed in. They are pretty
4 busy.

5 Q. Well, do you remember testifying in the S Z E H I N S
6 K Y J case?

7 A. Yes, sir, the Szehinskyj case.

8 Q. And do you remember looking at a troop muster role
9 and saying maybe the clerk who was doing it was overwhelmed
10 because the camp guard units were being overwhelmed?

11 A. I believe that in that case, Mr. Tigar, that was not
12 Trawniki, was it? I think that was -- that may have been
13 either Grossrosen or Sachsenhausen, because I don't believe
14 Mr. Szehinskyj came through the Trawniki system.

15 Q. So you weren't testifying about Trawniki?

16 A. I don't believe so, no, sir.

17 Q. Trawniki was total chaos?

18 A. Well, it certainly was when Mr. Leonhardt got there.

19 Q. Now, in your research, have you found any instances
20 in which people who were being signed up by the Nazis gave
21 false information?

22 A. Yes, sir.

23 Q. And for instance, you remember Mr. Swesdun?

24 A. Ivan Swesdun, yes, sir.

25 Q. And did you -- I got the wrong one. Would you please

Sydnor Cross

1 take a look at 45.22.

2 A. I'm sorry, this is Government's Exhibit --

3 Q. Yes, Government's Exhibit 45.22.

4 MR. TIGAR: Excuse me, Your Honor. I've lost
5 my exhibit. If I may have your indulgence, I apologize.

6 Q. Now you have 45.22 in front of you.

7 A. I do.

8 Q. Do you know whether or not Mr. Swesdun provided his
9 correct date and place of birth?

10 A. I believe that Mr. Swesdun did not provide his
11 correct place and date of birth.

12 Q. I want to show you Defendant's Exhibit B 14, page 17
13 of the translation, and ask you if that refreshes your
14 recollection, he did not provide his correct date and place
15 of birth?

16 A. Yes, sir. Yes, sir, he did not provide his correct
17 place and date of birth to the --

18 Q. You were a witness, were you not, sir, in the Reimer
19 case?

20 A. Yes, sir.

21 Q. And while you were on the stand, was information read
22 into the record about a recruit who had provided
23 biographical information while Mr. Reimer was serving as
24 interpreter?

25 A. I don't recall specifically. You would have to be a

Sydnor Cross

1 little more exact with that.

2 Q. Well, I'm going to show you a transcript from the
3 Reimer case and ask you if that refreshes your recollection
4 that while you were on the stand, the person that --
5 information was read into the record about someone who
6 concealed their last name and the fact that they belonged
7 to the Komsomol?

8 A. Yes, sir. This was read into the record by Mr. Clark
9 and did deal with the issue of providing false information
10 to the Germans.

11 Q. And as we discussed on Friday, a person being
12 recruited would have a motivation to conceal their prior
13 membership in the Komsomol, correct?

14 A. Yes, sir.

15 Q. Because the oath said that you hadn't been one?

16 A. Yes, sir.

17 Q. Before the break we were talking about Sobibor
18 survivors. Have you ever seen a report of investigation
19 prepared by Harold Jacobs, an INS investigator?

20 A. No, sir.

21 Q. And I'm going to show you now what has been marked as
22 Defendant's Exhibit F, F as in fox trot, 6, and have you
23 ever seen that before?

24 A. I believe it is in the defense exhibits.

25 Q. It is, sir. It is F 6. Specifically, sir, I've put

Sydnor Cross

1 a tape flag at Bates stamp pages, page 2 -- I can't read
2 the Bates stamp number, but the typed number is -- well,
3 226, I think it is, typed number 14 of this document. Do
4 you ever remember seeing or reading this interview of this
5 Dov Freiberg, F R E I B E R G.

6 A. I hadn't read this before now, no, sir.

7 Q. Well, if you assume, sir, and I'm asking you this as
8 a hypothetical question because you're an expert, that this
9 is indeed a report of investigation done pursuant to duty
10 by an INS investigator, and assume that Mr. Freiberg is a
11 Sobibor survivor.

12 A. Yes, sir.

13 Q. And assume that he does not recall the name
14 Demjanjuk.

15 A. Yes, sir.

16 Q. And assume that he was shown several photographs of
17 Ukrainians, including one that, quote, relates to subject,
18 Mr. Demjanjuk.

19 A. Yes, sir.

20 Q. And responded that subject seemed familiar but that
21 he could not identify anybody from the pictures with
22 certainty.

23 A. Yes, sir.

24 Q. Would you regard that information as relevant to the
25 inquiry that the United States of America asked you to

Sydnor Cross

1 make?

2 A. What is the date -- is that in 1976?

3 Q. It's a hypothetical question, but it is November 19,
4 1976, nearly 25 years ago, interview with a Sobibor
5 survivor.

6 A. Yes, sir.

7 Q. Would you have regarded that as relevant to the
8 inquiry that these government lawyers asked you to make?

9 A. Yes, sir, I think it would have been useful for me to
10 have had that to read.

11 Q. But these government lawyers didn't give it to you,
12 did they?

13 A. I don't believe that I had this, no, sir.

14 Q. Now, do you remember looking at a protocol, interview
15 protocol of a fellow named Z A K H A R O V, Zakharov?

16 A. Yes, sir, I do.

17 Q. Do you remember that Zakharov served under the last
18 name Prus, P R U S?

19 A. Yes, sir.

20 Q. He did that because he wanted to pass himself off as
21 an ethnic German, correct?

22 A. That's correct, yes, sir.

23 Q. And common sense tells us that he was fearful that if
24 he gave his true name, the Germans would kill him?

25 (Mr. Tigar speaking Latin.)

Sydnor Cross

1 MR. MATTHEWS: Excuse me?

2 A. Well -- Mr. Tigar continually uses new languages with
3 which I am not familiar. Again, I don't know what specific
4 motive, whether he was afraid the Germans would kill him or
5 whether he would have to stay in a POW camp where
6 conditions were pretty terrible.

7 Q. I'm just saying, as a matter of common sense, that
8 would be a reason to falsify, correct?

9 A. Yes, sir.

10 Q. That would be a motive to falsify?

11 A. Yes, sir.

12 Q. So this is a fellow who provided false information
13 about his identity to the Germans because he had this
14 motive, and it's common sense to think he had a motive to
15 falsify, is that correct?

16 A. Yes, sir, I would agree with that.

17 Q. Now, have you read a protocol from a fellow named
18 Ivchenko?

19 A. Yes, sir.

20 Q. Now, Ivchenko identified -- he does identify a
21 photograph that's attributed to Mr. Demjanjuk, the
22 defendant here on trial, correct?

23 A. I believe he does, yes, sir.

24 Q. But he also says that he did not see him in Sobibor,
25 correct?

Sydnor Cross

1 A. I believe that's correct.

2 Q. And he says he does not recognize the Demjanjuk name,
3 correct?

4 A. That is correct, yes, sir.

5 Q. Are we agreed?

6 A. Yes, sir.

7 Q. Now, did you also read a protocol of an interview of
8 a man named Razgonyayez, R A Z G O N Y A Y E V?

9 A. Yes, sir.

10 Q. And he says that he was in Trawniki and probably at
11 Sobibor, is that fair?

12 A. I think he says he was in both places, yes, sir.

13 Q. And excuse me, Your Honor, I did it again.

14 And he says, "I do not remember Ivan
15 Nikolaevich Demjanjuk," correct.

16 A. Yes, sir.

17 Q. He says "If during the great patriotic war from
18 December, 1941 through May, 1942 he was in the German
19 training camp of the SS troops in the small town of
20 Trawniki, Poland, or from May, 1942 through July, 1943, in
21 the Sobibor death camp, Poland, as a Wachmann, then I
22 should have met him. However, I do not remember him and
23 cannot give statements in regard to him, but I can give
24 statements on the SS training camp in the small town of
25 Trawniki and the Sobibor death camp," is that correct?

Sydnor Cross

1 A. Yes, sir, that's correct.

2 Q. Now then, do you also remember reading a protocol of
3 a fellow named Litvinenko?

4 A. Yes, sir.

5 Q. And he remembers someone named Demjanjuk, correct?

6 A. That's correct.

7 Q. And he says he was Ukrainian by nationality, correct?

8 A. Correct.

9 Q. And he gives a date of birth 1918 to 1920, correct?

10 A. I believe that's correct, yes, sir.

11 Q. And I'll show it to you if you'd like to.

12 A. No, I'm following you.

13 Q. And in addition to this range, he says "I do not
14 remember his patronymic," correct?

15 A. That's correct.

16 Q. Now, we talked a lot about these patronymics: You
17 pickup your daddy's name and carry it forward, is that what
18 that is?

19 A. That's correct.

20 Q. When Russian people address each other, do they use
21 the patronymic in casual conversation, do you know?

22 A. I don't know. I believe it is a social custom or
23 convention to use the term with people with whom you are
24 friends, if two men are friends, I believe they call each
25 other both by their first name and the patronymic.

Sydnor Cross

1 Q. So you say, "My friend, Ivan Andreevich, let's go
2 have a vodka"?

3 A. Yes, sir.

4 Q. And "My friend Vasilij Litvinenko, let's go have an
5 orange juice." Is that your understanding?

6 A. That's my understanding.

7 Q. By all accounts, the name Litvinenko is a
8 Ukrainian-type name, is it?

9 A. Yes, sir.

10 Q. This Litvinenko, this Demjanjuk he knew, he says,
11 have average height, average build, blond hair, and he says
12 had two false white metal teeth in his upper jaw, correct?

13 A. That's correct.

14 Q. Now, when did you first read that?

15 A. I read this protocol, gosh, the first time a long
16 time ago, a year and a half ago maybe, or maybe even
17 longer. I don't recall exactly.

18 Q. In the history of this litigation, a year and a half
19 is not long, sir, is it?

20 A. Well, it's to me a long time ago. And that's a year
21 and a half or two years ago.

22 Q. All right. Now, when you read about those white
23 metal teeth, did you discuss that with the government?

24 A. Yes, sir.

25 Q. With whom did you discuss it?

Sydnor Cross

- 1 A. With the OSI staff historian, Dr. Huebner.
- 2 Q. You are pointing. Is Dr. Huebner here today?
- 3 A. Yes, sir.
- 4 Q. That's him seated at counsel table?
- 5 A. Yes, sir.
- 6 Q. When did you have that discussion with Dr. Huebner
7 about the white metal teeth?
- 8 A. This would have been, again, after I read the
9 protocol the first time, a year and a half, two years ago,
10 a year and a half ago.
- 11 Q. What was the discussion, in substance?
- 12 A. Well, the discussion was the skepticism about the
13 Litvinenko protocol, because I believe in the same --
- 14 Q. Just a second. Whose skepticism?
- 15 A. Mine.
- 16 Q. Yours?
- 17 A. Yes, sir.
- 18 Q. You were skeptical about the protocol?
- 19 A. Yes, sir.
- 20 Q. All right. Go ahead.
- 21 A. In addition to -- I mean I'm not aware that the
22 dental information that Mr. Litvinenko had described was
23 accurate, and I believe it's in the same protocol that he
24 also indicates that he had served at L'viv with
25 Mr. Demjanjuk, and there's no evidence, I believe, there's

Sydnor Cross

1 no evidence that I'm aware of that Mr. Demjanjuk who
2 carried the card 1393 ever served at L'viv.

3 Q. So you were skeptical of it because it didn't match
4 the documents you had, right?

5 A. Yes, sir. I had questions -- I have questions about
6 the reliability about that part of Litvinenko's memory.

7 Q. So as between the documents created in an institution
8 that was in total chaos, according to Leonhardt, and the
9 statement of a man taken by investigators, you would be
10 skeptical of the man, not the documents? Is that your
11 testimony?

12 A. Well, I'm not sure that -- I'm not sure how long
13 after Mr. Leonhardt got to Trawniki the personnel records
14 remained chaotic, and he arrived there in June of 1942, but
15 I am pretty confident on the basis of the evidence that
16 I've seen Mr. Demjanjuk never served at L'viv, where
17 Mr. Litvinenko says, I believe, he remembers serving with
18 him. And I'm not aware that there was ever any information
19 in the past that would verify the accuracy of
20 Mr. Litvinenko's description of Mr. Demjanjuk's dental
21 work.

22 Q. All right. Well, let me ask you about your answer.
23 First, Mr. Litvinenko served with somebody named Ivan
24 Demjanjuk and doesn't know his patronymic, correct?

25 A. That's correct.

Sydnor Cross

1 Q. Let's assume that part is true. How many people
2 named Iwan Demjanjuk do you know of if we leave out a
3 patronymic?

4 A. If we leave out a patronymic, at this point I'm aware
5 of, in this matter, two.

6 Q. So we have at least two, correct?

7 A. Yes, sir.

8 Q. And did you assume that any mention of Demjanjuk in
9 here had to be a mention of the Demjanjuk that's here on
10 trial?

11 A. With reference to the Trawniki system, yes, sir, I
12 believe I did.

13 Q. So in other words, you had already made up your mind
14 that they had the right guy here, and when you see a
15 document that seems to contradict it then you doubt the
16 document. Is that what happened?

17 A. No, sir. I think going at it as a historian, a
18 little differently than you described it, the documentary
19 records I had seen refer to an Iwan Demjanjuk in the
20 Trawniki system who had a service identity pass who was
21 also listed by approximately the same spelling of the name
22 or a variation of the spelling of the name with the
23 identity number on other contemporary wartime documents.
24 So in a case where you have the contemporaneous document
25 and the statement of a witness, and the witness's statement

Sydnor Cross

1 is at variance with the document, I'm going to try to place
2 more reliance on the document unless I can find something
3 else in the documentation that leads me to conclude that
4 the statement may take precedence over the document in
5 accuracy.

6 Q. Now, we established this morning that if Government 3
7 doesn't refer to the Mr. Demjanjuk here on trial, none of
8 the other documents do, correct?

9 A. Yes, sir.

10 Q. Now, you held that view as of the time you first saw
11 this document?

12 A. Yes, sir.

13 Q. Are you saying to us that -- now, the Trawniki
14 document, Government's Exhibit 3, does not contain a
15 complete list of the postings of the person to whom it
16 refers, correct?

17 A. That's correct, yes, sir.

18 Q. There are gaps in it, right?

19 A. Yes, sir.

20 Q. And we've seen that it describes somebody whose
21 height is different from the Demjanjuk that Danilchenko
22 knew, correct?

23 A. That's correct.

24 Q. At the time that you first saw Litvinenko, did you
25 know that fact?

Sydnor Cross

1 A. I don't recall whether I knew that fact or not, no,
2 sir.

3 Q. And we've already seen that it refers to "at Oblast,"
4 O B L A S T, that is wrong, correct?

5 A. That's correct, yes.

6 Q. Did you know that fact at the time you had the
7 Litvinenko protocol in front of you?

8 A. Yes, sir, I believe I understood at the time that the
9 correct Oblast for the village that is listed as the place
10 of birth is not Zaporozhe.

11 Q. When was the Litvinenko statement that you had that
12 you saw with the white teeth reference, when was that
13 taken?

14 A. I believe this was 1949. I'm not sure.

15 Q. And based on the information available to you, do you
16 know whether Mr. Litvinenko was tried?

17 A. Mr. Litvinenko, I believe, was tried twice.

18 Q. Was he convicted of service in helping the Nazis?

19 A. Yes, sir, I believe he was.

20 Q. Was this statement taken before or after his trial?

21 A. I can't recall.

22 Q. But he was convicted, right?

23 A. Yes, sir. I'm not sure whether it was taken before
24 or after the first proceeding or during the second set of
25 proceedings that the Soviets opened in the 1960s.

Sydnor Cross

1 Q. And he admits in the statement that we are looking at
2 now that he did help the Nazis, correct?

3 A. I'd have to look at the statement again to be
4 certain. I believe he did.

5 Q. "I was trained in the Trawniki SS camp for about five
6 months," he says. Do you remember that? He admits being
7 trained at Trawniki, correct?

8 A. Yes, sir.

9 Q. And this purports to be a verbatim question and
10 answer, doesn't it? It says "question," "answer,"
11 "question," "answer"?

12 A. Yes, sir.

13 Q. And to the extent he admits service with the Germans,
14 it is a declaration against his penal interest, isn't it?

15 A. It's a declaration against what?

16 Q. Penal, P E N A L, a declaration against his interest,
17 correct?

18 A. Yes, sir.

19 Q. And your daddy was a criminal lawyer, wasn't he?

20 A. Yes, sir.

21 Q. And do you remember talking to him about people not
22 very likely to admit things that are going to get them in
23 the hoosegow?

24 A. Yes, sir.

25 Q. And don't have to be a lawyer to know that, do you?

Sydnor Cross

1 A. No, sir.

2 Q. Now, we have this fellow Litvinenko who is admitting
3 things that are going to get him in a Soviet prison, and we
4 have the fact that he did get tried and convicted, correct?

5 A. Yes, sir.

6 Q. Thus we have a judicial judgment to the effect that
7 at least so far as he admits Nazi collaboration, he's
8 telling a true story, correct?

9 A. Yes, sir. I believe that's the way it worked in the
10 Soviet system.

11 Q. Now I want to go back to your conversation with
12 Dr. Huebner here. What conversation passed between you
13 about whether you were going to believe a piece of paper
14 created by a clerk in a camp, based on these levels of
15 hearsay we talked about, as distinct from a question and
16 answer statement taken under oath against the interest of
17 the person who made it and verified by judicial judgment?
18 How did you all weigh that?

19 A. I don't believe -- I can only speak for myself. I
20 don't believe I weighed it like that. I'm looking at the
21 contemporaneous wartime documents as a framework to
22 establish a chronology, and weighing that against a
23 statement in the Litvinenko protocol, I believe it's in
24 this protocol that he had served at L'viv with an Iwan
25 Demjanjuk, and I didn't believe that the Iwan Demjanjuk

Sydnor Cross

1 that Mr. Litvinenko was referring to in the protocol had
2 served at L'viv based on the absence of any documentation
3 that he did.

4 Q. Just a minute. "Based on the absence of any
5 documentation that he did."

6 A. Yes, sir.

7 Q. All right. The absence of documentation signifies,
8 in your view as a historian?

9 A. It's the absence of documentation signifies the
10 absence of something against which to corroborate that part
11 of Mr. Litvinenko's statement.

12 Q. Well, I want to go into two parts of that. First, in
13 terms of absence of documentation, we have here the absence
14 of 4,961 service passes, correct?

15 A. Well, actually more than that.

16 Q. At least.

17 A. At least that, yes, sir.

18 Q. All right. Now then, in terms of the respective
19 evaluation of archival sources, let's talk about that for a
20 minute. Do you believe as a historian that one great
21 service of the trials of Nazi collaborators is to help
22 establish the historical record of the Nazi Holocaust and
23 to place those events beyond the reach of revisionist
24 historians who may seek to deny the horrors of that
25 Holocaust?

Sydnor Cross

1 A. Yes, sir, I do.

2 Q. And one of those trials so we understand the Nazi
3 Holocaust was that of Litvinenko, correct?

4 A. I'm not certain if I have seen the record of the
5 Litvinenko.

6 Q. You told me he was tried, correct?

7 A. Yes, sir.

8 Q. In your supplemental report you told us about trials
9 of Trawniki men, including one in Uzbekh, correct?

10 A. Yes, sir.

11 Q. So you regard the trials of Trawniki men as an
12 important part of the historical part of documentation of
13 the horrors of the Nazi Holocaust, don't you, sir?

14 A. Yes, sir, the materials that have come from those
15 proceedings.

16 Q. The next thing you said in your answer a few minutes
17 ago that I said I was going to deconstruct, if I may use
18 that word --

19 A. Sure.

20 Q. -- was corroboration, right?

21 A. Yes, sir.

22 Q. Did you ever ask anybody to go look inside
23 Mr. Demjanjuk's mouth?

24 A. No, sir.

25 Q. Well, you know where he lives, right?

Sydnor Cross

1 A. No, sir, I don't know where he lives.

2 Q. Well, do you think the government probably knows
3 where he is and has a way to look inside his mouth and see
4 what his teeth look like?

5 A. Yes, sir.

6 Q. But you didn't think that was necessary?

7 A. I don't believe I ever thought about it, no, sir.

8 MR. TIGAR: Excuse me, Your Honor.

9 (Pause.)

10 Q. Do you remember relying on Mr. Litvinenko's statement
11 in your report for any purpose?

12 A. Yes, sir. I think Mr. Litvinenko's -- I think maybe
13 more than one of his statements are relied on or cited in
14 the report.

15 Q. Well, in fact, sir, you rely on him in footnote 59 of
16 your first report to place Mr. Demjanjuk at Trawniki,
17 correct?

18 A. If I could see the document.

19 Q. Of course. I'm going to place in front of you your
20 report, and I've marked it up some. "Finally at least two
21 of Demjanjuk's former Trawniki comrades named him to
22 post-war investigators," do you see that, sir?

23 A. Yes, sir.

24 Q. That's footnote 59. Let's look at footnote 59 and
25 tell the Court who that comrade is.

Sydnor Cross

1 A. Footnote 59 cites the interrogation of Ignat
2 Danilchenko on March the 2nd, 1949, the Danilchenko
3 interrogation of 21 November 1979, and the interrogation of
4 Mr. Litvinenko of 28 June 1949.

5 Q. All right. So that's what's at footnote 59. Let me
6 start with that sentence then. "Comrades." How do you
7 know they were comrades? Why did you use that word?

8 A. I don't recall why I used that word.

9 Q. Did you mean they were communists or they were
10 friends, or what did you mean by it?

11 A. Men serving together in the same unit are sometimes
12 referred to as comrades.

13 Q. All right. And you said you cited at footnote 59 the
14 Danilchenko protocol. We already went through that, right?

15 A. Yes, sir.

16 Q. He served with that fellow who was 187 centimeters
17 tall, right?

18 A. Yes, sir.

19 Q. He served with a fellow who was already there at
20 Sobibor when he got there, correct?

21 A. That's what he says, yes, sir.

22 Q. That's right, even though the documentary record says
23 that they arrived at the same time, correct?

24 A. Correct.

25 Q. So we have a contradiction there, too. We talked

Sydnor Cross

1 about that?

2 A. Yes, sir.

3 Q. Now Litvinenko, you cite Litvinenko for the
4 proposition they were both at Trawniki, correct?

5 A. Yes, sir.

6 Q. But then you just told me that you disbelieve
7 Litvinenko when he says that he was at L'viv, right?

8 A. That Mr. Demjanjuk was at L'viv, yes, sir.

9 Q. Well, I'm having trouble, sir, figuring out. Could
10 you help me, please, understand how it is that you decide
11 to cite Mr. Litvinenko when he agrees with you and
12 disregard him when he doesn't?

13 A. Well, in the case of this particular protocol, I
14 think the judgment on citing first --

15 Q. Excuse me, sir, please don't speak in the passive
16 voice. You said "the judgment." I'd like to let the Court
17 know -- I don't mean to get in your face about it, but I'd
18 like to know your feeling.

19 A. Yes, sir. My conclusion, my judgment, my opinion, I
20 would attempt to reconstruct for you in this way. First of
21 all, in the footnote, the first citations are to the
22 Danilchenko interrogation protocols. In the next, I think
23 the sentence says "at least two of his former comrades."
24 If that is the wording, and I think I'm recalling it
25 correctly -- is that what it says?

Sydnor Cross

1 Q. I'll tell you what. I want to be fair to you, sir.
2 I'll put it in front of you. It says at least two of the
3 comrades named him.

4 A. Yes, sir.

5 Q. All right.

6 A. At that point I had not seen any other indication
7 of -- any other identification of Mr. Demjanjuk.

8 Q. So in other words, at that point, once you wrote it,
9 you had only seen Litvinenko and Danilchenko?

10 A. Danilchenko and Litvinenko.

11 Q. But you used the words "at least," correct?

12 A. Yes, sir.

13 Q. You didn't say "only," you said "at least."

14 A. Right.

15 Q. All right. Do you think that's a little exaggeration
16 to say "at least" if you only have two?

17 A. Well, the other choice of words would have been fine.
18 I think I was simply trying to leave open the issue that at
19 that point we were still looking for any additional
20 information that might yield additional information.

21 Q. That's right. In fact, later on, there are people
22 like Ivchenko that didn't see him, right?

23 MR. DRIMMER: Objection. I think that
24 misstates what Ivchenko says.

25 THE COURT: Sustained.

Sydnor Cross

1 Q. There's Ivchenko. I withdraw the characterization.
2 Go ahead. You were explaining your answer?

3 A. Unlike Churchill here we have a riddle around an
4 enigma. I want to go back to the original question because
5 I want to make sure I'm responsive. If I'm understanding
6 the original question, it's why the citation to these two
7 men, and specifically why the citation to Litvinenko. And
8 let me reconstruct the answer this way.

9 First of all, there is documentation that
10 puts Litvinenko and Demjanjuk at Trawniki, which would tend
11 to me to corroborate that part of Mr. Litvinenko's
12 recollection.

13 There is also, I believe, documentation that
14 places Mr. Litvinenko at the Yanov forced labor camp in
15 L'viv, which would corroborate that part of his
16 recollection.

17 There is no documentation at this point that
18 I'm aware of that places Mr. Demjanjuk at the Yanov, Y A N
19 O V, the Yanov forced labor camp at L'viv.

20 So weighing those factors, Mr. Litvinenko's
21 recollection in that interrogation protocol, and the
22 documentary material available, my conclusion is that
23 Mr. Litvinenko may remember Mr. Demjanjuk, but that portion
24 of his memory is failing him that places Mr. Demjanjuk at
25 L'viv, just as Mr. Danilchenko, I believe, is confused

Sydnor Cross

1 somewhat to chronology with the observation that he left
2 Sobibor in the spring of 1944, because we know that the
3 camp -- we know historically that the camp was liquidated,
4 the facility was destroyed and razed, and the Germans left
5 the area sometime in the fall of 1943. That's an attempt
6 to be as precise as possible.

7 Q. Now, you say a part of his memory failed, right? Is
8 that what you said?

9 A. Well, people, with the passage of time, we all
10 confuse chronology, or we may remember things that are not
11 in the sequence that they happened, or we may confuse
12 having seen someone at one place when we actually saw them
13 in another place.

14 Q. Well, that's what cross-examination is designed to
15 illuminate, isn't it?

16 A. Your reputation precedes you, yes, sir.

17 Q. Well, whether it does or not, did you ever hear your
18 daddy say that the most powerful engine ever invented for
19 truth was cross-examination?

20 A. No, I never heard that.

21 Q. Did your daddy believe in cross-examination?

22 A. Yes, sir.

23 Q. Was he good at it?

24 A. Real good.

25 Q. All right. So when did this fellow Danilchenko die?

Sydnor Cross

1 A. I think Mr. Danilchenko died in 1985, sometime in the
2 '80s.

3 Q. Do you know the circumstances under which the defense
4 acquired the Danilchenko protocol on which you rely?

5 A. No, sir.

6 MR. DRIMMER: Objection. I don't think he
7 said he relied on the Danilchenko statement.

8 Q. Well, did you rely on Danilchenko's statement at
9 footnote 59?

10 A. Yes, sir.

11 Q. All right. Do you know how the -- you don't know how
12 the defense got the document?

13 A. I don't know how the defense got the document, no,
14 sir.

15 Q. All right. Now, do you know if Mr. Litvinenko is
16 still living?

17 A. No, sir, I don't.

18 Q. Then I want to go back to this conversation. You say
19 you had this conversation with Dr. Huebner when you got the
20 Litvinenko statement, and you just decided, the two of you,
21 that it didn't matter, that part, correct?

22 A. No, I don't think we decided that it didn't matter.
23 We decided, or I decided that Litvinenko in being
24 responsive to the questions being put to him by his Soviet
25 interrogators was -- I don't see anything in the protocol

Sydnor Cross

1 that led me to believe that he was trying to be
2 disingenuous or that he was trying to conceal anything, but
3 I had to conclude that that part of his recollection of his
4 wartime service confused Mr. Demjanjuk as someone who had
5 served with him at L'viv when I haven't seen anything that
6 led me to believe that Mr. Demjanjuk did serve at L'viv.

7 Q. All right. Now, at the time you first had this
8 Litvinenko protocol that talked about the white teeth,
9 which of the seven wartime documents upon which you have
10 based your conclusion did you have?

11 A. At the time I saw the Litvinenko protocol?

12 Q. Yes, sir.

13 A. I don't recall, Mr. Tigar. I acquired lots of
14 documents at about the same time. I had at least some, if
15 not most, of the seven documents at the time.

16 Q. But you do remember that you were very sure at that
17 time that the man now on trial, John Demjanjuk, was Ivan
18 the Government 3? Were you sure at that time?

19 A. I was -- at the time that I was reviewing the
20 Litvinenko protocols and the other materials, I had
21 concluded that the individual who is listed as John
22 Demjanjuk or Iwan Demjanjuk, who is the bearer of Trawniki
23 service pass, service identity pass 1393, is not Ivan the
24 Terrible, was not Ivan the Terrible.

25 Q. Did I say "Ivan the Terrible"?

Sydnor Cross

1 A. Yes, sir, you certainly did.

2 Q. I'm sorry. I'm getting confused here. At the time
3 you saw first saw Litvinenko, had you reached an opinion
4 that the John Demjanjuk here on trial is the Demjanjuk
5 named in Government 3?

6 A. I don't recall that I had reached a definitive
7 conclusion at that time.

8 Q. Your mind is still open?

9 A. My mind was open as to different tests and
10 applications against the available documentation that could
11 be applied, yes, sir.

12 Q. And as you looked at that, at that time did you ask
13 anybody from the government to see if there were any
14 records of the dental examination of the John Demjanjuk who
15 is on trial in this case?

16 A. No, sir.

17 Q. And did Dr. Huebner bring to your attention any
18 information about any dental examination of the John
19 Demjanjuk who is on trial in this case?

20 A. No, sir.

21 MR. TIGAR: Excuse me just a moment.

22 THE COURT: Uh-huh.

23 (Pause.)

24 Q. Now, as a historian, you don't possess any skills
25 that permit you to judge the believability of somebody

Sydnor Cross

1 you've never met based on their demeanor and things like
2 that, right?

3 A. No, sir, I don't believe I do.

4 Q. I wonder if I could ask you to look at Government's
5 Exhibit -- excuse me again, Your Honor. This has also been
6 marked as a government's exhibit, but I'm going to show you
7 B 2. Now, Doctor, the first thing I want you to look at at
8 the bottom here is the 39,825. How many pages of documents
9 did you look at in connection with preparing your report in
10 107 days? How many pages did you read?

11 A. I read several thousand pages. I don't know how
12 many.

13 Q. Did you read 60,000 pages?

14 A. No, sir.

15 Q. Do you know how many pages of documents the
16 government furnished to the defense?

17 A. No, sir, I don't.

18 Q. If they furnished us with 60,000, you didn't read
19 them all, did you?

20 A. No, sir.

21 Q. Now let's look at that card, if you would, please.
22 What do you think that is?

23 A. May I have just a moment to look at the --

24 Q. Sure.

25 (Pause.)

Sydnor Cross

1 A. The English translation title on the cover of the
2 document, which is Defense Exhibit B 2, titles this as a
3 Soviet card for Ivan, and then the patronymic or middle
4 name which is in parentheses is Andreevich, A N D R E E V I
5 C H, and the last name is Dem'yanyuk, D E M, apostrophe, Y
6 A N Y U K. The document is undated.

7 Q. Now, do you know how the United States Government got
8 that?

9 A. No, sir, I'm not sure how they got this.

10 Q. When did you first see it?

11 A. I first saw this document some months ago. I believe
12 it would have been in the winter. I can't recall exactly.

13 Q. The winter that began December of whatever it is?

14 A. The winter of 2000-2001.

15 Q. And where did you first see it?

16 A. I first saw this in my office in Richmond.

17 Q. How did it get there?

18 A. This, I believe this was brought down to me by
19 Dr. Huebner for one of the working sessions we had at my
20 office, and I don't remember if he was by himself or
21 whether there was anyone else with him or not. But this
22 was either sent to me in a package of other documents or it
23 was brought to me in Richmond.

24 Q. I'm going to interrupt only about this. I just
25 thought about something about footnote 59. In your report

Sydnor Cross

1 or in your footnotes, did you note the difference between
2 the physical description on the card GX 3 and the physical
3 description given in the protocols that you cited?

4 A. No, sir.

5 Q. Don't you think it would have been more historically
6 proper to note the fact that there is some daylight between
7 the source you cite and the proposition for which you cite
8 it?

9 A. It would have been more historically complete to have
10 done that, but again, I was relying on the documentation
11 primarily, and then the post-war interrogation protocol
12 secondarily.

13 Q. But your footnote, you say, would have been more
14 historically complete to note the disparities, correct?

15 A. Yes, sir.

16 Q. And did the government instruct you with respect to
17 issues like that, that is, where you wanted to cite
18 something that supported a proposition but there was some
19 contradictory aspect to it, did they tell you how to handle
20 that or did you decide that?

21 A. No, sir, I decided that. And in the case of a number
22 of the notes that contain additional explanatory material,
23 particularly with respect to the notes that have secondary
24 sources cited in them, in those instances, it was my
25 decision to expand the footnote.

Sydnor Cross

1 Q. And of course when you are evaluating, when you are
2 parsing these statements, Litvinenko and Danilchenko, you
3 have to do that in English, don't you?

4 A. Yes, sir.

5 Q. And thus, you are running the risk that there's
6 mistranslations in there, correct?

7 A. They are certified translations, but I guess there's
8 always some risk in mistranslation.

9 Q. Well, in your review of David Irving's book, you swat
10 him for a mistranslation, don't you?

11 A. I believe, if I might say so, that in Mr. Irving's
12 case, you know, this is a long time ago that I wrote that
13 review, but in the case of Mr. Irving's book, which had
14 been published in 1976, there was in my estimation an
15 attempt on his part to mistranslate. It was not simply a
16 failure in translation of terminology that was important to
17 an understanding of a pivotal issue in modern German
18 history. It was also understanding the context that
19 Mr. Irving then, as now, is a man who is absolutely fluent
20 the German language. He lived in Germany for a number of
21 years as a young man, and therefore, in my judgment, at
22 that time was in a position to understand both the language
23 and to understand the particular context of the
24 terminology, and in the instance you are referring to, it's
25 a different way of translating a specific German noun into

Sydnor Cross

1 the English language.

2 Q. Irving had a point of view, and that influenced how
3 he used language, right?

4 A. I believe that was the truth, yes, sir. I believe
5 that's an accurate --

6 Q. Now, it's an error historians make, they place more
7 weight on the historical evidence than it logically bears.
8 Don't some historians make that error?

9 A. Well, there are two types of historians. There are
10 historians who make mistakes and historians who deny that
11 they make mistakes. I think all historians make mistakes
12 at different times and in different places, and they make
13 mistakes of different magnitude and different gravity and
14 different importance and different relevance, whatever.
15 But I would concede the point to you that there may be
16 instances in which one places too much reliance on
17 documentary evidence, the contemporaneous evidence, and not
18 enough evidence on the contextual information that
19 surrounds that evidence that may point you to a different
20 conclusion.

21 Q. Well, in fact, sir, putting more weight on the
22 evidence than it logically could bear happened already to
23 John Demjanjuk, didn't it?

24 A. I'm not aware specifically of what you mean.

25 Q. Well, you made a mistake about John Demjanjuk, we

Sydnor Cross

1 already talked about that, right?

2 A. Yes, sir. And in that case, it was the error of
3 assuming that the reliability of statements made by
4 survivors, eyewitnesses who had identified Mr. Demjanjuk as
5 having served in a particular camp, Treblinka, and
6 specifically in Treblinka 2, and having served as a guard
7 there and as the operator of the gas chambers, turned out,
8 in my judgment, to have been recollections made
9 erroneously, because the documentary evidence I believe
10 that has come to light since 19 --

11 Q. Documentary evidence and statements of witnesses came
12 to light also, right --

13 A. Yes, sir.

14 Q. -- about this fellow Marchenko. I don't want to
15 retry that, but I want to use it as a predicate for this
16 question. Given the history of this litigation, did you
17 feel as a historian any special burden to explain in your
18 report the ways in which the evidence did not completely
19 support the government's theory?

20 A. I don't believe that my own -- I would have to answer
21 the question in the sense that, no, I mean I felt a special
22 burden in working in this matter to try to get this as
23 close to being humanly possibly correct as it could be
24 gotten, but I don't believe I encountered the point where I
25 felt in my judgment as a historian the eyewitness

Sydnor Cross

1 statements were critically contradictory to what the
2 contemporaneous wartime evidence was showing.

3 I will concede that in the case of footnote
4 59, it would have been more complete to have included the
5 statements to which you have referred from both
6 Mr. Danilchenko and Mr. Litvinenko. But again, as a
7 historian, working with what you have to work with and
8 learning to rely upon the contemporaneous evidence as the
9 source of ultimate authority, if you will, unless it is
10 definitively contradicted in some way by other material
11 that is recorded after the events have occurred, you have
12 to place your primary reliance upon the contemporaneous
13 documentary material.

14 Q. Rather than on the recollection of people who lived
15 through it? Is that what you're saying?

16 A. Well, no, I don't think you discount the
17 recollections of people who live through it, but you have
18 to weigh those recollections as carefully as you can and
19 try to make the best judgment you are capable of making
20 where the two things may contradict each other.

21 Q. Now let's get back, I'm sorry for the detour, to the
22 document that I placed in front of you.

23 A. It's an interesting detour.

24 Q. You said you first saw it in your office in Richmond,
25 you think, with Dr. Huebner, correct?

Sydnor Cross

1 A. Again, I don't recall whether this was shipped to me
2 with other documents or whether it was brought down, and
3 this would have been some months ago. I'm going to say
4 sometime before the end of the year, fall of 2000.

5 Q. How many hours did you spend together with
6 Dr. Huebner all and all in this case, working on this case?

7 A. If you add the office visits to my office, the office
8 visits to OSI, the conference calls, hundreds of hours.

9 Q. Well, when you first saw this, did you have a
10 conversation with Dr. Huebner about it or with anybody as
11 to what it was?

12 A. I was told that this had been provided as an undated
13 Soviet card that had come from, I believe this is an
14 investigative file of some kind --

15 THE COURT: Excuse me. Would you explain to
16 me what you mean by a Soviet card? The Xerox doesn't look
17 like a card.

18 THE WITNESS: It is, I believe, a note card
19 or part in the original --

20 MR. TIGAR: The original, when -- Your Honor,
21 are we looking at the same item?

22 THE COURT: Yes. It doesn't look to me like
23 a card. That's the problem.

24 Q. Have you ever seen the original of this document?

25 A. No, sir.

Sydnor Cross

1 Q. But who -- from where do you get the idea this is a
2 card?

3 A. From the translation.

4 Q. Oh, the translator says Soviet card, and the Russian
5 title is Sovetskaya Kartochnka, right?

6 A. That's pretty good.

7 Q. My knowledge of Russian comes from B movies, Your
8 Honor, so don't certify that.

9 Now, how did you get the idea it was a card?
10 Just from the translation?

11 A. Just from the translation, yes, sir.

12 Q. All right. And did someone explain to you what the
13 purpose of this card was?

14 A. This was, I believe, the result of an inquiry and a
15 search that had been made as a result of a request for
16 information about a subject named Iwan Demjanjuk.

17 Q. Now, first, who made the inquiry?

18 A. I believe that OSI had made a number of inquiries,
19 both in the -- to the competent authorities or whoever the
20 relevant authorities were in the Russian Federation, which
21 is Russia, and to the government of Ukraine.

22 Q. Do you know what they had asked for? Have you ever
23 seen any of those inquiries?

24 A. No, sir.

25 Q. And you didn't participate in drafting any inquiries,

Sydnor Cross

1 did you?

2 A. No, sir.

3 Q. Did you suggest that somebody ought to look up and
4 see if there was anything on Ivan Andreevich Demjanjuk?

5 A. No, sir, I don't believe I -- I asked subsequent to
6 the -- subsequent to examining this card at some point
7 after I had this card, I asked if there had been anything
8 else that had developed or anything else that had turned
9 up, and I was told no.

10 Q. So --

11 A. And I believe I also asked if the issue was still
12 open as to whether or not there was any kind of search
13 going on anywhere else for information regarding someone
14 with this name.

15 Q. And what were you told about that?

16 A. And I was told, no, that nothing else had turned up.

17 Q. Who told you that?

18 A. I believe Dr. Huebner told me.

19 Q. When did he tell you?

20 A. This would have been after the first of the year and
21 into this spring, probably in March of 2001.

22 Q. Now, what did the people that brought the card --
23 have you ever talked about this with anybody except
24 employees of the United States?

25 A. No, sir.

Sydnor Cross

1 Q. What did those people tell you about this card?

2 A. Simply that -- I was asked to examine the card and
3 asked any questions, and we would discuss it, and we
4 discussed it.

5 Q. When you say examine the card, you couldn't read it,
6 could you?

7 A. Examine the English translation.

8 Q. So you examined the English translation of the card
9 and you discussed it. What discussion did you have?

10 A. Well, that this person had been identified in some
11 fashion, because there's no date --

12 Q. Identified by whom, do you think?

13 A. Well, we are not sure. I'm not sure. Identified as
14 having been born either in 1918, 1919 or 1920.

15 Q. Now, 1918 through 1920, that range of birth dates,
16 did that ring a bell with you about any protocol you had
17 seen?

18 A. Yes, sir.

19 Q. Which protocol bell went off there?

20 A. I'm sorry, protocol or service card?

21 Q. Protocol.

22 A. Protocol.

23 Q. Any protocols that said between 1918 and 1920 he was
24 born?

25 A. I believe that -- I believe Mr. Litvinenko made a

Sydnor Cross

1 reference to that approximate time.

2 Q. That range?

3 A. Yes, sir.

4 Q. But when you first saw it, did a bell go off in your
5 mind and say, "Wait a minute, 1918 through 1920, those are
6 the Litvinenko days"?

7 A. Yes, sir.

8 Q. So you thought about that?

9 A. Yes, sir, I thought about that.

10 Q. What was the next thing on there?

11 A. That the --

12 THE COURT: It says Litvinenko on it.

13 MR. TIGAR: Yes. Yes, Your Honor. But I was
14 asking him if he recalled the Litvinenko protocol
15 information.

16 THE COURT: But my point is, if you read the
17 card, you see --

18 MR. TIGAR: Yes, you see Litvinenko, the
19 translation.

20 THE COURT: You see the name Litvinenko.

21 MR. TIGAR: Thank you, Your Honor.

22 Q. So this says Trawniki, Lublin and Lvov, correct?

23 A. Yes, sir.

24 Q. Now, did you from this conclude that this card was
25 based on the Litvinenko statement?

Sydnor Cross

1 A. Yes, sir. This is -- there is a reference in the
2 lower right-hand corner to a file, number 166, of Volume 4,
3 page 245, and this is a statement of Mr. Litvinenko, and as
4 a result of the Litvinenko statement, then the information
5 on the left-hand part of the card relating to Trawniki,
6 Lublin and Lvov had been entered. L V O V, Lvov.

7 Q. When you read this card, did you have a desire to
8 change the text at footnote 59 of your report?

9 A. No, sir, I don't believe I ever discussed that or
10 suggested that.

11 Q. I didn't say -- I said do you have a desire, did you
12 have a suggestion, did that idea come to you?

13 A. I don't recall that coming to me, yes, sir.

14 Q. A little while ago you said you thought Litvinenko
15 was talking about Ivan Nikolaevich Demjanjuk, number 1393,
16 in his protocol, and you so stated in your footnote 59
17 text, correct?

18 A. Yes, sir.

19 Q. And whoever wrote that card had the idea that
20 Litvinenko was talking about Ivan Andreevich Demjanjuk,
21 didn't he?

22 MR. DRIMMER: Objection. I think if you look
23 at the card it's quite clear there are two different kinds
24 of handwriting on this, and if you look at the bottom
25 there's a mention of a second file in that corner.

Sydnor Cross

1 MR. TIGAR: Excuse me, Your Honor, this is
2 cross-examination.

3 THE COURT: Objection overruled.

4 A. I'm sorry, could you repeat the question?

5 Q. Sure. My question is a simple one. This card, the
6 original of it, says "Demjanjuk, Ivan Andreevich" in
7 Cyrillic, correct?

8 A. That's correct.

9 Q. Then that's translated "Ivan Andreevich Demjanjuk,"
10 correct?

11 A. That's correct.

12 Q. To pick up counsel's part, the Cyrillic writing
13 appears to have been made by at least two different
14 scribes, correct?

15 A. Yes, sir.

16 Q. Well, hypothetically, sir, if this card represents a
17 conclusion by a Soviet law enforcement person that Litvinov
18 was referring to Ivan Andreevich Demjanjuk --

19 MR. STUTMAN: I believe it's Litvinenko.

20 MR. TIGAR: Excuse me, Litvinenko. I'm
21 confusing two periods of Russian history, Your Honor.
22 Thank you. May I start again?

23 THE COURT: Yes.

24 Q. If we assume hypothetically that this card reflects
25 that a Soviet law enforcement person concluded that the

Sydnor Cross

1 Litvinov protocol -- Litvinenko protocol referred to Ivan
2 Andreevich Demjanjuk, then that conclusion would be at odds
3 with the text at your footnote 59 of your report, is that
4 right?

5 A. Well, I'm not certain -- I was not certain at the
6 time I looked at this card and am still not certain from
7 looking that the card.

8 Q. Can you give me a yes or no and then give me an
9 explanation, because I'm not sure where we are headed.

10 A. All right. Summarize the question for me again.

11 Q. If this card reflects a judgment by a Soviet law
12 enforcement person that Litvinenko was speaking in his
13 protocol of Ivan Andreevich Demjanjuk, then that conclusion
14 is at odds with the text at your footnote 59, is that
15 right?

16 A. Hypothetically, if the person or persons who prepared
17 this document came to that conclusion. I could not
18 determine from looking at this document, which is undated
19 and which contains this information on it, that that was a
20 conclusion that someone had reached.

21 It is this document in some way relies on
22 information from the Litvinenko protocol, and that --

23 Q. That we can deduce from its face?

24 A. That's correct, because Litvinenko mentions Trawniki,
25 I think there's a reference in the protocol to Lublin, and

Sydnor Cross

1 there is a reference to Lvov, and I believe Mr. Litvinenko
2 was, in fact -- I think he admitted to having served in
3 these places.

4 Now, whether or not this -- given the
5 information that's on this card, I simply could not come to
6 the conclusion that whoever prepared this document, again,
7 which is undated, referred to -- that the conclusion was
8 that this was the person. I mean this person is obviously
9 the subject of this card.

10 Q. "This person" means Ivan Andreevich?

11 A. Ivan Andreevich Demjanjuk. But there's no further
12 information on the card either about this person and his
13 place of residence and his approximate date of birth,
14 there's no other information on this card other than the
15 reference to the Litvinenko statement and the notation here
16 on the lower left that this person resides in the village
17 of Dubovye Macharenzi in the Vinnitsa Oblast, so I didn't
18 know whether the document referred to someone who was
19 living and residing in the village at the time this
20 document was prepared or what further connection possibly
21 to make with this document.

22 Q. Well, from your research, sir, you know, do you not,
23 that there was an Ivan Andreevich Demjanjuk who was born in
24 Dubovye Macharenzi?

25 A. Yes.

Sydnor Cross

1 Q. You know from your research Dubovye Macharenzi is in
2 the Oblast of Vinnitsa, correct?

3 A. Yes.

4 Q. It's not in the Oblast of Zaporozhe, correct?

5 A. That's correct.

6 Q. And you know from your Litvinov protocol that Ivan --
7 Litvinenko protocol, that Ivan Andreevich Demjanjuk, that
8 the Litvinenko places him between 1918 and 1920 in terms of
9 date of birth, correct?

10 A. Yes. I believe Mr. Litvinenko places the Demjanjuk
11 he mentions as having a birth date in that period of time.

12 Q. Now, the last time that Mr. Demjanjuk appeared in
13 this courthouse, there was a mistaken identity problem,
14 wasn't there, in his case?

15 A. Yes, sir.

16 Q. And you know that, right?

17 A. Yes, sir.

18 Q. And as a historian, do you also concluded that a part
19 of the mistaken identity problem was created by the
20 government not having obtained enough information and
21 turned over to the defense from the former Soviet Union?

22 A. I'm not sure that I came to that definitive
23 conclusion. I'm not certain how much information obtained
24 from the Soviet Union had been turned over and how much was
25 not turned over.

Sydnor Cross

1 Q. Were you under the impression, and I'm not asking you
2 to make a judgment -- you read Judge Wiseman's opinion,
3 correct?

4 A. If this is the special judicial master?

5 Q. Yes.

6 A. Yes, sir.

7 Q. And so you knew regardless of what decision one made,
8 there was an issue about whether or not the documentary
9 search in the Soviet Union had been sufficiently complete
10 and whether the results had been sufficiently turned over
11 to the defense, is that fair?

12 A. Yes, sir, I believe that's a fair statement.

13 Q. Now, when you saw this document that references
14 somebody who is identified in a sworn statement by a man
15 who was tried, convicted and sentenced, and that references
16 a different Iwan Demjanjuk from the same village, born at
17 around the same time, did that cause you to look at
18 Dr. Huebner or any of these lawyers for the government and
19 say, why don't we find out more about this card?

20 A. Well, I did ask subsequent to this -- the answer to
21 your question is yes, sir, and I did ask, and there was
22 additional research that yielded the previous documents
23 that we referred to this morning.

24 Q. You mean that statement from the Ukrainian Procuracy?

25 A. Yes, sir, and the interview with the lady that you

Sydnor Cross

1 also asked me about.

2 Q. Now, as far as the Procuracy statement is concerned,
3 all that says is they can't find any records, right?

4 A. Yes, sir. The search in several different locations
5 had yielded no evidence that, I believe, that Ivan
6 Andreevich Demjanjuk had served in the Soviet armed forces
7 in the Second World War.

8 Q. Just a moment, sir, if I may.

9 MR. TIGAR: Your Honor, would you indulge me
10 for a moment?

11 THE COURT: Sure.

12 (Pause.)

13 Q. I'm trying to find the statement of that woman that
14 was interviewed by the Ukrainian Procuracy authorities.

15 A. Yes, sir.

16 Q. Now, she has firsthand information about Ivan
17 Andreevich, correct?

18 A. I don't recall that she had firsthand information.
19 I'm sorry, if the question was does she have firsthand
20 information about the person, I believe, yes, sir, she knew
21 the person.

22 Q. And did you ask these government lawyers or
23 historians to write back to whoever they got that from and
24 see if they could find more about it?

25 A. I think at the time I raised a question about -- we

Sydnor Cross

1 discussed the contents of the card, of this card, and the
2 information on it, a request had already been made for
3 further information.

4 MR. DRIMMER: Your Honor, this is going over
5 material that we have certainly had earlier today.

6 THE COURT: Oh, I don't know that it really
7 is.

8 Q. I want to show you what's been marked as Defendant's
9 Exhibit B 21. That's a statement in the Ukrainian
10 language, correct?

11 A. Yes, sir.

12 Q. You can't read that?

13 A. No, sir.

14 Q. Do you recall ever seeing a translation of that?

15 A. Yes, sir.

16 Q. All right. I'll find that over the break and
17 we'll -- through the Court to counsel, is there a
18 translation of it in English?

19 MR. DRIMMER: I believe there is. It's going
20 to take us some time the hunt it down, but I think there
21 has been one.

22 MR. TIGAR: May I request that it be given to
23 us?

24 THE COURT: Sure.

25 MR. TIGAR: Otherwise we will have to put

Sydnor Cross

1 Mr. Demjanjuk on the stand.

2 MR. DRIMMER: I will state for the record we
3 have previously provided it to the defense.

4 THE COURT: There's so many documents it's
5 getting hard to find it.

6 MR. TIGAR: It's hard for me to find it right
7 now.

8 Q. All right, Doctor, one more on this and I'll come
9 back after I get the translation. Assume with me for
10 purposes of this question that Ivan Andreevich Demjanjuk
11 from Dubovye Macharenzi went off to war, was captured by
12 the Germans, and did indeed serve with Litvinenko, that
13 indeed Litvinenko is right about that.

14 A. Yes, sir.

15 Q. What does that do to your conclusion?

16 A. Well, if there's -- again, being a historian, if
17 there is documentation that Ivan Andreevich Demjanjuk did
18 serve in the Soviet armed forces, was captured by the
19 Germans, did serve in the Trawniki-trained guard forces,
20 and was investigated after the war by the Soviet
21 authorities as a result of the information on this
22 document, and was residing in the village of Dubovye
23 Macharenzi in the Vinnitsa Oblast at the time this card was
24 created, and again this card is undated, then my conclusion
25 is that there would have been some further investigation,

Sydnor Cross

1 some further documentation and some additional material
2 available in Soviet archives or in Soviet repositories that
3 would have enabled the Soviets to document that this was
4 the person who served at Trawniki.

5 Q. All right. Now, let's get back and look at that.

6 A. If he's in the Soviet Union at the time this card is
7 created --

8 Q. There's got to be more information, right?

9 A. If he's in the Soviet Union at the time this card is
10 created, he has to have been either before or after this
11 card was created the subject of an investigation. Taking
12 the logical development of events that followed what we
13 know about the other men the Soviets identified as having
14 served as Trawniki, he then had to be the subject of
15 prosecution, and he would presumably also have been
16 sentenced to hard labor in the gulag as the other
17 defendants in the Trawniki-related cases were in the 1940s
18 and '50s.

19 Q. Whose word do we have that all the documents that
20 refer to Ivan Andreevich Demjanjuk have come out of the
21 former Soviet Union and into the hands of these
22 prosecutors? Whose word do we have to count on for that?

23 A. We have the certification or the statements from the
24 Procuracy of Ukraine that the search of the -- and I can't
25 remember the name, I think there are three repositories. A

Sydnor Cross

1 search of either two or three repositories has yielded no
2 information on an individual with this name and patronymic
3 who served in the Soviet armed forces.

4 Q. So the first person we wish to rely on is the
5 Procuracy of a country called Ukraine, correct?

6 A. Yes, sir, that's what we have.

7 Q. Are you aware of any official statements by the
8 United States Justice Department concerning the reliability
9 of the Procuracy of Ukraine?

10 A. No, sir, I'm not.

11 Q. Does the name Melnychenko refresh your recollection?

12 A. No, sir.

13 Q. Now, the next entity whose credibility we have to
14 rely on is that of Russia, correct?

15 A. Yes, sir.

16 Q. Are you aware of any refusal by the Russian
17 authorities to give documents to the Justice Department in
18 connection with this investigation?

19 A. No, sir, I'm not aware of any refusal.

20 Q. All right. They never told you about any such thing,
21 correct?

22 A. No, sir. I recall no such conversation.

23 Q. Now, the next thing we have to rely on is the
24 credibility of the Soviet era investigators that whatever
25 investigation they did, they preserved it and they put it

Sydnor Cross

1 in a file somewhere where it could be retrieved, correct?

2 A. That's correct, yes, sir.

3 Q. So we have to rely on their filing system, right?

4 A. Yes, sir.

5 Q. Now, with respect to the Soviet era officials, is it
6 your view as a historian that their representations that
7 they had turned over everything with respect to Mr. John
8 Demjanjuk, is it your historical conclusion that those
9 representations are accurate?

10 MR. DRIMMER: Excuse me, Your Honor. I don't
11 think there's been a foundation established that they made
12 representations of any kind. The Russians --

13 THE COURT: I'm not aware that there's been
14 anything introduced in this case to indicate that they have
15 made such representations.

16 MR. TIGAR: I'll ask it as a hypothetical,
17 Your Honor.

18 THE COURT: All right.

19 Q. Well, let me ask, have you ever seen an original or
20 copy of a letter by a Mr. Chetvarikov, deputy head of the
21 department of the USA and Canada Ministry of the Foreign
22 Affairs of the USSR?

23 A. No, sir, I've never seen anything like that.

24 Q. Have you ever seen a statement by any Soviet
25 official, "Please give this document to Mr. A. Hammer and

Sydnor Cross

1 advise him that no other documents on Demjanjuk's case have
2 been found"?

3 A. No, sir.

4 Q. You are aware, sir, are you not, of the role that
5 Armand Hammer played in the transport of the so-called
6 Trawniki card?

7 A. Am I aware of it -- I didn't hear the question.

8 Q. Are you aware that Armand Hammer had anything to do
9 with that card ever?

10 A. No, sir.

11 Q. Are you aware of problems of incomplete foreign
12 archive production that occurred in the earlier Demjanjuk
13 litigation?

14 A. No, sir.

15 Q. When you read Judge Wiseman's opinion, did you as a
16 historian conclude that the foreign suppliers of
17 information had been somewhat less than thorough?

18 A. Yes, sir, that's a fair statement.

19 Q. And does that observation lead you to any conclusions
20 about the thoroughness with which archivists produce
21 documents that are responsive to requests in litigation?

22 A. In this case -- I can only speak from my experience
23 in working in this matter, and I never had any reason
24 during the months that I've been involved with this to call
25 into question anything about the responsiveness of the

Sydnor Cross

1 request to produce documentation. We've had -- I guess
2 I've looked at more documents in relation to this case than
3 any other case I can remember and more material than I
4 think I have at any time in any other OSI case in the past.

5 Q. Doctor, are you aware that law enforcement agencies,
6 speaking as a matter of common sense, even where under a
7 judicial order to produce all the documents, sometimes fail
8 to do so?

9 A. Yes, sir.

10 Q. And in fact, have you read about that in the papers
11 the last few weeks?

12 A. Yes, sir.

13 MR. TIGAR: Your Honor, it's 12:00 o'clock.
14 I wonder if we could take our luncheon recess now?

15 THE COURT: Sure.

16 MR. TIGAR: Thank you, Your Honor.

17 THE COURT: We will recess for lunch until
18 1:15.

19 (Whereupon, at 12:03 p.m., the luncheon
20 recess was had, to reconvene at 1:15 p.m., the same day.)
21
22
23
24
25

Sydnor Cross

1 AFTERNOON SESSION, MONDAY, JUNE 5, 2001 1:20 P.M.

2 MR. TIGAR: May I proceed, Your Honor?

3 THE COURT: Yes.

4 BY MR. TIGAR:

5 Q. Dr. Sydnor, continuing to take a look at that card in
6 the name of Ivan Andreevich Demjanjuk, which is Defense
7 Exhibit B 2, you notice that it contains a reference to a
8 sensitive file?

9 A. Yes, sir.

10 Q. Have you ever seen that sensitive file?

11 A. No, sir, I don't believe I have ever seen the
12 sensitive file.

13 Q. And you told us before the break that you received
14 that document in the winter of 2000-2001, is that correct?

15 A. Yes, sir. I cannot recall exactly when I received
16 this document.

17 Q. Do you know when the government got it?

18 A. No, sir, I don't know when the government got it.

19 Q. Did you work on the Reimer case?

20 A. Yes, sir, I did.

21 Q. Did the government show you the document in the
22 Reimer case?

23 A. This document?

24 Q. Yes.

25 A. No, sir.

Sydnor Cross

1 Q. Were you aware that this document was before Judge
2 Matia in earlier proceedings with respect to setting aside
3 the denaturalization judgment?

4 A. No, sir.

5 Q. So you just have no knowledge about that at all?

6 A. I don't believe so, no, sir.

7 Q. In your report that you've filed, you cite at page
8 34, you discuss something based on the statement of a man
9 named Engelhard. Do you remember that?

10 A. Yes, sir.

11 Q. And what do you rely on Mr. Engelhard for?

12 A. If you'll give me just a moment to look at this.

13 Q. Yes.

14 (Pause.)

15 A. This, the Engelhard statement, I believe, was relied
16 upon --

17 (Telephone ringing in courtroom.)

18 MR. TIGAR: My apologies, Your Honor.

19 A. The Engelhard statement was relied upon, I believe,
20 in this instance only for an indication that men who were
21 being processed and registered into the Trawniki system in
22 the summer of 1942 were being assigned on deployments out
23 of the camp after several weeks of training.

24 Q. I'm going to show you, sir, what has been marked as
25 Defendant's B, bravo, 25, and ask you if that is the

Sydnor Cross

1 Engelhard protocol or statement upon which you relied for
2 the information you just shared with us.

3 A. Yes, sir. This is the interrogation protocol of
4 March 22, 1961 that is cited in footnote 91 of the report.

5 Q. Were you aware, sir, that Mr. Engelhard was also
6 interviewed on the 23rd of March, 1961?

7 A. I don't recall whether or not I was aware of that,
8 no, sir.

9 Q. I'm going to show you what is marked as Defendant's
10 B 24 and ask you, sir, if you have ever seen that before?

11 A. Yes, sir, I believe I've seen this before. This is
12 the --

13 Q. It's a protocol?

14 A. It's a protocol.

15 Q. You've answered my question.

16 A. Yes, sir.

17 Q. On the 23rd of March, doesn't that show that
18 Mr. Engelhard was shown three pictures and was unable to
19 identify any of them as having served with him?

20 MR. DRIMMER: That actually isn't what it
21 says, if I may object.

22 THE COURT: Well, let me find the page.

23 MR. DRIMMER: I believe the exact language,
24 Your Honor, is --

25 MR. TIGAR: Excuse me, Your Honor, I asked

Sydnor Cross

1 him if that's what it said. He'll answer.

2 THE COURT: Well, let me find the place on
3 the document.

4 Q. He says, "I did not meet the people shown in
5 photograph numbers 1, 2 and 3." Does he say that?

6 A. Yes, sir.

7 Q. "The people shown were not subordinate to me during
8 my service in the SS forces." Does he say that?

9 A. Yes, sir.

10 Q. That's at page 2, numbered page 2, correct?

11 A. Yes, sir.

12 Q. Now, let's turn back to the Russian version, and do
13 we see some pictures there?

14 A. Yes, sir.

15 Q. And even from the picture, the copy that you have,
16 can you tell that the picture on the right-hand side
17 appears to be identical to that on Government 3, the 1393
18 pass?

19 A. Yes, sir, it appears to be the same photograph.

20 Q. Can you tell His Honor, please, why you didn't cite
21 Engelhard for the 23rd March protocol when you did read and
22 cite the 22nd March protocol?

23 A. Give me just a minute here to try to refamiliarize
24 myself with this.

25 (Pause.)

Sydnor Cross

1 I'm trying to recall the context of this, and
2 I believe in looking at this statement in the first
3 paragraph, Mr. Engelhard goes on to say that "The people
4 shown were not subordinate to me during my service in the
5 SS forces. I do not deny that some of them might have
6 undergone training in the training camp in Trawniki at the
7 time that I was serving there. I served as a squad
8 commander and then as a platoon commander, but I cannot say
9 that any of them were in my section or platoon. Their
10 faces are completely unfamiliar to me."

11 "I know," and then in the second paragraph,
12 "I know well that the men shown in photographs number 1, 2
13 and 3 did not serve with me when I served in the death camp
14 in Sobibor. None of them served under me."

15 Q. Now, would you regard that as an exculpatory
16 statement with respect to what we are trying here?

17 A. I'm trying to reconstruct this to whether or not
18 Mr. Engelhard was at Sobibor or was at Sobibor at the time
19 that the subject that he's referring to in the attached
20 photograph he identifies was at Sobibor.

21 Q. Well, he was at least at Sobibor at a time that
22 permitted you to cite him for his 22nd March information,
23 correct?

24 A. I'm not --

25 Q. You cited his 22 March protocol in your report,

Sydnor Cross

1 didn't you?

2 A. But that was in relation to the training at Trawniki.

3 Q. All right.

4 A. That was specifically about the training at Trawniki.

5 And I just -- I believe the reason that this was not --

6 that this is not cited is because of the reference to

7 Sobibor, and I can't recall whether Mr. Engelhard served at

8 Sobibor at the same time or not without --

9 Q. At the same time as your documents relating to 1393

10 is what you mean?

11 A. Yes, sir.

12 Q. All right. But whatever it is --

13 A. I may be wrong about that, but I just can't remember

14 at the moment.

15 Q. Do you know when Mr. Engelhard was a trainer in

16 Trawniki, during what period of time?

17 A. I believe he was a trainer in Trawniki in the spring

18 and summer of 1942.

19 Q. Would that place him there at the same time as you've

20 testified that number 1393 was there?

21 A. I'm not certain if the periods would overlap, and I

22 can't recall when Mr. Engelhard came to Trawniki and when

23 he left Trawniki and whether that was before the period the

24 middle of June to the middle of July, 1942.

25 Q. Would we be able to figure that out by looking at

Sydnor Cross

1 these protocols?

2 A. We could try.

3 Q. We don't need to do it now, but the point is we could
4 do that if we looked and we would see, right?

5 A. I'm not certain without reading both the protocols
6 here if we could do that.

7 Q. Do you have any evidence other than Mr. Engelhard's
8 own statement as to when he was in Trawniki?

9 A. I don't recall that either. No, sir, I don't recall
10 that. I don't recall whether he is on a list or is
11 mentioned in anyone else's interrogation.

12 Here is the answer to your question: "In
13 approximately September, 1942, I departed from Trawniki and
14 went to Warsaw to guard the confines of the Jewish ghetto."

15 Q. So he was there until September?

16 A. Yes, sir.

17 Q. When did 1393 get there?

18 A. 1393, the person who was issued that service identity
19 pass, would have arrived at Trawniki sometime in June of
20 1942 and I believe before the -- sometime -- late June,
21 early July, 1942.

22 Q. So there is overlap?

23 A. Yes, sir.

24 Q. So given that there's overlap, can we ascribe some
25 significance to the statement, "Their faces are completely

Sydnor Cross

1 unfamiliar to me"?

2 A. Yes, sir, I suppose you could.

3 Q. Well, then we come back. Why didn't you cite the
4 23rd March reference when you were doing your work?

5 A. Again, I'm trying to reconstruct the citation as best
6 I can, and I think it was because of the issue of Sobibor
7 and the statement in the second paragraph. That's the best
8 I can do right now.

9 MR. DRIMMER: I'd just like to state for the
10 record it actually hasn't been established when Engelhard
11 actually arrived at Trawniki before his September
12 departure.

13 MR. TIGAR: He's answered the questions, Your
14 Honor. We can argue about it, but he said there's overlap.

15 THE COURT: Yes, that's his answer.

16 MR. TIGAR: And he's the witness.

17 BY MR. TIGAR:

18 Q. Now, sir, I have here a translation that the
19 government has kindly given us of the statement of this
20 Maria Avramivna Dem'yanyuk. Have you seen that
21 translation?

22 A. Yes, sir, I believe I have. If I might look at a
23 copy if someone has one here.

24 Q. Yes, sir. We have one. We are going to have to
25 share.

Sydnor Cross

1 A. That's fine.

2 Q. She says that, "As far as I know, I.A. Demjanjuk was
3 called up for military service before the war in about
4 1940," correct?

5 A. Yes, sir.

6 Q. Now, she does say that there were rumors that he had
7 gone through service in the Army of General Vlasov, but
8 those were just rumors?

9 A. To be complete, he had gone through service in the
10 Army of General Vlasov and had been in captivity, but --

11 Q. But those were just rumors, correct?

12 A. And she didn't know.

13 Q. Thank you. This Ivan Andreevich, according to what
14 this woman knows by reputation of the community, went out
15 to central Asia somewhere, correct?

16 A. I believe that's correct, yes, sir.

17 Q. Then he came back, right?

18 A. Yes, sir.

19 Q. And neither he nor his wife talked about what had
20 happened in the war, right?

21 A. That's correct.

22 Q. Then rumors began to circulate in the community that
23 he had served in General Vlasov's army, correct?

24 A. Yes, sir.

25 Q. And he took to drinking?

Sydnor Cross

1 A. Yes, sir.

2 Q. And his wife took to cheating on him?

3 A. Yes, sir.

4 Q. And he hanged himself?

5 A. Yes, sir.

6 Q. Or he committed suicide?

7 A. Yes, sir.

8 THE COURT: Is there something in being in
9 General Vlasov's Army that would commit one to commit
10 suicide? Am I missing something?

11 MR. TIGAR: I'm curious about that, too. I
12 thought that might be one question too many.

13 Q. Now that it's out of the bag, would you catch that
14 cat for us?

15 A. I'll try. I think I can at least step on its tail.
16 Professor Menning is the real expert in this.

17 General Andrei Vlasov was a senior officer in
18 the Red Army who was captured by the Germans in 1942, and
19 he was a very high ranking, I think a full general, not a
20 marshal of the Soviet, but a full general, and as a result
21 of capture and other factors decided to collaborate with
22 the Germans and offered to create an army of Russian
23 nationals that could be trained and placed at the disposal
24 of the Germans to fight on the Eastern Front.

25 There were a whole series of high-level

Sydnor Cross

1 discussions in the high command of the German armed forces,
2 in the high command of the German Army, and eventually at
3 Hitler's headquarters about what to do with Vlasov, who
4 also recruited a number of other senior officers who were
5 in German captivity, and no real resolution of the issue of
6 Vlasov came to closure until Hitler and Himmler agreed, I
7 believe, late in 1944 to go ahead and move forward with the
8 organization of a Russian National Liberation Army that
9 would be under General Vlasov's command.

10 And Vlasov became a kind of symbol for the
11 Soviet POWs who were in German captivity who wanted to
12 fight against Stalin and the Soviet Union. And the Vlasov
13 army was organized, it was provided with some equipment,
14 and near the very end of the war, I think it was put into
15 service. At the end of the war General Vlasov was captured
16 by units of I believe the United States Army. I don't
17 recall which specific units, and at the insistence of the
18 Soviet government, really at the personal insistence of
19 Stalin, he was turned over to the Soviets, and he was in
20 some fashion tried summarily and then executed shortly
21 after the war.

22 And the part of the effort in the Soviet
23 Union at investigating and prosecuting people who had been
24 in the service of the Germans during the Second World War
25 also involved trying to track down and find people who had

Sydnor Cross

1 either been in the Vlasov army or those people known to
2 have been in the Vlasov army who were turned over to the
3 Russians with General Vlasov.

4 Q. May I go through now some of the documents with you
5 that were talked about on your direct examination last
6 Thursday, just to deal with the circumstances under which
7 they were obtained and some of the details about them? All
8 right?

9 A. Yes, sir.

10 Q. All right. Before I do that, did you read a protocol
11 of a fellow named Pokhavla? P O K H A V L A?

12 A. Yes, sir, I believe I did.

13 Q. Now, Pokhavla changed his name after the war, right?

14 A. I believe that's true. I can't remember to what the
15 name was -- how the name was changed.

16 Q. But he changed it after the war to evade capture by
17 the Soviets, right, to evade prosecution?

18 A. I believe that's accurate, yes, sir.

19 Q. Now, you testified in the Kwocsak, K W O C Z A K,
20 case?

21 A. Kwocsak, yes, sir.

22 Q. And in that case, you noted that the Germans made
23 little effort to render foreign names consistently,
24 correct?

25 A. That's correct, yes, sir.

Sydnor Cross

1 Q. Because they had a problem with names, correct?

2 A. Yes, sir.

3 Q. And that's what we talked about before?

4 A. Yes, sir.

5 Q. All right. Let us start then in the first page of
6 these government exhibits. Let's look at Government's
7 Exhibit 4. We talked a lot about this document, correct?
8 That's the one from the green book with the red cover,
9 right?

10 A. Yes, sir. This is the guard dog detachment report.

11 Q. And have these guard dog detachment reports or
12 reports of this kind, disciplinary reports, figured in any
13 Soviet trials?

14 A. They certainly figured in Soviet investigations.
15 Whether or not they figured in the Soviet trials, I don't
16 recall.

17 Q. You know that they figured in Soviet investigations
18 because of the lengthy handwritten purple ink document in
19 that same book, correct?

20 A. Yes, sir. That is a file memorandum summary of the
21 contents of the folder.

22 Q. And that document, the handwritten summary, is dated
23 1948, is it not?

24 A. The purple ink handwritten summary?

25 Q. Yes.

Sydnor Cross

1 A. Yes, sir.

2 Q. Do you have any knowledge at all from any source
3 where that document was between the date of its creation
4 and 1948?

5 A. No, sir.

6 Q. And as you looked in the book from which it was
7 taken, those documents are not arranged in chronological
8 order, are they?

9 A. Not entirely, no, sir. Some are and some aren't.

10 Q. And the piece of paper on which this is written is
11 cut along the upper edge, correct?

12 A. I believe that's true, yes, sir.

13 Q. And do you know whether or not the person who wrote
14 this document had personal knowledge or whether he had
15 received a report from someone else?

16 MR. DRIMMER: Excuse me, are we talking about
17 Government 4?

18 MR. TIGAR: Yes, 4.

19 Q. Is there anything on this document that tells you
20 that that person had personal knowledge?

21 A. That the person who wrote the report had personal
22 knowledge of the information that's on the document?

23 Q. Yes, right.

24 A. No, sir.

25 Q. And do you notice the name, number 1393 is spelled

Sydnor Cross

1 D E M I N J U K, correct?

2 A. That's correct.

3 Q. That's different from the spelling on Government 3,
4 isn't it?

5 A. Yes, sir, it is.

6 Q. And is it a fair inference that whoever wrote this
7 was not looking at Government's Exhibit 3 or did not have
8 that as a reference at the moment they were writing it?

9 A. Yes, sir.

10 Q. You've also testified that you don't know where the
11 document was from 1948 until the time it went to the
12 Lithuanian archives, correct?

13 A. Well, to be complete and accurate, I don't know where
14 the document was in any kind of complete chronological
15 chain of custody sequence between the time I believe the
16 document was captured by the Soviets at Lublin Majdanek in
17 1944 and sometime after 1948.

18 Q. Who liberated Majdanek?

19 A. The Red Army.

20 Q. And their archival techniques were not the best, is
21 that right?

22 A. Yes, sir.

23 Q. Now let us look at Government's Exhibit Number 5,
24 please. Now, this document contains the name Danilchenko,
25 correct? That would be at translation page 3?

Sydnor Cross

1 A. Yes, sir. Mr. Danilchenko is listed as number 22 on
2 page 3.

3 Q. And then there is on page 4 this name Demianiuk,
4 correct?

5 A. Yes, sir, number 30.

6 Q. Now, when you look at the original of this document,
7 which is at the same tab in the notebook, what survives is
8 a -- is that a thin kind of paper, what you call onionskin?

9 A. Yes, sir. I believe it's -- it's a very thin paper,
10 yes, sir.

11 Q. And we've already gone this morning through the
12 differences between 5 and 6 with respect to certain
13 information, but what I want to note now is that, again,
14 the name Demjanjuk is spelled differently than it is on
15 Government 3, correct?

16 A. That's correct, yes, sir.

17 Q. And does this lead you conclude that whoever wrote
18 this did so at least one level of hearsay removed from
19 Government 3?

20 MR. DRIMMER: Objection. Calls for a legal
21 conclusion, or speculation.

22 THE COURT: I don't know that he was using
23 the term "hearsay" in the legal sense.

24 MR. TIGAR: I'll lay a foundation, Your
25 Honor.

Sydnor Cross

1 THE COURT: Do you want to explain what you
2 mean.

3 MR. TIGAR: Sure.

4 Q. Do you use the word "hearsay" as a historian?

5 A. That's difficult to say. I mean occasionally you
6 will hear the term used or I will use the term in
7 particular to something that may be secondhand or
8 third-hand information.

9 Q. Okay. Do you conclude that the spelling Demjanjuk is
10 based on the second or third-hand information given the
11 fact that it doesn't match up with Government 3 and with
12 other things?

13 A. Well, it's certainly based on whoever typed this list
14 inability or unfamiliarity with the previous spellings of
15 the name.

16 Q. Okay. And you are not able to tell what the basis
17 for that unfamiliarity was, correct?

18 A. That's correct. Whether the person who typed this
19 list had the card in front of them when they typed the
20 list, I can't say.

21 Q. And nobody can say, right?

22 A. That's right.

23 Q. I mean we just don't know, correct?

24 A. Well, I don't know if he had the card in front of him
25 when he typed this list, but the spelling is different on

Sydnor Cross

1 this document than it is on Government 3 and it's also
2 different than it is on Government 4.

3 Q. And we don't have the personalbogen and the pay book
4 and the other things, right? All we have is the service
5 pass?

6 A. All we have is the service pass, that's correct.

7 Q. Now, this document also, is it your historical view,
8 was captured by the Red Army?

9 A. Yes, sir.

10 Q. Where did they find it?

11 A. I believe that they found this document in the,
12 obviously, in the undestroyed portions of the camp records
13 of the Trawniki training camp, and they either found it in
14 Trawniki at the time that units of the Red Army overran the
15 camp complex or they found it in Lublin, which is just a
16 little further west of Trawniki, when they overran the city
17 of Lublin.

18 Q. What's the basis for that conclusion?

19 A. If you look at the testimony given by Karl Streibel
20 in 1966, this is in the West German proceeding, he was
21 testifying, I believe, as a witness and not as a defendant
22 in an investigation of a Trawniki-trained guard named Franz
23 Swidersky, S W I D E R S K Y, Swidersky, and was shown some
24 of these documents that had been provided to the German
25 prosecutors by the authorities in the Soviet Union, and at

Sydnor Cross

1 the end of the interrogation he said -- he was asked
2 specifically about the records, and -- well, no, wait a
3 minute. I'm confusing Streibel with Leonhardt.

4 Streibel said in 1966 that he was
5 surprised -- he said, I believe, that "The photostatic
6 copies that have been shown me are authentic records. I am
7 surprised that anything like this survived, because we made
8 every effort possible to destroy the records of the camp
9 before we pulled out of the camp."

10 In, I believe, 1973, Mr. Leonhardt, I
11 believe, was asked about the storage of records and said
12 that the records either were stored in the battalion
13 administrative office, which was in the Trawniki training
14 camp, or that some of these personnel records that involved
15 Trawniki-trained guards that had been part of Operation
16 Reinhardt, that is the men who had actually served at
17 Belzec, Sobibor and Treblinka, may have been stored in
18 Lublin in the offices of Operation Reinhardt that were part
19 of SS General Globocnik's office in Lublin.

20 Q. Is there anything you've ever seen in the Soviet
21 archives that tells you that the particular documents about
22 which you've testified were captured in either one of these
23 two places?

24 A. No, sir. There are summaries of the documents, like
25 filed memoranda that are summaries of the documents from

Sydnor Cross

1 1949, I believe, and 1966 from the SFB Archive in Moscow.

2 Q. In 1948 as well, correct?

3 A. Yes, sir, 1948, and they say -- I don't believe they
4 say exactly where the documents were found, but they say
5 these are captured German records from the Trawniki
6 training camp.

7 Q. So the best we can do in terms of knowledge from the
8 Soviet side is a record dating no earlier than 1948 by
9 someone saying that these are captured documents, correct?

10 A. That's correct.

11 Q. And that record does not tell us where they were
12 found or where they were in the meantime, correct?

13 A. That's correct, yes, sir.

14 Q. Nor does it tell us anything more than what you've
15 been able to tell us about whether the person who made them
16 had personal knowledge of what they said, correct?

17 A. That's correct.

18 Q. All right. Now let's look at Government's Exhibit 6,
19 which we also looked at this morning, and we went over some
20 of it, some of the differences between this and number 5.
21 This has Mr. Danilchenko on it, correct, or has a
22 Danilchenko, correct?

23 A. Give me just a minute to find it on here. It does, I
24 believe, have Mr. Danilchenko. Yes, sir, he is number 39
25 on page 3 of the English translation.

Sydnor Cross

1 Q. Now, then look at page 4, number 53, please.

2 A. Yes, sir.

3 Q. Now, that says Demianjuk, and that's spelled yet
4 differently by at least one letter from Number 5, correct?

5 A. That's correct, yes, sir. There is a J on this
6 document where I believe there had been an I on the
7 previous spelling.

8 Q. And it has a place of birth with a lot of question
9 marks in it.

10 A. Yes, sir.

11 Q. Are you able on the German document, the original
12 document, to tell us anything more than what the translator
13 was able to winkle out of this?

14 A. No, sir. And I can't remember whether it's a smudge
15 mark on the original, which I looked at the original in the
16 FSB Archive. You can get a good part of the first word and
17 then there are one or two letters missing from the first
18 word, and then the second word is also difficult to read,
19 and then the fragment of the word that appears after the
20 hyphen, the first and last parts of that are illegible,
21 too.

22 Q. Now, is the first part of the birth place, it looks a
23 little bit like it might have been somebody's effort about
24 Dub Macharenzi?

25 A. Yes, sir.

Sydnor Cross

1 Q. Within the ballpark?

2 A. Yes, sir.

3 Q. Close enough for German government work?

4 A. Yes, sir, at the time it was.

5 Q. Would it be fair to say when we look at these
6 documents that are spelled all these different ways and
7 what this fellow Leonhardt said about the chaos and all
8 that -- was it Leonhardt that said that?

9 A. Yes, sir.

10 Q. -- that the term "close enough for government work"
11 would apply to the camp administration at that time at
12 least with respect to this kind of record keeping?

13 A. Well, I don't think that the -- I'm not sure that the
14 record keeping at the camp with respect to neatness,
15 completeness, and the literal and proper and correct
16 spelling of names was up even to the standards of "close
17 enough for government work" in the German government at the
18 time.

19 Q. Now, because I can't read the German original and
20 you're better at it than I am, is the material after the
21 hyphen consistent with Vinnitsa or not, the I N --

22 A. I believe it is. That's as close as I could get.

23 Q. Now, let's turn then to Government's Exhibit 7. Will
24 you help me out here? What page do we find this 1393 on?

25 A. Give me just a minute.

Sydnor Cross

1 Q. Try the German 25. That's 57 of the translation.

2 A. 27 -- by 27, you mean the upper right hand --

3 MR. TIGAR: May I approach, Your Honor?

4 THE COURT: Yes.

5 Q. I don't mean to lose you.

6 A. This is a very awkward document to work with. Are we
7 looking for 25?

8 Q. Yes, sir. And there you see a name there?

9 A. Yes, sir.

10 Q. Now, this name, are you able to recognize the kind of
11 script that that's written in?

12 A. No, sir, I don't know that the script has a
13 distinctive name or style. It's just legible to me.

14 Q. Does there appear to be some sort of a pronunciation
15 mark above a letter there?

16 A. It looks almost like a -- I don't know what you call
17 that accent, but that's a pronunciation mark.

18 Q. Is that a pronunciation or accent mark that you are
19 familiar with that German people use?

20 A. No, sir.

21 Q. And the translator renders the name D E M I N N I U
22 K, correct, and there's no forename there, correct?

23 A. That's correct, yes, sir.

24 Q. Now, this, is it your opinion, sir, this weapons log,
25 it comes from the Bundesarchiv?

Sydnor Cross

1 A. Yes, sir.

2 Q. Where was it kept?

3 A. This log, along with the other materials that are
4 stored with it, was captured in April of 1945 among the
5 records of the Flossenburg concentration camp that were not
6 destroyed by the SS at the time the camp was evacuated.

7 Q. Is there anything in the archival information that
8 you have seen that identifies the date and precise place
9 where it was found?

10 A. No, sir.

11 Q. And is there anything in the records of the
12 Flossenburg camp to indicate anything about the identity or
13 basis of information of the person who wrote this?

14 A. No, sir.

15 Q. And so when you say that you would expect to find it
16 in the Bundesarchiv, you meant you would expect the Germans
17 to have preserved it and to have made it available to
18 researchers, correct, that's about all you can say, or is
19 there more?

20 A. There's more. This is part of a collection of
21 records that were seized by units of the United States Army
22 at the end of the war, held in American custody, used in
23 part and in some fashion for investigative purposes and for
24 subsequent trials of SS figures in the concentration camp.
25 And then these documents were brought to the United States

Sydnor Cross

1 and stored. Some of them, but not these documents, were
2 microfilmed as part of a large project undertaken in the
3 1950s, and then the originals of these records were
4 restituted to the Federal Republic of Germany in the 1960s.

5 Q. So they have been available to scholars?

6 A. These records have been available to scholars, to my
7 knowledge, since sometime in the early to mid 1960s.

8 Q. Now, Doctor, do you remember being shown last
9 Thursday a number of summary exhibits?

10 A. Yes, sir.

11 Q. Exhibits that attempted to show who had admitted
12 being at Trawniki and who was on what weapons log, and so
13 on?

14 A. Yes, sir.

15 Q. Now, in the summary exhibits, they didn't take
16 account of the different spelling of names, right? They
17 kind of picked one name and stuck with it, correct?

18 A. I believe that's the way it was done, yes, sir.

19 Q. Now, suppose I was to make a summary exhibit and give
20 it to you and it had a column on there that said, "Anybody
21 that ever described having served with Iwan Demjanjuk, who
22 was 175 centimeters tall and" -- well, "who was 175
23 centimeters tall," anybody who ever said "That's the Ivan I
24 served with," would we get any names in that column?

25 A. I don't believe anybody would go in a column with --

Sydnor Cross

1 headed with that description.

2 Q. And suppose we wanted to find a live witness who
3 said, "You know what, I did transfer from Trawniki to
4 Sobibor, and I was on this list, and I traveled there with
5 Iwan Demjanjuk." How many names would we get?

6 A. To my knowledge, there's not anybody.

7 Q. And that's keeping in mind that Danilchenko is on the
8 list, but he said that a Demjanjuk was already there,
9 right?

10 A. Yes, sir. I understood your question to be in the
11 present tense, and I don't believe Mr. Danilchenko is
12 living any longer.

13 Q. Oh, I'm talking about -- excuse me, not in the
14 present tense. Was there ever a statement by a witness
15 that you know of of anybody who ever saw a man 175
16 centimeters tall who gave his name as Iwan Demjanjuk assist
17 the Nazis?

18 A. No, sir.

19 Q. Well, let's get the next -- could we go to
20 Government's Exhibit 8, please. Now, what is the
21 significance of this document? Does that have
22 Mr. Demjanjuk or does it have a Demjanjuk on it?

23 A. I don't have Government's Exhibit 8 here in front of
24 me.

25 Q. Oh, excuse me.

Sydnor Cross

1 A. I don't believe I have the right volume. I don't
2 have the right volume for it, I'm sorry.

3 (Pause.)

4 Q. Does --

5 A. Government's Exhibit 8?

6 Q. Yes.

7 A. Government's Exhibit 8, I'm looking at the English
8 translation of the duty assignments for Wednesday, October
9 the 4th, 1944, headed "Flossenburg," October the 3rd, 1944.

10 Q. Yes, sir. And does that -- what is the significance
11 of that?

12 A. This is a list for the specific duty assignments to
13 what were the small details or the specific working
14 projects for prisoners for the next day, which is October
15 the 4th, 1944, and it lists the detail or the work project
16 and the guards assigned to them.

17 Do you want my copy?

18 Q. I'm sorry. Which copy did I bring, this one? Okay.
19 And so that is just sort of general historical knowledge
20 about the camp, correct?

21 A. Yes, sir. This shows to the historian, this document
22 shows what sorts of tasks prisoners were being deployed to
23 perform at that particular time in the camp's history, and
24 how guards were being assigned to guard the prisoners that
25 were deployed to this work, and it also illustrates what

Sydnor Cross

1 kinds of weapons the guards were armed with.

2 Q. Now, just continuing on, I'm just going over some of
3 the things on your direct examination. You noticed that
4 Exhibit 44.7, the Bondarenko card -- excuse me, strike
5 that.

6 Exhibit 45.17, would you take a look at that,
7 please.

8 A. Yes, sir.

9 Q. And that is a service pass, correct, for this fellow
10 Bondarenko?

11 A. Yes, sir.

12 Q. And you noted last Thursday, did you not, that his
13 deployments were not all listed there, correct?

14 A. Yes, sir. This is his Trawniki training camp service
15 pass, and there are -- this is the gentleman I spoke of
16 also yesterday, I believe, or Friday when we were talking
17 about --

18 Q. Friday. I meant Friday, not Thursday, sir. I'm off
19 a day.

20 A. You asked me about individuals for whom we had both
21 the personnel sheet and the service identity pass.

22 Q. Right.

23 A. And I believe there are more outside assignments
24 listed on the personnel sheet than there are on the service
25 identity pass.

Sydnor Cross

1 Q. So is that also true of other service identity
2 passes, that they are missing what you in your historical
3 opinion believe to have been postings that the person had?

4 A. Yes, sir, I believe that's true.

5 Q. And is it your historian opinion that the
6 personalbogen or personnel file would have been more likely
7 to have been accurate with respect to those postings?

8 A. Well, again, as with all the other anomalies in the
9 Trawniki system, I don't believe you can always say that
10 because there are some personnel sheets that have personnel
11 information on them that don't have anything else on the
12 inside.

13 There are some that have a fairly extensive
14 listing of postings, and there are some, like
15 Mr. Bondarenko's, which when compared with the service
16 identity passes have more information than the service
17 identity passes.

18 Q. So would it be fair to say there's no consistent
19 business practice with respect to where the postings are
20 recorded?

21 A. That's a fair statement.

22 Q. And you would be helped in determining the matter in
23 any given case if you had both the personnel file and the
24 service pass, right?

25 A. Having both, given what we know of the shortcomings

Sydnor Cross

1 of the system, having the personnel sheet and the service
2 identity pass would be more helpful than simply having one
3 document or the other.

4 Q. We've been over this pay book and card file thing as
5 well, you remember that?

6 A. Yes, sir. Again, the question that I was asked
7 earlier about the pay book, the pay book comes into effect
8 after the Trawniki service identity passes for the people
9 who are no longer in the Trawniki system have been retired.
10 These service identity passes are collected. They are
11 stored somewhere, either in Lublin or Trawniki, and then
12 the men who are going from Trawniki to Auschwitz, to
13 Sachsenhausen, to Buchwald, to Gusen, and to Flossenburg
14 are issued Waffen SS pay books in place of the service
15 identity passes.

16 Q. And the basis for knowing that is that we have a
17 document that shows a deployment to Flossenburg and says
18 133 pay books, right?

19 A. That, and you have what I would call a contextual
20 document that I first became aware of like maybe two years
21 ago that helps illustrate how the concentration camp
22 inspectorate and the SS main economic and personnel office
23 took over the men in the Trawniki system. That document,
24 Mr. Tigar, is from August 17th, 1943.

25 Q. And you don't have a pay book for 1393, do you?

Sydnor Cross

1 A. No, sir.

2 Q. You don't have a pay book for anybody, do you, from
3 Flossenburg, or do you?

4 A. Mr. Tigar, with the exception of the one pay book
5 that I told you about this morning that is in the
6 Flossenburg materials in Berlin, I have not seen another
7 Waffen SS payment from Flossenburg, no, sir.

8 Q. Now, would you turn, please, to Government -- what,
9 if anything, is the significance in your view of a Trawniki
10 number appearing on documents that are at Flossenburg?

11 A. This is a way that the SS administration at
12 Flossenburg identified members of the Trawniki-trained
13 guard forces who had been assigned to Flossenburg to
14 supplement the SS Death's Head Battalion, and it is a kind
15 of fail-safe mechanism or check-off against the names.

16 Q. Now, would you turn, please, to Government Exhibit
17 36, which is a summary exhibit? Now, 36 is that summary of
18 the correlation between the Sobibor and Flossenburg
19 rosters, correct?

20 A. Let me just find it here.

21 Q. Sure.

22 A. I believe it's correct. Yes, sir.

23 Q. And the Flossenburg and Sobibor rosters, those are
24 Government's 5 and 6?

25 A. Yes, sir.

Sydnor Cross

1 Q. And that does not deal with the inconsistencies
2 between the Sobibor and Flossenburg rosters that we found
3 this morning, does it?

4 MR. DRIMMER: Objection. It does certainly.
5 So there's differences in the spelling of the names, if
6 that's what you're talking about.

7 MR. TIGAR: No, it's not.

8 THE COURT: Overruled.

9 A. This is a summary that is simply designed to
10 illustrate men whose names appeared on the Sobibor roster
11 whose names also appeared on the Flossenburg roster.

12 Q. It's designed to illustrate consistencies, correct?

13 A. It's designed to, I believe, there are 34 names on
14 the Flossenburg that are also on the Sobibor roster.

15 Q. It's not designed to illustrate inconsistencies, is
16 it?

17 A. No, sir.

18 Q. Now let's turn to Government 37, and you've got
19 various checkmarks here, correct?

20 A. Yes, sir.

21 Q. Now, you put "Admits Flossenburg service," correct,
22 on there?

23 A. Yes, sir.

24 Q. Well, why did you put that?

25 A. Simply to illustrate that in addition to names that

Sydnor Cross

1 appear on the Flossenburg transfer authorization of October
2 the 1st, 1943, the weapons log of April the 1st, 1944, and
3 either/or, and the duty roster of September 15-16, 1944,
4 and the duty roster of October the 4th, 1944, then finally
5 the undated roster as the final contemporaneous document in
6 this sequence of documents from Flossenburg concentration
7 camp, that three, five, six, seven, eight, ten, I believe a
8 total of 11 individuals --

9 Q. Admit it?

10 A. -- out of a group, at some time after the Second
11 World War acknowledged that they had served at Flossenburg.

12 Q. Okay. Now, you regard the statements taken by law
13 enforcement authorities where people admit their service as
14 being significant enough to put on your chart, correct?

15 A. Significant enough to put on the chart, but not as
16 significant, in my judgment, as the documents that precede
17 it on the illustration.

18 Q. Well, of the people who admitted Flossenburg service,
19 how many of them were asked if they ever knew somebody who
20 had a name like Demjanjuk or anything like it?

21 A. I'm not sure that any of the men in this chart were
22 either asked that or indicated that in the post-war period.
23 Let me look at the list just a minute.

24 Q. Please do. And I'm trying to get through this. Look
25 at Danilchenko's name at the bottom there and see if that

1 helps you.

2 A. Yes, I'm sorry. Yes, Mr. Danilchenko was, of course,
3 we've talked about him before. Mr. Danilchenko was asked
4 and did indicate that he had served both at Flossenburg and
5 with Mr. Demjanjuk.

6 Q. Now, anybody else other than Danilchenko?

7 A. No, sir, I don't believe so.

8 Q. Now, given the passage of time, actuarially speaking,
9 the likelihood of any of these people being alive today is
10 pretty slim, isn't it?

11 A. Yes, sir.

12 Q. And Danilchenko we talked about on Friday?

13 A. Yes, sir.

14 Q. He's the fellow that said there was a Demjanjuk that
15 was already there that was 187 centimeters and all that,
16 right?

17 A. Yes, sir, but not about Flossenburg. I believe that
18 was about Sobibor.

19 Q. That's Sobibor.

20 A. Yes.

21 Q. Exactly. But that's the only -- but it's in that
22 same series of protocols that he both makes that statement
23 about the Demjanjuk he knew and talks about his Flossenburg
24 service, correct?

25 A. Yes, sir.

Sydnor Cross

1 Q. All right. Being interrogated by the same law
2 enforcement agents?

3 A. Yes, sir.

4 Q. And the interrogation, as we established, takes place
5 at a time when whatever motive he would have had to falsify
6 had been dimmed by the fact that he had been convicted and
7 served his sentence?

8 A. I believe that's accurate.

9 MR. TIGAR: If Your Honor please, I think I'm
10 about ten minutes from the end, but I would appreciate a
11 recess at this moment. I'll keep going, but if I could
12 have a recess now, I could just look through my notes.

13 THE COURT: Sure.

14 MR. TIGAR: You know, Mr. Nishnic and
15 Mr. Demjanjuk, Jr. are really ventriloquists, Your Honor,
16 and I've not been doing any of this.

17 THE COURT: You can have the time.

18 MR. TIGAR: Thank you.

19 (Recess had.)

20 BY MR. TIGAR:

21 Q. Doctor, just a few questions to close this out. Do
22 you know an archivist or person who works in archives named
23 Robert Wolfe?

24 A. Yes, sir.

25 Q. And do you respect his judgment about the proper

Sydnor Cross

1 techniques for handling archival material?

2 A. Yes, sir.

3 Q. In your report, you cite a book by Wolfgang Sofsky,
4 The Order of Terror in a Concentration Camp. Do you
5 remember that?

6 A. Yes, sir.

7 Q. Is that a good book?

8 A. Yes, sir, I think it is.

9 Q. And I do not have a copy with me, but if there is a
10 chart there that shows how the Germans viewed different
11 ethnic groups, a hierarchial chart, would you say that
12 would be an accurate statement?

13 A. I own a copy of the Sofsky book, and I'm trying to
14 recall the table that you are referring to, but I think
15 it's accurate, yes, sir.

16 Q. What is the Yanov Camp Investigation, if you know?

17 A. A current investigation?

18 Q. No, an old investigation by the USSR, the Yanov Camp
19 Investigation?

20 A. Yanov was a name of a camp, a forced labor camp for
21 Jews that the SS created in the city of L'viv, L V I V,
22 which can also be spelled Lvov, which the Germans called
23 Lemberg, L E M B E R G, in the Galician District of the
24 Government General of Poland, and that camp was under the
25 jurisdiction of the SS and Police Leader in the Galician

Sydnor Cross

1 District whose name was Katzmann, K A T Z M A N N. He was
2 Globocnik's counterpart.

3 And there was a post-war investigation of
4 the -- there was at least one post-war investigation in the
5 Soviet Union of events that went on at the Yanov camp.

6 Q. Did anyone from the government ever tell you that
7 that Ivan A card that we were talking about came from the
8 files of the Yanov Camp Investigation?

9 A. No, sir, I don't believe anybody ever told me that.

10 Q. If that were true, that it came from the files of the
11 Yanov Camp Investigation, what, if any, significance would
12 that have for you?

13 A. Well, it would be interesting -- first of all, it
14 would be interesting because I believe Mr. Litvinenko
15 served at the Yanov camp as an armed guard. There is a
16 document that I have seen in this matter from some period
17 of time, and it may be early 1943, I believe, that places
18 Mr. Litvinenko with a group of guards at Yanov.

19 Q. Go ahead. I'm sorry.

20 A. I'm not certain, your question was "Of" --

21 Q. Of what significance would it have?

22 A. I'm not sure I would have accorded it much
23 significance since Yanov, the camp at Yanov was not one of
24 the facilities that had been the focus of research in this
25 matter as that research had been informed or led by the

Sydnor Cross

1 contemporaneous wartime documents.

2 Q. Would you have been interested to know the case
3 number, archival number, and so on, out of that
4 investigative file?

5 A. Yes, sir, sure.

6 Q. Was that ever given to you by the government?

7 A. No, sir, I don't believe so.

8 Q. All right. Now, sir, I'm going to show you what I
9 have marked as Defendant's Exhibit B 17, and I ask you if
10 you can remember ever seeing that before.

11 A. May I have just a minute to look at this?

12 Q. Of course, please do. Take your time.

13 (Pause.)

14 THE COURT: Mikhail Gorbachev.

15 MR. TIGAR: Yes, I notice this fellow Mikhail
16 Gorbachev, they better find out where he got that tattoo on
17 his forehead, but he could be in trouble.

18 THE COURT: They can't locate him.

19 (Laughter.)

20 A. Mr. Tigar, back to your question, I believe I was --
21 I'm not sure I was provided with this document. I don't
22 remember looking at this document. I'm just not sure.

23 Q. Well, let's take a look at it, the front part, and
24 I'll represent to you that we obtained it from the
25 government.

Sydnor Cross

- 1 A. Yes, sir.
- 2 Q. But you notice it's a memorandum of the UKGB,
3 L, apostrophe, V I V, correct?
- 4 A. Yes, sir.
- 5 Q. What does that mean to you as a historian?
- 6 A. The UKGB is the, I believe, the Ukrainian variation
7 of the KGB at the time this document was created, which was
8 in March of 1969.
- 9 Q. And this document refers on page 4, two names below
10 Mikhail Gorbachev, to an Iwan Demjanjuk, correct?
- 11 A. Yes, sir.
- 12 Q. It says his year of birth is approximately 1918 to
13 1919, correct?
- 14 A. Yes, sir.
- 15 Q. So we have a document here from the Ukrainian KGB
16 based on a 1969 investigation that shows an Iwan Demjanjuk
17 that was helping the Nazis, right? Is that what they are
18 saying?
- 19 A. Yes, sir. The person who is listed on page 4, the
20 third entry, is in a category of people on this document
21 who are described as persons who have not been located
22 after searches were done in their former places of
23 residence. I believe I'm correct in saying that. I'm
24 looking to see if there's another interim designation.
- 25 Q. That's a subcategory of the first one, is that your

Sydnor Cross

1 understanding of the document?

2 A. Yes, sir.

3 Q. So --

4 A. This is an inventory of people who have been, all
5 these people -- this is an inventory of people who have
6 been investigated, tried and sentenced, and people who have
7 not been located.

8 Q. Now, you said you don't remember ever seeing this
9 before, right?

10 A. No, sir, I don't remember looking at this document.

11 Q. Now, excuse me just a moment.

12 A. That's not to say it may not have been provided to
13 me, but I just don't remember reading it before.

14 Q. Now, Litvinenko was at L'viv, right?

15 A. Yes, sir.

16 Q. And you and I talked at some length about why you
17 didn't credit the Litvinenko statement, right?

18 A. Yes, sir, why I didn't credit part of it.

19 Q. And you didn't credit part of it because the
20 documents you had didn't show the number 1393 was at L'viv,
21 is that fair?

22 A. Yes, sir.

23 Q. Well, I want to be fair to you, sir. We now see a
24 document that originates in L'viv that has an Iwan
25 Demjanjuk on it.

Sydnor Cross

- 1 A. Yes, sir.
- 2 Q. And the date of birth is 1918, 1919, right?
- 3 A. Yes, sir.
- 4 Q. Does that lead you to change your mind about
5 Litvinenko?
- 6 A. Well, I'm not sure that -- this date of birth is the
7 date of birth that is on the Soviet -- it's two of the
8 dates of possible birth that's on the Soviet card which
9 references Mr. Litvinenko's post-war interrogation
10 protocol.
- 11 Q. Right.
- 12 A. There's no patronymic given with this name.
- 13 Q. Right.
- 14 A. And so this could be a reference to Ivan Andreevich
15 Demjanjuk.
- 16 Q. Right.
- 17 A. Since Mr. Litvinenko did, I believe, serve at Yanov,
18 and since two of the dates given here are also given on the
19 Soviet card for Ivan Andreevich Demjanjuk.
- 20 Q. And my final question, sir: Do you remember ever
21 seeing, hearing about results of interviews -- shall I
22 start again? Did I drop my voice?
- 23 A. No, I've got you.
- 24 Q. Do you remember seeing or hearing about reports from
25 Flossenburg survivors as to who they remembered being among

Sydnor - Redirect

1 their guards?

2 A. Immediately after the war, yes, sir, there were a
3 group of prisoners who survived the evacuation, and right
4 after the liberation of the camp pointed out to American
5 investigators a good deal of information about the SS
6 principals and the SS noncommissioned officers in the
7 Flossenburg concentration camp.

8 Q. Do you remember seeing any statement from any
9 Flossenburg survivors that in any way implicates the John
10 Demjanjuk who is on trial here today?

11 A. No, sir, I have not.

12 MR. TIGAR: Pass the witness.

13 THE WITNESS: Mr. Tigar, would you like this
14 back?

15 MR. TIGAR: Oh, thank you. And my copy of
16 your report, too. Thank you very much, Doctor.

17 REDIRECT-EXAMINATION OF CHARLES W. SYDNOR, JR.

18 BY MR. DRIMMER:

19 Q. Dr. Sydnor, the place I'd like to start is on the
20 file card and the Litvinenko statement, which I think are
21 Exhibits B 1 and B 2 of the Defense, and I'll give you
22 copies of those (handing).

23 Dr. Sydnor, on cross, I believe that you were
24 asked and it was stated that you think some of the
25 information on the file card came from this Litvinenko

Sydnor - Redirect

1 statement in front of you.

2 A. Yes, sir.

3 Q. Looking at the file card, B 2, does it have a date?

4 Is the card dated?

5 A. I'm sorry, is the card dated?

6 Q. Is the card itself, does it have a date of creation,
7 when the card was created?

8 A. No, sir, I don't see a date of creation on this card.

9 Q. Looking at the handwriting on the original, just in a
10 quick eyeballing it, does it look like the person who wrote
11 Andreevich was the same person who wrote Litvinenko down in
12 the corner.

13 MR. TIGAR: Object, Your Honor. He doesn't
14 read Cyrillic.

15 THE COURT: Oh, well, I don't know that you
16 even need to read Cyrillic to answer the question.

17 MR. TIGAR: Thank you, Your Honor.

18 A. Look, I can't say with certainty that the person who
19 wrote Andreevich is the same person who wrote Litvinenko.
20 If we are looking at the box in the lower right-hand corner
21 of the document --

22 Q. Yes.

23 A. No, I can't say that with certainty.

24 Q. Does it appear to have been done in the same type of
25 pen or pencil? Is one darker than the other?

Sydnor - Redirect

1 A. Yes, sir. There are two different hands and two
2 different pens, I think, that made marks on this piece of
3 paper.

4 Q. Does the information on this card reflect the
5 Trawniki identification number 1393?

6 A. No, sir, I don't see that on the card anywhere.

7 Q. Does it indicate that the Demjanjuk named on this
8 card was born April 3rd, 1920?

9 A. No, sir, I don't see that on this card.

10 Q. Does this card indicate assignments to Sobibor or
11 Okzow or Flossenburg?

12 MR. TIGAR: Objection. The card speaks for
13 itself at least as far as redirect is concerned.

14 THE COURT: The objection is overruled.

15 A. I'm sorry, could you repeat the question?

16 Q. Does this file card indicate that the Demjanjuk named
17 was assigned to Sobibor, Okzow or Flossenburg?

18 A. Well, Sobibor, Okzow and Flossenburg are not written
19 anywhere on the piece of paper.

20 Q. So Dr. Sydnor, in your expert historical opinion, is
21 it fair to conclude that the people who wrote this file
22 card were not utilizing Government's Exhibits 3 through 9?

23 A. Yes, sir, that's a fair conclusion.

24 Q. Now, you were asked on cross about footnote 59 of
25 your report, and my notes say that you said it would be

Sydnor - Redirect

1 more historically complete if you had included information
2 about Litvinenko's memory errors. Is that about what you
3 said?

4 A. That's close, yes, sir.

5 Q. Elsewhere in your report, do you discuss Litvinenko's
6 memory errors that you can recall?

7 A. Yes, sir, I believe so.

8 Q. If you would turn to footnote 271 of your report. In
9 footnote 271, do you talk about Litvinenko's memory
10 problems?

11 A. Yes, sir.

12 Q. And what do you say?

13 A. Reading from the sentence following the citation,
14 "Vasilij Litvinenko, another former Flossenburg guard,
15 thought he recalled serving with Demjanjuk in the Lublin
16 detachment, which was separate from Majdanek, and at the
17 forced labor camp in Lemberg, but he did not name him as a
18 Flossenburg guard. It thus appears that this man confused
19 Demjanjuk with some other guard he also knew." And then
20 the reference is to the Litvinenko interrogation protocol.

21 Q. Now, Dr. Sydnor, you said in assessing the
22 reliability of the Litvinenko statement you would look for
23 corroborating German wartime documents or post-war
24 statements. Is that a fair statement?

25 A. Yes, sir.

Sydnor - Redirect

1 Q. And did you testify that you haven't seen any such
2 corroborating information regarding the Lublin or L'viv
3 assignment for the Demjanjuk assignment, 1393?

4 A. Yes, sir. There are no documents that I'm aware of
5 that indicate that the Iwan Demjanjuk who had service
6 identity pass number 1393 served at the Lublin detachment,
7 which was not part of the Waffen SS prisoner of war camp
8 that became a concentration camp. That's a forced labor
9 camp on Lipowa Street in the city of Lublin. I've not seen
10 any documentation that indicates that the Iwan Demjanjuk
11 with that ID number served either in the Lublin detachment
12 or at the Yanov forced labor camp.

13 Q. Looking at Exhibit B 1 in front of you.

14 A. Yes, sir.

15 Q. That's the 1949 Litvinenko statement --

16 A. Yes, sir.

17 Q. -- where he is identifying the Demjanjuk that he
18 recalls. He makes a very specific reference to the man's
19 teeth, is that right? You talked about that on your cross.

20 A. Give me just a minute here. Okay. Yes, sir.

21 Q. And what does he say?

22 A. Reading from the bottom of the first page of the
23 English translation, which I guess is Bates page 756,
24 number 2, "Wachmann Iwan Demjanjuk, I do not remember his
25 patronymic, year of birth 1918 to 1920, I do not know his

Sydnor - Redirect

1 place of birth, Ukrainian by nationality. Characteristics:
2 Average height, average build, blond hair, had two false
3 white metal teeth in his upper jaw."

4 Q. He mentions two false white metal teeth. Is there
5 any reference to false teeth on Government's Exhibit 3, the
6 service identity pass, under distinguishing
7 characteristics?

8 A. No, sir.

9 Q. Continuing with B 1.

10 A. Yes, sir.

11 Q. Would you look at entry number 6, which is page 3,
12 for a Zugwachmann, Z U G W A C H M A N N, with the first
13 name Aleksandr, A L E K S A N D R. Do you have that entry?

14 A. Yes, sir.

15 Q. Can you identify the characteristics that Litvinenko
16 is remembering about this man?

17 A. In the second paragraph, characteristics, and this is
18 for entry number 6, "Above average height, full build,
19 brown hair, had one false gold metal tooth in his upper
20 jaw."

21 Q. Would you look at the next entry, number 7, for
22 Malov? Does he mention anything about Malov's teeth?

23 A. Yes, sir.

24 Q. What does he say?

25 A. "Characteristics: Tall in height, full build, brown

Sydnor - Redirect

1 hair, had several false gold metal teeth in his upper jaw."

2 Q. Would you look at entry number 8, the next entry for
3 Batyuk, B A T Y U K?

4 A. Yes, sir.

5 Q. Under characteristics, does he mention that man's
6 teeth?

7 A. Yes, sir. "Characteristics: Average height, average
8 build, brown hair, had one false gold metal tooth in the
9 front of his lower jaw."

10 Q. Turning the page, would you look at entry 13,
11 Wachmann Simka, S I M K A?

12 A. Yes, sir.

13 Q. Under characteristics, does he remember that man's
14 teeth?

15 A. Yes, sir.

16 Q. What does he say?

17 A. Characteristics for number 13: "Simka, average
18 height, puny, dark blond hair, had pockmarks on his face,
19 had false white metal teeth in both his upper and lower
20 jaws."

21 Q. Would you turn to entry 17, which is on page 5.

22 A. Yes, sir.

23 Q. Lebedev, L E B E D E V.

24 A. Yes, sir.

25 Q. Under characteristics, does he also talk about that

Sydnor - Redirect

- 1 man's teeth?
- 2 A. Yes, sir.
- 3 Q. What does he say?
- 4 A. "Characteristics: Average height, average build,
5 blond hair. He had three false teeth in his upper jaw, one
6 gold metal and two white metal."
- 7 Q. Would you look at the next entry for Nagornij,
8 N A G O R N I J, entry 18. Do you see that?
- 9 A. Yes, sir. Entry 18 is on page 6.
- 10 Q. Under the entry for Nagornij, the next entry, does he
11 identify this man as having -- by his teeth in some way?
- 12 A. Yes, sir.
- 13 Q. What does he say?
- 14 A. "Characteristics: Tall in height, puny build, fair
15 hair, had false gold metal and white metal teeth in his
16 upper jaw."
- 17 Q. Number 20, Khatko, K H A T K O. Do you see that
18 entry?
- 19 A. Yes, sir.
- 20 Q. Does he identify that man's teeth?
- 21 A. Yes, sir.
- 22 Q. What does he say?
- 23 A. "Characteristics: Tall in height, average build,
24 brown hair, had false white metal teeth in his upper jaw."
- 25 Q. Last one, Dr. Sydnor, number 23. I'm not going to

Sydnor - Redirect

1 try to pronounce it, I'm going to spell it,

2 K U R D Y N K O V, Kurdynkov. Do you see that entry,

3 number 23?

4 A. Yes, sir, that's on page 7 of the English

5 translation.

6 Q. Does he mention that man's teeth?

7 A. Yes, sir.

8 Q. What does he say?

9 A. "Characteristics: Average height, average build,
10 bald, had several gold metal teeth."

11 Q. Now, by my count, Dr. Sydnor, nine of the 23 men
12 Litvinenko names on this list he remembers having some kind
13 of false teeth. Now, nine out of 23 is about 40 percent;
14 is that about right?

15 A. Yes, sir.

16 Q. Now, you have had, I think you testified on direct,
17 previous experience evaluating Trawniki statements. Have
18 you ever seen another Trawniki statement where the speaker
19 makes reference to dental work on 40 percent of the men he
20 names?

21 A. I don't believe so, no, sir.

22 Q. Have you seen any evidence that Litvinenko had reason
23 to know about the teeth of so many men who he served with?

24 A. Do I have any reason to believe that?

25 Q. Have you seen any evidence?

Sydnor - Redirect

1 A. I haven't seen any evidence, no, sir.

2 THE COURT: Maybe he had a tooth fetish.

3 MR. DRIMMER: That would be my point, Your
4 Honor.

5 Q. Now, Dr. Sydnor, in the vein of partial memory
6 failure which I think you talked about before regarding
7 Litvinenko, I want to show you a statement from Litvinenko
8 dated January 19th, 1968.

9 MR. TIGAR: May we please know what exhibit
10 number this is?

11 THE COURT: Yes, which exhibit is this?

12 MR. DRIMMER: Yes, give me one second. Your
13 Honor, this is not an exhibit in this case. We are going
14 to submit this as rebuttal exhibit after the defense is
15 through, but for understanding my next question, I thought
16 it would be helpful to just look at the text very quickly
17 about what Litvinenko says.

18 THE COURT: Well, that's fine, but I
19 certainly think I should have a copy of it.

20 MR. DRIMMER: Yes, I'm in the process.

21 MR. TIGAR: Since it's being shown to the
22 witness, Your Honor, I think there's a rule in there that
23 says I should have one, too.

24 THE COURT: I would think so.

25 MR. DRIMMER: We have got our copies, Your

Sydnor - Redirect

1 Honor. Just give me a second.

2 MR. TIGAR: I also respectfully suggest it be
3 given a number so that should we --

4 THE COURT: You have to refer it to somehow.

5 MR. TIGAR: Yes, should we go somewhere else.

6 MR. DRIMMER: Let's call this Government's
7 Exhibit 103, which is our next in sequence.

8 THE COURT: All right.

9 BY MR. DRIMMER:

10 Q. Turning to page 4 of the translation, I think there
11 are page numbers at the bottom of the page -- since we are
12 offering it as an exhibit, can you identify this document
13 for the record, Dr. Sydnor?

14 A. Yes, sir. This is the English translation of an
15 interrogation protocol of Vasiliy Nikiforovich Litvinenko
16 dated 19 January 1968.

17 Q. Now, turning to page 4 of the translation under
18 answer, do you see that at the top of the page?

19 A. Yes, sir.

20 Q. Can you read the first few sentences starting, "As I
21 stated"?

22 A. Yes, sir. "As I stated during interrogation on 18
23 January 1968, I escorted prisoners to the shooting site in
24 Lvov. The shooting site was located in a ravine that was
25 called Pyaski, P Y A S K I. Along the way, I told the

Sydnor - Redirect

1 doomed people that they were going to be shot anyway, and
2 if they had any valuables in their possession, they should
3 give them to me. Some of the prisoners gave me their gold
4 possessions and paper dollars. I exchanged these valuables
5 and dollars for vodka and began to drink heavily. It had
6 gotten to the point that I had exchanged my uniform slacks
7 for vodka."

8 Q. Thank you. Now, Dr. Sydnor, in evaluating the
9 reliability of a post-war statement, would you take the
10 following into account: 1, that no wartime documents or
11 other post-war statements supported the statement of the
12 speaker; 2, that 40 percent of the people he recalls from
13 Trawniki he remembers as having false teeth; and 3, that
14 during the war the guard's drinking had gotten to the point
15 where he sold his pants for vodka?

16 A. Yes, sir, I mean I would have to take all of those
17 elements into account or consideration.

18 Q. Now, you were asked some questions about Defense
19 B 21, writes the Maria Avramivna statement.

20 A. Defense Exhibit B 21?

21 Q. That's right.

22 MR. DRIMMER: Your Honor, this is the English
23 translation that we didn't have before Mr. Tigar was
24 finished, and we gave him the translation.

25 THE COURT: All right.

Sydnor - Redirect

1 MR. DRIMMER: Do you have that?

2 THE COURT: No, I don't have that.

3 MR. DRIMMER: I'll share with the witness, if
4 that's okay. Oh, I have secured another copy.

5 Q. Dr. Sydnor, have you read this statement before?

6 A. Yes, sir.

7 Q. Does this document say anywhere that Maria Avramivna
8 has some personal knowledge that Ivan Andreevich Demjanjuk
9 was a Trawniki-trained guard?

10 A. Let me have just a minute to read the document again,
11 please.

12 Q. Please do.

13 THE COURT: I notice she spells her name a
14 sixth way when she signed it.

15 MR. DRIMMER: It would appear so.

16 A. To answer your question, Mr. Drimmer, I don't see any
17 reference to Trawniki in this document.

18 Q. Now, does this document say anywhere that Maria
19 Avramivna has personal knowledge of any of the wartime
20 activities of Ivan Andreevich?

21 A. No, sir, it does not.

22 Q. Now, looking at page 2 of the document, do you see
23 the paragraph that begins, "During that period"?

24 A. Yes, sir.

25 Q. Would you please read that paragraph?

Sydnor - Redirect

1 A. On page 2 of the English translation, "During that
2 period rumors circulated in the village that I.A. Demjanjuk
3 had gone through service in the army of General Vlasov and
4 had been in German captivity, but those were rumors, not
5 reliable or official information, so I didn't know." And
6 then in brackets, "The truth" is written, and the period
7 ends the sentence.

8 Q. Now, on the top of page 3, would you read the first
9 sentence?

10 A. Yes, sir. On page 3 of the English translation, "As
11 I said earlier, I don't know anything about where I.A.
12 Demjanjuk went through military service during the war, and
13 I don't know whether or not he served among the occupiers."

14 Q. Thank you. Now, Dr. Sydnor, to change topics, you
15 were asked on cross about people may be giving the Germans
16 false information at times. Do you remember that?

17 A. Yes, sir.

18 Q. Are you aware of any instance where a Trawniki
19 recruit stole someone else's identity and used it to
20 deceive the Germans at Trawniki?

21 A. Am I aware of that?

22 Q. Of any instance in where a Trawniki recruit stole
23 someone else's identity and used that identity at Trawniki?

24 A. I'm aware of the instances we've talked about here,
25 where people changed their name, but if you're talking

Sydnor - Redirect

1 about stealing an identity of someone else --

2 Q. That's my question.

3 A. No, sir, I'm not aware of that.

4 Q. Now, we have seen also some examples that were shown
5 on cross, clerical errors, typos, that kind of thing, on
6 German documents. Do you remember that?

7 A. Yes, sir.

8 Q. Are you aware of any instance in which the Germans
9 mistakenly placed on a Trawniki service pass the photograph
10 of a Soviet prisoner who was still confined in a POW camp
11 miles away?

12 A. No, sir, I'm not aware of anything like that.

13 Q. Now, Dr. Sydnor, on cross, you were asked about the
14 Zhakarov, Z H A K A R O V, which is Defense B 8.

15 A. Yes, sir.

16 Q. I want to give you a copy of that (handing). Now, on
17 page 6 of the translation, it says that Zhakarov took the
18 name Prus, P R U S, and it says, "I wanted to pass myself
19 as Volksdeutsch, V O L K S D E U T S C H, in the hopes that
20 I would be taken out of the camp and sent somewhere to
21 work.

22 Dr. Sydnor, what is Volksdeutsch?

23 A. That term is a term used in official German language
24 between 1935 and 1945 to refer to ethnic Germans, and
25 ethnic Germans are people who are of German heritage,

Sydnor - Redirect

1 German language, German culture, who were living outside
2 the political boundaries of the German state as of April,
3 1938, that is, after the incorporation of Austria into
4 Germany with the -- the only way to say it is in German,
5 Anschluss, A N S C H L U S S, and that was the reunion of
6 Austria and Germany politically, and from that time on, the
7 Germans considered the communities of people living
8 throughout Europe who were German, who spoke German, who
9 were educated as Germans, and who observed German customs
10 and German culture, they considered them as racial or blood
11 kinsmen. And of course, there were a large number of
12 ethnic Germans living within the territorial boundaries of
13 the Soviet Union in the summer of 1941 when Nazi Germany
14 attacked Soviet Russia. And ethnic Germans in the Soviet
15 POW camps were a particular target of the SS people who
16 were evaluating prisoners in the camps for the purposes of
17 trying to recruit them to become collaborators.

18 This is a reference -- I believe that the
19 initial reference to this is -- may come from POW camp, but
20 Mr. Zhakarov indicates in the interrogation protocol that
21 he used -- that he served under the last name of Pruss,
22 P R U S, in Belzec.

23 The name had been changed by him before he
24 went to Belzec.

25 Q. Now, looking at the reason he gives for changing his

Sydnor - Redirect

1 name, is it your opinion that he changed his name because
2 he was afraid what would happen if Germany lost the war?

3 A. No, sir.

4 Q. What is your opinion as to why he changed his name?

5 A. Well, two things. I mean he says here that he
6 adopted the last name because he wanted to pass himself off
7 as an ethnic German in the hopes that he might be taken out
8 of the camp and sent somewhere else to work, and if you'd
9 give me a minute to see when he went to Belzec, there could
10 be another basis for an opinion.

11 Well, if Mr. Zhakarov was posted to the
12 Trawniki-trained guard detachment at Belzec in the spring
13 of 1942, it was certainly not clear in the spring of 1942
14 that Germany was losing the war. In fact, it was not clear
15 in the summer of 1942 that Germany was losing the war.

16 MR. DRIMMER: We can see if we can't find
17 that in this document later and come back to it later, Your
18 Honor.

19 THE COURT: I think we need to take a break
20 at this point because I have another matter to attend to,
21 so we will have to take at least a 15-minute break at this
22 time.

23 MR. DRIMMER: Yes, Your Honor.

24 MR. TIGAR: Can we leave our things on the
25 table, Your Honor?

Sydnor - Redirect

1 THE COURT: Yes.

2 THE WITNESS: Thank you, Your Honor.

3 (Recess had.)

4 BY MR. DRIMMER:

5 Q. Dr. Sydnor, I think when we broke we were talking
6 about the Zhakarov.

7 A. Yes, sir.

8 Q. Do you have that up there in front of you?

9 A. Yes, sir.

10 Q. Now, before we talk a little bit more about the name,
11 which is where we left it, would you say that his
12 description of the operation of the Belzec camp is fairly
13 accurate historically?

14 A. Yes, sir, I believe it is.

15 Q. And was Sobibor run in a manner similar to Belzec?

16 A. Yes, sir.

17 Q. Now, back to the statement, does this statement where
18 Zhakarov says he uses the name Prus, does this indicate
19 that Zhakarov stole somebody's name, birth date, birth
20 place, and father's name upon entering service?

21 A. All that is indicated in the protocol of the
22 interrogation is the examiner's question, "Under what name
23 did you serve in Belzec," and the answer given is, "I
24 served under the last name of Prus," P R U S, "in Belzec.
25 I adopted this name even before joining the SS while I was

Sydnor - Redirect

1 in a prisoner of war camp."

2 Neither the questioner or the respondent
3 indicate that the name was stolen. All Mr. Zhakarov says
4 is he adopted the name.

5 Q. Does this statement indicate in any way that the
6 Soviets created false documents to frame a man named Prus
7 for the crimes committed by Zhakarov?

8 A. No, sir.

9 Q. Now, on cross you were asked to compare Government's
10 Exhibit 5 and Government's Exhibit 6. Do you remember
11 that?

12 A. Yes, sir.

13 Q. I'm going to put those documents in front of you.

14 A. I have them in this volume here. That's okay.

15 Q. Okay. Now, starting with number 5.

16 A. Government's Exhibit 5, the English translation or
17 the German?

18 Q. Let's start with the English translation, page 3 of
19 the translation, what is the Trawniki service ID number for
20 Shuksow, entry 25?

21 A. Entry number 25 is Ivan Shuksow, S H U K S O W, and
22 the Trawniki identification number is 1281.

23 Q. I'd like you now to turn to Government's Exhibit 6,
24 page 4 of the translation, entry 48. What is the Trawniki
25 identification number given for Shuksow there?

Sydnor - Redirect

1 A. Number 48 on the English translation of Government's
2 Exhibit 6 is Ivan Shukow, S H U K O W, Trawniki
3 identification number 1281.

4 Q. Staying with Government's Exhibit 6, if you flip to
5 page 9 and look at entry number 126, I believe the man's
6 name is Maschtschenko, M A S C H T S C H E N K O. What is
7 his identity number?

8 A. The identity number for number 126, Andrei
9 Maschtschenko, is 2466.

10 Q. Now, turning to Government's Exhibit 5, page 7,
11 number 74, what's the identification number for
12 Maschtschenko there?

13 A. I'm sorry, Government's Exhibit --

14 Q. 5.

15 A. 5.

16 Q. Entry 74.

17 A. Entry 74 on page 8 of the English translation is
18 Andrei Maschtschenko, Trawniki identification number 2466.

19 Q. Looking one down, entry 75, Martynov M A R T Y N O V,
20 what is the identification number there?

21 A. The identification number for entry number 75 on page
22 8 of the English translation of Government's Exhibit 5 is
23 2467.

24 Q. And if you were to turn back to Exhibit 6, the
25 Flossenburg roster, entry 127, Martynow, M A R T Y N O W,

Sydnor - Redirect

1 what is the Trawniki identification number there?

2 A. The Trawniki identification number for 127, Martynow,
3 on page 9 of the English translation of Government's
4 Exhibit 6, the identification number is 2467.

5 Q. Looking two up, 125, it says, M O R D W I T S C H E
6 W. I'm not going to try to pronounce that. What's the
7 identification number given?

8 A. The identification number for number 125, Pavel
9 Mordwitschew, is number 2463.

10 Q. Back to Government's Exhibit 5, entry 72.

11 A. Yes, sir.

12 Q. What is the identification number given for M O R D W
13 I N I T S C H E W?

14 A. The identification number, Trawniki identification
15 number for entry 72 on page 8 of the English translation of
16 Government's Exhibit 5, is 2463.

17 Q. Now, Dr. Sydnor, were the Trawniki identification
18 numbers the primary means of identifying Trawniki men that
19 the Germans used?

20 A. Yes, sir. I believe I was asked earlier about this,
21 and the numbers are like a fail-safe check-off against the
22 names.

23 Q. On Government's Exhibits 3 through 6 and 8 and 9, is
24 Iwan Demjanjuk's identification number consistently given
25 as 1393?

Sydnor - Redirect

1 A. Yes, sir.

2 Q. Regarding dates of birth, on Government's Exhibit 3,
3 5 and 6, is there any discrepancy in Iwan Demjanjuk's date
4 of birth as April 3rd, 1920?

5 A. If you would, please, give me a minute to look at the
6 three exhibits. 3, 5 and 6?

7 Q. Yes, sir.

8 (Pause.)

9 A. The date of birth entered for the individual named
10 Iwan Demjanjuk, with varying spellings of the name, on
11 Government's Exhibits 3, 5 and 6 is April the 3rd, 1920.

12 Q. Okay, Dr. Sydnor. Thank you. Now to shift topics,
13 on cross-examination you mentioned that when Leonhardt
14 arrived at Trawniki, the records were in chaos?

15 A. Mr. Leonhardt in his interrogation in the German
16 legal proceedings in the early 1970s, and I believe this is
17 in 1973, was asked about the personnel files, the record
18 keeping, and the administration of the office at the
19 Trawniki training camp, and indicated that when he arrived
20 there in the summer of 1942, he found the records in the
21 office in total chaos.

22 Q. And when did Leonhardt arrive at Trawniki?

23 A. The exact date that I have seen in one of the
24 post-war German legal proceeding documents is June 18,
25 1942.

Sydnor - Redirect

1 Q. After he arrived at the camp, did he clean up the
2 record keeping system?

3 A. I believe that he did, yes, sir.

4 Q. Now, Dr. Sydnor, you were asked on cross about when
5 information was given by recruits and put on the personnel
6 forms. Do you remember that?

7 A. Yes, sir.

8 Q. Have you seen statements of former Trawniki men
9 describing how the recruits were processed?

10 A. Yes, sir.

11 Q. Do these statements or some of these statements state
12 that their detailed biographical information was taken at
13 Trawniki?

14 MR. TIGAR: Excuse me, Your Honor. I'm going
15 to object unless he tells us which ones. There's no way I
16 could cross this.

17 THE COURT: Okay.

18 Q. Do you recall having seen statements of former
19 Trawniki men describing how the recruits were processed?

20 THE WITNESS: Am I permitted to answer the
21 question?

22 THE COURT: Yeah, but we are going to have to
23 identify it by name.

24 A. I don't recall the specific name, no, sir. I recall
25 the statements, but I can't recall the names now.

Sydnor - Redirect

1 Q. I have a question on peer review. When you have done
2 peer reviews of articles and manuscripts, when you yourself
3 have done the peer reviews, did you travel to all of the
4 archives for the documents cited in these manuscripts?

5 A. No, sir.

6 Q. When people peer review your materials, do they
7 travel to all of the archives to examine documents that you
8 cite?

9 A. No, sir, I don't believe they do.

10 Q. Now, Dr. Sydnor, you mentioned that you've never been
11 given access to the, quote, magazine in archives.

12 A. Yes, sir.

13 Q. Does that hold true of archives in the United States?

14 A. Yes, sir.

15 Q. Is it a general practice that researchers aren't
16 allowed into the magazine?

17 A. Well, in the case of my own individual experience, I
18 believe that's consistent archival policy, and that's been
19 my experience in the former Captured Records Branch of the
20 Modern Military Division of the U. S. National Archives.

21 It was my experience in the West German
22 National Archives system, in the archives in Koblenz, the
23 archives in Freiberg, it was my experience in the archives
24 of the Institute for Contemporary History in Munich, my
25 experience in the archives of the Berlin Document Center in

Sydnor - Redirect

1 West Berlin up until 1994, and it was my experience in the
2 archive at Yad Vashem in Jerusalem, and it was my
3 experience in the FSB Archive in Moscow, the Russian State
4 Military Archive in Moscow, and the German National
5 Archives now in Berlin.

6 Q. Dr. Sydnor, I have a question for you on another
7 topic, about tatoos.

8 A. Yes, sir.

9 Q. You were shown a defense exhibit from 1980 that
10 discusses tatoos. Since 1980 have you learned additional
11 information on whether Ukrainian guards received SS tatoos
12 at certain points?

13 A. Yes, sir.

14 Q. Can you discuss this additional information?

15 A. Information comes from, of course, the post-war
16 interrogation protocols that have been made available. It
17 also comes to light in the context of the incorporation of
18 certain of the guard units from the Trawniki camp system
19 into the SS Death's Head Battalions of the regular German
20 concentration camps beginning in the late summer of 1943.

21 The practice, I believe it did not exist --

22 MR. TIGAR: I'm going to object to the
23 practice based on protocols unless we know which ones. He
24 says he has two sources. One is the general practice, and
25 that's subject to our standing objection about his

Sydnor - Redirect

1 qualifications, but to the extent it stands on protocols,
2 we object to it unless it --

3 THE COURT: Okay. Just identify which ones
4 you are talking about, Dr. Sydnor.

5 A. Yes, sir. The protocol that comes most immediately
6 to mind is the Danilchenko protocol, where he describes the
7 process of blood group tattooing in Flossenburg, and in
8 addition, the records I believe I mentioned earlier today
9 with respect to the incorporation of the Trawniki units
10 into the concentration camp guard units.

11 Q. Specifically to Flossenburg, did Trawniki-trained
12 guards receive tatoos when they were assigned to the camp?

13 A. Yes, sir.

14 Q. Now moving on, you were asked some questions about
15 Ivchenko, which is Defendant's Exhibit B, boy, 3?

16 A. Yes, sir.

17 Q. Let's see if I can't find a copy of that for you
18 (Handing.) Dr. Sydnor, on the second page in the second
19 paragraph --

20 A. Yes, sir.

21 Q. Do you see where Ivchenko talks about uniforms?

22 A. Yes, sir.

23 Q. What color were the uniforms of the Trawniki-trained
24 guards after they received their training?

25 A. Mr. Ivchenko says that they were dressed in green

Sydnor - Redirect

1 German military uniform first, and then after completing
2 the school, they were given black uniforms.

3 Q. Now, in the fifth paragraph, the last sentence, it
4 says, "We stayed there until May, '43, May, 1943, and were
5 then sent to the Sobibor death camp." Do you see that?

6 A. Yes, sir, I see that.

7 Q. Would you turn to Government's Exhibit 5, please,
8 look at entry number 17.

9 A. Yes, sir.

10 Q. Who is named?

11 A. Number 17 on page 2 of the English translation of
12 Government's Exhibit 5 is Ivan Ivchenko.

13 Q. And when does this document show Ivchenko is assigned
14 to Sobibor?

15 A. This is the Sobibor transfer authorization of March
16 26, 1943.

17 Q. Dr. Sydnor, do you have a binder up there that has
18 Exhibit 35 in it?

19 A. If you give me just a minute, I'll look and see.

20 Q. Volume 2.

21 A. Yes, sir, I have Volume 2. Are we finished with
22 volume 1 now?

23 Q. We are for now.

24 A. I have Exhibit 35.

25 Q. Okay. Second page, first entry at the top of the

Sydnor - Redirect

1 page.

2 A. Yes, sir.

3 Q. Who is named?

4 A. The first entry at the top of the second page of
5 Government's Exhibit 35 is Ivchenko, Ivan.

6 Q. And in the third column, do you see an F?

7 A. Yes, sir.

8 Q. And what does that mean?

9 A. That means that there is a Sobibor entry in
10 Mr. Ivchenko's personnel file.

11 Q. And do you recall sitting here today what the date is
12 for that entry on the personnel file?

13 A. Yes, sir, I do.

14 Q. What is that?

15 A. In the personnel sheet or personnel file for
16 Mr. Ivchenko, the Sobibor transfer assignment date is March
17 26th, 1943.

18 Q. So in Defense B 3 where Ivchenko says he is assigned
19 to Sobibor in May of '43, what is your opinion on the
20 reliability of his date of recollection?

21 A. Well, he's not remembering the date correctly. The
22 documents indicate March the 26th, 1943, and he's recalling
23 May of '43, and I believe that in this case, the documents
24 are correct.

25 Q. Dr. Sydnor, on B 3, if you'd flip towards the back of

Sydnor - Redirect

1 the document, I think it's Bates page 829, this is Defense

2 B 3.

3 A. Yes, sir.

4 Q. Do you have Bates 829?

5 A. Yes, sir.

6 Q. What is this document?

7 A. This is the record of presentation for photographs
8 for the identification of an individual.

9 Q. And on page 2, top paragraph, can you read that
10 paragraph, begin reading that paragraph?

11 A. Page 2 of the English translation --

12 Q. Yes.

13 A. -- of the record of presentation of photographs for
14 identification of an individual, this is headed "The city
15 of Vinnitsa, September 18, 1979." The top of page 2 --

16 Q. Page 2?

17 A. "After examining the photographs presented to him,
18 witness I.N. Ivchenko stated that the person shown in
19 photograph number 3 was known to him. This was the former
20 guard from the Trawniki SS guard school whose name he could
21 not remember. He had seen this guard in the Trawniki
22 training camp in 1942, but had not had personal relations
23 with him."

24 Q. Okay.

25 MR. DRIMMER: Your Honor, the pictures are at

Sydnor - Redirect

1 the very back of the Russian translation, or Ukrainian.

2 Q. Now, Dr. Sydnor, you were asked about Swesdun on your
3 cross-examination. Do you remember that?

4 A. Yes, sir.

5 Q. Let me see if I can't get defense exhibit numbers for
6 you. I think it's B 12 through 14, and let me give you
7 copies of those (handing). And we also have German wartime
8 documents for him, I think. I know we have one as a
9 defense exhibit, which I will show you, it's B 9.

10 Starting with B 9, Dr. Sydnor, what is this
11 document?

12 A. Defense Exhibit B 9 is the Trawniki service identity
13 pass number 2112 for an individual named Ivan Swesdun. On
14 the pass it's spelled S W E S D U N.

15 Q. Does this indicate, does B 9 indicate in some way
16 that Swesdun is from the Soviet Union?

17 A. Yes, sir.

18 Q. Now, looking back to the post-war statements that are
19 B 12 through 14, I think, do these indicate that Swesdun
20 went back to the USSR after the war?

21 A. I'm sorry, which exhibit are you referring to
22 specifically?

23 Q. Well, let's try B 14.

24 A. Yes, sir.

25 Q. And on the first page of the translation, does this

Sydnor - Redirect

1 indicate where the interrogation is taken?

2 A. Yes, sir. This is an interrogation protocol of the
3 arrestee, Ivan N. Swesdun, taken in the city of
4 Nobosibirsk, in the city of Nobosibirsk on 29 September
5 1947.

6 Q. Dr. Sydnor, does this post-war statement indicate
7 that Swesdun went back to the USSR after the war?

8 A. Yes, sir.

9 Q. As a traitor to the motherland during the war or as a
10 perceived traitor, might he have had a motive to lie to the
11 Soviets about his date of birth when he returned home?

12 A. Yes, sir.

13 Q. Now, my German isn't very good, Dr. Sydnor, but on
14 B 12, if you flip through you'll see some German on what
15 is, one of the Bates numbers is 7860.

16 A. Yes, sir.

17 Q. Do you see under number 2 where it talks about a date
18 of birth?

19 A. Yes, sir.

20 Q. And what does it say?

21 A. In the German under number 2, date and place of
22 birth, the date of birth is given as 7 November 1913 in the
23 village of Bukrejewo, B U K R E J E W O.

24 Q. Now, Dr. Sydnor, my Russian history is as bad as my
25 Russian, which is as bad as my German, and I may have to

Sydnor - Redirect

1 save this question for Dr. Menning, but I'm going to ask it
2 anyway. November 7th is that the date of the Bolshevik
3 revolution?

4 A. Yes, sir.

5 Q. Is that an important holiday in the former Soviet
6 Union?

7 A. Yes, sir.

8 MR. TIGAR: I'm sorry, Your Honor, what line
9 are we reading?

10 THE COURT: Line 2.

11 MR. DRIMMER: Right there.

12 MR. TIGAR: Oh.

13 Q. Now, Dr. Sydnor, have you seen any evidence that the
14 Swesdun whose statement we are looking at now is a
15 different person than the Swesdun named on the German
16 documents?

17 A. No, sir.

18 Q. Does Swesdun admit being a Trawniki-trained guard in
19 the statements that you have before you?

20 A. Yes, sir.

21 Q. Does Swesdun admit serving at Treblinka?

22 A. Yes, sir.

23 Q. Have you seen any evidence that someone stole
24 Swesdun's identity during the war?

25 A. That someone stole his identity during the war?

Sydnor - Redirect

1 Q. Yes.

2 A. No, sir.

3 Q. Have you seen any evidence that Swesdun stole someone
4 else's identity during the war?

5 A. No, sir.

6 Q. Have you seen any evidence that the Soviets forged
7 documents to frame Swesdun?

8 A. No, sir.

9 Q. Now I'm going to show you what is Defense F, Frank,
10 4, which is the statement of Razgonyayev, and you talked a
11 little bit about that on cross.

12 A. I need to do a little housekeeping.

13 Q. The spell is R A Z G O N Y A Y E V, Razgonyayev.
14 What was the date of this statement, Dr. Sydnor?

15 A. This is a record of questioning of a witness taken in
16 the city of Vinnitsa on 17 September 1979.

17 Q. So that's 34 years after the war ended?

18 A. Yes, sir.

19 Q. I always have to check my math. Page 6, the second
20 to the last paragraph, would you please read that
21 one-sentence paragraph that starts, "During my service"?

22 A. Reading from the English translation on page 6 of
23 this document, which is Defendant's Exhibit F 4, the text
24 in English says, "During my service in the Trawniki
25 training camp and Sobibor death camp, I communicated little

Sydnor - Redirect

1 with the Wachmenn and do not remember any of their names."

2 Q. Dr. Sydnor, I'm going to put in front of you in one
3 second two exhibits, the first one is a defense exhibit, B
4 17, and I'm going to ask you to juggle that in just a
5 second.

6 Now, you talked about this a little bit on
7 cross.

8 A. Yes, sir.

9 Q. So page 2, down there sort of near the bottom, it
10 says, "The following persons have not been located after
11 searches were done in their former places of residence."

12 A. That's correct, yes, sir.

13 Q. And what is the date of this document?

14 A. The date of this document is 17 March 1969.

15 Q. And on page 4, the third entry, two down from
16 Gorbachev, we said that was Iwan Demjanjuk?

17 A. Yes, sir. Near the top of page 4 of the English
18 translation, the third name entry in all capital letters is
19 Iwan Demjanjuk.

20 Q. Now, Dr. Sydnor, I'm going to have to ask you to
21 juggle exhibits again. I know you are getting some
22 experience with that. We are looking at Government's
23 Exhibit 101, Volume 10. I think I may have to bring you
24 that.

25 A. No, I have it up here. It's here. Give me just a

Sydnor - Redirect

1 minute though, please. Yes, sir, 101.

2 Q. Bottom of the first page of the English translation,
3 does this say when Ivan Andreevich Demjanjuk died?

4 A. Yes, sir.

5 Q. What is that date?

6 A. Reading from the English translation of Government's
7 Exhibit 101, the last paragraph on the first page, "In
8 addition, as it turns out from a finding of the executive
9 committee of the Dubovye Macharenzi Rural Council of
10 National Deputies of Kozyatyn Rayon of Vinnitsa Oblast,
11 Ivan Andreevich Demjanjuk is recorded as having died on 8
12 January 1970."

13 Q. So Dr. Sydnor, assuming this letter is right, was
14 Ivan Andreevich alive at the time B 17, the search
15 document, was created?

16 A. Yes, sir. If he died on 8 January 1970, he would
17 have been alive at the time of the creation of B 17, which
18 is dated 17 March 1969.

19 Q. Okay. Now, using common sense, am I right that if in
20 1969 the Soviets were looking for Iwan Demjanjuk in his
21 hometown --

22 MR. TIGAR: Objection. Leading, Your Honor.
23 The question on the record begins "Am I right," it's got to
24 be leading.

25 THE COURT: Sustained.

Sydnor - Redirect

1 Q. Dr. Sydnor, is it your opinion that if in 1969 the
2 Soviets were looking for Iwan Demjanjuk in his hometown and
3 Ivan Andreevich Demjanjuk died the following year in
4 Vinnitsa, does the fact that B 17 said they couldn't find
5 Iwan Demjanjuk, does that suggest that they weren't looking
6 for Ivan Andreevich Demjanjuk?

7 MR. TIGAR: Object, Your Honor, outside the
8 scope of his proven expertise. He doesn't know anything
9 about Soviet police efficiency.

10 MR. DRIMMER: Your Honor, he was asked about
11 that for quite a while on cross today.

12 THE COURT: About what?

13 MR. DRIMMER: Searches made in the Soviet
14 Union and this document, B 17, and what it means.

15 THE COURT: I know, but the manner in which
16 the question is formulated doesn't require the expertise of
17 the witness. Anybody could answer that.

18 MR. DRIMMER: Then I will let it go. I
19 couldn't agree more, Your Honor.

20 BY MR. DRIMMER:

21 Q. Now, Dr. Sydnor, you have been questioned for quite a
22 while about the affidavit you did in 1984.

23 A. Yes, sir.

24 Q. On Friday I think you had a lot of questions about
25 that on cross?

Sydnor - Redirect

1 A. Yes, sir.

2 Q. At the time you created that affidavit, had you seen
3 other kinds of identity passes for nonGermans issued during
4 the war?

5 A. I believe I testified that I had, and I had, and
6 specifically for Polish nationals who were serving as SS
7 guard auxiliaries at a labor education camp.

8 Q. Did these other identity passes contain similar
9 personal information to that appearing on Government's
10 Exhibit 3?

11 A. I testified, Mr. Drimmer, that to the best of my
12 recollection, I saw one, at least one identity document,
13 and that was for an individual who was a subject in the
14 case that involved the Kiel-Hassee Labor Education Camp.

15 Q. Were you aware in 1984 of a place called Trawniki?

16 A. Yes, sir.

17 Q. Were you aware in 1984 that it was a training camp
18 for nonGerman SS auxiliaries?

19 A. Yes, sir.

20 Q. Did you take those facts into account in stating that
21 Government's Exhibit 3 appears to be the kind of document
22 issued to SS auxiliaries?

23 A. Yes, sir.

24 Q. Since 1984 when you gave the affidavit, roughly how
25 many Trawniki service passes have you seen?

Sydnor - Redirect

1 A. Well, I believe that I have seen to date, I had seen
2 the one at the time, which is Government's Exhibit 3, which
3 is Trawniki service identity pass 1393. Since then I have
4 seen either an additional 37 or 38, and I believe at this
5 point it's 37.

6 Q. So in your affidavit when you said that it appears to
7 be a kind of identity card carried by the nonGerman SS
8 auxiliary, that Government's Exhibit 3 appears to be such a
9 card, was that an accurate statement?

10 A. Yes, sir.

11 Q. Now, Dr. Sydnor, you were asked on cross-examination
12 a little bit about Bob Wolfe.

13 A. Yes, sir.

14 Q. Have you read Defense Exhibit C 4?

15 A. Yes, sir, I have.

16 Q. I'm showing you it now, Dr. Sydnor (handing). What
17 is your opinion about Mr. Wolfe's statement regarding the
18 reliability of Nazi-captured documents removed from their
19 original archival context?

20 A. Well, I'm not sure how to answer that. Mr. Wolfe, I
21 have known Mr. Wolfe for 30 years, and over the course of
22 that professional relationship, he's expressed any number
23 of opinions about captured German records. So I mean I
24 could -- I could sit here and talk for hours about things
25 that I discussed with Bob Wolfe about German documents.

Sydnor - Redirect

1 I'm not sure I know exactly how to answer the question.

2 Q. Well, in C 4, Mr. Wolfe talks about removing German
3 captured documents from their original archival context.

4 A. Yes, sir.

5 Q. And it's in his opinion that this somehow taints the
6 use of those documents. Do you agree with that opinion?

7 A. No, I don't think the -- this is a generic problem
8 with records captured in the Second World War that
9 historians that deal with other periods of history have not
10 had to wrestle with, and that is the question of the chain
11 of custody of archival materials that belonged to the
12 government agencies and the organizations of a defeated
13 enemy country in a world war.

14 That's a long way of saying that when we
15 defeated the Germans, we seized all of the records that
16 they had generated during the period of the Third Reich
17 that we could get our hands on, and we used those records,
18 as did the British, as did the French, as did the Soviets,
19 as did the Poles, and as did other nations, for the purpose
20 of investigating individuals and organizations that had
21 committed crimes and atrocities during the war against
22 military personnel, against civilian populations, and
23 against ethnic groups.

24 In the course of using those records, those
25 records were pulled out of the archival context in which

Sydnor - Redirect

1 they would have been found, in which they were found at the
2 end of the war, and I believe I testified earlier this
3 afternoon that we loaded I don't know how many shiploads of
4 German documents, but shiploads of German documents in
5 19 -- beginning in 1946 and '47 and brought them to the
6 United States and kept them here, and then returned them to
7 the Federal Republic of Germany in the 1960s.

8 One of the German archivists that I worked
9 with in the '60s, a lady named Elisabeth Kinder,
10 K I N D E R, turns out to be the archivist who signed the
11 declaration describing the Flossenburg materials that were
12 restituted to the Germans, I believe in 1962 or 1963.

13 So the taking the documents out of their
14 archival context and using them for investigative purposes,
15 and in the process of doing that marking the documents, all
16 the Nuremberg documents that were used were marked. If
17 they were going to be a prosecution exhibit in a specific
18 trial, they were given a stamp or assigned a number of some
19 kind. Then if they were entered into evidence in the
20 trial, that number became an identifying signature for the
21 document. The same thing is done with trials conducted by
22 the governments of the other victorious allied nations.

23 And of course in the case of the Soviet
24 Union, large quantities of captured German documents simply
25 disappeared. We didn't know until the end of the cold war

Sydnor - Redirect

1 and the collapse of the Soviet Union how much material the
2 Soviets had, what sort of records from what different kinds
3 of agencies of the Third Reich they had, and how those
4 records had been used, if in any way they had been used in
5 the intervening decades.

6 So to go back to the original question as I'm
7 trying to understand it, Mr. Wolfe, who was the director of
8 the Modern Military Branch in the Military Archives
9 Division -- I'm sorry, the chief of the Captured Records
10 Branch in the National Archives for about 35 years, and who
11 was himself as a member of the U.S. Army part of the
12 military occupation, part of the U. S. military government
13 in the U. S. occupation zone in Germany, Mr. Wolfe has
14 looked at the question or the issues involving documents
15 that have been pulled out of their original archival
16 context and then used for research and/or judicial or
17 investigative processes since the Second World War.

18 And he has very well-known views about this,
19 and has been pretty forceful in stating how he feels about
20 the issues of a chain of custody or a chain of control of a
21 document. And from his perspective as an archivist, the
22 use of these things, particularly if they have been marked
23 on, taints them as evidence.

24 Now, it's not clear to me whether he means
25 exactly as historical evidence, as judicial evidence, or as

1 both historical and judicial evidence, but he feels that
2 taints them as evidence.

3 My view differs from his in the sense that
4 there's no question that records of this kind, particularly
5 the records that were held in the Soviet Union, have been
6 defaced, and they have not been treated or handled
7 carefully, and they have not been managed in a way that
8 would enhance the chances of their preservation.

9 But still, to me, as a historian, the central
10 question is has what has happened to them in the
11 intervening decades in some way distorted the original
12 information that was recorded on the documents at the time
13 they were created. And as I believe I testified several
14 days ago at some point in all this, in the documents that I
15 have examined, the scribbling on them that the Soviets did
16 resembles graffiti. In some cases it's made the
17 information a little bit more difficult to read, but I
18 don't believe that it has done anything fundamentally to
19 distort or alter the original information on the documents.

20 MR. DRIMMER: Your Honor, it's about 20 till.
21 I have some more for Dr. Sydnor. We haven't been able to
22 agree on stipulations regarding authentication with the
23 defense, so we need to come back tomorrow anyway.

24 THE COURT: All right. That's fine. We can
25 adjourn for the day. We will reconvene at 9:00 o'clock

1 tomorrow morning.

2 (Trial adjourned at 4:43 p.m.)

3

4

5

C E R T I F I C A T E

6

7

8

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

9

10

11

Bruce A. Matthews, RDR-CRR Date

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 CROSS-EXAMINATION OF CHARLES W. SYDNOR, JR.(Resumed)
BY MR. TIGAR..... 673:8
2 REDIRECT-EXAMINATION OF CHARLES W. SYDNOR, JR.
BY MR. DRIMMER..... 814:17
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25