

USCIB: 13.5/91

24

2 December 1954

~~CONFIDENTIAL~~

MEMORANDUM FOR THE MEMBERS OF USCIB:

Subject: Developments in the Petersen Case.

Reference: USCIB 13.5/89 of 23 November 1954.

1. The enclosure is circulated for information in connection with the reference.
2. The enclosure hereto is unclassified and may be so handled.


RUFUS L. TAYLOR
Captain, U. S. Navy
Executive Secretary, USCIB

Enclosure
Statement of Opposition to
Motions to Dismiss

USICB: 13.5/91

~~CONFIDENTIAL~~

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF VIRGINIA
 ALEXANDRIA DIVISION

UNITED STATES OF AMERICA :
 vs. :
 JOSEPH SIDNEY PETERSEN, JR., :
 Defendant. :

STATEMENT OF OPPOSITION TO
MOTIONS TO DISMISS

COMES NOW, the United States of America, through its counsel, and states its opposition to the Motions to Dismiss Counts One and Two of the Indictment filed by the defendant, Joseph Sidney Petersen, Jr., and in support thereof submits the following Points and Authorities.

Respectfully submitted,

Special Assistant to the Attorney General

CERTIFICATE OF SERVICE

I certify that I served a true copy of the within Statement of Opposition on David B. Kinney, Attorney of Record for the defendant, in the case of United States of America vs. Joseph Sidney Petersen, Jr. on this, the first day of December, 1954.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA :
 :
 vs, :
 :
 JOSEPH SIDNEY PETERSEN, JR., :
 :
 Defendant, :

POINTS AND AUTHORITIES IN OPPOSITION TO
DEFENDANT'S MOTIONS TO DISMISS

COUNT I

1. A Bill of Particulars neither strengthens nor weakens an indictment and forms no part of the record for the purpose of a Motion to Dismiss.

United States v. Comyns, 248 U.S. 349, 353 (1919)

Dunlop v. United States, 165 U.S. 486, 491 (1897)

Krause v. United States, 267 Fed 183 (CCA 8, 1920)

United States v. Lelkoff, 113 F Supp. 551, 555 (D.C. E.D. Tenn., 1953)

2. Where a statute sets out in specific terms all essential elements constituting an offense an indictment charging an offense in the language of the statute is sufficient.

Cohen v. United States, 178 F 2d 588, 591 (CCA 6, 1949), cert. denied 339 U.S. 920

United States v. Grummer, 151 F 2d 958, 962 (CCA 10, 1945), cert. denied 327 U.S. 785

United States v. Kushner, 135 F 2d 668, 673 (CCA 2, 1943), cert. denied 320 U.S. 212

3. The act enumerated in Paragraph I, Count I, of the Bill of Particulars heretofore filed by the United States is not barred by the applicable Statute of Limitations.

Title 50 United States Code, Section 31 (1946 Ed.)

Title 18 United States Code, Section 793 (1952 Ed.)

Public Law 831, 81st Congress, Section 19 (Internal Security Act of 1950)

United States Code and Congressional Service, 81st Congress, second session (1950) p. 3905

United States v. Ganapolski, 72 F Supp. 982 (D.C. M.D. Penna., 1947)

United States v. Newman, 63 F Supp. 269 (D.C. S.D.N.Y. 1945)

COUNT II

The Points and Authorities set forth in Paragraphs 1 and 2 of Count I, supra, are equally applicable in opposition to defendant's Motion to Dismiss Count II and are incorporated herein by reference.

Respectfully submitted,

Special Assistant to the Attorney General

CERTIFICATE OF SERVICE

I certify that I served a true copy of the within Points and Authorities in Opposition to Defendant's Motions to Dismiss on David B. Kinney, Attorney of Record for the defendant, in the case of United States of America vs. Joseph Sidney Petersen, Jr. on this, the first day of December, 1954.
