

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 73-597-Cr-CA

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

FRANK ANTHONY FIORINI,
a/k/a FRANK STURGIS,
JERRY BUCHANAN, and
MAX GONZALEZ
a/k/a Max Gorman,

Defendants.

U.S. DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MOTION FOR DISCOVERY AND
INSPECTION FOR ISSUANCE OF
SUBPOENA DUCES TECUM OF ALL
EXCULPATORY MATERIAL AND
INFORMATION

COMES NOW the Defendant, FRANK STURGIS, by and through his undersigned attorney, and moves this Court for its Order as follows:

1. Pursuant to the Authority of Rules 16 and 17(c), Federal Rules of Criminal Procedure and the Due Process Clause of the Fifth Amendment, United States Constitution, the Defendant requests this Court to Order the United States Attorney to permit counsel for the Defendant to inspect and copy the below-described tangible objects which are in the possession of the United States, and to Order the issuance of Subpoenas Duces Tecum to such persons as may be designated pending a hearing of this Motion, requiring the production of the tangible objects or documents listed or requested below, and further, Order the United States Attorney to produce and give to the defense counsel all exculpatory evidence as more particularly described below.

2. The material subject to the combined Motions consists of the following:

A. On February 9, 1973, White House Counsel, John Dean, III, participated in a telephone call to James R. Schlesinger, Director of the Central Intelligence Agency, during which conversation, which was electronically recorded, the name and possible activities of the Defendant, Frank Sturgis, was prominently mentioned. Upon information and belief,

said telephone conversation also concerned the knowledge of Mr. William Colby (then a high ranking Central Intelligence Agency Official, and now the Director of that Agency) concerning Frank Sturgis. Also discussed was the fact that Frank Sturgis had been on the payroll of the Central Intelligence Agency sometime in the past.

B. Upon information and belief, Defendant alleges that there were other recorded telephone conversations between White House personnel and various agencies of the United States Government, including but not limited to the Central Intelligence Agency, The Department of Justice and the Federal Bureau of Investigation, concerning and relevant to the activities of the Defendant Frank Sturgis; these telephone conversations having occurred in the years 1971, 1972 and 1973.

C. Upon information and belief the Defendant alleges that the name and activities of Frank Sturgis were mentioned on the original tapes of conversations occurring in the White House and the Executive Office Building Office occupied by the President of the United States during the years 1971, 1972 and 1973. These tapes are now in the custody and possession and control of the President of the United States and some of these tapes are the present subject of litigation now pending before the Circuit Court of Appeals for the District of Columbia relevant to their release by the President to the Senate Watergate Committee and /or the presiding Judge of the Special District of Columbia Watergate Grand Jury, both of which bodies have previously interrogated the Defendant Frank Sturgis.

D. The Defendant has been indicted at Bar for alleged activities in the United States and Mexico in the year 1968; it is essential to the Defendant's defense to show his past connections and working agreements with and employment by The Central Intelligence Agency of the United States; as a result, the foregoing records of telephone conversations and tape recordings of other conversations become relevant to proof of this issue.

E. Defendant would further allege that Central Intelligence Agency Station-keeper records for the years 1967 and 1968 the Mexico City and Merida, Mexico; Belize, British Honduras, Caracas, Venezuela; and Miami, Florida, U.S.A. are relevant, material and essential to the defense of the Defendant in the case at Bar.

3. Based upon the foregoing, Defendant moves this Court for its Order requiring the United States of America to produce and to permit the Defendant to inspect and copy each of the above-described items of tangible evidence and to Order the issuance of a Subpoena Duces Tecum to John Dean, III, William Colby, and to such other persons as may be designated at the hearing of this Motion requiring the production of the objects and documents listed above.

4. Further the Defendant requests the United States of America to produce and permit inspection and copying of:

A. All original tapes of conversations between the Central Intelligence Agency, the Department of Justice, The Federal Bureau of Investigation, the Special Washington, D. C. Watergate Grand Jury and the Special Senate Watergate Committee containing any reference to the Defendant, Frank Sturgis, and/or his activities from the year 1960 to date.

B. Each and every log summary, so-called, of each and every conversation obtained by the parties hereinbefore mentioned as hereinbefore stated.

C. Interpretive reports prepared by any agent or employee of the United States of America concerning each and every tape recorded conversation or log-summary hereinbefore mentioned.

D. Each and every tape recording of each and every conversation during which the Defendant, Frank Sturgis, was monitored, at any place whatsoever and/or log-summaries and/or interpretive reports pertaining to said conversations during the period 1960 to date.

E. The name and address of each agent or employee of the United States who participated in the preparation or conduct of each matter mentioned above (A" through "D") with the organizational affiliation of each such agent or employee.

F. All inter-departmental correspondence, memoranda or reports between any agencies of the United States of America, including but not limited to the Special Senate Watergate Committee, pertaining, directly or indirectly to any of the above matters.

5. The United States of America has possession, custody or control of each of the foregoing documents and objects. Each of them constitutes or contains evidence relevant and material to the defense of this action. Under the provisions of Title 18 United States Code, Section 2518(8)(d), this Court may Order that the seals be broken on the electronic surveillance, applications affidavits and letters authorizing same and that the said letters be presented for inspection and duplication so that the documents can be re-sealed to be retained in the custody and control of whomsoever this Honorable Court directs; and that the duplication of letters authorizing surveillance be made

available to this Court for the case at Bar.

6. Pursuant to Rule 17(c), Federal Rules of Criminal Procedure, Defendant requests all documents, books, papers, and objects obtained by the Government in any manner other than by seizure or process in the course of the investigation by the Grand Jury which resulted in the return of the Indictment herein and/or if such material had been presented to the Grand Jury or are to be offered as evidence on the trial of the Defendant upon this Indictment.

7. Pursuant to the Due Process Clause to the Fifth Amendment of the United States Constitution, the Defendant requests all information of whatever form, source or nature which tends to exculpate the Defendant either through an indication of his innocence or through the potential impeachment of any Governmental witnesses, and all information which may lead to evidence which tends to exculpate or impeach, and all information which may be or become of benefit to the Defendant preparing for or presenting the merits of his defense of innocence at trial. In addition, Defendant requests the names, addresses and telephone numbers of any persons the Government knows to possess relevant information to the charges, including but not limited to any informants or confidential sources.

8. Pursuant to Rule 17(b), Defendant would show that he is financially unable to pay the fees of the witnesses requested above and that the presence of the witnesses is necessary to an adequate defense. If this Court Orders the Subpoenas requested to be issued, the Defendant requests that the costs incurred by the presence and the fees of the witnesses so subpoenaed shall

be paid by the Government of the United States.

WHEREFORE, Defendant requests issuance of the foregoing Orders forthwith.

Dated: At Miami, Dade County, Florida, this 12th day of September, 1973.

Respectfully submitted,

ELLIS RUBIN LAW OFFICES
Attorney for Defendant Sturgis
407 Lincoln Road-Suite 11-A
Miami Beach, Florida 33139

BY:



ELLIS S. RUBIN

I HEREBY CERTIFY that a true copy of the foregoing Motion was mailed to William R. Northcutt, Esq., Assistant United States Attorney, Ainsley Building, Miami, Florida, this 12th day of September, 1973.



ELLIS S. RUBIN