

judgment by default will be taken against you for the relief demanded in the complaint.

/s/ Raymond F. B. [unclear]
Clerk of Court

/s/ B. G. Edwards
Deputy Clerk

October 24, 1973

(Seal of Court)

Date: October 23, 1973

NOTE:- This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----xCIVIL ACTION FILE NO.

JOHN WINSTON ONO LENNON,

Plaintiff,

-against-

THE UNITED STATES OF AMERICA;
ROBERT H. BORK, as Acting Attorney
General of the United States;
RICHARD KLIENDIENST, Individually
and as former Attorney General of
the United States; JOHN A. MITCHELL,
Individually and as Former Attorney
General of the United States;
RAYMOND FARRELL, Individually, and
as Former Commissioner of Immigration
and Naturalization; LEONARD CHAPMAN,
Individually, and as Commissioner of
Immigration and Naturalization; SOL
MARKS, Individually, and as District
Director, New York, Immigration and
Naturalization; the IMMIGRATION AND
NATURALIZATION SERVICE; and PERSONS
UNKNOWN IN THE UNITED STATES GOVERN-
MENT,

COMPLAINT

Defendants.
-----X

INTRODUCTION

1. The within action is brought by plaintiff, JOHN WINSTON ONO LENNON, for a mandatory injunction and other relief. The causes of action arise out of the unlawful electronic surveillance of the plaintiff, the violation of various rights, privileges and immunities guaranteed this plaintiff by the First, Fourth, Fifth and Ninth Amendments to the Constitution of the United States, and the unwarranted and illegal institution of deportation proceedings against

the plaintiff, commenced and maintained against him by the defendants herein.

JURISDICTION

2. The jurisdiction of this Court rests on Title 28, U.S.C. §1331, granting to the court "original jurisdiction of all civil actions wherein the matter in controversy exceeds the sum or value of ten thousand dollars (\$10,000.00) exclusive of interests and costs, and arises under the Constitution, laws, or treaties of the United States." This case arises under the Constitution of the United States and other laws of the United States. The matter in controversy exceeds, exclusive of interest and costs, the sum of ten thousand dollars.

3. Jurisdiction of the court further rests on Title 28, U.S.C. §1361, granting to this court "original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff."

4. The jurisdiction of this court further rests on Title 28, U.S.C. §1343(c), on the Constitution and laws of the United States and more particularly, Title 18, U.S.C. §3504, Title 8, U.S.C. §§1101 et seq., the First, Fourth, Fifth, and Ninth Amendments to the Constitution of the United States.

PARTIES

5. Plaintiff JOHN WINSTON ONO LENNON is a native and citizen of England, lawfully admitted to the United States as a non-immigrant visitor for pleasure in August, 1971, is of full age, and is presently a resident of the

City, County and State of New York.

6. The defendant UNITED STATES OF AMERICA is made herein a party-defendant, as and for the entire Federal Government of the United States of America,

7. The defendant, RICHARD KLIENDIENST, is a citizen of the United States, and on information and belief, a resident of Washington, D.C., and is sued herein both individually and in his capacity as the former Attorney General of the United States whose acts and conduct both individually and in this then official capacity were responsible for some or all of the unlawful acts hereinafter complained of.

8. The defendant, JOHN A MITCHELL, is a citizen of the United States and on information and belief, is a resident of the City, County and State of New York; he is sued individually and in the capacity as the former Attorney General of the United States whose acts and conduct both individually and in his official capacity were responsible for some or all of the unlawful acts hereinafter complained of.

9. The defendant, RAYMOND FARRELL, is a citizen of the United States and on information and belief, is a resident of Washington, D.C.; he is sued individually and in the capacity as the former Commissioner of Immigration and Naturalization whose acts and conduct both individually and in his official capacity were responsible for some or all of the unlawful acts hereinafter complained of.

10. The defendant LEONARD CHAPMAN is a citizen of the United States and on information and belief a resident of Washington, D.C.; he is sued individually and in his capacity as the Commissioner of Immigration and Naturalization whose acts and conduct both individually and in his official capacity were responsible for some or all of the unlawful acts hereinafter complained of.

11. The defendant SOL MARKS is a citizen of the United States, and has offices in the City, State and County of New York; he is sued individually and in his capacity as District Director, New York, of the Immigration and Naturalization Service, whose acts and conduct both individually and in his official capacity were responsible for some or all of the unlawful acts hereinafter complained of.

12. Defendant IMMIGRATION AND NATURALIZATION SERVICE is a federal governmental agency, with its Central Office located in Washington, D.C., and its District Office relevant to the facts of this complaint located in both the City, County and State of New York and in Washington, D.C.

13. The defendant PERSONS UNKNOWN IN THE UNITED STATES GOVERNMENT is named a party defendant herein to include all persons in the employ of, directly or indirectly, the defendant UNITED STATES OF AMERICA and any and all federal governmental agencies, who are presently unnamed but whose acts and conduct, both individually and in their official capacity, were responsible for some or all of the unlawful acts hereinafter complained of.

AS AND FOR A FIRST CAUSE OF
ACTION, PLAINTIFF ALLEGES :

14. On or about the first day of March, 1972, plaintiff LENNON was granted until March 15, 1972 to remain in the United States by defendants MARKS and SERVICE; on March 6, 1972 and again on March 7, 1972, defendant MARKS, without legal foundation or explanation, revoked plaintiff's authorization to remain in the United States until March 15, 1972, and at the same time commenced deportation proceedings against the plaintiff on the grounds that plaintiff had overstayed his authorized time in the United States and on the additional ground that the plaintiff had violated the provisions of his permitted stay in the United States,

violation was directly caused by the retroactive revocation of plaintiff's authorized time to remain by defendant MARKS.

15. After a hearing, an order was entered by an Immigration Judge which granted the plaintiff voluntary departure in lieu of deportation, but, which ordered deportation in the event that the plaintiff failed to voluntarily depart from the United States within a prescribed period of time; the said order was based upon the alleged overstaying by the plaintiff of his authorized time in the United States; no violation of the provisions of his permitted stay were found.

16. The order of the Immigration Judge is now on appeal and is presently before the Board of Immigration Appeals.

17. On or about August 1, 1973, plaintiff, by his attorney, moved before the Immigration Judge for an order compelling the United States Government to affirm or deny the occurrence of certain unlawful acts, namely: the illegal use of any electronic, mechanical, or other recording device, wiretap, mail cover, surveillance or other improper investigatory device, which motion was made pursuant to the provisions of Title 18, U.S.C. §3504. A copy of said motion is attached hereto as Exhibit "A", and made a part hereof.

18. In addition, the plaintiff, by his attorney, requested that the defendant SERVICE, by its Chief Trial Attorney assigned to prosecute the deportation hearing against plaintiff, either affirm or deny the occurrence of the unlawful acts alleged and described in paragraph numbered 17, supra.

19. Said defendant and its Chief Trial Attorney, Vincent A. Schiano, have failed and refused to affirm or deny the occurrence of the unlawful acts alleged and described, supra.

20. The Immigration Judge has declined to order the government to comply with the provision of Title 18, U.S.C. §3504, and imposed upon plaintiff, by letter dated September 12, 1973, additional requirements before he would in fact hear said motion. [See Exhibit "B" attached hereto.]

21. In reply to said requests by the Immigration Judge, plaintiff, by his attorney, complied with said requests on September 20, 1973, and thereby made a further demand for the relief requested. [See Exhibit "C" attached hereto.]

22. The Immigration Judge has failed to take further action with regard to plaintiff's motion, and to date there has been neither an affirmance nor a denial of the occurrence of the unlawful acts alleged and described, supra.

23. Plaintiff complains that the unprecedented revocation of his authorized stay as a visitor placing him in illegal status as an overstay, and the simultaneous institution and maintenance of deportation proceedings against him, and all of the evidence adduced therein, were either the primary product of the unlawful acts alleged above or were obtained by the exploitation of such unlawful acts.

24. The Immigration Judge before whom the deportation matter was originally heard has declined to grant the relief herein requested.

25. The Board of Immigration Appeals, before whom the deportation proceeding is now pending on appeal, has no jurisdiction to order the relief prayed for herein, in that

the jurisdiction of said Board in deportation cases is limited to Appellate review based upon the agency record file and the Board does not conduct trials or evidentiary hearings.

26. There is no administrative or judicial body other than this Court before whom the issues of unlawful surveillance and the refusal of the defendants to affirm or deny the existence of an illegal act or acts can be raised.

27. The plaintiff herein will suffer irreparable harm by the continued prosecution of a deportation proceeding tainted by illegally-obtained evidence; moreover, should the Board of Immigration Appeals be permitted to hear and determine the appeal in the deportation matter now before it without having included in the record on appeal the evidence of unlawful government activity which tainted the entire administrative proceedings, plaintiff will suffer irreparable harm.

28. Plaintiff would be unable to secure the relief requested herein stated or raise the threshold issue stated herein before the Second Circuit Court of Appeals should the matter reach said Court by direct appeal of an adverse decision by the Board of Immigration Appeals under Title 8, U.S.C. §1105(a), in the absence of said issue having been considered by the Board.

29. Plaintiff has exhausted whatever administrative remedies exist.

30. Plaintiff has no adequate remedy at law.

AS AND FOR A SECOND CAUSE
OF ACTION, PLAINTIFF ALLEGES:

31. Plaintiff repeats and realleges with the same force and effect as if repeated in full herein, paragraphs of this complaint numbered "L" through "30", inclusive.

32. Pursuant to Title 8, U.S.C. §§1153, 1154, defendants jointly or severally owed a duty to the plaintiff to rule and to exercise its discretion as to whether or not to designate plaintiff, upon a third-preference application filed by plaintiff, as an alien who, because of his exceptional ability in the arts would substantially benefit prospectively the national economy, cultural interests or welfare of the United States.

33. On or about May 1, 1972, plaintiff moved in the United States District Court, Southern District of New York (Lennon and ano. v. Marks et al., Civil Action File No. 72 C 1784) for injunctive relief to compel the defendants herein to exercise discretionary relief, which until said time, the defendants had totally failed to do.

34. On or about May 9, 1972, defendants, in a settlement of the above-described action, exercised the discretionary relief herein described and ruled upon the application in favor of the plaintiff, but not until defendants were urged to so do by an Assistant United States Attorney and only after the District Court (Lasker, J.) had entered a temporary restraining order enjoining the deportation proceedings pending a hearing on the issue.

35. During the course of the deportation hearing, and thereafter, plaintiff, by his attorney, has applied for various forms of discretionary relief, all of which have been denied.

36. The defendants, through defendant MARKS and the Immigration Judge, have the discretionary power to terminate the within deportation proceedings and, upon information and belief, have additional discretionary power to classify plaintiff's status as one entitled "non-priority," or one in which deportation proceedings will be indefinitely delayed or deferred for humanitarian or other reasons.

37. Defendants have refused to provide to plaintiff or his attorney the standards and criteria and other information as to its action in cases similar to the plaintiff as to which cases are or should be classified "non-priority" pursuant to the powers alleged in paragraph "36" herein, and such refusal is the subject of another action between the same or similar parties as are concerned herein, entitled John Lennon v. Richardson et al, Civil Action File No. 73 C 4476.

38. As to the exercise of discretion with respect to classifying plaintiff as a non-priority case, therefore, upon information and belief, defendants jointly and severally have failed to exercise such power with respect to the plaintiff herein.

39. As to the exercise of all other discretionary relief with respect to plaintiff, upon information and belief, defendants have failed to exercise such powers with respect to plaintiff, or, in the alternative, have routinely denied all such discretionary relief in a course of conduct which violates plaintiff's rights and privileges under the Constitution of the United States, as more fully appears in the allegations, infra, in this complaint.

40. The following discretionary relief has been requested by plaintiff, by his attorney, and has been denied routinely, or, in the alternative, not acted upon, by the defendants, either jointly or severally, although this is not intended to be an all-inclusive listing: request to discontinue institution of deportation proceedings against plaintiff's wife, Yoko Ono Lennon, which proceedings were eventually terminated in favorable action by the Immigration Judge; failure by defendants to consult with the District Director of Washington, D.C. as to all applications for extensions of time, as required by plaintiff's waiver; refusal to terminate deportation proceedings maintained against the plaintiff; the denial of the discretionary relief of granting the plaintiff permanent resident status; the revocation of status which was bona fide, creating overstay status, and the then institution of deportation proceedings based on overstay, which status was created retroactively by the defendants; the refusal, in advance, to entertain any and all extension applications; the failure to adjudicate third preference petitions until the proceedings were temporarily restrained through judicial intervention; the unprecedented institution of deportation proceedings in a case fraught with serious humanitarian considerations following the extraordinary and precipitous procedure of retroactive termination of voluntary departure time; the denial of plaintiff's due process right to prepare and present an available defense to the deportation proceedings through the failure to furnish information to which he is entitled under the Freedom of Information Act; the denial of plaintiff's request to depose knowledgeable government officials as to the practice of the Service in other similar cases; and numerous other acts on the part of the government.

41. The discretionary powers described above are vested in the Immigration Judge and the District Director and in other officials of the defendant SERVICE by statute and/or regulations, and the authority is granted to said officials to exercise their discretionary power according to their own understanding and conscience, except with respect to the exercise of discretionary extensions of stay which were expressly conditioned upon the concurrence of the District Director of the Washington, D.C. District.

42. The action taken by some officials of defendant SERVICE demonstrates that the hearing officer's decisions and the decisions of the District Director were based on information outside of the record before such officials and demonstrated that said officials, including the District Director, defendant MARKS, and the Immigration Judge, failed to exercise their own understanding and conscience, and that in effect such "discretion" was pre-determined and pre-judged, as appears more fully, infra.

43. Upon information and belief, a memorandum issued from the Supervisor, Intelligence Division, Unit 2 of an unknown Federal Government agency, which advised that the plaintiff had intentions of remaining in the United States and was seeking permanent residence therein; that permitting such residence was judged "inadvisable" and that it "was recommended that all applications are to be denied"; that the association of the plaintiff with various citizens of the United States was "judged to be highly political and unfavorable to the present administration"; that said matters had been discussed in earlier reports and communications, and that because of these factors and the contr-

versial behavior of the plaintiff, the plaintiff was to be judged as both an "undesireable and dangerous" alien; and that because of the "delicate and explosive nature of this matter the whole affair had been handed over to the Immigration and Naturalization Service" to "handle." [See Exhibit "D" attached hereto.]

44. The within memorandum, described heretofore and attached hereto as Exhibit "D", was, upon information and belief, circulated to certain officers and administrators within the defendant SERVICE, either directly or indirectly.

45. The denial of all discretionary relief was, upon information and belief, either based upon the memorandum described and attached hereto as Exhibit "D" or by persons involved in issuing said memorandum, or by other unknown persons within the government, who instructed officials in the Immigration and Naturalization Service to deny all discretionary relief.

46. Upon information and belief, the officials within the defendant SERVICE were made aware of and had knowledge of the fact that various officials of the United States Government wanted the plaintiff to be deported or removed, and that all discretionary relief applied for by the plaintiff was to be denied, not by Immigration officials acting under the statutory power conferred upon them to grant or deny discretionary relief according to their own understanding and conscience, but because of other factors which were not made a part of the record during the deportation proceedings and which are, in part, described within this complaint.

47. Attempts have been made to request the relief herein sought from various of the defendants, but to no avail.

48. The above views of the unknown Federal Government authorities were known to officials within the defendant SERVICE prior to the denial of all administrative discretionary relief, and that the intention of the Federal Government or its officials to have such discretionary relief denied was, upon information and belief, made clear to all officials within the defendant SERVICE who were required to know of same because of their direct concern with the deportation proceedings involving the plaintiff herein.

49. Because of the various facts stated above, the District Director, defendant MARKS, and the hearing officer (Immigration Judge) have, upon information and belief, failed to exercise their own individual judgment in ruling upon such discretionary applications.

50. As a result of the facts stated above and the ensuing deportation proceedings, plaintiff was precluded from seeking one of a number of the other legal non-immigrant statuses in which he might have remained in the United States legally to conduct his personal and professional business; that he was by virtue of the institution of deportation proceedings, relegated to a remedy of applying for permanent residence status only, likewise a discretionary application; that the plaintiff's deportation proceeding was prejudged and the Immigration Judge and defendant MARKS were not permitted to and did not exercise the above-described discretion which rested in them by statute and/or regulation.

51. As a further result of the aforesaid prejudice, the plaintiff did not receive a full and fair hearing as to his applications for discretionary relief, and plaintiff's rights and privileges under the Fifth Amendment to the United States Constitution, and more particularly to the due process guaranty contained therein, were consequently violated.

52. That the deportation order which thus issued by the Immigration Judge in said proceeding should therefore be declared null and void because it is violative of plaintiff's due process rights and privileges, guaranteed to him by the Constitution of the United States, and more particularly by the Fifth Amendment thereto.

AS AND FOR A THIRD CAUSE
OF ACTION, PLAINTIFF ALLEGES:

53. Plaintiff realleges and repeats, with the same force and effect as if re-asserted herein, paragraphs of this complaint numbered "1" through "52", inclusive.

54. Plaintiff is entitled to the protection of the rights guaranteed to him by the First, Fourth, Fifth, and Ninth Amendments to the United States Constitution.

55. Upon information and belief, there exists in the Federal Government a conspiracy or determined plan to deprive the plaintiff of these rights, which conspiracy was demonstrated by a course of behavior which was unlawful, unreasonable and contrary to law.

56. Upon information and belief, Federal agents, acting under claim of Federal authority, committed the following acts which were directly violative of and in contravention to the United States Constitution, to wit: the wiring by an electronic or other device of the telephones of plaintiff and/or his attorney and others with whom he has been in telephone contact, without authorization; the surveillance of the plaintiff in derogation of his freedom to associate and to speak and express his opinion; the interference with and cover of plaintiff's mail without proper order.

57. That as a direct result of the unconstitutional acts of federal agents, described more fully in paragraph "56", supra, plaintiff suffered the following damage:

(a) the revocation of plaintiff's authorization to remain in legal non-immigrant status and the issuance of an unwarranted deportation order;

(b) the denial of all applications for discretionary relief, without the required independent understanding of those charged by law to exercise such discretion, such discretion having been unreasonably interfered with by branches of the Federal Government which were not concerned with the lawful administration of the Immigration laws, other than the granting of the one discretionary application which was precipitated by the commencement by plaintiff of an action in the United States District Court to obtain said relief; and

(c) the failure to exercise any discretion whatsoever with respect to the requests for discretionary relief filed by the plaintiff, other than on the one occasion described above.

58. The remedy sought herein, namely the granting of a judicial remedy by a Federal District Court to a plaintiff who is claiming that a constitutionally protected interest has been unreasonably and unwarrantedly invaded and interfered with, is essential and indispensable for the vindication of the plaintiff's constitutional rights.

WHEREFORE, Plaintiff prays that this Court grant the following relief:

ON THE FIRST CAUSE OF ACTION:

- (1) Compel the defendants and those acting with and under said defendants to perform their duty to affirm or deny the occurrence of an illegal act or acts pursuant to Title 18, U.S.C. §3504.
- (2) Conduct a hearing pursuant to the aforementioned statute to determine whether and to what extent such unlawful and illegal acts have influenced the determinations made heretofore by defendants with respect to the plaintiff's immigration status, should the defendants admit the existence of any such illegal acts;
- (3) Enjoin the defendants and their agents from continuing to hear and rule on the deportation matter, including, but not limited to, enjoining the Board of Immigration Appeals from rendering a decision on the matter until such time as the admissions, denials, and/or hearings sought herein are forthcoming;

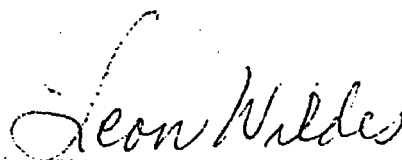
ON THE SECOND CAUSE OF ACTION:

- (4) Order that a hearing be held on the issues raised therein, and for the specific purpose of determining whether or not the actions of the defendants and their agents, including the institution and determination of deportation proceedings against the plaintiff have been prejudged, and, if after such hearing, it is determined that there has been such prejudgment, order the defendants to discontinue all such proceedings against the plaintiff;

ON THE THIRD CAUSE OF ACTION:

- (5) Order that a hearing be held on the issues raised therein, and for the specific purpose of determining whether or not the plaintiff's rights have been violated as alleged therein, and if it is determined, after said hearing, that there has been a substantial violation of the plaintiff's civil or constitutional rights, order the defendants to discontinue all such proceedings against the plaintiff;
- (6) Along with such other and further relief as to this Court seems proper under the circumstances.

DATED: NEW YORK, NEW YORK
OCTOBER 23, 1973



LEON WILDES
Attorney for Plaintiff
Office and P.O. Address
515 Madison Avenue
New York, N.Y. 10022
(212) 753-3468

LEON WILDES
ATTORNEY AT LAW

515 Madison Avenue
New York, N.Y. 10022

PLAZA 3-3468

CABLE ADDRESS
"LEONWILDES," N. Y.

August 1, 1973

Immigration and Naturalization Service
20 West Broadway
New York, New York 10007
Attention: Hon. Ira Fieldsteel,
Immigration Judge

Re: LENNON, John Winston Ono
A17 597 321

MOTION TO SECURE AFFIRMANCE OR DENIAL OF
OCCURRENCE OF UNLAWFUL ACT

Dear Sir:

It is respectfully moved, pursuant to the provisions of 18 U.S. Code 3504, that the Immigration Judge herein secure, in behalf of the respondent, the affirmance or denial of the occurrence of certain unlawful acts on the part of the government, namely, the illegal use of any electronic, mechanical, or other recording device, wiretap, mail cover, surveillance or other improper investigatory device .

The respondent herein is aggrieved that the proceedings to deport him heretofore instituted by the Immigration and Naturalization Service were unnecessary, illegal and improper; that they may have been instituted as a result of the exploitation of an unlawful act without which he might otherwise have continued in lawful non-immigrant status with the consent and authority of the Immigration and Naturalization Service; that he has thereby been subjected to severe harrassment, mental anguish, and the deprivation of his due process rights in violation of the Constitution and laws of the United States; that the processes for the removal of undesirable aliens may thereby have been abused and/or misapplied for political or other purposes.

This request is separate from and ancillary to the proceedings heretofore had before the Immigration Judge, relates to proceedings heard by the said Immigration Judge and evidence adduced therein, and it is therefore requested that the same Immigration Judge

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secure such affirmances or denials as are required by law.

WHEREFORE, respondent respectfully requests that the Immigration Judge direct the government, its agents, officers, and employees, including, but not limited to, such agencies as the Federal Bureau of Investigation, the Central Intelligence Agency, the Immigration and Naturalization Service, the White House "Plumbers Unit", local police authorities, and all other investigatory agencies to affirm or deny in writing whether any unlawful act including the use of any electronic, mechanical, or other device as defined by 18 U.S. Code 2510(5) in violation of the Constitution or laws of the United States or any regulation or standard promulgated pursuant thereto, whether relating to the private communications of the respondent, his attorney, or of third parties, has been perpetrated; whether and how such information disclosed by any such unlawful act was communicated so as to precipitate the abrupt and unprecedented denial of temporary stay to the respondent and the precipitous and unwarranted institution of expulsion proceedings, and

WHEREFORE, respondent respectfully requests that the Immigration Judge make all such responses available to the respondent and his counsel and enter an appropriate order thereon granting the respondent such other and further relief as may be just.

Respectfully submitted,

LEON WILDES
Attorney for Respondent
515 Madison Avenue
New York, New York 10022

UNITED STATES DEPARTMENT OF JUSTICE
IMMIGRATION AND NATURALIZATION SERVICE
20 WEST BROADWAY
NEW YORK, NEW YORK 10007

September 12, 1973

Mr. Leon Wildes
545 Madison Avenue
New York, N. Y. 10022

Re: JOHN WINSTON ONO LENNON
A17 597 321

Dear Sir:

I have before me your motion of August 1, 1973 requesting certain relief under 18 USC 3504 in the above matter.

Since the subject's case is presently pending on appeal before the Board of Immigration Appeals, it is my view that jurisdiction over your motion rests necessarily with the Board and should be directed to that body.

If I did have jurisdiction over your motion, I would be forced to point out certain defects fatal to the request.

The motion does not appear to have been served on the government trial attorney, Mr. Schiano, and is certainly not one which is amenable to ex parte resolution, nor has the necessary fee been paid.

There is no allegation in the papers that the government has refused to affirm or deny the occurrence of the alleged unlawful act.

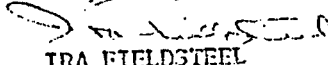
Certainly it seems premature to seek judicial intervention in the absence of such refusal. I have taken the liberty of referring a copy of your request to Mr. Schiano for such action as the Service may decide to take on your request.

An examination of § 3504 shows that it is a procedural device associated with the introduction of evidence in the proceeding.

Your motion fails to specify the particular evidence which it is claimed is inadmissible because it is the primary product of an unlawful act. This is particularly important in view of the fact that all of the evidence in the proceedings before me was either offered by you or documentary evidence to which you offered no objection.

Certainly there would seem to be a serious question of laches, in attempting to raise at this time, more than a year after the hearing, objection to the introduction of evidence which should have been made at the hearing.

Very truly yours,


IRA FIELDSTEEL
Immigration Judge

CC: Vincent A. Schiano
Chief Trial Attorney

LEON WILDES
ATTORNEY AT LAW

*515 Madison Avenue
New York, N.Y. 10022*

PLAZA 3-3468

CABLE ADDRESS
"LEONWILDES," N. Y.

September 20, 1973

Immigration and Naturalization Service
20 West Broadway
New York, New York 10007

Attn: Hon. Ira Fieldsteel, Immigration Judge

RE: JOHN WINSTON ONO LENNON
A17 597 321

Dear Sir:

In connection with my Motion dated August 1, 1973 in the above matter requesting relief under 18 U.S. Code 3504, your ruling dated September 12, 1973 was just received, as it was incorrectly addressed and apparently misdirected. I must differ with you about the proper jurisdiction to rule on this request. As you know, the Board of Immigration Appeals considers itself bound by the administrative record. My reading of the statute leads me to conclude that it is the trial judge or the Federal District Court which are obligated and empowered to require the government to affirm or deny the occurrence of illegal acts.

Your letter cites a number of procedural inadequacies in my Motion and avoids ruling definitively with respect to the serious substantive issues raised by the Motion. In order to clarify the procedural matters raised, I wish to state:

- (a) A copy of the Motion was served upon the Immigration and Naturalization Service at the same time that service was effected upon

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the Immigration Judge. I have also contacted Mr. Vincent A. Schiano, Chief Trial Attorney, and he has declined to affirm or deny the occurrence of any unlawful acts on the part of the government. You may consider this to be the respondent's allegation that the government has refused to affirm or deny the occurrence of the unlawful acts alleged. The matter is ripe for your decision.

- (b) It is not necessary under the Statute that respondent point to a specific item of evidence to which he objects. As stated in the Motion, the respondent is aggrieved that the proceedings to deport him were completely unnecessary, illegal and improper, and that he has been subjected to severe harrassment, mental anguish, and the deprivation of his due process rights in violation of the Constitution and the laws of the United States, in that the processes for the removal of undesirable aliens may have been abused and/or misapplied for political or other purposes in his case. His claim is, in the terms of the statute, that the institution of proceedings in his case and all of the evidence adduced therein were either "the primary product of an unlawful act" or "obtained by the exploitation of an unlawful act" and that in the absence of such unlawful act or acts the proceedings against him would never have been instituted at all.
- (c) Your letter speaks of laches as though it were a proper defense to the illegal activities of the government. The circumstances and information upon the basis of which earlier suspicions as to the possibility of illegal government activity ripened into belief in the serious probability of such illegal acts, did not occur

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until the completion of the proceedings before the Immigration Judge; moreover, since the commission of illegal acts of the nature of those complained of herein effect the vital Constitutional rights, and particularly since the matter is still pending before the Board of Immigration Appeals on administrative review upon the request of the government for an adjournment, no issue of laches should deter a proper substantive determination of this Motion.

I would appreciate your immediate and final ruling upon this Motion, in default of which I shall consider your letter of September 12th and the oral reply of the Chief Trial Attorney to be a final agency determination refusing to obtain the affirmances or denials to which my client is entitled under 18 U.S.C. 3504.

I attach the Motion fee of \$25.00

Very truly yours,

LEON WILDES

cc: Vincent A. Schiano
Chief Trial Attorney

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

FROM: Supervisor, Intelligence Division, Unit 2.
TO: Regional Director, Group 8.
SUBJECT: THE SUPERVISION OF THE ACTIVITIES OF BOTH JOHN AND YOKO LENNON.

It has come to the further attention of this office that John Ono Lennon, formerly of the Beatles and Yoko Ono Lennon, wife of John Lennon, have intentions of remaining in this country and seeking permanent residence therein, as set forth in a previous communication this has been judged to be inadvisable and it was recommended that all applications are to be denied.

Their relationships with one (6521) Jerry Rubin, and one John Sinclair (4536), also their many commitments which are judged to be highly political and unfavorable to the present administration. This was set forth to your office in a previous report. Because of this and their contrivertal behaviour, they are to be judged as both undesirable and dangerous aliens.

Because of the delicate and explosive nature of this matter the whole affair has been handed over to the Immigration and Naturalization Service, to handle. Your office is to maintain a constant surveillance of their residence and a periodic report is to be sent this office. All cooperation is to given to the INS and all reports are to be digested by this office.

cc

STATE OF TEXAS

Index No.

Year 19

That the within is a (certified) copy of the original filed in the office of the clerk of the within court on the _____ day of _____ 19

Dated: _____ Yours, etc.,

Attorney for _____ Office and Post Office Address

To _____

Attorney for _____

NOTICE OF SETTLEMENT

Sir:—Please take notice that an order of which the within is a true copy will be presented to the Hon. _____

one of the judges of the within named Court, at _____

on the _____ day of _____ 19 _____ at _____ Al.

Dated, _____ Yours, etc.,

Attorney for _____ Office and Post Office Address

Attorney for _____ Office and Post Office Address, Telephone _____

To _____

Attorney for _____

Service of a copy of the within _____

Dated, _____ is hereby admitted.

Attorney for _____

Paul
10/25/23
Walter J. Lee

John Lennon

Michael Hoon - Congressman William Steiger's Office

X

X

Status of Lennon's proceedings

Mr. Michael Hoon was contacted on 9/21/73 at 10:45 A.M. He stated that since his call on 9/19/73 he was able to obtain much of the information he desired from the Library of Congress. However, he inquired as to the present status of subject's proceedings.

Mr. Hoon was advised that subject's wife, Yoko Ono Lennon, was granted permanent resident status and subject John Lennon was under Order of Deportation which he had appealed to the BIA but which had not yet been decided by the Board. No further information was requested or furnished.

All action pursuant to Kathy Hubert's, secretary to Acting Commissioner. Greene, telephonic instructions. See attached memo.

cc: CO 703.1006

✓ cc: WF - John Lennon
DC:OHC:dhw

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NON-RECORD MATERIAL

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CO 703.731
June 13, 1973

File

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[Redacted]

Investigator

John Lennon, A17 597 321 (NYC)

Miss Elizabeth Roe of Congressman Gibbons' office, on June 11, 1973, called concerning the subject's case. She was advised that the immigration judge found subject deportable on March 23, 1973, and granted him voluntary departure within 60 days. Further, that Lennon appealed from that decision and his case is now pending before the BIA.

cc: WF - Congressional Inquiries and Responses - FY 1973

✓ cc: WF - John Lennon

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RE: MR. AND MRS. JOHN LENNON

Mr. Lennon is ineligible for a visa and admission into the United States because of a conviction of possessing cannabis resin. An alien convicted of such an offense may not be admitted for permanent residence. Nevertheless, his entry may be authorized under a special provision of law for a temporary visit.

Mr. Lennon's present visit to the United States was authorized under this special provision of law for business purposes and to attend a custody hearing in court proceedings in connection with Mrs. Lennon's child by a previous marriage. His entry was authorized for these purposes upon the recommendation of the Department of State. Service records show that Mr. and Mrs. Lennon were last admitted into this country on August 13, 1971.

Since they did not depart from the United States within the time authorized, deportation proceedings were instituted against them on that ground. Subsequent to the institution of such proceedings, the Department of Labor issued a labor certification on Mr. Lennon's behalf and he was accorded a third preference classification by this Service to be used in applying for an immigrant visa.

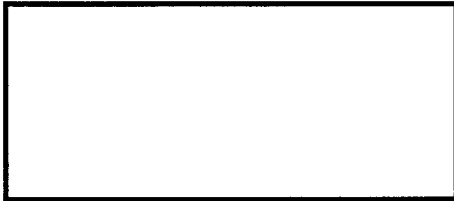
A deportation hearing before a Special Inquiry Officer of this Service was concluded on May 17, 1972. That officer on March 23, 1973, rendered his decision, finding Mr. Lennon deportable and granted him the privilege of departing the United States voluntarily within 60 days. Mr. Lennon has appealed from that decision and his case is now pending before the Board of Immigration Appeals in Washington, D. C.

Mrs. Lennon's application for adjustment of her immigration status to permanent residence has been granted.

John C. M. 4
6/11/73

John C. M. 4
6/11/73

(b)(6)



Your letter of April 5, 1973, to President Nixon, concerning Mr. John Lennon has been referred to this Service for reply as it concerns an immigration matter.

The immigration judge hearing Mr. Lennon's case found him deportable but granted him a period of sixty days within which to depart voluntarily from the United States. Mr. Lennon has appealed this decision to the Board of Immigration Appeals. The future action of this Service will be dependent upon the Board's decision. In the meantime no action looking toward Mr. Lennon's departure can be taken while the case is before the Board.

Sincerely,

10/ 2 1973 J.F.G.

J.F.G.
James F. Greene
Associate Commissioner
Operations

✓ cc: WF - John Lennon

DC:WCN:dlw

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CO 837-C

(b)(6)



Your letter to the Department of State concerning Mr. John Lennon has been referred to this Service for reply as it concerns an immigration matter.

The immigration judge hearing Mr. Lennon's case found him deportable but granted him a period of sixty days within which to depart voluntarily from the United States. Mr. Lennon has appealed this decision to the Board of Immigration Appeals. The future action of this Service will be dependent upon the Board's decision. In the meantime no action looking toward Mr. Lennon's departure will be taken while the case is before the Board.

Sincerely,

/s/ James F. Greene

by *JFC*
James F. Greene

Associate Commissioner
Operations

✓ cc: WF - John Lennon

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