Charge Farmer Held Mexicans in Slavery

By BERNARD LEFKOWITZ

One of the hazards of running a chiken farm, says Rabbi David I. Shackney of Middlefield, Conn., is that the help is usually temporary and unreliable. This was particularly true of a Mexican family of seven who worked on his farm until recently, Shackney said today. "They couldn't do the job so I kicked them off the farm."

A federal grand jury, meeting in Hartford, has a different view of Shackney's labor problems. In a nine-count indictment filed against the Middlefield chicken farmer, the jury charged that Shackney enslaved Louis Humberto Oros, 4, his wife, and their five children for nearly a year.

"It's the same thing as slavery," Asst. U. S. Attorney James D. O'Connor said in Hartford yesterday.

O'Connor said this was the first time in this century that the Hartford U. S. Attorney's office had prosecuted a charge of involuntary servitude.

Shackney denied the charges categorically. He said he had no knowledge that a grand jury was convening in Hartford to heart he case. And he maintained that he has not been informed of the indictment.

"They never asked me to tell my side," Shackney continued. "The man and his family didn't work out so I got rid of them. They would have liked to stay.

"This is all ridiculous. I don't know what they are talking about."

Federal officials testified that Shackney, on vacation in Mexico City, met Oros and persuaded him to come to his farm last July with his wife, Virginia Espina, 43, and their five children, ranging in age from 8 to 18.

Oros, who was a taxi driver in Mexico City, was on the farm several months when a relative tried to reach him, an FBI agent told the grand jury.

When the relative was unsuccessful, the FBI and state police were brought into the the case. "We've watched them from the beginning," an FBI agent in Hartford said.

The Mexican family was forced under a two-yearc ontract to work 12 to 15 hours a day, seven days a week, federal officials charged. They were to be paid, under the contract, at the end of two years, the officials said.

Church, School Not Allowed

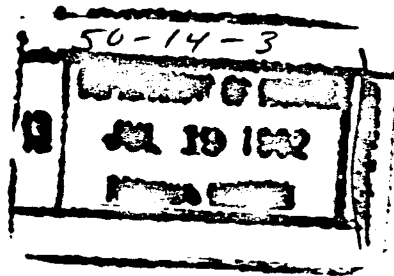
The family was not allowed to go to church, the jury was told. The rabbi refused to allow the children to go to school, the official said.

Federal officials said Shackney, father of two boys, will be ordered to apepar in court later this month to answer the charges. If convicted, he faces a maximum penalty of $5,000 and five years in prison on each count.

The Mexican family, which includes four girls and a boy, is now living in Philadelphia after being "liberated," officials said.

Shackney said today:

"I'm going down to Hartford to find out what this is all about. A man came to see me one day and asked me about the family. That's all I know about it. The rest is a lie."



50-14-3

JUL 19 1962

NEW YORK POST
DATE

FILE - GWJ

50-14-3

LORRAINE 8-1191 LORRAINE 8-1899

Anthony F. Gonzalez

Reply to:
228 AUDUBON AVENUE
NEW YORK CITY 33, N. Y.

P. O. BOX 742
SOUTHAMPTON, L. I., N. Y.

September 19, 1962

United States Attorney General
Washington, D.C.

Re: Involuntary servitude
and peonage

Dear Sir:

Last July 18, 1962 I wrote a letter to James D. O'Connor, Assistant Attorney General, of your Hartford, Connecticut office and as of this date no reply nor acknowledgement has been received thereto.

I requested to be informed of the prosecution and final determination by the court of a case envolving one David I. Shachney of Middlefield of keeping a Mexican family of seven in a state of peonage and involuntary servitude, as reported in the New York Herald Tribune (7-18-62).

I will appreciate any assistance you give to the aforementioned.

I look forward to hearing from you.

RECEIVED
SEP 21 1962

Sincerely yours,

Anthony Francis Gonzalez

ANTHONY FRANCIS GONZALEZ

50-14-3
50-14-3
50-51-0
SEP 21 1962
RECORDS BRANCH
CIV. RIGHTS DIV.

AFG:df

SEP 21 1962

AMOR VINCIT OMNIA

VIEWS OF THE NEWS

BY JOSEPH G. WEISBERG

THE STRANGE CASE OF RABBI SHACKNEY

Stanley Shackney is a third-year student at Harvard Medical School wh[illegible]

[illegible] [illegible] who came to this country in 1941. Shackney [illegible] established a [illegible] reputation as a rabbi, teacher and [illegible] in [illegible] Yale [illegible] [illegible] [illegible] a Mexican family [illegible] [illegible]

In 1950 [illegible] [illegible] of time [illegible] to his teaching was [illegible] great and was [illegible] to his [illegible] In 1950 my father had [illegible] a farm [illegible] Middle[illegible] Connecticut, as a summer [illegible] residence and in view [illegible] doctor's a[illegible] now de[illegible] move permanently to [illegible] farm and to undertake to [illegible] a living by po[illegible] ry in combination with [illegible] time teaching in the near[illegible] large cities. [illegible] [illegible] [illegible] farm [illegible] was [illegible] impossible to find [illegible] ing a part[illegible] [illegible] father because [illegible] he and his mother, also taught, were req[illegible] [illegible] a good deal f[illegible] farm.

In response to an advertisement appearing in an egg journal, my father flew to Mexico to interview some prospective farm workers who wished to come to the United States. On arriving at the airport my father hailed a cab operated by a Luis Oros, who spoke English. Learning the purpose of my father's trip, Oros begged to be hired. My father, however, had already made contact with two couples and promised to engage them at this time.

"After returning home, my father kept receiving letters for many months from Oros, asking that he be sent for as a worker. When the need for new help arose my father wrote to Oros asking if he was still willing to come. Oros [illegible] answered yes. My father [illegible] called Mexico [illegible] to all the members of the Oros family inquiring whether they wished to come. [illegible] Subsequently my father sent a contract to Oros with instructions [illegible] translated into Spanish [illegible] understood [illegible] found the terms satisf[illegible] Oros, his wife and [illegible] daughter [illegible] signed and returned the [illegible]

"Oros was earning [illegible] in Mexico. My father agreed to pay him $[illegible] per month plus [illegible] housing, [illegible] and food [illegible] [illegible] he was unable to [illegible] my father agreed to [illegible] money which [illegible] came to $[illegible] to enable Oros to [illegible] the required papers [illegible] the family [illegible] [illegible] [illegible] [illegible] [illegible] payment of the [illegible] [illegible] interest [illegible]

"Over and above the [illegible] [illegible] the Oros family [illegible] kitchen, [illegible] cleaning of all types, radio, phonograph, television set, automatic hot water [illegible] [illegible] and other comfort and [illegible] Social Security."

[illegible] [illegible] [illegible] [illegible] [illegible] "Mr. and Mrs. Shackney and their [illegible] had many surprises for us, including candy and chocolate [illegible] presents for each member of the family. The father and son are obviously very good people, as is the lady."

"Shortly after the Mexicans' arrival my father offered to give him Sundays off even though the contract called for a seven-day week, because a farm operation [illegible] livestock demands daily attention. My father was [illegible] to employ a Wesleyan student for $[illegible] the day, but Oros requested that he be permitted to continue to work on Sundays and be paid the additional $[illegible] per [illegible]

At the end of the first month Oros received $200 in cash, of which he returned $100 in payment of the first note. On the following day Oros [illegible] my father with a written and signed request that my father agree to the payment of two notes per month instead of one. My father refused to do so, but Oros insisted that he had no need to spend money and wished to accelerate satisfaction of the loan. After days of such insistence, my father finally consented."

(Oros charged in the courtroom that Rabbi Shackney told him to sign eighteen $100 notes to pay his family's expenses to [illegible] month which [illegible] was [illegible] to endorse in order to buy back two of the notes. He claimed [illegible] was [illegible] [illegible] wages during the eight months on the farm.)

"Soon after their arrival [illegible] [illegible] Oros [illegible] [illegible] [illegible] children [illegible] he would [illegible] not want [illegible] to make fun of their [illegible] speech and he [illegible] to return to Mexico after two years."

[illegible] [illegible] [illegible] [illegible] in the [illegible]

[illegible] [illegible] on this farm, which was the most highly automated in the State of Connecticut and [illegible] according to testimony [illegible] an expert from the Eastern States Egg Co-op, would take three adults no [illegible] than four hours each per [illegible] It is a fact that the one man who now works the farm produces 20% more in a normal day of 8½ hours than was [illegible] Oros, his wife and [illegible] daughter, all together.

"The contract provided for automatic [illegible] at Oros' option when the brood of chickens was sold. In January 195[illegible] my father disposed of his chickens and told Oros that he could, in keeping with the terms of the agreement, leave [illegible] Oros begged to [illegible] he liked work[illegible] [illegible] the farm. My [illegible] purchased [illegible] of chickens.

[illegible] 3, that year, a [illegible] [illegible] [illegible] the farm and [illegible] My father [illegible] came back in an [illegible] was then working [illegible] his [illegible] said he had no aunt and [illegible] but after thinking for a while [illegible] meeting these people in one of his previous stays in the United States.

[illegible] and a half later, the [illegible] state trooper of Middlefield came to the farm and demanded to see Oros, offering no explanation why. He left with Oros at 4 p.m. and did not return with him until near midnight. The officer told my father [illegible] on you better send them to church and to school. To which my father asked, 'Did he give you the impression that I didn't let them go?' 'Never mind,' was the trooper's reply. My father then said to Oros that he didn't know he was unhappy and that since his friends were here, perhaps he would like to leave with them.

The next day, after returning [illegible] [illegible] New [illegible] my father arrived at [illegible] and the Oros family leaving in the company of two troopers. Mrs. Oros and the children cried and kissed my mother, saying in Spanish, 'We don't know what happened.'

"On the following morning, my father received a letter from a Middletown lawyer stating 'The writer has been consulted by a Mr. and Mrs. Luis Oros and their five minor children who claim you are guilty of servitude, commenc[illegible] [illegible] indicated. There are some other facets in this matter which I am in the process of investigating.'"

(At the trial Oros told defense counsel that he had agreed to pay this attorney a 25[illegible] fee of what he was able to obtain from the rabbi.)

"My father called this attorney and told him he could not understand the whole matter, since Oros had left the farm owing him $400. The attorney told my father: 'If we take you [illegible] you will have a lot of damaging embarrassment, particularly since you are a rabbi.'

"My father could see no reason to contact the lawyer again and he did not do so. Ten days later, the F.B.I. asked my father for a statement. On advice of his lawyer, my father refused to say anything without his lawyer being present. Four months later my father was indicted by a Federal Grand Jury on counts of peonage and involuntary servitude."

What followed was widely publicized in newspapers throughout the country.

The Hartford Courant, which covered the trial in New Haven, stated on Sunday, March 3, 1962:

"Who will the jury decide is telling the truth—David Shackney or Luis Oros? For after 17 days of trial stretching over five weeks since January 30 — the only thing certain is that the testimony of Shackney and Oros is poles apart."

Oros testified he was afraid to leave the farm. He claimed he was intimidated by statements from Rabbi Shackney threatening to send him and his family back to Mexico.

The prosecution admitted that there were no physical restraints placed on the family. Oros knew that the Shackneys were away from the farm much of the time and a pick-up truck was always available with the keys in it, but the government contended that the holding was psychological.

Rabbi Shackney flatly denied that he ever threatened to send the family or any member back to Mexico.

The jury chose to believe Oros and Rabbi Shackney was sentenced to six years in jail, with all but two months suspended, and fined $2,000.

An independent group of individuals, who made a thorough study of the case, are convinced that Rabbi Shackney is innocent and have established a fund that will take thousands of dollars to appeal his conviction.

Contributions may be sent to the Shackney Defense Fund, P.O. Box 465, New Haven, Connecticut. Further information can be obtained from Seamus Jacobson, 394 Drummond Rd., Orange, Connecticut.

Says Rabbi Shackney: "God, the Oros family and I know [illegible] tragic injustice has been perpetrated in this case. Since the onset, nine months ago, I have maintained that truth and justice will ultimately triumph. I will continue to work through the judicial system of our country to attain that end. I again affirm my innocence."

Luis Oros is now a shoemaker in Philadelphia. Rabbi Shackney, who posted his farm as bail, is living in New Haven, hopeful that he will be vindicated and be able to resume religious teaching.

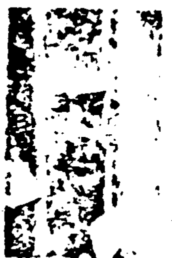
In view of his past service to

VIEWS OF THE NEWS

By JOSEPH G. WEISBERG

THE STRANGE CASE OF RABBI SHACKNEY

Stanley [illegible] ney is a third-year student at Harvard Medical School who is dedicating his life to the alleviation of pain. Right now he is involved in a desperate effort to repair a grievous hurt to his father's name.



Up until two months ago it was a very good name, highly respected in Detroit, Brooklyn and New Haven, where since immigration from Poland to this country in 1941, Shackney had established a worthy reputation as a rabbi, teacher and [illegible]ssional lecturer on Talmud. [illegible] Last March, in as bizarre a case as ever to unfold in modern times, Rabbi David I. Shackney was found criminally guilty of holding a Mexican family in involuntary servitude.

This is the [illegible] story as told to me by his son.

"In 195[illegible] after serving for approximately [illegible] years as a teacher [illegible] Yeshiva of Flatbush in Brooklyn, New York, my [illegible] was advised by his p[illegible] that the amount of [illegible] and effort he was devoting to his teaching duties was [illegible] great and was becoming [illegible]mental to his health. In 19[illegible] my father had purchased a farm in Middlefield Conn[illegible], as a summer vacation re[illegible] and in view of his doct[illegible] he now decided to [illegible] permanently to the farm a[illegible] undertake to earn a living [illegible] poultry husbandry in [illegible]nation with part-time t[illegible] in the near-by large c[illegible]. Efficient and responsible [illegible] help was virtually impo[illegible] to find [illegible]stituting a [illegible] hardship for my fa[illegible] because as a teacher, he [illegible] my mother, who also taught, were required to be absent a good deal from the farm.

"In response to an advertisement appearing in an egg journal, my father flew to Mexico to interview some prospective farm workers who wished to come to the United States. On landing at the airport, my father hailed a cab operated by a Luis Oros, who spoke English. Learning the purpose of my father's trip, Oros begged to be hired. [illegible] father, however, had [illegible] made contact with two [illegible] and proceeded to [illegible] them at this time.

"After re[illegible] home, my father beg[illegible] [illegible] letters for many [illegible] from Oros asking that [illegible] sent for as new help arrived my father wrote to Oros asking if he was still willing to come. Oros immediately answered yes. My father then called Mexico and spoke to all the members of the Oros family inquiring whether they wished to come. They all happily agreed. Subsequently my father sent a contract to Oros with instructions to have it translated into Spanish and to be sure he understood it and found the terms satisfactory. Oros, his wife and eldest daughter forthwith signed and returned the contract.

"Oros was earning $72 a month in Mexico. My father agreed to pay him $182 per month plus furnished living quarters, heat, electricity and food for his family of seven. Oros said he was unable to finance his move to Connecticut, so my father agreed to advance him the necessary money which ultimately came to $1,800 to enable Oros to prepare the required papers, clothe his family, pay his debts and provide for transportation. One hundred dollars of the salary was to be applied each month to the payment of one of eighteen non-interest bearing promissory notes to amortize the loan.

"Over and above the contract, my father provided the Oros family with bedding, kitchen utensils, clothing of all types, radio, phonograph, television set, automatic hot water heater, toiletries and other comforts and paid Oros' Social Security."

(At the trial the defense introduced letters written by Oros and his family to relatives and friends in Mexico describing the Shackney farm in glowing terms. One letter stated: "We have all he (Shackney) promised and the rooms are pretty good." In another letter Oros wrote: "The work is rather heavy, but I like it." Describing Christmas on the farm, Oros penned to his mother: "Mr. and Mrs. Shackney and their oldest son had many surprises for us including candy and chocolate and presents for each member of the family. The father and son are obviously very good people, as is the lady.")

"Shortly after the Mexican's arrival my father offered to give him Sundays off, even though the contract called for a seven-day week because a farm operation involving livestock demands daily attention. My father was willing to employ a Wesleyan student for $10 for the day, but Oros requested that he be permitted to continue to work on Sundays and be paid the additional $40 per month.

"At the end of the first month, Oros received $200 in cash, of which he returned $100 in payment of the first note. On the following day, Oros came to my father with a written and signed request that my father agree to the payment of two notes per month instead of one. My father refused to do so, but Oros insisted that he had no need to spend money and wished to accelerate satisfaction of the loan. After days of such insistence, my father finally consented."

(Oros charged in the courtroom that Rabbi Shackney told him to sign eighteen $100 notes to pay his family's expenses to leave Mexico and that he was paid $200 in two checks each to endorse in order to buy back two of the notes. He claimed he was never paid a cent in wages during his eight months on the farm.)

"Soon after their arrival my father discussed with Oros the matter of sending his children to school. Oros said he would not because he did not want the 'Gringos' to make fun of their English speech and besides he planned to return to Mexico after two years."

(One of the most emotional and bitter disputes at issue in the case was a claim by Oros that Rabbi Shackney refused his requests to send his children to school because they were needed to work on the farm.)

"Everything operated routinely on this farm, which was the most highly automated in the State of Connecticut and the care of which, according to testimony by an expert from the Eastern States Egg Co-op, would take three adults no more than four hours each per day. It is a fact that the one man who now works the farm produces 20% more in a normal day of 2½ hours than was turned out by Oros, his wife and 13-year-old daughter, all together.

"The contract provided for automatic termination at Oros' option, when the brood of chickens was sold. In January 1962 my father disposed of his chickens and told Oros that he could, in keeping with the terms of the agreement, leave at that time. Oros begged to stay on, saying he liked working and living on the farm. My father, accordingly, purchased a new brood of chickens.

"On March 3 that year, a Philadelphia couple, representing [illegible] to be an uncle and aunt of Oros, drove up to the farm and asked to see him. My father told them to come back in an hour since Oros was then working. When told of his visitors, Oros said he had no aunt and uncle, but after thinking for a while remembered meeting these people on one of his previous stays in the United States.

"An hour and a half later, the resident state trooper of Middlefield came to the farm and demanded to see Oros, offering no explanation why. He left with Oros at 4 p.m. and did not return with him until near midnight. The officer told my father 'from now on you better send them to church and to school.' To which my father asked, 'Did he give you the impression that I don't let them go?' 'Never mind,' was the trooper's reply. My father then said to Oros that he didn't know he was unhappy and that since his friends were here, perhaps he would like to leave with them.

"The next day, after returning from his classes in New Haven, my father arrived at the farm to find the Oros family leaving in the company of two troopers. Mrs. Oros and the children cried and kissed my mother, saying in Spanish, 'We don't know what happened.'

"On the following morning, my father received a letter from a Middletown lawyer stating 'The writer has been consulted by a Mr. and Mrs. Luis Oros and their five minor children, who claim you are guilty of servitude commencing August 15, 1961, and endeavoring [illegible] facets in this matter which I am in the process of investigating.'"

(At the trial Oros told defense counsel that he had agreed to pay this attorney a 25% fee of what he was able to obtain from the rabbi.)

"My father called this attorney and told him he could not understand the whole matter, since Oros had left the farm owing him $400. The attorney told my father: 'If we take you to court you will have a lot of damaging embarrassment, particularly since you are a rabbi.'

"My father could see no reason to contact the lawyer again and he did not do so. Two [illegible] later the F.B.I. asked [illegible] father for a statement. [illegible] advice of his lawyer, my [illegible] refused to say anything [illegible] out his lawyer being present. Four months later my [illegible] was indicted by a Federal Grand Jury on counts of [illegible] and involuntary servitude."

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Rabbi Shackney flatly denied that he ever threatened [illegible] the family or any memb[illegible] [illegible] to Mexico.

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An independent group of individuals, who made a thorough study of the case, are convinced that Rabbi Shackney is innocent and have established a fund that will take thousands of dollars to appeal his conviction.

Contributions may be sent to the Shackney Defense Fund, P.O. Box 45[illegible], New Haven, Connecticut. Further information can be obtained [illegible]

[illegible]

[illegible] justice will [illegible] I will continue to [illegible] the judicial system of [illegible] try to attain [illegible] my innocence."

[illegible] Shackney, who [illegible] [illegible] living [illegible] hope I [illegible] [illegible] and be able to [illegible] [illegible] teaching.

In [illegible]

UNITED STATES GOVERNMENT DEPARTMENT OF JUSTICE

Memorandum

TO : Mr. John L. Murphy, Chief
General Litigation Section
Civil Rights Division

DATE: May 24, 1962

FROM : Gerald W. Jones, Attorney
Constitutional Rights Unit

GWJ:rb 9843

50-14-3

SUBJECT: [redacted] aka., [redacted] [redacted] - Victims, et al.
Involuntary Servitude and Slavery

LEH
JUN 22 1962

This case involves [redacted] family consisting of the father, mother and five children. There are present [redacted] and [redacted] and [redacted]

In 1960, subject was visiting in Mexico where he met the father of the Mexican family. The Mexican indicated his burning desire to become a United States citizen. It appears that subject offered him and his family this opportunity by suggesting that the family come to work on subject's chicken farm in Connecticut. In early 1961 the father of this Mexican family signed a work contract with subject. The contract was for the services of the father, mother and oldest daughter for two years beginning August 15, 1961. The contract provided for such working hours as the work required for 365 days a year "without exceptions," compensation consisting of furnished living quarters, "healthful food of average quality," $60.00 per month for each of the three persons named in the contract for the first year, and $80.00 per month for the second year.

When subject appeared in Mexico to arrange for the transportation of the family to Connecticut, the Mexicans had no money. Subject provided the necessary funds and had the father sign eighteen notes for $100 each. Except for the amount required to obtain visas, etc., the only other expenditure was for transportation which a bus company official stated would have cost $452.72 for the family. Subject gave no money to victims.

Noted. John File

50-14-3
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The family arrived in Connecticut in July of 1961, and commenced work. Subject explained to the family that they could not leave the farm at any time because he was afraid they would contact disease and communicate same to his chickens. He told them that if anyone became sick, he would have to be sent back to Mexico. He told them also that a knowledge of the English language and money were necessary for sending the children to school. As a result of these admonishments, none of the family left the farm from the time of their arrival until March, 1962, when their "release" was secured with the aid of a State Trooper. According to the victims, subject constantly threatened them with deportation during this period and told them of a number of other families he had had working for him as to which he had had the husband deported and the wife was left in the States "penniless and crying." According to victims this had a serious effect on them and put the entire family into a state of constant fear of being deported.

During the period of the family's stay with subject, the family was allegedly forbidden to speak with outsiders, their housing and food was allegedly inadequate, they were not permitted to leave the farm and subject never gave any member of the family money. He did, however, destroy two notes each month and explained to the father that he was in that way applying the monthly income to the amount owed. Also, during this period it is alleged that the children were afraid to let it be known when they were ill for fear they would be sent back to Mexico. None of them was ever allowed to attend school or church and all were required to work long hours daily, seven days a week.

In February, 1962, the father smuggled a letter out by a gas company employee who visited the farm at the time. This letter was addressed to an acquaintance who contacted the police in the Connecticut town. With the aid of the police, the family was removed from the farm and are presently residing in Philadelphia where the children are attending school.

The case was reported to the FBI by the police officer who rescued the family and by the principal of a local elementary school, who had been apprised of the situation.

According to the Philadelphia acquaintance to whom victim appealed for help, when he and his wife arrived at subject's farm to see the victim family, subject denied flatly that any such persons lived there. The acquaintance then contacted the police officer and returned to the farm in the company of the officer. According to the officer, subject became indignant and demanded to know the officer's business with the Mexican family when the officer requested to see the family. The officer had to ignore subject and seek the family out for himself.

Several persons who either worked on subject's farm or visited subject's farm for some reason relate how victim had told them about the restrictions placed on the family by subject. However, most or all of this would be hearsay in a trial.

Subject refused to make a statement. However, it is noted that the terms of the employment as stated by subject in his affidavit in support of victims' visas (on file with Immigration and Naturalization Service - Philadelphia) are considerably more liberal than those stated in the contract and actually adhered to by subject.

Even though victim does not have a copy of his contract (he states all copies were returned to subject), victim does have a copy of a contract which, according to him, is identical to one he signed. The contract of which he has a copy is one which subject sent to victim's son simultaneously with victim's contract but the son and his family decided not to come and did not return the contract. We have a copy of that contract. We also have copies of thirteen of the notes, the pieces of which victim preserved after subject tore them up.

Another important factor in this case is the apparent feeling in the community against subject. One neighbor states he has nothing to do with subject, wants nothing to do with him, and doesn't like "the way he acts." According to this neighbor, subject formerly had some Puerto Ricans working for him whom he did not treat fairly. An attorney, who is investigating the possibility of a civil suit for back wages, states that subject, who, incidentally, is a Rabbi, has a reputation for previous actions along the same line. It is reported that he has attempted to get Jewish immigrants from New York on much the same terms. According to the attorney, the local Rabbi in Middletown, Connecticut, refused to discuss subject but gave the impression subject was "no good."

In view of all the circumstances, it would appear that we have a case worthy of prosecution. Not only does the case seem to meet the legal requirements, it also has "appeal."

The cases of Bernal v. United States, 241 Fed. 339 (5th Cir. 1917); United States v. Clement, 171 Fed. 974 (D. S. C. 1909); Peonage Cases, 123 Fed. 671 (M.D. Ala. 1903); and United States v. Ancarola, 1 Fed. 676 (S.D. N. Y. 1880), all lend weight to our case on the issue of involuntariness. In the Bernal case the defendant was indicted for unlawfully, willfully and knowingly holding three named persons in peonage by threats and by putting them in fear. The testimony of one of the three named persons showed that defendant had approached her at Laredo, Texas, and asked her to come to work for defendant at San Antonio, Texas, as a chambermaid. Defendant told the witness that if the work were found to be not agreeable, defendant would pay her way back to Laredo. Witness accepted and upon arrival at San Antonio, discovered that defendant desired witness to prostitute herself. Witness refused and defendant told her she could not leave the house until witness's fare to San Antonio had been repaid. Witness was sent on errands in the neighborhood but was always watched from a window by defendant. Defendant told witness that if she tried to leave, defendant would contact the immigration officials and witness, who was a Mexican alien, would be put in jail for five years. Because of this, witness was very much afraid of defendant and, having no money and not being familiar with the City, stayed in fear of defendant. She finally succeeded in getting word to a relative who contacted the police. When the police arrived at the house defendant advised there was no such person there. However, witness succeeded in making herself known to the officer and she was removed from the house. During her stay there, witness and another girl did all the work but received no pay and little to eat. Defendant was convicted and appealed. The Court of Appeals held that the conviction should be affirmed. The Court stated that the law takes no account of the amount of the debt or the means of coercion. It is sufficient to constitute the crime that a person is held against his will and made to work to pay a debt. And if the jury believed the witness, her testimony was sufficient to support the indictment. The Court also held that the indictment was "in due form and sufficient in law."

The Clement case, as reported, consists only of the instructions to the jury. That was also a peonage case. There the Court said:

> If you are satisfied beyond a reasonable doubt that the defendant by such threats of prosecution induced these parties, or any of them, to remain in his service against their will, overmastering their weakness by his strength, and thus subduing their wills to his, then it is your duty to convict him." p. 976.

The Peonage Cases consist of the Judge's explanation to a Grand Jury which had been empanelled to investigate peonage matters. Said the Judge in part:

> A person who hires another, and induces him to sign a contract by which he agrees during the term to be imprisoned or kept under guard, and under cover of such agreement afterwards holds the party to the performance of the contract by threats or punishment, or undue influence, subduing his free will, when he desires to abandon the service, is guilty of holding such a person to "a condition of peonage"

In the Ancarola case, defendant brought a number of children from Italy to New York to work as street musicians. In Italy, the procuring or agreeing to a child's engagement in such activity is a crime. All of the children involved apparently consented to the arrangement as did their parents. It appears that the defendant had painted rosy pictures to the children as to what it would be like in this country and how much money they could make. All of the children came from very poor families. The Court held that this was involuntary servitude notwithstanding the purported consent of the children. Said the Court at page 683:

> . . . (T)he children, in serving the defendant as street musicians for his profit, to the injury of their morals, subject to his control, could not properly be considered as rendering him voluntary service. They were incapable of exercising will or choice affirmatively on the subject. They were cast off by their parents, in violation of the law of Italy, and their being in this country at all with the defendant was, on all the facts, really involuntary on their parts, although the sham form of their consent was gone through with . . . .

Thus, as the above cited cases indicate, involuntariness as to servitude may be shown by way of threats and placing one in fear, a situation which seems to exist in our case. These cases also indicate that involuntariness exists whenever the "servant" is held as such by a master who prevents, through strength, undue influence or fear, an exercise of the servant's free will on the subject. However, as to the charge of peonage, the issue of "debt" enters the picture. In this connection, Taylor v. United States, 244 Fed. 321 (4th Cir. 1917) should be mentioned. In that case one Cook entered into a contract to work from month to month for defendant Taylor for a period of one year at $10 per month. Prior to the contract Cook had borrowed $13 from Taylor to get married. Thereafter, Cook wanted to be released from the contract but Taylor refused, and upon Cook's failure to work, Taylor conferred with defendant Hayes, a magistrate, and obtained a warrant for Cook's arrest under the provisions of a state statute. Hayes contacted Cook and advised Cook that unless he complied with the contract, he (Hayes) would have to enforce the statute and place Cook on the chain gang. Later, however, Hayes, acting in behalf of Taylor, obtained a settlement whereby Cook paid $25 as full satisfaction of the $13 debt and as damages sustained by Taylor on account of Cook's failure to work.

Five days later, at Taylor's insistence, Hayes issued a second warrant for Cook's arrest. Again Hayes told Cook he must either work for Taylor or on the chain gang. Cook refused to work for Taylor, the case was tried and Cook was sentenced to the chain gang for 30 days. In the meantime the United States Government was apprised of the situation and Hayes and Taylor were arrested and indicted on a number of counts charging peonage and conspiracy to commit an offense against the United States.

Both defendants were found guilty and appealed on the ground that the evidence disclosed no element of peonage.

The Court of Appeals agreed with defendants and reversed the convictions. The Court said, first of all, that there was no evidence that defendant Taylor ever detained Cook for one moment in a condition of involuntary servitude so there couldn't have been a holding in or returning to a "condition of peonage", which requires involuntary service.

With reference to the charges involving conspiring to violate the peonage statute, the Court had to face the question of whether or not a "debt", within the meaning of statute, existed. As to this the Court said that the evidence showed that this was a contract to work from month to month. True there was a debt existing but as to the first month in question Cook made a settlement of $25 which completely liquidated the "debt" of $13 and also paid damages for breach of the contract <u>for that month</u>. Thereafter no "debt" existed and Cook was <u>arrested the</u> second time and prosecuted "solely on account of his failure to comply with the contract to work". This, held the Court, was not conspiring to create a condition of peonage because an "obligation to work . . . cannot be reasonably construed to mean a debt as contemplated by the peonage statute."

Even though the Court in the <u>Taylor</u> case concluded that an obligation to work under a contract does not constitute a "debt" in itself, in our case we have a clearly defined "debt" separate and apart from the obligation to work. Hence we are not faced with the difficulty experienced by the Government in that case.

All things considered, I think we have a good case and therefore am forwarding herewith a suggested form of indictment and a letter to the United States Attorney.

T. 8-17-62

BM:GWJ:rb 9843
50-14-3 L. F. S.

AUG 20 1962

Honorable Robert C. Zampano
United States Attorney
Post Office Building
New Haven, Connecticut

Attention: James D. O'Connor, Assistant
United States Attorney

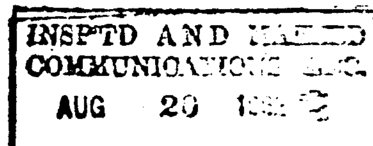
Re: United States v. David Icchok Shackney, aka. - Criminal No. 10,693

Dear Mr. Zampano:

Reference is made to your letter of August 10, 1962, and to the report of Special Agent [redacted], dated August 8, 1962, at Philadelphia.

It appears to us that your request to the Federal Bureau of Investigation is a very thorough one. At present there is little we can add. However, it does occur to us that perhaps it would be wise to obtain copies of Shackney's individual income tax returns and tax returns for the Maytav Kosher Packing Corporation for the last five years or so. These could serve dual purposes: (1) they will indicate whether Shackney charged off as a business expense the amounts which he claims to have "paid" the victims; and (2) in the event we are unsuccessful with this case, the returns may disclose grounds for a tax fraud prosecution.

cc: Records
Chrono
Jones


INSP'TD AND MAILED
COMMUNICATIONS ...
AUG 20 1962

If we should think of anything further you will be so advised immediately.

Thank you for keeping us posted and please continue to do so.

Sincerely,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

By:
JOHN L. MURPHY, Chief
General Litigation Section

T. 9-12-62

BM:GWJ:rb 98435
50-14-3

SEP 13 1962

Honorable Robert C. Zampano
United States Attorney
Post Office Building
New Haven, Connecticut

Attention: James D. O'Connor, Assistant
United States Attorney

Re: United States v. David Icchok Shackney,
aka. - Criminal No. 10, 698

GWJ 9/12/62
JHM 9/13

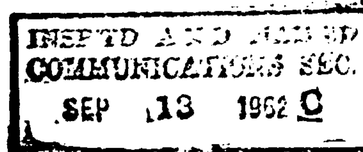
Dear Mr. Zampano:

In accordance with the request of Assistant United States Attorney O'Connor to Mr. Jones of this Division at the time of Mr. O'Connor's visit to the Department on Thursday, August 30, 1962, we are furnishing the following with respect to the motions filed by the defendant in the above styled case.

The defendant, in his Motion to Dismiss, asserts that the indictment fails to allege the elements of any crime, that it fails to allege any facts sufficient to constitute a crime against the United States, that Counts 1 and 3 are duplicative, that Counts 2 and 4 are duplicative, and that the defendant has not been informed of the exact charges against him.

As you know, the indictment is drafted in the language of the statute as to both the peonage and slavery charges. We reviewed the statutes before the suggested form of indictment was submitted and concluded that the statutes themselves set forth all of the elements necessary for the establishment of the crimes.

cc: Records
Chrono
Jones



Peonage, by definition, is a status or condition of compulsory or involuntary service based on the indebtedness or claimed indebtedness of the peon to the master. See United States v. Reynolds, 235 U.S. 133 (1914); Clyatt v. United States, 197 U.S. 207 (1905); Pierce v. United States, 146 F. 2d 84 (5th Cir. 1944), cert. denied 324 U.S. 873; Taylor v. United States, 244 Fed. 321 (4th Cir. 1917); United States v. Cole, 153 Fed. 801 (W.D. Tex. 1907); In re Peonage Charge, 138 Fed. 686, 687 (N.D. Fla. 1905). It is sufficient to constitute peonage that a person is held against his will and made to work to pay a debt. The amount of the debt and the means of coercion are irrelevant. See Bernal v. United States, 241 Fed. 339 (5th Cir. 1917).

One of the several offenses defined in Section 1581(a) is the holding of a person to a condition of peonage. See United States v. Gaskin, 320 U.S. 527 (1944). No specific intent is required by the statute; hence no allegation of intent is required in the indictment. See United States v. Behrman, 258 U.S. 280 (1922); United States v. Combs, 73 F. Supp. 813 (E.D. Ky. 1947).

Unlike the peonage statute, the involuntary servitude statute does require specific intent, to wit, willfulness. One of the offenses there described is to hold another in involuntary servitude. The word "involuntary" in itself means against the will. Therefore, it would seem that the elements of willfulness, involuntariness and a holding are set forth clearly in the statute, in the language of which the indictment is couched.

Since the indictment is drawn in the statutory language as to both the peonage and involuntary servitude counts and since the statutes in question contain the elements necessary to establish the crimes charged we believe that the indictment is sufficient. It has been held that an indictment couched in statutory language is sufficient if it sets forth all the necessary elements. United States v. Schillaci, 166 F. Supp. 303 (S.D. N.Y. 1958).

Regarding the defendant's assertions that several of the counts duplicate one another, we believe that the information furnished previously with our letter of July 24, 1962, should be helpful. The test used by the courts to determine this issue seems to be whether or not each count requires proof of an element or a fact which the other does not. See cases noted in annotations to Rule 8, Federal Rules of Criminal Procedure, Note 20. In our case the peonage counts require proof of the fact that the servitude was not only involuntary but based upon an indebtedness, alleged or real. This latter element or fact is not necessary to a 1584 conviction. On the other hand, the element of willfulness must be shown under 1584 whereas it is not required under 1581(a).

Travis v. United States, 247 F. 2d 130 (10th Cir. 1957) is a case which considered the issue of duplicative counts. There the defendant was indicted for filing a false statement with a government agency stating that he was not "then and there a member of the Communist Party" and that he was not "then and there affiliated with the Communist Party" on specified dates. The defendant contended, inter alia, that since membership necessarily included affiliation, he was being charged twice with the same offense. The Court, in rejecting this argument, quoted the Supreme Court in United States v. Universal C. I. T. Credit Corporation, 344 U.S. 218 (1952) wherein the Supreme Court said at 225:

> . . . a draftsman of an indictment may charge crime in a variety of forms to avoid fatal variance of the evidence. He may cast the indictment in several counts whether the body of facts upon which the indictment is based gives rise to only one criminal offense or to more than one. To be sure, the defendant may call upon the prosecutor to elect or, by asking for a bill of particulars, to render the various counts more specific. In any event, by an indictment of multiple counts the prosecutor gives the

> necessary notice and does not do the less so because at the conclusion of the Government's case the defendant may insist that all the counts are merely variants of a single offense.

While we do not agree that only one offense is involved here, the cited case is authority for the fact that the instant defendant's request for dismissal on this ground is without merit.

Another case in point here is United States v. Bitz, 179 F. Supp. 80 (S.D. N.Y. 1959). In that case, separate counts in an indictment against the defendant charged violations of two statutes - one making it a crime to conspire to monopolize commerce and the other making it a crime to conspire to obstruct commerce by extortion. The defendant moved for dismissal on the ground that these counts were repetitions and should have been included in a single count. The court disagreed and said that even though it appeared likely that proof under the allegations of the first count would be sufficiently broad to justify a verdict of guilty under the second, it was not inconceivable that two separate conspiracies existed. According to the court the two counts were permissible to meet the different interpretations which might be placed on the evidence by the jury and harm could be guarded against by limiting the sentence to the lesser maximum permissible under either statute.

The fifth and last assertion in the defendant's Motion to Dismiss would appear to be without merit also. He has been apprised by the indictment of the specific period of time during which he is charged with having held named persons at a stated place to involuntary servitude and/or peonage, both of which are conditions which by their very nature are inclined to occur over a period of time rather than on any specific date.

Item 1 of the Motion for Bill of Particulars seeks information as to the amount of the debt, when and where the debt was incurred and the consideration therefor. According to Pierce v. United States, supra, the debt need not be a real one but it is sufficient that there is a claimed debt. Since there is some uncertainty in our case as to the exact amount of the debt, the consideration therefor, etc., it would seem wise not to allege any actual debt of a specific amount, since our proof would then be confined to that allegation. It might be better to refuse to give the information requested in item 1 on the ground that it is evidence or make it clear in connection with any information furnished that the government makes no assertion as to the genuineness of the debt.

Items 2, 3 and 4 of the Motion for Bill of Particulars seek allegations as to the use of force or violence, the nature of same, the use of threats, to whom and by whom were they made, when and where were they made, and whether any other person was involved in the force, if any. Our investigation has been relatively thorough and there has been no revelation of any physical force or violence involved. In fact, the case has been considered all along on the basis that threats, intimidation, placing in fear, etc., provided the coercion by which all of the victims were retained in the defendant's employ against their wills. Accordingly, we see no reason why the defendant should now be apprised of the fact that we are not alleging any physical force or violence. Likewise, it does not appear to us harmful to allege at this time that there were threats made by the defendant to Oros and members of his family during the period of their stay at the defendant's farm, but not attempting to specify any dates or specific threats.

We hope that you will find these suggestions helpful. We are working on some proposed instructions to the jury on the issue of peonage and involuntary servitude as you requested and will forward them shortly.

Sincerely,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

By:
JOHN L. MURPHY, Chief
General Litigation Section

Form No. CVR-17
(Ed. 6-22-61)

T. 10-8-62

BM:GWJ:bwd
50-14-3

G. F.

( )Chief, Voting & Election

( )Not Indexed - For Information

Dear [redacted]

This will acknowledge your letter of September 19, 1962, inquiring about the involuntary servitude and peonage case involving David I. Shackney of Middlefield, Connecticut.

As you may have read in the papers, Mr. Shackney has been indicted. Beyond that the case is still pending. We are sure the press will report the outcome of the matter.

Sincerely,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

By:
JOHN L. MURPHY, Chief
General Litigation Section

cc: Records
Chrono
Mr. Jones

AMOR VINCIT OMNIA

T. 10/18/62

BM:GWJ:sab 9843
50-14-3

C

Honorable Robert C. Zampano
United States Attorney
Hartford, Connecticut

Attention: James D. O'Connor, Assistant
United States Attorney

Re: United States v. David Icchok Shackney, aka

Dear Mr. Zampano:

Reference is made to your letter of October 12, 1962, and the telephone conversation of October 17, between Assistant United States Attorney James D. O'Connor and Mr. John L. Murphy of this Division.

We have conferred with several other persons concerning the matter of discovery. They all agree with Mr. Murphy's view that the defendant would not be entitled to the letters in the Government's possession prior to trial. He is not entitled to them under Rule 16 because they were not obtained from or belonged to the defendant and they were not obtained from others by seizure or process. Under Rule 17(c) it appears that the defendant is entitled to inspection of the letters only if they are admissible as evidence in the case. See Bowman Dairy Co. v. United States, 341 U.S. 214 (1951). At the present time, the letters in question would not seem to be evidence and would tend to become so only after the writers have testified in a contradictory

cc: Records
Chron
Jones

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CIVIL RIGHTS DIVISION MAIL ROOM
DATE OCT 18 1962
BY

manner. At that point we think the defendant would be entitled to them under Rule 17(c) but not before trial.

Thank you for keeping us advised. Please continue to do so.

Sincerely,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division

By:
JOHN L. MURPHY, Chief
General Litigation Section

DEPARTMENT OF JUSTICE

BM:GWJ:sab 9843 L.F.
50-14-3

APR 4 1963

JAMES D. O'CONNOR, ASSISTANT
UNITED STATES ATTORNEY
HARTFORD, CONNECTICUT

AFTER STUDYING AND DISCUSSING DEFENDANT'S BRIEFS

RE SHACKNEY CASE, WE FEEL THERE IS NO NECESSITY

FOR REPLY MEMORANDA OR BRIEFS ABSENT SOME AFFIRMA-

TIVE REQUEST BY THE COURT.

GWJ 4/4/63

BURKE MARSHALL
ASSISTANT ATTORNEY GENERAL
CIVIL RIGHTS DIVISION

Kbm 4/4

BY:
JOHN L. MURPHY, CHIEF
GENERAL LITIGATION SECTION

cc: Records
Chron
Jones

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APR 8 1963

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APRIL 4, 1963-11:35a.m.

GERALD W. JONES, ATTORNEY X2174

AIR MAIL - SPECIAL DELIVERY

HAG:bco 9843
50-14-3

October 30, 1963

Honorable Robert C. Zampano
United States Attorney
District of Connecticut
Hartford, Connecticut 06103

Attention: James D. O'Connor
Assistant U.S. Attorney

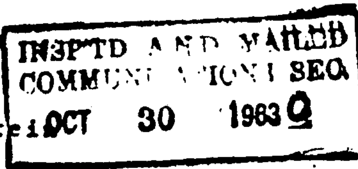
Re: United States v. David Icchok Shackney, Cr. No. 10,698

Dear Mr. Zampano:

The following is a list of pleadings in the above case in our possession:

1. Indictment
2. Waiver of Jury Trial
3. Motion To Dismiss
4. Motion For Bill of Particulars
5. Motion For Discovery
6. Withdrawal of Waiver of Jury Trial
7. Ruling on Motion For Bill of Particulars
8. Government's Brief in Opposition To Defendant's Motion For Bill of Particulars
9. Defendant's Brief on Motion For Bill of Particulars

cc: Records
Chron.
Greene
Glickstein



10. Ruling on Motion To Modify Court's Ruling on Motion to Quash Subpoena (of U.S.A.)

11. Ruling on Motion to Quash Subpoena (of U.S.A.)

12. Motion to Modify Court's Ruling on Motion to Quash Subpoena

13. Amended Indictment

We would appreciate receiving whatever other pleadings you have in your files. We are also enclosing a copy of the article by Sydney Brodie which you requested.

Sincerely,

Howard Glickstein
Attorney
Civil Rights Division

Enclosure

T. 1-9-64

BM:HAG:swj 9843
50-14-3

Mr. A. Daniel Fusaro
Clerk, United States Court
of Appeals for the Second Circuit
Foley Square
New York, New York 10007

JAN 10 1964

1/9/64

Re: United States of America v.
David Icchok Shackney,
No. 28500

Dear Mr. Fusaro:

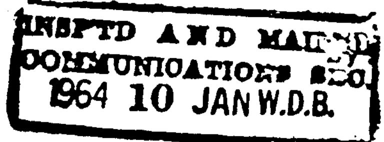
We are enclosing a "Time Request Form" for argument in the above case.

An attorney from this Division will argue the case and we would therefore appreciate it if you would direct all future correspondence involving this appeal to my attention so that it can be expeditiously answered.

The appellant has agreed to our request for an extension of time for the filing of our brief until February 11, 1964. The United States Attorney is preparing the appropriate stipulation.

Sincerely,

BURKE MARSHALL
Assistant Attorney General
Civil Rights Division



HAROLD H. GREENE
Chief, Appeals and
Research Section

Enclosure

cc: Records Chrono Greene Glickstein U.S.A. Zampano

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT
UNITED STATES COURTHOUSE
FOLEY SQUARE
NEW YORK 7

A. DANIEL FUSARO
CLERK

RECEIVED
DEC 21 1960
U.S. Atty.

Docket No. 26500 Cal. No. 202

Re: United States of America, v. David Isaac Shochberg, A/k/a David Isaac Shochberg and David I. Shochberg.

Gentlemen:

In accordance with Rule 21 of this court the above entitled action will be added to the calendar shortly.

Enclosed is a Time Request Form.

Because of the great number of cases on this court's calendar, counsel are urged to limit themselves to the minimum time needed to present their case. All counsel are subject to the limitation that the court will allow no more time than it thinks adequate for a proper presentation of the issues.

If the enclosed form is not returned immediately it will be understood that you want for argument only whatever minimum time the court will assign.

Cases will be added to the day calendar according to the rules of this court. You will receive notice, if possible, by mail of the day certain set for argument.

Very truly yours,

A. DANIEL FUSARO
Clerk

Enclosure