

1 IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT
2 In the above- FOR THE NORTHERN DISTRICT OF CALIFORNIA,

3 That Affiant FIRST DIVISION. Plaintiff, and there-
4 fore alleges the case to be that the defendant Jodh Singh
5 UNITED STATES OF AMERICA, Plaintiff, and there-
6 contained in the Plaintiff, and there-
7 -vs- No. 6133. Plaintiff, and there-
8 JODH SINGH, et al., in the jurisdiction of the United
9 States, to wit, in Defendants, District of Illinois. That
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11 AFFIDAVIT IN OPPOSITION TO WITHDRAWAL OF PLEA OF GUILTY
12 BY JODH SINGH.

13 UNITED STATES OF AMERICA, Plaintiff, and there-
14 Northern District of California, 38:
15 City and County of San Francisco. Plaintiff, and there-
16 -----
17 JOHN W. PRESTON being duly sworn, deposes and says:
18 That he is the Attorney for the United States of America in
19 and for the Northern District of California, and as such
20 he has charge and supervision over the prosecution of the
21 above-entitled cause;
22 That some two years ago, a copy of the statement made
23 by the defendant Jodh Singh to the military authorities at
24 Singapore, was furnished to him, and acting upon the
25 information therein contained, he requested the Department
26 of Justice at Washington, D. C., to secure from the British
27 Government, if possible, the presence of the said Jodh Singh
28 as a witness in the above-entitled cause; that pursuant to
29 such request so made as aforesaid, the British Government
30 brought to this jurisdiction, through the Dominion of Canada,
31 the said Jodh Singh, and he was, upon his arrival in the
32 United States, duly subpoenaed as a witness in said case;

33 that prior to that time however, he was duly and regularly

1 indicted as a co-conspirator and made one of the defendants
2 in the above-entitled cause. That the defendant, the character
3 of the said That affiant is informed and believes, and there-
4 fore alleges the fact to be that the defendant Jodh Singh
5 testified in two trials in India and gave the same testimony
6 contained in the statement heretofore furnished your affiant.
7 That likewise the said defendant was indicted in
8 a similar conspiracy in the jurisdiction of the United
9 States, to wit, in the Northern District of Illinois. That
10 the defendant Jodh Singh having been named as a conspirator
11 and defendant in said cause, was duly apprised by the
12 District Attorney's office at Chicago of such fact, and
13 upon his giving his testimony in said cause at Chicago, which
14 said testimony is practically the same as contained in the
15 statement heretofore furnished your affiant, the said Jodh
16 Singh was thereupon, with his full knowledge, dismissed from
17 the said indictment at Chicago.
18 That moreover, another party named in said indict-
19 ment at Chicago, to wit, one George Boehm, at the same time
20 and place, with the knowledge of the said Jodh Singh,
21 elected on his part not to become a witness, and in lieu
22 thereof to stand trial at Chicago, and thereupon the said
23 George Boehm was placed on trial in Chicago and duly convicted.
24 That the said Jodh Singh therefore had positive
25 knowledge of the manner in which cases would be disposed of
26 where a defendant had elected not to become a witness and to
27 stand trial; that the said Jodh Singh therefore knew fully
28 what the court procedure was in cases affecting defendants
29 in the same situation in which he himself was in.
30 That later, and on the 9th day of November 1917,
31 this affiant called upon the witness Jodh Singh, at McCrays,
32 in the County of Sonoma, State of California, where said Jodh

1 the British courts in two cases, it is not the intention of
2 the British Government to punish Jodh Singh in any manner
3 whatsoever, and that no case can be found on record in the
4 British Court or any other court, where a conspirator
5 giving evidence such as Jodh Singh has, has ever been punish-
6 ed thereafter for the offense.

7 Affiant therefore alleges that the statement that
8 Jodh Singh is in danger of being deported and executed, is
9 without foundation, and made intentionally for the purpose of
10 prejudicing the case on trial.

11 Affiant further states that he furnished the said
12 defendant Jodh Singh with a copy of the statement supposed to
13 have been made by him at Singapore, and asked him if there
14 were any omissions, corrections or additions to be made thereto
15 and that about ten minutes prior to the time that the said
16 Jodh Singh was called as a witness, he produced the said
17 statement, stating that it was correct with the exception
18 of two or three minor details noted by him in the margin of
19 the said statement. Affiant further files the said statement
20 of Jodh Singh and incorporates the same in, and makes the same
21 a part of this affidavit, and designates the same as Exhibit
22 "A" hereto.

23 Affiant further states that he had no knowledge
24 or intimation that said defendant Jodh Singh intended to
25 make any disturbance or to raise any question of any kind at the
26 time he was called as a witness. On the contrary, the said
27 Jodh Singh had expressed himself time and again as satisfied
28 with the treatment given him in the United States, and that
29 he was perfectly willing to testify as to all he knew about
30 the case.

31 Affiant further states that among the effects of
32 said defendant Jodh Singh taken since the time of his being

1 called as a witness, are a large number of written pages in
2 the handwriting of said defendant Jodh Singh, and affiant
3 here quotes a few extracts from said pages which show that
4 said defendant Jodh Singh knew fully what his rights were
5 in this matter:

6 Speaking of the visit of affiant to McCrays, Jodh
7 Singh says:

8 "He has come here to take our statements - not
9 to elevate us. After all, we are all accused."

10 Speaking of his testimony he says:

11 "I told the truth in those two courts just the
12 same as I did in Singapore by giving statement
13 to General Rideout and signing the statement
14 in the presence of Sir Arthur Young, the
15 Governor of the Strait Settlement."

16 "Mr. Preston showed me my note book where
17 addresses were written in my handwriting. I
18 confessed to Mr. Preston that the handwriting
19 was mine. I consulted my statement as regards
20 to the third address given in my note book.
21 This address was from Boston, Mass. Then Mr.
22 Preston explained to me the charge which was
23 brought against the defendants. This he said
24 was the military enterprise for which the
25 punishment for a convicted person could be the
26 maximum two years and a fine up to \$10,000."

27 Speaking of a newspaper article that he had read,
28 defendant Jodh Singh says:

29 "The article said the Federal Jury had indicted
30 ninety eight men with the charge of fomenting
31 revolt in India. Forty-two were going to be
32 tried to day in the court. The rest of the 98
33 were not arrested by the U.S. Govt., and they
34 were beyond the jurisdiction of the U.S. Govt.
35 Some have since died. The case is the biggest
36 case in the history as regards to war. This
37 case will last at least three months. 150
38 witnesses to appear in the court against the
39 defendants. The defendants would be represented
40 by the 15 attorneys. Among the defendants there
41 is one woman a Buddhist priest under indictment,
42 three attorneys of this country and nineteen
43 other high officials of the German Consulate's
44 staff. Sixteen Hindoos. Altogether 39 persons
45 mentioned in the newspapers. The names of other
46 three are not mentioned. I think they mean the
47 names of Chatterji, Harcharan Das and mine."

48 Continuing, Jodh Singh says:

1 "My own case is very critical. I have to
2 choose one thing out of two. Sacrifice or
3 betraying the B. Govt. the U.S. Govt. and
4 their allies interests and my own relatives
in India on one side. The German Govt.
the Sympathisers of the Indian cause, and
the liberty of India on the other side."

5 Defendant Jodh Singh also states:

6 "I saw the situation of the case. I know
7 I am one of the most important witnesses.
8 The whole case depends on me. I can turn
9 the fate of this case in quite a different
way and many men might be involved in the
case if I should succeed."

10 Affiant charges that the above facts which, when
11 coupled with the proceedings that took place in court, are
12 believed to be sufficient to convince the court that the
13 action of the defendant Jodh Singh was deliberate, and that
14 he intended by his act, to thwart the prosecution of the
15 cause against the defendants, and that he expected to suffer
16 the full penalty of the law as the consequences of his act;
17 that the effort of said defendant Jodh Singh to withdraw
18 his plea is in furtherance of his scheme to aid the
19 defendants in the cause.

20 Affiant therefore urges that in view of the facts
21 set forth above, that the ends of justice would not be
22 subserved by allowing him to withdraw said plea. On the
23 contrary, the said defendant Jodh Singh is probably laying
24 the foundation for a long legal fight to remain in the
25 territory and jurisdiction of the United States.

26 Respectfully submitted,

27 *James H. Keelson*
28 United States Attorney.

29 Submitted and sworn to before me

30 the 7 day of Dec 1917
31 *W. C. Caldwell*

32 DEPUTY CLERK U. S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA