



James P. McGranery

Born: July 8, 1895, in Philadelphia, Pennsylvania

Died: December 23, 1962, in Palm Beach, Florida

Federal Judicial Service:

Judge, U.S. District Court for the Eastern District of Pennsylvania

Nominated by Harry S. Truman on July 31, 1946, to a seat vacated by Harry E. Kalodner.

Confirmed by the Senate on July 31, 1946, and received commission on August 7, 1946.

Service terminated on May 26, 1952, due to resignation.

Education:

Temple University School of Law (now James E. Beasley School of Law), LL.B., 1928

Professional Career:

U.S. Army Observation Pilot, Air Corps: 1917-1919

Private Practice, Philadelphia, Pennsylvania: 1928-1937

U.S. Representative from Pennsylvania: 1937-1943

Assistant to the Attorney General of the United States: 1943-1946

Attorney General of the United States: 1952-1953

Private Practice, Washington, DC: 1954-1962

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Judicial Biography

*In 1946, President Harry S. Truman chose James Patrick McGranery to fill the vacancy created by the move of Judge Kalodner to the Court of Appeals. Born in South Philadelphia in 1895, McGranery was an observation pilot in the First World War. He worked his way through Temple Law School and became active in Democratic politics in Philadelphia at a time when the party's fortunes were at a low ebb. He was in private practice until he was elected to Congress from Philadelphia's Second Congressional District as a New Deal Democrat in 1936. He remained a Representative until 1943 when President Roosevelt named him an Assistant Attorney General under Attorney General Francis Biddle, a fellow Philadelphian. McGranery helped to streamline the Department of Justice. In early 1946, President Truman awarded him the Medal of Merit in appreciation for his administration of the Selective Service Act. A few months later, the President elevated him to a federal district judgeship. In 1952, in the last months of his administration, Truman selected him to be the Attorney General. How that appointment came about in a phone call from President Truman to McGranery has been recounted by McGranery's son:

Truman:	Jim, I just fired McGrath and I want you to come to Washington to be the Attorney General.
McGranery:	Boss [as he always called the President] I am flattered, but it's a big decision and I'll have to take some time and talk to Regina [McGranery's wife] about it.
Truman:	I want you to take all the time that you and your wife require, but in 20 minutes I'm announcing that you're my Attorney General!

During McGranery's short tenure as Attorney General, the United States filed an amicus curiae brief in the Supreme Court in support of appellants who sought to overturn the "separate but equal" system of public schools in *Brown v. Board of Education*.

McGranery was an active Roman Catholic layman. For his service to the Church, Pope Pius XII honored him as a Knight Commander of the Order of St. Gregory the Great.

While still on the District Court bench, Judge McGranery confronted an unusual situation in a criminal case before him. Edward Turner, who had been indicted for sending obscene materials through the mails, had engaged Philadelphia Congressman Earl Chudoff as his attorney. Chudoff announced to Judge McGranery that his client would ask to plead not guilty "temporarily" while he, Chudoff, discussed the matter with the Postal Inspectors and the United States Attorney's Office. Judge McGranery chided Chudoff, "Don't you know that in your

* The following material is excerpted from JUDGE HARVEY BARTLE, III, MORTALS WITH TREMENDOUS RESPONSIBILITIES, A HISTORY OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA, 3-12 (Saint Joseph's University Press, 2011). Reproduced with the permission of the author, Judge Harvey Bartle, III, and the publisher, Saint Joseph's University Press.

position as a Congressman you are not permitted to do that?" Chudoff replied that he did not know that. The judge refused to take the plea. According to the judge, himself a former Congressman, it was a criminal offense for a Representative to discuss with any agency of the United States a matter for which he was being separately compensated. Chudoff countered by petitioning the Court of Appeals for a writ of mandamus or in the alternative for a writ of prohibition to permit him to appear and represent Turner.

In the meantime, while the matter was pending in the appellate court, Turner, represented by Chudoff, entered a plea of guilty before Judge Welsh, also a former Congressman. The Court of Appeals thereupon dismissed the petition as moot without ruling on the merits. History does not record Judge McGranery's reaction to this turn of events.

The Eastern District faced several high profile cases in the 1950's against the backdrop of the Cold War. One such case, involving Harry Gold, played out not only here but also in the Southern District of New York. Gold was born in Switzerland but grew up in a poor working class home in Philadelphia. After his graduation from South Philadelphia High School, he attended the University of Pennsylvania for several semesters and then took night courses in chemistry at Drexel Institute of Technology. He was employed at one point as a laboratory chemist for a local sugar company and later as a biochemist at the Philadelphia General Hospital. In 1935, he was recruited into a Soviet front company for industrial espionage and later became part of the Soviets' atomic spy ring for which he was awarded the Red Star medal. As a result of disclosures made by the German-born, British Scientist Klaus Fuchs after his arrest as a Soviet spy, Gold was identified as the courier who carried information to an official at the Soviet embassy.

Gold's arrest in Philadelphia in May 1950 was the top news story that day throughout the United States. A banner headline in *The Philadelphia Inquirer* declared, "Chemist Arrested Here as Atomic Spy, Gave Fuchs' Stolen Secrets to Reds." Thousands later gathered at the courthouse to obtain a brief look at the atomic spy.

Once taken into custody, Gold was totally cooperative with the FBI and implicated Julius and Ethel Rosenberg who were later indicted and convicted in the Southern District of New York of conspiracy to commit espionage for transmitting to the Soviet Union documents related to the national defense of the United States. They were sentenced to death and executed. Gold was an unindicted co-conspirator in that case.

He also faced his own indictment, which was originally filed in the Eastern District of New York but later transferred to the Eastern District of Pennsylvania. Gold was charged with "conspiring, while the United States was at war, to communicate, deliver or transmit to a foreign government, to wit: The Union of Soviet Socialist Republics, and representatives and agents thereof, documents, writings, etc., relating to the national defense, with intent or reason to believe that it was to be used to the advantage of a foreign nation." The case was assigned to Judge James McGranery.

Gold, who was without economic resources, requested Judge McGranery to appoint an attorney to represent him. Those were the days before an impecunious criminal defendant had a

constitutional right to have court-appointed counsel. Recognizing the gravity of the matter, the judge called on John D.M. Hamilton, a distinguished member of the Philadelphia Bar, to serve as Gold's attorney. Hamilton agreed to the representation of this highly unpopular client although many of his law partners at Pepper, Bodine & Stokes were not particularly happy about it. At Hamilton's urging, the judge also named Hamilton's young associate Augustus Ballard to assist him. McGranery issued a statement about his appointment of counsel:

Because of the gravity of the charge and its possible far reaching international implications, it behooves the court to appoint a lawyer whose patriotism would be above reproach, who has public confidence and the respect of the Court, and a deep understanding of the Anglo-Saxon principles as stated in our Constitution of every defendant having the right to be represented by counsel of his choice. With all these factors in mind, the Court could think of no one at the Philadelphia bar who more fittingly fits into that description than Mr. John D. M. Hamilton, who is a law partner of former Senator George Wharton Pepper, the dean of the Philadelphia bar. Mr. Hamilton has consulted with the defendant, Harry Gold, at my invitation and has agreed to accept this appointment of him as official counsel for Gold in the public interest, for which the court is grateful to Mr. Hamilton. Mr. Hamilton has suggested that I name, together with him, Mr. Augustus S. Ballard as associate counsel. Mr. Ballard is a young man at the bar in whom the Court has explicit confidence and I am delighted to name him as associate counsel as Mr. Hamilton has requested.

Hamilton, a native of the Midwest, had been a friend of Governor Alf Landon of Kansas and the Chairman of the Republican National Committee in the mid-1950's. He had become acquainted with George Wharton Pepper at this time and had later joined his law firm in Philadelphia. While Hamilton and Ballard were prepared to assist Gold in presenting a vigorous defense, he decided to make a full confession and plead guilty. Gold, however, made it clear he would never enter a plea of guilty to any indictment charging him with intending to injure the United States, and he was not charged with any such crime. Assuring himself that Gold had not been coerced and that his confession was voluntary, Judge McGranery accepted his guilty plea in July 1950.

The Government sought a sentencing delay until early in 1951 to allow for additional investigations to occur, but Judge McGranery, after stating he had spoken to FBI Director Herbert Hoover about any need for additional time, refused to postpone the matter that long. Whether by accident or design, he scheduled the sentencing for December 7, 1950, the ninth anniversary of the surprise attack at Pearl Harbor. At the hearing, in a packed courtroom at Ninth and Market Streets, United States Attorney Gerald Gleeson described Gold's life as a spy and his role in passing valuable information to the Russians. The FBI agent in charge of the case also testified. Hamilton's turn was next. He made an extensive argument on Gold's behalf which McGranery characterized as "one of the most brilliant" he had ever heard. In response to the Court's inquiry, Gleeson recommended a twenty-five-year sentence as a fit punishment for Gold's nefarious crime. At that point, McGranery announced he wanted to reflect on the matter and would reconvene the hearing on Saturday morning, December 9. Gold himself addressed the Court at that weekend session. He ended his allocution with these words: "I have tried to make

the greatest possible amends by disclosing every phase of my espionage activities, by identifying all of the persons involved, and by revealing every last scrap, shred, and particle of evidence.” After noting he had considered the “cogent and analytical statement” of Hamilton, Judge McGranery rejected the Government’s recommendation for a twenty-five-year sentence and instead imposed a sentence of thirty years “to deter others in the future from the commission of similar offenses.”

Gold thereafter testified as a Government witness at the Rosenberg trial in New York and was then incarcerated at the United States Penitentiary at Lewisburg, Pennsylvania, where he was a model prisoner. He was paroled in May 1966, with the help of Hamilton and Ballard after serving fifteen years of his sentence. Ballard was present to meet him at Lewisburg when he was released. Gold died in Philadelphia in 1972 out of the public eye during an unsuccessful heart operation. Neither Hamilton nor Ballard ever received a penny for representing him.

Judge McGranery resigned from the Court on May 26, 1952 to serve as Attorney General of the United States, where he served from 1952 to 1953. Following his service as Attorney General, he returned to the private practice of law. He passed away on December 23, 1962 in Palm Beach, Florida.