

MURDER WITNESS ASSERTS HE LIED

Says He Got Police Funds for Entertainment on Pledge to Accuse Malinski

Nathan Spielfogel, although serving thirty to sixty years in Sing Sing on a robbery charge, indicated yesterday that even in his circumstances life can be beautiful.

Testifying in Kings County Court in the re-trial of Morris Malinski, charged with the murder of a policeman in 1941, Spielfogel said that with funds given him by the police and members of the District Attorney's office of Kings County he was able to participate in nightly dice games at the Bronx County Jail, have whisky and otherwise enjoy himself.

Such favoritism was accorded him, he said, after he promised to cooperate with the law enforcement agencies and while waiting to testify for the State at Malinski's first trial in 1943. Yesterday, however, he was called as a defense witness and described his previous testimony as a "frame-up."

Under questioning by Joseph A. Solovei, defense counsel, he said he had received weekly payments, first of \$10 and then of \$20, from the District Attorney's office from October, 1942, to last Dec. 21; that he had been permitted visits with his wife at home and that a former assistant District Attorney brought a woman to his room at a Brooklyn hotel.

Taken to Brooklyn from Sing Sing Spielfogel said he met Malinski, with whom he had become "close friends" in Elmira Reformatory, in a room at a local hotel on Oct. 23, 1942. Malinski was crying, the witness said, and his clothing was on the window sill, disclosing a body "that was all red."

Before he was taken to see Malinski, Spielfogel said, he was rehearsed by the police on the events of Feb. 15, 1941, when Patrolman Leon Fox was slain during a hold-up in Coney Island while serving as a guard for the manager of a local theatre. Then, on orders from the police, he said he passed on the information to Malinski during an automobile ride through Coney Island in the company of detectives.

Malinski took the stand and told of being "kicked" and "beaten" for four days before he was charged formally with the crime "even though I kept on telling them I knew nothing about the murder and that I was innocent."

Malinski's first conviction was reversed by the United States Supreme Court.