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2 Rosenberg Sons Appeal to Burger

WASHINGTON, Jan. 5 (AP)—The two sons of Julius and Ethel Rosenberg told Chief Justice Warren E. Burger today that in their opinion a Federal appeals court in New York could not judge fairly a legal dispute involving their parents' letters.

Robert and Michael Meeropol, whose parents were executed in 1953 as spies dealing in atomic secrets, asked Justice Burger to intervene to assure fairness.

The brothers lost a suit in a Federal court in New York in which they sought to collect damages from the attorney Louis Nizer for his 1973 book on the Rosenberg case, "The Implosion Conspiracy."

They charged Mr. Nizer and the book's publishers with wrongful invasion of privacy, defamation of their characters and copyright infringement.

The brothers said that they wanted to appeal the District Court's decision but would have to do so in the Court of Appeals for the Second Circuit, which includes New York. Chief Judge for the

circuit is Irving R. Kaufman, who presided at the Rosenberg trial in 1951.

The brothers contend that Judge Kaufman and other Second Circuit judges acquainted with the original Rosenberg case could not hear their appeal fairly. They asked Justice Burger to appoint temporary judges to the Second Circuit or to transfer the appeals case to another circuit.

The suit against Mr. Nizer, Doubleday & Company and Fawcett Publications Inc. includes the charge that Mr. Nizer's book used large portions of letters written by the Rosenbergs while they awaited execution. The copyright for all the letters belongs to the two sons, the suit said.

In a current fund-raising appeal, the Meeropol brothers say that their Freedom of Information Act suit "has cost more than \$100,000 this past year alone even though our attorneys have worked thousands of hours without receiving any fee." They estimate that they have so far received only "10 percent" of the Federal files on the Rosenberg case.