



Jerry Capeci

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This Week in Gang Land May 5, 2016

By Jerry Capeci

Ailing Mob Boss Presses His Bid For Freedom



He's a Mafia boss — a pretty important guy in his field of endeavor. But he can't see too well, and his arms don't work very well either. His legs are in decent shape, but he needs a wheelchair to get around because his emphysema kicks in when he uses his lower limbs to walk. And at 82, he suffers a grab-bag of other ailments, the kind that afflict many folks his age.



Carmine Persico G

But his health isn't Carmine (Junior) Persico's main concern these days. That would be the 34 years he still owes on his 100-year prison term for his conviction in the historic Commission trial. The only living defendant in that case who is still behind bars, Persico, with 31 years in prison behind him, is seeking [his freedom](#). His argument, made in a request to the court filed last summer, is that long-concealed FBI documents prove that he was convicted of crimes he did not commit, and that his sentence was illegally enhanced based on allegations that weren't true.

That motion is still pending, but since time is of the essence for the Mafia boss these days, Persico pressed



[Alfonso "Little Al" D'Arco](#)



[Salvatore "Bull" Gravano](#)



[Joseph Massino](#)



[Steven "Stevie Wonder" Crea](#)



[John "Sonny" Franzese](#)



[Domenico "Italian Dom" Cefalu](#)



[Vincent "Chin" Gigante](#)



[Carmine "Junior" Persico](#)



[Anthony "Gaspire" Casso](#)



[Liborio "Barney" Bellomo](#)

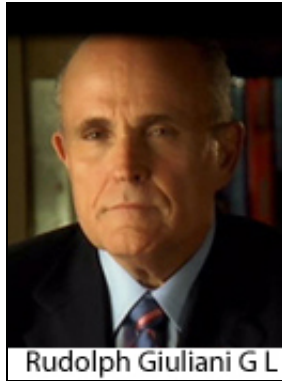
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the issue with Manhattan Federal Court Judge Kevin Duffy a month ago. He filed more newly discovered info about alleged government wrongdoing against him by the FBI and the Rudolph Giuliani-led Manhattan U.S. Attorney's office — and he asked the judge to schedule a status conference on his pending motion for an early release from prison.



Rudolph Giuliani G L

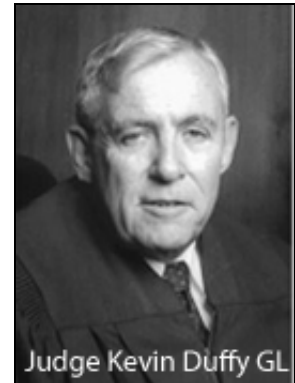
So far, those papers have also fallen on deaf ears. But hope apparently springs eternal for [Persico](#) and attorney Anthony DiPietro. In an April 1 filing, DiPietro noted that a status conference "may be moot" if the judge "agrees that Persico has already demonstrated a basis for sentencing relief based upon the arguments and documentary evidence" that were filed last year.

If not, the attorney wrote, he is ready to add more documents to the file. Along with his letter to the judge, DiPietro submitted 49 pages of "previously suppressed" FBI documents he had recently obtained through the Freedom Of Information Act that have "exposed other troubling issues" with the government's investigation and prosecution of Junior. All the submitted evidence, he wrote, "demonstrates [Persico's] actual innocence."

Among other things, the new allegations center on the government's use of what DiPietro describes as a highly-paid stable of cooperating witnesses who were crucial to the conviction.

The latest filing contains FBI reports indicating that the Manhattan U.S. Attorney's office, which nailed Persico, his son Alphonse and seven others on racketeering charges in a separate case months before the Commission trial began, had previously undisclosed "personal service contracts" with witnesses who were kept on retainer during both trials.

The documents state, DiPietro wrote, that the FBI had "illegal and unethical service contracts" that enabled the Bureau to usurp the usual responsibilities that the U.S. Marshal Service (USMS) had with cooperating witnesses (CWs) and to give them "monetary benefits in exchange for their testimony" against Persico.



Judge Kevin Duffy GL

One heavily redacted snippet of a May 13, 1986 memo, from the New York FBI to officials in Washington that sought continued approval of funds, states that FBI headquarters was "aware that the utilization of CWs on the scale of the Colombo family trial is unprecedented in Bureau history."

One of the Manhattan prosecutors, the memo states, "advised that if it was not for the FBI's handling of the CWs, this case would not have made it to trial and the anticipated successful prosecution could not have been realized if the USMS continued to be involved."

The same memo noted that the chief of Giuliani's Criminal Division had stressed that the "continued cooperation of" four unidentified CWs "was absolutely essential," and stated that the FBI had "expended a vast amount of resources in making the CWs viable witnesses." The memo states that to sever the contracts "at this point would be untimely and adversely affect future prosecutions."



Anthony DiPietro GL

"We are therefore requesting authority to continue and/or renew PSCs with the four CWs," said the redacted memo. DiPietro doesn't identify any of the witnesses, whose names are whited out.

But law enforcement sources say that one was a former Persico cousin through marriage, Fred DeChristopher, a crucial witness who testified at Persico's earlier trial that

year. Another was Joseph Cantalupo, who had met former crime family boss Joe Colombo in the mid-1960s when Colombo "worked" at Cantalupo's father's real estate office. In 1973, Cantalupo became an FBI informer.

Both DeChristopher and [Cantalupo](#) were key witnesses against Perisco at the Commission trial. DeChristopher testified that Junior admitted taking part in the vote of mob bosses to kill Carmine Galante in 1979. Cantalupo testified that not long after Joe Colombo was mortally wounded in 1971, Carmine Persico took over as boss of the crime family.

In his filing last year, DiPietro argued that the FBI and federal prosecutors knew at the time of the Commission trial that both of those propositions were false. Along with those court papers, he filed numerous FBI reports that had identified others as acting Colombo bosses in the 1970s, and one stating that Persico had been named family boss on November 5, 1980.



Since "recently unearthed FBI reports" establish that Persico was not a Mafia boss in the 1970s, DiPietro wrote, he "could not have been a member of the Commission during the timeframe charged in the indictment," and he could not have "conspired with other Commission members to carry out ... the murder of Galante in 1979."

Persico acted as his own attorney during that trial, a move that angered some defendants and did not help his defense. But mob defense lawyer Stanley Meyer was assigned by the court to advise the go-it-alone Persico.

And DiPietro claims that the feds failed to disclose that Meyer at the time "was being investigated by the FBI during his representation in this case." That failure also "deprived" his client of a "legitimate chance to defend" himself, DiPietro wrote, and is another reason why Duffy should rule for his client.

The FBI documents indicate that Meyer, who was charged with tax fraud in 1990, was under investigation for

narcotics trafficking and mail fraud from May of 1986 until at least November of 1986, more than a month after the Commission trial had begun. Meyer, who pleaded guilty, and was sentenced to probation, was disbarred. He died in 2004.



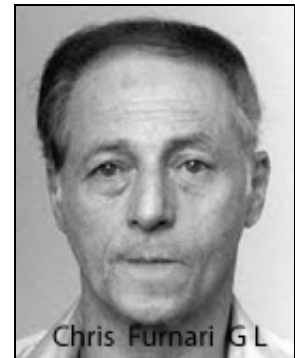
Joseph Cantalupo G L

"The importance of affording Mr. Persico a just and timely review of his motion cannot be overstated," wrote DiPietro, noting that his client "has been treated for a multitude of medical conditions over the past several years" at a federal [prison hospital](#) in Butner, North Carolina.

"Persico is legally blind in his right eye, and has diminished vision in his left eye," wrote DiPietro. "He also has limited use of his left and right arms and a deformity of his left wrist that has severely impacted his upper mobility. Mr. Persico is also predominantly wheelchairbound as a result of his emphysema."

"In addition," DiPietro wrote, "Persico suffers from anemia and a multitude of cardiac issues that require periodic medical attention," was recently treated for "shingles and related ear and nerve damage," and "also undergoes occasional cancer screening and other preventative testing as a result of his medical history."

"Notably, Persico is the only defendant still serving a term of incarceration as a result of his conviction in this case," added DiPietro, noting that former Luchese consigliere, Christopher ([Christy Tick](#)) Furnari was released in 2014, after spending nearly 28 years of his 100-year sentence in prison.



Chris Furnari G L

Since April of last year, according to the official court docket sheet, Furnari has made eleven \$100 payments to the government, the first six for "special assessments" that all defendants are dunned at \$100 per each count of conviction, and five towards his restitution.

Gang Land is pretty sure that Junior Persico would be able to find his way clear to do the same, if he should get so lucky as Christy Tick.