



Jerry Capeci

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This Week

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- [This Week in Gang Land](#)
- [Last Week in Gang Land](#)
- [This Month in Gang Land History](#)

**The Five Families**

**BUTTON MEN**  
and other Wiseguys



[John Gotti](#)



[John "Junior" Gotti](#)

## This Week in Gang Land November 5, 2015

By Jerry Capeci

### Mafia Boss Wants Feds To Correct Their False Version Of Mob History, And Send Him Home

The father longs for a speedy longshot judicial ruling that will free him after 30 years behind bars. The son hopes that the judge in his own case continues to take all the time she needs, and then some, before deciding how much time he should spend in prison for loansharking.

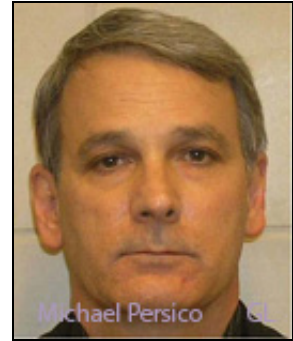


But Mafia boss Carmine ([Junior](#)) Persico's hopes for spending time at home with his son Michael before he goes off to prison is something of a Gang Land pipe dream. That seems like a given, no matter how long it takes for Brooklyn Federal Judge Sandra Townes to sentence Michael, 59, who pleaded guilty in July 2012. His sentencing date has not yet been set.

But then, who would have thought that in 2015 prosecutors would use tapes and testimony to convincingly rewrite mob history about the storied 1978 Lufthansa Airlines robbery?

In July, Carmine Persico's attorneys charged in court papers that the feds rewrote 1970s mob history to frame him at the 1986 Commission trial by withholding dozens of FBI documents that proved he was innocent of the main charge — that he was a mob boss/Commission member who voted to whack Carmine Galante in 1979 — and asked the Court to vacate his 100 years sentence.

Two months later, as Gang Land reported in [September](#), the Manhattan U.S. Attorney's office asked Federal Judge Kevin Duffy not to consider "the merits of this motion," saying they were "decades-old issues" and were "not proper subjects" of a legal challenge of the sentence.



In Persico's reply, attorney Anthony DiPietro rips the government for "ignoring the specific issues raised" in his motion while "offering no legitimate reason for the Court not to exercise its broad discretion to review the constitutionality" of the mobster's 100 year prison term.

Prosecutors have a moral and ethical obligation, wrote DiPietro, to correct the "fraud and misconduct" of their predecessors in light of numerous FBI records that identify other mobsters as the family boss in the 1970s. The records state clearly that Persico was elevated to that position in November of 1980 — more than a year after [Galante](#) was killed.

Noting that Judge Richard Owen called Persico "an upper member" of the mob's "board of directors" who used "murder, violence and threats of murder and violence," while living in Brooklyn and his "estate in Saugerties," DiPietro argued that the sentence should be vacated based on evidence that Persico wasn't a Commission member in 1979.



Judge Kevin Duffy GL

"Neither the law nor human decency supports the Government's quest to continue the unjust term of imprisonment rendered in this case," wrote the lawyer, whose court papers contest only the sentence, and not the conviction.

Persico, 82, is the only one of seven mobsters hit with 100 years who is still behind bars. The only other still living wiseguy, Christopher (Christy Tick) [Furnari, 91](#), was paroled last year.

A good reason to vacate Persico's prison term, wrote DiPietro, was the written dissent about the Galante murder by Judge Myron Bright, a visiting jurist from North Dakota who sat on the Second Circuit Court of Appeals panel that affirmed the verdict and 100-year

sentences by a 2-1 vote.

"I cannot agree that adequate proof exists of the connection between the Galante murders and the Commission enterprise," wrote Bright. "The Government's proof rests, in my view, on an analogy to the movie, *The Godfather*. However, a movie script does not constitute the kind of proof required to sentence men to prison for one hundred years."



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