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## This Week in December 17, 2015 Gang Land

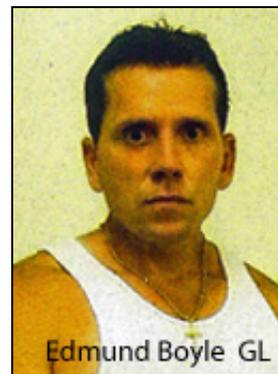
By Jerry Capeci

### Jailed Gangster: Turncoat's Secret Deal With Feds Robbed Me Of A Fair Trial



He's already done his time — nine long years — for a racketeering conviction that

included a slew of bank heists. But mob associate Edmund (Eddie) Boyle has filed an intriguing motion to set aside his conviction on the grounds that a key government witness lied about a "secret sentencing deal" for his cooperation that he had with a top federal prosecutor in Brooklyn.



Edmund Boyle GL

Ironically, the key evidence Boyle cites in his court papers comes from Gary Villanueva, a noted defense lawyer on a panel of attorneys chosen by Brooklyn District Attorney Ken Thompson to probe scores of suspected wrongful state murder convictions in the borough of churches — a review that so far has led to the reversal of 14 guilty verdicts from 1987 through the year 2000.

Adding to the irony is that Villanueva isn't on Boyle's side. He represents Gerard ([Skeevy](#)) Bellafiore — a



[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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controversial mob turncoat who is the linchpin of Boyle's claim. He alleges that prosecutors knowingly allowed Bellafiore to lie about a deal he had with then-assistant U.S. attorney Greg Andres for a specific prison term when he took the stand at Boyle's 2005 trial.



Gerard Bellafiore G L

In court papers filed with Brooklyn Federal Court Judge Sterling Johnson, Boyle's lawyer claims that at Bellafiore's sentencing in 2011, Villanueva disclosed that his client "was promised a 41-month sentence by AUSA Andres before Boyle's trial, and had been granted bail as a result of the Government intervention." Andres, who joined a top Manhattan law firm in 2012 after a two-year-stint as a Deputy Attorney General for Eric Holder, was a supervisor at the time. Andres also tried [major cases](#), and convicted Bonanno boss [Joseph Massino](#) of murder and racketeering.

Citing the alleged secret deal, and related "prosecutorial misconduct" that was also revealed at Bellafiore's February 8, 2011 sentencing, attorney Anthony DiPietro has asked Johnson to toss Boyle's conviction because prosecutors "violated his due process rights to a fair trial and tainted the accuracy of the jury's determination of his guilt."

Johnson originally gave Boyle 151 months for racketeering and several 1990s bank [burglaries](#). The judge later reduced the sentence to 128 months. He has been weighing Boyle's motion since February. Even though Boyle, 50, completed his sentence in 2013, a win could mean a lot since he is serving 20 years for a [separate](#) Manhattan Federal Court racketeering conviction that was added to the prison term Johnson meted out. DiPietro won't talk about it, but the Gambino gangster's obvious hope is that prison officials would credit those years to his [Manhattan](#) conviction.

Bellafiore flipped right after his arrest in 2000 and was released on bail in 2003. When asked at Boyle's trial, whether he had received any promises about what his sentence would be, he answered "No." He also denied having "any idea how much time" behind bars he was going to receive in return for his cooperation, according to the court papers.

DiPietro wrote that when Bellafiore was confronted on cross-examination about letters he had sent the FBI, prosecutors, and the court demanding his release in return for his cooperation, the cooperator testified the "demand letters" were "jokes." He said officials did not tell him when he "would be home," only that he "would be able to apply for a bail application after 18 months," DiPietro wrote.



One of Bellafiore's "jokes," the lawyer wrote, was a jailhouse letter he sent to the federal judge in his case, Edward Korman, stating that another former organized crime prosecutor, [James Walden](#), had told him: "I would be home now, or on bail, a long time ago." Walden, of Walden Macht & Haran LLP, told Gang Land: "It didn't happen."

Six years later, however, when Villanueva was arguing for leniency at Bellafiore's sentencing, he stated that his client's claims were no joke.

Villanueva told Korman that two years before Boyle's trial, the feds were ecstatic that Bellafiore was a "stellar cooperator" who helped authorities nail 43 defendants for a variety of crimes. His cooperation, the lawyer said, had begun "immediately" following his arrest and that resulted in his release on bail.



"In 2003," said Villanueva, according to a transcript of the 2011 sentencing, "the government called me up and said, 'You know Bellafiore's been in jail too long. He's done too well. He's done 41 months and we don't think any judge would give him more than 41 months, given the level of his cooperation to date.' And on the government's motion, he was released."

DiPietro argued that Villanueva's words showed that the feds had already made up their minds even before Bellafiore testified in Boyle's case. He stated that the prosecution knew "that Bellafiore's testimony was false since it had conveyed to Bellafiore two years before Boyle's trial that he would likely receive a sentence of 41 months in prison, and had put such sentencing plans into motion when advocating for his release on bail."

The lawyer noted that at Bellafiore's sentencing, during a discussion with the prosecutor about an appropriate prison term for his client, Korman stated: "Well, I think you can say he was released from custody because Mr. Andres thought 41 months was more than what he would (receive.)"

But by 2011, when he appeared for sentencing, Bellafiore's situation had changed drastically following his release on bail eight years earlier.

He was arrested in Florida in 2009 for a slew of bank robberies and other crimes, and as he stood for sentencing before Korman, an angry federal judge in the Sunshine State had already hit him with a 78-month sentence.

In addition, the Brooklyn U.S. Attorney's office had breached his cooperation agreement, and noted that Bellafiore's official sentencing guidelines now called for a recommended prison term of up to 181 months — 12 more years behind bars.



"Shockingly," [DiPietro](#) wrote, the government took "no position with respect to what Bellafiore's ultimate sentence" should be at the sentencing proceeding, even though the turncoat had clearly violated his agreement by committing new crimes while out on bail. Instead, the lawyer wrote, the prosecutor stated that she agreed "one hundred percent" with the judge's assertion that "Mr. Bellafiore's cooperation ... should be taken into account" when he imposed sentence.

At Boyle's trial, DiPietro wrote, "the prosecution relied extensively on Bellafiore's misleading testimony." In its closing argument, the government misled jurors to believe that Bellafiore had an "incentive to tell the truth" because he knew he could "expect a sentence of almost 20 years in jail" if he lied and prosecutors found out about it.

In reality, prosecutors had informed Bellafiore through his lawyer two years earlier that he "would likely receive a maximum sentence of 41 months," wrote DiPietro.

The lawyer argued that "Bellafiore's cooperation agreement had no significant meaning at the time of

Boyle's trial" because he "had already earned his stripes with" Brooklyn prosecutors "and would receive a sentencing reduction regardless of whether he ever breached his cooperation agreement."



Judge Edward Korman

"It certainly wasn't true, where prosecutors at Boyle's trial argued that 'if the government finds out that somebody is lying ... they lose their deal, and they do all the (prison) time they were originally looking at, plus they can be charged with new crimes,'" DiPietro wrote.

In the end, Bellafiore didn't get the 41-month "time served" sentence that Andres allegedly promised him. Legally, Judge Korman could not give him less than five years since he had pleaded guilty to using a gun during his bank jobs. The judge gave him 61 months.

Villanueva declined to discuss the case. [Andres](#), of Davis Polk & Wardwell LLP, did not respond to a Gang Land request for comment.

In the government's response, assistant U.S. attorney Rena Paul wrote that Boyle's papers were merely "a vehicle for relitigating old issues" and should be dismissed. She ignored Boyle's specific allegations regarding Bellafiore's "secret sentencing deal" with Andres, and argued that Johnson had "twice considered and rejected" prior motions, and should do the same with the one filed by attorney DiPietro.