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BUTTON MEN
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This Week in December 21, 2017 Gang Land

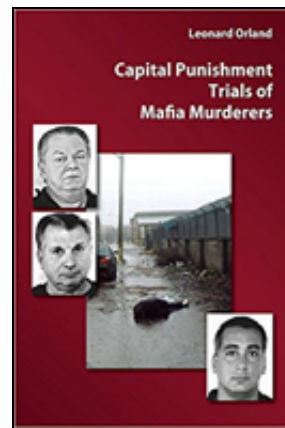
By Jerry Capeci

Lawyer: New Book Makes It Official; Judges Biased Against Vinny Gorgeous



For years, wiseguy Vincent (Vinny Gorgeous) Basciano has claimed that the

federal judge who presided over his three trials was biased against him. Last week, his lawyers said they have found evidence to back up that claim, especially regarding the 2011 murder trial at which Basciano — who faced capital punishment — was convicted and sentenced to life behind bars.



In a filing with the Second Circuit Court of Appeals last week, his attorney wrote that new evidence indicates that Nicholas Garaufis, the Brooklyn Federal Judge who presided over the trial, took part in extra-judicial "off-the-record communications" throughout the trial with a law professor who later penned a book, *Capital Punishment Trials of Mafia Murderers*.

In the preface of his 2015 book, Leonard Orland, Professor of Law at the University of Connecticut School of Law, credits Garaufis for piquing his "interest in capital



[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 "Gaspape" Casso](#)



[Liborio "Barney" Bellomo](#)

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Jerry Capeci
P.O. Box 863
Long Beach, NY 11561

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punishment trials" in general, and Basciano's in particular. Orland wrote that the judge "invited me to observe initial jury selection" in the case, one of two trials that Orland details and analyzes in his 304-page book.

Basciano's attorney, Anthony DiPietro, also insists that his client deserves a do-over from the appeals courts because a judge on the panel was tainted by her involvement with the professor and his book. That decision, handed down on November 28, dismissed several Basciano appeals of two other convictions, guilty verdicts in two trials — a racketeering conviction in 2006, and another murder rap in 2007.



In his court papers, DiPietro asks the Second Circuit to reassign the appeal to a new panel of judges on the grounds that Judge Reena Raggi should have recused herself from the appeals court panel that ruled against Basciano in November ruling because she provided substantial research help to Orland.

The book, which boasts photos of [Basciano](#) and top Bonanno turncoats Joseph [Massino](#) and Salvatore [Vitale](#) on the cover, also examines the 1992 capital murder trial of Bonanno mobster Thomas (Tommy Karate) Pitera. Like Basciano, Pitera was found guilty of murder, but spared the death penalty by the jury and sentenced to life. Raggi, who was the judge in Pitera's case, was on the Court of Appeals panel that dismissed Basciano's appeal last month, and is the focal point of DiPietro's filing.

In the acknowledgements section, the attorney noted, Orland thanked Garaufis and Raggi — and other Eastern District of New York (EDNY) Court officials — for their "cooperation" with him. They "provided me access to the official records in the two criminal trials" as well as "an office" in the Brooklyn courthouse to review those records, Orland wrote.

The author prominently featured his deep thanks to the two judges: The book is dedicated to both Garaufis and Raggi, and even includes photos of them. Under their pictures, Orland honored them with a verse from the Bible, *Deuteronomy 16:20*, "Justice, justice shall you pursue."



In his 39-page filing, DiPietro argues that the book is clear evidence that Garaufis should not have presided over the death penalty case, and that Raggi shouldn't have participated in the appeals decisions.

The alleged conflict of interest became even more glaring, the attorney wrote, after Garaufis ruled against Basciano in several post-conviction [motions](#) the defendant filed after his 2006 and 2007 trials. In those motions, filed [pro se](#), Basciano charged that the judge was biased against him.

In his 2006 trial, Basciano was found guilty of racketeering from 1979 to 2004, but jurors hung on a charge that he killed a low-level hoodlum named Frank Santoro in 2001. The following year, he was convicted of Santoro's murder. In 2011, he was found guilty of ordering the 2004 murder of mob associate Randolph [\(Randy\)](#) Pizzolo.



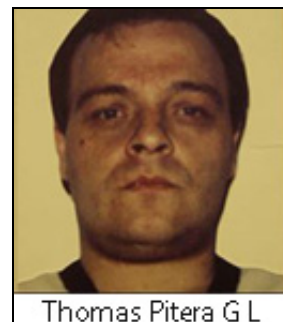
The revelation by the author that "Judge Garaufis personally invited him to come observe jury selection at (Basciano's) capital trial . . . also adds to the ever-increasing number of reasons mandating the district court's recusal" in Basciano's current case, wrote DiPietro, noting that the "newly discovered information" had not yet been reviewed by the Second Circuit.

[Basciano, 58](#), and Pitera, 63, are currently behind bars in high-security prisons in Kentucky; Vinny Gorgeous in a facility in Inez, and Tommy Karate at one 175 miles away in Pine Knot.

In his court filing, DiPietro wrote that "the issue of Judge Raggi's recusal" arose when he learned she was on a three judge panel that issued a November 28 ruling against Basciano. That ruling came four months after a different panel had given Vinny Gorgeous a partial victory over a prior Garaufus ruling and had ordered additional briefing, which the government and defense had filed.

On December 1, DiPietro wrote, he "discovered information on the Internet" that Raggi had an "involvement" in the Orland book. He said the discovery came when he "began researching prior judicial rulings issued by the newly assigned judges" as is his "customary practice" in the appellate aspects of his practice.

After buying a copy (You can get one on [Amazon.com](https://www.amazon.com) for \$40 but it'll take a month for it to arrive, according to the Godfather of online booksellers), DiPietro wrote that he learned Orland had "met with Judge Raggi to discuss the subject matter of his book," and that the professor had "off-the-record contact with (her) during the pendency of Petitioner's case."



That info establishes that an "appearance of impropriety" existed because of Raggi's "extrajudicial contacts relating to Petitioner's capital trial," DiPietro wrote.

DiPietro asserts that in his *Capital Punishment Trials* book, Professor Orland disclosed "off-the-record communications with Judge Raggi that precipitated his interest in writing a book about Petitioner's conviction" even before Judge Garaufis invited him to Basciano's jury selection.

"In an earlier meeting with Judge Raggi," Orland wrote in the Preface, "I learned of the capital punishment trial of a Bonanno family killer that then District Court Judge Raggi presided over a decade earlier. Like the Basciano case, the Pitera trial took several months and included wiretaps, car bug tapes, physical evidence, and the testimony of Mafia cooperating witnesses."



Anthony DiPietro GL

"Judge Raggi's contact with Mr. Orland relating to Petitioner's case presents an appearance of impropriety warranting recusal," wrote DiPietro, citing a statute mandating that "a justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

"A reasonable person would perceive an appearance of impropriety when a judge participates in reviewing an appellant's case, while previously assisting an author in writing a book that labeled the appellant a *Mafia Murderer*," wrote DiPietro.

"The appearance of impropriety is heightened here," the lawyer argued, "because the appellate judge was also required to review rulings by the judge presiding over Petitioner's trial, who also provided assistance to the author when writing the book."

"In this regard, the judges' working alliance . . . and their support of a publication that is inherently antagonistic to [Petitioner](#) and his quest to overturn his conviction also presents an appearance of impropriety," wrote DiPietro.

"The appearance of impropriety is again heightened," the lawyer wrote, "because the book directly touches upon a number of the contested issues considered on this appeal, and provides opinion-based commentary by Mr. Orland that the district court's decisions were correct."



Alan Vinegrad G L

In his book, DiPietro noted, Orland wrote that Garaufis's decisions to "sentence(e) both Vitale and [Massino](#) to time served, strike the right balance, notwithstanding the moral disquietude about rewarding killers." (That's a position that runs counter to Basciano's contention.)

DiPietro didn't mention it in his filing, but a check of the book's acknowledgment page indicates that Orland didn't bother fact-checking his work or analyses with any of the defense lawyers in either of the capital punishment trials. But the professor did thank David Shapiro, the lead prosecutor in the Pitera case, as well as Alan Vinegrad, a former EDNY U.S. Attorney, "who reviewed the manuscript and provided detailed information and editorial comments."