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This Week

Capeci's Books

Archives

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Search



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

**The Five Families**

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## This Week in December 14, 2017 Gang Land

By Jerry Capeci

### Federal Mob Busters In NY Have Egg On Their Faces Again



Agents with the FBI's flagship New York office and federal prosecutors in the Southern

District of New York, who are still in a legal skirmish over FBI misbehavior in the huge 2016 case against 46 mob-linked defendants, again have some egg on their faces in a major Mafia prosecution, Gang Land has learned.



This time, according to court filings and transcripts of several court proceedings, the screw-up involves the arrest of 19 members and associates of the Luchese crime family [on May 31](#). The defendants are accused of a potpourri of charges including murder, labor racketeering, extortion and drug dealing, all of which are detailed in a nine-count racketeering conspiracy indictment filed in White Plains Federal Court.

In a response to a defense claim, prosecutors have conceded they misstated key facts about the case at bail hearings for family underboss Steven ([Stevie Wonder](#)) Crea, and his son, Steven D., a reputed capo. In separate sessions, prosecutors wrongly told two judges that the FBI had tape recorded a mob associate named Vincent



[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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Bruno admitting his role and those of the Creas and a fourth defendant in a failed plot to whack a Bonanno family associate in 2012.

The erroneous assertions are unlikely to impact the detention of [the Creas](#), who are also charged with the 2013 execution murder of Luchese associate Michael Meldish in front of his Bronx home.



Steven Crea G L

But at a minimum, argues attorney Anthony DiPietro, who unearthed the embarrassing info, the government admission, combined with other "conflicting and untrue statements" he says prosecutors have made about the case, should provide a get-out-jail-of-on-bail card for his client, soldier Paul (Paulie Roast Beef) Cassano. [Cassano, 38](#), has been detained since May 31.

In a fact-intensive filing two weeks ago — one that the government has yet to refute — DiPietro also argues that other undocumented allegations which prosecutors have made against all four defendants in the five-year-old attempted murder, "even if credited in all regards, are not legally sufficient to sustain an attempted murder charge."

In his court papers, DiPietro highlights several contradictory statements that two prosecutors made at three bail hearings — one for the elder Crea and two for his son. Citing transcripts, the lawyer wrote that prosecutors have given different dates when the alleged attempted murder took place, as well as how many alleged attempts Cassano and Bruno made to try and kill the intended victim.

In a June bail hearing at which the younger Crea was remanded, prosecutor Scott Hartman told Magistrate Judge Paul Davison that Cassano and Bruno made one effort to find and kill Carl Ulzheimer at his home "in early 2012." The alleged failed hit attempt came after Ulzheimer dissed the elder Crea at a dispute at a Luchese social club in the Bronx in March of 2012, according to the prosecutor.

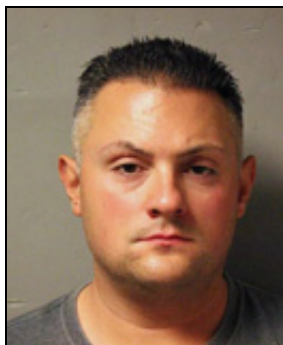


Steven Crea Jr. G L

"They weren't able to find him and fortunately for Mr. Ulzheimer, the conflict was defused through a sitdown . . . and there were no further efforts made," Hartman told the judge, according to a transcript of the hearing.

But at a bail hearing for [the elder Crea](#) a month later, co-prosecutor Jacqueline Kelly switched the date, stating that "the alleged dispute occurred in late 2012." She also asserted that there was not one, but two attempts by Cassano and Bruno to locate Ulzheimer at his home. In his brief, DiPietro said the prosecution's revision to a date in "late 2012," is critical, since that puts it after May 31, 2012, and within the five-year-statute of limitations for the crime.

It wasn't the only questionable assertion by the government at the bail hearing, according to DiPietro. Kelly also reported that the government possessed a taped admission by Bruno, telling the magistrate that in the recording, "Bruno recounted the order that he got from (the younger) Crea to a cooperating witness."



Paul Cassano G L

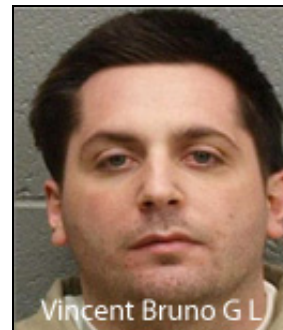
A week later, Kelly doubled down on that claim at a hearing involving the younger Crea who was appealing his detention to District Court Judge Cathy Seibel. There, Kelly noted, according to a transcript of the proceeding, that the government's evidence was "quite strong" in that it included "a recorded conversation in which a Genovese soldier, who is close with Mr. Crea, talks about

Crea's specific role in the plan to murder this Bonanno associate."

"It also includes," the prosecutor continued, "a recorded conversation, as well as testimony from a witness who would testify regarding a conversation which is recorded with Vincent Bruno . . . who is charged with Paul Cassano and with Mr. Crea and Steven Crea Sr. . . . with the attempted murder. This recorded conversation includes discussion of exactly what happened."

When Seibel asked whether Bruno discussed "what happened when they went to the target's house, or does he talk about how it was set up," Kelly replied: "He talks about how it was set up, your Honor, in addition to actually talking about what happened when they went to find the Bonanno associate."

Even after prosecutors conceded that there are no Bruno recordings about the matter, DiPietro wrote, "the government continued to misstate that the attempted murder was proven by 'recorded conversations between Witness-1 and two other co-conspirators'" in the *mea culpa* letter it submitted to the court.



The lawyer asserts, based on the "voluminous" discovery material that's been turned over to the defense, that Witness-1 and the other duo cited in the government letter are not members or associates of the Luchese family or alleged co-conspirators of Cassano, the Creas, or Bruno, who is currently behind bars for a 2013 drug dealing rap.

In addition to seeking bail for Cassano, DiPietro and co-counsel Mathew Mari have asked [Judge Seibel](#) to order the U.S. Attorney's office to turn over all its evidence regarding the attempted murder allegations, including the grand jury minutes regarding them, because "it is unlikely that the charges were determined under true fact or law."

That's because, DiPietro asserts, during the bail hearing for Stevie Wonder, prosecutor Kelly made it abundantly clear that the government did not have the required evidence to back up an attempted murder charge when she detailed the government's theory of the aborted murder plot.



"Fortunately for this Bonanno associate," Kelly told the Judge, "when Bruno and Cassano showed up at his house, he pretended not to be home, and the two left. They came back again. Again, he pretended not to be home. And luckily, no death resulted from that attempt."

Kelly stated that Cassano and Bruno went looking for Ulzheimer "with a gun" in order to kill him, but that "there was no interaction" between the alleged gunmen and their intended victim.

"There was no encounter between them?" asked Davison. "Yes, your Honor, that's right," Kelly responded.

Looking for someone while armed with a gun so you can

kill him can certainly be described as mean, nasty, or downright evil. But under New York State law, it's not attempted murder, wrote DiPietro.

"A properly instructed grand jury could not have" returned an attempted murder indictment based on those facts, wrote DiPietro, citing two appeals court rulings where attempted murder convictions were reversed because there was no evidence that either gunman had "his finger on the trigger" when he pointed a gun at his victim.

"Thus," the lawyer wrote, "even if the grand jury credited that Cassano drove to the alleged victim's home while armed with a gun and with intent to kill him, it could not have found probable cause to indict for attempted murder."

In a follow-up filing, Bruno's lawyer, Gerald McMahon fingered FBI case agent [Ted Otto](#) and veteran agent Christopher Munger as culprits along with Kelly. He asked Seibel to "direct the government to provide a detailed explanation as to how these false statements arose and what use, other than at the cited bail hearings, the government made of them."



"The government provided no explanation as to how such an important false statement could have been made in court — not once but twice — and in the presence of two different special agents," McMahon wrote, noting that Otto was with prosecutor Kelly the first time she misspoke, and that agent Munger "was sitting at the government's table" the second time.