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Public Corruption

Epstein

Epstein accusers and Harry Dunn's family plea for UK-US cooperation

The Hill

By Caroline Davies

2/5/2020

The family of teenage motorcyclist Harry Dunn and the alleged victims of disgraced financier Jeffrey Epstein have united to put pressure on Anne Sacoolas and the Duke of York to “co-operate with law enforcement”.

Lisa Bloom, lawyer for six alleged Epstein victims, and Radd Seiger, spokesman for the parents of Dunn, 19, joined forces on Wednesday to call for Sacoolas to return to the UK, and for Prince Andrew to face questioning by the FBI in the US.

Bloom’s clients, who are pursuing civil claims against the late financier and convicted sex offender’s estate, want Prince Andrew to face questioning over his friendship with Epstein.

At a New York press conference with Seiger, Bloom said the “parallels between the two cases are eerie” and involved “everyday teenagers” who were “victimised”.

“Today we stand with the family of Harry Dunn and they stand with us. Both Mrs Sacoolas and Prince Andrew must cooperate with law enforcement.

“I call upon my government, the US, to return Mrs Sacoolas to the UK to face justice”.

She said Andrew needed to “answer questions about Jeffrey Epstein and his own behaviour,” adding: “In both countries everyone is equal in the eyes of the law.”

Seiger said it was “terrible advice” for the prince and for Sacoolas if they were being advised that “it’s all going to go away” and they should just “wait it out”.

Last month, the New York state attorney, Geoffrey Berman, accused the prince of “zero cooperation” and not responding to requests by the FBI and US lawyers for an interview over his friendship with Epstein.

Andrew was later said to be “angry and bewildered” about the claims, with sources close to him saying he had not been approached to speak about the case.

Dunn was killed when his motorbike was in collision with a car outside a US military base in Northamptonshire in August. Sacoolas, 42, the wife of a US intelligence official based at RAF Croughton, claimed diplomatic immunity after the crash and was able to return to her home country, sparking an international controversy.

She was charged with causing the teenager’s death by dangerous driving, but the US has refused an extradition request.

Seiger said he had “reached out” to Bloom after realising “that there was a common thread running between these cases.”

He said: “It’s about evasion of justice.

“These are the two greatest allies in the world and they follow a rules-based system. No-one, no matter who you are ... is above the law.

“We all break the rules from time to time but we don’t get to walk away and hide.”

In a message to Prince Andrew, Seiger said: “if you have nothing to hide, get on a plane ...”, adding: “there’s no other way”.

Seiger said the lawyers were not calling for a “straight swap”, adding, “but at the heart of extradition treaties is reciprocity.”

The US government’s refusal to extradite Sacoolas was “legally indefensible” and “effectively ripping up the treaty,” he said.

Andrew, who stepped down from royal duties in November after his disastrous interview on BBC’s Newsnight programme over his relationship with Epstein, is reportedly “committed to the legal process”. At the time he stood down, he insisted: “I am willing to help any appropriate law enforcement agency”.

[REDACTED] who claims she was trafficked by Epstein, has alleged she was instructed to have sex with Andrew on three occasions from the age of 17. The prince categorically denies he had any form of sexual contact or relationship with her.

While a US investigation is looking at possible “conspirators” who worked with Epstein, Bloom’s alleged victims are involved in a separate civil lawsuit.

A source close to Andrew has previously been reported saying: “The duke is not under any obligation to talk to lawyers representing alleged victims of Epstein at the moment, but he is totally willing to talk to any law enforcement agencies, be they the police or FBI.”

Any FBI interview Andrew agrees to give would be voluntary at this stage, and could take place in the UK.

Jeffrey Epstein estate hit with 23 lawsuits since his death seeking damages from \$600M trust

The Sun

By Chris Spargo

2/5/2020

The \$600 million estate of Jeffrey Epstein was hit with 23 lawsuits in the four months after his death.

A quarterly accounting report filed by executors for the estate that was obtained by The Sun shows that 33 individuals or companies are seeking damages to be paid out from his \$600 million trust.

A majority of the complaints against Epstein have been filed in three separate courts in New York.

Ten are being tried in federal court in the Southern District of New York, the same venue where Epstein was being tried on criminal charges prior to taking his own life in August.

Six of the ten have been filed by women who chose not to identify themselves in court papers, while the other four were filed by women who have gone public with their allegations of sexual abuse.

██████████ who claims she was violently groped by Epstein and Ghislaine Maxwell in 1996, is one of the women.

Her sister A ██████████, who alleges that Epstein made her give him a topless massage when she was underage, also filed a separate complaint.

██████████ was 22 when she claims Epstein sexually assaulted her during a job interview.

██████████ alleges that she was raped by Epstein multiple times, and that he emailed her a request for nude photos just months before his arrest.

In addition to those ten lawsuits, nine others have been filed in New York but in state Supreme Court.

This includes one complaint that lists nine Jane Does as plaintiffs and another filed by two unnamed females.

There are also complaints filed by ██████████ an ██████████

██████████ sued Epstein days after he went to prison, and then refiled to sue his estate after his death.

She claims the convicted pedophile abused her for over a year at his Upper East Side townhouse while she was attending a nearby school.

That complaint also names three of the women in Epstein's orbit as defendants - Ghislaine Maxwell, Lesley Groff and Kimberly Espinosa.

Davies claims she was raped for years by Epstein and then tossed aside when she informed him she had developed an eating disorder.

There are also individual complaints that have been filed in Minnesota by ██████████, a Florida circuit court by a JJ Doe, one in Virgin Islands Superior Court by the territory's top attorney and another in the territory by ██████████ after Epstein filed his will in VI probate court.

Epstein had made payouts between one and six million dollars in the past, which means that the estate could be looking at a total bill of over \$100 million, and more lawsuits still to come.

This will all ultimately diminish the money set to go to his lone heir, brother Mark Epstein.

[Parnas](#)

How Parnas and Fruman's Dodgy Donation Was Uncovered by Two People Using Google Translate

ProPublica
By Ilya Marritz
2/5/2020

Lev Parnas and Igor Fruman have attained notoriety for their parts in the Ukraine mess. They're both Soviet-born U.S. citizens who worked closely with the president's personal lawyer, Rudy Giuliani, serving as emissaries in the campaign to oust then-U.S. Ambassador Marie Yovanovitch and press Ukraine's government to investigate Joe Biden's son.

But Parnas and Fruman also exemplify the shattering of norms when it comes to the influence of big money in politics during the administration of President Donald Trump — and that's the subject of this week's episode of "Trump, Inc".

Using a recently formed LLC, Parnas and Fruman donated \$325,000 to a pro-Trump super PAC in early 2018. They then attended a dinner with the president — at the president's hotel — and got the ear of the president. At that dinner, in April 2018, Parnas and Fruman made the first known pitch to Trump to remove Yovanovitch, helping set in motion a series of events that led to the president's impeachment.

Parnas and Fruman have since been indicted by federal prosecutors in New York for, among other things, acting on behalf of one or more Ukrainian officials who wanted the U.S. ambassador removed, and funneling money from a Russian businessman into campaigns in Nevada while concealing the source of the funds. The men have pleaded not guilty.

At first glance, the indictments seem to show that potential campaign abuses are being effectively policed. But the "Trump, Inc." episode shows just the opposite: The events came to light because of an improbable, almost random, series of events and at least one key slip-up.

Parnas and Fruman's successful attempt to use money to win access to the president wasn't brought to light by prosecutors. Or by the federal agency set up specifically to enforce the laws governing money in politics. It was uncovered by a few watchdogs responding to a question from a reporter and using Google Translate to decipher Russian-language articles published in Ukraine. "The only reason that we know about Parnas and Fruman is that they weren't sophisticated donors," said Robert Maguire, the research director at Citizens for Responsibility and Ethics in Washington.

The process began with a question. In a newsletter he wrote, reporter Lachlan Markay of The Daily Beast wondered about a \$325,000 donation to the pro-Trump America First PAC attributed to an entity he'd never heard of called Global Energy Producers. Could anybody, he asked his readers, tell him anything about it?

That piqued the curiosity of Brendan Fischer, the director of the federal reform program at the elections watchdog group Campaign Legal Center. He noted the size of the donation, which represented 6.5% of what the America First PAC had taken in that quarter. He asked a researcher-investigator at the center, Maggie Christ, to begin digging.

Christ learned that Global Energy Producers was a Delaware LLC formed only five weeks before. There was no sign it was an operating business or had any assets. As is typical, the Delaware LLC's address revealed nothing.

But Christ noticed a second address. It turned out to be the Boca Raton, Florida, home of a man named Lev Parnas. (Suffice it to say that most people who set up an LLC that shields their identity choose to leave their home address off the documents they file. Parnas' lawyer declined to be interviewed.)

Christ had never heard of Parnas. He was a cipher online; he'd never been covered by the news, as far as Christ could discern. "Fruman and Parnas had no public footprints at that point," she said. "They were just not public figures at all. So we were pretty confused as to what their motivations might have been."

Christ kept pulling threads. Using Google Translate, she was able to read some Russian-language articles that had appeared in Ukraine, one of which described Fruman as a "channel of direct communication between the Jewish community of Kiev and the President of the United States." From there she found indications that Parnas and Fruman had been at a dinner with the president as well as a photo of Fruman at Mar-a-Lago with Trump.

Suspicious, the Campaign Legal Center decided to file a complaint with the Federal Election Commission charging that Global Energy Producers was a front for an unnamed donor — which, the organization contended, would violate U.S. election laws.

The complaint generated more information. A lawyer in Florida representing a family claiming to be owed money by Parnas — an investment years ago in a movie called “Anatomy of an Assassin,” which the man asserted Parnas never repaid — contacted the Campaign Legal Center. That lawyer was then able to subpoena bank and wire transfer records. The resulting documents revealed that Global Energy Producers hadn’t donated the \$325,000 to the America First PAC; a different shell company, this one owned by Parnas and wife, had actually contributed the money.

That only increased the suspicions, and ultimately federal prosecutors echoed the Campaign Legal Center’s assertions in their indictment, while also adding the allegation that Parnas and Fruman were acting on behalf of “at least one foreign official — a Ukrainian government official who sought the dismissal of the U.S. ambassador to Ukraine.”

What became of the complaint to the FEC? The agency isn’t allowed to say what, if anything, it’s doing in response to the complaint (though the FEC would typically step aside when prosecutors file criminal charges that parallel an FEC investigation).

But even if the FEC wanted to take action, it couldn’t. The agency no longer has the minimum number of commissioners legally required to bring an enforcement action, effectively making the agency impotent. And even before that, according to Commissioner Ellen Weintraub, a Democratic appointee, the agency had succumbed to total paralysis. What was once a partisan divide at the agency, she said, had turned into a dispute over whether the very notion of enforcing election laws has merit. It no longer matters, she said, whether the potential target of an investigation is a Republican or a Democrat.

As Weintraub put it: “So Republicans have voted over and over again not to enforce the law, not to investigate, not to pursue allegations against Democrats. And Democratic commissioners have, on the other hand, voted to pursue them. So most, most recently, we had a case alleging a multimillion dollar coordination scheme between a super PAC and the Hillary Clinton campaign. And I voted to pursue the investigation and the Republicans blocked it. And this has happened — this scenario — has happened over and over and over again.” (The two other sitting FEC commissioners, both appointed by the George W. Bush administration, declined to be interviewed.)

Avenatti

Michael Avenatti was ‘extremely loud’ during testimony, prosecutors say

NY Post
By Emily Saul
2/4/2020

Prosecutors Tuesday complained that gasbag Michael Avenatti was yammering so loudly during testimony in his Nike extortion trial that jurors could probably hear him.

“The defendant is extremely loud,” Assistant US Attorney Robert Sobelman told Manhattan federal court Judge Paul Gardephe at the end of the trial day after the jury left the courtroom.

Sobelman said that if the prosecutors could hear Avenatti confer with his lawyers and respond to testimony, it was likely those weighing his fate could, too.

“We have really serious concerns about how this is unfolding,” Sobelman said.

Avenatti himself stood up to address the judge in response saying he would strive “to keep his voice down.”

“Needless to say your honor, I will be conscious of my voice,” said the lawyer, who appeared calm and composed despite his continued imprisonment at the Metropolitan Detention Center. “I’ve got a lot at stake, everybody knows that.”

Avenatti is accused of attempting to extort Nike out of more than \$20 million, after a client came to him alleging the company was engaged in corruptly paying handlers of rising stars in youth basketball.

Jurors previously heard a recording in which Avenatti threatened to take “\$10 billion” off Nike’s market cap if the company didn’t pay up.

The lawyer argues he was simply advocating for his client.

Securities and Commodities Fraud

Blaszczak

Defendants want en banc review of ‘radical’ 2nd Circuit insider trading decision

Reuters

By Alison Frankel

2/4/2020

(Reuters) - Four defendants convicted in a 2018 insider trading trial have asked the 2nd U.S. Circuit Court of Appeals to review en banc the appellate court’s split decision in U.S. v. Blaszczak, which upheld the judgment against them.

In a fiercely argued joint petition, lawyers for former hedge fund partners Theodore Huber and Robert Olan asserted that the 2nd Circuit panel defied U.S. Supreme Court precedent when it concluded that an insider trading case can be based on advance information about government regulatory decisions and when it held that prosecutors can prove wire fraud without showing that a tipster personally benefited from supplying that advance information. And unless the en banc court overturns the ruling, the petition said, the consequences will ripple beyond securities traders: Journalists, whistleblowers and government reformers will be at risk of prosecution, according to the filing, if they reveal government regulatory decisions before the regulations are made public.

“The government has never denied the extraordinary consequences that would result from treating government regulatory information as property or from extinguishing the personal-benefit requirement,” wrote Olan’s lawyers at Munger Tolles & Olson and Allen & Overy and Huber counsel from Shapiro Arato Bach and Kramer Levin Naftalis & Frankel. “To the contrary, this is plainly a test case designed to vastly expand prosecutorial authority.”

In separate filings, former government employee Christopher Worrall and former hedge fund consultant David Blaszczak also petitioned for en banc review, though their arguments were based more on the facts of the case than the government’s allegedly expansive legal theories. I emailed the Manhattan U.S. Attorney’s office for comment on the en banc petitions but did not immediately hear back.

The 2nd Circuit is historically stingy about granting en banc review, rehearing a measly two cases between 2011 and 2016, for instance. (By contrast, the 9th Circuit granted 40 en banc reviews over that stretch of time. The 5th and 6th Circuits heard 17 en banc cases apiece in those five years.) But President Trump has appointed five new judges to the 2nd Circuit in just the past three years, raising the prospect that the court might not be wed to its old ways. One of those recent appointees, Judge Richard Sullivan, wrote the panel opinion in the Blaszczak case. Insider trading aficionados may remember that when Judge Sullivan was a trial judge in Manhattan, the 2nd Circuit found in 2016’s U.S. v. Newman that he failed to instruct jurors that the government must prove tipsters received a personal benefit.

In the Blaszczak case, prosecutors indicted the defendants not just for securities fraud but also for wire fraud and fraud under a provision of the Sarbanes-Oxley Act. Prosecutors alleged that hedge fund consultant Blaszczak, a former employee of the government’s Centers for Medicare & Medicaid Services, obtained advance word of CMS regulatory plans from inside sources, including Worrall. Blaszczak allegedly passed his information to hedge fund analysts, including

Olan and Huber, who figured out how CMS regulatory changes would impact medical companies, traded accordingly and made millions. (The defendants, of course, deny the government's allegations of criminal conduct.)

When U.S. District Judge Lewis Kaplan of Manhattan instructed jurors, he told them that the government had to prove a personal benefit to Blaszcak's tipster to prove securities fraud - but didn't extend the personal benefit test to the other fraud charges. Jurors found the defendants were not guilty of securities fraud but convicted them on other fraud counts.

The 2nd Circuit majority - Judge Sullivan and Judge Christopher Droney - said Judge Kaplan's jury instructions were proper. None of the fraud statutes at issue in the case include a "personal benefit test" in their text, the majority said. The Supreme Court read such a requirement into the Exchange Act in 1983's *Dirks v. SEC* because, in the view of Judges Sullivan and Droney, the securities fraud statute was specifically tailored to penalize trading for personal advantage. But the other fraud statutes, they said, treat the misappropriation of confidential information as being akin to embezzlement. Embezzlement does not require an additional showing that the tipster who misappropriated and passed along valuable information received a personal benefit from the breach of duty, the majority said. "In short, because the personal benefit test is not grounded in the embezzlement theory of fraud, but rather depends entirely on the purpose of the Exchange Act, we decline to extend *Dirks* beyond the context of that statute," the majority concluded.

The majority also held that the government has an economic interest in maintaining the confidentiality of its regulatory decisions, like the *Wall Street Journal* had an economic interest in its not-yet-published content in the Supreme Court's 1987 decision in *Carpenter v. U.S.*, so the misappropriation of that information can be the basis of insider trading charges. In dissent, Judge Amalya Kearsse said the more appropriate Supreme Court precedent is 2000's *Cleveland v. U.S.*, in which the court held that Louisiana did not have a property interest in unissued gaming licenses so defendants couldn't face fraud charges for wrongfully obtaining them. Similarly, Judge Kearsse said, the CMS did not lose anything of value to the government when Worrall allegedly tipped Blaszcak about its regulatory plans.

Both of the majority's key holdings have been controversial, as the joint en banc petition pointed out. UCLA law professor Eugene Volokh blogged last month about the prospect that whistleblowers and journalists could be prosecuted for fraudulent conversion under the government's theory that agencies have a property interest in their regulatory decisions. Law professors and white-collar lawyers have kicked around the policy implications of allowing prosecutors to evade the personal benefit test. (The majority nodded to those policy considerations but said the court's job is to interpret laws, not to set policy.)

The joint en banc petition argued that each of the majority's controversial conclusions "radically expands criminal liability." It's going to be interesting to see if defense lawyers have made a sufficiently compelling case to persuade the newly constituted 2nd Circuit to take another look.

Madoff

Ponzi scheme king Bernie Madoff, who bilked investors out of billions, seeks medical release from prison

WP

By Justin George

2/5/2020

The man convicted of the greatest Ponzi scheme in modern American history, guilty of bilking thousands of investors in 49 states and more than 120 countries, is asking a judge to release him from a life sentence so he can die outside prison walls.

Bernie Madoff said he is in the end stages of kidney disease, must use a wheelchair and is in need of round-the-clock help. At 81, he is too old for a transplant, and he has been moved to palliative care within the Federal Medical Center prison in Butner, N.C. He is asking for compassionate release so he can die at home.

In phone interviews with The Washington Post, Madoff expressed remorse for his massive fraud, in which he swindled investors out of billions, and said his dying wish is to salvage relationships with his grandchildren.

He has served 11 years of the 150-year sentence he was given in 2009, after pleading guilty to 11 criminal counts, including fraud and money laundering.

"I'm terminally ill," Madoff said. "There's no cure for my type of disease. So, you know, I've served. I've served 11 years already, and, quite frankly, I've suffered through it."

Relatively few inmates seeking compassionate release have had their petitions approved by the Federal Bureau of Prisons since the federal program was created in 1984. But a bipartisan criminal justice reform law passed in late 2018 gave prisoners the right to appeal denials to a federal judge, and that is what Madoff is attempting. His attorney filed a motion late Wednesday in the Southern District of New York.

Madoff's request will test the justice system's capacity for compassion weighed against his unprecedented crimes. His scheme ruined scores of lives, stole the financial futures of thousands and sent many retirees back to work after wiping out their nest eggs.

At least four people connected to Madoff have died by suicide, including his son, Mark, who hanged himself on the second anniversary of his father's arrest. Madoff's remaining child, Andrew, died of cancer in 2014.

Others continue to suffer. Gregg Felsen's savings were wiped out. Now 72, Felsen works as a wedding and event photographer in Palm Springs, Calif., to make a living. He said that he will never be able to retire and that Madoff doesn't deserve to be granted a compassionate release.

"I never got a break; why should he get a break? He's terminally ill? I'm terminally broke," said Felsen, who said he did not receive restitution. "He ruined a lot of people's lives and changed them forever. He deserves no leniency whatsoever."

The Bureau of Prisons acknowledges that Madoff has about 18 months to live, according to his medical records. A prison doctor diagnosed him with end-stage renal disease, hypertension, cardiovascular disease and hyperparathyroidism, among other ailments. The Bureau of Prisons said he fits the criteria for compassionate release but rejected his application in December.

"His condition is considered terminal with a life expectancy of less than 18 months," Ken Hyle, general counsel for the Bureau of Prisons, wrote in the rejection letter. "However, Mr. Madoff is accountable of a loss to investors of over \$13 billion. Accordingly, in light of the nature and circumstances of his offense, his release at this time would minimize the severity of his offense."

The bureau, citing privacy reasons, declined a Post request to comment on Madoff's case.

The cost to incarcerate

Congress established compassionate release to reflect its desire for ethical and humane treatment of prisoners with the burden on taxpayers for the rising cost of in-prison medical care. Medical expenses for the Bureau of Prisons, not including psychology services or drug treatment, have risen from \$1.18 billion in fiscal 2017 to \$1.23 billion in 2019, according to federal budget estimates. At the same time, the average age of inmates in federal prisons has increased by 8 percent over the past decade to 41 years, according to the prison system. The number of people age 55 or older in state and federal prisons increased 264 percent from 1999 to 2015, the Pew Charitable Trusts reported.

Today, prisoners age 51 and older make up 19 percent of the more than 174,000 federal prisoners, up from about 16 percent in 2009, according to Bureau of Prisons records.

A 2015 Justice Department inspector general's report on aging prisoners noted that 19 percent of the Bureau of Prisons' budget in 2013 was spent incarcerating aging inmates, who cost nearly \$2,000 more a year each than inmates younger than 50. It found that federal prisons with the highest percentages of aging inmates spent five times more per inmate on medical care and 14 times more on medication than institutions with the lowest percentages of aging inmates.

Madoff said he is on dialysis and takes about 10 medications a day, including amlodipine and diltiazem for high blood pressure, atorvastatin (Lipitor) for high cholesterol, and calcitriol (a man-made form of vitamin D).

He said he has been given a back brace, bed wedge, medical shoes and a lower bunk. He said that he has pain and cramping in his thighs, hips and knees and that he rarely sleeps more than an hour at a time, often waking from leg cramps.

Prison records indicate that Madoff is Care Level 4, defined as "functioning may be so severely impaired as to require 24-hour skilled nursing care or nursing assistance."

It costs about \$59,000 a year to house someone at a federal prison medical center, according to the Justice Department inspector general's report. If the prison system had a "modest" 5 percent release rate of prisoners 50 and older, the report estimated, the Bureau of Prisons could save about \$28 million a year. The prison system restricts eligibility to those 65 and older.

According to an analysis by the Marshall Project, a nonprofit news organization that focuses on criminal justice, the Bureau of Prisons approved 6 percent of 5,400 applications for compassionate release between 2013 and 2017; 266 of those whose applications were denied died in custody. The low number of approvals prompted Congress to draft the First Step Act, a broad prison and sentencing reform law that, in addition to providing a way for prisoners to appeal denials, shortened sentences for drug crimes, boosted the number of credits for good behavior, pledged improvements to job-training courses and resulted in the early release of more than 3,000 federal prisoners.

Considered the most significant prison rehabilitation law in more than a decade, the First Step Act was highlighted by President Trump in his State of the Union address Tuesday. But the law has also been criticized by some conservatives who say its leniency was misguided and opened the door for notorious criminals such as Madoff to be released.

At least 124 people were granted compassionate release in 2019, the first full year of the First Step Act, according to the Justice Department, compared with 34 in all of 2018.

Punishment versus mercy

Among those to benefit from the law was Bernard Ebbers, the former chief executive of WorldCom, a telecom giant once valued at more than \$150 billion.

Ebbers was convicted in 2005 of securities fraud for falsifying the company's financial results and inflating the stock's worth. Millions of dollars in shareholder and investment stocks and bond values were lost, including \$565 million from the country's largest public pension fund, the California Public Employees' Retirement System.

Ebbers was in the middle of a 25-year federal sentence when his daughters began to notice their 6-foot-4 father wither and slip into dementia.

In August 2019, Joy Ebbers Bourne said, the Bureau of Prisons denied Ebbers's application for compassionate release. The family filed a motion challenging the ruling, and it drew opposition from the U.S. Attorney's Office for the Southern District of New York, which said the prison system could provide adequate medical care.

"However the [Bureau of Prisons] had no diagnosis or treatment plan in place," Ebbers Bourne said in a statement. "In October, Dad experienced a rapid decline and was transferred to a unit with 24-hour nursing care. We could get no answers from the medical staff."

The family presented Ebbers's circumstances to U.S. District Judge Valerie E. Caproni, "confident in our case, believing Dad's situation was just what Congress had intended when they changed the compassionate release laws in the First Step Act," Ebbers Bourne said.

The judge ruled in their favor in mid-December.

On Sunday, Ebbers died surrounded by his family at his home in Brookhaven, Miss.

"I know many of the victims of WorldCom opposed Dad's release," Ebbers Bourne said. "Many stockholders and employees lost their investments in the fall of WorldCom. Many of our friends — and many in our family — did too."

But keeping Ebbers in prison "would not bring back anyone's investments," she said.

Pat Nolan, director of the American Conservative Union Foundation's Center for Criminal Justice Reform, worked with lawmakers drafting the First Step Act and said society gains nothing by letting people who are losing their physical and mental faculties languish in prison. With their bodies and minds failing, he said, prison walls become redundant.

"For some, it's never enough, but none of what he suffers is going to get a dime back to what he swindled or cheated," Nolan said. "And, again, I don't minimize at all [what Madoff has done]. But it's the hallmark of a society to not punish somebody beyond reasonableness."

Madoff's attorney, Brandon Sample, said there shouldn't be a compassionate release program if all prisoners, including Madoff, aren't eligible.

"What does it say about us as a society? Are we going to be so insistent that it doesn't matter, let them suffer there in prison? If that's the case, why do we need compassionate release?" he asked. "I don't dispute that his conduct, his offense behavior impacted many, many people's lives and caused harm. There's no dispute. But the question now is, with his present situation, what would that hypothetical jury do today faced with the Bernie Madoff who's in a wheelchair, who's on his last legs of life?"

In conversations with The Post, Madoff said all the things you'd expect someone seeking judicial mercy to say: that he was sorry. That the deaths of his sons have punished him more than prison could. That he was responsible for his crimes, and that he knows he hurt many.

"You know there hasn't been a day in prison that I haven't felt the guilt for the pain I caused on the victims and for my family," he said. "You know I lost both my sons, and my wife is not really well. So it's horrible. I was very close with my family. I made a terrible mistake. And you know I suffer with it. I'll suffer with it when I get out.

"The only hope that I have when I get out is to try and possibly see them — my grandchildren — and at least, you know, try and explain how my problems evolved."

He said he has worked with prosecutors to recoup as much money as he could for investors. He said he persuaded members of his Ponzi scheme who had received payouts to return them. About \$14.3 billion has been recovered or settled, with \$12.9 billion distributed to investors, according to the trustee handling the recovery.

"I felt the one thing I wanted to do was try and be helpful in some way to recover the victims' [money]," he said. "My business was perfectly legitimate for 36 years, and I just made a mistake at one point, and I didn't realize at the time that I wouldn't be able to get myself out of it, and it was certainly not my intention to create all these issues and all these problems for everybody.

"You know, I took a [plea]. I didn't go to trial because I felt that I was, I was really the guilty one," Madoff said. "My family had nothing to do with it. And, you know, quite frankly, I deserve to be punished. It wasn't something I should find some sort of excuse for. I didn't. I didn't. I had no idea that it would evolve the way it did. And I just couldn't help it."

Civil
NYCHA

NYC inspectors have found lead in 11,275 NYCHA apartments since April 2019: report

NY Daily News

EFTA00095946

By Michael Gartland
2/5/2020

City public housing inspectors found lead in 11,275 apartments between April and December 2019 and still have not tested more than 100,000 apartments, a report released Wednesday by the federal monitor overseeing NYCHA revealed.

Since April 2019, when the New York City Housing Authority began using x-ray fluorescent inspections, 27,000 out of 134,000 units were checked.

Of those 27,000, the federal monitor cited 20,500 confirmed results, 55% of which revealed the presence of lead. More up-to-date NYCHA stats show that 13,435 apartments have tested positive for lead as a result of the x-ray inspections.

NYCHA has vowed to complete x-ray fluorescent testing by the end of 2020, but the monitorship, which is led by Bart Schwartz, has remains skeptical of that timeline.

"As we observed in our first report, the pace of XRF testing remains far too slow to meet NYCHA's stated goal of completion by the end of 2020, despite efforts by the lead hazard control unit to add contractual capacity," the monitor's third quarterly report notes.

NYCHA spokeswoman Barbara Brancaccio said the authority will continue to evaluate that timeline in the coming months.

With more than 106,000 apartments still untested, the monitor estimates that approximately 74,000 units will be confirmed as having lead paint. Brancaccio described this as an unlikely "worst-case scenario" because current testing has been taking place in developments "where we know there is a higher presence of lead-based paint."

The authority's inspection program is projected to cost \$88 million when all is said and done.

The far-reaching lead inspection regimen stems from NYCHA's years long failure to inspect for lead and the subsequent lies high-ranking authority officials told to hide that fact.

That, as well as concerns over mold and broken elevators, led NYCHA to agree with federal prosecutors to let a monitor oversee the agency.

In his most recent report, Schwartz suggested that all the subsequent inspections and repairs have the potential of "overwhelming residents with requests to access their apartments."

"NYCHA must consolidate these appointments whenever possible," Schwartz wrote in a letter prefacing the report. "Frankly, NYCHA needs to develop a 'service mentality' towards its residents rather than just a 'check the box' attitude." A NYCHA spokeswoman did not immediately respond.

NYCHA still bungling program to fix toxic lead paint

NY Post
By Nolan Hicks
2/5/2020

The city's scandal-rocked Housing Authority is still failing to comply with its obligations to inspect and remove dangerous lead paint from units, the agency's federal watchdog revealed Wednesday.

"NYCHA has not fulfilled various lead-paint obligations, and has acknowledged it will not complete certain required visual assessments on time," said the monitor, Bart Schwartz, in his third report issued about the agency's halting progress since the partial federal takeover last year.

Over the last year, NYCHA has become “deeply informed about the immense scope of its obligations, the associated challenges in this area, and the likelihood that it will remain noncompliant without broad changes in the way lead-based paint risks are addressed,” Schwartz reported.

The monitor’s report found that NYCHA is likely to blow its own deadline to examine 134,000 apartments for lead by the end of 2020 — affirming The Post’s December story that revealed the authority’s inspection program was behind schedule and over budget.

Additionally, the report determined that NYCHA has found lead in 55 percent of the apartments inspected so far.

“If the present trend holds, some 74,000 apartments ultimately will be confirmed as containing lead paint in varying concentrations,” Schwartz reported.

That runs counter to years of statements from NYCHA and City Hall that sought to downplay lead’s presence in public housing apartments.

“Fortunately, lead paint was not widely applied in NYCHA housing because it was prohibitively expensive,” the agency claimed in a 2016 fact sheet. “Most of the lead-based paint within NYCHA is from the original primer on components, like radiators, door frames, pipes, and ceramic fixtures — primer, which is beneath the surface, meaning far less risk to residents.”

Public housing officials went so far as to regularly appeal inspection results that found lead in apartments, and poisoned kids were made to remain in tainted apartments amid the appeals, a Post investigation found.

Schwartz’s 109-page report also detailed a litany of other lead failings at the embattled agency.

NYCHA is not properly performing tests to clear apartments after lead work is done, Schwartz found.

He also determined the agency is not providing “protection or temporary housing” to tenants “before clearance is obtained.”

Lead at NYCHA isn’t just limited to the authority’s apartments.

Officials reported to Schwartz they have identified roughly 52,000 potentially lead-linked paint problems in stairwells, hallways, community rooms and other common areas in the city’s public housing developments.

NYCHA estimates it will take four years to fix the paint problems — an estimate that Schwartz declared unsatisfactory.

“NYCHA has been told that it must do better than that,” he wrote.

More than 400,000 people call NYCHA’s 173,000 apartments home, making the agency the city’s biggest landlord and the nation’s largest public housing operation.

The agency has been in turmoil since a November 2017 report from the Department of Investigation found the agency failed to check apartments for lead for years and lied about it on required disclosures to the federal Department of Housing and Urban Development.

That report was followed by a bombshell lawsuit in June 2018 from federal prosecutors in Manhattan that charged the failure was part of a larger cover-up to disguise deteriorating living conditions in the city’s public housing developments.

City and federal officials inked a deal in January 2019 that led to a partial federal takeover of the agency and Schwartz’s appointment as monitor.

Schwartz billed the city \$12 million during his first year on the job and makes \$600 an hour leading the team, records show.

"We have made some progress and there is more work to be done and we are not going to certify that we are in compliance until we can validate that we are," said NYCHA spokeswoman Barbara Brancaccio.

Terrorism and International Narcotics Schulte

Ex-CIA Coder A 'Pain In The Ass' But No Traitor, Jury Told

Law360

By Pete Brush

2/4/2020

Law360, New York (February 4, 2020, 4:14 PM EST) -- Joshua Schulte, a former CIA programmer on trial for allegedly divulging U.S. secrets to WikiLeaks, is really just a difficult ex-government employee — a "pain in the ass" — being scapegoated for the largest intelligence breach in American history, his lawyer told a Manhattan federal jury on Tuesday.

Schulte's defense team laid out a bold counternarrative as it made its case for acquittal during opening arguments Tuesday at a trial before U.S. District Judge Paul A. Crotty that is expected to last about a month.

The 31-year-old Texan, who has been held in a Manhattan federal detention center since his arrest in August 2017, is charged with gathering and transmitting national defense information he allegedly poached in 2016 from inside an elite CIA "digital weapons" team. Schulte also attempted to transmit information after he was arrested and jailed, violated court orders and lied to investigators, prosecutors say.

Laying out the government's case Tuesday was prosecutor David Denton of the Manhattan U.S. Attorney's Office, who portrayed Schulte as a disgruntled former employee. Schulte decided to get back at the CIA after it declined to take his side in a March 2016 internal dispute with another employee, Denton said.

In April 2016, Schulte used his "super access" to a key CIA coding sandbox and stole a trove of data, prosecutors say. After feeding the information to WikiLeaks, he tried to cover his tracks before leaving the agency in late 2016 and moving on to a \$200,000-a-year job at Bloomberg, according to the feds.

It wasn't until March 2017 that WikiLeaks published what Denton called a "catastrophic" exposure of CIA information, causing secret CIA operations to come to "a crashing halt" and exposing covert officers.

"For the CIA it was the ultimate act of betrayal by one of their own," Denton told the jury.

After the leak the FBI scrambled to investigate Schulte and others. The defendant, who had moved from the Washington, D.C., area to New York for his new job, set about lying to FBI agents in an effort to send them down false paths, Denton said.

After his eventual arrest and detention, Schulte accessed a phone from his Manhattan jail cell and sent encrypted messages promising more leaks, according to prosecutors.

"I will look to break up diplomatic relationships," Schulte wrote from his jail cell, Denton said. "Top secret? Fuck your top secret!"

With a bald, bearded Schulte looking on intently, defense lawyers then made their own opening arguments. Schulte may have done and said damaging things during his time in jail, defense lawyer Sabrina Shroff conceded, but she rejected the central WikiLeaks charges — as well as the government's assertion that he leaked secrets in a “quest for revenge.”

Schulte might have been a difficult employee at the CIA, a “pain in the ass,” Shroff said, but, she asserted, the prosecution will not be able to prove that it was he who leaked to WikiLeaks.

“The evidence does not fit. There is no information war. The prosecution has it wrong,” she said, calling Schulte an “easy target” because he left the CIA after disagreements with agency coworkers.

Hundreds of people inside the CIA, as well as outside consultants, could have had the same information Schulte is alleged to have leaked, she said.

“But for the WikiLeaks publication ... it is likely that the CIA even today would not know their information was taken,” she said.

The trial continues Wednesday with a covert CIA witness who will testify under a pseudonym.

Schulte also is charged with three federal counts alleging possession and dissemination of child pornography. Those charges were severed by Judge Crotty from the current WikiLeaks trial. Separately, he faces a state charge of sexual assault in Loudoun County, Virginia.

Schulte is represented by the Law Offices of Sabrina P. Shroff, Edward Zas of the Federal Defenders of New York Inc., and the Law Office of James M. Branden.

The government is represented by David Denton, Sidhardha Kamaraju and Matthew Laroche of the U.S. Attorney's Office for the Southern District of New York.

The case is U.S. v. Schulte, case number 17-cr-00548, in the U.S. District Court for the Southern District of New York.

White Plains

Da Silva

Man admits to killing girlfriend, leaving her body in suitcase in Greenwich, authorities say

Hartford Courant

By Nicholas Rondinone

2/5/2020

A year after a New York woman was found dead, stuffed inside a suitcase that was tossed in Greenwich, authorities announced that her ex-boyfriend pleaded guilty to federal charges Wednesday that he kidnapped and killed her.

Javier Enrique Da Silva-Rojas, 25, admitted to the charge of kidnapping resulting in death for the slaying of Valerie Reyes during a hearing in White Plains, N.Y., Greenwich police said.

The grisly death of 24-year-old Reyes, who was discovered by town public works employees on Feb. 5, 2019, led to a massive local, state and federal investigation that narrowed in on Da Silva-Rojas within a week.

Reyes, of New Rochelle, N.Y., was found clothed with bindings on her feet, knees and hands, and packing tape covering her mouth in a red suitcase that was dumped along Glenville Road. She had not been seen since Jan. 29, 2019.

“Although justice has been served, we remain saddened by the loss of Valerie and sincerely hope that her family will find peace and a sense of closure to this tragedy,” Greenwich police said Wednesday in announcing Da Silva-Rojas’ guilty plea.

Da Silva-Rojas, when confronted by investigators, admitted to kidnapping Reyes, then later taping her mouth, binding her hands and feet with twine and stuffing her into the suitcase, court records show. He told investigators that she hit her head after the couple had sex in her apartment.

Rojas said after putting her in the suitcase, he left it "in a forest" in Greenwich, records show.

Investigators said they "zeroed in" on Da Silva-Rojas after they spotted a man on camera using Reyes' debit card days to take \$1,000 out from an ATM in New Rochelle on Jan. 29, according to a federal criminal complaint.

Using information from a rental car account registered to Reyes and Da Silva-Rojas, they found surveillance footage at his Flushing, N.Y., apartment that showed him wearing the same outfit as the man who used Reyes' debit card, the complaint reads.

Investigators spoke with Reyes' family, who said she dated a man named "Javier" in the past, but they broke up a year earlier. Inside Reyes' home in New Rochelle, they found a drawing that resembled images they found of Da Silva-Rojas on social media.

After finding Da Silva-Rosa, New Rochelle and Greenwich police arrested him on larceny charges, and while speaking with investigators, he admitted to his role in Reyes' death, the complaint reads.

Investigators never said when they believe Reyes was killed, or how long her body was in the suitcase. They did say that they believed she was dead when Da Silva-Rojas was believed to have used her debit card on Jan. 29.

Following his arrest, Immigration and Customs Enforcement officials in Washington D.C., said Rojas had failed to return to Portugal after his permission had expired.

They declined to say if he was on the radar of law enforcement before Reyes' killing.

He has been in federal custody since his arrest, and Greenwich police said he faces a minimum of 30 years in prison when he is sentenced in May.

Complex Frauds and Cybercrime

Mark Scott

Ex-BigLaw Atty Seeks To Ditch Crypto Money Laundering Rap

Law360

By Kevin Penton

2/4/2020

Law360 (February 4, 2020, 8:47 PM EST) -- A former Locke Lord LLP attorney found guilty of conspiring in a \$400 million cryptocurrency scam urged a New York federal court on Tuesday to either acquit him or grant him a new trial, arguing that the money laundering and bank fraud case against him was built on "innuendo and hearsay."

Mark Scott told the Southern District of New York that because prosecutors submitted insufficient evidence to substantiate a jury's November conviction on charges of conspiring to commit both money laundering and bank fraud, the court should either let him off the hook or force the federal government to make its case once again.

Prosecutors failed to substantiate that Scott was aware of a purported co-conspirator's alleged misrepresentations of funds he was investing as part of an effort by "CryptoQueen" Ruja Ignatova, the fugitive head of the global OneCoin cryptocurrency scam, to launder \$400 million and lie to banks, Scott contended in a memorandum accompanying his motion for an acquittal.

"The evidence adduced through these witnesses and others — in large part innuendo and hearsay — was insufficient to support a conviction of on either count," the memorandum reads. "The court should therefore enter a judgment of acquittal on both counts."

Scott was arrested in 2018 and accused of helping Ignatova and others launder OneCoin investors' money by creating investment entities, referred to as the Fenero funds, that funneled capital away from Bulgaria-based OneCoin and back to Ignatova and her associates. Prosecutors argued Scott took in a "staggering" \$50 million in fees from the fraud.

The jury rejected Scott's contention that he had no knowledge that OneCoin was a scam and that he was doing his best as Ignatova's lawyer to represent her interests.

Ignatova has not been heard from since she left Bulgaria in October 2017 on what her brother, cooperating witness Konstantin Ignatov, said was a flight to Greece.

The U.S. Attorney's Office for the Southern District of New York declined to comment, said James Margolin, a spokesman for the office, to Law360 on Tuesday.

Counsel for Scott could not be reached for comment on Tuesday.

The government is represented by Christopher DiMase and Nicholas Folly of the U.S. Attorney's Office for the Southern District of New York and Julieta Lozano of the Manhattan District Attorney's Office.

Scott is represented by Arlo Devlin-Brown of Covington & Burling LLP and David M. Garvin of the Law Offices of David M. Garvin PA.

The case is U.S. v. Scott, case number 1:17-cr-00630, in the U.S. District Court for the Southern District of New York.

Matters of Interest

Weinstein

Weinstein 'Trapped' and Assaulted Model in Bathroom, She Testifies

NYT

By Jan Ransom

2/5/2020

██████████ was a model from New York City who wrote screenplays and wanted to break into the film business when she had a stroke of luck: She met a woman who had a direct line to the Hollywood producer Harvey Weinstein.

The woman, Claudia Salinas, contacted Ms. Young in February 2013 and told her to bring a script to a meeting with Mr. Weinstein at a hotel bar in Beverly Hills, Calif. She was only 22.

"I was excited," Ms. Young said as she testified at Mr. Weinstein's rape trial on Wednesday. "I got ready and I put on my best dress. I was excited to network and pitch my ideas."

But prosecutors say the meeting was a ruse. Ms. Young has told the authorities that the producer trapped her in a bathroom of a hotel room, groped her breasts, masturbated and ejaculated onto the floor.

Ms. Young began testifying in State Supreme Court in Manhattan in the late morning.

She is the sixth woman to accuse Mr. Weinstein of sexual assault at the trial, and her testimony is expected to be one of the last pieces of evidence the Manhattan district attorney's office presents before resting its case.

Mr. Weinstein has pleaded not guilty to five felony counts, including rape, criminal sexual act and predatory sexual assault, which carries a maximum penalty of life in prison. Ms. Young is also one of two accusers in a criminal complaint filed

against Mr. Weinstein by prosecutors in Los Angeles.

The charges in the criminal indictment in Manhattan stem from allegations made by two women: ██████████ who says the producer raped her in a Manhattan hotel in 2013, and ██████████ who says he forced oral sex on her at his home in 2006. The account from a third woman, Annabella Sciorra, the actress who has accused him of raping her in 1993, is meant to support a predatory sexual assault charge.

Prosecutors in New York won permission to call Ms. Young and two other women — Dawn Dunning and Tarale Wulff — to testify about the way Mr. Weinstein allegedly attacked them to establish a pattern of behavior. He was not charged with crimes in the Dunning and Wulff cases because they were too old to prosecute.

The trial is one of the most closely watched proceedings in recent history, seen by many as a critical moment in the #MeToo movement, the global reckoning prompted in October 2017 after several women went public with allegations that Mr. Weinstein had sexually harassed or assaulted them.

In the New York case against Mr. Weinstein, prosecutors do not have any physical or forensic evidence to support the women's allegations. In Los Angeles, prosecutors have obtained Ms. Young's dress, which will likely be tested for the producer's DNA, the lawyers said in court. Ms. Young told the prosecutors that two days ago, she found the dress she wore that night.

Ms. Young said she met Ms. Salinas, a Mexican model, at a dinner during Oscars season in 2012 at the Restaurant at Mr. C in Beverly Hills. The women exchanged contact information, she said.

A year later, Ms. Young said Ms. Salinas reached out to set up a meeting with Mr. Weinstein. They agreed on Feb. 19, 2013, and met at a bar in the lobby of the Montage Beverly Hills, a luxury hotel. Mr. Weinstein, she said, showed up 10 minutes later.

Ms. Young said she quickly started discussing her ideas and script, but Mr. Weinstein appeared distracted: He was on his phone. "He wasn't really paying attention to me," she said. "He was kind of pushing off everything."

Suddenly, Mr. Weinstein said he had to prepare for an event with the director Quentin Tarantino and told the women to follow him to a suite at the hotel, Ms. Young said. On the way there, she said, Mr. Weinstein asked if she was interested in appearing on "America's Next Top Model," but she declined, saying she preferred acting.

Once they entered the room, "I kept walking, following Harvey," Ms. Young said. "I walked through the bedroom, into the bathroom." She said she did not realize she had walked into a bathroom.

Ms. Young said that in a mirror, she could see Ms. Salinas shut the bathroom door, trapping her. Mr. Weinstein then blocked Ms. Young from exiting by opening a shower door, she said. As she tried to get out, Mr. Weinstein turned on the shower and quickly undressed.

Ms. Young said she began laughing nervously.

"I just couldn't believe what was happening to me," Ms. Young said, her voice cracking. "I was really worried and scared that he was going to hurt me or something. I started realizing: I'm trapped."

Ms. Young said Mr. Weinstein unzipped her dress, pulling it down. She said when she tried to leave, Mr. Weinstein said: "No, let's talk. I want to know if you can act."

The producer, she said, started masturbating, gripping and pinching her breast, and squinting at her as she was pushed up against the sink. At some point, she said, he tried to touch her genitals, but she blocked him.

He ejaculated into a towel, she said, and then exited the bathroom.

"I stayed standing there in shock," Ms. Young said, adding that she left as quick as she could.

Prosecutors asked Ms. Young to describe the producer's body, and her statements — that his genitals looked abnormal and scarred — corroborated the testimony of Ms. Mann. The jury of seven men and five women has been shown pictures of Mr. Weinstein in the nude, and the testimony about his appearance is being used by prosecutors to lend credence to the women's accounts.

Ms. Young told two friends about the alleged incident, but did not report it to the police, prosecutors said.

Mr. Weinstein's lawyers will likely attempt to discredit Ms. Young's account on cross-examination.

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U.S. Attorney's Office | Southern District of New York
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