

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

JEFFREY A. MARTINOVICH,

Petitioner,

v.

UNITED STATES,

Respondent.

Case No. 18-7061

(4:18-cv-00027)

(4:15-cr-00050)

MOTION FOR LEAVE TO SUBMIT NEWLY DISCOVERED EVIDENCE OF
PROSECUTOR FRAUD RECEIVED FROM GOVERNMENT FOIA RELEASE

NOW HERE COMES Jeffrey A. Martinovich, proceeding pro se, in a Motion to Submit Newly Discovered Evidence of Prosecutor Fraud Received from a Government Freedom Of Information Act (FOIA) release, pertinent to the Ground Six argument in the pending request for Certificate of Appealability (COA) and Appeal.

Attached are copies of the internal BOP email communication (Atch. 1), the BOP internal memorandum (Atch. 2), and the corresponding Complaint to the Department of Justice Inspector General, Mr. Michael E. Horowitz. (Atch. 3)

Mr. Martinovich respectfully requests this Court accept into the record this further evidence which Mr. Martinovich received from FOIA Request Number: 2017-06236, in addition to the overwhelming evidence of prosecutor fraud already presented on the record in Ground Six of the COA/Appeal, the Original Memorandum in Support, and the comprehensive Amended Martinovich Affidavit in Support.

The chronology and substantive content of the attached email and memorandum further confirm AUSA Brian Samuels and AUSA Kathleen Dougherty's scheme and artifice to defraud the Court by withholding

an indictment unless needed to counteract Martinovich's rightful vacation of conviction and sentence on Appeal, then to move the Court to seal the indictment on fraudulent grounds, then commit fraud on four magistrate judges to attempt to illegally re-seal the indictment after it had expired and unsealed, all attempting to illegally toll the statute of limitations which had expired. Finally, when publicly revealed in the Case 4:15cr50 and 4:12cr101 § 2255 Motions, AUSA Samuels and AUSA Dougherty colluded with the District Court to, after-the-fact, switch the very statute of limitations which they had professed was the driving requirement to necessitate the new indictment, to fraudulently seal the indictment, and to illegally re-seal the indictment after expiration. [Constructive Amend.

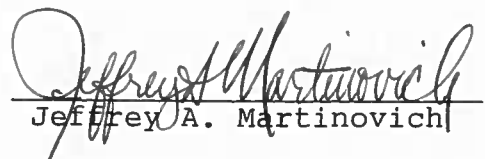
The attachments recording the conversations with "the AUSA" repeatedly stress, in bold, "He also indicated not to reveal to the inmate about the pending cases."

"In a government of law, existence of the government will be imperiled if it fails to observe the law scrupulously. Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by example. Crime is contagious. If government becomes a law-breaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy." [Olmstead v. United States, 277 US 438 (1928)].

Mr. Martinovich respectfully requests this Court to accept into the record the attached new evidence in support of Ground Six for the pending Motion for COA/Appeal.

Respectfully,

Date: 11/13/2018


Jeffrey A. Martinovich

- Atchs:
1. BOP internal email
 2. BOP internal memorandum
 3. DOJ OIG Complaint

[redacted] - Re: Fwd: doc Martinovich

From: [redacted]
To: [redacted]
Date: 4/28/2015 11:28 AM
Subject: Re: Fwd: doc Martinovich
CC: [redacted]
Attachments: [redacted].vcf

[redacted] based on the email from the AUSA about outstanding / unresolved charges in his first case, request a MGTV to keep inside the fence. I will remove him from the FTD SCP WLS.

[redacted] CMC
Federal Bureau of Prisons
FCI Fort Dix
P.O. Box 38
Fort Dix, New Jersey 08640
609-723-1100 ext. 1199

>>> [redacted] 4/28/2015 11:24 AM >>>

Ms. [redacted]
Attached is a memo for the J&C per telephone call to AUSA [redacted]. This inmate is currently pending to transfer to our Camp. I am not sure if you still want to transfer this inmate to our camp since the inmate could have possible pending cases. The AUSA indicated not to reveal this information to the inmate.

> [redacted] 4/28/2015 11:13 AM >>>

[redacted]
Supervisory Correctional Systems Specialist
FCI Ft. Dix - CSM
P. O. Box
Fort Dix, NJ 08640
(609) 723-1100, Ext. [redacted]
Fax: (609) 724-7533

FOI EXEMPT



U.S. Department of Justice

Federal Bureau of Prisons

Memorandum

Federal Correctional Institution

Fort Dix, NJ 08640

DATE: April 23, 2015

REPLY TO
ATTN OF: [REDACTED] SCSS.

SUBJECT: Martinovich, Jeffrey A
81091-083

To: J&C/ Central File

On April 23, 2015, I contacted the AUSA [REDACTED] regarding the attached message that was previously send to Ms. [REDACTED] regarding the above inmate having possible pending indictments. Per AUSA [REDACTED] he indicated that he cannot discussed any current or future pending cases but Martinovich does have some possible pending cases. I did indicate to Mr. [REDACTED] that the inmate was going to be referred to a camp and we needed to ensure that the inmate had no pending cases. Mr. [REDACTED] indicated that he cannot recommend the inmate to a camp but the is up to the Bureau of Prisons. **He also indicated not to reveal to the inmate about the pending cases.** (757) 591-4035. The inmate has a current release date of 01-06-2024.

FOI EXEMPT

Jeffrey A. Martinovich
Reg. No. 81091-083
Federal Prison Camp - Beckley
P.O. Box 350
Beaver, WV 25813

September 17, 2018

Office of Inspector General
Department of Justice
Mr. Michael E. Horowitz, Inspector General
950 Pennsylvania Ave, NW
Suite 4706
Washington, DC 20530

RE: COMPLAINT

Dear Mr. Horowitz:

My name is Jeffrey A. Martinovich, and herein I am filing an Official Complaint to the Office of Inspector General (OIG) for the Department of Justice (DOJ) for the enclosed knowing, willing, and voluntary fraud on the Court, and the attempts to continue to conceal this scheme and artifice.

The enclosed explanation ("Ground 6") provides the detailed evidence of the fraudulent scheme conducted by Mr. Brian Samuels, AUSA, and Ms. Kathleen Dougherty, AUSA, in the United States District Court for the Eastern District of Virginia. This "Ground 6" has been recently submitted to the noted District Court in a Motion to Vacate pursuant to 28 USC § 2255 [4:18cv00027/4:15cr50] and in Appeal to the Fourth Circuit Court of Appeals [18-7061]. This explanation is supported by a more comprehensive description in the Memorandum [Doc. 74] and Supporting Affidavit [Doc. 90], which by reference are incorporated into this Complaint as if fully restated herein.

The enclosed documentation provides clear and incontrovertible evidence that AUSA Samuels and AUSA Dougherty committed fraud on the Court to illegally seal an indictment and then again committed fraud on four separate Federal Magistrate Judges in order to illegally re-seal this indictment whose seal had long expired-unsealed, all to fraudulently toll a statute of limitation which had expired, and "re-expired," and then to conceal this fraud on

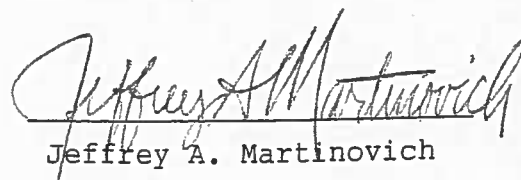
the Court. Finally, AUSA Samuels and AUSA Dougherty participated in the fraudulent "bait and switch" of the very statute of limitations which they professed was the driving requirement to necessitate the new indictment, the fraudulent sealing of the indictment, and the illegal re-sealing after expiration.

AUSA Samuels and AUSA Dougherty's scheme and artifice has entrapped four Federal Magistrate Judges, and now the presiding U.S. District Court in their fraudulent imbroglio and continuing conspiracy to conceal.

I respectfully request confirmation of your receipt of this Complaint and any information regarding an investigation or resolution to this artifice to defraud the U.S. District Court.

Thank you for your assistance.

Sincerely,


Jeffrey A. Martinovich

Enc:

1. Ground 6 (18-7061/4:15cr50)

cc:

krc
alm