

Speedy Trial Motion Doc # 133

A. Buckley never showed Gandy Doc #133. Why do lawyers make motions that support the Gov't instead of the Defendant?

B. L.Cr.47.1. Motion Practice: A response to an opposed motion must be filed within 14 days. Doc # 133 filed 6-17-18 got a response, doc #136 on 6-29-18 but it was "sealed". Why? Wasn't Buckley required to

1. Allow Gandy to read review & Edit Doc # 133? At least tell Gandy Doc # 136 existed, then allowed Gandy to explain his "timeline" since the hearing on 7-9-18 allowed time to respond?

2. Is this impermissible collusion? See Exhibit 4 CLN Feb. 21 pg. 12-15.

3. Judge Rosenthal obviously facilitated a lot of sealings and closed secret meetings (4-3-17 "moot" undocketed event) outside Gandy's presence, which lends itself to the appearance of a conspiratorial arrangement that needs investigating asap!

4. See Missouri Law Review, Vol. 85, Iss. 4 [2020], Art. 6 Pg. 18/ 982 to page 47/1011 (identifying structural error: holdings of the supreme and circuit courts). Pg 44 says "to waive a structural error one must intentionally relinquish the right to raise it". After reading this law review and this document you will know Rosenthal made structural errors. This makes Rosenthal a biased judge.

C. The hearing on 7-9-18 (Docket#141) did not get transcribed by Fred Warner, the official court reporter, until the 6th day of May 2024. Gandy, on the record Docket #239, had been requesting to get a copy of this hearing for many years prior. After in-depth examination of the transcript, Gandy finally discovered the true extent of the prejudice, animus, and bias on display from Judge Rosenthal. Judge David R Jones's actions were so egregious that he made the front page of the Wall Street Journal on 6/21/24. The following will demonstrate her abuses were far worse & worthy of front page news.

-----LETTER D PICKS UP ON PAGE 20 -----

Example 1) On page 15 line 14,

Zack complains: The defense's voir dire has a whole section on the Me Too movement, which I don't believe is relevant at all in this case.

Rosenthal: It's not; It's just not; It's just not. That doesn't involve children.

Buckley: Understood, your Honor

Rosenthal: Full stop. I think that's enough. We'll ask plenty of questions about what the indictment does cover. I don't think we need to add to the discussion about men in power engaging in sexual acts with women who are not minors.

Buckley: Yes, your honor. I understand.

Rosenthal: Far from it.

Buckley: There's a very specific connotation that was not intended by me.

Rosenthal: I think we can simply eliminate any reference and avoid the confusion in that fashion.

Judge Rosenthal's decision to not allow Buckley to introduce a Me Too movement defense is a clear example of an abusive discretion. US v. Brown 859 F. 3d 730, 737 (9th Circuit 2017) & US v. Miguel, 338 F.3d 995, 1003 (9th cir. 2003) found on pg. 36 of the Missouri law review. These 9th cir. Rulings where Rosenthal fills in on cases she is passionate about prove it was structural error for her to improperly restrict counsel from making an argument. If a district court erroneously believed that there was no evidence in the record supporting a theory, then precluding the argument was improper. The proof this structural error harmed Gandy is in the opening statements attorney Buckley made instead of his me too argument. The Me Too movement inspired many "professional victims" to come forward with false accusations in order to obtain money, fame, and attention. Examples of this in Gandy's case are the "victims" B and C below.

The "victims" are listed in chronological order as follows:

- A. Kris Durrett (Not Guilty- Count 6)
- B. David Villagomez (Not Guilty- Count 5)
- C. Jose Alfaro (Not Guilty- Count 7)
- D. Kevin Vasquez (Not Guilty-Count 1, 2, 4)
- E. No Victim (Not guilty of Count 3)

Letters A & D, Kris & Kevin, were led, pressured, coerced, and forced to come to my trial to help Prosecutor Zack create a false narrative. Prosecutor Zack on day 3 of trial (Pg 129) said, "They were here because they were under subpoena. They didn't want to be here."

A) Kris Durrett (Count 6) In K.D.'s 08/18/2015 investigation by Edwards, he says on pg. 2:

"KD believed HSI led him w/legal talk, and made assumptions. They told KD that he was a "victim" and said things like "do you recognize what he did to you was predatory?" He said HSI acted like they were so so affected and moved by the love he had for JG (which they clearly weren't). HSI made it clear that their job was only to provide therapy, not to prosecute, only help people. Government said they 'felt sorry' for him. His willingness to speak with them was to put actual knowledge into their hands, not to make a negative statement against J.G. He wanted to get closure of what happened to J.G. He has no motive. He is not a victim. The government was too emotional / dramatic, they just wanted negative comments on J.G. And then they ignored him after the fact (he would call to ask questions). The government told K.D. they had many, many, many boys and that his statement wasn't crucial. K.D. pursued the therapy. He wanted the therapy (but not because of J.G., rather because of his past with his dad). Only, it was never followed through with. K.D. stated he has his discretions on this topic and his motivation was never meant to hurt J.G."

- KD's feelings about himself -

"KD feels he is not half of the good person that JG is. He doesn't like himself. He's extremely naive. Hateful, but not evil; he thinks he's ignorant. He doesn't like his lack of control of negative emotions."

Pg. 3 of Edwards' investigation says:

- KD's personal thoughts about JG - "JG is not an offensive person. He was impressed by him, attracted to him, admired him, he had a deep respect for him. He was like a role model. He was very loving. He was very healthy and worked out all the time. He was always walking around with his shirt off. There was a very childlike innocence about him. He has deep feelings for JG and would have felt lucky to be with him. He knows JG loved him because he felt his reciprocation. he has no ill-will for JG. He thinks JG knows he is not a bad person. He cannot say anything bad about him, except clearly what he is charged for."

"JG was the first person he fell in love with. JG didn't hurt people. KD thinks maybe people were jealous of him. KD wanted to be around him all the time. He was driving his dad's car underage as often as he could from Pearland to Montrose just to be able to see him. JG made it seem as if they were a couple until the end of the summer when he had to move back to his mom's (who lives in Beaumont). KD said it wasn't until another year when JG demonstrated the professional massage."

Pg. 4 of Edwards' investigation says:

"KD proposed the idea for him do a massage, but it never came to fruition. He never performed any massages with JG. Nor, was he ever paid any money. A year later KD came into town for an Astros game and contacted JG saying he'd love to see him. KD was disappointed to see that JG had moved on and was dating D.V. MV #2 who was 18 years old."

- Info not mentioned in the KD Government Statement -

"KD was 18 when JG offered him the opportunity to move to Austin and act as his property manager while he was traveling. There was no longer any sexual 'anything' between KD and JG. They never saw

each other...The only reason KD teared up during the government interview was because he realized how losing the relationship with JG affected him. The loss left a ripple-effect on him, a lack of completion, a lack of clarity. KD was disappointed he couldn't have more with JG, even after they changed their relationship. He expected to resume things in the future."

Pg. 5 of Edwards' investigation says:

"KD says he never did a massage with JG...KD did not state that he decided to end his relationship with JG. He never ended the relationship, nor did JG. The relationship just changed from intimate, to friend, to business. And he considers them to still have a relationship...KD did not say 'if he told too much it would hurt JG.' He was pouring his heart out for (3) hours and they only have 1 page to show for that. Where is the other information? KD was actually trying to help JG, not hurt him...KD doesn't trust the authorities and if he doesn't hear his voice on the recording saying what the government claims he said. He's not going to trust in their statement. He believes they are abusive."

David Villagomez (Count 5) was actually 18 when he was with Gandy. As mentioned above, David told Kris (Count 6) that he was 18 when he was with Gandy. KD knows him well. They dated for six months. David has big drug issues. His meth addiction drove them apart. He has mental issues, epilepsy. He still goes every Wednesday to get Methadone. He used to prostitute himself to get drug money. He was very opportunistic. He cannot blame his issues on JG, because they were around long before he was. David was of legal age when he was with JG.

B) David Villagomez on 7-26-12 saw Gandy on the news and called the National Human Trafficking Resource Center. He spoke to Sara Crowe case #55029 and case# HO07QK12HO0026. He told her that he knew Gandy from 2006-2008.

On Gandy's 1st day of trial (7-18-18), Rosenthal forced him to leave the court room to change clothing. During his absence, Judge Rosenthal's prejudice is revealed. A 2255 motion prepared by Dallas Craig Hughes TX Bar#10874 page 14-19 highlights this. David Villagomez's count 5 indictment read November 1st 2006 to December 27th 2006. Rosenthal ignores the fact that changing the dates of count 5 to 2005 instead of 2006 prior to picking the jury is a constructive amendment which requires Grand Jury Approval. Instead, Rosenthal says "I will grant the variance with the change. I am not sure it's a variance."

Another example is when David Villagomez and Jason Gandy used to go to church with Eugene Reynolds. Trial day 2 7-19-18 ROA#1001 Doc #190 page 165: David is told "Raise your right hand. Do you solemnly swear... So help you God... The truth." David says "I do." Thankfully David has a little fear of God's disapproval of lying under oath. Zack encouraged and coerced the victims in Gandy's case to lie. A simple lie detector test and Gandy refreshing David's memory, without the illegal threat of impeachment, would prove he was 18 when he was with Gandy.

ROA 1004 page 168: Prosecutor Leo asks when David met Gandy online. To get around the truth...

David says: "Around the age of 17"

ROA1005 page 169 Line 18: The following conversation takes place between Prosecutor Leo and David

Leo: At some point in time did you actually meet him in person?

David: I did

Leo: And what was going on in your life at that time?

David: It was kind of a tumultuous time. I was partying a lot and struggling with sexual identity.

Leo: Did something happen to you that caused you to be in some sort of disagreement or fight with your family?

David: Yes

Leo: And what was that?

David: I had gone out to the CLUBS with my friends and I had stolen my dad's work phone. and that same night I was sexually raped, taken advantage of, however you want to call it. And when i told them

about it they were more interested in why I took the phone. And they never acknowledged the fact I just told them i was raped.

Leo: And so this happened at that point in time when you started to communicate with Mr Gandy, is that correct?

David: Correct.

Leo: At some point in time, what were --- Strike that, What was your communication like with Mr. Gandy?

David: I think there were messages on and off at the time.

Leo: What were the contents of them?

David: Sexual

Leo: and at some point did you ever meet Mr. Gandy?

David: I did

Leo: And when was that?

David: That in 2005, I believe.

Gandy's recollection of events, which he would be willing to take a lie detector test over, is the following: December 31st 2005 before midnight, I was standing in line to get into the club South Beach when I witnessed David exit a black party bus. It had black tinted windows, yet allowed the neon lights to shine from inside. David cut the line in front of me, where I then saw Club Owner Charles Armstrong examine David's ID and say "That's young, but he's legal" and welcome him into the club. Clubs in Houston require you to be 18 to be able to enter. It's clear from the above that David was going to clubs when he met me, and at that point, was not living with me nor performed any massages with me.

ROA1016 page 180. Leo says: And at the time you officially withdraw from high school on December 12th of 2005, had you been living with the defendant?

David: I couldn't say if I had officially moved in.

David couldn't say because he didn't move in until after New Years.

ROA1017 page 181. Leo: Now Mr. Villagomez, you testified that you were in a relationship with the defendant for approximately three years. Is that Correct?

David: Correct.

Leo: And during your three years you continued to live with the defendant?

David: Yes.

In May 2007, Gandy sold the 815 Fairview house and had moved to San Diego. Gandy gave David his business number #713-524-5400 so that he could continue massaging his clients even after the move. Not long after, a client called him to complain that David rode him instead of giving a massage, kicking him out afterwards. Gandy stopped paying for that number afterwards.

ROA1023 Page 187. Leo: When you first met the defendant online, did you know how old he was?

David: He was in his 30s.

If Gandy was born in '77 and David '87, that would make Gandy 30 and David 20.

Leo then asks: Do you recall what you did for your 18th birthday?

David: I do not.

Gandy doesn't either because he was not with David at the time. In fact, according to a comprehensive report in 2020 by licensed investigator Miklyn Provenzano TX License #A11674, David lived at 703 1/2 Marshall Street, Houston Texas 77006 on 12-21-05.

ROA1024 page 188. Leo: You hadn't contacted law enforcement until you saw something on the news?

David: Correct. I saw a news kind of plea for possible victims to come forward.

C) Jose Alfaro (Count 7) Jose's civil action No. H-18-LV-1761 with Judge Gray H Miller. This Doc#33 page 11 has Jose saying that he met Gandy in "2008" when he was "17," when Judge Miller asked him "How old were you when you first met Mr. Gandy?"

This statement by Jose Alfaro was the basis of count 7 of Gandy's July 2018 conviction. Due to the dates of the indictment consisting of August 1st 2007 to November 3rd 2007, that would render count 7 invalid. If I was a juror on this case where testimony was the only evidence to convict, and exactly 9 months later, the Me Too inspired liar was telling a different judge that he met Gandy in a different year and age, I would want that conviction thrown out.

Gandy has a lot more proof Jose lied to both Judge Rosenthal and Miller. Jose is the worst fruit of Gandy's illegally obtained statements since these two judges did not pay attention to the particulars of a sex offense. Jose was awarded a 1.5 million dollar settlement for lying. Rosenthal during trial helps Jose Alfaro and Zack as shown in DE#192 day 3 of trial on 7-23-18 page 5 ROA1146:

Buckley: There was an issue in the testimony of Mr. Alfaro about a time frame... Mr. Alfaro went with Mr. Gandy to Mr. Gandy's house in Austin. It appears to be that Mr. Gandy didn't purchase the house until October 2017. (He meant 2007. The fact that Gandy missed this also shows Gandy was still in a state of shock from all the lies at trial. Gandy was also upset at his serious suicide attempt on 7-20-18 not working out, so the government would be happy and "victims" would have to live with guilt for lying under oath.)

Page 7 ROA1148 Zack: It appears to me that it is some short sale, because it went from a bank on 8-20-07 to a mortgage company and then to Mr. Gandy in October of '07.

Rosenthal: So it could have been another place in Austin?

Zack: Huh?

Rosenthal: It could have been another -- Huh?

Zack: I'm sorry, Your Honor.

Rosenthal: In response to your inquiry, what I meant was, it could have been another location in Austin that Mr. Gandy was either renting or borrowing or occupying under some arrangement.

Zack: Correct. And because there is no testimony about this piece of property --

On 1-29-14 Report #17 Zack personally met Jose Alfaro. Page 1 says "SA Johnson met with AUSA Zack at the Houston United States Attorney office in order to conduct a video interview with Jose Alfaro who came forth on 1-14-14. SA Johnson began the interview by introducing herself in the AUSA to the victim". It also says "Jose Alfaro packed his belongings, called a friend ("EX-friend" in civil action on page 19), escaped out a window in the garage where he had been kept. On Friday 8-12-15 Jose Alfaro met with investigator Edwards and said he did not tell the government that he had to "escape out of the window." This all shows that Zack knows her "victim" could describe the Austin house and instead told Jose Alfaro to tell Buckley that he could not recall what Gandy's house looked like.

Page 8 ROA1149 Rosenthal: or where the events occurred other than somewhere in Austin?

Zack: Correct... We don't know what the property was that Mr. Alfaro was at. I believe it would be misleading to the jury and prejudicial in a way we cannot rebut at this point. I mean, I don't have the property appraiser from Travis County telling me what Mr. Gandy owned, when, where, and because that was never an issue as to -- (Nurse enters the room)

Rosenthal: Hang on one second Ms. Zack. Please come forward. Would you take a look at the defendant and see if there should be a bandage put on the side of his neck? Both for Appearance and for Hygienic reasons.

Zack: Could we require him to close his shirt?

Rosenthal: I am worried about it chafing the fabric? Let's get it bandaged. I am pausing because I want Mr. Gandy to follow the discussion... Anything further, Ms. Zack?

Page 9 ROA1150 Zack: "No, Your Honor"

Buckley told Gandy over the weekend he asked Jose Alfaro if he remembered any details about the house in Austin and he said he doesn't recall. His story dramatically changes in front of Judge Miller in his civil action 9 months later on 4-23-19. Jose Alfaro is assisted by 1.) Andrew Kopsidas 2.) Alexander Kykta 3.) Robert Levine who is an "expert" in performing restitution calculations. Mr. Kopsidas said Mr.

Levine's "analysis is thorough, solid, reliable, and in this case un rebutted." Gandy was not told this hearing happened. Is this legal?

Jose Alfaro on page 15 says "he told me that he was going to take me to his 9 bedroom home in Austin; and so that's where we went; And his home was not a 9-bedroom home, it was a 4 bedroom home that he had divided with sheets and had college students living with him paying for the rooms. "

Kykta: Did you and Mr. Gandy interact with these college students?

Jose Alfaro: Not really, no. I'm sure Jason did. But I never really talked with them or anything.

Gandy sold his 10 bedroom home in Austin to Greg Maston who can confirm all the rooms had sheetrock and doors. Gandy has never used sheets to make rooms for rent. Prior to trial, Jose Alfaro met with investigator Catherine Edwards and told her Gandy made up a room for him in the garage. So why did Jose say to Buckley he couldn't recall what Gandy's house looked like? Was it to help the prosecutor due to him caught in a lie? Jose Alfaro got sworn in at trial on 7-19-18 and at the civil hearing on 4-23-19. The difference in these two transcribed hearings is so huge and conflicting, that Jose L. Alfaro Jr. is not credible and clearly lying for 1.5 million which is more money than Gandy's made in his entire life. Even Jose Alfaro tells investigator Edwards on 8-21-15 that a lot of what Johnson and Zack typed up in the 1-29-14 report #17 is false. It would not be difficult for a conviction integrity unit just looking at these 4 documents on 1-29-14, 8-21-15, 7-19-18, and 4-23-19 to tell Gandy is not guilty of count 7.

D) Kevin Vasquez (Count 1,2, and 4) got interrogated on 7-20-12. He states he is straight, and not into guys. He says he doesn't get along with friends his age, prefers being around adults, and finds them interesting. Kevin said the reason he likes hanging around Gandy's house is because it was cool feeding the fish, talking to the renters, playing with the renter's cats and dogs, helping build things, and helping Gandy with phone calls because he forgets to call back. One day Gandy told Kevin to appreciate the strong loving bond he has with his mom. Gandy's mom passed away 9-13-08 the same day Hurricane Ike hit Houston. Since then, Gandy let his guard down and became even more kind, caring, and compassionate towards everyone. Gandy started helping everyone who crossed his path. Kevin confided in Gandy things he was interested in that Gandy felt without his advice, could have led him into a dangerous life. At the time Gandy met Kevin, he was spending a lot more time in Indonesia in order to open a cancer clinic with Dr. Thomas, who was on Gandy's witness list and never called. Gandy admits he was naive to hope Kevin would move into his house and operate a laser hair removal machine while Gandy built a clinic in Indonesia. They spent a lot of time talking about future plans, and Kevin told Gandy it was his dream to visit London after Gandy mentioned to him that his mom was born there. During Kevin's interrogation, he is asked the same questions over and over and they could both tell they weren't giving the answers that Homeland Security wanted. On Kevin's first break, he looks tired, puts his head down nodding off, yawns, popped his back, and tells the interrogator he is sleepy and hungry. They said he is only allowed water and bathroom until the Agents are satisfied.

This is the point where you the Appeals Court, can add Gandy's case to cases like US V Ceccolini 435 US 268, US v Scios 590 S.2d 956 (D.C. cir 1978) and Cooper V Dupnik from May 5th, 1992 in order to change how interrogations work. In that case, it says "Nothing can destroy a government more quickly, than its failure to abide by its own laws." Gandy had asked repeatedly for his lawyer Richard who he called as soon as the plane touched the ground. Richard also picked Gandy up from the airport on Christmas 12-25-11 when he got back from Bali, Indonesia after he found land that he wanted to build a cancer clinic on. His attorney waited right outside the interrogation room at Starbucks, while Gandy repeatedly asked the agents to let Richard in. Like Kevin, Gandy was exhausted and they told him he would be going home. Gandy felt he needed to say "Maybe Hope?" So they'd be satisfied and let him go home.

Homeland Security Johnson and HPD Roscoe illegally obtained statements from him which prosecutor Zack and Judge Rosenthal took 5 years to rule "moot" when they should have been suppressed. Yet they used them to illegally coerce Kevin. Kevin's short break nap ended when Homeland Interrogators said "Why were you lying to us about massages you were a part of?"

Had Homeland Security interrogators not used Gandy's illegally obtained statements, Gandy wouldn't have spent over 13 years in prison, Kevin wouldn't have gotten in so many fights in High School with classmates making fun of him because of embarrassing false allegations. His parents wouldn't have been threatened. David wouldn't have lied saying he met Gandy weeks before his 18th Birthday. Jose wouldn't have made up a story about Gandy being in Texas when he can prove he was in California. Kris Durrett would have never learned how corrupt the government is by reading false statements that were not what he said about Gandy. This whole case wouldn't exist. Gandy's mental state along with the desire to end his life, which almost happened Friday 7-20-18, could have been avoided. If only Homeland Security and HPD officials simply followed their own interrogation rules. When Bert Diaz, Gandy's investigator, showed up at Kevin's home on 9-10-12, Kevin said:

1. How can I get my friend out of where he is at?
2. I told the police what they wanted to hear because they continued to ask questions, and I wanted them to stop. Not all the things I told the police really happened.
3. Jason never abused me in any way.
4. I'm upset at the media coverage and it's not true.
5. I lied when I told the police he gave me head.
6. Jason did not take pics of my backside.

Bert Diaz also talked to Kevin's mom Sonia Nolasco. Sonia said:

1. Upon my son's return to the U.S and after talking to him, I had been repeatedly told that Jason did nothing wrong, and that the police forced my son to make those statements.
2. My son is not such as to allow himself to be used or abused.
3. I don't want an innocent man to go to jail.
4. I was told that Jason had been previously banned from entering the U.K. and that he had naked pictures of my son on his computer.

This is more proof of the prejudice Rosenthal is looking for in this speedy trial hearing. And it is one more reason my statements needed a hearing as required for DE#34 AND #46. Sonia was born in El Salvador, and prior to my trial, Trump threatened to deport all El Salvadorians not born here. Sonia and Kevin's entire family were scared. Kevin slips at trial and says "ICE separated us at the U.K. airport." Homeland Security, ICE, and Gandy's prosecutor scared Kevin enough to lead him into cooperating and lying. If Gandy thought his mom might get deported, and possibly wind up kidnapped for ransom money that his family could not afford, He too may have said whatever he needed to save her. Gandy forgives Kevin and prays one day he is allowed to tell the truth without him or his family being threatened or scared.

Bert Diaz also spoke to Mr. Nolasco who was upset Kevin had put the rest of the children in a dangerous position and under the scrutiny of CPS, who threatened the parents that just one more bad decision, and they would be subject to lose their children to foster care.

"The following letter is in 1st person and was meant to be written to Judge Rosenthal. Rather than change it to 3rd person I've decided not to do that. I'd hoped Rosenthal would recognize her intentional denial of my constitutional rights & admit it." Her 8-27-24 denial of my 60(b) request & refusal to give my step mom Julie Gandy any of the letters i sent her or unseal the documents that only protect the gov't has told me I have no choice but to file this Judicial Misconduct Complaint."

Dear Judge Rosenthal,

After having read "Fruit of the Poisonous Tree, An Analysis" I now understand why you didn't follow your own rules in my case due to the following quotes from the analysis:

"The criminal justice system is based on the theory of retribution - an eye for an eye" The violation of the rights of the accused in procuring the evidence which points to his culpability is justified" and

"Judges are cautious in applying this rule." U.S. v. Scios, 590 F.2d 956 (D.C. Cir. '78) Footnote 65 describes why exclusion of KV's testimony is necessary to deter police misconduct.

I also understand that when police were disciplined for their misconduct, that it really didn't deter misconduct because it wasn't much of a disincentive. However, doing nothing to remedy all the constitutional violations in my case (1st, 4th, 5th, 6th, and 14th Amendments) will only encourage more police and judicial misconduct. Within the 11-26-13 motion to suppress by Dan Cogdell is the 1st extraordinary type of case in Footnote 65 of the Scios case. Is this why you purposefully sealed it? Then 4 years later allowed the meritorious suppression motions to be ruled "moot?"

Attorney James Burnham who was a senior associate counsel to the president is quoted in the Wall Street Journal on 7-18-24 saying "A judge's most basic job in a criminal case is to hold the justice department to its burden - on the law and the facts - not to sit by (you enabled) as the government seeks to deprive someone of his liberty.

Your misconduct in US V Gandy shocked my conscience when the illegal threat of impeachment prevented me from speaking up about all the false testimony from the "victims" that Government agents coerced into telling obvious lies. Calling me "evil" at sentencing, combined with all of the obvious constitutional violations in my case has exposed your animus to even the mildest of sex cases and people with disabilities.

You have a record of taking advantage of people with disabilities and/or people who are a little slow. This is painfully obvious in your docket entry #289 (5 pages) entered on 8-27-24 and delivered to me on 9-18-24. Page 3 you say that "Gandy offers no explanation for why his 6 year delay in bringing this claim should be considered reasonable. On this basis alone, Gandy's motion should be denied." Where are all of the letters that I wrote to you since January 2019 which the Appeals Court has had in their possession since January 26, 2021? The appeals court sent me a copy of their response on 2-4-21 showing my requests were CC'd to Ms. Carmen Castillo Mitchell and Mr. Andrew C. Sand who are also involved in covering the tracks of my due diligence.

You say the 6 year delay in bringing my "allegedly involuntary statements" issue to the court's attention "should be considered unreasonable." You expect me to believe that although Ms. Mitchell, Mr. Sand, and the Appeals court have been aware of this issue since January 2021; That somehow, despite my letters being addressed to you (EX: Certified Number 7010 3090 0003 3369 2910 on 6-24-19 at 3:22PM), that your hearing about this for the first time in my 7-8-24 60(b) request ?? Judge William G Young in US V Kandirakis from 8-1-06 after quoting from Blakely V Washington 542 US 296 says " It is the responsibility of every judicial officer to correct an unconstitutional procedure just as soon as she becomes convinced of its unconstitutionality ". You quoted in Russel V Harris County on 11-10-20 "The interest in individual liberty and public safety are complicated... to this mix, add the inevitable but complicating factor of politics. The challenges of maintaining a system that meets Federal and State constitutional requirements, and is workable, effective and fair, are formidable, but our laws demand no less." My case and many before mine show that you are at war with the constitution due to your personal beliefs and inevitably politics. As the February 2021 Article in CLN "Sex panic" points out, this modern day "Living Constitution" way of thinking reminds me of the past popular "witch hunts."

Following the latest trend now has led you to break a substantive constitutional right, as mentioned inside the Cooper V Dupnik case in Brown V Walker 161 US 591 from 1896: "The supreme court referred to the origins of the 5th Amendment and observed: "with one accord, [the states] made a denial of the right to question an accused person a part of their fundamental law, so that a maxim, which in England was a mere rule of evidence, became clothed in this country with the impregnability of a constitutional enactment." The court forcefully repeated this observation 70 years later in Miranda..."

In the future, your actions and decisions in my case would look similar to the "righteous" decisions with those poor "witches." I've met so many sex offenders in here who don't deserve the number of years

handed out like candy. Just because Gandy rhymes with Candy, doesn't mean you can seal all of your tricks (docket entries), and hand me 30 years (treats).

Eugene Reynolds (who drove Kevin and I to the airport) was interviewed by the Government and my investigator Vozar & Associates. He said that I was enrolled in Special Education as a teenager, something my stepmother Julie Gandy, who taught at my school, can verify. I had planned to subpoena him as a witness to the fact that I did not want to go to London, and He knows how Kevin talked me into going. However, during the 6 year delay, Eugene (born 1937) became too sick to attend.

Despite you saying I'm not empathetic at sentencing, Here I am putting myself in your shoes, quoting from a document "The evolution of a doctrine" that supports your unconstitutional way of thinking. However, the last page says "This doctrine should be limited to those circumstances where the misconduct is so grave that it shocks the conscience of the court. The following should shake even your limited conscience: Justice White and you agree that tainted evidence can be used in a criminal trial to impeach a defendant. The tainted evidence for count 2 in my case came in the form of my 7-20-12 illegally obtained statements which led to the discovery of a headless nude picture also illegally taken from an electronic device in my home. This picture was then illegally shown to Kevin (Minor Victim#1) on the following dates: 7-26-12, 8-2-12, and the Wednesday after 9-10-12. He told my investigator Bert Diaz that the police forced him to make the incriminating statements. Please look at all of the interrogation videos to see how Homeland Security Agent Johnson coerced him to change his honest truth about knowing nothing about the nude picture or the blue sheets that the government alleged was at my house or RV. Kevin even invited them to search my property to see that I don't own any blue sheets. The use of illegally obtained evidence and coercion to make Kevin lie is provable by simply watching the Government recorded videos. See Footnote 65 in the Scios case to see the 2nd example of an extraordinary case requiring exclusion of a witness's testimony to deter police misconduct is met when you watch all of the above videos of KV's interrogations. This is illegal, bold, and shocking! Law Professor Charles Weisselberg and the 1992 Cooper V Dupnik case fully explain why officers choose to break the law in this way.

On 10-5-18, you denied a Rule 29 motion (that as usual, I never got to read) for count 2 by saying on page 3 "The U.S. proved through the testimony of Minor Victim #1 that he wanted naked images.... Minor Victim #1 was lying naked on a massage table in Mr. Gandy's residence." If I were the Appeals Court investigator in this case, I'd simply ask Minor Victim #1 during a lie detector test about the so called "Flash" picture. He would eventually admit he made up that story and forensic evidence will show that no "flash" was used, nor does the image in question contain a massage table, nor was it at my residence.

It appears you followed in Prosecutor Zack's footsteps made during trial. On Trial day 2, Page 64 ROA1205 Line 12. Prosecutor Zack says "While we were unable to find these pictures within the devices we had access to for purposes of trial presentation. The fact is that they were taken at a time when Mr. Gandy knew that the victim was under 18, and that is what is required, and focused on his naked genitalia. We believe that we meet our burden for count 2." This statement from prosecutor Zack reveals how upset she is for being unable to introduce a headless "genitalia focused" picture and having to force Kevin to lie to make count 2 stick. Zack is also speaking outside the record. How could Zack know a picture KV claims I deleted at trial was "focused on his naked genitalia" unless it's because she is describing illegally obtained evidence that has been repeatedly shown to KV. This is exactly why the 2nd example in Footnote 65 of the Scios case requires exclusion of KV as a witness. The only electronic device allowed at the trial was a laptop. You and Zack seem to be on the same team when you say this in the Rule 29 motion:

"The government introduced into evidence images that are of a sexual nature, although the subject's genitals are not exposed. This evidence, with the evidence of other child pornography images on Mr. Gandy's electronic DEVICES, and of his sexual exploitation of the 4 minor victims, (None had nude pics

taken of them by me) were sufficient to show that he intended to produce child pornography images of victim number 1. This statement proves that you committed judicial misconduct.

When you allowed DE#46 to be ruled "moot" It also forced me to be unable to testify. This evidence was supposed to be suppressed, yet here you are using "DEVICES" to deny count 2. This misconduct by you should require the Appeals court to do a De Novo review to see where you came up with "child pornography on other electronic DEVICES." The government reports and trial testimony say "nudist colony" not child pornography. My lawyer Buckley told me at trial that Jeffrey Glen Chappell lied about when the nudist pictures were viewed. The only solid evidence to find me guilty of Count 2 was provable false testimony that was coerced by Minor Victim #1.

On 11-4-19, The appeals court (Case number 18-20823 with Judges Priscilla Owen, Costa, and Haynes presiding over it) incorrectly denied Seth Kretzer's US V Gandy appeal. This appeal (which I never got to read or approve, prompting me to write the district, appellate, Texas BAR, etc. to stop the appeal and start over) did however correctly argue that Count 2 under 2251(a) requires a showing of genitalia. Minor Victim #1's were not exposed. Their only argument to deny count 2 was "testimony about 2 other pictures in which Minor Victim #1 was completely nude - one a full frontal depiction..." Since this coerced false testimony was their only evidence, and obtained illegally, I'm not guilty of count 2!

A court may set aside an agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. See a memorandum bt Atty Michael M. Levin emailed to jgandy79@gmail.com on 10-1-25.

A January 2018 Houston Chronicle Article mentions 45 year old veteran attorney John O'Neill. On page 5, he says you are deeply at war with the constitution and many years of supreme court precedent. Your actions in my case prove he was right!

Page 7 says you clerked for chief John R. Brown and that "Brown's willingness to risk vilification or harm in order to do what he believed was right resonated deeply with her." Just because you think it's right to deny constitutional rights to cases involving sex offenses and people with mental health issues, doesn't mean your immune to a judicial misconduct complaint that should lead to a De Novo review and God willing a long awaited OPEN suppression hearing.

On page 11 it says "She was tapped by 2 Chief justices of the Supreme Court (William Rehnquist and John Roberts) to chair advisory committees that craft and revise rules (I'm shocked that someone with this authority would do what you've done to me) to help Federal Courts function fairly and efficiently. One thing you did efficiently in my case was cover up all of the recorded Government videos which never got a public hearing! I agree that it will take a lot of time for an independent conviction integrity unit to sit down and watch the following videos which prove Kevin was coerced to lie in order to create count 2 in my case.

The interrogation videos took place on the following dates: 7-20-12 (Kevin and I), 7-26-12, 8-2-12, and the Wednesday after 9-10-12. There are additional meetings that Kevin had with government agents which led to the "flash" false testimony. Had you watched all these videos, you would understand Buckley's objection during Kevin's testimony.

Page 111 ROA947 Line 13: "I'd request a limiting instruction as to the part of the testimony that relates to inadmissible material." You would know that Kevin was lying. Johnson and Zack committed egregious misconduct by allowing a picture illegally obtained to coerce Kevin to lie under oath. See Footnote 65 of U.S v. Scios, 590 F.2d 956 (D.C. Cir. '78).

This inefficient use of government resources is now needed because you allowed illegally obtained statements to prejudice me for 5 long years! A public hearing on DE#34 AND 46 would have been efficient and would have solved this long awaited resolution in 2013 when you decided to ignore the very important suppression motions.

Waller V Georgia: 467 US 39: The closure of the entire suppression hearing was unjustified.

"Suppression hearings are just as important as the trial itself."

What you thought was right in my case has led to false testimony, provable by government records you've worked hard to seal, conceal, falsify, and manipulate. The reason all of your actions/inactions in my case would shock Reporter Gabrielle Banks is because her quote from her 2018 Article mentions how fair you are. Page 8 "She has said she learned it was vital to be correct on the law." You called me "evil" at sentencing, a statement echoed by Gabrielle Banks in the Houston Chronicle. I've never caused anyone to nearly die from suicide, then call that person a "manipulator" and a "faking victim." These are harmful words that have resonated deeply with me. I pray you will stop ignoring so that I may ask what is allowed in "The Major-Questions Doctrine." It recognizes that there are extraordinary cases that provide a reason to hesitate before concluding that Congress meant to confer such authority. I've read so many meritorious cases you've thrown out due to the AEDPA which should not apply to non-violent individuals who were not given the death penalty. And according to the structural error introduced in 1991 via *AZ v. Fulminante* 499 U.S. 279, in order to waive such an error one must intentionally relinquish the right to raise it.

Thankfully cases like Christopher Roy West LX12826 on 5-29-24 6th Circuit of appeals court states: The district court's acknowledgement (which one day even you will acknowledge) of the government's conduct in this case raises the specter of FRAUD ON THE COURT, which is the extraordinary circumstances needed to make a 60(b) motion appropriate despite *Gonzalez V Crosby*.

Gandy's Response to certified letter from Prosecutor Zack written June 24, 2024 titled "U.S. Response to Defendants Motion for Return of Property Pursuant to 41(g)" (DE #286) A. Prosecutor Zack's response DE286, I got July 1st 2024, took a long time since I sent that motion (DE #285) on 3-17-24 certified #7015 3010 0002 2202 0427. The defendant filed this motion w/out stating what property he is seeking but asserting claims none of it should have been ordered by the court.

My response: I should have said "Keep the 2 headless pictures that HSI Johnson used to coerce KV into lying at trial and give me everything else back. Please read Footnote 65 in *U.S v. Scios*, 590 F.2d 956 (D.C. Cir. '78). Showing KV those pictures then having KV describe them at trial because Zack was not allowed to use them at trial, created a structural constitutional defect in my case. This type of defect in order to be waived, it must be intentional. I've never waived the right to get this error corrected. Please read *AZ v. Fulminante*, 499 U.S. 279 to confirm. I need a copy of my original letter received by the Court on April 1st 2024 DE#285. In that letter, I also asked for:

1. The court to unseal DE#98, DE#136, and DE#46, which is a hearing about the poisoned fruits of my illegally obtained statements.
2. Compassionate release to care for my 88 year old grandfather with lung cancer, who passed away 4/21/2024 due to the Court ignoring my requests and Kent Botkin not getting a level of care he needed.
3. An investigation into the 7-20-12 interrogation of mine which caused Kevin to say things he wouldn't have. I also asked if Rosenthal had ever watched the 7-20-12 interrogations.

B. Zack says on pg. 2 "The first document (DE34) is the Gov't's response to a motion to suppress the defendant's statement. My response: DE#34 was filed 4-1-13 and the Gov't responded in DE#91 1-24-17. Then the Docket Entry without a docket # on 4-3-17 claims the "Parties" (I was not told about this secret meeting and needed to be there as *Waller v. Georgia* 467 U.S. 39 points out) agreed the issue was "moot" and no need for a fair open suppression hearing that I'd been waiting over four years for. It appears the longer the Gov't takes to respond to a motion the more likely it has merit. Does 4 years and 2 days get Gandy close to a Guinness American Record of a motion filed 4-1-13 and not agreed to until 4-3-17 without the defendant's knowledge?

C. Zack says "#46 (this motion in November 2013 deserved a hearing) was "terminated" when "defendant" moved to plea early in the case.

My response: How could #46 have been terminated during the 2014 plea negotiations, when on 12-05-2016 DE#89 Dan Cogdell told Judge Rosenthal he was still waiting on a response to his motions. Also DE#94 is Zack and acting US Attorney Abe Martinez's response to DE46 despite my docket sheet on 3-30-17 just saying "Response" with prosecutor Leo's name. Why didn't Judge Rosenthal rule on DE34 and 46 like she did in U.S. v. Roberts 86 F. Supp. 2d 678, 688-89 (S.D. Texas 2000) prior to the plea stage in his case?

D. Zack says on pg 1 "The defendant's real property, recreational vehicle, and car were forfeited in a civil proceeding, the majority of the remainder of the items seized contained contraband in the form of child sexual assault material and child erotica. My response: This is Zack lying/ exaggerating, proven by reading Report #7 on 9-16-12 case # HO07QK12HO0026. This 4 page report describes ALL the contraband found in the 1st search of my home. "SA Chappell searched through the graphic files and discovered 3 images which appear to be child pornographic IN NATURE. The images depict 3 prepubescent male children, 2 of whom are nude." Chappell also discovered 9 images which were of victim (KV) and 2 which could possibly be the victim and depicted a nude male with exposed genitalia." Report #9 on 10-26-12 describes the 2nd search of my home on 8-16-12. This 3 page report only says "several items were recovered to include: travel documents, financial records, and another laptop." I need everything back besides the few nudes to prove fruit of the poisonous tree victims David Villagomez and Jose Alfaro lied at trial. Had any "Assault Pictures" been found, they'd be in these reports. I also want my property back for sentimental reasons since so many family members have passed since July 2012.

Dan Cogdell was allowed to quit by Judge Rosenthal, a scant few weeks after DE#46 and DE#34 were ruled "moot." The new attorney Dustin Neyland had never been to trial in the Feds, and was clueless. Had DE#46 gotten a proper hearing, it would have thrown out my entire case. An in-camera review by any Judge would show that my illegally obtained statements were used to convince Kevin to say things he wouldn't have.

See ROA945 page 109 of the 7-19-18 trial where Kevin says

Kevin: "I was trying to help Jason" and "I didn't want him to get in trouble. I didn't want to get in trouble myself, and I didn't want my mom to know what we were doing."

Zack: "And at that time, how did you feel about the defendant?"

Kevin: "I really liked Jason. I felt bad that I got him in (ROA946 Pg.110): Trouble."

Zack: "Does there come a point in time you give another interview at the CAC?"

Kevin: "Yes"

Zack: "And during that interview, are you still trying to protect the defendant?"

Kevin: "Yes, part of me was still trying to protect him."

Zack: (ROA947 Pg.111) Quote "And at this point, did your parents know what had happened?"

Kevin: "Not yet."

Kevin says "Jason's private investigator... I told him I felt bad for what happened and I wanted my friend to get out. I told him that if there was any way to help him."

Day 3 of Trial (DE 192, Pg 129) The prosecutor says "They were here because they were under subpoena". "They didn't want to be here."

Pg 130: Prosecutor says, "He was 15 years old when he was stopped in London, the fact that he was trying to protect the defendant..."

All of the above quotes from Kevin and the prosecutor at trial prove that had my statements on 7-20-12 not happened, nothing he had to say would have put me in jail. No statements should have ever been taken from me because I evoked my right to counsel before the plane touched ground in Houston, and

my attorney was at the airport when the interrogation started. I asked for my attorney numerous times as DE#34 and DE#46 quotes directly from my illegal interrogation on 7-20-12.

Further proof told to Kevin's mom to my investigator Jarvis, "Kevin is not the type to allow himself to be used or abused."

My trial transcripts confirm what his mom said (Page 113 ROA#949)

Kevin: "Because he wanted to have massage clients as guys, and I wasn't really -- I didn't even want that. So I told him I was like, well, can we do women?"

Zack: "And -- "

Kevin: "That's what we did in the Craigs ad for women."

Kevin told me what to do. At this pivotal point, Kevin's first interaction with police was given while he considered me a "friend" and "really liked me."

Kevin was an Aries ruled by the sun making him consistent, loyal, and determined with a side of fiery intensity. They keep their feelings to themselves. It's hard for Aries to open up to others – Even those they know and trust. Negative energy traits: Often brash and demanding, even to those they love. They want everything done the way they see to be right. On this point, Kevin's mom, his sign (According to Kristy Robinett, who wrote "Born under a good sign"), and my trial transcripts all confirm that Kevin was in control, not me.

Kevin: "I don't know why he wanted me to put the laptop in my bag, but it was more like to protect himself, because I was going to protect him."

All of this needs to be brought up in a 60(b) motion due to Judge Rosenthal not ruling on motion #34 and #46 in 2013.

On 9-18-24, Gandy read a Wall Street Journal article about an 89 year old Tibetan Monk who wants to live 20 more years. He is coming to America for a knee replacement. He is scared of China for obvious reasons. This article plus the fact that so many Americans are getting imprisoned, partially due to prisoner exchanges, has finally convinced Gandy that we live in a great country, that he would be proud of when our criminal justice system obeys their own rules. Kevin and Gandy were tired, and just wanted to go home. Gandy truly believes Johnson, Roscoe, Zack, and Rosenthal have the ability to stop ignoring the constitution. Gandy wants to shake their hands and forgive them. Gandy does not enjoy pointing out how they wrongfully scared and intimidated Kevin and his family:

Report #13 (Gandy would like to see all the reports) Case # (Same as B above) Page 2 says "Kevin and his mother Sonia told SA Johnson that an investigator represented himself as a representative of Homeland Security, came to their home to speak to Kevin. She said that is why she allowed him into her home. And allowed him to speak to her son." The above response Gandy made to Zack's 7-1-24 letter has quotes from Kevin at trial that show this statement to Johnson was not true. Kevin and his mom are so scared of ICE, Homeland Security, and other government agents that they lied in order to make the U.S Government happy.

On 11-7-12, FBI Agent Christopher Petrowski (Gandy met him in person at the Galveston County Jail. He played the recordings of Gandy talking to Kevin, which do not coincide with "interpretations" in government reports, or testimony about the calls. Gandy also saw him talking to Zack in court and believes he is a good American.) and Gregory Glenn J File #89B-HO-2549855 scared Kevin into lying again when Kevin says that Gandy took photographs while he was sleeping. If Petrowski read Gandy's day 2 trial transcripts, he now knows Kevin lied to him. Gandy is not upset with Kevin because he did the same thing when he was interrogated. A simple solution is to allow a long overdue "open hearing" on DE#34 and #46 as fully explained in Waller V Georgia 467 US 39 which says "The closure of the entire suppression hearing was unjustified. Suppression hearings are often as important as the trial itself." Gandy is hoping that since we are on the brink of World War 3 that we can stop fearing government agents and feeling we need to tell them what they want to hear. Instead, Americans should learn to trust and treat each other like family. Following the Constitution is a good start.

E. No Victim: Count 3

1. 11-26-13 DE#46 pg 5 says "As the Warrant Affidavits state, inspection of Gandy's computer by Gov't agents at the airport uncovered No Images characteristic of child pornography. Ex. 1 ¶ 17; Ex. 2 ¶ 17.
2. On July 23rd 2018, day 3 of trial page 66 ROA1207 Chief Judge Rosenthal said "I don't find that nudist photographs that could have been worse than they are sufficient to take from the jury... So I am going to override the motion." This statement at my trial by Rosenthal "nudist photos that could have been worse" without further argument as to any particular nudist pic says a lot! See Attachment 1 Criminal Legal News February 2021 "Sex Panic: The war on Sex Offenders as public enemy #1" Judges, prosecutors, attorneys, and even juries refuse to look at the particulars of a sex offense.
3. 7-23-18 ROA1204 page 63 Attorney Buckley says "They're nudist images. I know that there is case law that has in some circumstances recognized images like that as child porn, but I don't believe that in this case the images rise to that level.
4. 7-23-18 ROA1206 page 64 and 65 Prosecutor Zack says "As far as the nudist images, I know your Honor is very aware that these images can constitute child porn based on a trial and opinion that your honor rendered in this court in U.S. V. David Barry. Rosenthal replies "I remember it well." The reasons the nudist pics in my case are not like the David Barry case are explained here:
 - A. David Morse Barry filed a rule 29 motion that Rosenthal responded to on 1-16-15 LEXIS 5358. His charges were conspiracy to produce and to produce child porn 2251(a)&(e). Also conspiracy to commit sexual exploitation of a minor 2251(b). This case is similar in that Rosenthal was judge, Zack was his prosecutor, and Jeffrey Chappell was the government agent in his case, just like mine. Chappell said in Barry's case that he was not sure if the images were sent or received. The big difference here is that I'm charged with the 2252A(a)(1) and (b) transportation of child porn and unlike the Barry case I'm not accused of taking any of the 52 pictures in the Government's exhibit 2B which allegedly all came from the internet on 4-18-12 at 1AM. Therefore, the 4 corners rule applies in my case. NOT KNOWING WHO TOOK THE PICTURES in my case makes labeling them complicated. There are also arguments going different ways due to cases like U.S. vs Steen 5th Circuit 2011. In Steen's case, he was found not guilty due to; the peeking of a voyeur upon an unaware subject pursuing activities unrelated to sex; not equivalent to child porn. In Barry's case, Rosenthal says "Distinguishing the voyeur example from a situation in which the producer of the image arranged the minor and setting to fit his particular lust..." According to Rosenthal, Barry and his friend William Craig Noonan agreed to take the naked photos of the children in poses that made them pornographic. Exhibit 4b depicts one of Barry's kids thrusting his nude pelvis out of the water, exposing himself in the center of the frame. 4F the boys buttocks is pressed against Noonan's groin. 4P The boy is lying on his back spreading his legs, etc. If the pictures in my case were similar to Barry's case, I guarantee you Zack would be labeling each picture in order to explain how and why they fit the definition of child porn.
 4. My Judge and Prosecutor in Barry's case spent a lot of time detailing how and why his nude pictures fit the definition of child porn. The reason they made little to no argument about any particular picture in the nudist set on the Acer Laptop in my case is because the children and their parents were either playing, swimming, or just enjoying the FREEDOM of not having to wear clothes outside. Here is all that was said regarding child porn on the Acer laptop that traveled to London:
 - A. Prosecutor Leo in opening statements at my trial on 7-18-18 page 241 RPA820 Line 19-21 says "Count 3 deals with the transportation of child pornography in interstate or foreign commerce, and that is pornography that was found on the laptop computer"
 - B. Prosecutor Zack in closing statements page 103 on July 23rd 2018, Day 3 of trial ROA1244 Line 7-20 "Those images are, 52 of them according to Special Agent Chappell, depicting minor children nude with their genitals exposed, often engaging in activities with unclothed adults. And going back to the instructions that Judge Rosenthal gave you, you have to look at, is the child's genitals or pubic area exposed? Is the setting sexually suggestive, whether the child is depicted in an unnatural pose or

inappropriate for children to be engaging in the activities they're engaging in without clothes on, and considering the age of the children in those images, the level of nudity and whether the depiction was designed to elicit a sexual response." Zack says it is "clearly inappropriate" for children to be engaged in "activities" without clothes. Is there nudist activities that are appropriate or should children never do anything naked outside?

C. Government Agent Jeffrey Chappell on 7-23-18 Day 3 of trial page 21 ROA1162 Line 24 says "they actually went on the internet and went to a web address" Line 25 Zack: "Was that web address captured in your analysis?" Page 22 Line 1 Chappell replies "Only partially, ma'am." I wanted to know! I believe Kevin knows which nudist colony.org type of website he went to and which actual date the pictures were put on the laptop. I've always naively allowed my roommates to use my computers. Kevin hinted to this in his 7-20-12 interrogation when he says "If Jason Gandy ever tried anything with me, my mom has all his info, plus I know things that could F him up." In that interrogation, Kevin admitted to masturbating in my RV to inappropriate things on the internet. When asked, Kevin also admits to "being curious about teen porn and look at it on the internet; he found that world long before JG ever showed up."

5. DE#178 on 10-5-18 is Rosenthal's denial of Buckley's motion for Judgement of acquittal made while I was in suicide watch (9-21-18 to 1-4-19). Buckley in count 3 says I did not know the images (I had never seen) were child porn. Instead of explaining how any one of the 52 nudist pictures meet the definition of child porn, Rosenthal dodges the question and talks about how the pictures got on the computer and where they were stored. Judge Rosenthal's reasoning to deny count 3 is false and proves her prejudice when she says "...trips to Southeast Asia where Gandy posed for photos with minors, engaged in sexual relationships with them, and sexually exploited them, both for his own sexual satisfaction, and for financial gain from gratifying others. I feel I have a right to know where Rosenthal got this false information. I only paid females to massage me in Asia, and never did, or had anyone do massages for, or with me. On top of this, what kind of profit would I make when massages cost less than five dollars there (50,000 Rupiah). I also never dated any minors in Southeast Asia. Was it legal for Rosenthal in 2018 to use false information in order to deny count 3? The Acquitted Conduct Act of 2024 implies that it's not. Nowhere in my trial transcripts is any mention of what Rosenthal said about me in SE Asia. This false opinion by Rosenthal pops up on our law library when my name is typed into the computer. It has contributed to the frequent abuse I receive from staff and inmates who have read it.

6. Case #18-20823 on 11-4-19 the 5th Circuit Appeals court on page 6 denied count 3 without doing a De Novo review to find out whether or not the images on the computer constituted child pornography. The Appeals Court dodges this question just like Rosenthal did by saying "The computer was password protected and Minor Victim#1 did not have the password" They also say that MV#1 said " Gandy used the computer to manage his massage business and watch child porn." The Appeals Court obviously did not read the transcripts. Nowhere does MV#1 say I watched child porn. Day 2 of trial page 91 ROA928 MV#1 says "He saw a video of me having sex with MEN." ROA927 page 91 MV#1 says he saw "Teens having sex." The appeals court also says "A forensic analysis corroborated MV#1 testimony, uncovering child pornography in the internet cache." Once again, I feel I have a right to know where the Appeals Court got this information when the trial transcript says the following on 7-23-18 Day 3 of Trial page 22 ROA1163 by Jeffrey Chappell (the forensic analyst) says "All of the views that I viewed were male and female nudes showing their genitalia in what I BELIEVED to be a lewd and lascivious manner engaged in various activities with or without nude adults" The Appeals Court should not base their denial of Kretzer's direct appeal challenge to count 3 on 1 Government Agent Chappell's "BELIEF" when the government agents at the airport signed the warrant affidavit saying there was no c.p. on the acer lap top that traveled with Kevin to London. Especially since Kretzer said "The transported images involved nude photographs of adults and children portrayed as members of a nudist community." The fact that

they claim to not know where they came from tells me they are hiding something such as the source being a legitimate website.

In fact, on Day 3 of trial page 57 ROA1198 My Attorney Buckley cross examines forensic analyst Chappell by asking "One more thing, sir, I don't want to mischaracterize, but I will describe the exhibits, the photographs that you testified about, that you discovered on this Acer Laptop that could be described as photographs from a nudist colony of some kind... Correct, sir?" Chappell responds " That is correct."

Since no argument was made by Chappell or Prosecutor Zack as to the pictures being classified as nudist community photographs, why did the Appeals Court ignore Kretzer's request to have them apply the Dost factors to the images in order to determine if they were actually "Child Pornography" The 4 corners rule should also be applied to this case. I feel since the Appeals Court misinterpreted the trial transcripts as to MV#1 statement and as to Chappell's conflicting belief, that the following conclusive statement is wrong: "Given these circumstances, a rational trier of fact COULD HAVE FOUND that Gandy knowingly transported a computer with images HE KNEW constituted child pornography." The Jury had to be instructed by Judge Rosenthal (as pointed out in 4B above) as to how Dost factors could be applied to nudist photographs. This combined with the prosecutor saying on Day 3 of trial page 129 ROA1270 "You know what? Mr. Buckley was absolutely correct in saying that this is upsetting and repulsive because all of the things the defendant did to manipulate these children is upsetting and is repulsive. and you will have the opportunity to find him guilty of all those crimes", clearly led the jury to be manipulated into finding me guilty based on feelings rather than facts. The jury should have been told about the 4 corners rule because the nudist photographs did not meet the definition of child porn as discussed in US V Brown Appeals Court of the 6th Circuit, and the Steen case listed above. All of the above should require the Appeals Court to do a De Novo review which will determine that I am not guilty of count 3.

Example 2) Page 21 Line 19. Buckley: I think six years is strikingly long. The reasons for the delay in this case I think are the subject of really most of the dispute between the defense and the government. And it is in the government's response to our motion to dismiss that the government has laid out a chronology of this case and procedural actions and maneuvers that have contributed to this delay. At the end of the day, however, it is not Mr. Gandy's obligation to bring himself to trial. And there are some aspects of the underlying chronology and maneuvering in this case that appear even on their face to be beyond his control, particularly those that relate to his difficulties of mental health treatment or his need for mental health treatment and delays that ----

Rosenthal interrupting: That was not caused by the government!

Buckley: That's correct, your honor. and it is not, we are not making the allegation here that this is a government negligence matter, that the government has some duty to do something quicker, although I certainly do have a- I would offer commentary on the latter part of this superseding indictment being a delay; but I have not moved to dismiss that for reasons that I think are consistent with the Fifth Circuit precedent.

As soon as Buckley points out Gandy's mental health issues and explains how the 6 year delay was beyond his control, prejudice explodes out of the judge. Cutting him off by blurting out "It's not the government's fault" is inappropriate, and derails Buckley's train of thought. Buckley's statements after the disruption are the opposite of his prior argument. Additionally, after trial, Buckley said the six year delay was excessive and unjustified, and the government should not have been allowed to draw out the initial case while investigators searched for additional victims. (Published statements from Houston Chronicle by Gabrielle Banks.) The abrupt interruption is proof she has no sympathy for people with obvious documented mental health issues. An example of this behavior is US vs Gladney where Rosenthal also doesn't sympathize with someone with mental health issues who has a sex offense as well. Gladney points out that Rosenthal writes books for children of incarcerated parents, a thing also heard talked about in court by Gandy. In U.S. vs Marisol Solorio-Quintero, Rosenthal grants a compassionate release motion for an incarcerated parent due to her mom having asthma and obesity.

Yet when Gandy attempts a compassionate release motion to be his grandfather's caretaker, he is denied despite the lung cancer diagnosis. Kent Botkin, Gandy's grandfather, also mailed her the same request in 2023 and was also ignored.

Example 3) Page 23 Buckley: The 5th Circuit has indicated that a delay of six years is sufficient to impute prejudice in ---

Rosenthal: Well for the purpose of triggering the inquiry.

Buckley: Well ---

Rosenthal: It doesn't.

Such interruptions are common throughout the transcript.

Page 24. Buckley: The defendant would not be required under Barker versus Wingo to provide a specific annotation of all the different ways that he may have been prejudiced once this has reached a certain threshold.

Rosenthal: At the beginning of the inquiry.

Buckley states he does not want to quarrel with the court, but insists the prejudice prong is established by ---

Cut off once again as Rosenthal says she agrees, but then argues about the triggering prong, not letting him speak. Her disregard for case law and the constitution is abundantly clear. After telling Buckley repeatedly that his case law and motion need to show prejudice, Rosenthal says "I think we are on the same page" interrupting him once again.

Buckley: I agree, your honor. I think so. In that vein, it may be that at some point during the trial, we, if the Court denies this motion at this time, I may need to reassert it if ---

Rosenthal: Sure

Buckley: --- prejudice becomes evident.

Rosenthal: And I would not preclude that in advance because that would be akin to rendering an advisory opinion

Buckley: Yes your honor

Rosenthal: Now it would be a limine order. You may want to reassert it, but it will not be in front of the jury

Buckley: Understood. and I understand the Court.

Rosenthal: you will approach before you make mention of it at all.

Buckley: Yes, Your honor.

Rosenthal: Okay, that is a limine order.

Buckley: Pardon me, Your honor?

Rosenthal: That is a limine order.

Later on Rosenthal states that she didn't mean to deflect us, an ironic statement considering the numerous interruptions and prevention of speech.

On page 27, Zack's job as a prosecutor had already been completed by the judge as Zack agrees with her, parrots the same phrases, and states there is no prejudice, saying that when a defendant fires nine different attorneys, has potential competency issues and frustrates the system himself, that he then gets to benefit from that behavior.

Speaking of benefiting. Page 7 of DE#46 quotes Murray V U.S 487 U.S. 533 (1988) "The government cannot achieve indirectly what is forbidden to accomplish directly." If hybrid representation had been allowed, Gandy would have liked to say "We wouldn't be wasting this court's time had DE#46 gotten a proper hearing, my illegally obtained statements got used to deny me bond, and change Kevin's 7-20-12 statements. I'm demanding a hearing because the issue is not moot!"

DE#189 is day one of Gandy's trial on 7-18-18 page 8 ROA587 Zack says: "I just want to point out because I know how meticulous your Honor is in drafting..."

Rosenthal says "Just get to the point, Ms. Zack."

Zack says "549 in Murray is contained within the dissent."

Anyone reading this part of my trial transcripts can tell Rosenthal wishes Zack and other government agents did a better job following the Constitution so that she wouldn't have to follow in their footsteps in order to make sure "Evil" Gandy gets 30 illegal and unnecessary years.

Page 9 ROA588 Rosenthal says "I still don't understand why the government waited so long. I'm sure it's frustrating for you Ms. Zack. It was equally frustrating for me. It's an unnecessary issue, wholly unnecessary."

This is in reference to DE#147 on 7-13-18 which Buckley filed to suppress Gandy's cellphone. If this can be done in 4 days, why did DE#34 and #46 take 4 years and never get a hearing? Reading DE#153, it's obvious Rosenthal understands the Murray Case. My illegally obtained statements are no different than the cellphone issue. In fact, Rosenthal's 10 page amended order suppressing Gandy's cellphone in DE#155 is a lot more complex than Cogdell and Flood's 8 page DE#46 motion to suppress the fruits of Gandy's statements. The fact that DE#46 is sealed along with any hearing regarding this motion is a big red flag and has been a huge government BENEFIT!!

On page 28, Buckley's cell phone rings in court, stating: That's the first time that's happened in 20 years
Rosenthal: Uh-huh. Nice Try. You are an officer of the court sir

Buckley: I am, your honor. and that is a true statement

Rosenthal: It could be true

Buckley: Well, It's true that that's the first time it's happened in 20 years

Rosenthal: We didn't have a cellphone until 10 years ago, but that's okay

Gandy ponders if this is odd humor, or perhaps a threat to take away his status as an officer of the court.

Also, 10 years prior was 2008, where cell phones were prevalent, making the last statement incorrect.

Judge Rosenthal later on then states: To enable Gandy's attorney to mount an adequate constitutionally necessary defense, she granted the continuances. BUT (Gandy heard from his mother that the use of the word 'but' means the previous sentence is false) the fact that Mr. Gandy insisted on firing very good lawyers over and over and over again and hiring new lawyers was the reason for most of the continuances that he requested, he requested and the court granted.

Buckley then tries to say the lawyers quit.

On page 31 Rosenthal backs up Zack's statements by saying...

The record seems to indicate that he fired them. This is clear prejudice shown by the judge sealing DE#98 which proved she let Dan and Nicole quit after Gandy had paid them to go to trial.

See exhibit N, a email which was sent 3 days later on 7-12-18 by Julie Gandy to Sean Buckley. The email starts with: "Sean, Jason wanted me to share this info with you. 4) He believes judge is prejudice and would like to request another judge if that's possible. He doesn't believe he can get a fair trial with her.

Judge Rosenthal knew better than what she said at the pretrial. She was the one that released the lawyers when they quit. Jason only fired Alston and the rest quit. Cogdell, Flood, and Deborde all quit because Jason wouldn't take the plea deal. In each case, Jason hired another lawyer because they quit working his case when he wouldn't take a plea deal. With flood, he went to the judge and asked to be released while Jason was in suicide watch. With Cogdell and Deborde, they both asked to be released when Jason hired Neyland. Jason told the judge that he didn't want them to quit because they were hired to go to trial. In each case, the judge released them against Jason's wishes. This is a far cry from firing all those lawyers. I'm not sure why she said that he fired 9 lawyers. Jason also wanted to add to the motion for speedy trial act if possible. He feels that Judge Rosenthal purposely delayed consideration of his suppression motion for 5 years which made a huge difference in his lawyer's attitudes towards his case. Several of the lawyers said he wouldn't be able to win his case because of the statements. If the suppression had been considered and granted earlier, he would have had a better chance of winning without all the extra charges being filed. End of Julie's email.

Also see Appeals lawyer Seth Kretzer's email from Julie on April 14th, 2019. Julie writes: Seth, a couple of things I wanted to mention about issues related to appeal. 1) Regarding speedy trial. Judge allowed multiple lawyers to quit without Jason's approval: Charles Flood quit while Jason was in suicide watch without a hearing. Dan Cogdell and Nicole Deborde asked the judge to let them quit in a hearing and Jason told her that he didn't want them to quit. She allowed it anyway. End of email.

Exhibit P: Gandy had an email sent to his first lawyer James Alston on August 31st 2012 where Gandy states... due to the brutal unfair interrogation where I was asked the same questions over and over until I broke down crying saying "maybe hope" and ok maybe fantasize (their words, not mine) to appease them after a 5-6 hour relentless interrogation after NO SLEEP FOR 4 DAYS. THIS IS THE KEY TO STOPPING THIS CASE. End of email.

On page 31. Rosenthal states that Mr. Gandy is the only constant there, and there are too many good lawyers who get fired for it to be any individual lawyer's doing. On page 30, she calls this ironic. It truly is ironic that most of Gandy's lawyers were released by Rosenthal. Gandy's continued constant regarding his lawyers is that none of them (along with the judge) took the time to watch the two interrogations on 7-20-12 with case law in hand. Totaling over 9 hours of footage, It's use in the case would have prevented the later conviction.

Gandy's first lawyer James Alston who was paid \$65,000, ended up not listening to Gandy, refusing to reply to important points made and requests to watch the 7-20-12 interrogation of Kevin.

Gandy's second lawyer Dan Cogdell was paid \$75,000 to go to trial. Although he made an amazing DE#34 AND #46, he did not use the argument that Gandy's illegally obtained statements led to Kevin changing his statements, which started the investigation.

Gandy's third lawyer Charles Flood, who was paid \$30,000, followed the same pattern, even going so far as telling Gandy "It's your fault because you kept talking" after Homeland Security refused to let Gandy's lawyer in.

Gandy's fourth lawyer Nicole Deborde was paid \$65,000 and did nothing, not even coming to visit the majority of the time.

At hearing DE#98 Rosenthal also told Gandy that the money he spent on his lawyers to go to trial was a "civil matter" and that he shouldn't listen to "Jailhouse lawyers." Gandy wrote a letter to Rosenthal asking why she released his lawyers after spending the longest recorded time in suicide watch in FDC Houston's history from 9-21-18 to to 1-4-19. It was ignored.

Example 4: Page 42 Zack: As we discussed, and obviously Mr. Buckley noticed and the Court noticed, there has been a six year gap since the arrest. There has been more than six years from the time that the crimes were committed. Is the court going to address this in some way with the jury to inform them that they're not to consider the time frame that it has taken to bring this case to trial.

Rosenthal: Sure

Zack: Okay. And it's through no fault of the defense or the government.

The irony is evident when one looks at the full timeline of events that has led to this point. Quotes such as these need to be entered into Abusivediscretion.com. Rosenthal's blatant disregard for case law and the constitution is talked about in detail by 45 year attorney veteran John O'Neill.

His Quote from a January 5th 2018 article in the Houston Chronicle states: "Her 193-page ruling was exhaustive but deeply at war with both the text of the Constitution and many years of Supreme court precedent." The title to this article is called "Rosenthal rules federal courts in Houston region with a firm hand." Page 7 says after graduating Bellaire High School (same high school as victim#2 who also had a Art major like her daughter. Rosenthal also had a daughter who was in the army, same as Victim #1) at 16, then getting her law degree at the University of Chicago. She clerked for Chief Judge John R. Brown

on the 5th Circuit. He was in the same position that she occupies now, no doubt inspired by his trailblazing rulings. The article also states "Brown's willingness to risk vilification or harm in order to do what HE believed was right resonated deeply with her. Rosenthal believes it's right to not let Buckley finish his statements. Rosenthal believes it's right to not allow case law to be followed. Rosenthal believes it's right to hide DE#46 hearing and hide #98 where she let Gandy's lawyers quit. None of this is right or fair. Judge Brown influenced Rosenthal in the wrong way. A lot of this information would never have gotten to Gandy without the support of his loving stepmom Julie. Gandy prays this analysis of her wrongs will help her to see that she is not being fair or kind as the Article says her family taught her at the dinner table.

D. Gandy's Timeline: explains what Buckley and Judge Rosenthal left out....

1. 8-15-12 Gandy indicted. This leaves out that Gandy's illegal interrogation (doc 34) got used to pry statements from K.V. that he otherwise would have never made. These illegally obtained statements were used in the new media on July 26th, 2012 to produce victim # 2.

In K.V.'s 7-20-12 interrogation, thanks to Gandy's, H.S. Agent Johnson says "why did you lie about massages you were a part of?"

***** Can you tell how different K.V.'s statements would be without Gandy's?

*****Mincey V Arizona 437US385 case law states: Reversed accused conviction b/c statements were not given voluntarily & can't be used for purposes of impeachment. Any use in a criminal trial against a deft. of an involuntary statement is a denial of due process. Footnote 65 of US v Scios 590 S.2d 956 (D.C. cir 1978) describes 2 types of cases in which exclusion of a witness's testimony is necessary to deter police misconduct. The 1st is where the police engage in unlawful acts for the specific purpose of discovering potentially useful witnesses. The 2nd is where the witness describes illegally seized evidence. Watch the 7-20-12 interrogation of KV's and at least 3 others to see my case is "Extraordinary". No judge has ever watched them!

Why on 7-25-12 was Gandy driven to Bond in a Ford SUV by H.S.A. Johnson and a female driver? Is it legal for Johnson to falsely say Gandy could cooperate, take down names, arrest the guy K.V. met when he was 14 who K.V. never mentions in his 7-20-12 but does in his 7-26-12 interrogation, all thanks to naive and helpful Gandy, then never reward Gandy? Was it legal for Johnson to interrogate Gandy while Mr. Bainum was his lawyer? Was it normal to have no preparation for bond; Ms. M.Douenat fill in for Jack Wade Bainum, and then "wing it"? Can the judge reading this step in Gandy's shoes, see how, according to trial testimony he never forced or threatened anyone, felt when on 7-26-12 he was on the news & had his life threatened for the first time? 7-27-12 Gandy gets threatened in front of the officer after being seen in Houston Chronicle which quoted words from his illegal interrogation. Were these news stories looking for victims, fruit of the poisonous tree since they used Gandy's illegal interrogation's words "maybe hope"? Does the judge know the news stories put Gandy's life in danger and forced him into a solitary cell / suicide watch from 7-27-12 until 7-31-12. Then in 24/7 lockdown in S.H.U. until 8-16-12? Would the judge agree that claustrophobia, no bond, & Gandy's life threatened for the first time put the Gov't in a tactical advantage & prejudiced Gandy as his mental state rapidly fell apart?

2. 8-20-12 "Granted Substitute Alston." This skips past the reason: At Gandy's first legal visit by Bainum the TRUTH got laid out: 1.) Bainum said he will only listen to the prosecutor, NOT GANDY. 2.) No Lawyer will do any different, no matter who Gandy picks, the result will be the same. 3.) If Gandy ever gets out of prison, the feds will "find you". Who picks public defenders? Had Gandy been assigned Marjorie Meyers, the result could have been the same as the Blevin's case in front of judge Hughes.

Does the Judge know Gandy's "tax box" got taken on the 2nd search of his home? Exhibit P is emails from 8-24 to 28-12 showing Julie & Jason Gandy requesting the tax box so he could do his taxes. Gandy continues asking for his tax box back in DE#239 exhibit U PG.2 from 2-3-21.

Does the Judge know ALL of Gandy's lawyers just listened to the prosecutor and ignored Gandy, just like Bainum predicted and that this should not only be "prejudice", it is an "animus". Thoroughly explained in (CLN Feb 2021 "sex panic" by Michael Fortino PHD.).

3. "First Continuance so defense counsel effective" (DE #'s 21 & 22): James Alston was a busy, over worked lawyer. There was always a line of inmates to see him, causing Gandy to get rushed. Alston did tell Gandy the 7-20-12 interrogation was wrong yet never filed any motion to do anything about it & pressured Gandy to take a plea for 7-10 years. On 2-16-14 Gandy wrote a letter intended for Judge Rosenthal yet told he shouldn't because it would only be used against him in some way. page 5 says "The \$37,000 Alston took for around 37 days of work seems unfair or as Dan Cogdell put it "total bull...." Why do lawyers get to charge \$ upfront for trial, then demand you take a plea or they won't work on your case?

4. "12/13/2012 - (Doc 28, 30) Gandy's 2nd continuance." Cogdell told Gandy it was because Rosenthal had a European Vacation, is this true?

5. "04/05/2013 - (DE #39) Flood Hired." Why did Rosenthal skip past DE #34 on 04/01/2013? Hanging onto Gandy's statements and illegally obtained evidence is the "missing prejudice & tactical advantage." Since 4 years went by before Doc #34 got a private meeting without Gandy's knowledge, doesn't this seem unfair and show the government was hiding something? Can a conviction integrity unit, law professor or investigative journalist look into this?

6. "04/41/13 Gandy's 3rd continuance" (as typed in Rosenthal's DE#142) (Meant 04/15 & 17/2013 - DE # 40 & 41). Why was DE #34 pushed 6 months back to 09/13/2013 when "opposed motions must be filed within 14 days?". The 07/12/2018 emails from Julie Gandy to Buckley explains how this hurt Gandy's defense and gave the government a tactical advantage. News media ads using illegally obtained statements and evidence from 02/21 - 03/05/2014 are examples of the government's advantage. Would ruling on DE #34 at this time have caused Gandy's case to no longer exist due to such a textbook example of a fruit of the poisonous tree case?

7. "09/03/2013 (Doc #43, 44) Gandy's 4th continuance...to continue discussions with the government on possibly resolving the case." Docket #43 on 08/27/2013 shows the beginning of a lengthy plea negotiation phase that extended to 09/11/2014. Over 5 months had passed since since Doc #34 which was used in the exhibit 11 ads on 02/21 - 03/05/2014 to produce victims # 3 & 4. Ads that found victim # 2, using the same illegally obtained statements were from 07/26-07/27/2012. Why won't Judge rule on Doc #34? Why push ruling on Doc #34 back to 12/13/2013? Exhibit 9 explains how not ruling on Doc #34 benefited the government and Gandy's "government-helping" lawyers who kept using the 07/20/2012 statements to attempt to make Gandy plead guilty. "4th - 7th continuances," which Zack used to find victims # 3 & 4, benefited the government.

8. "12/06/2013 (Doc #47, 48) Gandy's 5th continuance." This skips past Doc #45 11/26/2013 motion to dismiss for failure to allege an offense, which to-date (07/19/2026) Gandy has never seen. Why? Why was Doc 46 also on 11/26/2013 sealed? Does this look like the government is hiding something from Gandy? Just like sealed Doc #136? This 5th continuance is 100% to the government's benefit: News media ads with Gandy's words out of context "Hope" & the opposite of K.V.'s words "forced" to do massages, produced fruit of a preventable poisonous tree K.D., victim #3. The governments summary of K.D.'s interview is filled with lies by H.S. Agent Johnson & Task Officer Nassar Foty on 03/13/2014. The 08/18/2015 investigation by Edwards, revealed that K.D. didn't need money. And that he had a job working with his dad. He also disagreed with the 03/13/2014 investigators, when they tried to lead him by suggesting "Gandy is manipulative." K.D. who dated victim #2 D.V. revealed that D.V. was 18 when he met Gandy and that D.V. was prostituting himself for drugs before he met Gandy. During this period October 2012 to approximately August 2015, Gandy's lawyers refused to investigate. And from August 2013 to September 2014, the "Plea Phase," Dan Cogdell told Gandy, "Zack was wrong for placing ads and putting you in the news again, while negotiating a plea deal." This 5th continuance, pushed the DE #34

"suppression hearing" to 03/18/2014, coincidentally close to the 03/05/2014 ads which twisted lied and embellished quotes from the 07/20/2012 illegal interrogation. Does this sound like government misconduct which structurally altered this case?

A well-known lying government informant in Gandy's PSR, Collins Cesar, who stole Gandy's legal work in September 2012 on 5E, causing him to get illegally interrogated a third time, at the Galveston Co. Jail was on 5W again with Gandy on 01/25/2013. In February 2014, Collins, who Lieutenants Villareal & Consolver said is not allowed to be around Gandy (Separa-T), got placed on 4W with Gandy for a 3rd time. After several days, Gandy tells the C.O. on 02/19/2014 and Gandy's moved to 4E. Does this Judge know every time Gandy is on the news he suffers long claustrophobic solitary "admin detention," like 02/21/2014 - 04/16/2014? Even Lt. Mark Consolver told Gandy he "talks with Zack." Why do inmates pretrial, get set up and lied on when they refuse a plea deal?

9. "04/04/2014 (Doc #49, 50) Gandy's 6th continuance." Gandy's lawyers were ignoring and refused to investigate. Isn't it true, without investigation one has no right to speak and no authority to make decisions? The reason for this, got discovered on 07/28/2017 Exhibit 14 (by investigator Vozar & Assoc.): K.V.'s family were told by the FBI not to speak to anyone on Gandy's defense team. Does this judge know this slowed Gandy's investigation and made it impossible to make decisions?

10. "May 2014 - September 2014 (Doc #51-57) reset to consult with counsel and family." If counsel was prevented by the FBI from investigating and their visits were rare and short, what good was this "reset?"

11. "09/03/2014 (Doc #57) Gandy's 7th continuance." A lack of communication and investigation led to Gandy not signing the plea deal in court that day. And Gandy accidentally left his legal work in the courtroom. This paperwork got taken and illegally copied by Flood. It was then used against Gandy at his 2255 hearing. Does this prove Flood and Cogdell cared more about protecting themselves and helping the government than defending Gandy?

12. "09/11/2014 Gandy chose not to plead guilty." The day before, Cogdell showed Gandy a pic of K.V.'s front gate, saying his investigator couldn't talk to them. Why when Cogdell got hired in Sept 2012, did he wait until the day before "plea day" to finally "try" to talk to the Vasquez family? Alston said the Vasquez family asked investigator Diaz to please come back soon.

13. "09/16/2014 8th continuance." Emails sent to Zack, revealed in Brandon Sample's 2255 motion through discovery from the government revealed how early prosecutor Zack knew that Gandy desperately needed restoration. Zack knows that over 100 days in claustrophobic solitary confinement, numerous assaults, and the prejudicial criminal justice system caused Gandy to need a psych eval. Why instead was Gandy tortured with a lot more "solitary?"

14. "09/17/2014 (Doc #60) Government filed S.S. Indictment." This delay is government's fault...and 09/16/2014 is Gandy's? Does this sound like Buckley's Doc #133 pg. 5 "excessive delay presumptively compromises the reliability of a trial in ways that neither party can prove, or for that matter, identify" fits into Doc #142's problem with saying 09/16/2014 Gandy's & 09/17/2014 government's fault.

15. "12/12/2014 Gandy's 9th continuance, because parties agreed - in need of psych eval." This was understood on 09/11/2014 in Zack emails. Pretrial detention and solitary only made Gandy's mental health get worse. Why did it take until October 2015 for Gandy to be found incompetent and until 04/01/2016 to start restoration?

The 9th-12th Continuances are 100% against the government. This timeline explains:

07/20/2012 - Gandy's claustrophobia makes the all-day interrogation and being stored in 4 different rooms, while handcuffed for the 1st time, hard time.

07/21/2012 - Gandy's placed in a fecal matter and urine smelling suicide watch cell.

07/26/2012 - On TV. Life was threatened.

07/27/2012 - In Houston Chronicle = more threats

07/27 - 07/31/2012 - Back in suicide watch for protection due to news

07/31 - 08/16/2012 - Locked in solitary / SHU with psych patient cellmates who want to fight. (22 days hard time)

08/16 - 10/03/2012 - Threatened by whites and blacks who extorted Gandy. Also assaulted by government liar Michael Waterman, who re-enacted how he hit me to Lt. Mark Consolver. The assault was in cell 223 in front of Collins Cesar.

10/19/2012 - Gandy froze at the Galveston Co Jail "drunk tank" (for 2 days). Illegally interrogated 2 more times. Assaulted and sent to a tiny single-man cell. (30 days hard time)

01/25/2013 - Sent back to FDC and put on 5W with Collins Cesar, the informant who caused Gandy to be sent to GCJ. Pretrial snitching benefits the government.

03/14/2013 - Assaulted on 5E because S.O.'s not allowed in Rec Area while Aryan Brotherhoods are = Sepra-T (26 days hard time)

05/23/2013 - Assaulted at Rec during shakedown on 4E resulting in 26 days hard time.

11/27/2013 - Assaulted for not giving 1/2 of property and because Gandy was scared of having to stay in SHU for "protection." Claimed he "fell." (34 days hard time)

02/19/2014 - Government attempted benefit via Collins Cesar put on 4W, Gandy's unit, for the 3rd time. After several days, Gandy reported that his Sepra-T, Collins was on his unit and Gandy was moved to 4E.

02/21/2014 - During plea negotiation, Gandy put in news using his 07/20/2012 statements. (55 days hard time)

03/03/2014 - Threatened and told to leave 6W by big Aryan. Although Gandy refused, he's forced back to SHU. (25 days hard time)

10/17/2014 - Extortion by cellmate. Threatened if Gandy didn't put \$50 on his account, a false report would be made. Gandy didn't put the money = 25 more days hard time.

11/12/2014 - On the way to Suicide Watch was called "cock sucker" by C.O. Casey. (6 days hard time)

11/17/2014 - 01/27/2015 = 70 days hard time

03/12/2015 - Assaulted on 6W. 3 teeth moved because The Sorano's Gang didn't like "All Doors Open."

03/12/2015 - 03/31/2015 - Suicide watch spitting blood on walls while C.O.s who watched the video are happy "I got hit." (20 days hard time)

04/01/2015 - 04/07/2015 - Suicide watch break in the SHU (7 days hard time). During this time, Gandy makes a noose and hangs himself. Sent back to suicide watch.

04/08 - 04/21/2015 - 14 days hard time in suicide watch where psychology and Lt. Consolver won't allow Gandy to brush his teeth.

04/21 - 05/21/2015 - 30 days hard time. Admin detention / solitary confinement. Mental health deteriorating.

Note: Up to this date (05/21/2015), Gandy has 6 documented assaults, too many threats to count, and 369 days feeling claustrophobic, locked 24/7 in suicide watch or admin detention. Why was Gandy tormented for so long when "parties agreed: psych eval needed in September - December 12, 2014?" Restoration sooner would have saved time.

16. 03/30/2015 - DeBorde hired (without asking Gandy) while Gandy is in Suicide Watch

17. "04/01/2015 - Court granted Flood quitting." Yet he was paid to go to trial, Exhibit 12 Flood Contract. Why let Flood quit and have DeBorde hired while Gandy's in Suicide Watch and needed psych eval?

18. "04/09/2015 - Granted 10th Continuance for reviewing discovery and because Gandy's on Suicide Watch." Why is the Judge allowing solitary when mental health gets worse? Why not rule on 04/01/2013 Doc #34? Is this impermissible collusion by the whole court system?

19. "07/21/2015 - Court granted 11th Continuance in part (what was other part?). So Gandy's counsel could review discovery (Doc 72, 73)." Doc 72 on 07/13/2015 was sealed. Why? Why no mention of 07/01/2015 St. Joseph Hospital trip for suicide while Gandy was in 4-Point restraints? Why no mention of incident report #2732225, #2732308 tormenting Gandy by withholding "toothbrush" which Gandy spelled out on the glass in suicide watch because his baby tooth hurt and needed cleaning? Why not

mention at 11:44am on 06/30/2015 Gandy began an 8-month torture program that no other inmate at FDC had ever experienced at such lengths called Behavior Modification Plan? Gandy documented this hard time in 14 pages titled "detailed prison problems", ALOT of which is in his compassion release motion.

Why did Buckley laugh during a interview with the PSR probation lady after trial over how powerful and unfair the criminal justice system is when it could have killed Gandy and did kill Mark Adair in Sept 2018? Is it funny?

20. "09/30/2015 - Granted hearing to determine competency (Doc #74, 75)." Why is Doc 74 which is granted a "sealed event?" Why is Doc 76 "sealed?" It's the same day, 10/01/2015, Gandy's charged \$64.95 for an old mattress that was already torn. Why was Gandy charged \$64.95 and lost 7 days good conduct time while incompetent to stand trial? Why is Doc 78 "sealed?"

21. "12/01/2015 - Granted Gandy's 12th continuance (Doc #79, 80)." Why is Doc 80 granting the "sealed" Doc 79? Why skip past Gandy's 4th hospital trip which was to John Peter Smith on 10/27/2015 with Walter Nixon as a witness? Why'd Gandy lose 14 days good conduct time from an 11/29/2015 self-mutilation while incompetent and needing restoration? Why'd Chief Psychologist, Dr. Freeman, say in 2018 that Gandy should be able to get all the good conduct time back, yet no one in the criminal justice system will help him? Gandy was protesting solitary confinement by writing in his blood, every staff member who treated him badly and C.O. S. Rice quickly cleaned it up saying "it was Kool-Aid." Why would a C.O. clean an inmate's blood when a picture was supposed to be taken and another incident report issued? Does the court agree a psychologist who isn't paid by the government should figure out who is to blame for "prejudice?" Would it be the government and Gandy's ineffective counsel or too much solitary and torture? Why can't Gandy read "sealed event" 81-85 & 88? (Exhibit 15, pg. 12 - attempted rough draft of a Compassionate Release Motion)

22. "12/08/2016 (Doc #90) Status Conference...new trial dates." Leaves out Cogdell Doc #89 asking the Honorable Judge Rosenthal to please rule on his 04/01/2013 Doc #34 motion?

23. "04/03/2017 Dustan Neyland Retained (Doc #95)." This leaves out that he lied to get hired and had never been to trial with the Feds. Also afraid to speak at bond and trial, whispering "it's okay, they can lie at the bond hearing." Gandy tried to get him to speak up when the prosecutor falsely claimed Gandy refuses visits with psychology (A BP-8 signed by 3 staff members and Chief Psychologist, Dr. Freeman proves Gandy never refused to meet with psychology & added that he's calm and cooperative. This document was given 02/13/2018 on 6E to Gandy. Another false allegation by the prosecutor at the 01/14/2018 bond hearing that caused harm by Gandy losing a friend who attended named Ross, was that he "sexually assaults inmates." This is not true and in such circumstances incident reports would have been given especially since lieutenants at FDC Houston work closely with prosecutors who encourage them to make pre-trial defendants lives miserable when they refuse multiple plea deals. This (Doc 95) skips past the response to (Doc 34) by Zack in (Doc 91). Why? Skips resetting of a hearing for (Doc 34) in Doc 92 & 93. Why? Why if ruling on Doc 34 was the only way Gandy could testify without consequences would the judge not rule on it? **Double Star is used in undocketed entry between 94 (Leo, Kimberly Ann responds) and DE #95, says "Suppression hearing scheduled for 04/06/2017 canceled based on the parties notification that the issue is moot." Why was Gandy NEVER told this!? Who were the parties? See Case Law #68 Waller v. Georgia 567 US 39 (1984) to see that not allowing Gandy to attend a long overdue meeting about his suppression motions is structural error requiring reversal. In fact case law #56 U.S. v. Kim L. Powe in the DC circuit says a open hearing was constitutionally mandated and judge Rosenthal was obligated sua sponte due to the fact that Gandy's statements were illegally obtained.

24. "04/27/2017 (Doc 97, 98) - Granted DeBorde and Cogdell's motion to withdraw." (See exhibit #9, Julie's email 07/12/2018) Gandy only hired Neyland because these two quitters quit working on

defense. it was not so the judge could reward them by letting them quit. This proves how locked-up pretrial greatly benefits the government.

25. "04/28/2017 (Doc 98, 99) - Reset deadlines for new counsel." 100% government fault. Had judge forced Cogdell, Flood, and DeBorde to participate at trial, all Neyland would need to do is investigate. Why didn't judge say "Cogdell, Flood, and DeBorde, should all be ashamed of themselves for trying to use me, Chief Judge Rosenthal, to allow theft; via payment to go to trial, then quit because Gandy won't take a plea deal?"

26. "01/04/2018 (Doc 110, 111) - Gandy's 14th continuance to accommodate his counsel." This leaves out: Doc 111 is the bond hearing where 2 provable lies led to denial. Why was the government allowed to lie and my lawyer supported the government by saying "It's okay, the government can lie..."? What was Doc 103 "sealed" on 12/07/2017, approx 22 days after Neyland filed bond motion on 11/16/2017, Doc 102? Was Doc 103 about bond? Why such a long wait (11/16/2017 - 01/04/2018) to hear bond? Doc 105-109 asks for Brady, discovery, government reports, etc. Why hasn't Gandy seen any of it when he's been asking for his tax box since 2012 (exhibit P - emails to Alston needing tax box to file taxes).

27. "02/15/2018 (Doc 115) - Government filed 2nd superseding indictment."

28. "02/21/2018 (Doc 122 & 123) - Amended deadlines because superseding indictment."

29. "05/29/2018 (No Doc) Salmon Added." Circumstances: Gandy was told by Neyland he should file a speedy trial act motion and attempted to extort Gandy by refusing to file it without an extra \$25,000. Salmon promised to do it for \$10,000, yet claimed to be sick and stole \$10,000 for doing nothing but lie. Are lawyers licensed to steal? Salmon sent Gandy an investigator who'd been found guilty of taking money and doing nothing.

30. "06/07/2018 - Buckley as lead counsel." This wasted \$50,000 on Buckley is because Neyland refused to work on Gandy's case without an extra \$25,000. (Exhibit Q - Julie's email)

E. Doc #142 - Denying "Buckley's" Motion to Dismiss Count 1 for lack of speedy trial Rosenthal uses Joseph Avery Robinson, 2 F.3D at 570 to say the defendant must show prejudice. Yet, that case had a 44 month delay. Gandy's 72 month delay, reasons for the delay, prejudice, and government advantage are finally explained in the above timeline. The government's tactical advantage of "sealing" its Doc 136 on 06/29/2018 and Buckley's failure to explain it or involve Gandy at all, when the hearing on 07/09/2018 gave them 11 days to respond, is not Gandy's fault. Also, Rosenthal falsely claims on pg.23 of DE#141 "Well, for purposes of triggering the inquiry." Barker V Wingo says the defendant is not required to show prejudice after 5 years (60 months) and Gandy's took 6 years (72 months)!

Conclusion: All of the above meet the plain error requirement for 52(b), 60(b)(6), & successive 2255.

They're also textbook examples of the structural error and fruit of the poisonous tree doctrines effecting substantial rights which may be considered even though ineffective trial and appellate counsel failed to do so as instructed by Gandy and his mom Julie Gandy (email proof attached). Also see exhibits A-D, H, J-L, N, P, Q, & T.