

GEORGE SASSOWER

16 LAKE STREET
WHITE PLAINS, N. Y. 10603

914-949-2169

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Professor Bennett L. Gershman
c/o Pace Law School
78 North Broadway
White Plains, New York

Dear Mr. Gershman,

I read your recently published article in the Westchester Bar Journal, as well as substantial portions of your book, "Prosecutorial Misconduct".

I leave for another day some of my specific criticisms of your above publications.

My credentials for making legitimate criticisms can be attested by your colleague, Professor Jay C. Carlisle and the fact that I, myself, have been incarcerated about ten (10) times.

"Governmental Misconduct" reaches its zenith, in my opinion, when the "crime" itself is fabricated, instances which I personally know to have occurred in a number of cases, federal and state.

Thus, how would you grade "misconduct" when both the prosecutor and judge actually know, in a homicide case, that the alleged victim is alive and well?

The case of Mr. Dennis F. Vilella is one such case in a non-homicide setting.

While I set forth herein only one aspect of governmental [prosecutorial and judicial] misconduct, the sundry and various aspects of misconduct in the Vilella matter are various, reaching vertiginous heights, quantum leaps above and beyond Rochin v. California (342 U.S. 165).

Mr. Vilella, a college graduate, married with two small children, a civic leader in his Glen Cove, Long Island, community, and a clean criminal record, was convicted and has been incarcerated for almost three (3) years, on a potential maximum term of twenty-five (25) years, for crimes that never occurred, as here demonstrated.

Mr. Vilella, a very powerfully built 38 year old male, was indicted and convicted of attempted murder in the second degree and assault in the first degree with a "tire iron", with no lesser counts being submitted to the jury.

January 15, 1990

The entire uncorroborated testimony of Lady Rasputin as to the event (Exhibit "A"), and the negative X-Ray and Cat-Scan Reports of the Community Hospital at Glen Cove (Exhibits "B-1" and "B-2") is here submitted in support for my assertion that a corpus delicti for these specific crimes does not exist.

In addition thereto, the hospital "Trauma Assessment Record", also made the same day Lady Rasputin was admitted, reveals normal pupils, normal leg and hand reactions and movements, and the highest possible non-coma score.

The hospital consultation report states:

"coherent ... no overt thinking disorder. She is cooperative and fairly verbal. No auditory trouble ..., no delusions. ... Sensories intact. Short term memory good. ... Insight good."

In securing such indictment and conviction the Office of District Attorney Denis Dillon, of Nassau County, concealed from the grand and petit jury the hospital records, including the aforementioned reports.

If you communicate with Dillon personally (262 Old Country Road, Mineola, New York 11501 [516-535-3800]), you will find that, faced with such dramatic hospital records, he does not have a single person who will state that such crimes could have possibly been committed.

Reading the annexed testimony, in conjunction with the hospital reports, a rational person is irresistibly compelled to agree that whatever happened, these specific crimes, as alleged and testified, did not occur even if the victim had the survival powers of the mystic Rasputin.

The Assistant District Attorney involved inundated the petit jury with his own false statements concerning these 'phantom' fractures, and personally represented to the jury that the hospital treated Lady Rasputin for such 'phantom' fractures, when in fact there was absolutely no such treatment recorded by the hospital.

While the State Commission on Judicial Conduct sanctioned this trial judge for participating in a charitable affair (Matter of Harris v. State Comm. of Judicial Conduct, 72 N.Y.2d 335, 533 N.Y.S.2d 48), it did nothing for his part in consciously and deliberately concealing knowledge of the contents of such hospital records from the jury.

January 15, 1990

The conviction based upon these phantom crimes was affirmed (People v. Vilella, 147 A.D.2d 538, 538 N.Y.S.2d 66 [2nd Dept.], leave denied, 74 N.Y.2d 670, 543 N.Y.S.2d 413), although obviously such "repeated", "violent", "tire iron" assault could not have possibly occurred. In affirming, the Appellate Division stated:

"The defendant was convicted of attempted murder and assault first degree, based on his vicious attack on the victim." [emphasis supplied]

I can assure you that the panel at the Appellate Division was fully aware of the fictitious nature of injuries testified to.

At this time, I will not burden you at this time with the other evidence which clearly reveals that Mr. Vilella was not involved and not present when this 'phantom' "tire iron" assault allegedly took place.

When the public prosecutor and the courts, as distinguished from private citizens, contrive and fabricate the existence of crimes, 'Twanna Brawley fashion', you have a scandalous, if not criminal, situation of the first magnitude which should be published.

Your recommendations notwithstanding, the most effective remedy for such "governmental misconduct", in my opinion, is to prescribe hangings by the gonads.

Would you like to see documented evidence of other cases, where there were convictions and incarcerations for fictitious and contrived crimes?

When Professor Dershowitz says "prosecutorial misconduct is rampant" ("Why Do Honest Prosecutors Engage in Misconduct"), I do not believe that even he appreciates the extent of same.

This past summer, I spent forty (40) days at the Federal Medical Facility in Rochester, Minnesota, and twenty (20) days at the Federal Correctional Facility in Foley Square, and the stories I heard and personally verified, makes public awareness a must.

Most Respectfully,

GEORGE SASSOWER

cc: Professor Jay C. Carlisle