

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

19-CR-227-LJV

JOSEPH BONGIOVANNI,
PETER GERACE, JR.

Defendants.

UNITED STATES OF AMERICA,

v.

23-cr-37 LJV

PETER GERACE, JR.

DEFENDANT GERACE'S OPPOSITION TO
GOVERNMENT'S MOTION FOR A GAG ORDER

PRELIMINARY STATEMENT

The accompanying declaration of Steven G. Reszka quantifies that which Mr. Tripi describes as Mr. Cohen's "campaign to try this case through the media and has repeatedly made critical comments about witnesses, the judiciary, evidence, and prosecutors." (Doc 27, 1:23-cr-00037, pp. 1-2). As that declaration makes abundantly clear, the government's "campaign to try this case through the media" has been far more extensive, profound, excoriating, defamatory and effective than anything the Gerace defense team or I personally have done. It appears that the government's position is not that the media should not be used as a tool in this case, but rather

that it should only be a tool used by the government to disparage Mr. Gerace, or to aggrandize Mr. Tripi.

SUMMARY OF THE ARGUMENT

The 1,025 column inches devoted to this case, and the 995.5” of which besmirches, condemns and slams Mr. Gerace has been far more impactful upon the public than the 29.5 column inches that is either neutral or positive for Mr. Gerace. (Reszka declaration at par. 10)

The investigation of this case had been going on for years before Mr. Gerace was ever indicted. Mr. Bongiovanni’s indictment was filed 10/31/19 (Doc 1, 19-cr-227) and superseded in June of 2020 (Doc 46, 19-cr-227). It is undisputed that Mr. Gerace was known to the government as an acquaintance of Mr. Bongiovanni well prior to the 2019 indictment. The government’s choice to wait until Defendant Gerace took a rare vacation to Florida was, I am convinced, calculated to make a massive media splash derogatory to Mr. Gerace.

Articles were generated by the news releases by Mr. Tripi’s Public Information Office for the WDNY, resulting in articles from the Miami Herald and South Florida Sun Sentinel back in February and March of 2021 which declared Mr. Gerace to be “a top figure in one of the nation’s most notorious crime families” (Reszka declaration at par. 9, 13; also par. 20, 21, 22, 24) See also Exhibit A for the articles for March 1, 2021 from the Miami Herald and Sun Sentinel).

These Florida based articles that followed the orchestrated arrest of Mr. Gerace, set the tone for 23 subsequent articles referring to Mr. Gerace as a member of “Italian Organized Crime” or “Buffalo Mob” or “Mob Boss” and/or a defendant in an “Organized Crime Case”, and 11 headlines using those prejudicial terms in the headlines themselves. (Reszka declaration at pp. 9, 10, 11, 12, 13)

It is undisputed that at the time of the arrest, Peter Gerace had a home in Erie County where he slept every night, a business in Cheektowaga where he worked every day, and a son who resided with him who he took to school and extra-curricular activities every day. There is not a shred of evidence that even suggests that Mr. Gerace needed to be arrested in Florida, nor that he has ever evaded legal authorities.

The government's decision to wait until he took a trip to Florida was to orchestrate a very public, very embarrassing arrest where the media was present, and Mr. Gerace was forced to be detained in Florida and be subjected to profound negative media attention facilitated by Mr. Tripi's office, which provided press materials which resulted in the highly inflammatory and prejudicial articles.

I don't see Mr. Tripi objecting to any of that coverage.

The multi-page "spread" in the Buffalo News, with "art" on December 29, 2022 declaring Mr. Tripi to be a "tough as nails prosecutor" protecting society from dangerous criminals, published in the midst of the balance of the 1,025 column inches of government generated press about Mr. Gerace also does not seem to have bothered Mr. Tripi, except the 2.87% of that which is either neutral or favorable to Mr. Gerace. (Reszka declaration at pp. 10, 17).

It is only after the Buffalo News fairly reported in neutral fashion that a federal judge felt His Honor may be technically conflicted out of the case (Text Order at 535, 6/21/23) that Mr. Tripi made his motion for a gag order. (Doc 27, 1:23-cr-00037; Doc 543, 1:19-cr-227)

The Court is asked to consider that the 1,025 column inches of press, 97.13% of which is against Mr. Gerace, plus the broadcast news that is similarly biased by Mr. Tripi, and the

extended and non-quantified media that is present on the internet not only affects Mr. Gerace, but also Mr. Gerace's family, including his minor son. (Reszka declaration at FN#1 to par. 9)

CONCLUSION

For all the above reasons, this Court should not grant the relief sought by the government.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "St M Cohen", is written over a horizontal line.

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