
STATEMENT OF FACTS

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The Federal Prosecutors Office demonstrates a profound willfulness to disregard the Rule of Law and embraces a disturbing 'win-at-any-cost' mindset. Decisions of Prosecutors are relatively unconstrained and subject to weak oversight. The existing jurisprudence meant to ensure honest prosecutorial functioning has no teeth, with courts reluctant or unwilling to invoke their supervisory authority in an effort to sanction and prevent abuse. As such, continuing conversations about prosecutorial power must include discussions on non-existent accountability and unrestrained discretion.

2

Another form of exercising prosecutorial power is "pretextual prosecution". With pretextual prosecution, instead of first discovering that a crime has been committed and identifying the culprit, a prosecutor will start by picking a man and then accusing him of some offence. This strategy is known as intelligence driven prosecution.

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Courts helped create the environment in which many prosecutors brazenly flout the rules governing fair trials and ensuring due process of law because they understand that there are virtually no consequences for bad behavior. Prosecutorial immunity is a significant causal factor of prosecutorial misdeeds and their increase in power.

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The Federal Prosecutors handling my case used capricious and corrupt tactics that measured up to a cognizable level of abuse of power of executive action on substantive due process grounds, raising a particular need to preserve the constitutional portions of constitutional claim. Using harmless error analysis to affirm convictions tainted by procedural and constitutional violations allows the public to presume there is real comportment with constitutional requirements. *Marbury v Madison*, U.S. 137(1803) states that in any conflict between the Constitution and Law passed by Congress, the Constitution must always take precedence. The Prosecutor, Judge and my own Defense

Counsel are all guilty of railroading my case and violating my right of due process.

5

The Probation Office acted other than as an Arm of the Court. They acted with the prosecution changing my plea many months after I signed it and the court accepted it. The Probation Office decided after the preliminary pre sentence investigation was done, that they wanted to amend it. They along with the prosecution office changed our plea deal just a few days before my sentencing. The Probation Office along with Judge Viken acted as surrogate prosecutors or opposing counsel in deciding issues in my case and rubber stamping the process. J. Vincent Romero. "The relationship between Defense Counsel and Probation officer under guidelines, 2Fed Sentencing Rep , 312,314 (1999) ". Judge Viken should not have allowed this change in the plea. "In any significant degree on a promise or agreement of the prosecutor, so that it can be said to be part of the indictment or consideration, such a promise must be fulfilled" Santobello v. New York (1971)."Courts require that any promise in the plea agreement that constitutes a significant part of the defendants indictment or consideration be filled in order to satisfy due process". United States v. Torres Rivas (8th cir 2016)". We also require meticulous fidelity to the plea agreement. " United States v. Collins (8th cir 2016)".

6

The Prosecutor's office must also disclose the identity of any expert witnesses and make all expert disclosures required by Federal Rule of Criminal Procedure 16 no later than 28 days before trial. Pursuant to Rule (26)(a), when "The party fails to comply with Rule 26 (a), the party is not allowed to use that information or witness to supply evidence on a motion, at a hearing, or at a trial". Judge Viken also allowed a surprise witness to support the afore mentioned enhancements that were not in the original indictment. This was a clear error and resulted in substantial prejudice to me, resulting in many more years to be added to my sentence. The prosecution intentionally and tactically waited months to do so, to ' win at all costs'. The Prosecutor abused their power and Judge Viken allowed the Prosecutor to use it as an instrument of oppression.

7

My Attorney should not have allowed any of this to take place. An Attorney's duty to test the government's case requires that defense counsel had done some investigation

into the prosecution's case and into various defense strategies. He should have at least argued Santabello v. NY. He also shouldn't have allowed the expert witness. He failed professional standards of his oath. His unexamined defense strategy is not worth crediting.

8

The Court's decision prevented him from obtaining a rebuttal expert, thus denying me the Sixth Amendment right to meaningfully cross-examine the expert witness. My Attorney also led my family and I to believe that if I filed a 2255 or an appeal that I could get more time so we were scared to do so after going through such a corrupt and broken judicial process. I believe he thought he needed more money to fight for me and he knew my family and I had none. My family never received an itemized bill for his services. He simply took a flat fee of 15,000 dollars from my brother. Two years after my incarceration I was informed by my Case Manager that I had 6,000 in restitution fees and needed to start making FRP payments. Neither the Court nor my Attorney informed me of this. At my sentencing, Judge Vican stated that we will have another hearing on this matter and as far as I know there never was one. Mr. Andrews never informed me other wise.

9

My judicial process as a whole requires a scrutinizing analysis. Judge Vican wholly abandoned his neutral and detached position and acted as a rubber stamp. The Courts role on judicial review is to decide weather due process and determination is supported by 'substantial evidence' and constitutional law. Judge Vican and the prosecutor exercised egregious abuse of power and my own Defense Attorney went along with it. I humbly request your good office's attention in this matter of malfeasance and misconduct. Thank you for your time.

Respectfully, Waylen Block
