



Seeking Justice for Dawn Pasela

seekingjusticeshow@gmail.com

Sent via Electronic Mail

February 27, 2024

Mr. Michael P. Harvey
MICHAEL P. HARVEY CO., L.P.A.
311 Northcliff Drive
Rocky River, Ohio 44116-1344

Dear Mr. Harvey,

We have received and carefully reviewed your letter dated February 24, 2024 and are pleased to respond. In order to respond to your communication comprehensively yet in an organized fashion, our response is divided into several sections: (1) Publicly available records and materials we have consulted in preparation of the series that relate to Mr. Bennett; (2) Documentary support we have relied upon to establish the Viola-Pasela relationship — even taking the extraordinary step of providing you with some of these source materials, even though some are not generally available; (3) A review of the timeline of Dawn’s death; (4) A Point-by-Point response to some of the items in your letter; (5) First Amendment Issues; and (6) Questions we have for Mr. Bennett that we would like him to answer during an upcoming interview.

As an initial matter, your letter makes much of an article on “ChipChick” but our organization had nothing to do with its publication, nor have we been in contact with them. You appear to be threatening legal action because you disapprove of an article disseminated by a separate publication, but have directed your concerns to us. We also note that there is a Change.org petition, a substack article and video by Brian “BZ” Douglas and multiple websites (including FreeTonyViola.com) that discuss your involvement with Dawn Pasela.

If you have contacted any of these entities and disputed any of their statements, or questioned the authenticity of any documents published online, please forward us copies of those communications to/from any organization, so we can determine appropriate next steps in our coverage. As you know, we often cite various sources for information and we would be interested in any communications you have had with those entities. Similarly, we would like to know if you have contacted Yale Law School and taken issue with their characterization of Mr. Bennett’s misconduct, either as presented in their appellate brief or during oral arguments in the United States Court of Appeals for the Third Circuit. If so, kindly forward us any such correspondences, because we are considering quoting that 2023 legal brief in the series.

Additionally, as part of our initial response, please note that you’ve erroneously assumed that Mr. Viola is our primary source of information, and that he is the “only ‘guest’” based on our website and the published trailer. This is an inaccurate assumption. There will be several other people interviewed for our Seeking Justice project. We’re in the process of inviting additional

guests and experts to share their thoughts and beliefs; namely a local attorney, a former FBI agent, among other former law enforcement experts.

To that end, we will publicly share that we welcome anyone who wants to be interviewed who has information to share about Dawn and Dawn's death. Seeking Justice is not entertainment.

Please be aware that the reason we have not yet reached out to Mr. Bennett is that the series has not yet started. However, we are now formally inviting Mr. Bennett to be interviewed as part of the series and would be happy to schedule an interview time with him. We have included some of the questions we propose to ask him. While these lines of inquiry may change based on series content, some areas of questioning are attached as an Appendix.

PART ONE: Sources of Information We've Accessed Concerning Mr. Bennett

We have accessed six primary sources of information the series may quote concerning Mr. Bennett: 1) The Ohio Supreme Court's ruling sanctioning Mr. Bennett; 2) the United States Department of Justice Inspector General Report # 21-055; 3) Mr. Bennett's written statements in court filings in the Mr. Viola criminal prosecution; 4) Filings by the Department of Justice that name Mr. Bennett as a source of inaccurate statements about evidence, and Sections of the appellate brief submitted by Yale Law School's Advanced Appellate Clinic that cite misconduct by Mr. Bennett, in Viola v. Department of Justice, et. al., case number 22-2186, U.S. Court of Appeals for the Third Circuit; 5) Transcripts of Kathryn Clover's sentencing hearing where Mr. Bennett states he was a part of the Mortgage Fraud Task Force; and 6) Oral arguments in the United States Court of Appeals in the Third Circuit and Ohio Supreme Court that discuss Mr. Bennett's misconduct.

For your reference, we are attaching an Appendix with some of the documentation we may place on the screen during our upcoming series. We believe, at this stage of the series, that misconduct by Mr. Bennett is relevant to Dawn's story, and that the proceedings in which Bennett was charged with or admitted wrongdoing are facts that should be disseminated to the public. However, if you dispute the authenticity of any of these documents, please let us know immediately.

In support of these claims, also please find (1) Admissions that both the U.S. Department of Justice and FBI made false statements; and (2) a copy of a court filing indicating that Mr. Bennett is responsible, **Exhibit A**.

In addition, as part of our investigative initiatives, we have been in touch with Attorney Kimberly Corral, who has also assisted us as we prepare for the broadcast of the series.

PART TWO: Documents in Support of the Viola-Pasela Relationship

Our investigative work has never claimed to pinpoint all of the instances in which Mr. Viola met with Dawn Pasela, and no representation has ever been made. For the purposes of our investigative series, we have concluded that:

- Dawn donated funds towards Mr. Viola's legal fees so prosecutors could track defense expenditures;
- Dawn recorded Mr. Viola on multiple instances after his indictment so prosecutors could obtain information relating to defense trial preparation;
- Dawn was in contact with him before his subsequent trial; and
- Dawn had access to federal and state evidence at the Mortgage Fraud Task Force.

In support of this claim, we are relying on: Text messages between Mr. Viola and Dawn, her canceled check, a witness subpoena, affidavits from Dawn's parents they heard Dawn speaking with Mr. Viola and an affidavit from the Chairman of the Task Force, Donald Cleland, that Dawn was given evidence on hard drives and told to take those home, please see **Exhibit B**.

PART THREE: Dawn Pasela's Scheduled Trial Testimony Timeline & Subsequent Death

Please note that you've erroneously assumed that we believe Dawn was found dead the day she was supposed to testify on behalf of Mr. Viola. We are reproducing below an abbreviated version of what we believe is the timeline of Dawn's death as it relates to her appearing as a witness.

April 18, 2012

Dawn Does not Appear

Dawn does not appear in court to testify as scheduled, prompting Judge Gaul to issue a "bench warrant" to compel her appearance.

April 20, 2012

Dawn calls Judge Gaul

Dawn contacts Judge Gaul and says she is afraid to appear and that she was threatened with arrest and imprisonment if she came to court. Because the court had ordered closing arguments, no further testimony was permitted and the Court recalled the bench warrant for Dawn.

April 23, 2012

Dawn has a job interview and she's looking forward to moving ahead in her life.

April 24, 2012

Alcohol Dumped

In preparation for testifying, while visiting Dawn's apartment, Ed and Karen dump out all of the alcohol in the house to protect Dawn from drinking too much. They are concerned about her mental health, considering she was stressed about testifying. They say the mood in the apartment that night was "quiet."

April 25, 2012

4:39 am: Outgoing Call on Samsung Flip Phone

Cell phone records indicate there was an outgoing call placed on an unknown Silver Samsung Flip Phone at 4:39am — the day her body was later discovered by the Parma Police Department. This is suspicious, considering Dawn's time of death was roughly 18-24 hours before her body was found, and the owner of the phone is unknown.

April 25, 2012

5:44 pm: Wellness Check Called for Dawn

Because Dawn had not appeared in court and hadn't been in contact with her family since the day before, her father calls in a wellness check with the apartment staff after arriving at Dawn's apartment. Six police officers arrive, even though two officers are the typical number for wellness checks.

April 25, 2012

5:48 pm: Dawn is found deceased. Officially pronounced dead at approx. 6:15 pm.

The officers who respond to the wellness check discover Dawn's body inside the apartment in her dining room. She is deceased, with signs of lividity indicating she most likely was dead 18-24 hours before the police arrived. The family comments that the clothing Dawn is wearing was the same as the night before, indicating again that she most likely died the night before.

Sources:

- [Evidence Locker](#) Inside the Mind
- [Justice for Dawn](#) Justice for Dawn
- [DAWN MARIE PASELA](#) Cleveland.com
- [Unreliable witnesses, suppressed evidence, and a dead whistleblower: The Prosecution of Tony Viola](#) BZ Reading
- [Evidence Locker](#); FreeTonyViola.com

Beyond the links above, attached please find documentary support in **Exhibit C** for the creation of the timeline, including:

- A witness Subpoena to Dawn Pasela;
- A copy of the relevant portion of the Cuyahoga County Common Pleas Court Case docket in Mr. Viola's state prosecution; and,
- Affidavits from the Pasela family about Dawn's anticipated testimony.

If you dispute the authenticity of any of these documents, let us know at once. However, we reviewed your letter and believe our timeline is correct. Again, if other journalists have reported otherwise, we suggest you contact them directly, as we are not responsible for the content creation of outside parties.

PART FOUR: Point-by-Point Response

In response to your letter, we want to emphasize that we are not producing a series about the criminal prosecution of Mr. Viola, but a series about the suspicious death and presumed murder of Dawn Pasela. To the extent we are examining court rulings in Mr. Viola's criminal case, they primarily involve voice recordings that Dawn Pasela made or issues concerning evidence, because Dawn was involved in the chain of custody of evidence.

In your letter, on page 6, you state the following:

As part of the trial preparation, the FBI Agent assigned to the federal trial learned of the one recording from one of the agents working on the state prosecution case. Mr. Bennett immediately instructed the FBI agent to obtain a copy of the one recording and listen to the recording to determine if it needed to be produced. The FBI Agent advised Mr. Bennett that the sound quality of the record was so poor it was not audible. Mr. Bennett advised the Agent to make copies of the one recording anyway and provide it to all defense counsel. Mr. Bennett never listened to the one recording to this day.

Based on our initial assessment, this admission contradicts earlier statements by Mr. Bennett that he had no information about Ms. Pasela, Docket # 170, Viola v. Department of

Justice, 15-cv-242, WD Pa. and also confirms that Mr. Bennett was aware that Dawn Pasela made voice recordings in which the government interfered with Mr. Viola's trial preparation.

In addition, we have written confirmation from Mr. Viola's lawyers that the government never turned over ANY voice records, please see **Exhibit D**.

This statement also raises troubling issues as to why Mr. Bennett failed to (1) inform the defense about the undercover operation; and (2) report this wrongdoing to the proper authorities, Ohio R. Professional Conduct 8.3 and 28 CFR § 0.29c - Reporting allegations of employee misconduct. Notably, your letter indicates that Mr. Bennett directed the FBI to provide the voice recording to Mr. Viola, but the production of evidence is a duty of a prosecutor, not an investigator.

Finally, we are aware that multiple entities have tried to obtain these voice recordings for many years. The notion that the sound quality was poor is not relevant – experts may have been able to improve the sound quality or remaster the recordings.

As part of our investigation, we are asking you and Mr. Bennett to join our efforts to secure the release of any and all voice recordings made by Dawn Pasela.

Also, in addition to this issue, kindly note these additional responses:

- On the first page of your letter, you state that “it can be assumed you will make the same or similar false and defamatory allegations.” We take issue with your assumption and assure you that we carefully research all statements we release, and conduct exhaustive research before disseminating any information.
- We reviewed your procedural history of the Mr. Viola prosecution and wish to note that newly discovered evidence in the Yale litigation in 2022 and 2023 – and the potential release of tapes made by Ms. Pasela or other materials – may undermine earlier rulings adverse to Mr. Viola. We are weighing and seeking out new evidence concerning Dawn Pasela, and will review any new information as it is received.
- We believe there is great public interest in the case being handled by Yale Law School, partially because it's extraordinarily rare that both the FBI and Justice Department each admit making false statements about evidence, and because the case involves voice recordings made by Dawn, as well as the potential release of significant new evidence, please see Yale Law School brief in Viola v. Department of Justice, et. al., case number 22-2186, U.S. Court of Appeals for the Third Circuit, **Exhibit E**.
- Your letter did not address the current and ongoing Yale litigation, or why several courts have appointed counsel to assist Mr. Viola, but we find that the involvement of Yale Law School on a Pro Bono basis lends credibility to Mr. Viola's claims.
- Your letter indicates that Mr. Bennett was unaware of key facts concerning Ms. Pasela, but we are confident that Dawn Pasela was threatened by powerful government officials before her death and we are also investigating reports of threats and intimidation (for instance, the affidavit of her parents and Nick Myles). We have not made a decision to

include this information in any episode but there may be a relevance – Dawn was threatened, her parents were threatened, witnesses also claim they were threatened by Mr. Bennett or his colleagues, **Exhibit F**.

- Your attempt to disassociate Mr. Bennett from the activities and misconduct that took place at the Task Force are contradicted by Mr. Bennett’s own statements on the record in multiple proceedings. For instance, Mr. Bennett stated that “I will make it clear that, as came out during trial, our office is part of the mortgage fraud Task Force with Cuyahoga County,” page 72 Kathryn Clover sentencing, USA v. Clover, 10-cr-75, N.D. Ohio, and that he was “coordinating” his prosecutions with the task force, January 11, 2011 hearing transcript, USA v. Viola, 08-cr-506. Moreover, the exact structure of the task force is not an issue as much as evidence supporting that Dawn accessed federal evidence. FBI Agent Jeff Kassouf testified all evidence in the Mr. Viola case was brought to the Task Force location and the fact most relevant to our investigation is confirmation that Dawn handled and accessed state and federal evidence in cases in which Mr. Bennett prosecuted.
- Your letter indicates that Mr. Bennett was largely uninvolved with Dawn Pasela’s activities. As more fully set forth in Appendix B, we note that you submitted a court filing contesting the factual statements by the Pasela family in 2014, indicating you have some personal knowledge of the circumstances surrounding Dawn Pasela’s employment.

PART FIVE: First Amendment Issues

For the purposes of our series, we have considered Mr. Mark Bennett a “public figure” as defined in 1964 by the Supreme Court in New York Times Co. v. Sullivan, 376 U.S. 254, which introduced the framework for the disparate treatment of public and private plaintiffs in libel cases. The Supreme Court has defined public figures as those who hold government office and those who have achieved a role of special prominence in the affairs of society by reason of notoriety of their achievements or vigor and success with which they seek public's attention.

We have viewed multiple news articles and press conferences where Mr. Bennett was quoted by journalists and clearly sought the limelight and enthusiastically participated in:

- A media-covered press conference; and,
- An Awards ceremony for prosecuting Mr. Viola and others, **Exhibit G**.

In addition to Mr. Bennett actively seeking the limelight when he was a powerful government official, his misconduct as a powerful government official was widely covered in the news media, including but not limited to these outlets:

- Reuters – Multiple articles including <https://www.reuters.com/legal/legalindustry/ohio-supreme-court-sanctions-ex-us-prosecutor-sexual-misconduct-case-2023-12-29/>

- Law360 --
<https://www.law360.com/articles/1604965/ex-prosecutor-fights-suspension-rec-for-sex-harassment>
- Cleveland.com --
<https://www.cleveland.com/court-justice/2023/12/ohio-supreme-court-suspends-former-federal-prosecutor-accused-of-sexually-harassing-intern.html>
- WKBN TV in Youngstown --
<https://www.wkbn.com/news/27-investigates/27-investigates-former-assistant-us-attorneys-possible-disbarment-over-sexual-harassment-allegations/>

Even today, Mr. Bennett's own website has links to various news articles in which he is quoted, supporting the claim that Mr. Bennett solicits and promotes his own media appearances as a public figure:

<https://bennettlegalfirm.com/approach>

If you disagree with the proposition that Mr. Bennett is a public figure who is open to online discussion, please let us know why such is the case.

CONCLUSION

Despite the fact that you are critical of an investigative series that has yet to start, we still carefully reviewed your letter. We pride ourselves on accurate and trustworthy investigations and have spent the better part of a year on our work. By making available so many documents and attachments, we hope you view our response as a good faith response.

In addition, we want to reiterate and invite Mr. Bennett to be interviewed, but also to join our calls for a proper investigation into the death of Dawn Pasela. If Mr. Bennett is a man of integrity, he will feel empathy for Dawn's family and do the right thing by issuing a public statement encouraging a new investigation into all that's taken place. We look forward to hearing from you shortly.

Very Truly Yours,

ANDREA N. CIPRIANO
/s/ Andrea N. Cipriano

ALEXI M. KAKIS
/s/ Alexi M. Kakis

DANA POLL
/s/ Dana Poll

APPENDIX A — Quotations from Select Government Documents

As part of the series, we are considering highlighting the following portions of court rulings or government documents or oral arguments in the Ohio Supreme Court about Mr. Bennett's misconduct. If you contest the authenticity of any of these reports or decisions, explain what you believe is false and why:

I. **The Ohio Supreme Court's opinion sanctioning Mr. Bennett for "widespread" wrongdoing, including his conditioning professional assistance to an intern on her willingness to provide sexual favors, Disciplinary Counsel v. Bennett, Slip Opinion No. 2023-Ohio-4752.** The Court's ruling detailed instances of sexual assault, including Mr. Bennett placing his hand on the intern's breasts, and utilized evidence from a forensic analysis of Mr. Bennett's government computer to retrieve messages from Mr. Bennett stating he

- "Can[']t wait to have it," in reference to the intern's butt, which he informed her "was looking wide for a while there." He later texted her, "Damn [you] for making me think about it again," with "it" being a reference to sexual activity, then asked "Why do you haunt my dreams?"
- Looked up a co-worker's skirt or was "looking at [her] butt" on different occasions
- Texted an intern about her sex life. Even though Mr. Bennett was blocked on Snapchat, Facebook and even though his cell number was blocked, Mr. Bennett continued making unwanted sexual advances, causing the intern to relocate to an office 100 miles away.
- When told to stop, Mr. Bennett refused, stating he could do whatever he wanted: "Oh, I play poker with judges every Thursday and I'm so well connected."

Chief Justice Sharron Kennedy wrote that "Bennett's actions tainted the public trust. His conduct ... undermined the credibility of and public faith in government, impeded the common good, and were not in the best interests of the American people ... he was also a representative of the United States and possessed all the powers that comes with that position. His actions demeaned both the legal profession and his government office."

II. **The Department of Justice Inspector General Investigation 21-005** also detailed serial wrongdoing by Mr. Bennett, including "physically and verbally harassing" women for two decades, demanding nude photos from colleagues, committing "sexual imposition", insisted on "a sexual favor in exchange for a letter of recommendation" for an intern because he was excited about the "size" of her "buttocks." Mr. Bennett was caught "deliberately running his arm across the breast," of a colleague and purchased jewelry for married coworkers. Mr. Bennett also lied to investigators about utilizing a myriad of social media platforms to troll women online – Mr. Bennett used Snapchat, Facebook messenger, Twitter, Skype messages and other means to solicit sex. Mr. Bennett falsely

claimed he didn't log onto social media sites from his government computer, saying he "completely avoided those sites" because he feared his computer could be infected with "viruses." A forensic analysis of Mr. Bennett's computer showed he logged into Facebook and Twitter "more than 25 times" and made a number of false statements to investigators.

- III. **Both the FBI and Justice Department also said they relied on Mr. Bennett, who apparently made material misrepresentations about evidence in the Viola criminal case, Viola v. U.S. Department of Justice, et. al., 15-cv-242, WD Pa, document numbers 99 and 164, and Yale Law School Appellate Brief.**

- IV. **Mr. Bennett admitted his wrongdoing in Disciplinary Counsel case number 2022-034 and we may cite that case, along with Ohio Supreme Court oral arguments about Bennett's conduct, <https://ohiochannel.org/video/supreme-court-of-ohio-case-no-2023-0471-disciplinary-counsel-v-bennett>**

APPENDIX B – Potential Questions to Ask Mr. Bennett in an Upcoming Interview

- 1) You wrote in an email that you did not possess an FBI 302 interview summary with a lender who testified at both of Mr. Viola's trials, but Mr. Viola presented a copy of this piece of federal evidence at his second trial and claims it assisted in his acquittal.
 - Why were you unaware of this FBI interview?
 - How did Mr. Viola obtain the interview?
 - Is it possible that there was other exculpatory evidence not produced before Mr. Viola's first trial?
- 2) In 2015, you filed a pleading in which you contested the inclusion of sworn statements by the family of Dawn Pasela, and asked that their affidavits be struck from the record.
 - What about the statements made by Dawn's family do you believe to be inaccurate?
 - We have attached your pleading, as well as the FBI 302 referenced in question 1, as **Exhibit H**.
- 3) You wrote in a court filing that Kathryn Clover committed perjury at Mr. Viola's first trial, and at his second trial, Clover stated her plea agreement was coerced. At the Clover sentencing hearing where you spoke, Prosecutor Dan Kasaris claimed Ms. Clover assisted in three dozen criminal cases.
 - Are you aware of the Clover-Kasaris affair?
 - Do you think you should provide a statement to Mr. Viola's attorneys that the government should withdraw that testimony at Mr. Viola's federal trial?
- 4) What was it like working at the Mortgage Fraud Task Force? What did your day-to-day duties look like?
- 5) Was it common practice to have someone within the office, who is not a trained investigator, wear a wire to obtain evidence?
 - Was it common practice to give staff money, to fund a personal check, to look into bank information about a defendant?
- 6) Can you explain the admissions by the FBI and Department of Justice that materially false statements were made about evidence in Mr. Viola's case?
- 7) Why do you believe Yale Law School accepted Mr. Viola's case?
- 8) Why do you believe Mr. Viola was acquitted at his subsequent trial?
- 9) What do you think of the Mr. Don Cleland and Mr. Nick Myles affidavits?
- 10) Are you willing to waive privacy / sign a release allowing records requests?