

Attached please find a Blog Post concerning the destruction of evidence by the FBI, admissions of lying about evidence and supporting documents.

Thank you for taking a look!

Newly Obtained Records confirms the FBI Destroyed Evidence in Tony Viola's Criminal Case, while Disbarred Federal Prosecutor Mark Bennett Now Admits he possessed voice recordings made by Dawn Pasela

- Records obtained in July, 2024 detail the destruction of files and evidence during pending court proceedings, despite court orders to produce records and voice recordings
- FBI and Justice Department earlier admitted lying about evidence, see Viola v. U.S. Department of Justice, et. al., case # 15-cv-242, WD Pa and # 22-2186, U.S. Court of Appeals for the Third Circuit, brief by Yale Law School.
- Disbarred federal prosecutor Mark Bennett now admits he was aware of voice recordings made by Dawn Pasela – who wore a wire and recorded defense trial strategy sessions. Previously, in response to a court order to produce these recordings, Bennett vociferously denying such tapes existed
- FBI Agent Jeff Kassouf implicated in evidence destruction, illegal voice recordings

For Immediate Release

Cleveland, Ohio – August 2, 2024 -- FreeTonyViola.com announced today that it obtained documents from the FBI detailing the destruction of evidence during its prosecution of Tony Viola, who was convicted and imprisoned for a decade, then subsequently exonerated at a second trial. Newly obtained records detail the “disposing of the documents by shredding and discarding” per a 2/5/2018 email, produced by the FBI on July 18, 2024. Some documents “associated to the [redacted] Viola trial have been separated and secured,” but so-called INVESTIGATIVE materials were destroyed. Extensive redactions make it difficult to ascertain exactly what documents are considered “trial” records versus “investigative” records. This latest bombshell about the destruction of evidence follows a litany of wrongdoing concerning evidence in cases prosecuted by a multi-jurisdictional Mortgage Fraud Task Force.

Following receipt of the documents, which are available in the FreeTonyViola.com Evidence Locker, an appeal to the Justice Department's Office of Information Policy was filed, asking the Justice Department to inform the federal courts about the evidence destruction, and objecting to all redactions. Both the FBI and Justice Department have repeatedly redacted records and documents or simply refused to provide information, citing fake concerns about “privacy.” These “privacy” claims are undermined by the fact that FBI Agent Jeff Kassouf testified at multiple public trials and Mark Bennett actively sought the limelight while prosecuting mortgage fraud cases, appearing at press conferences, in press releases and even receiving an award for prosecuting Tony.

The Suspicious Death of Dawn Pasela

Born in 1985, Dawn graduated at the top of her class at Cleveland State and at Cuyahoga County Community College, and was hired by Prosecutors Dan Kasaris and Mark Bennett as Office Manager of a multi-jurisdictional Mortgage Fraud Task Force. One of the cases 1,000 cases prosecuted by the Task Force was that of real estate broker Tony Viola, who was indicted in both state and federal court for stealing \$46 million in what prosecutors claimed was the “nation’s largest mortgage fraud case.” Tony never engaged in any mortgage origination, lending, underwriting or processing and never borrowed any funds himself, and maintained his innocence. When Bennett and Kasaris discovered their case against Tony was riddled with factual errors, they became concerned their high-profile case was about to fall apart. Instead of dismissing the case, they took the extraordinary step of directing Dawn to pose as paralegal working with local defense attorneys on similar cases, then offer to assist Tony’s defense. Dawn recorded a series of post-indictment conversations so prosecutors could obtain confidential defense trial strategy information. Kasaris and Bennett also ordered Dawn to donate funds towards Tony’s legal fees so they could use her cancelled checks to identify the law firm’s bank account. During this undercover operation, Dawn became concerned that these actions were wrong and that prosecutors were withholding key evidence in many Task Force’s prosecutions. Dawn offered to testify about prosecutorial misconduct but never made it to court. She was then found dead in her apartment under suspicious circumstances, details at www.JusticeForDawn.com.

Background – Admissions of Lying about Evidence

In 2015, Tony filed suit against the Justice Department and the Task Force, alleging that prosecutors Bennett and Kasaris, along with FBI Agent Jeff Kassouf, shifted exculpatory evidence between locations and jurisdictions to hide it before his first trial. The government initially claimed that the Task Force was a purely local endeavor, and the federal government was not responsible to search for evidence stored at the Task Force, or for any misconduct that took place there. Those statements were contradicted by the government’s own documents, which showed that the FBI repeatedly forwarded federal evidence to the Task Force location, and that the Task Force was federally funded and staffed by multiple federal agencies. Because the government’s own documents contradicted the government’s statements in its court pleadings, the Justice Department was ordered to conduct a new search for records, which resulted in both the FBI and Justice Department each admitting they made false statements about evidence in Tony’s case. Years of additional litigation followed, Viola v. Department of Justice, et. al., case number 15-cv-242, W.D. Pa. In that same litigation, FBI Agent Kassouf admitted listening to tapes made by Dawn Pasela, the Task Force’s Office Manager, who was ordered to secretly record defense trial preparation sessions. According to Agent Kassouf, he could not produce those tapes because he sent them to the Task Force location.

In 2021, attorney Jaye Schlachet stated that his client and government witness Kathryn Clover, who had an affair with Prosecutor Dan Kasaris, was allowed to access and destroy evidence inside the Prosecutor’s Office. According to Schlachet, Clover’s “attempt to destroy evidence ... was

done for the purpose of defending against her own criminal prosecution and not to impede” Viola’s defense, Viola v. Clover, CV-20-936897, Cuyahoga County Common Pleas Court.

In 2022, Task Force Chairman Donald Cleland stated under oath that he directed Ms. Pasela to remove hard drives from the Task Force location for storage at her home. These hard drives, containing evidence in over 1,000 criminal cases, later went missing, according to Cleland.

Later in 2022, the United States Court of Appeals appointed The Yale Law School Appellate Clinic and the Law Firm of Wiggin and Dana to represent Tony Viola on a Pro Bono basis in Viola v. Department of Justice, et. al., case number 22-2186, U.S. Court of Appeals for the Third Circuit, Yale Law School Appellate Brief uploaded in the FreeTonyViola.com Evidence Locker.

Mark Bennett’s Firing and Disbarment Proceedings

Mark Bennett’s wide ranging criminal activities throughout Tony Viola’s criminal proceedings includes

- Directing his Office Manager, Dawn Pasela, to illegally record a series of post-indictment conversations with Tony so prosecutors could obtain confidential defense trial strategy information, then failing to turn over the recordings made by Ms. Pasela, in violation of Federal Rule of Criminal Procedure 16.
- Covering up an affair between Prosecutor Dan Kasaris and government witness Kathryn Clover while Clover testified in criminal cases, then knowingly using Clover’s perjured testimony – see Bennett admission, USA v. Clover, 10-cr-75, ND Ohio, Docket # 46 and Clover PSI report, where Bennett claimed it was “in the interests of justice” to use perjured trial testimony in order to “win” the case.
- Lying about the existence of a “conflict of interest” waiver to joint defense by multiple defense attorneys at trial, when no such conflict waiver exists, Viola v. Bennett, Viola v. Bennett, No. 17-cv-456, ND Ohio.
- In 2020, Bennett was fired by the Justice Department for serious misconduct, see Inspector General Report Number 21-005 and Disciplinary Counsel v, Bennett, # 2022-034.

According to Ohio Supreme Court Chief Justice Sharon Kennedy, Bennett is not fit to practice law because “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,” Ohio Supreme Court Opinion No. 2023-Ohio-4752.

Bennett Changes his Story about Dawn Pasela

During Tony's criminal proceedings and in post-conviction proceedings, Bennett continuously maintained that allegations that Dawn wore a wire or donated funds toward his legal fees were false, writing:

"Viola claims ... Dawn Pasela secretly recorded conversations with Viola, post indictment. Viola also argues that prosecutors used cancelled checks from Pasela's contributions to Viola's legal defense fund to identify the fund's bank account. ... Viola's claims of government misconduct relating to Pasela are not true ... claims of government misconduct with respect to Pasela is blatantly untrue," USA v. Viola, 08-cr-506, N.D. Ohio, Docket # 483, page 21, 6/16/15.

As of 2024, following his disbarment proceedings, Bennett claims:

"As part of trial preparation, the FBI Agent assigned to the federal trial learned of the 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 ... Bennett advised the Agent to make copies ... and provide it to defense counsel," 2024 letter to Seeking Justice from Attorney Michael P. Harvey.

Multiple defense attorneys have stated in writing that Bennett's statement is false, and that they never received any voice recordings, or they would have raised the issue in court at the time. Moreover, Bennett's 2024 statements constitutes newly discovered evidence that he failed to comply with his constitutional responsibilities to provide the defense with recordings with a defendant's voice on them before trial.

NEXT STEPS IN TONY'S QUEST FOR JUSTICE

Post-conviction litigation in Tony's case has gone on for over a decade, and can be summarized as follows:

- Attorney Kim Corral has called for a new investigation into the death of Dawn Pasela
- Yale Law School submitted its brief about misconduct in Tony's case in early 2023, and, following oral arguments, is awaiting a ruling by the Court
- Tony's investigative team continues to seek all records and evidence in his case, and multiple records cases are pending in the courts
- An ongoing investigation by former FBI Agent Bob Friedrich is continuing. Any leads can be sent to Mr. Friedrich at Bob@FAInvestigations.com
- A \$10,000 reward is being offered for any information leading to the arrest of a suspect in the killing of Dawn Pasela. This reward follows an investigative series by Seeking Justice, details at www.SeekingJusticeMedia.com.

To learn more about what happened to Dawn Pasela, kindly visit www.JusticeForDawn.com. To learn more about the criminal prosecution of Tony Viola, and how he established his innocence at a second trial, or to view any of the documents mentioned in this press release, kindly visit www.FreeTonyViola.com.

ABOUT FREETONYVIOLA.COM: FreeTonyViola.com's mission is to shine a bright spotlight on the 'win at all costs' tactics, prosecutorial overreach and misconduct the United States Department of Justice employs when prosecuting American citizens. Tony Viola was investigated by the Cuyahoga County Mortgage Fraud Task Force, a multi-jurisdictional task force comprised of state, local and federal agencies, and prosecuted in parallel federal and state cases. He lost the federal case but was exonerated at a subsequent state trial. The website, originally created to solicit leads for Tony's investigative team, has evolved into a tool to keep the public informed about critical developments in his case, and to share information that could potentially assist others who have been wrongfully ensnared by our criminal justice system. For additional information, visit <http://www.FreeTonyViola.com>, friend us on Facebook at <https://www.facebook.com/tony.viola.9212>, or follow us on Twitter @TonyViola.

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AFFIDAVIT OF NICHOLAS MYLES

STATE OF OHIO
COUNTY OF CUYAHOGA

I, Nicholas Myles, swear under penalty of perjury that the following statement is true and correct:

1. I was a licensed loan officer in the State of Ohio from approximately 2001 through 2009.
2. I was indicted in State of Ohio v. Myles, 11-cr-557589 and USA v. Myles, 10-cr-75, N.D. Ohio.
3. Prosecutors alleged that I was involved in a mortgage fraud conspiracy with Anthony Viola and others to defraud lenders into making 'no money down' mortgage loans and that various loan applications contained material misrepresentations.
4. Following the indictments, I authorized my legal counsel to negotiate a resolution to these charges.
5. During the criminal proceedings, I met with federal and state prosecutors who worked together through a multi-jurisdictional Mortgage Fraud Task Force.
6. During these interviews, I informed prosecutors Mark Bennett and Dan Kasaris that the state of Ohio Division of Financial Institutions conducted multiple audits of Central National Mortgage, where I was operations manager, and that the company passed all audits.
7. During the investigation, I received a subpoena to provide computers and other documents to Cuyahoga County Prosecutor's Office.
8. I complied with the subpoena and brought computers and documents to Prosecutor Michael Jackson, and he did not pursue any criminal charges.
9. Several years later, Prosecutor Dan Kasaris ordered me to falsely testify that I never brought any computers to the Prosecutor's Office.

10. During interviews with law enforcement, I also informed Mr. Bennett and Mr. Kasaris the following:
- Lenders including Argent Mortgage, Long Beach Mortgage, New Century and Washington Mutual routinely 'waived' guidelines and permitted 'no money down' mortgage loans
 - Any seller funded down payment assistance was disclosed to lenders and was not part of any fraudulent scheme
 - Lender representatives routinely authorized loans that did not meet the lender's guidelines.
 - I fired Kathryn Clover as a mortgage originator at Central National Mortgage because she was committing fraud.
11. Even though I provided honest and truthful information to prosecutors, both Mark Bennett and Dan Kasaris frequently raised their voices during meetings and threatened to prosecute my wife Dyan unless I entered a guilty plea and agreed to testify against Anthony Viola, Uri Gofman and others.
12. Mr. Bennett insisted that I testify that lenders were victims of mortgage fraud schemes, even though I did not believe lenders were victims and that, in many of the charges against me, I was not involved with the loan submissions.
13. While I was in final negotiations to resolve my case, Mr. Kasaris stated that unless I signed a plea agreement at that moment, he intended on returning to his office and indicting my wife Dyan.
14. Upon reading court dockets and reviewing email exchanges between Kathryn Clover and Dan Kasaris, I believe I was prosecuted in order to protect Mr. Kasaris' romantic relationship with Clover.
15. I believe both my plea agreement and trial testimony against Anthony Viola were coerced.



Further I sayeth naught.



Nicholas Myles

Sworn and subscribed in my presence this 09 day of December, 2022.



NOTARY PUBLIC



Leah R Caskey
Notary Public State of Ohio
My Commission Expires
August 26, 2024

[redacted] (CV) (FBI)

From:
Sent:
To:
Subject:

[redacted]
Monday, February 05, 2018 10:48 AM
[redacted] (CV) (FBI)
Re: [redacted] Documents

[redacted]

Thanks for contacting me regarding the [redacted] documents. I have [redacted] consent to dispose of the documents by shredding and discarding. Thanks again.

UNCLASSIFIED

FEDERAL BUREAU OF INVESTIGATION

Electronic Communication

Title: (U) Request destruction of documents Date: 02/26/2018

CC: [redacted]

b6
b7C
b7E

From: CLEVELAND CV-2 [redacted]
Contact: [redacted]

Approved By: [redacted]

Drafted By: [redacted]

Case ID #: 329E-CV-71645 (U) VIOLA, ANTHONY, I REALTY CORP OF AMERICA

Synopsis: (U) Request destruction of documents

Enclosure(s): Enclosed are the following items:

- 1. (U) [redacted] Email permission to destroy documents no longer needed.

b6
b7C

Details:

[redacted] b5 per ECUSA
 [redacted] b6 per FBI, EOUSA
 [redacted] b7C per FBI, EOUSA
 documents belonging to [redacted] which were not associated to the [redacted] or [redacted] can be returned to [redacted]

b6
b7C

The documents associated to the [redacted] VIOLA trial have been separated and secured in the WCC storage area, since the end of the trial. These materials will be saved due to the ongoing appeal.

b6
b7C

On 02/05/2018, writer contacted [redacted] via telephone to request if [redacted] would like the documents returned to him and the documents associated with the ongoing appeal returned to him at a later date. Furthermore, if [redacted] does not

UNCLASSIFIED

UNCLASSIFIED

Title: (U) Request destruction of documents
Re: 329E-CV-71645, 02/26/2018

want these documents would [redacted] provide consent to their destruction (and later destruction of the segregated documents associated with the ongoing appeal once the process is completed).

b6
b7c

On 02/05/2018, [redacted] emailed writer to advise [redacted] had provided "consent to dispose of the documents by shredding and discarding".

b6
b7c

Since these documents (not including the documents segregated for the appeals process) are no longer required to be held via the FOIA process and [redacted] does not want their return, but instead has consented to their destruction, writer is requesting these documents be appropriately discarded.

b6
b7c

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U.S. Department of Justice

*United States Attorney
Western District of Pennsylvania*

*Joseph F. Weis Jr. U.S. Courthouse
700 Grant Street
Suite 4000
Pittsburgh, Pennsylvania 15219*

412/644-3500

September 27, 2019

The Honorable Susan Paradise Baxter
United States District Judge
U.S. Courthouse
17 South Park Row, Room A-240
Erie, PA 16501

RE: Anthony L. Viola v. USDOJ FBI, et al.
Civil Action No. 15-242E

Dear Judge Baxter:

In June 2018, the Court granted summary judgment to the federal defendants in this Freedom of Information Act case, the Federal Bureau of Investigation (FBI) and Executive Office for U.S. Attorneys (EOUSA). The plaintiff, Anthony L. Viola, appealed that ruling to the U.S. Court of Appeals for the Third Circuit, where the appeal remains pending.

In the course of preparing the government's brief on appeal, government counsel discovered that the *Vaughn* index that EOUSA prepared and the government filed with this Court incorrectly described some of the documents at issue. The government has now moved in the Third Circuit to vacate this Court's judgment in favor of EOUSA and remand for further proceedings—in which EOUSA will reprocess the documents at issue and submit a new *Vaughn* index and declaration—once the Third Circuit has resolved the remaining issues in the appeal.

September 27, 2019
Page 2

Because the Third Circuit appeal remains pending, this Court presently lacks jurisdiction, and the government does not ask that the Court take any action at this time. The government is filing this letter simply to avoid any delay in notifying the Court of the inaccuracies in EOUSA's prior submission. The government regrets those inaccuracies and the resulting inconvenience to the Court.

Respectfully submitted,

SCOTT W. BRADY
United States Attorney

/s/ Michael C. Colville
MICHAEL C. COLVILLE
Assistant U.S. Attorney
(412) 894-7337

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 1:10 CR 75
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
v.)	
)	GOVERNMENT'S RESPONSE IN
KATHRYN CLOVER,)	OPPOSITION TO CLOVER'S
)	MOTION FOR EARLY
Defendant.)	TERMINATION OF PROBATION

Now comes the United States of America, by and through its counsel, Steven M. Dettelbach, United States Attorney, and Mark S. Bennett, Assistant United States Attorneys, and hereby respectfully moves this Honorable Court to issue an order denying Defendant Kathryn Clover's Motion for Early Termination of Probation for the following reasons:

- (1) This Court sentenced Clover on September 28, 2011 4 years probation with 10 months of house arrest. Clover has only served 1 year and 4 months - not even half of her sentence;

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- (2) The issue of restitution still needs to be determined. However, the parties agreed in the written plea agreement that the loss caused to the lenders by Clover's fraudulent conduct exceeded \$1 million. Accordingly, Clover will have a substantial restitution amount to pay, and her probation should be continued to allow the Court to oversee her restitution;
- (3) As this Court knows, Clover provided false testimony during the trial of this matter. Because of her false testimony, the government did not move for the full amount of 5K1.1 contemplated by the plea agreement and, as such, Clover's sentencing guideline range 15 to 21 months in Zone D, based on an offense level of 14 with a criminal history category of I. Accordingly, Clover should have been sentenced to a term of imprisonment. However, the Court granted defense's request for a further reduction of levels pursuant to 5K1.1 and placed Clover in a range and zone allowing for a sentence of probation. Clover has already been given an extremely favorable sentence and this Court should not give her the additional benefit of the early termination of her probation;
- (4) As part of her plea agreement, Clover was not prosecuted for her role in other mortgage fraud schemes, nor did the government request that this Court take into consideration at the time of sentencing her involvement in other mortgage fraud schemes as "other relevant" conduct, which would have greatly increased her guideline sentencing range. Clover has already

-3-

been given an extremely favorable sentence and this Court should not give her the additional benefit of the early termination of her probation;

- (5) The federal government did not prosecute Clover for bankruptcy fraud, nor did the Cuyahoga County Prosecutor's office prosecute Clover for filing a false police report based on her false statements regarding the loss of her diamond ring. Clover has already been given an extremely favorable sentence and this Court should not give her the additional benefit of the early termination of her probation; and,
- (6) The Cuyahoga County Prosecutor's office did not prosecute Clover for her involvement in the companion state prosecution of this mortgage fraud scheme, or for her involvement in various other mortgage fraud schemes. Clover has already been given an extremely favorable sentence and this Court should not give her the additional benefit of the early termination of her probation.

-4-

For the foregoing reasons, the United States respectfully moves this Honorable Court to issue an order denying Defendant Kathryn Clover's Motion for Early Termination of Probation.

Respectfully submitted,

STEVEN M. DETTELBACH
United States Attorney

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DEPARTMENT OF JUSTICE | OFFICE OF THE INSPECTOR GENERAL

INVESTIGATIVE SUMMARY | 21-005

Findings of Misconduct by an Assistant United States Attorney for Sexually Inappropriate Comments to Multiple Individuals, Inappropriate Touching of an Intern's Breast, and Lack of Candor to the OIG

The Department of Justice (DOJ) Office of the Inspector General (OIG) initiated this investigation upon the receipt of information from the Executive Office for United States Attorneys (EOUSA) alleging that an Assistant United States Attorney (AUSA) may have physically and verbally sexually harassed an Intern in the United States Attorney's Office (USAO), including deliberately running his arm across the Intern's breast without her consent.

During the course of the investigation, the OIG found indications that the AUSA also made sexually suggestive comments to three other individuals, including another AUSA, a Federal Bureau of Investigation (FBI) Forensic Analyst, and a U.S. Postal Inspection Service (USPIS) Postal Inspector. In addition, the OIG found indications that the AUSA lacked candor during an OIG interview.

The OIG investigation substantiated the allegations that the AUSA engaged in sexually harassing conduct by making sexually inappropriate comments to the USAO Intern, the AUSA, the FBI Forensic Analyst, and the USPIS Postal Inspector, all in violation of federal regulations regarding sexual harassment and employee conduct, as well as in violation of DOJ policy prohibiting sexual harassment in the workplace. The OIG further concluded that the AUSA inappropriately touched the Intern's breast, in violation of state law. The OIG further found that the AUSA lacked candor in his OIG interview, in violation of DOJ policy.

Federal and state criminal prosecution of the AUSA was declined.

The OIG has completed its investigation and is providing this report to the EOUSA and DOJ's Office of Professional Responsibility for appropriate action.

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Unless otherwise noted, the OIG applies the preponderance of the evidence standard in determining whether Department of Justice personnel have committed misconduct.

Posted to oig.justice.gov on November 16, 2020

BB

I Bryan Butler, DOB January 3, 1980, was advised of the nature of the investigation by Investigator Robert Friedrich, and make the following statement:

I met Kathryn Clover (known to me as Katie) in grade school. We went to high school through our sophomore year at Talawanda High School in Oxford, Ohio. I never dated Katie in school, but we exchanged greetings and made small-talk in the school hallways. The second semester of my sophomore year I moved to Hamilton County. I believe this was in 1998. After graduation I worked with my stepdad cleaning carpets for about 20 years.

Katie and I got back together again through Facebook in 2015. We had a mutual friend named Chris Evans.

Katie and Chris both commented on a post I made and subsequently Katie messaged me. I responded and asked Kathy where she was living. She replied that she was back in Oxford, but she travels between Miami and New York. She said the reason she was living at home was because her mother had Alzheimer's.

I believe my first date with Katie was in November 2015 before Thanksgiving. I picked Katie up at her home in Oxford, Ohio where she was living with her parents. Her parents were at home when I arrived, and I met them. Two weeks later in November 2015 I received a call from Katie to meet her in Houston Woods State Park. I characterized myself as a "observant guy" and noticed that Katie would constantly pick up her phone and then put it down. I asked her why she was so secretive with her phone. Katie responded, "I didn't want to tell you, but I have a stalker who was a boyfriend" or words to that effect. I told her that if she had a problem that I could take care of it for her. Katie responded that I could not get involved because her ex-boyfriend was named Dan Kasaris and very dangerous. She further elaborated that Dan was a county prosecutor in Cuyahoga County. She said that Dan would not leave her alone and was infatuated with her.

A couple of weeks later in December 2015 I met Katie again in Houston Woods. She confided in me about her past. She said she had worked for a modeling agency, stole the clientele, and opened up her own agency. A short time later she turned it into a brothel. Katie never told me where the modeling agency was located. She said the brothel was raided which was how she got in trouble.

BB

She then talked about her former husband, Matt Fairfield. She told me Matt was serving a life sentence and further he was abusive. He would have friends over and watch them rape her. Katie went to a prosecutor in regards to domestic violence and met Dan Kasaris. She said the first time they met it was very professional but by the third time they were sleeping together. Katie said that sex with him was great for his age. She said she felt comfortable with him, and it was a way to have him on a string. She said they broke up after the trial, and he was stalking her. Katie said she was sexually involved with Dan Kasaris from the time she met him until at least the time she began going out with me.

The next time Dan's name came up was a few days later. I was at Katie's house. She was taking a shower. I was in her bedroom when her phone went off right next to me. I picked up the phone and saw the name Dan Kasaris. I recall this was in December 2015. It was then I found out that Katie was lying about her ending her relationship with Dan and about him being a stalker. There were many messages between the two of them. One of which I recall said, "can we meet?" I also saw a message from Dan asking, "does he know?" I think this meant me. Another message said, "how long can we keep this from him" or words to that effect. Dan also said they needed to meet, he loved her, missed her and cannot wait to be with her again. The messages on her phone went back and forth.

I saw a personal journal which belonged to Katie in her bedroom. I started to read her journal. It did say she had been sleeping with Dan. She mentioned how awesome their sex life was and how she hated being away from him. When Katie came back into the room, I confronted her. She tried to minimize her relationship with Dan telling me that she was trying to get out of the relationship and she had made a big mistake.


I also saw the name Tony Viola in her journal and asked her about him. Katie admitted they were in real estate in Cleveland. She further admitted that she stole Tony's laptop and burned it in a field. She also said that she had stolen paper documents from Tony and after shredding them she bagged them up and threw them away in different neighborhoods.

In January I started to back out of my relationship with Katie. This was right after I had an accident on January 3, 2016, which is my birthday. We had gone to Dave & Buster's in Springdale, Ohio, and we both had several drinks. When I returned to Oxford, I was stopped by an Oxford Police Officer and cited for DUI. This was the last time I saw Katie, although I spoke to her on my cell phone infrequently.

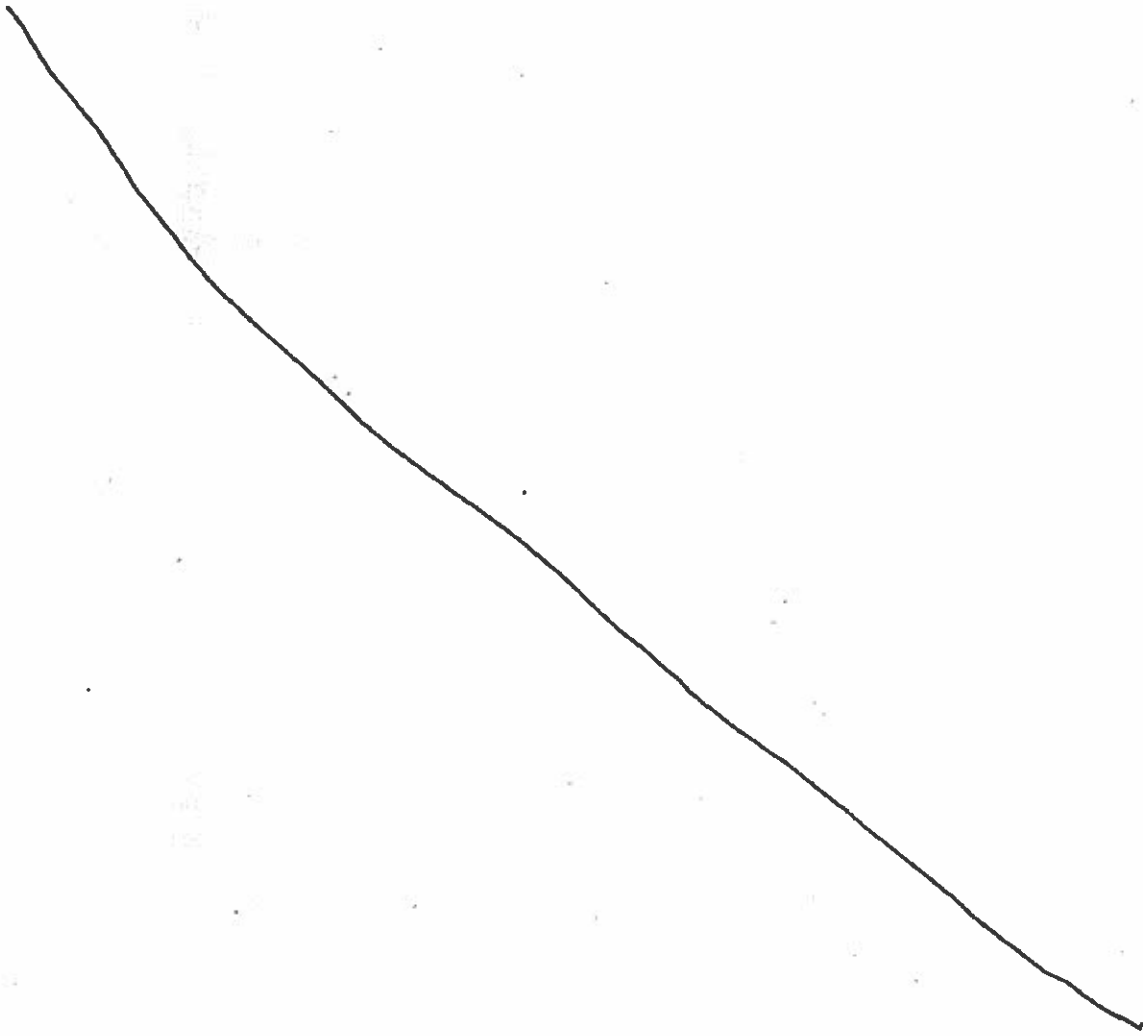
BB

In the middle of March 2016 I received a Restraining Order. I was to have no contact with Katie. I was arrested on April 22, 2016 for Aggravated Vehicular Assault. This was regarding the accident I had on January 3, 2016. The so-called accident was no more than a minor scrape on her car, there was no impact. The incident happened in Springdale, Ohio. The only reason I was pulled over when we arrived in Oxford was because Katie had called her brother and told him I had kidnapped her and her car. I could not make bond and was held in jail for approximately seven months. I went on trial and was acquitted in a day and a half.

I have read this page and two others. To the best of my recollection my statement is the truth.

Signed: 
Date: 7-28-2020

Witness: Robert S. Friedrich
Date: 7/28/20



BB

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

ANTHONY L. VIOLA,

Plaintiff-Appellant,

v.

U.S. DEPARTMENT OF JUSTICE, FEDERAL
BUREAU OF INVESTIGATION; U.S. DEPART-
MENT OF JUSTICE, EXECUTIVE OFFICE FOR
U.S. ATTORNEYS; CUYAHOGA COUNTY
MORTGAGE FRAUD TASK FORCE; and
KATHRYN CLOVER,

Defendants-Appellees.

No. 18-2573

**FEDERAL DEFENDANTS' MOTION TO EXPAND THE SCOPE OF
THE PARTIAL REMAND**

In this Freedom of Information Act (FOIA) action, plaintiff Anthony L. Viola seeks records from the Federal Bureau of Investigation (FBI), the Executive Office for U.S. Attorneys (EOUSA), and the Cuyahoga County Mortgage Fraud Task Force. In October 2019, counsel for the federal defendants discovered that the *Vaughn* index submitted to the district court in support of EOUSA's withholdings contained inaccuracies. The federal defendants therefore requested a partial remand to allow EOUSA to reprocess responsive records and submit a new *Vaughn* index and declaration to the district court. The other parties to this appeal did not oppose the motion, and this Court granted it on October 31, 2019.

When EOUSA reprocessed the responsive records on remand from this Court, it referred to the FBI a number of records for which the FBI was the custodian. When the FBI received those records, it discovered that they had not been processed during the initial phase of district court litigation. The FBI investigated why the records were not initially processed and found that, when it had initially searched for and gathered records, it had inadvertently failed to obtain all portions of the responsive records. The FBI thus determined that, in addition to the records referred from EOUSA, it must now process the previously unprocessed responsive records within its own investigative files. The FBI intends to process the additional records expeditiously and then to provide the district court with a supplemental declaration and *Vaughn* index.

Because the federal defendants' motion for a partial remand asked for a remand only as to EOUSA, not the FBI—and because this Court granted the motion without saying anything further about the scope of the remand—it appears that the district court may currently lack jurisdiction to consider a supplemental declaration and *Vaughn* index, and adjudicate any resulting disputes, as to the FBI. The federal defendants accordingly request that the partial remand be expanded to include the FBI.

The Cuyahoga County Mortgage Fraud Task Force does not oppose this request. Viola intends to file a response.

CONCLUSION

The Court should vacate the district court's judgment with respect to the FBI and remand with instructions that the FBI be permitted to produce a supplemental

declaration and *Vaughn* index after it processes additional records. This appeal should continue to be held in abeyance until the district court has completed proceedings on remand as to the FBI and EOUSA.

Respectfully submitted,

SHARON SWINGLE

/s/ Daniel Winik

DANIEL WINIK

D.C. Bar No. 1015470

Attorneys, Appellate Staff

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June 29, 2020

No. 18-2573 (L); 22-2186

**IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

ANTHONY L. VIOLA,

Appellant,

v.

UNITED STATES DEPARTMENT OF JUSTICE, FEDERAL BUREAU
OF INVESTIGATION, Records/Information Dissemination Section;
UNITED STATES DEPARTMENT OF JUSTICE, Executive Offices for
United States Attorneys-Freedom of Information & Privacy Staff;
CUYAHOGA COUNTY MORTGAGE FRAUD TASK FORCE;

Defendants-Appellees,

KATHRYN CLOVER,

Defendant.

ON APPEAL FROM UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
No. 1:15-cv-00242-SPB, U.S. District Judge Susan Paradise Baxter

**BRIEF OF APPELLANT
WITH ATTACHED JOINT APPENDIX VOLUME 1**

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*This brief has been prepared by the Advanced Appellate Litigation Project, operated by Yale Law School. The brief does not purport to present the school's institutional views, if any. The motions for admission of law students Alan Chen and Daniel Mejia-Cruz were filed on April 3, 2023, and are pending with the Court.