

Citing Tardy Investigation, Judge Drops Murder Charge

BY DANIEL WISE

A BROOKLYN Judge yesterday dismissed a murder indictment against the alleged triggerman in one of four slayings that Brooklyn prosecutors claim were the result of a former FBI agent feeding information to a mob captain.

Justin Gustin L. Reichbach found that investigators had information indicating that the alleged triggerman, John Sinagra, was the killer at least as far back as 1995 and had been “negligent” over the next decade in failing to develop information that could have corroborated the information it already possessed.

Under those circumstances, Justice Reichbach concluded in a ruling announced from the bench yesterday, the murder indictment against Mr. Sinagra must be dismissed because of the delay in bringing charges against him for the 1990 murder. Mr. Sinagra was released from custody at the end of the hearing.

Jonah Bruno, a spokesman for the Brooklyn District Attorney’s Office, said the ruling in *People v. Sinagra*, 6825/05, is being appealed. He declined further comment.

In March, 2006, Mr. Sinagra was one of two co-defendants charged with murder in the indictment that was brought against the former FBI agent Roy Lindley DeVecchio. Justice Reichbach had severed the defendants’ cases because Mr. DeVecchio’s would take substantially longer to be ready for trial. Mr. DeVecchio is free on bail while Mr. Sinagra has been in jail.

Mr. Sinagra was charged with killing a mob figure in 1990. Mr. Sinagra, according to prosecutors, acted on information that Mr. DeVecchio had passed on to his informant, Gregory Scarpa, a captain in the Colombo crime family. The victim, Patrick Porco, was reportedly talking to the police about the killing of a neighborhood youth the previous Halloween.

In 1995, the investigation into Mr. Porco’s killing had been closed by the police with the notation that the killer was Joey Scarpa, the son of Gregory Scarpa. Joey Scarpa was murdered in 1995. The elder, Mr. Scarpa, who had contracted AIDS from a blood transfusion, had died in prison a year earlier.

In a 27-page opinion, Justice Reichbach recounted that he had initially denied a dismissal motion brought by Mr. Sinagra claiming an important witness with Colombo family connections had been cooperating with the police as far back as 1995.

In denying the motion, Judge Reichbach said he had relied upon prosecution affidavits asserting that the witness, Jay Novoa, had prior to 2005 only implicated Mr. Scarpa, not Mr. Sinagra, in the killing of Mr. Porco.

But in a subsequent court appearance, Justice Reichbach wrote, the prosecution from an investigator presented a March 1995 memorandum from an investigator with the district attorney’s office which stated that both Joey Scarpa and Mr. Sinagra had at different times said that Mr. Sinagra had been responsible for shooting Mr. Porco.

‘Misleading Denials’

The information in the memorandum “directly and unambiguously contradicted” factual claims in the prosecution’s affidavits, Justice Reichbach wrote. The March 1995 memorandum, when taken together with other information developed during the court of a hearing, he added, revealed the district attorney’s office’s disavowal that it had earlier information identifying Mr. Sinagra as the shooter to be “misleading, inaccurate and incorrect,” Justice Reichbach wrote.

The initial information from Mr. Novoa did not provide sufficient basis upon which the prosecution could have indicted Mr. Sinagra in 1995, Justice Reichbach wrote.

But it should have prompted an investigation, and had that been done, the prosecution would have discovered the same two witnesses it found in 2005, both of whom corroborated the information supplied by Mr. Novoa 10 years earlier.

One of those witnesses was Linda Shiro, who had been the elder Mr. Scarpa’s companion. Ms. Shiro, whose grand jury testimony implicated Mr. Sinagra in the slaying of Mr. Porco, began collaborating with an author for a possible book on her life story in 2000. She also began talking to the FBI in 2001, but no one from either the police department or district attorney’s office asked her about the killing of Mr. Porco until 2005, Justice Reichbach wrote.

Similarly, he noted, when Mr. Novoa was re-interviewed in 2005, he led investigators to a second witness who corroborated the account in the 1995 memorandum.

The state Constitution’s due process clause requires the prosecution to bring a defendant to trial without “unreasonable delay,” Justice Reichbach reasoned in citing the 1978 ruling of the Court of Appeals in *People v. Singer*, 44 NY2d 241. Also, he noted, under *Singer* the prosecution has the burden to show “good cause” for a protracted delay in indicting a defendant.

“Here the People’s lack of sufficient evidence was a consequence of their own negligence,” Justice Reichbach concluded, and “negligence is not good cause.”

Mr. Sinagra was represented by Joseph Giaramita, and the prosecution handled by Assistant District Attorney Kevin Richardson, Joseph Alexis and Monique Farrell.

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