

COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

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PEOPLE OF THE STATE OF NEW YORK,

Plaintiff,

- against -

**Indictment Nos.: 1535-88
1290-88**

MARTIN H. TANKLEFF,

AFFIRMATION

Defendant.
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BRUCE A. BARKET, an attorney admitted to practice law in the Courts of the State of New York, affirms the following, under the penalties of perjury:

1. I am the managing partner of the LAW OFFICES OF BRUCE A. BARKET, P.C., one of the attorneys for the Defendant, MARTIN H. TANKLEFF, in the above captioned action and I am fully familiar with the facts and circumstances of the within action by review of the file maintained by our office, independent case investigation, conversations with investigators and first hand conversations with witnesses and other persons with relevant knowledge of the facts. I submit this Affirmation to supplement the motion currently pending before the court asking for a new trial for Martin Tankleff, sanctions for prosecutorial misconduct, for a special prosecutor and for a hearing on the allegations.

2. I regret that I must to inform the Court of yet another act of witness tampering/intimidation by the prosecution in the Martin Tankleff case. In the latest episode Walter Walkenthein, ¹ contacted Hubbel Losson, the attorney representing William Ram in Florida in connection with a criminal case that arose after Ram's testimony before this court

¹ The court will recall that Mr. Walkenthein is the investigator who was hand chosen by District Attorney Thomas Spota to "investigate" the wealth of new evidence Mr. Tankleff has developed over the last 3 years. Out of approximately 70 investigators on Mr. Spota's staff, Mr. Walkenthein is the only investigator who reports directly to Mr. Spota, outside the normal chain of command, and who also worked in the homicide squad with Detective James McCready.

in 2004. In two conversations within the last 3 weeks, Mr. Walkenthein implied that he would help Mr. Ram obtain a reduced sentence if Mr. Ram would testify that he was bribed by members of the Tankleff defense team. Mr. Ram, who on January 20, 2006, was sentenced to 15 years in prison, flatly refused to offer such false testimony.

3. I learned of these events this past weekend when I spoke to Mr. Ram's lawyer and to Jay Salpeter who spoke to William Ram.. According to Mr. Losson, Walkenthein called him and told him that they (the prosecution in the Tankleff case) "knew" that Ram lied to this Court and that he was "bribed²." Walkenthein then stated that if Ram were to "come clean," "admit" his perjury and implicate members of the Tankleff defense team in bribery allegations, he (Walkenthein) would bring Ram's cooperation to the attention of the Florida authorities in order to help Ram reduce his sentence. Mr. Losson informs me that the first call was made about 3 weeks ago and the second was made during the week of January 16th. According to Mr. Losson, and Jay Salpeter, Mr, Ram, when he learned of the calls, insisted that he was not bribed, insisted that he had not lied and continued to assert that "they [the Suffolk County District Attorney's office] have an innocent kid [Martin Tankleff] in jail up there."

4. This is a disturbing and yet revealing incident. First, we submit that Ram's refusal to even consider recanting his testimony before this Court—even for a reduction in a

² Walkenthein did not explain how he "knew" his assertions were true. Of course, he has no explanation because the allegations are false. One wonders whether either he or Leonard Lato even believe their own rhetoric. In what has become typical of the prosecution in this case, members of the District Attorney's office have once again made wild and unsupported allegations of "bribery," "inducements" and "perjury" without a shred of evidence. Unable to explain the mountain of evidence exonerating Martin Tankleff, they have resorted to slander. Their position is rapidly approaching what is known as the "big lie." They are simply repeating a false charge and doing it as often as possible in the hopes that someone will believe it, although there is not any evidence to support it.

lengthy prison sentence—adds to his credibility. If Ram were the sort who would commit perjury in exchange for money, as the prosecution has suggested, one would expect him to jump at the chance to reduce his prison sentence—especially if all that he needs to do is to “come clean.” Ram’s refusal to take the “inducement” offered by the prosecution and instead reaffirm of his testimony before this Court should conclusively put to rest the prosecution’s baseless allegations of perjury and bribery and leave no doubt that he was telling the truth when he testified that Creedon, Kent and Harris killed Seymour and Arlene Tankleff.

5. The offer by Walkenthein is nonetheless disturbing. It was undoubtedly intended to elicit false testimony from Ram and represents a continued pattern of attempts to intimidate and harass witnesses who offer exculpatory testimony on behalf of Marty Tankleff.³ This latest attempt is strikingly similar to what Mark Callahan testified the prosecution did to another defense witness, Brian Scott Glass. As the Court will recall Mr. Glass refused to offer to the court the exculpatory evidence he previously provided to the defense after he was charged with Robbery by the Suffolk County District Attorney’s office and then released, pursuant to a cooperation agreement, without posting bail. According to

³ These tactics also have the potential, and are arguably intended, to intimidate members of the Tankleff defense team and deter other witnesses from coming forward. While the defense team remains undeterred, witnesses have understandably succumbed to the pressure. Several witnesses, other than Glenn Harris and Brian Glass, revealed to the defense exculpatory evidence but ultimately refused to testify. One witness who worked in Steuerman’s bagel store in 1988, informed counsel that Todd Steuerman bragged to her about bribing police to protect his drug trade, saw McCready being escorted to the back room in the bagel store (where a safe was kept) by Jerry Steuerman prior to the murders and heard Todd Steuerman laugh that the police had sent his dad’s friend [McCready] to retrieve his father from California where he fled following the attack on the Tankleffs but before Mr. Tankleff died. A second witness, who was then cooperating with the United States Attorney’s office, told counsel, in the presence of his lawyer, that he knew that Creedon had committed the murders based on conversations he had with Creedon days after the murders but refused to testify because, “you can’t protect me and the Suffolk police won’t.” He went on to say that he would not trade his “life for Marty Tankleff.” Yet another witness, who also worked in the bagel store in the 1980s, claimed that the police were being paid off by Steuerman to protect their drug trade. He also refused to testify citing fear of police retaliation.

Glass' testimony in court his deal with the District Attorney was unrelated to his refusal to repeat his exculpatory statements. According to Callahan, however, Glass refused to offer the exculpatory evidence because he was threatened by "the DA" with 25 years in prison if he testified for the defense and offered a deal if he recanted. Glass recanted.

6. Of course these two incidents do not stand alone. Walkenthein told Glenn Harris that if he testified he would "switch places" with Marty Tankleff and serve 50 years in prison. Harris was then brought, at the prosecutor's request, from the state prison here he was serving a sentence for a parole violation, to the Suffolk County jail prior to a hearing being ordered by the court. Walkenthein, at Leonard Lato's instruction, then sent two people to record conversations with Glenn Harris at the Suffolk County jail, despite the fact that Harris was represented by counsel.⁴ Harris ultimately refused to testify. Leonard Lato publicly ridiculed defense witnesses when he referred to them in a Newsday and a New York Times article as "misfits." Mr. Lato also outed, in publicly filed court documents, the identity of a witness who had been cooperating with the government, and who had expressed a fear of being exposed as a cooperator. That witness had been working for the District Attorney for several years. His identity was revealed only after he testified for the defense in this case. More recently it was Walkenthein who threatened Joe Guarascio with jail if he did not agree to speak with Walkenthein. And of course we had Mr. Lato's disgraceful and

⁴ Ironically, those recorded conversations contain statements by Harris, who did not know he was being recorded, completely consistent with the affidavit, implicating Creedon, Kent and himself in the Tankleff murders, he had given to the defense. Harris actually pulled one of Walkenthein's agents aside and explained that he only denied the truth of his affidavit to protect himself from retaliation by other inmates who may view him as an informant. Harris went on to explain to the agent how Creedon and Kent had participated in the murder of the Tankleffs.

utterly baseless allegation in open court that “Tankleff was selling and you [Guarascio] decided to buy.”

7. This conduct crosses the line between advocacy to intimidation and witness tampering. It has caused the defense to lose witnesses with exculpatory evidence and has a chilling effect on our role as advocates for Mr. Tankleff. Further, this conduct has deprived Mr. Tankleff due process of law guaranteed to him by the constitution of the United States of America and the state of New York. This Court should not allow this conduct to continue and should grant the defense motions.

WHEREFORE, Mr. Tankleff, respectfully requests that this Court, upon this affirmation and previously filed memorandum of law, sworn affidavits, exhibits, and in the interest of justice, grant the relief requested, or, in the alternative, grant a hearing to determine sufficient facts to decide the motion.

Dated: January 25, 2006
Garden City, New York

By: _____
Bruce A. Barket, Esq.