

COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

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THE PEOPLE OF THE STATE OF NEW YORK,

AFFIDAVIT OF
JESSE FRIEDMAN

-- against --

JESSE FRIEDMAN,

Indictment Nos.
67104, 67430, 69783

Defendant,

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JESSE FRIEDMAN, hereby declares under penalty of perjury that the following is true and correct:

1. I am the defendant in the above-captioned case. This affidavit is submitted in support of the accompanying motion to vacate my conviction pursuant to CPL 440.10 (h). I make the affidavit based upon personal knowledge and upon information and belief.

2. I grew up in Great Neck N.Y. with my parents, Elaine and Arnold, and my older brothers, David and Seth. We lived at 17 Piccadilly Road.

3. During the day, my mother ran a “playgroup” daycare center for toddlers in our home. My father conducted computer classes after school for local children ranging in age from 8 to 11.

4. My father began conducting these after-school computer classes in our home around 1982. In September 1984, when the high school student who had been assisting my father with the classes left for college, I began working as an assistant to my father. I was fifteen years-old, and in tenth grade at the Village School in Great Neck.

5. My responsibilities as an assistant to my father consisted largely of preparing the room for the computer class, and cleaning up the room when the class was over. I would come home from school, put away the toddler toys from my mother's playgroup, and then set up for the computer class. I would set up the tables, computers, monitors, printers, and chairs. I would also run all the extension cords and set up the blackboard. When the class was over, I would take everything down, put all the computer equipment back in the closet, and leave the room ready for my mother to use in the morning for her playgroup. During the classes I helped supervise the children, and maintain order. For example, I would make sure that they did not run around, trip over wires, get into fights, or throw things at each other. I would also generally help out with the computer instruction.

6. The computer classes usually had eight or nine students, as we had space for nine computers – one computer per student. There would be two or three classes per week throughout the entire school year. Courses were offered in three sessions during the school year (starting in September, January, and April) at different levels (beginner, intermediate, and advanced). Once a group was formed, the children would progress through to the advanced course-level, and would tend to re-enroll as a group. Enrollment steadily increased over time. My father also gave classes for adults that were equally well-attended.

7. Our neighbors often expressed annoyance at the constant stream of children entering and leaving our house. During the day, the neighbors weren't happy about the noise from the toddler playgroup in the backyard. After school,

they weren't happy that computer students would congregate in front of the house talking before and after class, and that people would arrive to pick them up, often honking their horns or parking and talking to each other while waiting for their children. To avoid disturbing our neighbors, we always asked the parents not to honk. One of my jobs was to look out for parents arriving to pick up their children, and to help the children quickly to their parent's car so their parent would not honk or loiter.

8. When I left for college at SUNY Purchase in September 1987, my father, on the recommendation of a high school computer teacher in Great Neck, hired Michael Shapiro, a Great Neck high school student, to take over my job as his assistant in the classes.

9. On November 3, 1987, a postal inspector, John McDermott, dressed as a letter carrier got my father to accept a "controlled delivery" of a child pornography magazine. Another postal inspector had posed as a devotee of child pornography and had been corresponding with my father ever since July 1984, when agents of the United States Customs Service had intercepted a magazine at Kennedy Airport containing child pornography sent from the Netherlands and addressed to my father. Our house was searched, and federal agents seized items including approximately twenty magazines containing child pornography. They also found out that my father was conducting computer classes in the home, and a list of names and phone numbers of eighty-one students in the computer classes.

10. On November 4, 1987, Sergeant Fran Galasso, head of the Nassau County Police Department's sex crime unit, was given the list of names seized the

day before in the search. At this point, Galasso started an investigation into possible child sexual abuse. She sent out two-detective teams to interview the children who, according to the list, had attended the classes. We were unaware that the children on the list were being interviewed about child sexual abuse. This interview process would continue for the next twelve months.

11. On November 25, 1987, I was arrested, as was my father, on a felony complaint alleging child sexual abuse. My bail was originally set at \$500,000, and my father's at \$1,000,000. On December 2, 1987 the Appellate Division Second Department ordered that my bail be reduced to \$100,000. I posted bond shortly thereafter. At this point, my father and I realized that detectives were interviewing children who attended the computer classes about possible allegations of child sexual abuse.

12. On December 9, 1987, my father and I were arraigned on indictment number 67430, a 54-count indictment charging sexual abuse of five children. The charges included sodomy in the first degree, sexual abuse in the first degree, using a child in a sexual performance, and endangering the welfare of a child. Ten of the counts in the indictment pertained to me. Both my father and I entered pleas of not guilty before Judge Abbey Boklan.

13. On January 13, 1988 my father posted bond and was released to house-arrest. On February 8, 1988 my father plead guilty in federal court to one count of sending a child pornography magazine through the U.S. mail.

14. On February 9, 1988 my father and I were arraigned on indictment number 67104, a 91-count indictment based on the complaints of eight children,

charging sodomy, sexual abuse, and endangering the welfare of a child. Thirty-five counts of the indictment pertained to me.

15. The case resulted in massive media coverage. Still photographers and a television camera from News 12 (Long Island) photographed and filmed the arraignment. Even though the charges were of an explosive nature, Judge Boklan made no effort to restrict media coverage. Prior to the arraignment, Judge Boklan had approved an application for media coverage of the proceeding. Judge Boklan continued to grant media requests to cover the proceedings, and she ultimately granted permission for all media applications.

16. On March 25, 1988 my father pled guilty before Judge Boklan to charges of sodomy in the first degree (8 counts); sexual abuse in the first degree (28 counts); attempted sexual abuse in the first degree (4 counts); and endangering the welfare of a child (2 counts) in full satisfaction of both indictments, in exchange for a sentence of ten to thirty years in prison. My father believed that being present as a codefendant at my trial – especially having been convicted of sending child pornography through the mail -- would ruin any chance for me to be acquitted.

17. After my father's guilty plea, on the evening of March 25, 1988, he gave the police what his attorney, Jerry Bernstein, described to us a "close-out" statement. My whole family waited at the police station while my father made this statement to the police. The purpose of the statement, we were told, was to enable the police to "close-out" their files on the case. My father provided a lengthy Q&A to the Nassau County sex-crimes detectives. He was asked to

confirm that he had molested each of the children on the police list of students. The police explained to him that if he did not confess to these other acts of sexual abuse he could be re-arrested and charged with such acts. Jerry Bernstein told us that my father would be granted immunity to any such acts that he confessed to – accordingly, he confessed to misconduct with regard to every child the police named. Bernstein told my father that any child whom he declined to admit molesting could be the source of further charges against him. The police later used this statement when they continued questioning other children about me.

18. My father's guilty plea proceeding was also filmed by the television press. On April 15, 1988 I made a motion for a change of venue, which was denied by Judge Boklan.

19. On May 13, 1988, my father was sentenced by Judge Boklan to an indeterminate sentence of ten to thirty years, in accordance with his plea agreement.

20. On June 22, 1988, Ross Goldstein, an acquaintance of mine from the Great Neck Village School, was arrested on a felony complaint and charged as my co-defendant. Goldstein was a year behind me in school, and we had met in September of 1986. We were both charged with crimes that allegedly took place before we had ever met one another. Sixty-eight of the charges against Goldstein in Ind. # 69783 took place prior to our meeting. Ross Goldstein was not a close friend of mine, and had visited my house no more than three times.

21. On June 23, 1988 I surrendered to Nassau County police for arrest on new charges.

22. On June 24, 1988 I was arraigned on 37 new charges of child sexual abuse that allegedly took place during the computer classes. I am also charged with photographing students while they were being sexually abused by others, including Ross Goldstein (Ind. #69783 counts 201, 202, 203, 204, 194, 195) and also photographing students during sexual games such as “Simon Says”, “Leap Frog”, and “Super Hero” (Ind. #69783 counts 191, 192, 193). I am also charged with photographing students while they engage in sexual acts with my father (Ind. #67104 counts 4, 5).

23. In the days immediately following his arrest, Ross Goldstein was offered a sentence of 2-6 years in exchange for testifying against me. He declined the offer. He was then offered a 1-3 years sentence and again declined the offer. The police attempted to intimidate two of Ross Goldstein’s friends into testifying against both Ross Goldstein and myself. When they were unable to arrest either of them, the D.A. went back to Goldstein and offered him six months in the county jail, five years probation, and a youthful offender adjudication in exchange for his testimony as states witnesses against me. Ross Goldstein accepted this offer.

24. On September 8, 1988 Ross Goldstein entered into an agreement with prosecution to cooperate in exchange for a promise that the District Attorney’s Office would recommend that his sentence include six months of jail time, five years probation, and a youthful offender adjudication.

25. On November 15, 1988 I was arraigned on indictment No. 69783, a 302-count indictment charging me and Ross Goldstein with sodomy, sexual abuse, and endangering the welfare of a minor against six children. One hundred and

ninety-eight of the counts were against me. My bail conditions remained unchanged.

26. I began to give serious consideration to the option of pleading guilty to the charges. Under the circumstances it began to look like the only sensible course to follow. I was convinced that I would lose a trial, and that I would be in prison for the rest of his life. I was subjected to pressure from my attorney, Peter Panaro, who informed me that I could never win a trial, and that Judge Boklan would sentence me consecutively on every count after a conviction at trial. Panaro told me that he obtained this information directly from Judge Boklan during a conference with her, and also from conversations with Assistant District Attorney Joseph Onorato. Judge Boklan was the former head of the Nassau County District Attorney's Office Sex Crimes Unit, and had a reputation as a tough judge, especially when it came to sex crimes.

27. I was only 19 years old, and my father had already pled guilty and been sent to prison. My mother placed tremendous pressure on me to plea bargain rather than fight the accusations at a jury trial. I knew that I was not guilty of the charges, and I also believed on one level that I should go to trial, but I was terrified and exhausted by the stress of the disintegration of my family. I believed my mother when she said that if I were to be convicted in a jury trial I would be incarcerated for the rest of my life. I knew that if I pled guilty I would eventually be released from prison.

28. Judge Boklan had permitted media news cameras to be present in the courtroom during my hearings and appearances; virtually every media

application submitted to her was approved. The media in Nassau County had been completely unfavorable, and her acceptance of all the applications further persuaded me that she was not an impartial Judge and that I would not have a fair or balanced trial.

29. The media was not sympathetic to my case, and the coverage was mainly about how to detect child sexual abuse and how to help victims of sexual abuse. There are no stories that question whether or not the children were actually abused or suggest that I or my father might be innocent. Thus, I was convinced that no one in Nassau County would ever find me innocent of the charges. In June 1988, *Newsday* published a story that discussed how my father “identified about 80 boys he had sexually abused”. This was a reference to the close-out statement that had been shared by the police with the media. (Source: *Newsday*, June 24, 1988)

30. The community of Great Neck had reached a moment of hysteria about the case. The P.T.A. in Great Neck organized letter-writing campaigns, community meetings, and car-pooling arrangements to get community members to attend court appearances. The newspapers in Great Neck published numerous stories about the case, describing community meetings and saying that every student who ever attended a computer class should seek therapy to help prevent future problems. In December, 1987, the *Great Neck News* reported that Detective Galasso advised parents to seek professional counseling for their children who were involved in any way, and the Great Neck North Middle School Principle Ira Gordon announced over the school’s loud speaker that if any students wanted to

talk, staff was ready and willing. Dr. Edward Brandon, the school psychologist, asked teachers to be on the look-out for unusual behavior and comments, and to report to him if there were any problems. Meetings were held in December, 1987, and January, 1988 in Great Neck about the case. Detective Galasso attended these meetings, as did Dr. Sandra Kaplan, the therapist treating many of the alleged victims of sexual abuse. (Source: *Great Neck Record* February 4, 1988) In November 1988 a local synagogue, Temple Beth El in Great Neck, held a community meeting focusing on the subject of “Child Abuse One Year Later”, and a discussion on how to prevent child sexual abuse. Dr. Kaplan was joined at the meeting by Detective Galasso and talked about sexual abuse, warning signs in children, and about the abuse alleged in the computer classes. In November 1988, the *Great New News* reported that Dr. Kaplan and Detective Galasso believed that any child who had contact with Arnold Friedman, no matter how minimal, should be considered a victim.

31. My father, a co-defendant, had already pleaded guilty. We were indicted on a theory of aiding and abetting. It was frightening to think that a jury would know all about his confession (due to the pervasive media coverage of the case) and that my attorney would be asking these jurors to find me not guilty on the very same counts.

32. There were also other factors that influenced my decision to plead guilty. Ross Goldstein had agreed to the offer of six months county jail time, five years probation, and a youthful offender adjudication – and was going to testify against me as a State Witness. There was a chance that a jury would take into account

that Goldstein's cooperation had been induced by the promise of a six month sentence, instead of the decades of imprisonment he would otherwise have faced. However, I knew how detrimental his testimony as an adult witness would likely be at my trial. I was told by my lawyer that Detective Galasso said she was investigating my brothers and that if I insisted upon a trial one or both of my brothers would be arrested. Two additional suspects were named, indicted under pseudonyms but never arrested, and many of my high school friends were being pursued for questioning by the police. I took the threats by Detective Galasso against my brothers and my friends seriously, as Ross Goldstein had already been arrested and charged.

33. I was also finding it impossible to find any supportive defense witnesses. I couldn't find any students who were in the classes, and who told the police that nothing happened and didn't press charges, who would agree to come to court and testify on my behalf. Further, my father's close-out statement was shared by Nassau County detectives with the families of computer students – specifically the non-complainants. After reading the close-out statement, where my father described sexually abusing the computer students, they were unwilling to publicly support me.

34. I was traumatized by the entire experience. I was only nineteen years old. I was financially unable to pay for clinical psychiatrist and other expensive legal expert witnesses whom I knew would be important to a trial defense.

35. On December 20, 1988, I made the painful decision to plead guilty

to the charges against me. This was a desperate decision that I reached only after realizing that there was no way I could win a trial. In my view, if I lost a trial I would go to prison for life for something I did not do. At least if I pled guilty, I would eventually get out of prison and at a relatively young age and I would have at least some chance of eventually living a normal and happy life.

36. I told Panaro that my father sexually abused me and that I grew up thinking that this was normal and acceptable behavior. I told him that I sexually abused the students in the computer classes, and that I was guilty of the charges against me. I told him this because Panaro insisted that I confess to him before he would allow me to plead guilty in court. Panaro told this story during his plea negotiations with Judge Boklan hoping to overcome an impasse in negotiations and persuade the judge who had to approve any plea deal with the prosecutor, to approve a reasonable term of imprisonment.

37. I entered into a plea bargain agreement with the District Attorney's office for indictments numbers 67430, 67104, and 69783. I pled guilty to sodomy, first degree (17 counts); sexual abuse, first degree (4 counts); attempted sexual abuse, first degree (1 count); use of a child in a sexual performance (1 count); and endangering the welfare of a minor (2 counts) in exchange for a promised indeterminate sentence of six to eighteen years. After my plea, I was taken into custody of the Nassau County Sheriff's Department.

38. On January 24, 1989, I appeared before Judge Boklan and received a sentence of 6 to 18 years imprisonment. I told the Judge that I was guilty, but that she should have sympathy for me because my father sexually abused me and I

did not understand that sexual abuse was wrong. I knew there would be television cameras in the courtroom filming my sentencing. I believed that saying I was a victim of my father would somehow influence the parole board, and that Judge Boklan would ask the parole board for leniency. My false confession did not have the desired result, and Judge Boklan asked the parole board – in a proceeding before the televised cameras and press – to consider me a dangerous criminal and to hold me for the full eighteen years of my sentence. Once I had decided to plead guilty in exchange for a lighter sentence I could no longer say I was the victim of a witch-hunt. The best thing I could see to do was to say I had done the crimes, but that there was a mitigating circumstance behind my actions.

39. On May 3, 1989, Judge Boklan sentenced Ross Goldstein to an indeterminate sentence of two to six years in prison, in direct contradiction of the District Attorney's bargain with him, which called for a six month sentence and youthful offender status in exchange for his testimony. I read in a Newsday article from May 4, 1989, that in his plea for youthful offender status Goldstein's attorney, in court, quoted Det. Galasso as saying, "[Goldstein] was not a pedophile and is not a risk to the community." On July 21, 1990, the Appellate Division overturned Judge Boklan and ordered that Goldstein's promised sentence be imposed. Goldstein was released from prison after thirteen months.

40. On February 6, 1989, only a few weeks after I enter prison, I agreed to be interviewed for the Geraldo television show. My attorney warned me against doing this, and made me sign a letter stating that I understand the risks and I want to do it anyway. I was nineteen years old, in solitary confinement, at the

very start of my prison sentence, traumatized and depressed. I went on the show in what I believed to be a last-ditch effort to obtain public sympathy and explain myself in some way.

41. In my interview for the Geraldo show, I talked about being molested by my father and sexually abusing children in the computer classes with my father. Less than three weeks earlier I had been sentenced in court to these very charges, I had told this same story about being molested by my father, and I saw no reason not to continue with the false story. My mother participated in the show and so did my lawyer – even though he advises me against participating. I was in a fragile state and am ashamed about going on the Geraldo show. I did this for the same reasons that I told Judge Boklan that I was sexually abused. I was facing a long sentence and had pled guilty to having sexually abused numbers of young and helpless boys.

42. I was rationally terrified about being attacked and abused in prison by other inmates and corrections officers, and I believed that they might see the show and have sympathy for me. I was aware that child molesters were not treated well in prison, and I hoped that if they believed I was a victim myself I might be treated differently. When I had been in the Nassau County jail prior to posting bond, I had been assaulted by security staff on more than one occasion. Urine was thrown on me. My mother was a member of a group in Nassau County called “Prison Families Anonymous”, and I had attended a number of these meetings and had heard only frightening things about being a child molester in prison. Before I went to prison, I had met with a counselor at the Fortune Society

in New York City, and he shared with me a realistic and horrific picture of what prison would be like for a convicted young, white, homosexual-child-molester. I felt that my only hope for survival in prison was to claim that I too had been a victim of my father and pray for sympathy and compassion.

43. I continued to present this version of events, in statements to the media, until several months after my conviction, when I entered the general prison population and was instructed by other inmates that this story would be of no avail. I learned that no series of mitigating circumstances would persuade the Parole Board to release me. While in prison I was denied parole four times because my instant offense demonstrated a propensity for extreme violence, and due to my failure to complete a sex-offender therapy program.

44. On August 23, 2000, the Time Allowance Committee at Coxsackie Correctional Facility denied me release and withheld a year of good-time credits because I failed to successfully participate in a sex-offender therapy treatment program.

45. In December 2000, my brother David told me that he would be featured in a documentary about children's entertainers directed by Andrew Jarecki. He is excited because he feels this will enhance his status as the number one children's birthday party clown in New York City.

46. In January 2001, my brother David was devastated, and told me that Jarecki has "discovered" the secret about me and my father, and that the film will include information about my arrest and conviction. I, too, became distraught because I don't want to be involved in what I am told by David would be a film

that would destroy his career and perhaps hurt my chances for a future of a normal life even more. We retain an attorney in an effort to force Jarecki not to make his film.

47. On March 6, 2001, I receive my first letter from Jarecki. He introduced himself, explained his plans to make a film featuring my family. He wanted to travel to the prison to visit me and interview me on camera for his movie.

48. On April 4, 2001 Andrew Jarecki and Marc Smerling, one of the films producers, visited me in prison against the wishes and demand of my attorney. He made it clear that he was going to make his movie, and that he had the financial resources to do so with or without my cooperation.

49. After months of negotiation and conflict, my brother David and I agreed to participate in the film. We realized that our participation was our only hope to have our story told in a sympathetic way, as we knew the film will be made with or without our cooperation.

50. Andrew Jarecki made his film, *Capturing the Friedmans*, without any Friedman family members having any input on creative matters or content. We eventually shared our family documents (including video tapes, letters, tape recordings, etc.) with him because we became convinced that he wanted to make a fair and objective film about what happened to our family.

51. Until he finished making the film, Jarecki did not share much information with me about his investigation into the case.

52. On December 7, 2001, I was released from Clinton Correctional

Facility, in Dannemora, New York, after serving thirteen years of my sentence. I was released to “Intensive Parole Supervision” including a 7:00 pm nightly curfew, an electronic ankle bracelet, and mandatory three-times-a-week sex offender therapy.

53. On January 1, 2, and 3 2002, I sat for a lengthy on-camera interview with Jarecki.

54. On January 7, 2002, Judge Abbey Boklan held a sex offender registration classification hearing. Her determination was to classify me a level three “violent sexual predator.”

55. March 16, 2002, I sat for a second on-camera interview with Jarecki.

56. On January 10, 2003, I saw a rough cut *Capturing the Friedmans* for the first time during a private screening for family members. This gave me some hope that I might be able to overturn my conviction.

57. Beginning in February, 2003, I made repeated unsuccessful efforts to obtain copies of the transcripts from my guilty plea and sentencing from the Nassau County Court.

58. On June 1, 2003, I met Ron Georgalis for the first time while at the Angelika Film Center after screening of *Capturing the Friedmans*. He told me that he was in the classes and nothing happened – and he is willing to help in any way that he could. On, June 4, 2003, I received an e-mail from Jamie Forrest, another student in the classes, who also told me that nothing happened – and that he too is willing to help me in any way that he could help.

58. On June 28, 2003 I receive an e-mail from NoleDreamer from Florida saying how he was one of my father's students in the computer classes, that he never saw my father do anything to any student, and that he believed I was 100% innocent. I subsequently learn from Ron Georgalis that NoleDreamer is _____.

59. On July 7, 2003, I meet with Andrew Jarecki; Earl Nemser, Esq.; Joel Rudin, Esq., and my brother David to discuss legal options of filing a post-conviction motion. At this meeting Jarecki promised that he would allow me access to any of the materials he had regards my case to use in challenge my conviction. At this point, I realize that it might be possible to clear my name and to explain what happened and why I plead guilty 14 years ago.

JESSE FRIEDMAN

Dated: January 5, 2004

Sworn before me this 5th
Day of January 2004