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## **TURN IN FRIEDMAN CASE Judge Winslow to DA Rice: “Friedman Case Needs Microscope, Not Telescope”**

By Carol Frank  
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In a dramatic turn of events on Aug. 22, Judge Dana Winslow of the New York Supreme Court, ordered the Nassau County District Attorney's office turn over all documents in the Jesse Friedman case, including grand jury minutes and notes, police reports, even the original stenographers' notes. He also set forth a “no touch” order to prevent the DA from “altering, moving or destroying any of the evidence.”

The DA's office will appeal the decision.

The judge, privy to all the un-redacted documents, has obviously been combing through the thousands of pages of evidence, much of which was not made available to the oversight panel that was supposed to insure impartiality to the DA's review of the case and none of which has been available to Friedman as he has fought for over a decade to overturn his child molestation conviction.

Judge Winslow pointed out that there have been two warring sides in the case, the DA's office and Jesse Friedman's team, but “one aspect has been neglected ... the complaining witnesses who now admit they were mistaken or misstated information to police and have been living with that knowledge for the last 25 years.”

ADA Robert Schwartz said, “We're not here to be litigating guilt ... we're here because of a Freedom Of Information Law (FOIL) request.”

The judge rather sternly said, “Yes, but in this case we have a man whose prison sentence hasn't ended ... his status as a level 3 violent sexual offender severely restricts his life ... Tony Soprano in his ankle cuffs was far freer than Mr. Friedman.”

On June 24, District Attorney Kathleen Rice had released a report from the 3-year review of the case of Friedman, who in 1988 at age 19, had pleaded guilty to charges of child molestation and served 13 years in prison. His father, Arnold Friedman, had pled guilty earlier and committed suicide in prison.

The review came about after the U.S. Court of Appeals for the Second Circuit pressed for a reexamination of the case stating, “the quality of the evidence was extraordinarily suspect and never subjected to vigorous cross-examination or the judgment of a properly instructed jury.”

The DA's report upheld the 1988 conviction and rejected the recantations of original complainants and the testimonies of other witnesses who stated that nothing out of the ordinary happened in the computer classes they attended. Three original complainants out of 17 came forward and reiterated their charges saying that they are still suffering from their experiences. The DA's report concluded that their investigation had only "increased confidence in the integrity of Jesse Friedman's guilty plea."

After the 155-page report was released, Friedman's attorney Ron Kuby and filmmaker Andrew Jarecki, director of *Capturing the Friedmans* criticized the lack of transparency in the process and the lack of access the oversight panel actually had to all evidence and witnesses who came forward. Both agreed a careful reading of the DA's report laid bare "the bias" of the office and only reinforced the urgent need for the documents in the case to be made available to Friedman.

At a prior court date on June 28, just days after the DA's report was released, Kuby had charged that the DA's office had leaked salacious, pornographic stories, referenced in their report, to selected media outlets. The DA's report claimed they had been penned by Friedman while in prison. Kuby refuted the charge holding up a document he said proved that Friedman had been found "not guilty." Further, he stated that a quick Google search of the exact wording of the stories had resulted in an attribution of the story to another person. ADA Schwartz had countered with a charge that Kuby might have "forged" the document, but later, recanted his accusation.

At the August continuance, Judge Winslow pointedly asked Schwartz if his office had gotten an official statement from the Department of Corrections regarding the incident. Schwartz admitted that Friedman had been found "not guilty."

Judge Winslow indicated his belief that the false submission was made to further the perception that "Mr. Friedman, he's just a bad guy."

The judge added, "We can't function in the justice system in this fashion. This is a country that has no trust, no feeling of credibility when it comes to our institutions."

Judge Winslow noted two letters sent to him recently. One was from Scott Banks, law clerk for deceased Judge Abbey Boklan, who is among the few who have had access to crucial documents surrounding the case. Banks, urging a release of the documents, wrote, "While the indictments were legally sufficient, I recall being troubled by the dearth of detail and specificity of the testimony, and complete lack of medical testimony or medical evidence substantiating the allegations of extreme violent sexual abuse."

The other letter which Judge Winslow called "compelling" was from Arline Epstein, mother of Michael Epstein who just last year revealed to his parents that he had never been abused or witnessed any abuse. As a boy, after months of questioning and counseling, he reasoned that the only way to stop the pressure would be to lie about what happened and "regurgitate stories that other boys had told the police."

After Michael's disclosure, Arline Epstein, who habitually takes notes, found a folder full of her notes from the troubling time. She began to immerse herself in the case, studying her notes, speaking with the therapist Michael had seen, and reaching out to the other affected mothers with whom she had shared so much. Ms. Epstein came forward, as did Michael, to present her evidence in person to the DA's review team. She eventually persuaded the DA's office to allow someone from the advisory panel to also hear her testimony, a deviation from the norm.

She writes in her letter: “The DA’s Report ignores, discounts and mischaracterizes much of my evidence. In fact, only one-fifth of my notes are included. Many of the missing notes contain information that weakens or undermines the Report’s arguments.” (In addition to the 155-page report, there were an additional 900 pages of notes in an appendix released by the DA’s office.)

Ms. Epstein asserts that some missing notes refer to two occasions when mothers reported to her that their children were interviewed at length, one for five hours, the other for seven hours. The DA’s report categorically states that the boys were not subjected to long interviews.

Notes from a Nov. 23, 1988 meeting between parents and police were missing. Officers informed parents that the first round of questioning 30 students had not resulted in any reports of abuse. The DA’s report states that charges were made rapidly.

Ms. Epstein also sent the judge a 16-page document in which she concisely outlines the material points which she believes were discounted and distorted.

Ms. Epstein calls the review team’s filtering of evidence and testimony instead of allowing direct access to the advisory panel...a “fatal flaw.”

A seven-page affidavit came to the judge from FBI Special Agent Kenneth Lanning, who is referenced in the DA’s report as an expert in cases of sexual victimization of children, specifically child sex rings, when children and more than one abuser are involved.

Lanning writes, “As a general principle, valid cases tend to get better and false cases tend to get worse with investigation. I get concerned when as an investigation progresses, the number of alleged offenders keeps growing and the allegations get increasingly more bizarre and atypical. The Report seems to support the fact that such progressions did take place over time in the Friedman case investigations but it sets forth no detailed or plausible explanations of their significance.”

Lanning concludes, “Blindly believing everything in spite of a lack of logical evidence or simply ignoring the impossible or improbable and accepting the possible is not good enough.” He urged release of all documents.

After the ruling, Jarecki said, “The reason these long-withheld documents are so important is that they reveal fundamental contradictions that undermine the validity of the 26 year-old case ... This victory is strengthened by the judge’s indignation at the fraudulent claims that were included in the DA’s recent so-called “Conviction Review.”

Friedman, so overcome with emotion that he had to pause and fight back tears said, “It is a delight to have a judge show such fairness and impartiality.”

The DA’s spokesman Shams Tarek issued this statement: “After more than two decades, several guilty pleas, a complete appeal process, and a full and independent re-investigation, the victims in this case deserve closure and privacy. We are disappointed by the decision and will absolutely be appealing and expecting to prevail on behalf of the victims in a higher court.”

A written question to the spokesperson regarding the DA’s false accusation that Jesse Friedman wrote horrific pornography in prison went unanswered by deadline.