

COUNTY COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

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THE PEOPLE OF THE STATE OF NEW YORK.

-- against --

JESSE FRIEDMAN.

Defendant.

AFFIRMATION OF
PETER PANARO, ESQ.

Indictment Nos.
67104, 67430, 69783

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PETER PANARO, ESQ., hereby affirms under penalty of perjury that the following is true and correct:

1. I am an attorney duly admitted to practice law in the State of New York. I am also admitted to practice law in the United States Supreme Court, the United States District Courts for the Eastern and Southern Districts of New York, as well as other courts.

2. I represented Jesse Friedman, the defendant in the above-captioned case, from June 1988 through his sentencing in January 1989. Mr. Friedman was charged in three indictments with more than two hundred offenses involving the sexual abuse of children.

3. I make this affirmation based on personal knowledge and upon information and belief. In preparing this affirmation, I reviewed my entire legal file on this case.

4. Jesse Friedman was indicted on December 7, 1987, together with his father, Arnold Friedman, as a codefendant, for offenses involving the sexual abuse of children. A second indictment charging Arnold and Jesse Friedman with sexual abuse

was issued on February 1, 1988. When my representation of Jesse Friedman began, Arnold Friedman had already pled guilty under these two indictments and had been sentenced both in Federal court and State court. This left Jesse Friedman's charges pending trial.

5. Notwithstanding repeated efforts by the district attorney's office to persuade me that Jesse should enter a guilty plea, my client and I were intent on going to trial. Assistant District Attorney Onorato advised me that if Jesse did not plead guilty, his office would obtain a third indictment, and that this indictment would include many more charges than both previous indictments combined, and that those charges would be much more serious. Further, Mr. Onorato stated that if this were necessary he would seek to revoke Jesse's bail and have him incarcerated pending trial.

6. True to his word, when Jesse did not plead guilty, Onorato obtained a third indictment (No. 69783), in which Jesse was charged together with Ross Goldstein, another Great Neck teenager, as a codefendant. This 302-count indictment included 198 counts against Jesse, including more than 100 of them charging sodomy in the first degree. Additionally, Mr. Onorato did seek to have Jesse's bail revoked, an application that was denied by the then presiding judge, Judge Boklan.

7. Immediately after arraignment on this indictment, counsel for both parties agreed that rather than commence motion practice again, a stipulation in lieu of motions and voluntary disclosure would suffice. This stipulation, dated November 17, 1988, and so ordered by Judge Boklan, directed the prosecution to "deliver to the defendant all evidence favorable to him under the authority of Brady v. Maryland."

8. Before the third indictment was handed down, I had learned from either Jesse or Arnold Friedman that _____, the mother of one of the computer students, had secretly made a videotape of an interview with her son, conducted by Detectives Hatch and Jones. I went to _____'s house and she allowed me to watch the tape in her presence. The picture on this Betamax tape was of very poor quality, but the audio was very clear. As I watched the tape, I transcribed the interview. I later allowed Andrew Jarecki, the director of "Capturing the Friedmans", to type up my handwritten transcription, which he did accurately.

9. After Ross Goldstein was charged, Mr. Michael Conacchia telephoned my office and identified himself as an attorney who was retained to represent the co-defendant, Ross Goldstein. Mr. Conacchia told me that his client had no idea why he was involved or being charged with these crimes since he had never even been inside the computer room at the Friedman home, and never met any of these complainants. I met with Mr. Conacchia and shared my thoughts with him and the two of us began preparing for trial over the course of the next few months, meeting several times and discussing the case. At all times it was always the defendant Ross Goldstein's position that nothing ever happened and that these crimes were never committed by him.

10. On or about September 21, 1988, I telephoned Mr. Conacchia to arrange for a meeting and for the first time, Mr. Conacchia informed me that his client "had changed his mind" and would be saying that the incidents charged in the indictment did in fact take place. After pressing Mr. Conacchia for some time, Mr. Conacchia finally admitted that his client would be cooperating with the District Attorney's Office.

11. In or about November 1988, during a conference in Judge Boklan's chambers, Judge Boklan told me that if Jesse were to go to trial, she intended to sentence him to consecutive terms of imprisonment for each count that he was convicted on.

12. Notwithstanding his protestations of innocence, Jesse informed me, on or about December 12, 1988, that he wanted to plead guilty because he believed that if he went to trial he would be found guilty and would spend almost the remainder of his life in jail. He was 19 years old at the time. Jesse told me if he pleaded guilty he would probably get out of jail by the time he was 30 years old. I told Jesse that I would not represent him on a guilty plea unless he was guilty and that I could not ethically allow him to plead guilty if he was maintaining his innocence to me.

13. Jesse told me that he had committed the charged offenses. He also told me that not only had he had been a victim of sexual abuse by his father for many years but that his father had coerced him into participating in the molestation of the computer students.

14. At a conference, I told the court that Jesse had informed me that he had been a victim of sexual abuse by his father for many years and that this should be considered by the court in mitigation of sentence. I reiterated this request at the sentencing of my client.

15. Jesse and I had been extremely frustrated in our preparation for trial since no Brady material had been provided to us by the prosecution. In the absence of any physical evidence, medical evidence, or prior complaints by any computer student, the prosecution was relying entirely on new statements allegedly made by the computer students after the police questioning had begun. Accordingly, the only way for us to

refute the prosecution's case would have been to produce evidence showing that the testimony of the computer students was incorrect or not reliable. The Friedmans had been unable to contact the computer students directly for two reasons: First, upon information and belief, when Arnold Friedman had initially tried to contact some of the students, the prosecution had retaliated by revoking his bail. This was a clear warning to Jesse that he should not try to contact them himself. Second, the police had confiscated the list of computer students and their contact information, and refused to return it to the Friedmans. So our only hope was that we could get access to any Brady material that might support the position that Jesse was innocent of the charges. When we were repeatedly denied any Brady material, we realized that it would be difficult to mount a meaningful defense.

16. While it has always bothered me that we were never provided with this Brady material, it was not until 14 years later, when I saw Andrew Jarecki's film, that I realized the enormous extent and import of the material to which we were refused access. After seeing the film, and some additional information collected by Jarecki, I now realize that the children interviewed as part of the prosecution of Jesse Friedman were subjected to numerous suggestive questioning techniques. In particular, I have learned that the interviews were characterized by leading questions, expressions of the interviewer's beliefs that Jesse Friedman was guilty, manipulation such as befriending and rewarding children to produce sex abuse claims, intimidating or threatening them when such claims were not forthcoming, and repeated interviews when children denied abuse. I also note from the film that one of the most significant complainants in the case had no recollection

of, and made no allegations of any sexual abuse until after he was hypnotized, a technique widely shown to cause false memories.

17. Subsequent to viewing the film, it became apparent to me that the children interviewed as part of the prosecution of Jesse Friedman (other than Gary Meyers, whose interview I was already familiar with) were subjected to numerous suggestive questioning techniques. In particular, I have learned that the interviews were characterized by leading questions, expressions of the interviewer's beliefs that Jesse Friedman was guilty, manipulation such as befriending and rewarding children to produce sex abuse claims, intimidating or threatening them when such claims were not forthcoming, and repeatedly interviews when children denied abuse. I have also since been advised that at least one of the children made no allegations of sexual abuse until after hypnosis.

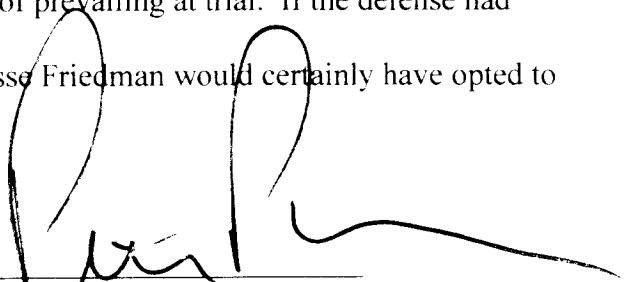
18. The recording of the interview with Gary Meyers showed that the detectives who conducted the interview used suggestive and harassing questioning. Immediately after viewing the Gary Meyers tape, I informed assistant district attorney Joe Onorato about the interview. I made it clear to him that any evidence that similar tactics were used in interviewing any of the complainants against Jesse Friedman would be evidence favorable to the defense that the defense had a right to be informed of. I never received any Brady material indicating that such suggestive methods were used with any of the children interviewed by the police.

19. Had I been aware at the time of this extensive body of impeachment evidence, I would have seen the prospect of a guilty plea in a completely different light. I already found it quite incredible that sexual abuse of the scope and severity alleged could have taken place without a single child complaining or showing other signs of

abuse. I also believed that the hysteria surrounding the case could well be responsible for the ever growing number of charges, but as an attorney I had virtually no affirmative evidence with which to oppose the allegations. My common sense and logic told me that scores of children, including the 14 children who were complainants against Jesse, could not be repeatedly sodomized and sexually abused hundreds of times, over a period of four years, day in and day out, and say nothing. After all these were not 3 and 4 year old boys. They were between 8 and 11 years old. I felt that the idea that no one would have said a word, and that in fact some of the most significant complainants would sign up for multiple classes after having been violently abused in the prior classes, was ridiculous. But logic and common sense cannot substitute Brady material – real evidence that would tend to exculpate my client.

20. In addition, Jesse's situation at the time was made even more dire by the destruction of his family support structure (with the arrest of his father and mother who was briefly arrested, and accusations threatened against his two brothers -- later shown to be totally without merit), the absence of funds required for experts who would have been necessary to prepare a meaningful defense, and the ever increasing number of charges against him (and the attendant publicity accompanying each new set of charges).

21. It is clear to me that proper disclosure of Brady evidence could have thoroughly altered Jesse's view of his chances of prevailing at trial. If the defense had been privy to that information I believe that Jesse Friedman would certainly have opted to fight the charges against him at trial.



PETER PANARO