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Crimes Defining Our Time: Notable Criminal Cases from the First Fifty Years of the Middle District of Florida

by Anthony E. Porcelli, Magistrate Judge

Since the inception of the Middle District of Florida in 1962, the breadth of cases prosecuted in the District during the first five decades has covered the spectrum of the federal criminal code. The courthouses in the District have certainly housed many nationally significant and high profile cases, all worthy of extensive discussion and debate. Given the nature and scope of the many significant prosecutions, it is a difficult task to select just a few notable criminal cases. The nine cases discussed below have not been selected based upon the success of the government or defense in the case, but rather have been selected to be briefly summarized based upon the nature of the charges and the national significance of the prosecution.

As Central Florida grew economically and culturally during the District's first 50 years, as exemplified by the cases below, the societal changes impacted the scope and sophistication of the prosecutions in the District. Not surprisingly, some of the first notable cases from the District's early years were RICO¹ prosecutions. Then, as cocaine became prevalent in the 1980s and 1990s, the District produced arguably three of the most significant drug or money laundering related prosecutions in United States history. At the

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1 Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-1968 (also known as the Organized Crime Control Act of 1970).

turn of the century, substantial cases in the District included the prosecution of one of the largest ever corporate frauds, the conviction of the highest ranking United States military officer for espionage, one of the first terrorism related trials after September 11, 2001, and one of the largest health care fraud prosecutions in the United States.

For nearly the first decade of the District's existence the investigative tools and the scope of federal jurisdiction over crimes was limited in comparison to current conditions. The types of federal crimes pursued included cases such as interstate transportation of stolen cars, bank robberies, and fugitives. How these cases were prosecuted and defended is a vast difference from today's federal criminal procedures.² As former Eleventh Circuit Judge Joseph W. Hatchet commented during the 50th Anniversary panel presentation³ "the system has changed a great deal since the early 60s." Judge Hatchet observed that "in the old days there were no public defenders, every lawyer in the district was a public defender, all it took was a call from the judge, who'd say you have volunteered to represent such and such defendant . . . , there was no authorized plea bargaining . . . , no sentencing guidelines, [and] discovery was by ambush."

Arguably, during the District's early years one of the more significant developments relating to federal criminal prosecutions was when Congress passed the RICO Act in 1970. The very next

2 Notably, during the District's infancy in the 1960s, the United States Supreme Court issued a number of rulings that drastically changed how federal criminal cases were investigated, prosecuted, and defended. See, e.g., *Miranda v. Arizona*, 384 U.S. 436, 498-99 (1966) (holding that statements obtained from defendants during incommunicado interrogation in police-dominated atmosphere without full warning of constitutional rights are inadmissible as having been obtained in violation of the Fifth Amendment privilege against self-incrimination); *Gideon v. Wainwright*, 372 U.S. 335, 339-43 (1963) (holding that the Sixth Amendment's guarantee of counsel extends to the states through the Fourteenth Amendment, establishing an accused's right to assistance of counsel in all criminal prosecutions); *Mapp v. Ohio*, 367 U.S. 643, 655 (1961) (holding that evidence obtained by an unconstitutional search is inadmissible).

3 On October 26, 2012, the District hosted the Middle District of Florida 50th Anniversary Academic Symposium in Orlando, Florida. At the Symposium, Judge Hatchett, Senior United States District Judge William J. Castagna, and Stetson University College of Law Professor Robert Batey participated in a panel discussion on major criminal cases in the District's history.

year in 1971 to combat the prevalent “bolita”⁴ gambling enterprises in Central Florida, the government pursued RICO charges against Harlan Blackburn, a.k.a. “The Colonel,” and numerous others in what is believed to be the first RICO prosecution in the State of Florida. Blackburn was the boss of a crew of gamblers and thieves called the “Cracker Mob,” which had about 20 bolita bankers and 200 sellers.⁵ However, as a result of the successful prosecution, Blackburn’s organization was essentially dismantled.⁶

It was believed that Blackburn was at one time a partner in gambling enterprises with Santo Trafficante, Jr., who law enforcement had doggedly pursued through the 1970s and early 1980s for racketeering activities.⁷ As detailed by Senior United States District Judge William J. Castagna during the 50th Anniversary panel presentation, the government’s pursuit of Trafficante, Jr. came to a head in 1983 when he was charged along with eleven other men as being members of the “La Cosa Nostra” or “Mafia” engaged in racketeering activities, to include gambling, extortion, interfering with commerce by threats of violence, and bribery. The core of the government’s case was the result of an investigation known as “Operation Coldwater,” which specifically included the extensive efforts of Federal Bureau of Investigation Special Agent Joseph D. Pistone, who under the assumed identity of “Donnie Brasco,”⁸ infiltrated the criminal enterprise through his contacts with Benjamin “Lefty” Ruggiero and Sonny Black. As explained by Judge Castagna, a significant part of the government’s case focused on the defendants’ alleged efforts to engage in illegal gambling activities at the King’s Court, which was later revealed to be an undercover gambling club owned and operated by the FBI. The majority of defendants were found guilty of a number of the alleged racketeering activities. However, Black was not charged in the case

4 Bolita is akin to a lottery game, in which normally one-hundred numbered balls were placed in a bag, mixed up, and the winning number would be drawn. The game was brought to Florida by Cuban immigrants and was very popular in Central Florida with many variants of the game abound. See SCOTT M. DEITCHE, *CIGAR CITY MAFIA, A COMPLETE HISTORY OF THE TAMPA UNDERWORLD* ch. 15 (2004).

5 *Id.*

6 *Id.*

7 *Id.*

8 The compelling story of Agent Pistone’s undercover work is portrayed in the Hollywood motion picture *Donnie Brasco*. DONNIE BRASCOE (TriStar Pictures 1997).

because his decomposed body was located in a creek in 1982, prior to the indictment. As noted by Judge Castagna, it was presumed that Black's death was attributable to him bringing Brasco into the criminal enterprise. Trafficante, Jr. was not convicted on any charges. Judge Castagna explained during his panel presentation that the charges against Trafficante, Jr., were dismissed based upon the insufficiency of the evidence. Judge Castagna noted that the government argued that a significant piece of evidence against Trafficante, Jr. was an audio-recording during which Trafficante, Jr. could allegedly be heard taking a \$1000 payment secreted in a greeting card from Black. However, as recalled by Judge Castagna, not only did the recording evince that Trafficante, Jr. did not be take any such payment, but as Black repeatedly offered the payment to Trafficante, Jr., the only response heard on the recording was Trafficante, Jr. stating "forget about it."

As the 1980s came, so did the proliferation of sophisticated narco-trafficking organizations. In response, the United States became fully engaged in the war on drugs. Three cases from the District exemplify the government's efforts to combat the epidemic of cocaine distribution: the prosecution of Carlos Enrique Lehder Rivas ("Lehder"); the case against the Luxembourg-based Bank of Credit and Commerce International ("BCCI"); and the ongoing investigation known as "Operation Panama Express."

In 1981, Lehder was indicted⁹ for smuggling approximately 3.3 tons of cocaine from 1978 to 1980.¹⁰ During trial in November 1987, it was argued that "[Lehder] was to cocaine transportation [what] Henry Ford was to automobiles."¹¹ At that time, Lehder was considered to be the highest-ranking member of the Medellin Cartel to face trial in the United States.¹² The trial detailed

9 See Indictment at Dkt. No. 1, United States v. Lehder Rivas, No. 3:81-cr-82-J-25MCR (M.D. Fla. Sept. 18, 1981).

10 Reportedly, Lehder was responsible for eighty percent of the Colombian cocaine smuggled into the United States. Mary T. Schmich, *Colombian is Called 'Henry Ford' of Drugs*, CHICAGO TRIBUNE, May 11, 1988, available at http://articles.chicagotribune.com/1988-05-11/news/8803160096_1_carolos-lehder-rivas-cocaine-columbian.

11 Barry Bearak, *Mother Delivered Drug for Trip to Disneyland, Witness Says: Odd Moments Lace Tame Lehder Cocaine Trial*, L.A. TIMES, Mar. 12, 1988, available at http://articles.latimes.com/1988-03-12/news/mn-840_1_carlos-lehder.

12 Jean Thompson, *Prosecutor: Lehder Fostered Fledgling Drug Trade*, SUN-SENTINEL, Nov. 17, 1987, available at http://articles.sun-sentinel.com/1987-11-17/news/8702060168_1_mr-merkle-carlos-lehder-rivas-cocaine-transportation.

Lehder's rise in becoming one of the most significant cocaine distributors in the United States, starting when he met George Jung in federal prison.¹³ Lehder quickly developed a sophisticated and extensive organization, which was based in Norman's Cay in the Bahamas, where he controlled the entire tropical island, had a fleet of one dozen aircraft, and commanded an army of drug smugglers.¹⁴ Lehder's trial was reported as the "most important drug prosecution in U.S. history . . ."¹⁵ Lehder was convicted after a seven-month trial and was originally sentenced to life imprisonment plus an additional 135 years, but Lehder's sentence was reduced to fifty-five years of imprisonment based upon his cooperation with the United States against the fallen Panamanian dictator, Manuel Noriega.¹⁶ Lehder is still actively seeking to have his sentence reduced to thirty years based upon his cooperation against Noriega.¹⁷

In the latter part of the 1980s, it was revealed that BCCI laundered millions of dollars for Colombian cocaine cartels and other significant drug traffickers.¹⁸ BCCI was one of the world's largest private banks operating in seventy-three countries with offices in France, Panama, England, New York, Los Angeles, Tampa, and Miami.¹⁹ Based upon an extensive two-year undercover operation known as "C-Chase," BCCI and nine of its officers were indicted in 1988 for participating in a drug-related, money-laundering scheme.²⁰ At the conclusion of the elaborate undercover operation, agents orchestrated a phony wedding and arrested the majority of the defendants at a staged bachelor party, including Amjad Awan, who laundered millions of dollars for Noriega, and Gonzalo Mora, Jr., who laundered millions of dollars

13 The partnership between Lehder and Jung is fictionalized in the Hollywood motion picture *Blow*. BLOW (New Line Cinema 2001).

14 See *supra* note 11.

15 See *supra* note 10.

16 Order on Motion to Compel, Motion to Implement Sentence Adjustment, Motion for Appointment of Counsel, and Motion for Status Conference at Dkt. No. 1485 n.1, United States v. Lehder Rivas, No. 3:81-cr-82-J-25MCR (M.D. Fla. Aug. 23, 2011).

17 *Id.*

18 See Indictment at Dkt. No. 1, United States v. Awan, No. 8:88-cr-330-T-26 (M.D. Fla. Oct. 4, 1988).

19 Associated Press, *Ex-Banker to Noriega is Convicted in Scheme to Aid Drug Traffickers*, N.Y. TIMES, July 30, 1990, available at <http://www.nytimes.com/1990/07/30/us/ex-banker-to-noriega-is-convicted-in-scheme-to-aid-drug-traffickers.html>.

20 *Id.*

for the Medellin Cartel.²¹ As part of a plea deal, BCCI agreed to forfeit to the United States fourteen million dollars, which at that time was hailed as the “largest cash forfeiture ever” by a financial institution in the United States.²² Awan and Mora, Jr., along with others, were convicted after a lengthy trial. The verdicts were hailed by the government as “significant victories in our efforts to dismantle the drug cartels’ ability to hide their tainted profits in the worldwide banking system.”²³

Since the late 1990s to date, law enforcement in the District has been engaged in “Operation Panama Express,” which, according to the United States, led to 308 high-seas interdictions, resulting in the seizure or destruction of more than one-thousand tons of cocaine and the prosecution of 1,843 defendants.²⁴ The Operation focuses on the transportation of multi-ton quantities of cocaine transported by boat in the Eastern Pacific Ocean from Colombia destined for the United States. The Operation consists of a collective effort between multiple governmental agencies, including, among others, the Drug Enforcement Agency, the FBI, the United States Coast Guard, and the United States Navy.²⁵ Notable defendants prosecuted as a result of the Operation include Joaquin Valencia-Trujillo (“Valencia”) and Jose Castrillon-Henao.²⁶ Described as “the biggest catch ever netted by Operation Panama Express,” Valencia acted as a member of the Cali Cartel, which reportedly ran “one of the largest-ever maritime drug shipping operations.”²⁷

21 See ROBERT MAZUR, *THE INFILTRATOR, MY SECRET LIFE INSIDE THE DIRTY BANKS BEHIND PABLO ESCOBAR’S MEDELLIN CARTEL* 288-305 (1st ed. 2009) (describing “the takedown” from the eyes of the undercover agent).

22 Douglas Frantz & Ronald J. Ostrow, *Bank Pleads Guilty to Handling Drug Profits: Noriega: A Luxembourg Institution Linked to Panama’s Ousted Strongman Forfeits \$15 Million in Assets to the U.S.*, L.A. TIMES, Jan. 17, 1990, available at http://articles.latimes.com/1990-01-17/news/mn-103_1_international-bank.

23 See *supra* note 20.

24 Additionally, Operation Panama Express reportedly also conducted the largest one-time seizure of cocaine when twenty-one tons of cocaine was seized during an interdiction. See Elaine Silvestrini, *21 Tons of Cocaine Seized from Vessel*, THE TAMPA TRIBUNE, Mar. 22, 2007, available at <http://tboblogs.com/index.php/newswire/story/21-tons-of-cocaine-seized-from-vessel/?imw=Y>.

25 *Id.*

26 See *United States v. Valencia-Trujillo*, No. 8:02-cr-329-T-17EAJ (M.D. Fla. filed Aug. 22, 2002); *United States v. Castrillon-Henao*, No. 8:98-cr-164-T-24TBM (M.D. Fla. filed Apr. 14, 1998).

27 See Carrie Weimar, *Drug Trial Could Shake Colombia*, TAMPA BAY TIMES, July 9, 2006, available at http://www.sptimes.com/2006/07/09/Tampabay/Drug_trial_could_shak.shtml.

In addition to the prevalent and all-too-common drug crimes of the time, wide-scale and complex fraudulent crimes came to the forefront and became commonplace from the mid-1990s through the next century. Unfortunately, the District was not spared from the rising tide of fraud. In 1994, the National Heritage Life Insurance Company lost more than 450 million dollars, causing catastrophic losses to its 25,000 policy holders, half of whom were Floridians.²⁸ National Heritage's collapse came about as the result of "the largest insurance company failure caused by fraud in the nation's history."²⁹ After a five-year investigation into the massive fraud, numerous defendants were convicted, including the noted orchestrator of the fraud, Sholam Weiss.³⁰ Weiss, who fled the country at the end of his nine-month trial and before the jury returned a verdict, was sentenced in absentia to 845 months imprisonment and ordered to pay 125 million dollars in restitution.³¹ Weiss was eventually apprehended one year later, and after a contentious extradition process, was subsequently transferred to a federal prison to serve reportedly "the longest sentence ever handed down in federal court."³²

After the horrific tragedies of September 11, 2001, the United States investigative priorities justifiably pivoted to homeland security. Coinciding with this shift in focus, in 2001, George Trofimoff, a retired colonel from the U.S. Army Reserve, became the highest-ranking U.S. military officer ever convicted of espionage. The KGB recruited Trofimoff to spy for it through the use of one of Trofimoff's childhood friends, who had grown up to become the archbishop of the Russian Orthodox Church in Vienna.³³ From 1969 through 1994, Trofimoff received hundreds of thousands of dollars from the KGB as payment for the United States' secrets he gathered by taking photographs of military

28 See Susan Clary & Jim Leusner, *4 Guilty in Insurer's Collapse*, ORLANDO SENTINEL, Nov. 2, 1999, available at http://articles.orlandosentinel.com/1999-11-02/news/9911020042_1_weiss-heritage-life-national-heritage.

29 *Id.*

30 See *United States v. Shalom Weiss*, No. 6:98-cr-99-Orl-19KRS (M.D. Fla. filed Apr. 29, 1998).

31 See Joe McDonald, *Scranton Super Thief's Story to Air on CNBC*, SCRANTON TIMES TRIBUNE, Mar. 13, 2010, available at <http://thetimes-tribune.com/news/scranton-super-thief-s-story-to-air-on-cnbc-1.676238>.

32 *Id.*

33 See *United States v. Trofimoff*, No. 8:00-cr-197-T-24EAJ (M.D. Fla. filed June 14, 2000).

documents with a Minox camera. Reportedly, Trofimoff's decades-long theft of government secrets constituted the longest lasting case of espionage in United States history.³⁴ Assistant Secretary of the United States Department of Defense John P. Stenbit requested that the court sentence Trofimoff to life imprisonment, asserting in a letter that "a sentence short of life imprisonment does not adequately address the scope and consequences of Trofimoff's actions, and would fail to serve as an appropriate deterrent for others who would contemplate violating a trust to protect our nation's security."³⁵ Indeed, Trofimoff received a life sentence.³⁶

In early 2003, in what one reporter called "one of the government's most significant prosecutions since the attacks of September 11, 2001," the United States pursued charges against Sami Al-Arian, an outspoken advocate for Palestinian independence.³⁷ The case against Al-Arian³⁸ was described as a "flashpoint for debates over . . . the government's expanded powers under . . . the . . . Patriot Act,³⁹ and its strategy in terror investigations before and after the September 11 attacks."⁴⁰ After a six-month trial stretching from 2005 to 2006, the jury acquitted Al-Arian on eight counts and remained deadlocked as to the other nine counts. Al-Arian subsequently entered a plea of guilt for conspiring to make or receive contributions of funds, goods, or services to or for the benefit of the Palestinian Islamic Jihad, and was accordingly sentenced to fifty-seven months of imprisonment.⁴¹

As the District approached its 50th Anniversary, the debate over health care in the United States arguably reached an all-time

34 See Dong-Phuong Nguyen, *Trofimoff, 75, Sentenced to Life in Prison for Spying*, SAINT PETERSBURG TIMES, Sept. 28, 2001, available at http://www.sptimes.com/News/092801/Hillsborough/Trofimoff__75__senten.shtml.

35 *Id.*

36 *Id.*

37 See Eric Lichtblau, *From Advocacy to Terrorism, A Line Blurs*, N.Y. TIMES, June 5, 2005, available at <http://www.nytimes.com/2005/06/05/national/nationalspecial3/05terror.html?pagewanted=all&r=0>.

38 See *United States v. Al-Arian*, No. 8:03-cr-77-T-30TBM (M.D. Fla. filed Feb. 19, 2003).

39 *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2001*, Pub.L. No. 107-56, 115 Stat. 272 (2001).

40 See *supra* note 34.

41 See Judgment at Dkt. No. 1574, *United States v. Al-Arian*, No. 8:03-cr-77-T-30TBM (M.D. Fla. May 1, 2006).

high with the passing of the Patient Protection and Affordable Care Act.⁴² At that same time, in what was described as “one of the largest health care fraud cases in the United States,” the government pursued WellCare Health Plans, Inc. (“WellCare”) and its officers for Medicaid and Medicare fraud.⁴³ In 2009, WellCare entered into a deferred prosecution with the United States in which it agreed, among other things, to pay eighty million dollars in restitution and penalties, accept full responsibility for the fraudulent conduct, and retain an independent monitor to review and regularly report on WellCare’s compliance with federal and state regulations.⁴⁴ In 2011, the Government indicted five of WellCare’s officers, including the President, General Counsel, and Chief Financial Officer, with multiple counts relating to the healthcare fraud.⁴⁵ On June 10, 2013, upon the conclusion of a lengthy trial, a jury returned a guilty verdict as to at least one count against each of the WellCare officers.

As exhibited by the brief descriptions above about these few selected criminal cases, the first 50 years of the District has undoubtedly witnessed some significant and important criminal prosecutions. Although fascinating and interesting from a historical perspective, here is hoping that in the next 50 years Central Florida will not have to endure such criminal activity again.

42 Patient Protection and Affordable Care Act, Pub.L. No. 111-148, 124 Stat. 119 (2010) (commonly known as “Obamacare”).

43 See Kevin Graham & Kris Hundley, *Wellcare Admits Shortchanging Medicaid Patients, Will Pay \$80 Million*, TAMPA BAY TIMES, May 5, 2009, available at <http://www.tampabay.com/news/business/wellcare-admits-shortchanging-medicaid-patients-will-pay-80-million/998325>.

44 *Id.*

45 See *United States v. Farha*, No. 8:11-cr-115-T-30MAP (M.D. Fla. filed Mar. 2, 2011).