

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

\_\_\_\_\_ x  
THE PEOPLE OF THE STATE OF NEW YORK, :  
: AFFIDAVIT

-against- :  
JOHN GIUCA, : Indictment No. 8166/2004  
Defendant. :  
\_\_\_\_\_ x

STATE OF NEW YORK )  
COUNTY OF NEW YORK ) ss:

Lauren McCulloch, being duly sworn, states under penalty of perjury, as follows:

1. I am 30 years old. I make this affidavit of my own free will. Nobody has provided me with, or promised me, or anyone else, any benefit or consideration in exchange for executing this affidavit. I have reviewed the contents of this affidavit with my attorney, Avrom Robin, Esq.

2. I am married and have a young daughter. I have a Bachelor's Degree in Criminal Justice from John Jay College of Criminal Justice. I am presently employed at a large financial institution in Manhattan.

3. I dated John Giuca ("John") in the early 2000's. In September and October 2003 our relationship was rocky and coming to an end. In October 2003, John and I did not trust each other and we did not confide in each other. We argued frequently.

4. I have not seen John since 2005. I have not spoken to him in over eight years. I have not communicated with him or any of his family members, including his mother Doreen Giuliano, about the contents of this affidavit. In August 2013, I met with John's attorneys, Mark Bederow, Esq. and Adam Miller, Esq. I have spoken with Mr. Bederow a few times on the telephone about the contents of this affidavit.

5. At all times between October 2003, when Mark Fisher was shot and killed, and September 2005, which was the time of John's trial, my father, Salvatore Calciano, was incarcerated.

6. My father's attorney in the criminal case that resulted in his incarceration was Samuel Gregory. Mr. Gregory later became John's attorney, after I gave his name to John when he needed an attorney in connection with the Fisher case. Thus, in the late 1990s and early 2000s, because of his involvement in my father's case, I knew Mr. Gregory well. In fact, Mr. Gregory dined with my family at our house on one occasion during the period of time that he represented my father.

#### THE TRIAL OF JOHN GIUCA

7. In September 2005, I was called as a prosecution witness at John's trial. Prior to testifying, I was interviewed several times by detectives from the New York City Police Department ("N.Y.P.D.") and members of the Kings County District Attorney's Office ("the D.A."), including the lead prosecutor, Assistant District Attorney ("A.D.A.") Anna-Sigga Nicolazzi.

8. Samuel Gregory never interviewed me or spoke with me about the Fisher case. In fact, I am unaware of any effort that he might have made to interview me at any time during the investigation or before I testified at trial, when Mr. Gregory cross – examined me.

9. At trial, I testified, in sum, that I was present at John's house with John and Albert Cleary ("Albert") the day after Mark Fisher was killed. I testified that John stated, in the presence of Albert Cleary and me, that Antonio Russo ("Tony") had asked him for a gun and that John gave Tony a gun.

10. My testimony was that John stated in the presence of Albert Cleary and myself that Tony asked him for a gun and that he, John, gave Tony a gun after Tony told John he wanted to rob Albert's friend, meaning, Mark Fisher. In fact, John never stated this in my presence. I have regretted this testimony since I first was pressured to claim this by law enforcement officials, including N.Y.P.D. officers and A.D.A. Nicolazzi.

#### COMING FORWARD

11. For years, I have thought about and regretted the above-described testimony. Several months ago, I became aware of a letter which John had written to my father in which John pleaded with my father to encourage me to step forward and reveal the truth.

12. Because I had successfully moved on from John and this difficult period of my life, and had since become happily married, started a family and obtained excellent employment, my father withheld the letter from me for a long period of time. Eventually, my father did show me the letter.

13. After reading the letter, I addressed the truth with my husband. I felt compelled to come forward and set the record straight. I soon became aware that Mark Bederow, Esq., was

representing John. I contacted Mr. Bederow and advised him that I wished to discuss issues related to John with him. I met with Mr. Bederow and Adam Miller, Esq., his law partner, that same day. I advised them about the issues with my trial testimony and the pressure placed on me by the D.A. and N.Y.P.D. to testify as they wished.

#### PRESSURE BY LAW ENFORCEMENT

14. In the aftermath of Mark Fisher's death, I was interviewed several times by law enforcement about John's alleged role in the crime. They never asked me about Albert Cleary's alleged involvement. It was clear to me within days of the shooting that law enforcement was trying to build a case against John. Over the course of several months, I repeatedly told them that I did not have any information regarding John's alleged involvement in the crime. I was questioned by A.D.A. Nicolazzi and other officials at a police precinct, the D.A.'s Office, and before the grand jury and at trial. At one of these meetings at the D.A.'s Office in 2004, there were several detectives and prosecutors who grilled me for several hours.

15. In late 2004, I was eventually subpoenaed to appear before a grand jury. Before I testified in the grand jury, A.D.A. Nicolazzi questioned me under oath and recorded me. Before I was recorded, A.D.A. Nicolazzi "practiced" the questions and answers I should give once the recorder was on.

16. Law enforcement pressured and frightened me to the point that I ultimately relented and told them what they wanted to hear. Specifically, I was pressured to "admit" that John had told me that he gave Tony Russo a gun before Tony shot and killed Mark Fisher.

17. The pressure placed on me by the D.A. and police was relentless. It included:

(a) Law enforcement officers suggested that I was involved in the aftermath of the crime by telling me that Albert Cleary had told them that I had removed a gun bag or evidence from John's house. Although this was untrue, I recognized the seriousness of this claim and it intimidated me.

(b) A.D.A. Nicolazzi and detectives told me that they were aware that my father was in prison and that by not cooperating with them I was "going to make this hard on him and my family." This threat terrified me and caused me great concern for the well-being of my father, my family and myself. More than any other factor, this threat influenced me to testify in the manner that they desired.

(c) Law enforcement officers threatened me with jail and told me that I could be charged with obstruction and/or perjury.

(d) Prior to testifying at trial, I had applied for an internship with the U.S. Marshals. I had also expressed an interest in attending law school. The police and D.A. pressured me by often telling me to "think about my future" as they attempted to gain my cooperation. They told me that "this will follow you the rest of your life" if I did not cooperate with them. I interpreted these statements as threats and that they would ruin my future if I did not do as they said.

(e) Before I told law enforcement what they wanted to hear, at one interview, one investigator became extremely animated and yelled at me that my statements "were ridiculous."

(f) Law enforcement officers pushed me to testify simply that John said that he gave Tony Russo the gun. They told me that if I said that it was not as bad as stating that he had used the gun himself.

(g) A.D.A. Nicolazzi told me that if I did not cooperate with her that police would show up at my place of employment with a subpoena.

(h) At one point before I agreed to testify as they wished, a female N.Y.P.D. detective pulled me aside for a "woman to woman" conversation in which she told me that law enforcement had recovered embarrassing photos of me which John had allegedly shared with his friends.

(i) On another occasion before I testified, A.D.A. Nicolazzi referenced a very personal issue between John and me which was discussed only in our private letters. She told me that "you do not want this coming out at trial." I interpreted this as a not so subtle threat that I would be publicly humiliated by the D.A. if I did not cooperate with the D.A., but that they would prevent me from being humiliated if I did cooperate with them.

(j) At one point, I had consulted with an attorney during the investigation. After I became a "cooperating witness," A.D.A. Nicolazzi advised me to discharge the attorney and "save my money for school," even though I had already been threatened with arrest for obstruction and perjury.

18. In fact, I was present at John's house with Albert Cleary the day after Mark Fisher was killed. Although there was general discussion about Mark Fisher and Tony Russo's likely involvement, John did not say that Tony asked him for a gun and he gave it to him, or that he gave Antonio Russo a gun before the shooting. During this meeting, John was very calm. Albert Cleary, however, was nervous, pacing, and worried about whether Mark Fisher was dead or alive.

### ALBERT CLEARY'S FALSE TESTIMONY

19. I became aware that Albert Cleary testified at trial about my alleged involvement in "covering" for John, as well as the meeting between John, Albert Cleary and I at John's house the day after Mark Fisher was killed.

20. Albert Cleary's testimony that I removed a gun bag or other evidence from John's house shortly after the murder is outrageous and false.

21. Albert Cleary's testimony that John, in our presence, said that he told Tony Russo "to show Mark Fisher what was up" is false.

22. Albert Cleary's testimony that John, in our presence, said "I told Antonio to do one thing and he did another" is false.

### "GHETTO MAFIA"

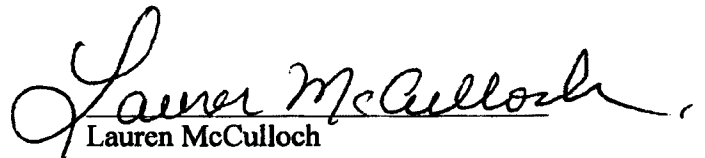
23. I am familiar with the so-called "gang" known as "Ghetto Mafia." It was a loose and casual association of neighborhood teenagers, including John and some of his friends. Based on my experience with John and many of his friends, Ghetto Mafia was not an organized or structured "gang." I am unaware of any initiation requirements, structure or hierarchy, or violent acts being committed or desired in support of this "gang's" credibility. I am unaware of John being a "boss" or "capo" in any gang. I have never seen him refer to himself, or be referred to by anyone else, in that manner.

24. I was familiar with Antonio Russo in 2003. He and John were friends and lived in the same neighborhood. I had the opportunity to see them interact with each other. Although John is a few years older than Antonio Russo, I never observed Antonio Russo act in a subservient or deferential manner to John. I never saw John give Antonio Russo "orders" or

instruct him to do something in furtherance of "Ghetto Mafia" activity. I never saw Antonio Russo seek John's permission or approval before engaging in any specific behavior or conduct.

25. I am aware that at John's trial A.D.A. Nicolazzi referred to John as a "self-styled Mafioso," "Tony Soprano wannabe," and a "capo" of a gang who was superior to his "soldier" Antonio Russo. I never observed any interactions between John and Antonio Russo which would support these characterizations. In fact, these labels strike me as ridiculous and unfair.

26. In 2003, I knew Antonio Russo to be a violent young man who I was aware had committed numerous acts of violence, including robberies and an assault on his own grandmother. In my opinion, he did not need John's permission or consent to engage in acts of violence.

  
Lauren McCulloch

Sworn to before me this  
23 day of January, 2014

