

Capital Punishment Trials of Mafia Murderers

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Leonard Orland



CAROLINA ACADEMIC PRESS

Durham, North Carolina

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Library of Congress Cataloging-in-Publication Data

Orland, Leonard, author.

Capital punishment trials of Mafia murderers / Leonard Orland.
pages cm

Includes bibliographical references and index.

ISBN 978-1-61163-693-2 (alk. paper)

1. Trials (Murder)--United States--History. 2. Capital punishment--United States. 3. Mafia--United States. I. Title.

KF221.M8O75 2015

345.73'025230264--dc23

2014046756

Carolina Academic Press
700 Kent Street
Durham, NC 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America



Chief Judge Amon

Judge Raggi



Judge Garaufis

Dedicated to

*Hon. Carol Bagley Amon
Chief Judge, United States District Court
Eastern District of New York*

*Hon. Nicholas B. Garaufis
Senior Judge, United States District Court
Eastern District of New York*

*Hon. Reena Raggi
United States Circuit Judge
United States Court of Appeals
Second Circuit*

*Justice, justice shall you pursue.
Deuteronomy 16:20*

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Preface

My interest in capital punishment trials began at a meeting with Brooklyn Federal District Court Judge Nicholas G. Garaufis, who invited me to observe initial jury selection in the upcoming federal capital punishment trial of Vincent Basciano, a Bonanno organized crime family boss accused of multiple murders. I was impressed with the initial jury selection process, which took place in the ornate ceremonial federal courthouse in Brooklyn. I was also struck by the seriousness and difficulty of selecting a jury for a trial that would last several months and include hundreds of wiretaps, and the anticipated testimony of other Bonanno members who would be cooperating government witnesses. Potential jurors were also told that if the jury found the defendant guilty, they would then be required to decide whether capital punishment should be imposed.

I was also struck by the similarity between the *Basciano* case and the trial of another Bonanno family member accused of murder, Thomas Pitera. In an earlier meeting with Second Circuit Court of Appeals Judge Reena Raggi, I learned of the capital punishment trial of a Bonanno family killer that then District Court Judge Raggi presided over a decade earlier. Like the *Basciano* case, the *Pitera* trial took several months and included wiretaps, car bug tapes, physical evidence, and the testimony of Mafia cooperating witnesses. I was also struck by the fact that in both cases, the prosecution sought the death penalty but the juries that had convicted the defendants ultimately voted not to impose capital punishment.

Although I am a law professor who taught criminal procedure for decades, I realized how little I knew about the Mafia, the complexity of federal capital punishment trials, and the use of cooperators to obtain convictions. Hence

this book, initially undertaken as a self-education process, evolved into an opportunity to inform a wider audience about the Mafia, complex federal trials, the use of culpable cooperators, and the process by which the federal government decides to bring a capital punishment case.

The records in these cases totaled thousands of pages of trial transcript.¹ Fortunately, I was able to review these transcripts in a secure office in the Brooklyn federal courthouse. I hope that my edit of these voluminous transcripts, together with my legal and constitutional notes and an appendix presenting the principal legal documents, will be of interest to a general audience and shed light on the complexities of a capital punishment organized crime trial.

1. The Basciano trial transcript exceeded 9,000 pages.

Acknowledgments

This book would not have been possible without the support of federal judicial officials in the Eastern District of New York, Brooklyn. I express my deep appreciation to Eastern District Chief Judge Carol Bagley Amon, Eastern District Judge Nicholas G. Garaufis, Second Circuit Judge Reena Raggi, and Eastern District Court Clerk Douglas Palmer. With their cooperation, I have been provided with an office in the Eastern District courthouse and given access to the official records in the two criminal trials explored in this book—the 1992 trial of Thomas Pitera and the 2012 trial of Vincent Basciano. Beginning with the initial assembly of hundreds of potential jurors and continuing through the reading of the jury verdicts, I reviewed thousands of pages of trial transcripts and voluminous trial briefs, court orders, and opinions. I have also reviewed the transcripts and briefs concerning the capital punishment phase of the trials and the briefs and decisions that have followed in the district and appellate courts.

I also express my appreciation to David Shapiro and Alan Vinegrad, former federal prosecutors in the Eastern District of New York, now in private practice, who reviewed the manuscript and provided detailed information and editorial comments. I should also like to thank the talented staff at Carolina Academic Press, and, particularly, Tim Colton, my astute and discerning editor, who lavished attention on this book and improved it a great deal.

In both the *Pitera* and *Basciano* trials, the government introduced the testimony of dozens of witnesses and hundreds of taped conversations, photographs, and pieces of physical evidence. It is beyond the scope of this book to summarize the entire trial transcripts, which run to thousands of pages. Instead, the book focuses on selection of the jury (including the transcript of ex-

amination of potential jurors), the judges' instructions to the jury, the opening and closing arguments of prosecution and defense, a summary of the testimony of the major cooperating witnesses, and the death penalty hearings in both cases.

“The best weapons for close range [murders] are shotguns. . . . You hit them right here [indicating the neck]. Takes the head clean off. . . . If I wanted you dead, you are dead. . . . Killing is like making love to a woman. It’s a very intimate thing. After it’s done, you don’t talk about it.”

—Mafia boss Thomas Pitera, facing a twenty-count federal indictment, offering unsolicited advice to federal marshals and FBI agents after his arrest

“You shoot people in the . . . head and bury them on Staten Island. . . . You are finally, Mr. Pitera, inhuman. . . . If Tommy Pitera doesn’t deserve the death penalty, who does?”

—Closing argument in *United States v. Thomas Pitera* by Assistant United States Attorney David Shapiro

“Randy Pizzolo, a Bonanno family associate, was killed on the orders of . . . the defendant, Vincent Basciano, the former acting boss of the Bonanno crime family. . . . It was a Mob hit. And an example of what this defendant, Vincent Basciano, and his men are capable of. . . . You will hear Basciano say that Randy Pizzolo was killed because the defendant thought that murdering him was a good wake-up call to other members and associates of organized crime. This is a case about murder. . . . And it’s a case about the Mafia and power. And the man with the power to order the victim killed.”

—Opening prosecution statement by Assistant United States Attorney Nicole Argentieri in *United States v. Basciano*, April 2011.

