



U.S. Department of Justice

*United States Attorney
Southern District of New York*

*300 Quarropas Street
White Plains, New York 10601*

March 3, 2020

BY EMAIL AND HAND DELIVERY

REQUEST TO BE FILED UNDER SEAL

The Honorable Nelson S. Román
United States District Judge
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

**Re: United States v. Frank Pasqua III,
S1 16 Cr. 591 (NSR)**

Dear Judge Román:

The defendant, Frank Pasqua III, is currently scheduled to be sentenced by this Court on March 11, 2020. In advance of that sentencing, the Government respectfully submits this letter to advise the Court of the pertinent facts concerning the assistance that Pasqua has rendered in the investigation and prosecution of other persons.

In short, Pasqua was a longtime associate of La Cosa Nostra who began cooperating with law enforcement when he was arrested for gun and drug charges [REDACTED] in 2015. Pasqua proffered extensively and admitted a wide range of criminal activity previously unknown to the Government. Pasqua also cooperated proactively against three “made” (formally inducted) members of the Mafia, making multiple consensual recordings against each. Pasqua further provided important historic evidence against other leaders and members of the Mafia, most importantly concerning the 2013 murder of Michael Meldish. Thus although Pasqua was not called as a witness at trial, as discussed below, his assistance was nonetheless vital to the prosecution of several defendants for that and other serious crimes.

For these reasons, as set forth more fully below, assuming that Pasqua complies with the terms of his cooperation agreement and commits no additional crimes before sentencing, and appears for his sentencing as scheduled, the Government intends to move at sentencing, pursuant to Section 5K1.1 of the Sentencing Guidelines and Section 3553(e) of Title 18, United States Code, that the Court sentence Pasqua in light of the factors set forth in Section 5K1.1(a)(1)-(5) of the Guidelines.

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A. Pasqua's Personal History

[REDACTED]

[REDACTED]

[REDACTED]

Pasqua was introduced to criminal activity at a young age. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

2. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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- [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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From April 2015 through June 2015, prosecutors from EDNY met with Pasqua on multiple occasions. During these meetings, they discussed his involvement in the Meldish murder, as well as the other criminal activity outlined above. Ultimately, the prosecutors in EDNY declined to enter a cooperation agreement with Pasqua, because they were unable to verify that he was present during the murder of Michael Meldish.

During the spring of 2016, prosecutors in this Office learned from investigators at the Putnam County Jail that Pasqua was selling narcotics there while detained on EDNY's writ. Pasqua was charged in this case with smuggling narcotics into the jail, first by complaint and then by indictment 16 Cr. 591 (NSR). Pasqua was then transferred to the Brooklyn MDC under his own name.

When Pasqua arrived at the MDC, Luchese Soldier Christopher Londonio was also housed there, facing federal weapons charges. Londonio admitted a variety of criminal activity to Pasqua including Londonio's membership in the Luchese Family and the fact that Londonio had been commissioned by the Family's acting boss, Matthew Madonna, to carry out the murder of Michael Mancuso, the boss of the rival Bonanno Family. Londonio informed Pasqua that Londonio was given primary responsibility for carrying out the murder, and Londonio sought Pasqua's help in carrying it out.

Pasqua, through his attorney, reported his interactions with Londonio to prosecutors in this Office. The FBI equipped Pasqua with a recording device and recorded a conversation with Londonio on September 21, 2016, during which Londonio discussed in detail his membership in the Luchese Family, among other crimes.

Soon thereafter, Londonio's federal weapons charges were resolved and he was returned to state custody to await trial for the murder of Michael Meldish, which was then charged by the Bronx County District Attorney, and had not yet been federally charged. On October 21, 2016, the Government consented to bail for Pasqua so that he could continue to meet with Londonio to discuss mafia business.¹ Pasqua proceeded to meet with Londonio in the visiting room of the Manhattan House of Detention on November 24, 2016, December 14, 2016, February 3, 2017, and March 23, 2017. During these conversations, Londonio discussed Luchese Family business. While on bail, Pasqua also made recordings of conversations with [REDACTED] (a Luchese soldier) and [REDACTED] (an acting captain in the Luchese Family), although these men were more circumspect than Londonio, and the recordings did not have significant evidentiary value.

On May 31, 2017, Indictment S1 17 Cr. 89 (CS) was unsealed, charging many members and associates of the Luchese Family, including Madonna, Crea Sr., Crea Jr., Corso, and Londonio. Pasqua continued to record conversations to gather evidence until his recordings had to be disclosed in discovery. [REDACTED]
[REDACTED]

¹ [REDACTED] prosecutors dismissed the charges against Pasqua once it became clear he would accept responsibility for his conduct there as part of this case.

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In February 2018, the Government learned through a cooperating witness in an unrelated case that Pasqua was abusing heroin and cocaine while on bail. (That witness also stated that Pasqua illegally possessed a firearm and had helped purchase wholesale quantities of narcotics, but Pasqua denies those allegations). Pasqua admitted his drug use and, at the Government's request, Pasqua consented to remand. During his initial detention, Pasqua continued to abuse drugs that were smuggled into prison by others. Pasqua was subsequently transferred to the Manhattan MCC, where, for his own protection, Pasqua endured extended solitary confinement in the MCC Segregated Housing Unit. Pasqua remains in custody.

Pasqua was never called to testify. Excerpts of several recordings he made with Londonio were, however, introduced at the trial of Madonna, Crea Sr., Londonio, and Terrence Caldwell. These recordings provided important evidence of the first three defendants' position in the mafia and proved the chain-of-command that had ordered the murder of Meldish. Pasqua's information was also essential to the indictment of Crea Jr., who pled guilty before trial.

B. Pasqua's Criminal History and Charges

Pasqua's criminal history is described above and in the Presentence Report.

In this case, Pasqua faces sentencing on two charging instruments.

On April 27, 2017, Pasqua pled guilty to providing narcotics to a federal inmate, in violation of 18 U.S.C. § 1791, as charged in Indictment 16 Cr. 591 (NSR). Although this plea was not to a cooperation agreement, and was for conduct that the Government learned about independently rather than through Pasqua, Pasqua entered this plea while proffering with the Government and with the expectation of eventually entering a cooperation agreement. [REDACTED]

On August 4, 2017, Pasqua pled guilty to Information S1 16 Cr. 591 (NSR), charging him with six additional counts based almost entirely on evidence provided by Pasqua himself, and unknown to the Government prior to his cooperation.² As part of this plea—which was pursuant to a cooperation agreement—Pasqua also reaffirmed his earlier plea to the original indictment.

² Count Five, charging a limited narcotics conspiracy in 2014 and 2015, is based in part on the evidence independently obtained during the [REDACTED] investigation of Pasqua's drug-trafficking there, but is the only charge in the Information not based solely on Pasqua's admissions.

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Analysis of Sentencing Factors

A. Section 3553(a) Factors

In considering the sentencing factors under Title 18, United States Code, Section 3553(a), the Court must take into account (1) the nature and circumstances of the offense and the history and characteristics of the defendant; (2) the need for the sentence to reflect the seriousness of the offense, to promote respect for the law, to provide just punishment for the offense, to afford adequate deterrence to criminal conduct, to protect the public from further crimes of the defendant, and to provide the defendant with educational or vocational training, or medical care or treatment; (3) the kinds of sentences available; (4) the kinds of sentence and sentencing range established for the applicable category of offense; (5) pertinent Sentencing Commission policy statements; (6) the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct; and (7) the need to provide restitution to any victims of the offense. In connection with these factors, the Government offers the following observations.

In terms of the nature and circumstances of the offense, and the need for the sentence to reflect the seriousness of the offense and provide adequate deterrence to criminal conduct, Pasqua's offenses were extremely serious. He has admitted attempting to murder one person, conspiring to murder another, shootings, torture, countless assaults including domestic violence, drug-dealing on a significant scale, and many other crimes, much of it associated with the Mafia. Pasqua's decision to cooperate is however, an important mitigating circumstance, particularly given that he began cooperating immediately upon his arrest for relatively minor charges, and all his most serious conduct is known only because he forthrightly admitted it during the proffer process.

B. Section 5K1.1 Factors

Section 5K1.1 of the Guidelines sets forth five non-exhaustive factors that sentencing courts are encouraged to consider in determining the appropriate sentencing reduction for a defendant who has rendered substantial assistance. *See* U.S.S.G. § 5K1.1(a). Those factors apply to Pasqua's cooperation as set forth below.

1. "[S]ignificance and usefulness" of assistance (§ 5K1.1(a)(1)). Pasqua's cooperation was extremely significant and useful. Although Pasqua provided evidence on a wide range of subjects, two are particularly important:

First, Pasqua's consensual recordings against Londonio provided devastating evidence at the trial of Madonna, Crea Sr., Londonio, and Caldwell for the murder of Michael Meldish and other crimes. Londonio's admissions made it impossible for him to deny his membership in the Luchese Family, but more important was the September 21, 2016 recording in which Londonio discussed his chain-of-command, making clear that he was in Crea Jr.'s crew, that he was close to Madonna, and that Madonna and Crea Sr. formed, along with Joseph DiNapoli, the Family's senior leadership—the "administration" consisting of the acting boss, underboss, and consigliere. This recording, which was the first recording the Government introduced at trial, was powerful

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evidence of Madonna's and Crea Sr.'s role in the charged racketeering conspiracy. It also helped convict every defendant of the murder, because it made clear that Londonio was a soldier in the Luchese Family who answered to the Family's administration, showing (when combined with other evidence) that Londonio would only have carried out the murder if sanctioned by Madonna and Crea Sr.

Second, Pasqua's direct evidence concerning Crea Jr.'s order to kill Meldish, with the approval of Crea Sr., was critical to the Government charging both Creas with the murder. Ultimately, Crea Jr. pled guilty before trial to an agreement in which he acknowledged that the Meldish murder was relevant conduct to be included in his sentencing Guidelines, a result that would not likely have been possible without Pasqua's cooperation. And although the Government did not call Pasqua as a witness against Crea Sr., the evidence he provided about Crea Sr.'s involvement was extremely helpful to the Government in making the decision to charge Crea Sr. with the Meldish murder and aggressively pursue that charge. This ultimately led to the conviction of the underboss of the Luchese Family, who had previously served minimal prison time during his lucrative, five-decade-long criminal career, for the murder and other crimes.

2. "[T]ruthfulness, completeness, and reliability" of information and testimony (§ 5K1.1(a)(2)). Pasqua's information was, in the Government's estimation, truthful, complete, and reliable. Pasqua's evidence was often corroborated by the extensive information the FBI had independently developed about the Luchese Family, its members, and its activity. Pasqua also disclosed extensive and detailed negative information about himself that the Government would likely never have uncovered had Pasqua not volunteered it.

Because of the complex nature of Pasqua's account of the conspiracy to murder Michael Meldish, and the fact that the Government chose not to call Pasqua at trial, it is worth clarifying that this decision was not based on concerns that Pasqua had provided false information about the murder. The Government's investigation of this murder and Pasqua's account of it was extensive. Based on evidence known to the Government but not known to Pasqua, the Government credits Pasqua's account that he and ██████████ were directed to murder Meldish for the Luchese Family, and Pasqua's account of his last meeting with Meldish. That Pasqua believed for a time that ██████████ had physically carried out the murder appears to be an honest misinterpretation of his observations, and not a fabrication.

3. "[N]ature and extent" of assistance (§ 5K1.1(a)(3)). Pasqua's cooperation was extensive, and included years of debriefing and proactive cooperation. Most importantly, as discussed above, Pasqua made consensual recordings that provided important evidence of a murder ordered by the leadership of a Mafia family, and direct evidence that two of those leaders ordered the murder. Pasqua also provided a detailed account of other mafia and narcotics activity, and made consensual recordings against ██████████, a Luchese soldier, and ██████████, a Luchese acting captain ██████████.

Pasqua's own conduct after entering a cooperation agreement did, however, significantly reduce his utility as a cooperating witness. Having breached his cooperation agreement by, at a minimum, using illegal drugs while on bail, obviously made Pasqua less valuable as a

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government witness. It is however, reasonably possible that Pasqua would not have been called regardless of his drug use, given the complicated and confusing nature of his understanding of the Meldish murder.

4. “[A]ny injury suffered, or any danger or risk of injury to the defendant or his family” resulting from assistance (§ 5K1.1(a)(4)). Pasqua has suffered significant injury and risk as a result of his decision to cooperate. Although Pasqua was not called as a witness, his identity as a cooperator is publicly known. Because his consensual recordings were disclosed in discovery, his cooperation was quickly known to the defendants. And because the defendants or their counsel swiftly breached Judge Seibel’s protective order, Pasqua’s identity was disclosed to the media, and published in *Gangland News*. Given that Pasqua was cooperating against the Mafia, perhaps the most notorious organization in terms of witness retaliation, the danger and risk he suffers is obvious.

Pasqua also suffered a variety of less obvious injuries:

[REDACTED]

Because Pasqua’s status as a cooperating witness was publicly known when he was remanded to prison in 2018, Pasqua spent approximately three months in the harsh conditions of the MCC SHU, given that he could not safely be placed in general population. Obviously, Pasqua bears the blame for the need to be remanded in the first place, but it is nonetheless true that his status as a known cooperator caused him to suffer greater injury than another defendant would in similar circumstances. (4)

[REDACTED]

5. “[T]imeliness” of assistance (§ 5K1.1(a)(5)). Pasqua began cooperating immediately upon his arrest. That timely cooperation allowed the Government to make full use of his potential, through pro-active cooperation, full consideration of his evidence in making charging decisions, and preparation and planning for possible testimony at trial. Pasqua’s cooperation was also timely in the sense that he came forward about extremely serious criminal conduct, including a murder in which he believed he had participated, before the Government had any knowledge that he had engaged in this conduct. Moreover, Pasqua provided this information when facing relatively lesser charges, for which he reasonably estimated that he would serve only a few years in prison even absent cooperation.

Conclusion

In light of the facts set forth above, and assuming that Pasqua continues to comply with the terms of his cooperation agreement, commits no further crimes prior to his sentencing, and

