

former lawyer back in December of 2009 that Mr. Durand made such a proposal, Mr. Pettengill was lying then.

Mr. Pettengill alleges that Mr. Durand's plan to murder Mr. Beckman was presented in a meeting between Mr. Pettengill and Mr. Durand in December of 2009. Subsequent to that date, Mr. Pettengill met with IRS and FBI investigators and government counsel at least eight times, and there was never mention of such a plan by Mr. Durand even though revelation of such an event would have been very helpful to the government and to Mr. Pettengill.¹ It wasn't mentioned, because it never happened.

Nor was it mentioned in the meeting between Mr. Durand and Mr. Pettengill on May 7, 2011, when at the government's direction Mr. Pettengill surreptitiously recorded their conversation.² It wasn't mentioned, because it never happened.

Mr. Pettengill, now more than ever, has a motive to lie. He owes Mr. Durand over \$200,000. He is receiving the benefit of U.S.S.G. § 5K1.1 where the government determines how helpful he was, and the government has repeatedly demonstrated that it finds helpful any opportunity to cast Mr. Durand in a bad light. See for example Govt. Exh. 302 (Mr. Durand falling off a chair); the testimony of government witness Tina Faulkner who testified that Mr. Durand never graduated from college; the smoke, but no fire regarding the testimony of Misty Watkins; and finally, the government's arguments about Mr. Durand's ulterior motives when he visited LaVelle Hughes.

¹ See Declaration of Carol A. Dawson filed concurrently which collects memoranda of the meetings between Mr. Pettengill and government agents and counsel.

² Transcript of Proceedings Between Chris Pettengill and Jerry [sic] Durand (Dkt. No. 266-1).

The government failed to even acknowledge the presence of Mr. Durand's legal argument respecting the distinction between guilt, liability and accountability. The government ignored the inconvenient fact that there was no determination of when the jury could have established that Mr. Durand entered the conspiracy. Instead the government, at the eleventh hour, has its snitch cry bloody murder.

On a final note if the Court grants the hearing, the Court is beseeched to not permit hearsay and hearsay within hearsay, i.e., not permitting officer Tschida to describe what attorney Klein described about what Mr. Pettengill described about what Mr. Durand said.

CONCLUSION

Given the untrustworthiness of Mr. Pettengill's potential, self-serving testimony, coupled with his natural disposition towards prevarication, the Court should not allow an evidentiary hearing and declare the allegations involving the imagined murder plot to be excluded from the Court's consideration.

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Respectfully submitted,

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