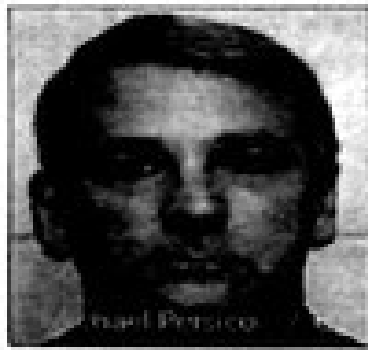


Mob Prince Moves Forward To Take Back His Guilty Plea



As threatened, and against much prevailing legal wisdom, mob prince Michael Persico this week filed his motion to withdraw his guilty plea to making a usurious \$100,000 loan. Along with it, would go the sweet plea deal that had been painstakingly negotiated on his behalf. As they say in Gang Land: Go figure.

Persico attorney Marc Fernich laid out his reasons in a lengthy legal brief, in which he alleged that prosecutors used a "back door" approach to breach their agreement after Persico pleaded guilty to greatly reduced charges back on June 8, 2012. Instead of facing life if convicted of murder, he faced a maximum of five years behind bars.

Fernich said prosecutors had sent a not so subtle "message" to probation officials "to suggest" that Brooklyn Federal Judge Sandra Townes "upwardly depart" from the 37-46 month sentence recommended in the agreement. As a result, Fernich said, his client was likely to receive the statutory maximum of five years.

Prosecutors, said Fernich, had told probation officials that the government could "prove by a preponderance of the evidence" that Persico took part in two mob killings, as well as two other murder conspiracies — the exact language that describes the standard of proof that judges use to weigh evidence during sentencing procedures.

Probation officials received the message "loud and clear," Fernich wrote, because "in the very sentence after the preponderance representation" they wrote in their Pre-Sentence Investigation Report that "the government's claims merit upward departure consideration."

In his 38-page filing, Fernich posed a way out of the legal quagmire that is short of a plea withdrawal: permit Persico to be sentenced by a "different judge." This would enable a jurist who is "not tainted" by the government's prior efforts "to advocate" a sentence for Persico that was greater than the



sentencing guidelines, as it had agreed not to do in the agreement.

Even if Townes finds that prosecutors Nicole Argentieri and Allon Lifshitz did not breach their agreement, the judge should still permit his client to withdraw his guilty pleas because the judge never established that Persico had the intention to violate the law when he gave the \$100,000 loan to his cohorts in June of 2009, wrote Fernich.

Prosecutors Argentieri and Lifshitz, who filed objections within an hour of Persico's plea withdrawal notice two weeks ago, are taking a little longer to respond to the legal papers his lawyer filed Monday. They have until October 13 to decide what to do next — pull out all the stops to oppose the motion, or join in it and ask Townes to schedule a trial date.

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