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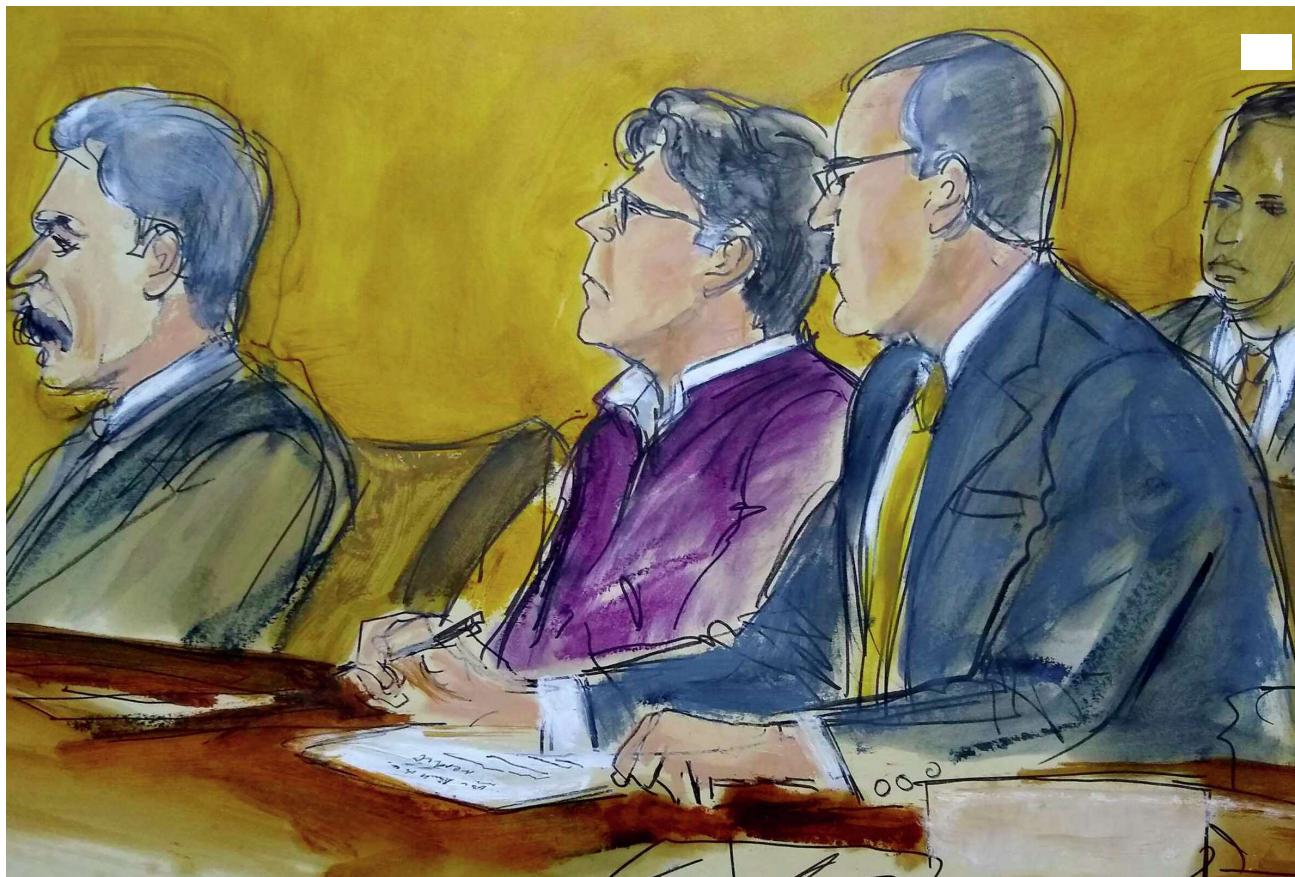
Appeals court to entertain NXIVM leader Keith Raniere's bid for new judge

The U.S. Court of Appeals for the Second Circuit rejected Raniere's appeal last month; attorney wants it to remove trial judge from hearing Raniere's latest motion

**Robert Gavin**

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In this courtroom drawing, defendant Keith Raniere, center, sits at the defense table with his attorneys Paul DerOhannesian, left and Marc Agnifilo, as the jury foreperson reads the guilty verdict in his sex trafficking trial in New York, Wednesday, June 19, 2019. The former leader of a cult-like self-help group was convicted Wednesday of manipulating his female followers through shame and humiliation and turning them into what prosecutors call his sex slaves. The man at rear is a Deputy US Marshal.

Elizabeth Williams/AP

NEW YORK – An attorney for convicted sex trafficker Keith Raniere will ask a federal appeals court in Manhattan next week to disqualify the judge who presided over the NXIVM leader's 2019 trial from hearing Raniere's latest bid for freedom.

The U.S. Court of Appeals for the Second Circuit is scheduled to listen to the arguments of Raniere attorney Joseph Tully at 2 p.m. Tuesday. The case will be heard in the Thurgood Marshall U.S. Courthouse in Lower Manhattan.

Last month, the Second Circuit rejected Raniere's appeal. Senior U.S. Circuit Judge Guido Calabresi and Circuit Judges Jose A. Cabranes and Richard J. Sullivan upheld all the convictions of the 62-year-old Raniere, formerly of Halfmoon, a purported personal growth guru known within NXIVM as "Vanguard," but who is now widely viewed as a cult leader. In June 2019, a federal jury in Brooklyn's Eastern District of New York convicted Raniere on charges of sex trafficking, forced labor conspiracy, wire fraud conspiracy and racketeering charges with underlying acts that included extortion, identity theft and possession of child pornography.

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But Raniere, who is serving a 120-year sentence in an Arizona prison, and his attorney are still hoping for a new trial.

They alleged in court papers that during the FBI's March 27, 2018, raid on Raniere's so-called executive library on Hale Drive in the Knox Woods townhouse complex in Halfmoon, agents tampered with evidence to frame Raniere for possessing the child pornography. A former FBI agent has signed a sworn statement to back the claim. The agent, J. Richard Kiper, a 20-year veteran, was not involved in the FBI investigation of Raniere.

Raniere's legal team filed a motion with Garaufis asking the courts to consider the evidence and to recuse himself; Garaufis withheld judgment until Raniere's appeal was decided.

On Tuesday, Tully will ask the Second Circuit to remove Garaufis because he contends the judge holds a "deep-seated bias against (Raniere), tipping the scale of the trial in favor of the government."

To illustrate his point, Tully has highlighted a testy July 21, 2021 courtroom exchange between Garaufis and Raniere's attorney at the time, Marc Fernich, who clashed after Fernich requested an adjournment to attend the funeral of a fellow attorney, Joel Winograd. At one point, the judge threatened to have Fernich arrested if he did

not sit down. He also picked up a tissue box and sarcastically suggested that Fernich use them. And Fernich told the judge that it was a "lack of human decency" not to allow him to go. The judge allowed Fernich to attend the service but told him he could have been in court earlier.

Tully also alleged Garaufis exhibited bias against Raniere when he referred to Lauren Salzman, a former high-ranking NXIVM member and high-ranking Raniere "slave" who became a star witness for prosecutors, as a "broken" person and in reprimanding Raniere co-defendant Clare Bronfman for refusing to renounce Raniere.

Bronfman, 43, the Seagram heiress and deep-pocketed longtime NXIVM operations director, pleaded guilty in 2019 to conspiring to conceal and harbor illegal immigrants for financial gain, and identification fraud, also lost her appeal last month. She was sentenced in 2020 to nearly seven years in prison; she is now serving time in a Connecticut federal prison and is set for release in September 2025.

At trial, prosecutors showed evidence and presented witnesses to prove Raniere, who in 1998 co-founded NXIVM's Executive Success Programs (ESP) in Colonie with former NXIVM president Nancy Salzman, operated a secret "master/slave" club acalled Dominus Obsequious Sororium or DOS in which women were subjected to blackmail, deprived of sleep, starved on extremely low-calorie diets, physically branded on their groin areas and given assignments to sexually seduce Raniere, the latter being the heart of the sex trafficking case.

Tully argued to the Second Circuit that if it does not grant what is known as a writ of mandamus to command Garaufis to step aside, it will allow Raniere's motion to be "swept under the rug" and with a "tangled mess of having an unlawful, improper, and unfair ruling," according to court papers.

J. Richard Kiper, a retired FBI agent who does work as a digital forensics expert, contends a key federal witness misled the jury in a "miscarriage of justice" about the reliability of data to prove the creation of digital photographs.

"The demonstrable evidence of FBI perjury and evidence tampering in Mr. Raniere's trial is provable to a scientific certainty, a standard higher than even proof beyond a reasonable doubt, and Mr. Raniere only seeks to have his day in court to establish such," Tully stated.

Federal prosecutors in Brooklyn have said Raniere's claims of evidence tampering are frivolous. The now-grown woman, whose images at 15 were the subject of the child pornography charge, said at Raniere's sentencing that he started grooming her at age 13, began a sexual relationship with her at 15 and filmed the child pornographic images of her.

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