

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

In re: Special Proceedings

Misc. 01-47T

**AFFIDAVIT OF JAMES TARICANI**

I, James Taricani, hereby depose and state under oath and upon personal knowledge:

1. My name is James Taricani. I am the defendant in this criminal contempt proceeding. I make this affidavit to respond to certain allegations made in The Special Prosecutor's Reply Memorandum to the Sentencing Memorandum filed by Defendant, James Taricani, filed in this Court on December 1, 2004.

2. On November 30, 2004, I learned that Joseph Bevilacqua, Esq., testified in a deposition taken by the Special Prosecutor that he was the individual who gave me the so-called Corrente tape, also known as Tape 113, which WJAR broadcast on February 1, 2001. The Special Prosecutor called my counsel, stated that Mr. Bevilacqua had identified himself as the source in a deposition conducted on November 24, 2004, and requested that I confirm that he was in fact the source. In response to the Special Prosecutor's request, my counsel confirmed, on my behalf, that Mr. Bevilacqua was the source.

3. Mr. Bevilacqua is the person who gave me the Corrente tape. I have known Mr. Bevilacqua for many years. I met him covering criminal trials in which he represented defendants. I have a professional relationship with him. Over the years he has given me information and leads for news stories.

4. Prior to November 2000, it was not my regular practice to visit Mr. Bevilacqua in his office. In or about November 2000, after the trial of Rosemary Glancy, I did visit the office

of Mr. Bevilacqua and asked him if he had the tapes relating to Joseph Pannone. He said he would try to locate the tapes. After several weeks, Mr. Bevilacqua called me and said he found a box of tapes. I visited his office, and Mr. Bevilacqua gave me the box of tapes. I reviewed the tapes at my office, and I found the tape of the incident relating to Frank Corrente that was referred to in the indictment of Mr. Corrente. I made a copy of that tape and returned all of the tapes to Mr. Bevilacqua at his office. I told Mr. Bevilacqua that I would like to keep the copy of the Corrente tape. We discussed whether the tape was subject to the Protective Order. Mr. Bevilacqua stated that he did not think that he was bound by the Order because he was out of the case – since Mr. Pannone had pleaded guilty. Mr. Bevilacqua also stated, "You can never, never, never tell anyone where you got this tape because I will deny it forever." I said, "Don't worry. My word is good." I kept the copy of the Corrente tape.

5. I have seen the Reply Memorandum of the Special Prosecutor, which summarizes Mr. Bevilacqua's testimony. I note that on page 5 of that Reply Memorandum, the Special Prosecutor states that: "Mr. Bevilacqua did not request any promise of confidentiality from Mr. Taricani in exchange for the videotapes." This statement is false. Mr. Bevilacqua asked for a promise of confidentiality and agreed to give me the Corrente tape on the condition that I keep his identity confidential. Because I believed the tape was newsworthy, I assured him that I would keep his identity confidential.

6. At or about the time I received the Corrente tape, the trial of Frank Corrente was scheduled for early 2001. I and my news managers initially had decided not to broadcast the tape prior to the trial because I did not wish to adversely affect the jury that would be selected for the trial in February. At the time I received the copy of the tape, I intended to play it in a newscast during the trial, but only after the tape was introduced in evidence. In the middle of

January 2001, I learned that the trial of Frank Corrente was going to be postponed and that there would be a superseding indictment of Mr. Corrente together with a possible indictment of Mayor Cianci in the spring of 2001. I also learned that the Corrente trial would likely not take place for more than a year. As a result, I, along with the news managers, decided to broadcast the tape in February 2001. The tape was broadcast on February 1, 2001. The major reason that we decided to broadcast the tape was because we understood that the tape of Mr. Corrente and other tapes used in the "Plunder Dome" trials would not be released to the public, even after the trials were concluded. (In fact, those tapes were not released until they were publicly filed by defense counsel in the First Circuit Court of Appeals.) If this and other tapes were not broadcast, the only people who would see the tapes would be those who attended Court on the date that each tape was played.

7. On the evening before the broadcast of the Corrente tape on February 1, 2001, I advised Mr. Bevilacqua that the tape was going to be broadcast. He did not ask that I refrain from broadcasting the tape. After the tape was broadcast, I rarely talked to Mr. Bevilacqua for some time because he opened a law office in Puerto Rico and began to spend most of his time there.

8. When Mr. Bevilacqua was deposed by the Special Prosecutor in February 2002, I did not hear from him, and I did not know of his deposition until after it occurred.

9. I gave my first deposition in this case on July 15, 2002. At the deposition, I declined to answer questions about my source's identity, in keeping with my agreement with Mr. Bevilacqua. At the deposition, the Special Prosecutor showed me a copy of a "waiver form" signed by Mr. Bevilacqua, although he did not let me or my lawyer have a copy of that form. Even though the Special Prosecutor showed me the form, I did not identify Mr. Bevilacqua as the

source. I understand the Special Prosecutor told my lawyer, William Robinson (now the Hon. William Robinson, a Justice of the Rhode Island Supreme Court), before the deposition that he would be showing me waiver forms. As a reporter, I was--and still am--concerned about the use of such forms in leak investigations and the pressure placed on witnesses to sign them. My training as an investigative reporter, which included seminars on this subject, made me wary of the waiver because I had not heard from my source prior to the deposition as to his intentions about the waiver. As a result, after consulting with counsel, I declined to answer questions about whether Mr. Bevilacqua was my source even after having been shown the waiver form.

10. At the time proceedings commenced to compel me to disclose my source, I conferred with Mr. Bevilacqua at the request of my counsel to determine whether he would come forward and indicate that he was the source of the Corrente tape. He told me that when he was deposed, he had to sign the waiver. Otherwise, it would have looked like he was guilty. He also stated that he could not come forward and identify himself as the source. I told him I would keep my promise of confidentiality. I told Mr. Bevilacqua that I was concerned that I might get fined and that I might go to jail if I did not disclose the source. He said: "You're not turning into the enemy, are you?" I replied, "No." During one of my conversations with Mr. Bevilacqua, he suggested that I testify that I just took the tape from a desk in his office. I said I would not do so because that would be stealing the tape and that was not something I would do.

11. I note that at page 5 of the Special Prosecutor's Reply Memorandum, the Special Prosecutor states: "In May or June 2002, Mr. Bevilacqua informed Mr. Taricani that he signed the Waiver of Confidentiality and that Mr. Taricani should come forward." That statement is false. While it is true that Mr. Bevilacqua told me he had signed a waiver form (indeed, I had seen it), he did not tell me then and in fact never told me that I should come forward and reveal

his identity.

12. When I testified in July 2002 and February 2004 and declined to answer questions identifying Mr. Bevilacqua as the person who provided me the Corrente videotape, I did so only because Mr. Bevilacqua had given me that videotape on the express condition that I keep his identity confidential, and had informed me in all our conversations that he expected me to abide by my agreement of confidentiality. If Mr. Bevilacqua had ever released me from my agreement to keep his identity confidential, or suggested that I should "come forward" and reveal his identity, I certainly would have.

13. I note that the Special Prosecutor's summary of Mr. Bevilacqua's testimony on p. 5 contains the following paragraph about Mr. Bevilacqua's testimony:

When asked why he denied being the source when he was questioned at his first deposition of February 6, 2002, Mr. Bevilacqua testified that Mr. Taricani did not want Mr. Bevilacqua to come forward and reveal himself as the source of the Corrente Videotape. Mr. Bevilacqua gave Mr. Taricani his word that he would not identify himself which is the reason why he did not come forward earlier.

This statement is false. I never told Mr. Bevilacqua--either before February 6, 2002 or afterwards--that I did not want him to come forward and reveal himself as my source. I did not even know about his deposition before it occurred and I did nothing to discourage Mr. Bevilacqua from identifying himself as the source at his February 6, 2002 deposition or at any other time, nor did I ever suggest or encourage him to lie about being my source.

14. In September 2004, I had a conversation with Mr. Bevilacqua. I told him I was concerned about the contempt proceedings. He stated that he thought there might be a way out and asked for a copy of the Protective Order, which I gave to him. He stated that he was concerned about having committed perjury in his deposition and indicated that that was his problem, but that he just could not come forward.

15. In the weeks before November 4, 2004, I spoke with Mr. Bevilacqua on several occasions. On one occasion he asked me if everything was all right. I told him, "Don't worry. I'm not going to give you up." On another occasion, my counsel asked me to talk to Mr. Bevilacqua again about his coming forward. Mr. Bevilacqua indicated that he would need a lawyer to enter into discussions with the Special Prosecutor about coming forward but did not have a lawyer at the time. We discussed possible lawyers who might be able to represent him with the Special Prosecutor, but he was not prepared to hire a lawyer at that time.

16. During this period, Mr. Bevilacqua stated that he might be willing to come forward if, among other things, no perjury charge would be brought. As a result, my counsel contacted Michael DeFanti, Esq. to act as an intermediary with the Special Prosecutor so that Mr. Bevilacqua could ascertain the charges and penalties he might be facing if he came forward. Mr. DeFanti was not told the identity of my source. Based on what I learned about Mr. DeFanti's conversations with the Special Prosecutor, I told Mr. Bevilacqua that the Special Prosecutor had told Mr. DeFanti that he would consider permitting Mr. Bevilacqua to recant to avoid a perjury charge and consider recommending no jail time for Mr. Bevilacqua. I also told Mr. Bevilacqua, however, that the Special Prosecutor had told Mr. DeFanti that he could make no guarantee that the Court would accept the terms of any plea bargain. Mr. Bevilacqua told me that he still would not come forward.

17. A couple of days before November 18, 2004, I had a long conversation in a car being driven by Mr. Bevilacqua. He said, "You're going to jail." I said, "I know." He held out a hand and said, "I've always had respect for you. I have even more respect for you now."

18. On November 18, 2004, the date of my trial, I went to Au Bon Pain for a cup of coffee at approximately 8:00 a.m. As I was reading a newspaper, Mr. Aiken approached me and

had what I considered to be a personal, friendly and private conversation with me like conversations we have had over the years. I have reviewed the affidavit signed by Mr. Aiken. I would like to add two facts about our conversation as recounted by Mr. Aiken. First, at the time I told Mr. Aiken that my source had signed a waiver, I believed that several other persons also had signed such waivers. Second, at no time during my conversation with Mr. Aiken did I name Mr. Bevilacqua as my source.

19. I note that the Special Prosecutor's Reply Memorandum on p. 5 states that: "Most recently, Mr. Bevilacqua encouraged Mr. Taricani to come forward on November 18, 2004, the day of Mr. Taricani's criminal contempt hearing." That statement is false. In fact, when I spoke with Mr. Bevilacqua on the morning of November 18, 2004 before the trial, Mr. Bevilacqua told me once again in no uncertain terms that he expected me to keep his identity confidential.

20. On Wednesday, November 24, 2004, Mr. Bevilacqua contacted me. He told me at that time that he planned to meet with the Special Prosecutor to come forward as the source of the Corrente tape. He asked me not to say anything until the following Monday and stated, "I am just going to get it over with and I also don't want to see you go to jail."


21. As a reporter, I believe it is essential to maintain a promise of confidentiality given to a source who provides information on a condition of confidentiality. I made that promise of confidentiality to Mr. Bevilacqua and kept it until Mr. Bevilacqua disclosed his own identity to the Special Prosecutor. If Mr. Bevilacqua had ever given me permission to reveal his identity, I would have done so. If I had revealed Mr. Bevilacqua's identity, I would have avoided a civil contempt judgment. My employer would have avoided civil contempt fines. I would have avoided criminal contempt charges, and the possibility of a prison sentence. This

experience has been draining and frightening to my wife and me. Until this year, I had never thought about what it might be like to be convicted of a criminal offense and sent to prison. It is a very daunting prospect. I am very concerned about my health and fear going to prison. The assertion that Mr. Bevilacqua encouraged me to reveal his identity two years ago is false and absurd. The assertion that I urged Mr. Bevilacqua not to reveal his identity is likewise false and absurd. The notion that I would have put myself, my family and my colleagues through this ordeal for no good reason is false and ridiculous.

  
James Taricani

STATE OF RHODE ISLAND  
PROVIDENCE SC.

Subscribed and sworn to before me this 6th day of December, 2004.

  
Notary Public