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8/21/22United States District Court
District of Rhode Island

United States of America

v.

David Staveley

Case No. 20-CR-00074-MSM

Motion to Strike
Malicious Prosecution

The following motion is presented to the honorable court while the Defendant is incarcerated under Covid-19 protocols and without counsel. The Defendant apologizes for its presentation, but wants and has the intent to get this motion on record in a timely manner.

On or about early January 2022 a verbal request was made by defendant and his mother Judith Saubers through the U.S. Marshalls in R.I., asking for the return of personal property. Specifically, the Defendants, Mass. Drivers license, wallet and social security card. It was reported as recently as early August in the Providence Journal that the government was in possession of the Defendants wallet and license. And as Magistrate Lincoln Almond said on the record, "I saw it in the media, so it must be true and accurate"?

U.S. Marshall Alvin Silver has been the consistent point of contact, but to date he only returned an attached and social security card. He also seems to always make comments regarding the case that are completely inaccurate and misguided.

The following sequence of events bring us to the core of this motion, they reveal sloppiness in accuracies and troubling information that demonstrates concealment of facts and allowances for untruths in the prosecution.

1. Although never speaking with or making a request through FBI Special Agent Christine Brady, she contacted my mother Judith Sanborn (81 years of age) on or about February 9, 2022. Agent Brady stated she wanted to return evidence (personal property of David Staveley) to her at her home 456 Mammoth Rd., Dracut, Ma. 01826. The Defendant found this strange considering there was a pending appeal, but a few days later Agent Brady appeared at Judith Sanborn's home with an abundance of file boxes and other electronics. (See property Receipt dated 2/11/2022 - Signed by Agent Brady - Exhibit A)

2. As reflected in the "Receipt of Property" dated 2/11/2022 (Exhibit A), the second entry is "Box Files (2) documents" and later "1 box^{white} of Files" Although unknown by the Defendants mother

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2. (cont)

these files and quite probably much of the other materials were the evidence/property of Co-conspirator and government witness David Butzinger. As the court is aware David Butzinger became a cooperating witness for the prosecution and received a gracious sentence of six (6) months home confinement.

3. The Defendant's mother is diligent in record keeping and precise in record filing. As she poured through the files left by Special Agent Christine Grady, she began to discover documents that were clearly not her sons, Defendant David Staveley. As Judith Seaborn always has done in life she began making copies of the contents of all the files. She found many troubling documents, communications and legal paperwork. Clearly these did not belong to the Defendant David Staveley. She contacted Atty Kara Hoopis Monash and told her what she had found. Documents that demonstrate there are various untruths in sworn statements made by David Butzinger for the prosecution. Also, this evidence was in the possession of Special Agent Christine Grady and she also along with Special Agent Troy Niro - IRS signed off on these statements having possession of the files in question. (See Exhibit B - Butzinger

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3. Approximately two (2) days later, as anticipated by Counsel, Special Agent Christine Brady contacted Defendants mother Judith Souborn and stated, "(she) had mistakenly dropped all the evidence/property of the co-defendant David Butzinger and could she come and retrieve it?". Judith Souborn asked when and Agent Brady said she needed those materials back and would the next day work? Although Judith Souborn had medical appointments she accommodated the erroneous Agent Brady. Interesting enough Judith Souborn's medical appointment went hours late, but Agent Brady was willing to wait as long as she had to in order to recover David Butzinger's fibs. Fibs were returned.

4. The mistakes/errors, sloppiness of FBI agent Christine Brady has not only taken the evidence, "out of the chain of evidence" and rendered it inadmissible, but she revealed that the prosecution was in possession of documents that not only demonstrate that David Butzinger's statements are inaccurate but untruthful. If this is the manner in which this prosecution was conducted it is no wonder, prosecutors relied on the media to try and convict David Staveley far before he entered the "Jury Room" converted to Court on October 6, 2021.

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5. Although Prosecution had deemed the defendant guilty from the outset and focused solely on delivering the man Prosecution portrayed to the Media. "First PPL in the Country". As press releases glowingly and proudly declared. The Defendant tried repeatedly to offer his side of the story, but unlike David Butzinger, with evidence to support his words. (See Exhibit C) As the court is aware the ^{Def.} suffers from trauma due to a heinous assault. Because of this fears rise and fall in the Defendants life. David Butzinger was not only aware but took advantage of the Defendants psychological issues. On at least (5) occasions while on pre-trial probation David Butzinger arrived at Defendants home late at night with alcohol. On one of those occasions the Defendant was in a much needed medicated sleep and David Butzinger confided in Defendants mother and left her a statement saying "you may need this at some point." This statement was offered to prosecution in the earliest days of this case, but as with everything related to David Stanley, it was ignored. The statement done in real time prior to Butzinger Attorney interaction with Prosecution and a cooperating witness deal was made. This is what really are the untainted words of David Butzinger. (Exhibit C)

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6. The attached (Exhibit B) was signed by Special Agent Christine Brady while in possession of these file and contrary documents. It would be difficult to believe (brady) was unaware of the files content.

The Defendant respectfully request the court understand and accept this as just one of the many errors, oversights, malicious action of investigators and the prosecution and the Defendant request relief by the court to vacate, set aside or correct sentencing.

Respectfully Submitted

David Staveley, Pro Se
8/21/22

Note:

Filing has occurred by Defendant while incarcerated and in Covid-19 protocols. Please excuse its presentation, but this was the only means to get on record in a timely manner.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION
Receipt for Property Received/Returned/Released/Seized

File # _____

On (date) 21/1/2022

item(s) listed below were:

- ☐ Received From
☒ Returned To
☐ Released To
☐ Seized

(Name) Wideth Hamberg

(Street Address) 456 Main St Rd #7

(City) Grand Mesa

[illegible]

Received By: _____
(Signature)

Received From:

(Signature)

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DEPARTMENT OF THE TREASURY
Internal Revenue Service
Criminal Investigation

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Memorandum of Interview

Investigation #: 1000303950 **Location:** RI US Attorney's Office
Investigation Name: BUTZIGER, DAVID 50 Kennedy Plaza,
8th Floor
Providence, RI

Date: August 13, 2020
Time: 2:35-3:53 PM
Participant(s): DAVID BUTZIGER, Subject
John Calcagni, Attorney for Subject
Lee Vilker, Assistant US Attorney
Christina Grady, Special Agent, FBI
Jamie Brooks, Special Agent, FDIC-OIG (via telephone)
Ben Stabile, Special Agent, SBA-OIG (via telephone)
Troy Niro, Special Agent, IRS-CI

On the above date and time DAVID BUTZIGER (BUTZIGER) and his attorney John Calcagni (Calcagni) voluntarily met for a scheduled proffer meeting at the Rhode Island US Attorney's Office for the purpose of meeting with Agents to provide information. BUTZIGER is the Subject of the Grand Jury Investigation. Assistant United States Attorney Lee Vilker provided BUTZIGER and Calcagni with a Proffer letter and explained the details of the agreement to BUTZIGER. AUSA Vilker explained to BUTZIGER the importance of being truthful throughout the proffer. BUTZIGER stated that he understood the terms of the agreement and that he intended to provide only truthful information. BUTZIGER and Calcagni reviewed the letter together. BUTZIGER voluntarily provided the following information:

1. BUTZIGER first met DAVID STAVELEY, AKA: David Sanborn, AKA: Kurt Sanborn (STAVELEY) concerning a proposed purchase of the "Remington House" located at 3376 Post Road, Warwick, RI 02886 by STAVELEY. The Butziger family owns three properties adjacent to the Remington House; one with a garage located on it, one with a rental house and one consisting of a parking lot (the Butziger properties). STAVELEY was negotiating the purchase of the Remington House with the current owners, who were renting one of the Butziger properties to be utilized for customer parking prior to the business' closing in 2017 or 2018. STAVELEY and BUTZIGER first met in the summer of 2019 at BLU on the Water in East Greenwich, RI to discuss the sale of the parking lot and the adjacent rental property for \$75,000.
2. STAVELEY owned New Flat Penny, LLC, DBA On the Trax, a restaurant in

10. BUTZIGER was shown two photographs of individuals at this time by AUSA Vilker. BUTZIGER correctly identified the individuals as STAVELEY and Gregg Sanborn.

11. The Town of Berlin, MA liquor license hearing was on March 10, 2020. On the Trax closed approximately one week after the hearing. STAVELEY stated that Attorney James Mears (Mears) was working on clearing up the liquor license issue. On the Trax was closed at this time and there were no employees working for the company after this time.

12. STAVELEY is the person that first made BUTZIGER aware of the US Small Business Administration Payment Protection Program loans (PPP Loans). STAVELEY advised that he was applying for the loans for his companies with the assistance of Mears. STAVELEY advised that BUTZIGER should also apply in the name of his business, Dock Wireless. STAVELEY said that Mears told him that that the money could be used to pay for payroll for the companies.

13. BUTZIGER was aware that the Dock Wireless application was false when he prepared it. The application and form 941 were false. He did not have any employees and did not pay any wages. The employees listed in the application were never employees of Dock Wireless and did not earn wages. BUTZIGER believes that the funds are a loan that converts to a grant if the money was spent on payroll. BUTZIGER has no knowledge of the term of the loan, the percentage of interest that would be charged, the amount of payments nor the amount of money to be repaid.

14. BUTZIGER knew that the applications were false at the time that they were submitted to BankNewport. He was first fully aware of the fraud when he began creating the false forms 941 because the payroll was made up.

15. STAVELEY sent BUTZIGER an email asking for false forms 941 for Apponoug Restaurant Group, Top of the Bay and New Flat Penny. STAVELEY's applications were also false. BUTZIGER used numbers provided by STAVELEY. STAVELEY stated that the false numbers would work and that no one was ever going to look, and that the loans would go through. BUTZIGER never discussed the amounts of money that STAVELEY was applying for, nor did BUTZIGER see the STAVELEY loan documents. BUTZIGER was only involved in the preparation of the false forms 941 used on the STAVELEY loans. BUTZIGER downloaded blank forms 941 from the IRS website. STAVELEY provided the numbers to plug in and BUTZIGER prepared the false forms 941.

16. STAVELEY provided the false employment numbers to be used on the Dock Wireless application. STAVELEY said the application would go through and be approved.

17. STAVELEY and BUTZIGER communicated via email concerning the loan applications. STAVELEY used email address dsanborn1737@gmail.com. He

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to a former tenant that was residing behind his parent's residence.

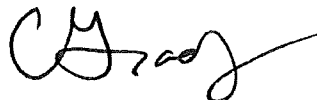
32. BUTZIGER is willing to testify against STAVELEY concerning the PPP loan fraud scheme. STAVELEY has lied to him numerous times in the past and BUTZIGER has no allegiance to him. BUTZIGER was told that the Government offers no guarantees that BUTZIGER's testimony will assist him in any way. BUTZIGER stated "I fully admit that I did things that were wrong". BUTZIGER and his attorney were informed that the Government would seek an indictment on both cases in approximately two weeks.

At this time SA Grady returned a laptop computer and jacket to BUTZIGER. BUTZIGER signed a property receipt for the items.

I prepared this memorandum on August 17, 2020, after refreshing my memory from notes made during and immediately after the interview with DAVID BUTZIGER.



Troy Niro
Special Agent, IRS-CI



Christina Grady
Special Agent, FBI