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(Mount Clipping in Space Below)

Lawyers: Porn not the point

□ The expected federal prosecution of three men on obscenity charges is called a matter of 'suppression.'

By Warren Bates
Review-Journal

One man is tended to by a nurse. He has heart disease, renal failure and claims to be lonely. He is Anthony Peraino, an 80-year-old Northridge, Calif. resident whose family produced the notorious X-rated film "Deep Throat."

The government is not sympathetic to his problems.

Another man is in the midst of creating a pornography empire. His company trades on the Nasdaq stock exchange and he is expanding a chain of combined adult video and men's accessories stores. He is 46-year-old Kenneth Guarino and is described by industry competitors as the Ted Turner of the porn trade.

The government is not impressed by his business acumen.

A third man is Natale Richichi, a reputed mob boss who has been photographed holding court with crime lord John Gotti. Richichi is accused of collecting payment from Guarino for protection, bribing a union official and evading taxes. The 79-year-old is connected to an oxygen tank as he is driven from his Southern Nevada home to court appearances.

Like Peraino and Guarino, Richichi is the target of a federal obscenity prosecution.

This year, the U.S. attorney's office in Las Vegas is expected to try the three men separately on charges that could result in the crumbling of their personal fortunes and hefty prison sentences. But the spectre of a fourth man, whose obscenity trial in Las Vegas three years ago resulted in something close to failure, is coming into play.

He is Reuben Sturman, and defense attorneys for Peraino, Guarino and Richichi are wondering — considering the grotesque images on Sturman's films and the inability of a federal court jury to return a conviction in his trial — why their clients are in the same position.

Sturman's jurors squirmed in their seats as they viewed scenes of torture, sex with animals and the eating of excrement.

Peraino's jury will, according to his attorney, David Katz, "see a pretty girl on the (TV) box and you know what's gonna happen."

Raw sex, that is. Short on plot and dialogue, but, Katz said, nothing that can't be bought at any Las Vegas X-rated video outlet or, for that matter, rented at the adult section of many mainstream video stores.

"This isn't prior restraint, it's utter suppression," the attorney said of the racketeering charges his client faces. "I looked at the movies and I showed the movies to my expert and he said, 'Where are the real movies?'"

Katz and the other defense attorneys claim the government is targeting their clients based on who they are and not what was on the films shipped across state lines.

Katz said the government is motivated by its desire to seize the video library of Peraino, a Los Angeles-based porn distributor whose family became wealthy following the 1972 production of "Deep Throat," which grossed more than \$200 million.

Guarino attorney Paul Cambria said prosecutors are piling charges on his client in hopes of breaking his Rhode Island-based operation, South Pointe Enterprises Inc.

Counters U.S. Department of Justice spokesman John Russell: "We wouldn't have indictments if there wasn't probable cause a crime had been committed."

Two of Peraino's sons also have been charged with racketeering, as has his business, Arrow Film & Video. Facing charges of interstate transportation of obscene materials, Guarino's cases are linked with the racketeering, bribery and tax-evasion prosecution of Richichi, who is accused of accepting "tribute payments" from Guarino's enterprise in exchange for protection from other mob families.

The government is not commenting on why the films are obscene as opposed to merely pornographic, nor is it willing to answer numerous other questions raised in the case. Russell said whether the films are indeed obscene is an issue more properly brought out in the courtroom.

The defense claims the movies are garden variety adult fare. Katz said the videos seized by authorities in Peraino's case depict straight sex, lesbian sex, scenes involving multiple partners and anal sex. Court documents say Guarino's movies contain similar footage as well as films that feature gay and transvestite sex.

Gambria, a Buffalo, N.Y., attorney who represented a Sturman co-defendant, said he is not sure that the gay-oriented films are indeed Guarino-related or connected to a co-defendant in the Guarino indictment. Even if they came from Guarino's business, he said, there's "nothing in there that a community like Las Vegas would have a problem with."

Peraino's family has been in the skin trade for decades, rising to prominence in New York City. Authorities have connected the Perainos to the Colombo crime family and, in 1982, Peraino's brother was shot and his nephew killed in what police speculated at the time was a rival mob attempt to control the New York adult movie industry.

Ten years earlier, the Perainos had sunk \$22,000 into "Deep Throat," the first adult film to reach a wide audience. The proceeds from the movie were used by the family to branch out into other porn ventures and to dabble in mainstream Hollywood productions.

After moving to California, they started another production company called Bryanston Boffo, which produced Bruce Lee's "Return of the Dragon" and "The Texas Chainsaw Massacre." While the California Department of Justice once regarded Bryanston as under mob control, Katz brushed aside the contention.

"Someone has it in their mind that because he's Italian and from New York that he's connected to the Mafia," Katz said. "There was a lot of money to be made in 'Deep Throat.' Was some of it coming out of the mob? Maybe, but there's nothing to suggest Mr. Peraino knew it."

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Katz said the government wants to say that it finally brought down the producers of "Deep Throat."

Regarding Guarino's ties to Richichi, Cambria said his client met him through his son, Salvatore Richichi, who is also in the pornography business. He said they became nothing more than friends.

"(Natale) Richichi has nothing to do with the running of his (Guarino's) company," Cambria said. "He was a fatherly figure, someone Kenny liked. They'd share stories. (Guarino) would send him Italian food from the East Coast."

Guarino has been in the business since he was 18 and has been repeatedly charged with transporting and selling obscene material. In 1984 he was indicted on charges of income tax evasion.

All the cases were dismissed or overturned on appeal.

Defense attorneys currently have dozens of motions before federal judges asking for either dismissal of the charges or suppression of evidence. They allege that neither a grand jury nor a judge has actually seen the films to make a preliminary determination whether they are obscene, that it's impossible to know what the community standards were at the time the films were shipped, and that wiretaps were illegally used. Richichi, meanwhile, has filed a motion arguing that if any video contains homosexual behavior, then the community standard to judge whether such a film is obscene is the gay community. In other words, said Richichi attorney Oscar Goodman, gays need to be represented on the jury because they can "understand what the case is about."

"It's the first time such a motion has been filed in the history of the world," Goodman said. "It's a deprivation of a jury of your peers argument."

In court motions, Department of Justice prosecutor Craig Wolf responded, "Why would a (Nevada) jury in 1996 be incapable of reviewing homosexual depictions to decide if they are obscene?"

Wolf argued that any panel of jurors, with proper court instructions, could arrive at a verdict. Regarding Peraino's request to see what occurred before the grand jury, Wolf said Katz was trying to conduct a preliminary trial when there was no evidence, the grand jury acted improperly.

But Katz said he has been repeatedly warned by prosecutors that they intend to try to obtain a conservative jury panel. The attorney said he has proposed that trial be held before U.S. District Judge Philip Pro, but the government has rebuffed his suggestion and has no intention of conducting a bench trial.

"We feel we have a right to put this trial before a jury and we will maintain that right," Russell said. Cambria is also somewhat at odds with Katz over the issue of a bench trial. A jury, he said, is the measure of community standards.

Katz also said in court motions that prosecutors chose Las Vegas as a venue, a literal "government speed trap," because it appeared to be "Times Square on the outside and Utah on the inside."

If the state wants to "create a different local puritanical standard," he argued, local prosecutors can always bring charges. He said the feds were trying to "create jurisdiction."

Wolf, in court motions, dismissed the notion. He stated that Arrow Film had been doing business in Las Vegas well before FBI undercover agents ordered the movies. He argued that Peraino listed a Las Vegas address as well as a California address for his business, demonstrating Arrow Films' "insurgency" into the Nevada commercial scene well before the undercover investigation.

Peraino's 55-year-old son, Louis, who is also a case defendant, is in federal prison on a probation violation connected to a 1981 obscenity conviction in Miami that centered on "Deep Throat."

Dominic Gentile, his Las Vegas attorney, called the current prosecution a vendetta.

"The government really lays at the feet of the Perainos the creation of public acceptance and tolerance of explicit sexual performances on film and video," he said. "And frankly, they may not be wrong."

"With the vast pervasiveness of these films and magazines in society, whether you condone or condemn it, it doesn't matter," he said. "When you are talking about the First Amendment, it becomes impossible to distinguish one (film) from another and that leads to selective enforcement."

Gentile said the government is using racketeering statutes against the Perainos to place a greater emphasis on their relationships with other people rather than the films themselves.

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