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THE CURIOUS CASE OF ROBERT MACEDONIO



LI lawyer got felony conviction erased and law license back in process mostly kept secret from public

COVERAGE BEGINS ON A2-3

CURIOUS REVERSAL OF FORTUNE

LI lawyer pleaded guilty to drug felony and lost his law license — but had his conviction vacated and got his legal practice back in a process largely sealed from the public

BY GUS GARCIA-ROBERTS
AND WILL VAN SANT
gus.garcia-roberts@newsday.com
will.vansant@newsday.com

In December 2008, veteran criminal defense attorney Robert Macedonio appeared in a Suffolk County courtroom, this time as a defendant. “It’s embarrassing for me to be standing here,” Macedonio told Judge James Hudson as he pleaded guilty to felony cocaine possession.

The plea cost Macedonio his law license. A career that saw him rise from a junior Suffolk County prosecutor to a sought-after attorney for high-profile defendants appeared over.

But three years later — under unusual circumstances that have been largely hidden from public view — Hudson and District Attorney Thomas Spota allowed Macedonio to reduce his felony conviction to a misdemeanor, paving the way for him to regain his law license.

Macedonio got his second chance under a legal provision designed to correct miscarriages of justice, such as when new evidence clears the innocent or when prosecutorial error or fraud undermines a conviction. Such circumstances have not been publicly disclosed in the Macedonio case, raising questions of how an attorney with long-standing ties to Suffolk County’s law enforcement system faced no opposition as he successfully wiped away his felony plea.

Answers to those questions are elusive because so much of the Macedonio case — from

KEY FIGURES More on A14-15



JAMES CARBONE

ROBERT MACEDONIO

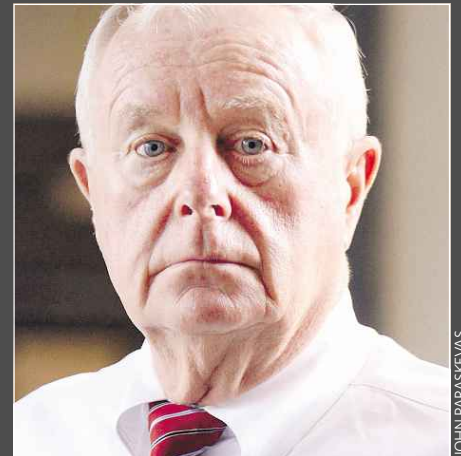
A Suffolk criminal defense attorney and former prosecutor investigated for financial and other crimes. He pleaded guilty to felony drug possession, which led to the automatic loss of his law license. But he successfully erased his felony conviction and returned to practicing law.



KATHY KWONICK

JAMES HUDSON

The Suffolk County Supreme Court justice who presided over Macedonio’s initial prosecution and his successful effort to have his conviction changed to a misdemeanor.



JOHN PARASKEVAS

THOMAS SPOTA

Suffolk County’s district attorney, whose office investigated and prosecuted Macedonio. Spota’s office then supported Macedonio’s request that the court vacate his felony drug conviction and that he be allowed to plead guilty to a misdemeanor.

the investigation to the prosecution to the vacated felony conviction — remains secret. Records have been sealed without explanation or were not filed at all. One batch of documents at the county clerk’s office has been hidden from the public in a manila envelope bearing the following handwritten message: “This envelope as well as why sealed is sealed!”

Newsday obtained some of the sealed records, and they reveal that behind what appears on the surface to be a routine drug possession case was actually an

extensive investigation by Spota’s office into financial crimes that included mortgage fraud.

The records show investigators spent at least a year probing alleged criminal activity involving Macedonio, and they uncovered enough evidence to convince judges to authorize them to raid Macedonio’s law office and seize his bank accounts and property.

An investigator would allege after the raid that Macedonio had used his law firm’s escrow account to launder funds in a

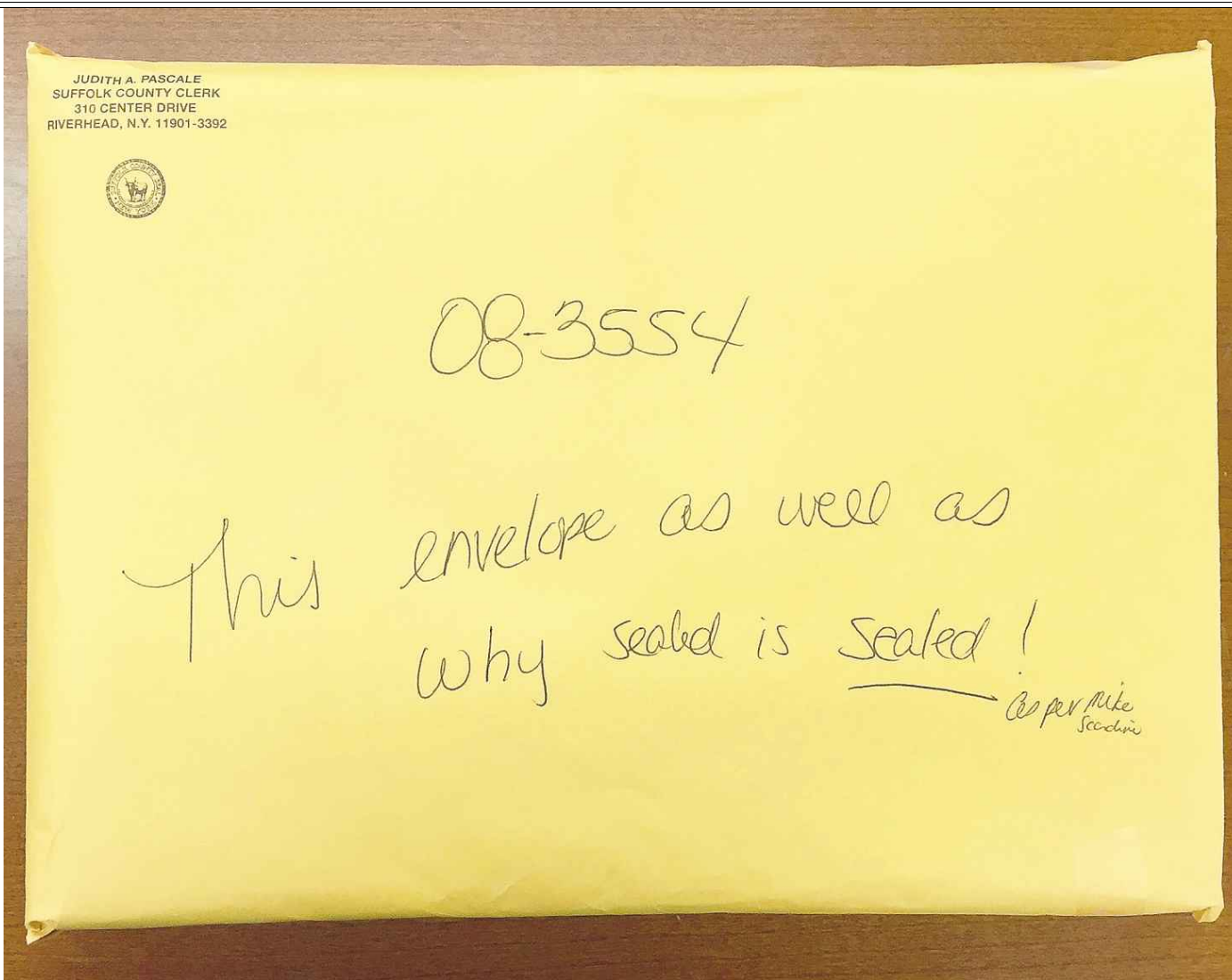
mortgage fraud scam. Prosecutors would file court records estimating that the proceeds of the alleged criminal schemes tied to Macedonio exceeded \$4 million.

Despite the allegations and the resources poured into the DA’s investigation, the results were minimal. The criminal charges against Macedonio and four associates linked to him were either dropped or ended with light plea deals, and none of the targets received more than nine months in jail. The available records do not ex-

plain how an ambitious financial crimes investigation into Macedonio ended in a simple drug possession charge.

Newsday asked Hudson to unseal records from the case, including the search warrant affidavit investigators filed with him to justify the raid of Macedonio’s office. The document could reveal the evidence investigators had gathered and, for the first time, allow the public to consider the merits of the district attorney’s pursuit of Macedonio.

Hudson has scheduled a



NEWSDAY / WILL VAN SANT

Some of the records from District Attorney Thomas Spota's investigation and prosecution of Robert Macedonio are sealed without explanation. An envelope with case records reads, 'This envelope as well as why sealed is sealed!' ■ Photos: newsday.com/macedonio

Thursday court hearing on the matter to consider any objection the district attorney may have to unsealing.

The full account of what happened in the Macedonio case is contained in the records compiled by Spota's office. In May, Newsday filed a Freedom of Information Law request for those records and was told that the case generated 17 boxes of material. Spota's office initially said the records would be made available after each document had been reviewed. No records have been provided thus far.

Spota declined to be interviewed for this story. Christopher McPartland, the Suffolk prosecutor who handled the Macedonio case, also declined an interview request. McPartland, who is Spota's top aide and foremost public corruption prosecutor, is reportedly the subject of a grand jury examination into whether he helped cover up former Suffolk police chief James Burke's

alleged beating of a suspect in custody.

Spota's spokesman, in an emailed statement, criticized Newsday for pursuing "rumors" about the Macedonio case and vigorously defended the office's handling of the matter.

"The suggestion that anyone in the District Attorney's Office did anything improper in this case demonstrates a reckless disregard for the truth," the email says.

DOCUMENT
Statement from DA's office to Newsday on Macedonio's case.
newsday.com/macedonio

The statement says the Macedonio case was not unusual and claims that more than 150 people have received similar treatment during Spota's tenure. The district attorney's office refused to release details about those cases.

To be sure, defendants have had their felony convictions reduced to misdemeanors, but the way it happened in the Macedonio case appears to be unique.

Macedonio pleaded guilty to a felony, and before he had completed his conditional sentence, was placed on probation. Then, before finishing that period of probation, Hudson vacated Macedonio's original felony conviction and replaced it with a misdemeanor.

A Newsday computer analysis of more than 400,000 felony cases prosecuted on Long Island over the last three decades found no other cases matching this pattern.

Joseph Conway, a former federal prosecutor and one of Long Island's most prominent criminal defense attorneys, represented Macedonio and negotiated the arrangement that saw his client's felony drop to a misdemeanor. Conway said he knew of no similar cases.

"Are there any others out

there? It's hard to believe there's not another like it, but I've never been involved in a case like it," said Conway, who maintained that his client's ties to Suffolk County's law enforcement community did not earn him special treatment.

Bennett Gershman, a Pace Law School professor and former prosecutor, called the handling of the case "bizarre" and "suspicious." He said he is particularly disturbed that the law had been, in his opinion, improperly applied to benefit Macedonio.

"This is just totally irregular," Gershman said. "It's a special way of dealing with a particular case in a very unique, irregular, unprecedented way."

Macedonio, during a brief phone conversation with a reporter, said there was "nothing underhanded" in his case and that he "welcomed the scrutiny."

"It's not a story to write anything negative about," Macedo-

See MACEDONIO on A14

THE CASE

On the surface, the Suffolk district attorney's office prosecution of Robert Macedonio appears to be a routine drug possession case. But an examination of the available records raises several questions about what happened:

1. How did a financial crime investigation turn into a drug charge?

The available court records show that Suffolk investigators were examining Macedonio for financial crimes, and he allegedly used his escrow account to launder money in a mortgage fraud scheme. However, he was ultimately charged with felony drug possession.

2. Why the gap between the crime and the conviction?

Although Macedonio pleaded guilty in 2008 to possessing a half gram of cocaine, records show he possessed the drug in 2004. Court records do not explain how this happened. Macedonio's lawyer said he thinks it's because the 2004 possession was the best evidence prosecutors had, but he did not elaborate.

3. What's on the recordings?

Macedonio's attorney said he believes the investigation of his client included wiretaps or other audio recordings. It's unknown who or what those recordings captured, and if they included wiretaps, what basis prosecutors had for obtaining them.

4. Why are these records not public?

When criminal cases result in a conviction, many of the case records should be publicly accessible. Yet the district attorney's office has not provided its Macedonio case files, and key court records remain sealed, without explanation.

5. How did Macedonio get his unique deal?

The Suffolk district attorney's office says there is nothing unusual about Macedonio's case, or the way in which he turned his felony into a misdemeanor. But experts who reviewed the available court records, as well as Macedonio's own attorney, say they have never seen a case like it. And a Newsday computer analysis of more than 400,000 court cases on Long Island shows Macedonio's case is unique.