

Maxwell's Ex-Atty Says Cosby Op-Ed Didn't Break SDNY Rules

By [Rachel Scharf](#)

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Law360 (July 12, 2021, 6:06 PM EDT) -- A Florida lawyer who formerly represented Ghislaine Maxwell on Monday denied breaking court rules with an opinion piece arguing the accused sex trafficker should have charges dropped like Bill Cosby, calling the government's claim that the article will influence jurors "the definition of chutzpah."

Miami-based attorney David Markus told Manhattan U.S. District Judge Alison J. Nathan that while he did represent Maxwell in her failed [Second Circuit bail appeal](#), he is no longer retained by the British socialite and is therefore not barred from making press statements under the Southern District of New York's local rules for criminal cases.

"The local rules do not and could not reach lawyers who do not represent a client (or witness) in a pending case because of the First Amendment," the [Markus Moss PLLC](#) founder wrote.

A critic of Maxwell's treatment, including [her confinement](#) ahead of a [scheduled November trial](#) on charges that she groomed girls for sex with now-deceased financier Jeffrey Epstein, Markus published an opinion piece in the [New York Daily News](#) on June 30 titled "Bill Cosby is free; Ghislaine Maxwell should be, too."

Markus' op-ed argued that just as convicted sex offender Cosby was [cleared by Pennsylvania's top court](#) due to prosecutors' 2005 promise of immunity, Maxwell should likewise be protected from criminal charges by a nonprosecution agreement in [Epstein's 2007 plea deal](#).

Prosecutors [told Judge Nathan on July 2](#) that the op-ed was an improper attempt to sway potential jurors in Maxwell's favor. But Markus said Monday that even if the statements of a nonappearing lawyer could be governed by the district's local rules, Maxwell's supporters deserve to respond to the "unrelenting and overwhelmingly prejudicial" media coverage of her case.

"It is not an understatement to say that 99.9% of the press coverage is pro-government and anti-Maxwell," Markus wrote. "How can Ms. Maxwell be expected to receive a fair trial when lawyers for the accusers are holding press conferences, leaking information and otherwise making wholly inappropriate comments to the press?"

Markus cited examples of counsel for Epstein's accusers speaking publicly about Maxwell's alleged crimes, such as a 2019 [BBC Panorama](#) interview given by [Boies Schiller Flexner LLP](#) co-founder David Boies.

Markus added that prosecutors have "instigated and fueled" the purportedly biased media coverage, most notably by holding an "over-the-top" press conference the day Maxwell was [taken into custody](#).

"The government has helped to create a totally unlevel playing field," Markus wrote. "The government's complaint about an op-ed that discusses the legal impact of the Cosby decision is the definition of chutzpah. "

Markus noted that Maxwell's current attorneys filed a letter of their own on July 2, alerting the court to the relevance of the Cosby ruling. That publicly-filed letter posed many of the same arguments as his op-ed, Markus said, diluting the impact of his piece.

Maxwell has [pled not guilty](#) to the government's charges.

Markus and a representative for the prosecution both declined to comment on the letter Monday.

Maxwell is represented before Judge Nathan by Christian Everdell of [Cohen & Gresser LLP](#), Jeffrey Pagliuca and Laura Menninger of [Haddon Morgan & Foreman PC](#) and Bobbi C. Sternheim of the Law Offices of Bobbi C. Sternheim. She was represented on appeal by Sternheim and by David Markus of Markus Moss PLLC.

The government is represented by Maurene Comey, Alison Moe and Lara Pomerantz of the [U.S. Attorney's Office for the Southern District of New York](#).

The case is USA v. Maxwell, case number [1:20-cr-00330](#), in the [U.S. District Court for the Southern District of New York](#).

--Additional reporting by Pete Brush. Editing by Jay Jackson Jr.

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Case Information

Case Title
[USA v. Maxwell](#)

Case Number
[1:20-cr-00330](#)

Court
New York Southern

Nature of Suit

Date Filed
June 29, 2020

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