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**FEATURED**

# DA Jenkins committed prosecutorial misconduct, Court of Appeal finds



by **LANA TLEIMAT**  
AUGUST 29, 2023



District Attorney Brooke Jenkins. Photo by Eleni Balakrishnan

The state Court of Appeal **found** that now-DA Brooke Jenkins committed prosecutorial misconduct in a **2021 homicide case** against Daniel Gudino, the last case she tried for District Attorney Chesa Boudin's office before very publicly resigning and working for his recall campaign.

Gudino was found guilty of brutally murdering his own mother. In the second part of the trial, a judge found Gudino not guilty by insanity after the jury was split on the issue, an agreement Jenkins later **told the *Chronicle*** was reached behind her back by Boudin. The Court of Appeal's ruling this month does not affect the outcome of Gudino's trial or his sentencing.

A three-judge panel declined to reverse Gudino's conviction or move to free him in a case handled not by the San Francisco Public Defender but by Court of Appeal-appointed attorney Jean Matulis of Cambria.

**But it did rule that Jenkins committed prosecutorial misconduct** during the initial 2021 trial. At issue was her closing argument, which impugned the integrity of the defense and improperly made reference to excluded pieces of evidence.

Jenkins, per the Court of Appeal ruling, claimed the defense did not aim to “seek justice or to tell the truth about what happened,” and instead that their “obligation is to their client; and by any means necessary they seek to have him acquitted of these charges.”

The appeals court ruled that this constitutes misconduct on Jenkins’ behalf, as it is improper to “imply that counsel is free to deceive the jury.” Still, it found that while potentially punishable under state law, this misconduct did not alter the outcome of the case.

In an Aug. 29 statement, Jenkins said that “I recognize that defense counsel plays an important role in our criminal justice system and zealous advocacy on behalf of their clients is essential to a well-functioning criminal justice system.”

Jenkins also in 2021 implied to the jury that the defense excluded Gudino’s mother’s testimony because doing so would make their case stronger, saying “We all know that Gudino’s mother] can’t take that stand. Everything that [she] ever said has been excluded from this trial.” In actuality, Beatriz Mero Gudino’s testimony was not included because she was, of course, dead before the trial began. The appeals court found this implication to be misleading and improper.

The appeals court concedes that Jenkins’ behavior was “improper, but collateral” in the case, and that the judgment was probably unaffected by her misconduct.

After this 2021 trial, Jenkins left then-DA Boudin’s office and spoke about it **in an interview for a *Chronicle* exclusive**, which greatly increased Jenkins’ visibility.

Iлона Solomon Yañez, Gudino’s public defender, wrote a far, far less widely read **response in the *Davis Vanguard*** claiming that the *Chronicle* column misconstrued the case and Jenkins’ conduct, and rejected its description of Jenkins as “progressive.”

**A report by the *San Francisco Standard*** subsequently found that Jenkins was paid by organizations tied to Boudin’s recall, despite her describing herself as a “volunteer” to the *Chronicle*.

This isn’t the first time Jenkins has been accused of wrongdoing, or even the first time accusations were affirmed by a state body. Prior to this month’s ruling of misconduct by the state Court of Appeal, the outcome

of a 2014 trial was **overturned in 2016** by the Superior Court after Jenkins committed a **Griffin error** – that’s when a prosecutor improperly comments on a defendant exercising their right against self-incrimination.

In 2021, Jenkins **emailed a colleague the rap sheet** of a defendant, which is itself a **misdemeanor crime** in California. And in 2022, retired Superior Court judge Martha Goldin **filed a complaint to the state Bar** that Jenkins violated rules of ethics, including a claim that she lied about having committed misconduct when she first took office.

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by [ELENI BALAKRISHNAN](#) JULY 12, 2023



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## Corruption charges filed against director of SF community grant program, consultant



by [JOE ESKENAZI](#) AUGUST 29, 2023



### The Kid

August 30, 2023 at 6:15 am

Very, unfair. Sure, Jenkins was a dishonest, self serving prosecutor. You need to balance that with her accomplishments reducing drug overdoses and crime since the recallers (a couple of rich folks and the gullible rubes they attracted) chose her. Please, do better.

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### TITO

August 30, 2023 at 12:23 am

Thank goodness we were able to clean up the DA's office with that recall!

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